



Legislation Details (With Text)

**File #:** 2018-2866    **Version:** 2    **Name:**

**Type:** Resolution    **Status:** Appeal

**File created:** 10/12/2018    **In control:** Board of Commissioners

**On agenda:** 10/23/2018    **Final action:**

**Title:** Commission District(s): 2 & 6  
Appeal of a Decision of the DeKalb County Historic Preservation Commission (HCP) regarding 1534 N. Decatur Road, by applicant Linda Dunlavy, Dunlavy Law Group LLC on behalf of Lullwater Wharf, LLC (owner).

**Indexes:**

**Attachments:** 1. Appeal of HPC decision, 2. 1534 N Decatur Rd denial notice, 3. 1534 N Decatur Rd decision form, 4. Staff report for 1534 N Decatur Rd, 5. 1534 appl form, 6. 1534 N Decatur REVISED PLANS recd 9-14, 7. Transcript of HPC hearing

Date	Ver.	Action By	Action	Result
10/23/2018	2	Board of Commissioners	tabled	Pass
10/23/2018	2	Board of Commissioners	taken off table	Pass
10/23/2018	2	Board of Commissioners	reversed and remanded HPC decision	Pass
10/16/2018	2	Committee of the Whole		

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

**SUBJECT:**

**Commission District(s):** 2 & 6

Appeal of a Decision of the DeKalb County Historic Preservation Commission (HCP) regarding 1534 N. Decatur Road, by applicant Linda Dunlavy, Dunlavy Law Group LLC on behalf of Lullwater Wharf, LLC (owner).

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**PURPOSE:**

Appeal of the September 21, 2018 decision of the Historic Preservation Commission to deny a Certificate of Appropriateness application at 1534 North Decatur Road.

**NEED/IMPACT:**

**Excerpted from code section 13.5-8(12):**

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 revise reverse the preservation commission's decision and remand the application to the preservation commission with direction.

**FISCAL IMPACT:**

No fiscal impact to the County.

**RECOMMENDATION:**

The appellant contends that, per Section 13.5-8 (12) of the Historic Preservation Ordinance, the Historic Preservation Commission abused its discretion by using a recommendation in Section 7.3.1 of the Guidelines as a basis for denial. Applicant further asserts that no evidence in the record supports a finding of a substantial adverse effect on the District; rather, according to applicant, the bases of denial were factors outside the scope of the Ordinance and Guidelines.