



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING
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HISTORIC PRESERVATION BOARD STAFF REPORT

1120 Nassau Street

Meeting	File No.	Application Type
August 7, 2019	2019-194	Certificate of Appropriateness, Variances, and Waivers

REQUEST

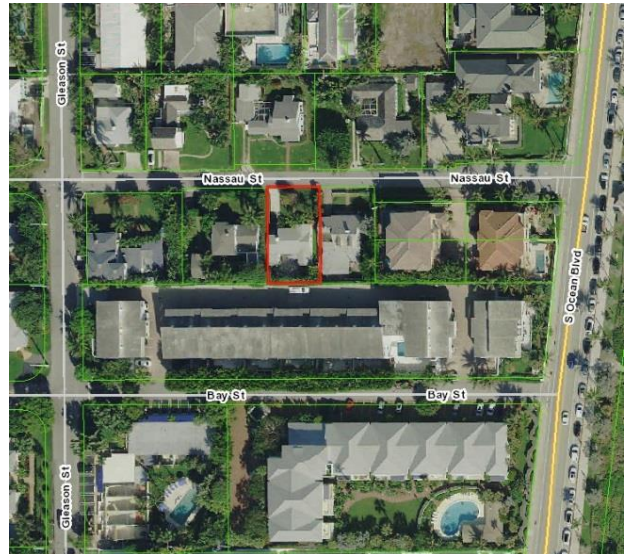
The item before the Board is in consideration of a Certificate of Appropriateness (2019-194), Variance, and Waiver requests associated with the Cottage style, single-family residence located at **1120 Nassau Street, Nassau Park Historic District**, pursuant to LDR Section 2.4.6(H), 2.4.7(A), and 2.4.7(B). Specifically, the request includes: a partial demolition of the 1-story single-family residence that was damaged from fire, relocation of the structure forward on lot, and a 2-story addition to the rear of the structure. The request also includes variances to reduce the front (north) setback from the required 25' to 14.5", reduce the side interior (east) setback from the required 7'6" to 6'6" and side interior (west) setback from the required 7'6" to 4'1½". Finally, 2 waivers are requested: one to allow a front facing garage; and, the other to allow the proposed 2-story addition to the 1-story structure to exceed the Visual Compatibility requirements for the massing of additions.

GENERAL DATA

Agent: Smith Kellogg Architecture, Inc.
Owner: Beantown Real Estate Investments, LLC
Location: 1120 Nassau Street
PCN: 12-43-46-16-27-000-0151
Property Size: 0.1261 Acres
FLUM: MD (Medium Density Residential)
Historic District: Nassau Park Historic District
Zoning: R-1-A (Single Family Residential)
Adjacent Zoning:

- RM - Multiple-Family Residential (North)
- R-1-A (West)
- RM - Multiple-Family Residential (South)
- R-1-A (East)

Existing Land Use: Residence
Proposed Land Use: Residence



BACKGROUND INFORMATION

The 1-story, single-family, Cottage style residence was built in 1938, and is a contributing structure to the Nassau Park Historic District. The Nassau Park Historic District was originally conceived in 1935 as the first planned residential development south of Atlantic Avenue. Originally platted as Asbury Park Heights, it was renamed Nassau Park in 1935 by developer R.C. McNeill, who commissioned Sam Ogren, Sr. to design the first house, located at 234 South Ocean Boulevard in 1935, now demolished. Sam Ogren, Sr. is recognized as the most prominent early architect in Delray Beach, for his designs of the 1925 High School & Gymnasium at Old School Square, the Marine Villas in the Marina Historic District, and the Arcade Building on Atlantic Avenue, to name a few.

Project Planner:
Project Planners: Katherina Paliwoda, Planner &
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Review Dates:
HPB: August 7, 2019

Attachments:

1. Architectural Plans
2. Justification Statements
3. Photos

Nassau Park's close proximity to the beach and charming, simple yet stylish architecture of its small scale houses made this neighborhood highly desirable and successful from its inception. Eighteen houses were built between 1935 and 1941, with four more homes built during the 1950s and 1960s. The homes were inspired by the Colonial-Cape Cod Revival Style.

