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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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Date September 22, 2014

- 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 _____ to adopt, and affirm the decision of the Historic Preservation Commission.

FORM APPROVED:


 Roger K. Brown
 Assistant City Attorney

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

603
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

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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,

A handwritten signature in black ink, appearing to read "Jason Van Essen". The signature is fluid and cursive, with a long, sweeping underline that extends across the width of the signature area.

Jason Van Essen, AICP
Senior City Planner

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

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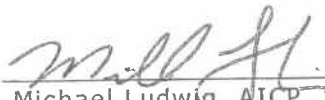
Daniel Chavez
1414 9th Street
20-2015-9.02

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.

605

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.

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CITY OF DES MOINES
HISTORIC PRESERVATION COMMISSION
MEETING SUMMARY

DATE: July 16, 2014
TIME: 5:30 P.M.
PLACE: City Council Chambers
City Hall, 400 Robert D. Ray Drive

COMMISSIONERS PRESENT: York Taenzer (Vice Chair), Patricia "Pat" Barry, Robert "Bob" Griffin, Elaine Estes, Scotney Fenton, and Craig McCoy.

COMMISSIONERS ABSENT: Susan Holderness (Chair), Breann Bye, Denny Marchand and Aaron Todd, Teresa Weidmaier.

STAFF PRESENT: Jason Van Essen, Senior City Planner.

DISCUSSION SUMMARY OF AGENDA ITEM #4

4. Request from Daniel Chavez to allow the following work at 1414 9th Street in the River Bend Local Historic District. (20-2015-9.02)

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

Vice Chair York Taenzer: Read the agenda description for item #4.

Jason Van Essen: Displayed an aerial map and photographs of the property. Presented the staff report and staff recommendation. Indicated that the applicant started work without a Certificate of Appropriateness and that work was stopped and an application was submitted. Noted that the owner started working on the property again and was reminded by staff that work needed to stop until the Commission meeting. Stated that the applicant's sister has acted as his translator during meetings and has called on his behalf. Noted that the house is a 1970's ranch. Stated that the design guidelines for rehabilitation are not specific to a period or style but based on the original architecture and building materials of the structure being reviewed. The house was constructed with wood windows.

Elaine Estes: Asked if the applicant was aware of the wood window recommendation.

Jason Van Essen: Stated that he believed so. Reiterated that staff has been communicating with the applicant's sister as the applicant speaks limited English. Stated that he believes the sister understands and that he advised her that the work the applicant was undertaking before the meeting may have to be undone. She indicated that she would talk to the applicant. After speaking with the applicant the sister called back and said that he had talked to a neighbor that installed vinyl windows. Staff explained that the district was relatively new and that the person the applicant spoke to may have completed their work prior to the establishment of the district. Also, suggested that the neighbor may not live in the district as the district does not encompass the entire neighborhood. Staff emailed

a map of the district to her to share with the applicant so he could see if the neighbor lived in the district or not. She indicated that the applicant had not been able to find a place that sells wood windows. Staff provided the names of several manufactures the produce wood windows. Stated that he has not talked with the applicant or his sister since this conversation with the sister.

Chair Taenzer: Asked if there was anyone in the audience that wished to speak on the item.

The applicant was not present and no other members of the public came forward to speak.

Elaines Estes: Moved approval of the staff recommendation.

Robert "Bob" Griffin: Seconded the motion.

