



Date September 8, 2014

RESOLUTION SCHEDULING HEARING 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

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.

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

- 1. The appeal by Daniel Chavez is hereby set down for a public hearing before the City Council on September 22, 2014, at 5:00 p.m., in the Council Chambers at City Hall, Des Moines, Iowa.
2. The City Clerk is hereby authorized and directed to publish notice of said hearing in the form hereto attached all in accordance with §362.3 of the Iowa Code.

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown (signature)

Roger K. Brown, Assistant City Attorney

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Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and 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

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July 25, 2014

Daniel Chavez
1414 9th Street
Des Moines, IA 50314

RE: 1414 9th Street – COA #20-2015-9.02

Dear Mr. Chavez:

A copy of Certificate of Appropriateness #20-2015-9.02 is attached. Please note that the vinyl windows that were previously installed must be replaced with windows that comply with the conditions of approval. In cases where work is necessary to abate a violation, the work must be completed in 90 days unless a mutually agreeable timeline is reached between the property owner and City staff. The remaining work can be performed on a schedule of your choosing so long as the Certificate has not expired.

If you believe that the Commission’s action was arbitrary or capricious, you may appeal their decision to the City Council. Appeals must be in writing and filed with the City Clerk no later than ten business days after the filing of the above-mentioned decision. Your Certificate was filed on July 25, 2014. An appeal must be submitted no later than August 8, 2014.

In no appeal is received, you will have 90 days to replace the vinyl windows unless a mutually agreeable timeline is reached between you and City staff. A case will be filed with the District Court in accordance with Section 58-35 and Section 1-15 of the City Code if the work is not completed in accordance with the Certificate by October 24, 2014. The siding and windows that have yet to be replaced can be replaced at a time of your choosing so long as your Certificate has not expired. These timeframes do not supersede any obligation you may have to make improvements sooner in order to comply with any other applicable regulations.

Please contact me at 515-283-4147 or at jmvanessen@dmgov.org if you have any questions or would like to discuss an alternative timeline.

Sincerely,

Jason Van Essen, AICP
Senior City Planner

FILED
AUG 21 PM 2:35
CITY CLERK
DES MOINES, IA

cc: SuAnn Donovan, Neighborhood Inspection and Zoning Administrator

HISTORIC PRESERVATION COMMISSION
CITY OF DES MOINES
CERTIFICATE OF APPROPRIATENESS
In the Following Matter

This Certificate of Appropriateness is valid for one year from the meeting date

REQUEST FROM:	:	CASE NUMBER: 20-2015-9.02
	:	
DANIEL CHAVEZ	:	
	:	
PROPERTY LOCATION:	:	MEETING DATE: JULY 16, 2014
	:	
1414 9TH STREET	:	

This Decision of the Historic Preservation Commission does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

SUBJECT OF THE REQUEST:

- A) Replacement of all windows with double-hung windows.
- B) Replacement of siding with composite lap siding of the same width.

FINDING OF THE HISTORIC PRESERVATION COMMISSION:

Granting the application as presented subject to conditions would be in harmony with the historic character of the neighborhood and would meet the requirements set out in the Historic District Ordinance, the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the City of Des Moines' Standard Specifications.

CONDITIONS:

1. Use of wood double-hung windows as reviewed and approved by staff prior to installation.
2. All vinyl replacement windows that were installed prior to the issuance of this Certificate must be replaced with a window that complies with condition #1.
3. Compliance with the building code and in accordance with any necessary building permit as issued by the City's Permit and Development Center

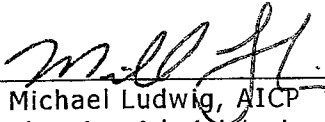
Daniel Chavez
1414 9th Street
20-2015-9.02

July 16, 2014

VOTE: A vote of 6-0-0 was registered as follows:

	Aye	Nay	Abstain	Absent
Barry	X			
Bye				X
Griffin	X			
Holderness				X
Estes	X			
Fenton	X			
Marchand				X
McCoy	X			
Taenzer	X			
Weidmaier				X

Approved as to form:


Michael Ludwig, AICP
Planning Administrator


Phil Delafield
Community Development Director

Date Filed: 7/25/14

Filed By: JV

CITY OF DES MOINES HISTORIC PRESERVATION COMMISSION
STAFF REPORT AND RECOMMENDATION
Wednesday, July 16, 2014

AGENDA ITEM #4 **20-2015-9.02**

Applicant: Daniel Chavez (owner).
Location: 1414 9th Street (River Bend Local Historic District).
Requested Action: A) Replacement of all windows with double-hung windows.
B) Replacement of siding with composite lap siding of the same width.

I. GENERAL INFORMATION

- 1. **Site Description:** The subject property is a 75-foot by 128-foot parcel with a one-story ranch-style single-family dwelling. The dwelling was constructed circa 1970. The applicant has completed work with a CoA. Additional work involving roofing and overhang soffits was approved administratively.
- 2. **Sanborn Map:** The 1920 and 1957 maps generally show the footprint of the original two story single-family dwelling known then as 1418 9th Street. This was removed prior to 1970 and an additional 1/2 lot from the north was added to the subject property prior to building the existing dwelling.
- 3. **COA History:** N/A.

II. APPLICABLE DESIGN GUIDELINES

1. Architectural Guidelines for Building Rehabilitation (windows):

- a) Any replacement windows should duplicate the original window in type size, and material. The shape of the original window subdivisions should not be changed. New muntin bars and mullions should duplicate the original in size and profile shape.

The applicant has replaced the windows on the dwelling with double-hung windows of the same size and shape. However, the original windows were wooden, and the proposed replacements are vinyl material.

2. Architectural Guidelines for Building Rehabilitation (siding):

- a) Resurfacing the sides of a building with other than original materials such as stone or brick veneer, cedar shakes, asbestos and asphalt shingles, Masonite, aluminum, steel, vinyl or diagonal wood or wide board lap siding is not permitted.

The original wide clapboard siding was a Masonite material. The replacement siding is a composite cement board material. It should be noted that it is a striped texture versus the smooth texture that it replaced. Staff is not concerned with this as it is a texture that could have been used at the time the dwelling was constructed circa 1970.

III. STAFF RECOMMENDATION

Staff recommends approval of the request subject to the use of wood double-hung windows as approved by staff prior to installation.

August 20, 2014

Members of the City Council,

This is a letter of appeal in response to the decision made on case number 20-2015-9.02. I strongly feel discriminated against due to the fact that every house surrounding 1414* 9th St has vinyl windows yet I am being forced to replace mine with wood windows. When I bought this home I was not aware of the specific guidelines to any construction made on the house. If I am forced to replace my windows, so should every home owner in the area. I do not understand the concern for preserving the history of the district when every house in that area has already been modernized. It is not fair that I am the only one being troubled with these guidelines. If everyone were to change to wooden windows I would understand, on the contrary I will not agree to do so.

Sincerely,
Daniel Chavez