

.....
Date..... January 8, 2007

RESOLUTION AFFIRMING THE DECISION OF THE HISTORIC
PRESERVATION COMMISSION

WHEREAS, on November 15, 2006, the Historic Preservation Commission conditionally approved an application from Edward C. Muelhaupt III for a Certificate of Appropriateness for the construction of a fence on his property at 649 18th Street; and,

WHEREAS, the Commission's approval of the Certificate of Appropriateness is subject to a limitations on the height and design of the fence; and,

WHEREAS, Edward C. Muelhaupt III has appealed the Commission's decision to the City Council pursuant to §58-31(f) of the Des Moines Municipal Code; and,

WHEREAS, on December 18, 2006, by Roll Call No. 06-2643, it was duly resolved by the City Council that the appeal be set down for hearing on January 8, 2007, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was mailed to the applicant on December 20, 2006, and published in the Des Moines Register on December 28, 2006; and,

WHEREAS, in accordance with the said notice, those interested in the issuance of the Certificate of Appropriateness, both for and against, have been given 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 such as this, the City Council shall consider whether the Historic Preservation Commission has exercised its powers and followed the guidelines established by the law and ordinance, and whether the Commission's decision was patently arbitrary or capricious; NOW THEREFORE,

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

1. The public hearing on the appeal is hereby closed.
2. The City Council hereby finds that the decision of the Historic Preservation Commission requiring as a condition of approval of a Certificate of Appropriateness for a privacy fence at 649 18th Street, that the fence satisfy the conditions identified below, is not arbitrary or capricious and should be upheld.
3. The City Council hereby makes the following findings in support of this decision:

(continued)

47A

January 8, 2007

Date

- a) The design of the privacy fence proposed by the applicant is not consistent with the adopted fence guidelines or the historic character of the Sherman Hill Historic District, for the reasons set forth in the Staff Report and Recommendation to the Historic Preservation Commission for the Commission meeting of November 15, 2006.

- b) The following conditions, imposed by the Historic Preservation Commission on the design and construction of the privacy fence are reasonable and consistent with the adopted fence guidelines for fences in the Historic Districts:
 - The front yard segment of fence is limited to 3' in height with no lattice element on top of the pickets.
 - The rear and side yard segments of fence are limited to 6' in height.
 - Pickets on both sides of the fence are placed back-to-back and not alternating.
 - Use of 4"x4" posts that are exposed and include a base and cap in the front and side yards.
 - Post cap element may be similar in design to porch spindles.
 - Application of the same stain or paint finish on all sections of the fence.
 - Provision of a pointed top or other appropriate picket top design, not including "dog eared" style tops, along the entire length of the fence.
 - Review and approval of post base and cap design and picket top design by staff.

(Council Communication No. 07-)

MOVED by _____ to adopt, and affirm the decision of the Historic Preservation Commission to conditionally approve the Certificate of Appropriateness.

FORM APPROVED:

Roger K. Brown

Roger K. Brown
Assistant City Attorney

C:\Rog\Historic\Appeals\Muelhaupt\RC Hrg.doc

NOTE: The applicant, Edward Muelhaupt III, has requested that this hearing be continued to January 22, 2007, at 5:00 p.m.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
VLASSIS				
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

47A

December 4, 2006

Mayor and City Council Members, City of Des Moines
400 Robert D Ray Drive
Des Moines, IA 50309

Dear Mr. Mayor and City Council Members,

I am writing to appeal a decision made on November 15, 2006 by the Historic Preservation Commission on Certificate of Appropriateness Case Number 20-2007-5.03 for a privacy fence at 649 18th Street.

I am appealing the following elements of the Historic Preservation Commission's decision:

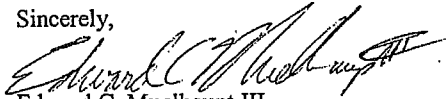
- Size of gaps
- Design of top
- Height in rear yard
- Exposure of posts
- Paint or stain required

The Historic Preservation Commission approved a motion that modified my proposed design for a privacy fence, although my proposal is aligned with the Des Moines ordinance for fences. My proposal for the design of the privacy fence is also consistent with existing fences in Sherman Hill with regard to all of the elements listed above. There are fences in Sherman Hill that have gaps smaller than 3/4", have dog ear shaped tops in the side and front yard, are taller than 6' in the rear yard, do not have exposed posts, and are not painted or stained. The special situation with an abnormally high volume and frequency of noise pollution coming from the Beacon of Life to the south of 649 18th Street is the primary reason the fence needs to be 8' in the rear yard. It is cost prohibitive to custom cut the tops of the fence boards as it would approximately triple the cost of the fence.

A copy of my proposed design for a privacy fence on the south side of 649 18th Street is attached.

Thank you for your consideration.

