

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: September 22, 2014
	Agenda Item No. 60 Roll Call No. <u>14-1515</u> Communication No. <u>14-465</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Public hearing on appeal by Daniel Chavez from the conditions imposed by the Historic Preservation Commission on the issuance of a Certificate of Appropriateness (COA) for the replacement of windows at 1414 9th Street:

- A. Resolution affirming the decision of the Historic Preservation Commission requiring the use of wood replacement windows.
- B. Alternate resolution approving the use of the proposed vinyl windows.

SYNOPSIS:

Mr. Daniel Chavez is appealing the July 16, 2014, decision of the Historic Preservation Commission to approve of a COA for the replacement of windows subject to conditions. Mr. Chavez proposed replacing all double-hung windows with vinyl replacement windows. The Commission’s approval mandated the use of wood windows as approved by staff. The discussion summary, staff report, and photographs from the July 16, 2014 Historic Preservation Commission meeting, as well as the COA and the appeal filed by Mr. Chavez are attached to the roll call. Staff recommends that the City Council uphold the decision of the Historic Preservation Commission (option A).

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

Mr. Daniel Chavez is appealing the July 16, 2014, decision of the Historic Preservation Commission to approve a COA for the replacement of windows subject to use of wood windows as approved by staff. Mr. Chavez wishes to replace all double-hung windows with vinyl replacement windows.

On June 13, 2014, a “Stop Work Order” was posted on the property as the applicant had begun work without a COA. Mr. Chavez submitted an application on June 16, 2014 and was advised that his request to replace the windows and siding would go before the Historic Preservation Commission on July 16, 2014. Mr. Chavez restarted work on the property prior to the Commission meeting.

Mr. Chavez’s sister, Jennifer Chavez Rivera, has acted as his translator during meetings with staff and has called staff on his behalf. Staff called Ms. Rivera to reiterate that work needed to cease until the Commission had acted on the request. Ms. Rivera stated that a neighbor advised Mr. Chavez that they

installed vinyl windows at their property and that Mr. Chavez had not been able to find wood windows. She indicated that given these factors, he chose to proceed with using vinyl windows.

Staff advised Ms. Rivera that the River Bend Local Historic District is relatively new and that the neighbor may have completed their project before the district was established. Staff also suggested that the neighbor might not live within the boundaries of the local district as the district does not encompass the entire neighborhood. A map of the district was emailed to Ms. Rivera so she could share it with Mr. Chavez. Staff also provided the names of manufactures that produce wood windows. Mr. Chavez's appeal indicates that he believes he is being singled out as other buildings in the area have vinyl windows.

The Historic Preservation Ordinance requires review of alterations as they are proposed and does not required alterations that were made prior to the establishment of a district to be changed to comply with the design guidelines. Existing building conditions are essentially "grandfathered" the date a local historic district goes into effect. The River Bend Local Historic District became effective of February 3, 2012. Mr. Chavez's window replacement commenced after this date and are not "grandfathered".

The Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts state 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. The guidelines are not specific to a period or style but based on the original architecture and building materials of the structure being reviewed. The subject house was built with wood windows.

Staff believes that the Commission was consistent in its application of the Architectural Guidelines for Building Rehabilitation in Des Moines' Historic Districts, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building and that the decision maintains the character of the historic exterior features of other structures in the neighborhood. Staff recommends that the City Council uphold the decision of the Historic Preservation Commission as their decision was not arbitrary or capricious.

PREVIOUS COUNCIL ACTION(S):

Date: September 8, 2014

Roll Call Number: [14-1368](#)

Action: [On](#) appeal by Daniel Chavez from the conditions imposed by the Historic Preservation Commission on the issuance of a Certificate of Appropriateness for replacement of windows at 1414 9th Street, (9-22-14). Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Historic Preservation Commission

Date: July 16, 2014

Resolution Number: 20-2015-9.02

Action: Approval of a Certificate of Appropriateness (COA) for the replacement of siding and windows subject to use of wood windows as approved by staff.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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