In 1988, the structure located at 234 South Ocean Boulevard was demolished to make room for a much larger multi-family residential project. This action could have signaled the end of Nassau Park as a single-family residential neighborhood by bringing about a domino effect of new development and construction. Instead, that single demolition became the catalyst for the designation of the Nassau Park Historic District. The area is flourishing and most of the small quaint cottages have undergone substantial rehabilitation by caring owners who appreciate the value of their properties. This pride of ownership has contributed to the steady increase in property values, and the continued desire to preserve this small residential community as one of the few remaining historic enclaves representative of the early days of life in Delray Beach.

The subject structure has been modified over the years, with several additions to rear and side of the structure in the 1950s and 1960s. In 2018, an electrical fire caused damage spreading throughout the structure. The carport, utility room, kitchen and back porch suffered the most damage and the entire structure has extensive smoke damage.

REVIEW AND ANALYSIS

Pursuant to Land Development Regulation (LDR) Section 2.4.6(H)(5), prior to approval, a finding must be made that any Certificate of Appropriateness which is to be approved is consistent with Historic Preservation purposes pursuant to Objective A-4 of the Land Use Element of the Comprehensive Plan and specifically with provisions of Section 4.5.1, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

Pursuant to Land Development Regulation (LDR) Section 2.4.5(I)(5), Architectural (appearance) elevations, the Site Plan Review and Appearance Board or the Historic Preservation Board, as appropriate, may approve subject to conditions or deny architectural elevations or plans for a change in the exterior color of a building or structure, or for any exterior feature which requires a building permit.

Pursuant to LDR Section 4.3.4(K), Development Standards, properties located within the R-1-A zoning district shall be developed according to the requirements noted in the chart below. Provided the setback variance on the front (north) side and the side interiors (east and west) are approved, the proposal can be found to be in compliance with the applicable requirements; therefore, positive findings can be made.

DEVELOPMENT STANDARDS	REQUIRED	EXISTING	PROPOSED
Open Space (Minimum)	25%	73.42%	47.42%
SETBACKS (MINIMUM) FRONT (NORTH)	25'	30'2"	14'5"
SIDE INTERIOR (EAST)	7'5"	15'4"	6'6"
SIDE INTERIOR (WEST)	7'5"	16'7"	4' 1½"
REAR (SOUTH)	10'	21'6"	10'2"
HEIGHT	35 (MAXIMUM)	15'5"	23'11"
LOT WIDTH	60'	55'	55'
LOT DEPTH	100'	100'	89'5"
MINIMUM LOT SIZE (SQ. FT.)	7,500 sq. ft.	5,500 sq. ft.	4,917 sq. ft.

LDR SECTION 4.5.1

HISTORIC PRESERVATION: DESIGNATED DISTRICTS, SITES, AND BUILDINGS

Pursuant to LDR Section 4.5.1(E), Development Standards, all new development or exterior improvements on individually designated historic properties and/or properties located within historic districts shall, comply with the goals, objectives, and policies of the Comprehensive Plan, the Delray Beach Historic Preservation Design Guidelines, the Secretary of the Interior's Standards for Rehabilitation, and the Development Standards of this Section

Pursuant to LDR Section 4.5.1(E)(2)(c)(4) – Major Development.

The subject application is considered "Major Development" as it involves "alteration of more than 25 percent of the existing floor area of the building and all appurtenances."

Pursuant to LDR Section 4.5.1(E)(4) – Alterations: in considering proposals for alterations to the exterior of historic buildings and structures and in applying development and preservation standards, the documented, original design of the building may be considered, among other factors.

The existing structure, and its remaining original form, has been considered with respect to the proposed addition and site improvements.