Sincerely,



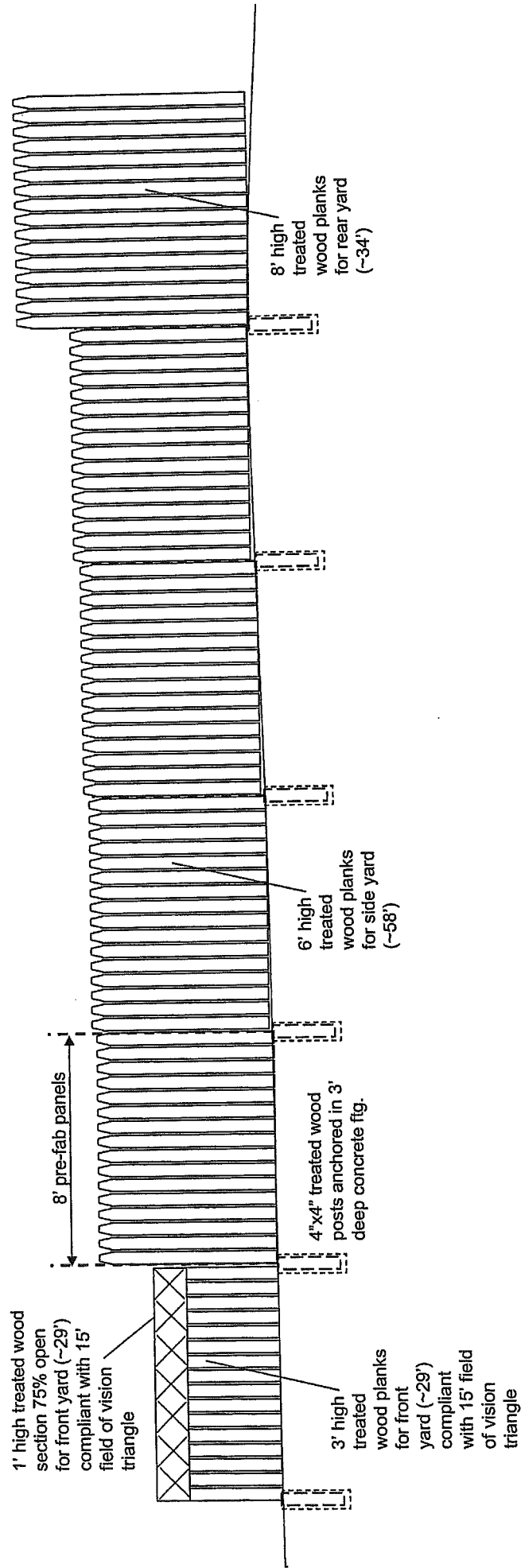
Edward C. Muelhaupt III
649 18th Street

ecm@DMColdStorage.com
515-283-8050

2006 DEC -5 PM 1:58
CITY CLERK
DES MOINES, IOWA
FILED

FENCE DIAGRAM FOR 649 18TH STREET

9-20-06



1' high treated wood section 75% open for front yard (~29') compliant with 15' field of vision triangle

3' high treated wood planks for front yard (~29') compliant with 15' field of vision triangle

8' pre-fab panels

4"x4" treated wood posts anchored in 3' deep concrete fig.

6' high treated wood planks for side yard (~58')

8' high treated wood planks for rear yard (~34')

- Pickets facing out on both sides with connecting 2"x4"x8' in between
- Step along grade
- Planks ~5 1/2" wide by ~1/2" thick
- May have caps similar to spindles on porch
- If stained or painted, it will be consistent for all sections of fence.

FENCE ELEVATION
1/4" = 1'0"

FENCE DESIGN SUBMITTED
WITH APPEAL 12/5/2006

November 21, 2006

Mr. Edward C. Muelhaupt III
649 18th Street
Des Moines, IA 50314

RE: 649 18th Street – Certificate of Appropriateness (Case # 20-2007-5.03)

Dear Mr. Muelhaupt:

Please find attached the Certificate of Appropriateness regarding your application for the construction of a fence at 729 17th Street as approved by the Historic Preservation Commission on November 15, 2006.

If you are not satisfied with the decision of the Commission, please be advised that an appeal of their action must be made to the City Council. Appeals must be in writing and filed with the City Clerk no later than ten business days after the filing of the above-mentioned decision. The date of this letter serves as the filing date. An appeal must be submitted no later than December 5, 2006. If you choose to appeal please identify which portions of the Commissions' action you are appealing.

Please contact me at 283-4147 or at jmvanessen@dmgov.org if you have any questions.

Sincerely,



Jason Van Essen, AICP
Senior City Planner



HISTORIC DISTRICT COMMISSION
ARMORY BUILDING
602 EAST FIRST STREET
DES MOINES, IOWA 50309-1881
(515) 283-4182

ALL-AMERICA CITY 1949, 1976, 1981

HISTORIC PRESERVATION COMMISSION
CITY OF DES MOINES
CERTIFICATE OF APPROPRIATENESS
In the Following Matter

This Certificate of Appropriateness is valid for one year from the meeting date

REQUEST FROM:	:	CASE NUMBER: 20-2007-5.03 Amendment
	:	
EDWARD C. MUELHAUPT III	:	
	:	
PROPERTY LOCATION:	:	MEETING DATE: November 15, 2006
	:	
649 18TH STREET	:	

This Decision of the Historic Preservation Commission does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

SUBJECT OF THE REQUEST:

Construction of a fence along the south property line with the west 29' of the fence being 3' in height with a 1 foot 75% open extension, the middle 58' of the fence being 6' in height and the east 34' of the fence being 8' in height.

