



Roll Call Number

16-0900

Agenda Item Number

58A

Date May 23, 2016

RESOLUTION **AFFIRMING** 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:



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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 application for Certificate of Appropriateness for 1805 Oakland Avenue is not patently arbitrary or capricious and should be upheld for the following reasons:
 - (a) Before the existing vinyl window was installed as a replacement window, 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 window was replaced without benefit of consulting with city staff. Had city staff been consulted, the modifications to the material that would be necessary to qualify for a Certificate of Appropriateness would have been determined before the window was installed.
 - (c) The Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts state that "any replacement windows should duplicate the original window in type, size, and material." The Commission was not patently arbitrary and capricious when it found that the installed this vinyl window does not duplicate the original wood material.
 - (d) Preservation Brief # 16 promulgated by the Secretary of the Interior, and adopted by the city's guidelines state that substitute materials must be comparable in "composition, design, dimensions, durability, color, texture and visual properties" as the original historic material. The Commission was not patently arbitrary and capricious when it found that this vinyl window was not an acceptable substitute material for the original wood window.



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- 4. The City Council affirms the March 16, 2016 decision of the Historic Preservation Commission in Case Number 20-2016-9.26.

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

(Council Communication No. 16-265)

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	6	1		

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.

T. M. Franklin Council
 Mayor

Diane Rauh
 City Clerk