



Roll Call Number

Agenda Item Number

60A

Date August 28, 2017

RESOLUTION **AFFIRMING** THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO DENY AN APPLICATION FOR CERTIFICATE OF APPROPRIATENESS FOR PROPERTY AT 1805 OAKLAND AVENUE.

WHEREAS, on June 21, 2017, in Case Number 20-2017-9.19, the Historic Preservation Commission denied an application for a Certificate of Appropriateness from Clifford Post regarding property at 1815 Oakland Avenue in the River Bend Historical Neighborhood District; and,

WHEREAS, the 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 metal shed on this property; and,

WHEREAS, on August 14, 2017, by Roll Call No. 17-1366, it was duly resolved by the City Council that the appeal be set down for hearing on August 28, 2017 at 5:00 p.m. in Council Chambers; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on August 22, 2017 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:

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.
3. The City Council hereby finds that the decision of the Historic Preservation Commission regarding the application for Certificate of Appropriateness for 1815 Oakland Avenue is not patently arbitrary or capricious and should be upheld for the following reasons:



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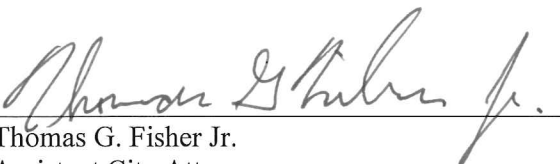
Date August 28, 2017

- (a) Before the installation of the metal shed, the River Bend Local Historic District was designated a historical district. The district was designated by Ordinance No. 15,075, which was published and became effective on February 3, 2012.
 - (b) The shed was installed without benefit of consulting with city staff. Had city staff been consulted, the appellant would have been informed that a metal shed is not a structure that would qualify for a Certificate of Appropriateness.
 - (c) The City's "Architectural Guidelines for New Construction in Des Moines' Historic Districts" prohibits the use of prefabricated metal outbuildings. In addition, the guidelines also state that new outbuildings should relate well to the principal structure in material; brick, narrow lap siding or board and batten siding may be appropriate; and Masonite and other artificial siding may be an acceptable substitute for clapboard if the wall is detailed in a manner similar to original siding.
 - (d) The Commission was not arbitrary and capricious in finding that the prefabricated metal shed is both prohibited by the guidelines and does not relate well to the principal structure's material.
4. The City Council affirms the June 21, 2017 decision of the Historic Preservation Commission in Case Number 20-2017-9.19.

Moved by _____ to adopt, and affirm the decision of the Historic Preservation Commission

(Council Communication No. 17- 621)

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

60A

Clifford C Post
1815 Oakland Ave
Des Moines, IA 50314
July 19, 2017

CITY CLERK
DES MOINES, IA

2017 JUL 19 PM 2:21

FILED

Des Moines City Council
Des Moines, IA

Dear City Clerk,

On February 15, 2017, I was required to go to a meeting before the City of Des Moines Historic Preservation Committee regarding 2 sheds that I have on my property.

I told them that the one shed in question had been on the property for over 5 years, at which time they put the matter on hold so they could do some research to be sure that I was not lying and the shed had in fact been on the property for at least 5 years. At that time, the matter was postponed until March.

In March 'they' called me and told me that they had checked into the Des Moines' criteria regarding sheds and there are not any actual criteria in place, so they had put out feelers in other Historical Areas to inquire of their criteria. At that point they had gotten no response from them, so they wanted to continue the matter in the April session.

In April, 'they' called with the same message, and then again in May.

Finally, my presence was 'requested' at the June 21 meeting.

At that time, it was said that there were no criteria regarding sheds, but it was the Committees opinion that the shed did not fit any of the criteria *they* thought should be observed.

- Should have Lap Board Siding
- An Asphalt Shingle roof
- Should bear resemblance to the other buildings (house) on the property

There are numerous other sheds in this neighborhood [4 of them just on Oakland] that are exactly like or very like my shed, and those can remain for various reason.