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Granting the application as presented subject to the conditions listed below would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications. **The property owner must obtain permits and the completed work must comply with construction codes.**

CONDITIONS:

- The front yard segment of fence is limited to 3' in height with no lattice element on top of the pickets.
- The rear and side yard segments of fence are limited to 6' in height.
- Pickets on both sides of the fence are placed back-to-back and not alternating.
- Use of 4"x4" posts that are exposed and include a base and cap in the front and side yards.
- Post cap element may be similar in design to porch spindles.
- Provision of a 3/4" gap between the pickets.
- Application of the same stain or paint finish on all sections of the fence.
- Provision of a pointed top or other appropriate picket top design, not including "dog eared" style tops, along the entire length of the fence.
- Review and approval of post base and cap design and picket top design by staff.

Edward C. Muelhaupt III
649 18th Street
20-2007-5.03


-2-

November 15, 2006

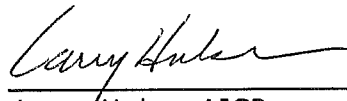
VOTE: A vote of 7-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Holderness	X			
Estes	X			
Reavely				X
Stamps				X
Shaw	X			
Berry	X			
Fenton	X			
Schneider	X			
Taenzer	X			

Approved as to form:



Michael Ludwig, AICP
Planning Administrator



Larry Hulse, AICP
Director, Community Development

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CITY OF DES MOINES
HISTORIC PRESERVATION COMMISSION
MEETING SUMMARY

DATE: November 15, 2006
TIME: 5:30 P.M.
PLACE: City Council Chambers
City Hall, 400 Robert D. Ray Drive

COMMISSIONERS PRESENT: Susan Holderness (Chair), Teresa Schneider, Elaine Estes, Shirley Shaw, York Taenzer, Scotney Fenton, and Sinde Berry.

COMMISSIONERS ABSENT: Mary Reavely (Vice Chair), and Danelle Stamps.

STAFF PRESENT: Jason Van Essen, Senior City Planner

SUMMARY OF AGENDA ITEM #1

Request from Edward C. Muelhaupt for the construction of a fence along the south property line at 649 18th Street located in the Sherman Hill Historic District. (20-2007-5.03)

Chair Susan Holderness: Noted that this is a request from Edward Muelhaupt for the construction of a fence along the south property line at 649 18th Street (Sherman Hill Historic District). On August 21, 2006, the Historic Preservation Commission conditionally approved the applicant's request to relocate the front door, enclose the rear porch, and construct a garage and a second floor addition. The applicant's request to construct a fence along the south property line was continued at the August 21, 2006 meeting to allow the applicant time to submit a fence design that meets the Fence Design Guidelines.

Jason Van Essen: Gave a brief synopsis of the proposed changes to the fence design. He informed the board that the fence is quite different than what was seen previously. It is more of a dog-eared style fence and the posts are not exposed between the sections of the fence. Staff expressed concerns about the 75% open extension on top of the fence in the rear yard, which is allowed by the zoning ordinance but exceeds the height allowed by the Historic District Guidelines. Staff recommends approval of the fence subject to conditions noted in the staff report.

E.C. Muelhaupt, 649 18th Street: Agrees with staff recommendation regarding the alignment of the pickets and the condition regarding the finish of the fence being consistent. However, he has issues with requiring a minimum 3/4" gap between the pickets. He understands the commissioners raised the point that the gaps are there to allow neighborly interaction and air circulation. Unfortunately, there are problems with both of those requirements. This situation is unique on the property line between 649 and the Beacon of Life property because the Beacon of Life has 40+ tenants (women) that the Beacon of Life's Executive Director has requested he not communicate with. Every time he walks out his door, there is someone outside of the Beacon of Life socializing, smoking, etc. and he cannot talk to them. There is a cloud of smoke that moves from the Beacon of Life onto his property, so having big gaps in the fence would allow smoke through and it reduces his privacy. He showed pictures of other fences in the neighborhood that have smaller than 3/4" gaps and asked that the gaps between the pickets on his fence be consistent with the other fences in the neighborhood which he says are

close to 3/8" gaps. The additional fence height in the rear yard is necessary due to noise coming from the Beacon of Life property.

Susan Holderness: Reminded Mr. Muelhaupt that according to the Historic District Guidelines, the height of the fence in the rear yard can only be a maximum of 6', and if it was done the way Mr. Muelhaupt requests, the fence would be 8' tall and situated on top of a retaining wall. The visual impact of the fence from the adjoining property would be 10' tall or greater.

E.C. Muelhaupt: Noted that it is common not to have the exposed posts on other fences around the neighborhood.

