



**Roll Call Number**

**Agenda Item Number**

48 B

**Date** January 14, 2013

**ALTERNATE RESOLUTION**

**RESOLUTION REVERSING THE DECISION OF THE HISTORIC PRESERVATION COMMISSION TO DENY A CERTIFICATE OF APPROPRIATENESS TO RETAIN METAL TRIM COVERING AND WINDOW COVERING INSTALLATION ON A 6-UNIT APARTMENT BUILDING AT 1308 9<sup>TH</sup> STREET IN THE RIVER BEND HISTORIC DISTRICT**

WHEREAS, on October 17, 2012, the Historic Preservation Commission recommended denial of an application from Kenneth Downing for a Certificate of Appropriateness for the retention of metal trim covering and plexiglass window covering at 1308 9<sup>th</sup> Street in the River Bend Local Historic District (the Property); and

WHEREAS, pursuant to Section 58-31(f) of the Des Moines Municipal Code, Kenneth Downing has appealed the decision by the Historic Preservation Commission and seeks to retain the metal trim covering and plexiglass window covering installed on the Property; and

WHEREAS, on December 17, 2012, by Roll Call No. 12-1934, it was duly resolved by the City Council that the appeal be set down for hearing on January 14, 2013 at 5:00 p.m., in the Council Chambers; 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; and

WHEREAS, in accordance with the published 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

(Continued)

Date January 14, 2013

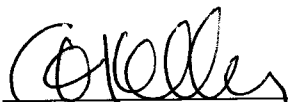
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. The public hearing on this appeal is hereby closed.
2. The City Council hereby finds that the decision of the Historic Preservation Commission denying a Certificate of Appropriateness for the retention of metal trim covering and plexiglass window covering at 1308 9<sup>th</sup> Street in the River Bend Local Historic District did not follow the guidelines established by Iowa Code Section 303.34(3) and Des Moines Municipal Code Sections 5831(f) and 58-27 and was arbitrary and capricious.
3. The October 17, 2012 Historic Preservation Commission's denial of a Certificate of Appropriateness for the retention of metal trim covering and plexiglass window covering at 1308 9<sup>th</sup> Street is hereby REVERSED.

(Council Communication No. 13- 007 Attached)

Moved by \_\_\_\_\_ to adopt, and reverse the decision of the Historic Preservation Commission as identified above.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael F. Kelley  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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