

★ Roll Call Number
14-1516

Agenda Item Number
60A

Date September 22, 2014

RESOLUTION **AFFIRMING** THE DECISION OF THE HISTORIC
PRESERVATION COMMISSION TO CONDITIONALLY APPROVE A
CERTIFICATE OF APPROPRIATENESS FOR THE REPLACEMENT OF WINDOWS
AT 1414 9th STREET

WHEREAS, on July 16, 2014, the Historic Preservation Commission conditionally approved an application from Daniel Chavez for a Certificate of Appropriateness to allow the replacement of all windows and lap siding on the dwelling at 1414 9th Street in the River Bend Historic District; and,

WHEREAS, the Commission's approval was conditioned on the use of wood double-hung replacement windows as reviewed and approved by staff; and,

WHEREAS, Daniel Chavez 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 the windows with vinyl double-hung windows; and,

WHEREAS, on September 8, 2014, by Roll Call No. 14-1368, it was duly resolved by the City Council that the appeal be set down for hearing on September 22, 2014, at 5:00 p.m., in the Council Chambers; and,

WHEREAS, due notice of the hearing was published in the Des Moines Register on September 11, 2014, and a copy of the notice was provided to Daniel Chavez; 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, the appeal was not timely filed within 10 days after the Commission's decision was filed as required by Section 58-31(f) of the City Code, and this appeal may be heard by the City Council only upon a finding a good and sufficient cause for the applicant's failure to timely file the appeal; 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, if timely filed, 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 makes the following findings of fact:

(continued)

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- a) The River Bend Local Historic District was designated as such by Ordinance No. 15,075, which was published and became effective on February 3, 2012.
 - b) The requirement that the replacement windows be wood double-hung windows is consistent with the approved Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts, and with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building.
 - c) The installation of vinyl windows in other nearby dwellings prior to the designation of the River Bend Local Historic District does not justify the further use of vinyl replacement windows.
 - d) The proposed vinyl windows have dimensions and visual properties that are noticeably different from the original historic windows.
 - e) While the timeliness of this appeal is subject to reasonable debate, it is not material to the resolution of the appeal.
3. The decision of the Historic Preservation Commission approving a Certificate of Appropriateness for the replacement of all double-hung windows in the dwelling at 1414 9th Street subject to compliance with the conditions identified above, is not arbitrary or capricious and is hereby affirmed.

(Council Communication No. 14- 465)

MOVED by Gray to adopt, and affirm the decision of the Historic Preservation Commission.

FORM APPROVED:

Roger K. Brown
 Roger K. Brown
 Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

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.

T. M. Franklin
 Mayor

Diane Rauh
 City Clerk