Susan Holderness: Read the fence guideline pertaining to the post which states "posts are typically built with four equal sides with a base and a cap and are slightly taller than the pickets. Six to twelve-inch squares are common for a prominent post. The minimum width should be the height of the post in feet translated to the equivalent width in inches, e.g., if the post is four feet tall, the post should be at least four inches wide."

Jason Van Essen: Noted that the Historic District Guidelines are more restrictive than the zoning ordinance.

E.C. Muelhaupt: Stated that he would be willing to put some type of cap above the exposed post – something that is like a soft curve, or something that is kind of a spindle that will tie in nicely with the spindles that are on the front porch.

Susan Holderness: Asked if there was anyone in the audience that wanted to address the commission.

Nelda Mickle, 1701 Woodland Avenue: Objects to the 8-foot tall fence. Should only be allowed a 6' fence as called for by the Historic District Guidelines. The applicant should be required to submit that picket design to staff for approval before that picket fence is constructed. Read into the record written comments from her husband Bob Mickle: "I feel compelled to express to the commission that the applicant has attempted to stretch the fence guidelines in most every instance. We neighbors reluctantly acquiesced to his desire with respect to the garage recognizing his very great desire to have not only a garage to support his cars, but a functional workshop space as well. But we acquiesced only upon his assurances that he would abide by the 6-foot fence height limitation along the entire property line. The applicant has ignored these promises made to the neighbors as to the height and consistency with respect to that last situation. I would also ask that the commission consider whether with respect to future applications, there will be a wisdom to include in the formal record of the commission actions any representation made by the applicant to abutting neighbors to secure their support for or their forgoing of their objection to the action being sought."

Deborah Peak, 1808 Woodland Avenue: Supports the letter from Bob Mickle read by Nelda and also supports the concept of the picket and the post cap given by staff before final approval of construction. She feels that Woodland Avenue is isolated enough from the rest of the hill and the idea of the privacy fence is further isolating those who live on Woodland both on the north and the south and realizes that a 3/4" gap is a minimum but personally would prefer a 1" or greater gap to give a broad perspective of, not excluding that part of the Sherman Hill area. She also knows that noise is a problem and thinks that he might want to consider a noise buffer such as landscaping. Noted that she has been at every commission meeting that the applicant has attended and he has consistently pushed the envelope with the historic district guidelines. Just because something was approved in the past

or was approved by a previous commission does not obligate this particular commission to also approve like construction or like design.

Susan Holderness: Mentioned that the shape of the top of the fence pickets has not been addressed.

York Taenzer: Noted that dog-eared pickets are acceptable in back yard only, not the side or the front yard.

E.C. Muelhaupt: Has issues with the top of the pickets being something other than dog-eared. The proposed fence is purchased in pre-fabricated panels that are dog-eared and he has looked all around the city for something that has a point or some other at the top and has not been able to find any. The cost to take off the boards and cut them to some other design on top would be prohibitive. He estimates that it would almost triple the cost of the fence, so he would prefer the pickets be dog-eared.

York Taenzer: Moved the staff recommendation with the addition of a requirement that the post cap element may be similar in design to porch spindles and that the post base and cap design and picket top design be reviewed and approved by staff.

Elaine Estes: Seconded the motion.

ACTION OF THE COMMISSION:

Granting the application as presented subject to the conditions listed below would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications. The property owner must obtain permits and the completed work must comply with construction codes.

CONDITIONS:

1. The front yard segment of fence is limited to 3' in height with no lattice element on top of the pickets.
2. The rear and side yard segments of fence are limited to 6' in height.
3. Pickets on both sides of the fence are placed back-to-back and not alternating.
4. Use of 4"x4" posts that are exposed and include a base and cap in the front and side yards.
5. Post cap element may be similar in design to porch spindles.
6. Provision of a ¾" gap between the pickets.
7. Application of the same stain or paint finish on all sections of the fence.
8. Provision of a pointed top or other appropriate picket top design, not including "dog eared" style tops, along the entire length of the fence.

9. Review and approval of post base and cap design and picket top design by staff.

VOTE: A vote of 7-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Holderness	X			
Reavely				X
Berry	X			
Estes	X			
Fenton	X			
Schneider	X			
Shaw	X			
Stamps				X
Taenzer	X			

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CITY OF DES MOINES HISTORIC PRESERVATION COMMISSION
STAFF REPORT AND RECOMMENDATION
Wednesday, November 15, 2006

AGENDA ITEM #1

20-2007-5.03

Applicant: Edward C. Muelhaupt (owner).

Location: 649 18th Street (Sherman Hill Historic District).

Requested Action: Construction of a fence along the south property line with the west 29' of the fence being 3' in height with a 1 foot 75% open extension, the middle 58' of the fence being 6' in height and the east 34' of the fence being 8' in height.

