

Date September 24, 2007

RESOLUTION AFFIRMING THE DECISION OF THE HISTORIC PRESERVATION COMMISSION

WHEREAS, by a decision entered on July 27, 2007, the Historic Preservation Commission conditionally approved an application from Trafalgar Holdings, L.C., represented by Mark Jesse, Manager, for a Certificate of Appropriateness for a two-car garage in the vicinity of 1520 Center Street in the Sherman Hill Historic District; and,

WHEREAS, Sherman Hill Association, Inc., represented by Jim Quilty, President, on its own behalf and on behalf of several named individuals, has appealed the Commission's decision to the City Council pursuant to §58-31(f) of the Des Moines Municipal Code;

WHEREAS, on August 6, 2007, by Roll Call No.07-1518, it was duly resolved by the City Council that the appeal be set down for hearing on August 20, 2007, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was mailed to Trafalgar Holdings, L.C., and to the Sherman Hiss Association on August 3, 2007, and published in the Des Moines Register on August 9, 2007; and,

WHEREAS, on August 20, 2007, by Roll Call No. 07-1647, and on September 10, 2007, by Roll Call No. 07-1759, the City Council continued the hearing until September 24, 2007, at 5:00 p.m.; 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 granting a Certificate of Appropriateness for a new garage at 1520 Center Street is not arbitrary or capricious and should be upheld and affirmed.

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3. The City Council hereby makes the following findings in support of this decision:

- a) The appellant has failed to demonstrate that the decision of the Historic Preservation Commission to grant the Certificate of Appropriateness was arbitrary or capricious.
- b) It is not reasonable to require that the applicant trade land with the owners of the adjoining apartment building at 751 – 16th Street. Such a land trade would require: i) the approval and cooperation of that other owner; ii) the release or refinancing of all mortgages on the traded parcels; and iii) an exception from the Board of Adjustment because the apartment building is already non-conforming with the lot area and off-street parking requirements, and would lose its lot of record status upon any voluntary conveyance of any portion of the current lot.

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

MOTION CARRIED

APPROVED

.....  
 Mayor

**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.

\_\_\_\_\_  
 City Clerk