

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> January 14, 2013
	<b>Agenda Item No.</b> 48 <b>Roll Call No.</b> <u>13-6500</u> <b>Communication No.</b> <u>13-007</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Public hearing regarding a request from Kenneth Downing to appeal the decision of the Historic Preservation Commission to deny his request for a Certificate of Appropriateness for the retention of metal trim covering and plexiglass window covers at 1308 9th Street.

- A. Resolution affirming the decision of the Historic Preservation Commission
- B. Alternate resolution reversing the decision of the Historic Preservation Commission

**SYNOPSIS:**

Mr. Kenneth Downing is appealing the October 17, 2012, decision of the Historic Preservation Commission to deny his request for a Certificate of Appropriateness to allow the retention of metal trim covering and plexiglass window covers. This work was completed without a Certificate of Appropriateness in 2012. The applicant contends that the work was ordinary maintenance and repair and not an alteration as defined by Section 58-27 of the Municipal Code.

The staff report and photographs from the October 17, 2012 Historic Preservation Commission meeting, the letter of denial and the appeal by Mr. Downing are attached to the roll call. A detailed discussion summary is not available as the recording of this meeting failed. Staff recommends that the City Council uphold the decision of the Historic Preservation Commission as identified in the staff report to the Commission.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

On April 24, 2012, a stop-work order was issued, as metal was being applied to the exterior of the primary building. The metal generally covers the trim and the front gables of the building. The front gable windows have also been covered with plexiglass. These alternations were made without a Certificate of Appropriateness. A violation notice was mailed to the applicant on July 11, 2012 since an application for a Certificate had not been submitted.

An application was submitted by Mr. Downing following notice and considered by the Historic Preservation Commission on October 17, 2012. The application indicated that the trim was originally covered approximately 13 years ago with tin to abate lead based paint but over the years the tin had blown off. The application also indicated that the windows were covered as they are in need of repair. Discussion at the Commission meeting generally focused on the manner in which the tin and plexiglass were attached and the amount of time that has passed since the tin material had blown off.

The applicant contends that the work was ordinary maintenance and repair and not an alteration as defined by the Historic Preservation Ordinance. According to the applicant the tin on the front gables fell off approximately five years ago. Five years is a substantial period of time and installing tin again is not repair of existing material. Section 58-27(a) of the Historic Preservation Ordinance states that an “alteration means any action to change, modify, reconstruct, remove or demolish any exterior features of an existing structure. For the purposes of this article, ordinary maintenance and repair to correct any deterioration, decay or damage to a structure and to restore the structure as nearly as practicable to its condition prior to such deterioration, decay or damage are excluded from the definition of the term "alteration," provided such work does not involve a change in type of building materials.” The installation of plexiglass is an alteration and not repair as it does not restore the windows to their pre-deteriorated state and is a change in building material.

The Architectural Guidelines for Building Rehabilitation in Des Moines’ Historic Districts state that “cover-up siding should be removed and the original siding restored” and that “gable ends...should be resurfaced in material that is the same as the original material.” The guidelines also state that “existing windows should be retained, reconditioned and well maintained to be energy sound” and that “any replacement windows should duplicate the original window in type, size, and material.” The subject work does not comply with the Architectural Guidelines for Building Rehabilitation.

On October 17, 2012, the Historic Preservation Commission voted 9-0 to deny the request to retain the metal trim cover and plexiglass window covers per the staff report to the Commission. Staff believes that the Commission was “reasonable in its judgment” and consistent with the Architectural Guidelines for Building Rehabilitation in Des Moines’ Historic Districts. Staff recommends that the City Council uphold the decision of the Historic Preservation Commission.

A Certificate of Appropriateness is not required for the subject gable trim cover and plexiglass window covers to be removed so long as no materials were removed or substantially damaged during installation of the cover up materials.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: December 17, 2012

Roll Call Number: 12-1934

Action: [On](#) appeal by Kenneth Downing from the decision of the Historic Preservation Commission regarding property at 1308 9th Street, (River Bend Historic District), (1-14-13). Moved by Hensley to adopt. Motion Carried 7-0.

#### **BOARD/COMMISSION ACTION(S):**

Board: Historic Preservation Commission

Date: October 17, 2012

Resolution Number: N/A

Action: Historic Preservation Commission voted 9-0-0 to deny the request to retain the metal trim covering and plexiglass window covers.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Enforcement of the Historic Preservation Ordinance depending on the action taken by the City Council.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).