



Legislation Details (With Text)

File #: 2022-2523 **Version:** 1 **Name:**
Type: Resolution **Status:** Appeal
File created: 11/15/2022 **In control:** Board of Commissioners
On agenda: 12/13/2022 **Final action:** 12/13/2022
Title: COMMISSION DISTRICT(S): Commission District 02 & Super District 06
Appeal of Decision of the Historic Preservation Commission Concerning Property Located at 1354
The By Way NE

Indexes:

Attachments: 1. 1354 The By Way Appeal Packet, 2. October HPC Meeting Transcript

| Date | Ver. | Action By | Action | Result |
|------------|------|------------------------|-------------------------------------|--------|
| 12/13/2022 | 1 | Board of Commissioners | approved | Pass |
| 12/6/2022 | 1 | Committee of the Whole | Accepted to the BOC agenda - Appeal | |

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

SUBJECT:

COMMISSION DISTRICT(S): Commission District 02 & Super District 06

Appeal of Decision of the Historic Preservation Commission Concerning Property Located at 1354 The By Way NE

INFORMATION CONTACT: Brandon White, 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 October 17, 2022, decision of the Historic Preservation Commission to issue a Certificate of Appropriateness to allow the streambank restoration at 1354 The By Way NE.

SUMMARY:

The appellant contends the decision constitutes an abuse of discretion in the following ways: 1) The CoA application was not complete. 2) The HPC failed to protect the historic district and impacted property owners. 3) The decision does not comply with guidelines 5.3, 7.2.6, 7.2.7, 8.2, and 9.7.