Pursuant to LDR Section 4.5.1(E)(5) - Standards and Guidelines: a historic site, building, structure, improvement, or appurtenance within a historic district shall only be altered, restored, preserved, repaired, relocated, demolished, or otherwise changed in accordance with the Secretary of the Interior's Standards for Rehabilitation, and the Delray Beach Historic Preservation Design Guidelines, as amended from time to time.

Standard 1

A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

Standard 2

The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

Standard 3

Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

Standard 4

Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

Standard 5

Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

Standard 6

Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

Standard 7

Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

Standard 8

Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

Standard 9

New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

Standard 10

New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Standards 2, 5, 9, & 10 are applicable to the proposed modifications of the structure. Standard 2 notes the removal of historic features and spaces that characterize the property. In 2018, the 1-story structure caught fire and portions of the home were damaged beyond repair, including the: carport, utility room, kitchen, enclosed porch, and bathroom, all of which are proposed for demolition. The severity of the fire requires replacement of some features including siding and windows. This improvement will likely improve the historic integrity of the structure as the wood siding had been replaced with vinyl siding many years ago and the windows are proposed as aluminum in the original pattern to the existing.

The original 1-story structure is proposed to be relocated 10' to the north on the subject lot in order to accommodate a new 1 & 2-story addition to the rear of the home. The carport, utility room, enclosed porch, and bathroom which are all situated to the rear of the structure, were later additions and are not original to the home. The kitchen was original to the home. A new 1 & 2-story addition is proposed on the south side of the structure in the rear of the property. The 1st floor portion of the new addition will have a smooth stucco finish while the 2nd floor of the structure will have wood siding. The essential form and integrity of the historic property and its environment will not be impaired by the new addition. It is noted, that the structure is proposed to be shifted forward on the lot in order to accommodate the new addition. The relocation of the structure will allow for a new foundation to be placed under the structure as well as needed repairs due to the fire. The new addition has been designed to the rear of the original structure and should it be removed in the future; the essential form and integrity of the historic structure and its environment would not be impacted.

The distinctive Cottage style features will be preserved, while several later additions that have been damaged by the fire will be removed. Historic materials are proposed to be restored and replaced. The addition will be constructed with a similar design that differentiates itself from the original through the use of a hip roof and similar window profile with included transom windows on the 1st floor. The new 1 & 2-story addition, rehabilitation, and improvements to the property have been designed to be compatible and in direct relationship with the scale of the existing streetscape, which consists of a narrow right-of-way.

Based on the above, positive findings can be made with respect to compliance with the Secretary of the Interior's Standards for Rehabilitation.

Pursuant to LDR Section 4.5.1(E)(7) - Visual Compatibility Standards: new construction and all improvements to both contributing and noncontributing buildings, structures and appurtenances thereto within a designated historic district or on an individually designated property shall be visually compatible. In addition to the Zoning District Regulations, the Historic Preservation Board shall apply

the visual compatibility standards provided for in this Section with regard to height, width, mass, scale, façade, openings, rhythm, material, color, texture, roof shape, direction, and other criteria set forth elsewhere in Section 4.5.1. Visual compatibility for minor and major development as referenced in Section 4.5.1(E)(2) shall be determined by utilizing criteria contained in (a)-(m) below.

