



Legislation Details (With Text)

File #: 2024-0249 **Version:** 1 **Name:**
Type: Resolution **Status:** Appeal
File created: 2/7/2024 **In control:** Board of Commissioners
On agenda: 2/27/2024 **Final action:**
Title: COMMISSION DISTRICT(S): 2 & 6
Appeal of a Decision of the Historic Preservation Commission at 1176 Lullwater Road by Virginia Tate

Indexes:

Attachments: 1. 1176 Lullwater Appeal_Tate_Appeal Package

Date	Ver.	Action By	Action	Result
4/9/2024	1	Board of Commissioners	approved	Pass
2/27/2024	1	Board of Commissioners	deferred	Pass
2/20/2024	1	Committee of the Whole	Accepted to the BOC agenda - Appeal	

Public Hearing: YES NO **Department:** Planning & Sustainability

SUBJECT:
COMMISSION DISTRICT(S): 2 & 6

Appeal of a Decision of the Historic Preservation Commission at 1176 Lullwater Road by Virginia Tate

INFORMATION CONTACT: Brandon White, Current Planning Manager

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STANDARD OF REVIEW:

Chapter 13.5-8 (12) allows an applicant to appeal a decision by the Historic Preservation Commission to the Board of Commissioners. The appeal shall be limited to a review of the record of the proceedings before the preservation commission. The standard of review shall be an abuse of discretion. An abuse of discretion exists where the record presented to the governing authority shows that the preservation commission exceeded the limits of its authority or that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) or the guidelines adopted by the preservation commission pursuant to section 13.5-6 or that the preservation commission's decision was otherwise arbitrary and capricious. If the governing authority finds no abuse of discretion, then it may affirm the decision of the preservation commission. If the governing authority finds that the preservation commission abused its discretion in reaching a decision, then it may reverse the preservation commission's decision, or it may reverse the preservation commission's decision and remand the application to the preservation commission with direction.

PURPOSE:

Appeal of the January 16th, 2024 decision of the Historic Preservation Commission to approve a Certificate of

Appropriateness application at 1176 Lullwater Road in the Druid Hills Historic District.

SUMMARY:

Appellant Tate asserts that the commission abused its discretion pursuant to DeKalb County Code 13.5-8(12) and exceeded its authority by ruling over a Certificate of Appropriateness application for a property that had a previous Certificate of Appropriateness overturned by the Board of Commissioners; and that the commission's decision was arbitrary and capricious in that it was not based on factors set forth in Section 13.5-8(3) or the Druid Hills Design Guidelines, and took into consideration the approved stream buffer variance granted to the property but not the Board of Commissioners' prior reversal.