During the same meeting on the 21 of June, Item 12 on the agenda was a request for the retention of a prefabricated plastic shed, which was allowed right after my request was denied.

I bought this property in November of 1993, long before it was named a historical area, and was forced to tear down the Garage that was on the property to procure financing on this house. Had

City Clerk
July 19, 2017
Page 2

I been aware that this area would eventually become a historical area, I would have looked elsewhere for housing.

However, I did buy this house and I have paid the mortgage payment for the better part of a ¼ of a century.

When I bought this house, there was a metal shed like the one we have now, but it was in very poor condition. Due to the area we currently reside in, the pad lock had been cut and our lawn mower and snow blower were both stolen. Over the years of being broken into and abused, for a lack of a better word, the old shed was broken, dented and coming apart at the seams, so eventually we had to get rid of that shed.

I pad locked my lawnmower to a wrought iron railing, again the lock and chain were cut and the lawn mower stolen, so I bought the shed to protect the equipment and such from the weather as well as vandals and thieves.

I knew that “changes to the exterior of the property (House, garage or fencing) will need to through the historical preservation commission.” But for God’s Sake, this is a shed! And might I add, a shed that in Committees own words, there is not even any criteria or restrictions listed on what it should or should not be!

Here again, I bought the shed. I paid for it and I paid another \$400 to move it from where it was located to my back yard. The shed is now functional and useful. It is not torn up nor an eye sore. It is like 100 other sheds in this neighborhood.

Yet if seems as though I don’t even own my property, I am merely renting it from the River Bend Historical Committee and they have the right to tell me what I can or cannot do on my own property. I can understand this to a certain point, but I feel that they far over reach their authority.

The shed in question is in the back of the property and is not easily seen from the road. It is essential in maintaining the property as it is where I keep my Lawn maintenance equipment. It also is not fastened down and though it would not be an easy task, it could be picked up and moved, so it is not a permanent structure, therefore, in the words of the committee not subject to their criteria of a structure.

Jason’s recommendation is to construct a Garage on the property to ‘store items currently stored in the shed’.

I researched building a garage where the shed is now and it will cost me between \$26-55,000. I realize (as it was stated in the first meeting that I attended) that the financial hardship of the

homeowner is not to come into consideration, however, quite frankly, if I had 50,000 dollars to throw out the window, I would gladly use it to put a down payment on a home outside of this historical area.

Jason also suggested that we apply for a forgivable loan to build a garage. That is well and good, however a forgivable loan would possibly cover \$10,000. That is not even ½ of the cost of the garage and being disabled and on a fixed income, it is all I can do to keep my mortgage and utilities paid, much less come up with almost \$20,000 for a garage.

Considering that erecting a garage is not a feasible option, I also checked into the possibility of purchasing a different type of shed. One that would come closer to meeting the guidelines given to me by Jason, and a) I cannot find one anywhere that meets all the things mentioned in his letter, and b) The few that I have looked at that come close to meeting the guidelines are so astronomically expensive that I might as well build a garage.

I do not understand what the problem is with this shed. It does not look like the house and it is not historic, but it is a shed! It has a purpose and is serving its purpose. It is not causing any harm, nor is it offensive to anyone except the Historical Committee.

I also do not know what Jason van Essen has against me, nor why, but it was more than obvious that he was trying to sway the committee. When they said that there were no guidelines for sheds in historic areas he volunteered his staff to write guidelines regarding sheds which they declined.

During this whole process, I have talked to numerous people, and none of them can understand why this is even an issue, much less a valid issue.

I feel that I have been singled out and unfairly treated. I realize that they should have certain guidelines in place and are responsible for enforcing them, but I feel as though they are attempting to throw their weight around and egregiously abusing their authority.

On this block alone, there are neighbors that do not even attempt to keep up their property. There is trash piled on picnic tables, bricks piled up beside the houses, there are lawns that rarely get mowed, there is at least one garage that was condemned at least 20 years ago and is still standing. There is an occupied apartment that has had the window kicked out and now has paneling nailed over the top of it. Fences in ill repair with gates falling off. I am not a member of the committee, but it seems to me that some of these atrocities should be of more concern than a solid shed that is barely visible from the road.

