



Roll Call Number

16-1772

**WITHDRAWN**

Agenda Item Number

62B

Date October 10, 2016

**RESOLUTION REVERSING THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO GRANT AN APPLICATION FOR CERTIFICATE OF APPROPRIATENESS FOR PROPERTY SUBJECT TO CONDITIONS AT 826 18<sup>th</sup> STREET.**

WHEREAS, on August 11, 2016, in Case Number 20-2017-5.01, the Historic Preservation Commission granted an application from James Conlin for a Certificate of Appropriateness subject to conditions regarding property at 826 18<sup>th</sup> Street in the Sherman Hills Historic Neighborhood District. The Commission's decision granted a certificate to replace 4 wood windows on the south façade of the house, subject to the following conditions:

1. The replacement window shall be constructed of wood with no cladding.
2. The replacement window shall have the same general shape and dimensions as the existing windows.
3. The selected window product shall be reviewed and approved by staff prior to installation.
4. The applicant is encouraged to reuse or allow the reuse of the hardware from the existing windows.

WHEREAS, James Conlin, the owner of the affected property, has appealed the Commission's decision to the City Council pursuant to Section 303.34(3) of the Iowa Code and Section 58-31(f) of the Des Moines Municipal Code and seeks to have the decision reversed, removing the conditions relating to the wood replacement windows; and

WHEREAS, on September 12, 2016, by Roll Call No. 16-1520, it was duly resolved by the City Council that the appeal be set down for hearing on September 26, 2016 at 5:00 p.m. in Council Chambers; and

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

WHEREAS, the hearing was opened on September 26, 2016 and continued to October 10, 2016 at 5:00 p.m. in Council Chambers; and

WHEREAS, in accordance with the notice and continuance, 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."



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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 in 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 notes that in addition to the guidelines for approval of proposals, "the commission shall be reasonable in its judgments and endeavor to approve proposals for alteration of structures of little historical and cultural value, except when such proposal would seriously impair the historical values and character of the surrounding area." Des Moines Municipal Code §58-31(c). The City Council hereby finds that the Commission acted in a patently arbitrary and capricious manner by failing to find that the applicant's proposal was to alter a structure of little historical, architectural or cultural value and that the proposed alterations would not seriously impair the historical values and character of the surrounding area.
4. The City Council REVERSES conditions 1, 2, and 3 contained in the Certificate of Appropriateness granted by the Historic Preservation Commission in Case Number 20-2017-5.01 and the Certificate of Appropriateness is hereby granted as applied for by the applicant subject to condition 4.



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Moved by \_\_\_\_\_ to adopt.

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