****This item was continued from the August 21, 2006, Special Historic Preservation Commission meeting to allow time for the applicant to prepare an alternative fence design. The applicant's proposal to construct a proposed fence along the south property line was first consider by the Commission on July 15, 2006.*

I. GENERAL INFORMATION

1. **Purpose of Request:** Construction of a privacy fence along the south property line.
2. **Site Description:** The subject property measures 50' x 125' and contains a 2-story single-family dwelling built circa 1885, with a total living area of 1,900 square feet.
3. **Sanborn Map:** The 1901, 1920 and 1957 maps generally show the house as it is today without the 1990's addition. The 1901 map shows a 1½-story carriage house in the southeast corner of the lot and the 1920 and 1957 maps show a single-story garage generally in the same location.
4. **Relevant COA History:** On July 15, 2006, the Historic Preservation Commission conditionally approved the applicant's request to finish reconstructing the front porch. On August 21, 2006, the Historic Preservation Commission conditionally approved the applicant's request the relocated the front door, enclose the rear porch, construct a garage and a second floor addition. The applicant's request to construct a fence along the south property line was continued at the August 21, 2006 meeting to allow the applicant time to submit a fence design that meets the Fence Design Guidelines.

The applicant's initial fence proposal consisted of a 16'-long, 6'-tall section to the west and a 72'-long, 12'-tall section to the east. The applicant submitted a revised fence design in August that consisted of a 16'-long, 6'-tall section to the west and a 72'-long, 9'-tall section to the east.

II. APPLICABLE DESIGN GUIDELINES

Fence Guidelines:

- a. The rear yard fence, both open and solid, should be a maximum of six feet in height.

The proposed fence would consist of a 29'- long, 4'-tall section; a 58'-long, 6'-tall section; and a 34'-long, 8'-tall section. The proposed 8'-tall section does not meet this guideline. The Zoning Ordinance does allow fences to be 8' in height in the rear yard.

Staff believes that 8' is not appropriate in this case because the fence would sit on top of a retaining wall that is generally 4' in height. Staff recommends that the proposed 8'-tall section of fence be reduced to 6' in height.

- b. The spacing between posts should be approximately 4 to 14 feet, depending on the design.
- c. The fence should step along a grade change at intervals set by the length between posts rather than at variable lengths or with a continuously straight top edge.

The submitted design indicates that the posts are spaced 8' apart and that the fence sections will step along the grade.

- d. The post and rail side should be facing the homeowner's yard while the picket side should face the street, neighbor or alley. Pickets on both sides of the fence are acceptable if the pickets are placed back-to-back and not alternating, which is generally referred to as a shadow-box fence.

The submitted drawing includes a note stating that the fence will include pickets on both sides of the fence. The pickets are prefabricated 8-long' panels. It is likely that they will naturally line up, however, staff recommends that meeting this guideline be a condition of approval.

- e. Most fences are made of three elements: post, rail and picket. The rail is typically the only horizontal element. The rails should be placed between or on the back side of the posts not the front.
- f. Posts are typically built with four equal sides with a base and a cap, and are slightly taller than the pickets. Six to 12 inch squares are common for a prominent post. The minimum width should be the height of the post in feet translated to the equivalent width in inches.
- g. Posts are a very important visual part of a fence and should not be hidden by the pickets.
- h. Picketson fences in the front and side yards should be placed between the posts and not run continuously in front of the posts.

The applicant is proposing 4" x 4" posts that are obscured from view by the pickets. These guidelines indicate that posts should be exposed and should

include a base and cap in the front and side yards. Staff recommends meeting these guidelines be a condition of approval.

- i. Pickets should be $\frac{3}{4}$ to one inch thick and one to six inches wide.
- j. The tops of most pickets should be cut to some design. Dog-eared fences are acceptable in rear yards only.
- k. Lattice can be used on the top of a fence to add height without the visual weight of a board fence.

The proposed pickets are $\frac{1}{2}$ " thick and $5\frac{1}{2}$ " wide with a dog-eared style top. The pickets of the front yard section of the fence have a flat top with a 1'-tall section of lattice above. The Zoning Ordinance (Sec 134-1296) limits the height of fences in the front yard to 3' or 4' if the entire fence or the top 1' of the fence is 75% open.

The thickness and width of the pickets meet these guidelines but the style of the pickets do not. These guidelines indicate that dog-eared fences are acceptable in rear yards only. Staff also believes that the use of lattice to extend the height of a fence in the front yard is not appropriate. Staff believes the intent of the guideline that allows lattice to be used above pickets is for side and rear yards, which are generally thought as the private portions of the yard and are less visible from the street.

Staff recommends that the provision of pointed-top pickets or another appropriate picket design be provided in the front, side, and rear yards. This will provide design consistence along the entire length of the fence.

- l. The spacing between pickets should be approximately equal to the width of the picket in front and side yards.
- m. When privacy is a concern, the boards maybe spaced closer together, however, it is encouraged to keep the height of the fence as low as possible and to provide at least the thickness of a board ($\frac{3}{4}$ " to 1") between the pickets.

The submitted drawing indicates that a limited amount of space would be provided between the pickets. Staff recommends that the provision of a $\frac{3}{4}$ " gap between the pickets be a condition of approval to ensure compliance with the guidelines.

- n. Painted fences are preferred in the front and side yards. Stains and unpainted wood are not recommended in historic neighborhoods.

The submitted information indicates that the fence would be constructed of treated wood but does not indicate if the fence would be painted. Staff believes that all section of the fence should be painted, stained or left exposed for consistency.

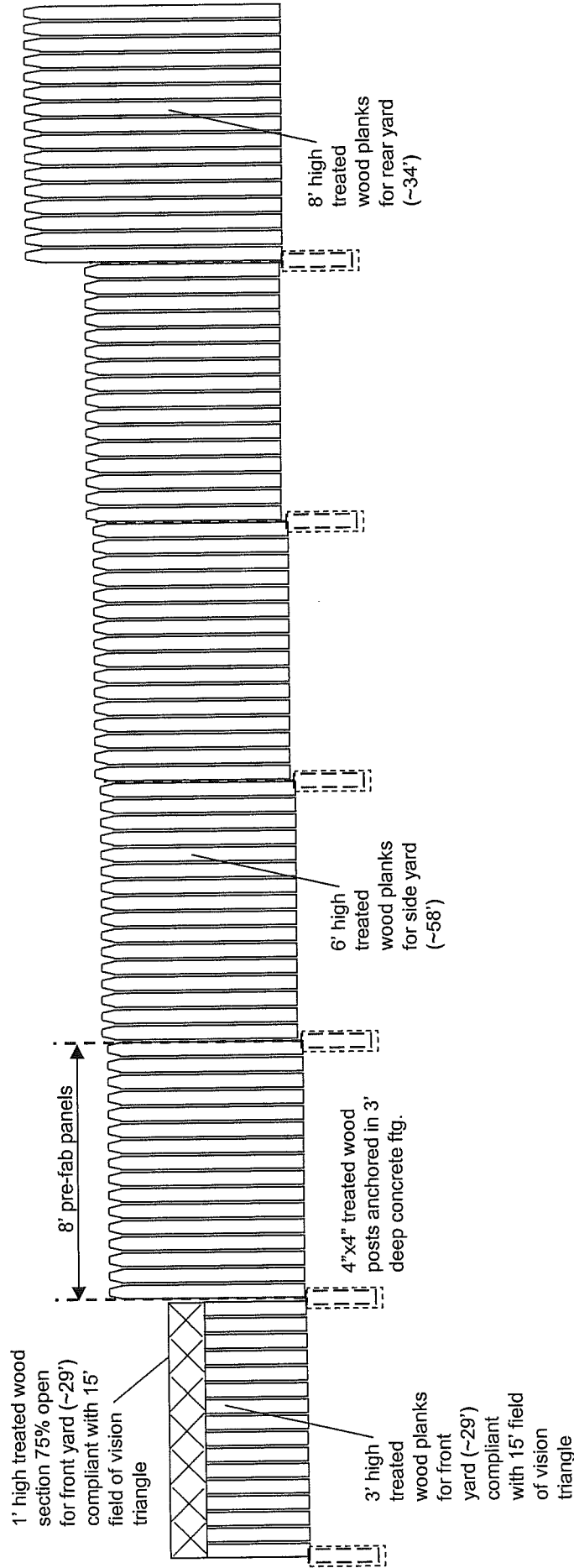
III. STAFF RECOMMENDATION

Staff recommends approval of the proposed fence subject to the following conditions:

1. The fence in the rear and side yards is limited to 6' in height.
2. Pickets on both sides of the fence are place back-to-back and not alternating.
3. Posts are exposed and include a base and cap in the front and side yards.
4. Provision of a ¾" gap between the pickets.
5. Application of the same finish on all sections of the fence.