- a. **Height:** The height of proposed buildings or modifications shall be visually compatible in comparison or relation to the height of existing structures and buildings in a historic district for all major and minor development. For major development, visual compatibility with respect to the height of residential structures, as defined by 4.5.1(E)(2)(a), shall also be determined through application of the Building Height Plane.
- b. **Front Facade Proportion:** The front facade of each building or structure shall be visually compatible with and be in direct relationship to the width of the building and to the height of the front elevation of other existing structures and buildings within the subject historic district.
- c. **Proportion of Openings (Windows and Doors):** The openings of any building within a historic district shall be visually compatible with the openings exemplified by prevailing historic architectural styles of similar buildings within the district. The relationship of the width of windows and doors to the height of windows and doors among buildings shall be visually compatible within the subject historic district.
- d. **Rhythm of Solids to Voids:** The relationship of solids to voids of a building or structure shall be visually compatible with existing historic buildings or structures within the subject historic district for all development, with particular attention paid to the front facades.
- e. **Rhythm of Buildings on Streets:** The relationship of buildings to open space between them and adjoining buildings shall be visually compatible with the relationship between existing historic buildings or structures within the subject historic district.
- f. **Rhythm of Entrance and/or Porch Projections:** The relationship of entrances and porch projections to the sidewalks of a building shall be visually compatible with existing architectural styles of entrances and porch projections on existing historic buildings and structures within the subject historic district for all development.
- g. **Relationship of Materials, Texture, and Color:** The relationship of materials, texture, and color of the facade of a building and/or hardscaping shall be visually compatible with the predominant materials used in the historic buildings and structures within the subject historic district.
- h. **Roof Shapes:** The roof shape, including type and slope, of a building or structure shall be visually compatible with the roof shape of existing historic buildings or structures within the subject historic district. The roof shape shall be consistent with the architectural style of the building.
- i. **Walls of Continuity:** Walls, fences, evergreen landscape masses, or building facades, shall form cohesive walls of enclosure along a street to ensure visual compatibility with historic buildings or structures within the subject historic district and the structure to which it is visually related.
- j. **Scale of a Building:** The size of a building and the building mass in relation to open spaces, windows, door openings, balconies, porches, and lot size shall be visually compatible with the building size and mass of historic buildings and structures within a historic district for all development. To determine whether the scale of a building is appropriate, the following shall apply for major development only:
 - a. For buildings wider than sixty percent (60%) of the lot width, a portion of the front façade must be setback a minimum of seven (7) additional feet from the front setback line:
 - b. For buildings deeper than fifty percent (50%) of the lot depth, a portion of each side façade, which is greater than one story high, must be setback a minimum of five (5) additional feet from the side setback line:
- k. **Directional Expression of Front Elevation:** A building shall be visually compatible with the buildings, structures, and sites within a historic district for all development with regard to its directional character, whether vertical or horizontal.
- l. **Architectural Style:** All major and minor development shall consist of only one (1) architectural style per structure or property and not introduce elements definitive of another style.

m. Additions to individually designated properties and contributing structures in all historic districts: Visual compatibility shall be accomplished as follows:

- 1. Additions shall be located to the rear or least public side of a building and be as inconspicuous as possible.**
- 2. Additions or accessory structures shall not be located in front of the established front wall plane of a historic building.**
- 3. Characteristic features of the original building shall not be destroyed or obscured.**
- 4. Additions shall be designed and constructed so that the basic form and character of the historic building will remain intact if the addition is ever removed.**
- 5. Additions shall not introduce a new architectural style, mimic too closely the style of the existing building nor replicate the original design but shall be coherent in design with the existing building.**
- 6. Additions shall be secondary and subordinate to the main mass of the historic building and shall not overwhelm the original building.**

The proposed scale, massing, size of the proposed addition and rehabilitation of the structure are in relation to the existing 1-story structure. As the property exists it is 100' deep by 55' wide with a total lot area of 5,500 sq. ft. The site does not meet the minimum code requirements for lot depth, width nor lot area as noted below:

	Required	Existing	Proposed
Lot Width	60'	55'	55'
Lot Depth	100'	100'	89'5"
Minimum Lot Size	7,500 sq. ft.	5,500 sq. ft.	4,917 sq. ft.

Due to the small size of the lot as it exists and the further reduction of its size due to the required right-of-way dedication along Nassau Street, the proposal includes an addition that is situated to the rear of the structure preserving the Front Façade Proportion and the Rhythm of Solids to Voids. The width of the building is similar to the existing and is in direct relation to other structures within the Nassau Park Historic District.

The Proportion of openings (windows and doors) is proposed to be visually compatible with the existing window styles of the Nassau Park Historic District. The relationship of the relocated structure to the existing buildings surrounding the property is visually compatible ensuring the Rhythm of Buildings on Streets is consistent within the Nassau Park Historic District. The existing home has a front façade that steps back providing for articulation and visual interest, this design is being preserved and with a particular expression paid to the entrance and front porch. The Relationship of Materials, Texture and Color will be visually compatible with the District. Specifically, the existing vinyl siding will be replaced with wood siding. The existing gabled Roof Shape is being preserved and the proposed addition will have a compatible hip roof style and shingle material.