I am not attempting to be difficult nor argumentative here, but I do feel that I am being singled out and made an example of, when there is clearly no provocation.

City Clerk
July 19, 2017
Page 4

I keep to myself, in my own house. I do not go out and try to find things in the neighborhood to whine and moan about, and I take care of my yard. It is one of the most well-kept yards in the neighborhood. However, to keep it that way, I need the shed to keep the lawn equipment and tools put away and out of sight.

Sincerely,

Clifford C Post
Owner 1815 Oakland Ave. Des Moines, IA 50314

ADA



1721 Oakland

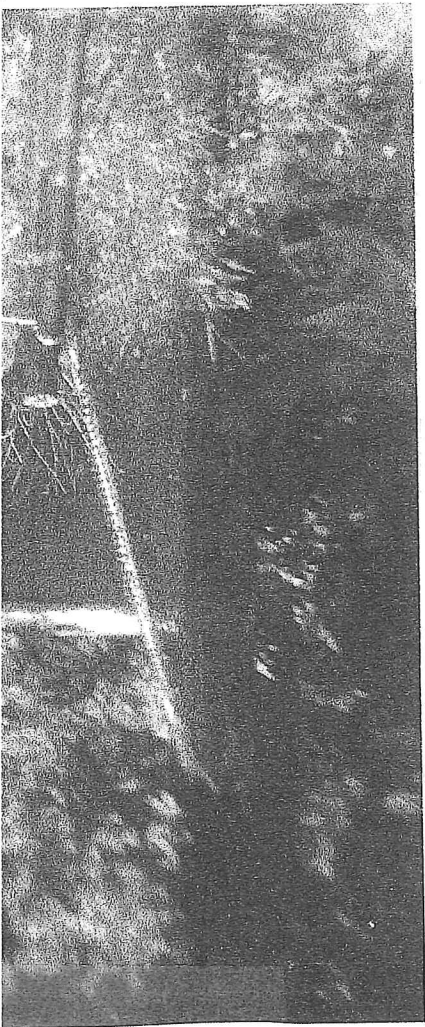


1720 Oaklo

1617 Oakland

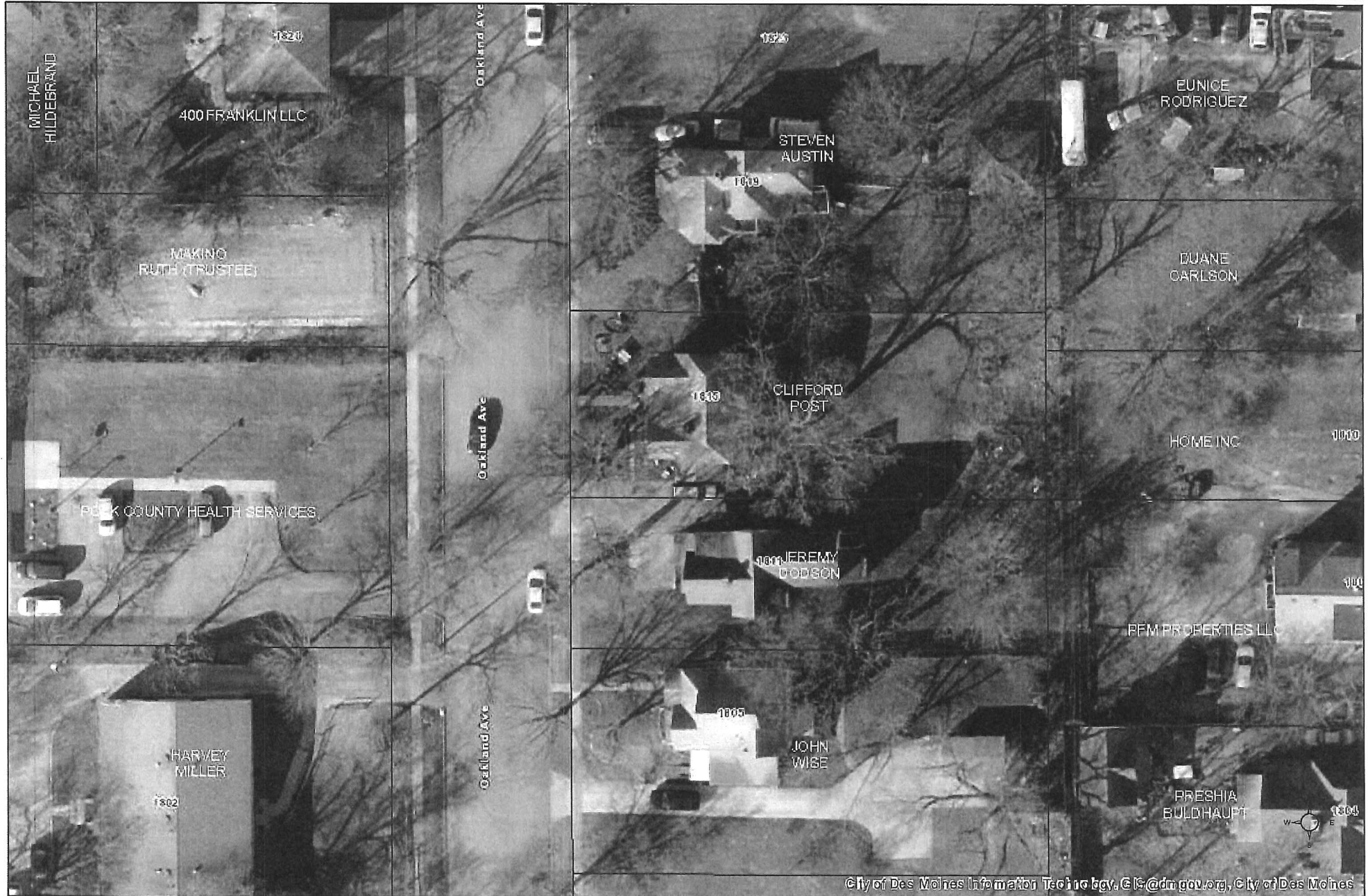


SW corner of



100A

City of Des Moines



City of Des Moines Information Technology, GIS@dm.gov.org, City of Des Moines

It is understood that while the City of Des Moines' Geographical Information Systems Division has no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the GIS personnel make no warranty or representation, either expressed or implied, with respect to the information, or data displayed.

Note: Public property represented on this map is not intended to be inclusive.
For information about Zoning data: please contact the City of Des Moines' Community Development Department.

6/14/2017





601A



08-31-2016 12:54

bDA

**CITY OF DES MOINES HISTORIC PRESERVATION COMMISSION
STAFF REPORT AND RECOMMENDATION
Wednesday, June 21, 2017**

AGENDA ITEMS #11 **20-2017-9.19**

Applicant: Clifford Post (owner).
Location: 1815 Oakland Avenue (River Bend Local Historic District).
Requested Actions: Retention of a metal shed in the rear yard.

Item #11 is continued from the February 15, 2017 meeting of the Commission.

I. GENERAL INFORMATION

1. **Site Description:** The subject property measures 62 feet by 158 feet and contains a two-story single family dwelling built circa 1905 according to the Polk County Assessor webpage. The site contains a driveway accessed from 6th Avenue that leads to a concrete pad in the side (south) yard.
2. **Sanborn Map:** The 1920 and 1957 maps show the footprint of a 2-story dwelling. The maps also show an outbuilding in the southeast corner of the lot. The 1957 map shows a 1-story garage, which no longer exists, on the southeast corner of the rear yard.
3. **Relevant COA History:** N/A.