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			
Todd				X
Taenzer	X			
Weidmaier				X

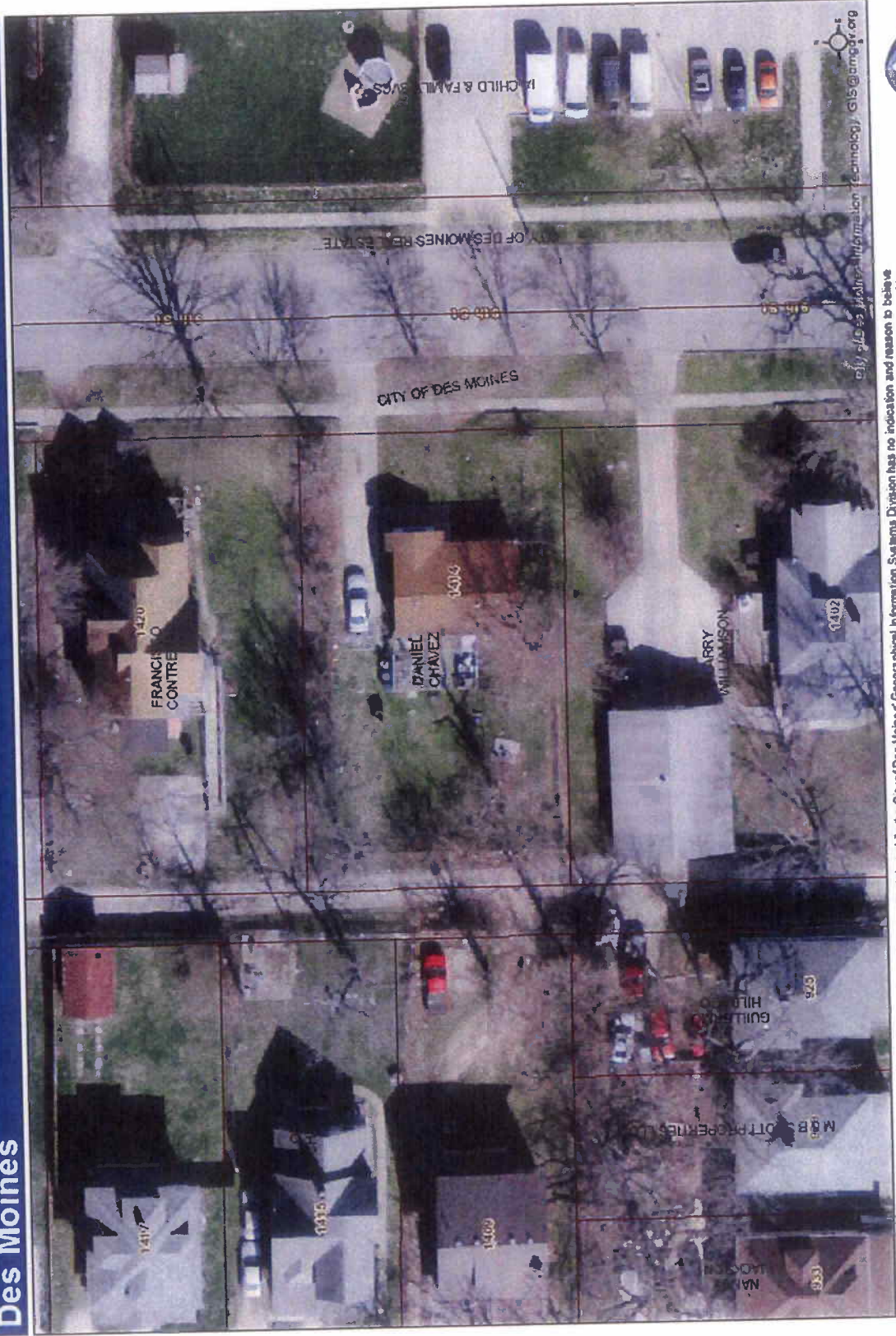
ACTION OF THE COMMISSION:

Granting the application as presented subject to the conditions below 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

Des Moines



It is understood that while the City of Des Moines Geographic Information Systems Division has no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the GIS personnel make no warranty or representation, either expressed or implied, with respect to the information, or data displayed.

Note: Public property represented on this map is not intended to be inclusive. For information about Zoning data, please contact the City of Des Moines' Community Development Department.

0 20 40 80 Feet

7/11/2014



City of Des Moines Information Technology: GIS@dmqr.org

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