



## Legislation Details (With Text)

**File #:** 2021-2763    **Version:** 1    **Name:**  
**Type:** Approved    **Status:** Appeal  
**File created:** 6/17/2021    **In control:** Board of Commissioners  
**On agenda:** 7/13/2021    **Final action:**  
**Title:** COMMISSION DISTRICT(S): 2 & 6  
Appeal of a Decision of the Historic Preservation Commission  
**Indexes:**  
**Attachments:** 1. Appeal request, 2. Case record

Date	Ver.	Action By	Action	Result
7/13/2021	1	Board of Commissioners		
7/6/2021	1	Committee of the Whole	accepted to 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  
**INFORMATION CONTACT:** Brandon White

**PHONE NUMBER:** 404-371-4922

**STANDARD OF REVIEW:**

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

**PURPOSE:**

Appeal of the May 17, 2021 decision of the DeKalb County Historic Preservation Commission to approve an application for a certificate of appropriateness at 1354 The By Way in the Druid Hills Historic District.

**SUMMARY:**

The appellants contend that the approval of a certificate of appropriateness to plant 31 trees is an abuse of discretion and arbitrary and capricious because the commission did not take into consideration pertinent features of other properties in the immediate neighborhood. The appellants further assert the decision was arbitrary and capricious because it is in violation of Georgia Dept. of Natural Resources Guidelines, DeKalb County Code Section 14-44.1(a)(1) related to stream buffers, and contradicted an HPC position taken in March; and because the decision overturns prior requirements for historic landscape by the BOC and the former HPC.