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Date February 25, 2013

**RESOLUTION REVERSING IN PART THE DECISION OF THE HISTORIC
PRESERVATION COMMISSION TO CONDITIONALLY APPROVE A
CERTIFICATE OF APPROPRIATENESS FOR THE REPLACEMENT OF WINDOWS
AT 1224 9th STREET**

WHEREAS, on December 19, 2012, the Historic Preservation Commission conditionally approved an application from Carrie Bouma for a Certificate of Appropriateness to allow the replacement of all double-hung windows in the single-family dwelling at 1224 9th Street in the River Bend Historic District; and,

WHEREAS, the Commission's approval was conditioned on retaining a 2-lite over 2-lite first floor window on the north facade and the use of wood replacement windows that have the same general style, shape and dimensions as the existing windows and are not covered with metal cladding as reviewed and approved by staff; and,

WHEREAS, Carrie Bouma has appealed the Commission's decision to the City Council pursuant to §58-31(f) of the Des Moines Municipal Code, and seeks to be allowed to replace all double-hung windows with vinyl replacement windows; and,

WHEREAS, on February 11, 2013, by Roll Call No. 12-0218, it was duly resolved by the City Council that the appeal be set down for hearing on February 25, 2013, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on February 14, 2013, and a copy of the notice was provided to Carrie Bouma; 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 portion of the decision of the Historic Preservation Commission conditioning approval of the replacement windows upon the conditions identified above is hereby reversed. A Certificate of Appropriateness is hereby granted for the replacement of the windows at 1224 9th Street with the vinyl windows as proposed, subject to conformance with the applicable building codes and to receipt of any required permits.
3. The City Council hereby finds that the decision of the Historic Preservation Commission to require the retention of the 2-lite over 2-lite first floor window on the north facade and the

(continued)

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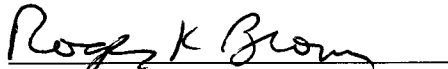
use of wood replacement windows that have the same general style, shape and dimensions as the existing windows and are not covered with metal cladding was patently arbitrary or capricious for the following reasons:

- a) The original staff recommendation to the Commission was to approve the replacement of the windows with the proposed vinyl windows, subject only to retention of the one historic window in the first floor of the north facade.
- b) The proposed vinyl windows are more similar in design and dimensions to the historic windows and have a stronger visual recess from the trim than previously reviewed vinyl windows, and are more similar to traditional windows.
- c) The proposed vinyl windows more closely match the color and finish of wood windows than previously reviewed vinyl windows.
- d) The difference in the appearance between the wood replacement windows required by the Commission and the proposed vinyl windows will not be noticeable from the street.

(Council Communication No. 13- 099)

MOVED by _____ to adopt, and reverse in part the decision of the Historic Preservation Commission as identified above.

FORM APPROVED:



Roger K. Brown, Assistant City Attorney

NOTE: If the City Council desires to retain the one historic window as originally recommended by the City staff, the motion should be expanded to include: "subject to retention of the one historic window."

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

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.

MOTION CARRIED APPROVED

Mayor

City Clerk