



Date May 23, 2016

RESOLUTION **REVERSING** THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO DENY IN PART, GRANT A REVISED APPLICATION IN PART, AND GRANT SUBJECT TO CONDITIONS IN PART, AN APPLICATION FOR CERTIFICATE OF APPROPRIATENESS FOR PROPERTY AT 1805 OAKLAND AVENUE.

WHEREAS, on March 16, 2016, in Case Number 20-2016-9.26, the Historic Preservation Commission denied in part, granted a revised application in part and granted subject to conditions in part, an application for a Certificate of Appropriateness from John Wise and Jeremy Collins regarding property at 1805 Oakland Avenue in the River Bend Historical Neighborhood District. A portion of the decision granted a certificate to replace a vinyl picture window on the main level of the front façade of the house, subject to the following conditions:

1. The replacement window shall be constructed of wood with no metal cladding.
2. The replacement window shall have the same general shape and dimensions as the existing historic windows.
3. Review and approval of the selected window product by staff prior to installation.

WHEREAS, John Wise, an owner of the affected property, has appealed the Commission's decision to the City Council pursuant to Section 58-31(f) of the Des Moines Municipal Code and seeks to retain a vinyl window that has already been used as a replacement window at this property; and

WHEREAS, on May 9, 2016, by Roll Call No. 16-0769, it was duly resolved by the City Council that the appeal be set down for hearing on May 23, 2016 at 5:00 p.m. in Council Chambers; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on May 12, 2016 and due notice was mailed to the applicant and appellant; and

WHEREAS, in accordance with the notice, those interested in the issuance of the Certificate of Appropriateness, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, Section 303.34(3) of the Iowa Code and Section 58-31(f) of the Des Moines Municipal Code provide that on an appeal from action of the Historic Preservation Commission, "the city council shall consider whether the commission has exercised its powers and followed the guidelines established by law and ordinance and whether the commission's action was patently arbitrary or capricious."

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:



Roll Call Number

Agenda Item Number

58B

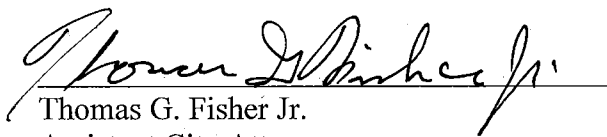
Date May 23, 2016

1. The public hearing on the appeal is hereby closed.
2. The City Council hereby finds that the commission has exercised its powers and followed the guidelines established by law and ordinance, following both the Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, including specifically the Department of Interior's Preservation Brief # 16.
3. The City Council hereby finds that the decision of the Historic Preservation Commission regarding the replacement vinyl window for 1805 Oakland Avenue is patently arbitrary or capricious and that provision of the decision should be REVERSED because the property owner replaced a vinyl window with an identical vinyl window and the replacement does not negatively affect the historical nature of the River Bend Historic Neighborhood District.

Moved by _____ to adopt, and reverse in part the decision of the Historic Preservation Commission

(Council Communication No. 16-)

APPROVED AS TO FORM:


 Thomas G. Fisher Jr.
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk