



Roll Call Number

19-0936

WITHDRAWN

Agenda Item Number

62B

Date June 3, 2019

RESOLUTION REVERSING THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO GRANT AN APPLICATION FOR CERTIFICATE OF APPROPRIATENESS SUBJECT TO CONDITIONS FOR PROPERTY AT 821 16<sup>th</sup> STREET.

WHEREAS, on April 17, 2019, the Historic Preservation Commission granted an application in Case Number 20-2019-5.36 from Jonathan Fudge for a Certificate of Appropriateness subject to conditions regarding property at 821 16<sup>th</sup> Street in the Sherman Hills Historic Neighborhood District. The Commission's decision granted a certificate to replace gutters on the house and garage, subject to the following conditions:

- 1. The open rafter design of the roof overhang for the house and garage shall be maintained. The fascia boards that were installed prior to the issuance of a COA shall be removed.
2. Use of half-round gutters and round downspouts.
3. Review and approval of the selected gutter system by City staff prior to purchase and installation.

WHEREAS, Jonathan Fudge, 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; and

WHEREAS, on May 20, 2019, by Roll Call No. 19-0797, it was duly resolved by the City Council that the appeal be set down for hearing on June 3, 2019 at 5:00 p.m. in Council Chambers; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on May 23, 2019 and due notice was provided to the applicant-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."



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

- The public hearing on the appeal is hereby closed.
- 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.
- 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.
- The City Council REVERSES the conditions included in the Certificate of Appropriateness granted by the Historic Preservation Commission in Case Number 20-2019-5.36.

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

(Council Communication No. 19- 268 )

APPROVED AS TO FORM:

*Thomas G. Fisher Jr.*

Thomas G. Fisher Jr., Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

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.

Mayor

City Clerk