

**Gorman, Becky**

---

**From:** Erica Kibbe <ekibbe@gmail.com>  
**Sent:** Friday, November 4, 2016 12:20 PM  
**To:** Gorman, Becky; Keesaer, Robert W  
**Subject:** Appeal of 16COA1204  
**Attachments:** Appeal-16COA1204-Kibbe.pdf

Good afternoon Becky and Bob,

I have attached my appeal to the findings of 16COA1204. Please confirm that it conforms to the requirements of Louisville Code 32.257(K) with respect to the appeals process.

Thank you,  
Erica

--

510.473.7422



Louisville Code Chapter 32 establishes the Louisville/Jefferson County Metro Historic Landmarks and Preservation Districts Commission (the Commission). The Commission is charged with establishing, regulating, and promoting local landmarks and districts - with special emphasis on exterior alterations, covered in Section 32.256.

The Commission established guidelines to classify window condition and appropriateness for replacement, determining only "severely deteriorated" windows may be replaced. This is beyond the scope of the stated goals of Louisville Code Subchapter 32.250 and is further discussed below.

Being that a Certificate of Appropriateness (COA) was submitted - 16COA1204, regarding 1359 Ouerbacker Court (the Property)- this appeal to the decision made by the Commission staff is based upon the following items:

- (I) A complete assessment was not performed, and
- (II) Unequal standards for replacement are applied within the Old Louisville Preservation District (TNZD) in meeting the stated goals of the Commission.

Per item (I) above, a complete assessment was not performed, as the windows were examined from the exterior of the property, and, with the exception of windows #3 and #4 (see 16COA1204), were examined from elevations 7' and at least 11.5' below the exterior sill. The lower elevation and distance from which the windows were examined precludes the ability for a full assessment of window quality, including window channels, stiles, jambs, and sills.

Six of the twelve window openings have at least one broken or missing window pane. In reviewing the windows, the staff noted only three of these. Staff noted front façade window #1 (see 16COA1204) with a missing lower window pane of glass and rated it as "Class One - 'Routine Maintenance', with small repairs including paint removal, reglazing, and weather stripping, caulking, and repainting." They also noted two windows with broken panes (see the remarks for windows #7 and #8). The Commission's "Historic Window Condition Checklist" should classify these particular items, at the very least, as "Class Three - 'Partial Replacement', has localized deterioration in specific areas. These members are totally removed and new ones are spliced into the existing fabric."

The Guidelines do not discuss glass condition, focusing instead on "physical deterioration," without clarifying to which physical members the Guidelines apply.

Per item (II) above, Section 32.250 (C) of the Louisville Code states the goals of establishing historic landmarks and preservation districts and includes the following:

- (2) Promote the cultural, economic, and general welfare of the people and (to) safeguard the Metro Government's history and heritage reflected in the districts,
- (3) Stabilize and improve property values,
- (5) Assure that new construction and renovation or alterations to existing structures within historic districts will be compatible with the historic, visual, and aesthetic character of such historic district,
- (8) Enhance the visual and aesthetic character of the Metro Government; and
- (9) Maintain a secure and safe environment in such Districts

Subchapter 256 characterizes exterior alterations, including those not requiring a Certificate of Appropriateness (COA):

Subsection A lists exterior alterations not requiring the obtaining of a COA, including

- (1) Ordinary repairs to the exterior of a structure when such work exactly reproduces the existing design and is executed in the existing material

For the Property, this would mean that replacing existing vinyl windows would not require a COA, as long as the replacement windows had vinyl casing. This would further suggest that

for the Property, replacement storm windows be of existing construction, which, where present is aluminum.

Neither of these would be true to the historical nature of the Property, as a cursory patent search suggests that vinyl windows weren't available in the US until post-WWII. For the Property, where storm windows would have been originally present, they would have been of wood-frame construction.

Patent US1699079 (1927) "Storm-window and screen structure" - a wood-framed storm window.

Patent US2463432 (1945) "Storm window" - a metal-framed storm window.

Both of these patents predate the finished construction of the Property (1920); the most historically authentic storm windows would be wood-framed, although any replacements shall preserve a wood aesthetic - per 32.250. Performing these exterior alterations would not violate Louisville Code, nor require a COA. It is clear, however, that the spirit of the Code is to maintain and restore the historical aesthetic of preservation districts, among other goals (see Section 32.250).

According to the Commission's Design Guidelines (Guidelines), severely deteriorated windows, as determined by a staff member, may be replaced by "new windows that *convey the same visual appearance* (emphasis added). Replacement windows may either be accurate reproductions using historical, pictorial, and physical documentation or be a new design that is *compatible with the historic character* (emphasis added) of the building and the district."

The replacement windows proposed in 16COA1204 have been approved elsewhere in the TNZD (see 16COA1211, for example), so there is precedent for the proposed work satisfying standards regarding historical aesthetics, including materials and workmanship, generally. The windows proposed in 16COA1204 can be found throughout the TNZD, including in homes on St James Court and Garvin Place, among others. Furthermore, the second story of the Property has ten replacement windows that were approved after the fact by the Commission (see case #C-06-129-OL), so there is precedent for window replacement within the Property, specifically.

Replacement of the 12 windows on the main floor of the Property, as proposed in 16COA1204, would meet the expressed goals of 32.250 (C): (2), (3), (5), (8), and (9) without negatively impacting the other expressed goals of the Code. The unequal manner in which the Guidelines were applied actively inhibits the promotion of 32.250 (C):(3), (8), and (9).