FENCE DIAGRAM FOR 649 18TH STREET

9-20-06



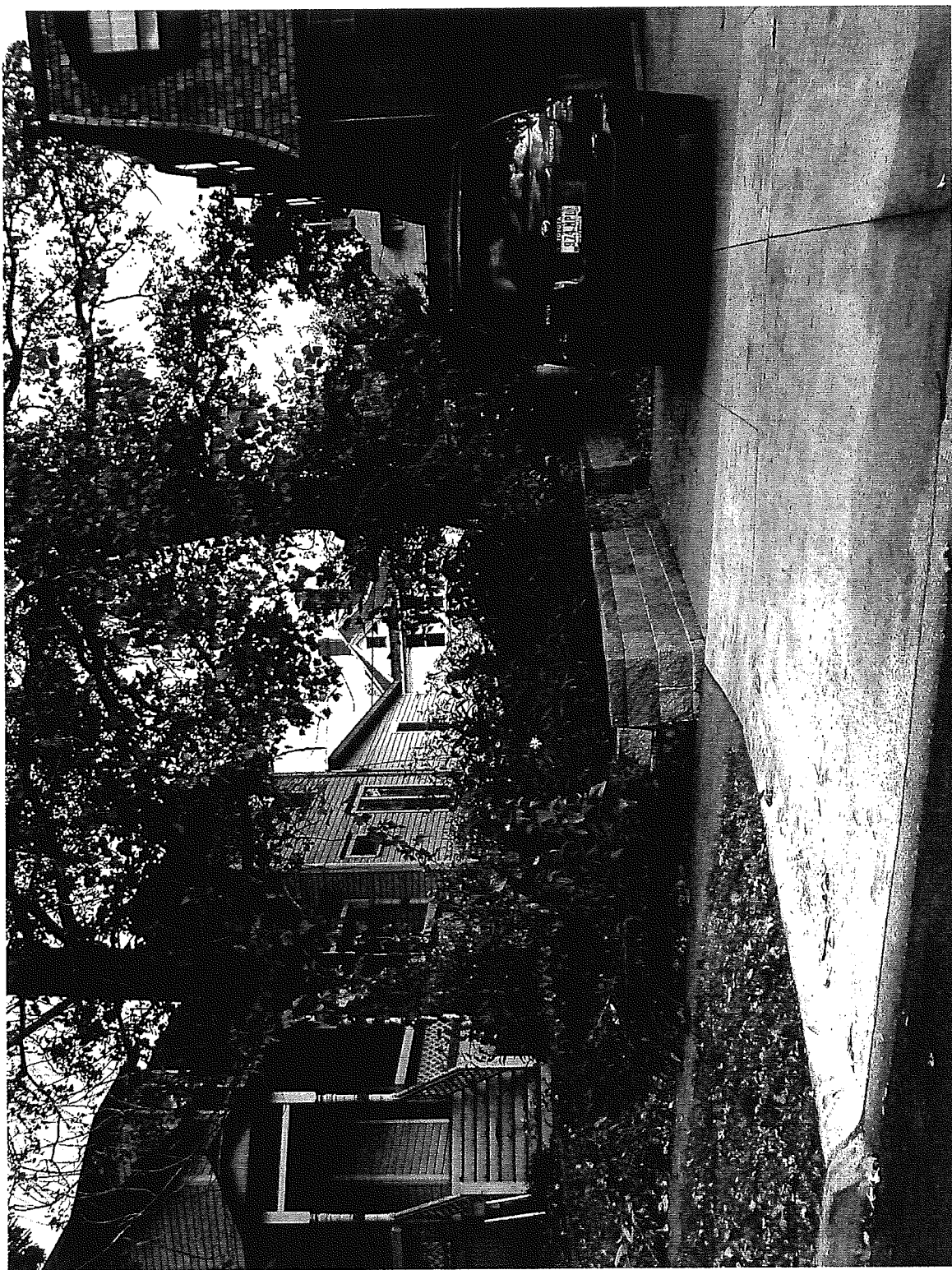
- Pickets facing out on both sides with connecting 2"x4"x8' in between
- Panels aligned so gaps are aligned
- Step along grade
- Planks ~5 1/2" wide by ~1/2" thick

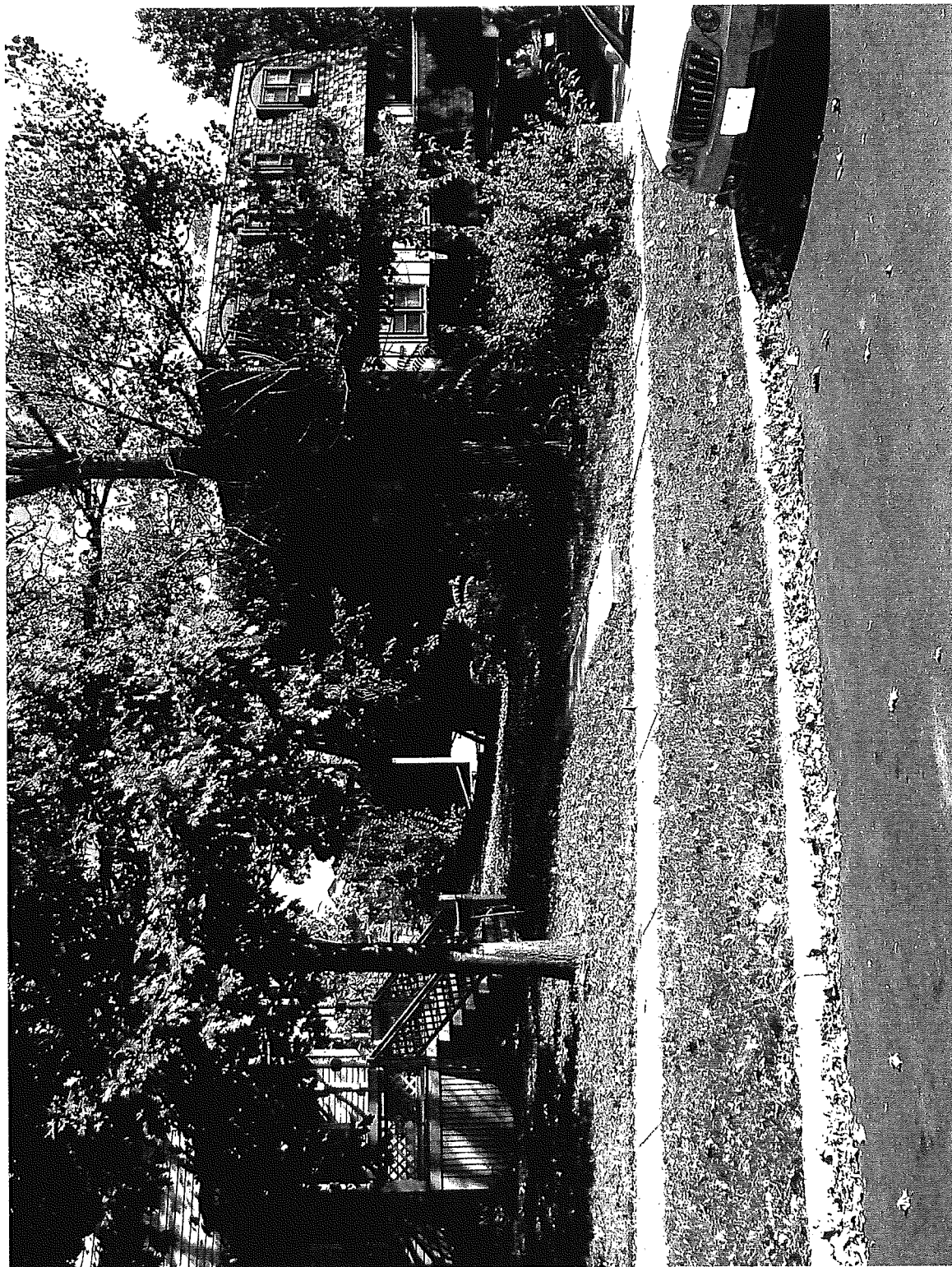
FENCE ELEVATION
1/4" = 1'0"