II. APPLICABLE DESIGN GUIDELINES

1. **Architectural Guidelines for New Construction: (shed)**
 - a. The Sanborn maps should be consulted to determine the historical placement of outbuildings before considering any new construction.
 - b. Garages which are part of new construction should be located in a position relative to the main building which is the same as other original garages and outbuildings in the historic district.
 - c. The typical pattern of outbuildings historically established in the neighborhood should be continued in any new construction.
 - d. Additional curb cuts should be kept to a minimum and whenever possible avoided.
 - e. A new garage or outbuilding should relate well to the principal structure in material. Brick, narrow lap siding or board and batten may be appropriate.
 - f. Masonite and other artificial siding may be an acceptable substitute for clapboard if the wall is detailed in a manner similar to original siding.
 - g. The new outbuilding should not attempt to mimic the house or look like a barn or other non-original building.

- h. New outbuildings should be subordinate to the primary building.
- i. New outbuildings should be simple in design while incorporating traditional elements of scale, roof form, and materials.
- j. The height should typically be 1 to 1½-stories with a 10' floor-to-ceiling height.
- k. The roof form of an outbuilding should be similar to the roof form of the principal structure. The pitch of a gable roof should typically be no less than 6:12.

This request was first heard by the Commission on February 15, 2017, and originally included a plastic shed and metal shed. During the hearing it was determined that the plastic shed may have been installed prior to the establishment of the River Bend Local Historic District. The item was continued indefinitely so staff could seek information that would confirm when the plastic shed was installed. Staff has determined that the plastic shed was in place prior to the establishment of the district and has removed it from the agenda.

The Commission also requested staff to contact the State Historic Preservation Office to see if they had any guidance on the use of prefabricated sheds constructed of non-traditional materials in historic districts. In the past the Commission has found that prefabricated plastic and metal sheds do not comply with guideline "e", "f", "i", "j" or "k" and has not approved their use. At the February meeting there was discussion on how these guidelines should be applied to small sheds that seem temporary in nature as compared to a garage or large shed. Staff will provide additional information and analysis at the meeting.

III. STAFF RECOMMENDATION

Staff will provide additional analysis and a recommendation at the meeting.

60A

CITY OF DES MOINES
HISTORIC PRESERVATION COMMISSION
MEETING SUMMARY

DATE: June 21, 2017
TIME: 5:30 P.M.
PLACE: City Council Chambers
Municipal Service Center
1551 East Martin Luther King, Jr. Parkway

COMMISSIONERS PRESENT: Aaron Todd (Acting Chair), Breann Bye, Elaine Estes, Martha Green, Michael Hildebrand, Pam Steffen.

COMMISSIONERS ABSENT: York Taenzer (Chair), Scotney Fenton (Vice Chair), Pat Barry Susan Holderness and Denny Marchand.

STAFF PRESENT: Jason Van Essen, Senior City Planner and Katherine Dostart, City Planner.

DISCUSSION SUMMARY OF AGENDA ITEM #11

Item #11 is continued from the February 15, 2017 meeting of the Commission.

11. Request from Clifford Post (owner) to allow the retention of an 8-foot by 10-foot metal shed in the rear yard at 1815 Oakland Avenue in the River Bend Local Historic District. (20-2017-9.19)

Chair Aaron Todd: Read the agenda description for item #11.

Jason Van Essen: Noted the similarities of item 11 to item 12 on the agenda as both requests are for prefabricated sheds constructed of nontraditional materials. This item was originally written for the retention of two sheds, a metal shed and a plastic shed. It was determined that the plastic shed predates the establishment of the River Bend Local Historic District. It is not subject to review and has been removed from the request.

At the last meeting the question was raised if we should review small sheds differently than other outbuildings. Over the past few years sheds that the Commission has reviewed have generally been custom built with lap siding and asphalt shingles. We have stayed away from prefabricate plastic and metal sheds. There was an application in 2016 for a plastic shed on a property on 6th Avenue. The Commission did not approve that plastic shed, but did issue a COA for a shed that complies with the design guidelines. Earlier in the year we discussed what defines a permanent structure and are small sheds permanent. Items discussed included: does it have footings or a foundation; what is the likelihood that it will or will not be moved; and how easily can it be moved?

