



Roll Call Number

Agenda Item Number

60B

Date August 28, 2017

RESOLUTION **REVERSING** 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 patently arbitrary or capricious and should be reversed for the following reasons:
 - a. The shed is temporary in nature as it does not have footings or a foundation and thus can be easily moved, so the guidelines should not have been applied to it; and,



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- b. It is located in the rear yard and there is limited visibility of it from the street, so the impact on the neighborhood is minimal.
- 4. The City Council reverses the June 21, 2017 decision of the Historic Preservation Commission in Case Number 20-2017-9.19; the Certificate of Appropriateness should be granted to allow the appellant to maintain its existing metal shed on the premises

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.

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