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FENCE DESIGN SUBMITTED
TO HPC 11/15/2006

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November 15, 2006

City of Des Moines Historic Preservation Commission
City Council Chambers

Re: Agenda Item #1 Request from Edward C. Muelhaupt regarding
construction of a fence along the south property line at 649 18th Street.

TO THE HONORABLE CHAIRPERSON AND OTHER MEMBERS OF THE
HISTORIC PRESERVATION COMMISSION:

I write to express my strong objection to Applicant Muelhaupt's request to construct the east 34' of the fence along the south property line at a height of 8'. This matter was amicably resolved between the applicant and abutting neighbors in the City Council chambers just before his request to construct his garage came before the Commission for approval. Upon his representation that he would not request permission to exceed the applicable 6 foot height limitation of the Fence Design Guidelines at any point along the approximately 121 feet of the south property line and that he would accept a 6 foot height limitation for the rear fence (east property line), the neighbors agreed to forego their objections to his garage request.

These neighbors included myself (tenant in the Coachhouse property at 1711 Woodland Avenue), my stepson Gregory Wells (owner/occupant of 1701 Woodland and owner of 1711 Woodland), a representative of the Beacon of Life (owner of 1717 Woodland Avenue) property immediately south of Mr. Muelhaupt's property and Debra Peek (owner/occupant of ~~1806~~ Woodland).

1808 RWA

Due to prior scheduling commitments which I am unable to change, I cannot be present at tonight's meeting. In my absence, please accept this letter as a part of the Commission's record relative to this item. I thank you for giving the concerns expressed here your full attention and deliberation.

As pointed out in the STAFF REPORT AND RECOMMENDATION on this item, the only action continued from the August 12, 2006 special meeting was "...to allow time for the applicant to submit a fence design that meets the Fence Design Guidelines". I urge the Commission to reject the applicant's proposed fence proposal to the extent it fails to meet the applicable guidelines and to the extent it violates the spirit and letter of Mr.

Muelhaupt's representations to the neighbors relative to securing their acquiescence to his garage request.

The STAFF REPORT AND RECOMMENDATION on Agenda Item #1 is excellent. I urge the Commission to adopt it in its entirety so that there can be no doubt on the applicant's part as to what he is required to do in proceeding with construction of the fence.

Alternatively, I would urge the inclusion of a 6th condition in Article III that makes specific reference to the subsection "k" guideline recommendation (page 3 of the staff report) concerning the provision of "pointed-top pickets or another appropriate picket design be provided in the front, side and rear yards(for)... design consistence along the entire length of the fence". Further, that the applicant be required to submit the picket design to staff for approval prior to construction of the fence.

Finally I feel compelled to express to the Commission that the applicant has attempted to "stretch" the fence guidelines in most every instance. We neighbors reluctantly acquiesced to his desires with respect to the garage, recognizing his very great desire to have not only a garage facility for his car but a functional workshop space as well but only upon his assurances that he would abide by the 6 foot limitation along the entire fence property line in the rear and side yards. The applicant has ignored the promise made to the neighbors as to height and consistency.

I would also request that the Commission consider whether with respect to future applications there would be a wisdom to include in the formal record of the Commission's actions any representations made by the applicant to abutting neighbors to secure their support for—or foregoing of their objections to--the action sought.

Respectfully,



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