The Commission asked staff to contact the State Historic Preservation Office for guidance. We did not get any direct advice from the State. They are leaving it in our hands to decide. They did put out a request for information through a listserv and got some feedback on how other cities handle metal sheds that they forwarded to us. The responses were mixed. A total of five responses were received with four of the responders indicating that a metal shed could be approved under certain conditions and one responder indicating that metal sheds are prohibited. Expressed disappointment that a limited number of responses were received.

Showed pictures of the property and subject shed.

Stated the design guidelines are specific and say to do what we have been doing. But recognized that many of the individual guidelines are focused around the idea of bigger buildings. If the Commission wants to allow prefabricated metal and plastic sheds, we need to provide a strong rationale as to why. This could be based on the size of them or the look of them. Showed a picture of the shed for item 12 on the agenda for reference in thinking about prefabricated sheds in general. If we are going to allow these we need to have size maximums and limit them to the rear yard, behind the house. We would also want to discuss that they seem temporary in nature and do not have a permanent foundation.

Noted that the Historic Preservation Ordinance does allow the Commission to take into consideration existing buildings and the character of the specific district when making a decision. This could support allowing these types of sheds in River Bend because it is transitional but not changing what has been expected in Sherman Hill and Owl's Head. These are some general ideas for the Commission to consider if you are inclined to approve the request. We have to recognize that if we start approving them, they will be there and more requests will be made.

Elaine Estes: Stated that prefabricate sheds are also available in wood, which would be more consistent with the types of sheds that were historically built in the district.

Chair Todd: Asked if there were any additional questions for staff. No additional questions were asked. Asked the applicant if he would like to speak.

Clifford Post, 1815 Oakland Avenue: Indicated that he understands that his plastic shed is grandfathered. Stated that the metal shed is nicer than the plastic shed. The neighbors, three doors down have the exact same shed. They get to keep theirs because it is older than the historic district. I understand the grandfather clause, but what is the difference between their shed and mine. It is the same shed, in the same neighborhood. My shed is in the back and not visible from the street. There are metal sheds all over the neighborhood that get to stay because they are grandfathered. But, they are the same identical shed and I do not see the difference.

Mike Hildebrand: Asked if the shed is bolted down.

Clifford Post: Responded that it sits on a wooden platform and is not anchored. It is moveable.

Chair Todd: Asked if there were any additional questions for the applicant. None were asked.

Mike Hildebrand: Noted that plastic sheds are extremely mobile and are not much different than a kid's playset. A metal shed is more permanent.

Chair Todd: Stated he is not comfortable with allowing something in one historic district but not in the other two districts. The standards should be the same for all of the districts.

Breann Bye: Observed that corrugate metal material has been used on chicken coops, outhouses and other small-scale outbuildings over the years on buildings that were never intended to be permanent.

Chair Todd: Suggested that if the Commission was inclined to approval something like this shed that we should have a workshop and define what we are and are not comfortable with and that it needs to be thought about separate from a specific request.

Elaine Estes: Noted that a lot of the prefabricated wood sheds that she mentioned earlier are about half the size of this shed.

Jason Van Essen: Stated we have already continued this request and have another request on the agenda. Expressed concern that setting up a workshop would drag the issue out due to everyone's schedule. Asked the Commission what perimeters they have in mind at the moment. For instance, we have talked about the ease of moving the plastic sheds.

Breann Bye: Stated that even though the plastic sheds are easy to move around, I tend to view metal as being something that has more of a historic basis than plastic. I struggle more with plastic than metal. I also think about visibility from the street, does it have a foundation and can it be easily moved with a vehicle or by a person.

Mike Hildebrand: Stated that square footage is an important factor as well. You could argue that a carport is not a permanent structure as well, but that is getting pretty big. I think square footage matters, is there a slab poured for it, and is it bolted down.

Chair Todd: Stated the level of permanence could also be considered. Is it something you take with you if you move or do you leave it?

Elaine Estes: Noted that the roof composition of outbuildings have historically been the same as the house. They have typically been asphalt roofs. Metal roofs are more typical of rural outbuildings.

Mike Hildebrand: State his biggest struggle is with deciding if these structures are permanent or temporary. If the answer is they are temporary, then I struggle less with materials and composition.

Jason Van Essen: Asked Martha Green if she remembers dealing with anything similar in Sherman Hill over the years.

Martha Green: Recalled that a couple of plastic sheds had been removed as they were not approved. Stated that similar historic structures that she has observed over the years have always been constructed of wood.

Mike Hildebrand: Stated that his personal preference is for sheds to be constructed in the way the Commission has previously approved. But, also understands the functionality of sheds and is not sure if he should take that into consideration.

Jason Van Essen: Stated that is a fair question and that he has pondered similarly. I have asked myself what is the impact on the integrity of the historic district and the specific property. Would it distract from the character of the district. I think they distract from the character of the district. But, I am not sure to what degree.

Elaine Estes: Noted that they do not relate in any way to the era of the district.

Chair Todd: Stated they should stick with precedent, which would be denial of this request and the next item, or continue the requests and review the standards further. He is leaning towards following precedent. It has been set and believes it was done so for good reason. Recalled that a request in 2016 for a plastic shed in River Bend was not approved.

Mike Hildebrand: Stated he agreed with the importance of precedent, particularly since they have not contemplated what changing now would mean to the other two districts.

Elaine Estes: Stated we are setting ourselves up for failure if we ignore precedent.

Chair Todd: Asked if anyone was ready to make a motion.

Elaine Estes: Noted that neither of these materials were used during the era of the district.

Jason Van Essen: Stated that normally property owners are given 90 days to remove a violation, but that staff could give Mr. Post additional time to find an alternative way to store the items currently stored in the shed.

Chair Todd: Asked if anyone was ready to make a motion.

Martha Green: Moved to deny the request for a Certificate of Appropriateness to allow the retention of the metal shed and to encourage staff to provide the applicant adequate time to find an alternative way to store items currently in the shed.

Mike Hildebrand: Seconded the motion.

VOTE: A vote of 6-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry				X
Bye	X			
Green	X			
Hildebrand	X			
Holderness				X
Estes	X			
Fenton				X
Marchand				X
Steffen	X			
Taenzer				X
Todd	X			

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Denial of the request as it would not be in harmony with the historic character of the neighborhood or meet the requirements set out in the Historic Preservation Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

60A



July 10, 2017

Clifford Post
1815 Oakland Avenue
Des Moines, IA 50314

RE: *Request to retain a metal shed at 1815 Oakland Avenue located within the River Bend Local Historic District (Case No. 20-2017-9.19)*

Dear Mr. Post:

On June 21, 2017, the City of Des Moines Historic Preservation Commission, in accordance with the City of Des Moines Historic Preservation Ordinance, took action by a vote of 6-0 to deny your request for a Certificate of Appropriateness.

If you believe the Commission's action was arbitrary or capricious, you may appeal their decision to the City Council. Appeals must be in writing and filed with the City Clerk no later than ten business days after the filing of the above-mentioned decision. The date of this letter serves as the filing date. An appeal must be submitted no later than July 24, 2017.

If no appeal is received, you must work with staff to develop a schedule for the removal of the shed from the property. I understand you are considering building a garage and that this would provide you a place to store items currently stored in the shed. Please contact me by September 29, 2017 so we can discuss the status of your project and determine a deadline for removing the shed. This should provide you adequate time to research the cost of constructing a garage and to evaluate possible construction schedules.

Sincerely,

Jason Van Essen, AICP
Senior City Planner

cc: Vince Travis, Neighborhood Inspections Supervisor