The Visual Compatibility Standards require "Additions to be secondary and subordinate to the main mass of the historic building and shall not overwhelm the original building". The applicant has submitted a Waiver request to allow a 2-story addition to the rear of the 1-story structure. This item is discussed in further detail in the Waiver Analysis section of this report.

Overall the proposal seeks to rehabilitate and restore the original structure not affected by the electrical fire, and to preserve its existing Cottage architectural details appropriate for the Nassau Park Historic District. Provided the proposal meets the intent of the review criteria above as well as the requested waiver is approved, then positive findings can be made.

SUPPLEMENTAL DISTRICT REGULATIONS

Pursuant LDR Section 4.6.5 – Walls, fences, and hedges

- (A) Relationship to travel ways. Walls, fences, hedges, or similar structures shall not be erected in the public right-of-way nor close to the public right-of-way in a manner which will obstruct visibility or otherwise interfere with the proper flow of vehicular traffic, pedestrian safety, or**

the provision of services. Where deemed to create a sight obstruction, fences, hedges and walls shall be maintained at a height not exceeding three feet. On corner lots and at points of access, additional restrictions requiring provision of adequate sight triangles are provided in Section 4.6.14(A).

- (E) **Masonry walls.** Masonry walls located in the front and street side yards shall be screened by landscape material that is to be maintained at a minimum height equal to half of the height of the wall. Landscape materials must be of the type that will reach the required height within two years of planting.
- (F) **Setbacks.** Fences and walls which are required to be landscaped shall be set back a minimum of two feet from the property line to provide adequate area for vegetation to mature.

Pursuant to LDR Section 4.5.1(E)(3)(a)(1)(c) – Appurtenances, Fences and walls over four feet shall not be allowed in front or side street setbacks.

The proposal includes a perimeter wall along the west and east sides of the property and a retaining wall along the north side of the property. The proposed wall must meet the requirements for relationship to travel ways, landscaping, setbacks, and height. Specifically, any wall within the front setback cannot be more than 4' in height. The wall facing the Nassau Street right-of-way must be setback 2' from property line in order to accommodate the required landscape screening. Finally, a condition of approval is to add a height dimension on the site plan and elevation sheets indicating the proposed heights of proposed walls and/or fences.

Pursuant to LDR Section 4.6.9(C)(2)(a), Single family detached residences. Two spaces per dwelling unit. Tandem parking may be used in the Single Family (R-1) Residential Districts or Low Density Residential (RL) District. Required parking spaces shall not be located in the front setback or side street setback areas. For lots that are less than 60 feet wide and do not have alley access, one parking space may be located in either the front setback area or the side street setback area, provided that no more than 50 percent of the front and side street setback area may be improved for parking purposes.

The proposal includes 2 tandem parking spaces on the north side of the property, one space is proposed within the new garage and one space is proposed within the driveway; thus, the proposal meets the parking requirements for single-family residences.

Right-of-Way Dedication

Pursuant to LDR Section 5.3.1 and the City Engineer, Nassau Street is required to be a 60' right-of-way. Currently, Nassau Street is an 18.8' wide right-of-way where the LDRs require 60'. As it is unreasonable to obtain the required right-of-way an update is planned to reduce the city's requirement to 40'; thus, the subject property is required to provide a 10.6' dedication which will represent half of the required right-of-way width (20') for Nassau Street. This item is attached as a condition of approval.

Comprehensive Plan

Pursuant to the Future Land Use Element, Objective A-4, the redevelopment of land and buildings shall provide for the preservation of historic resources. The objective shall be met through continued adherence to the City's Historic Preservation Ordinance and, where applicable, to architectural design guidelines through the following policies:

Future Land Use Objective A-1 Property shall be developed or redeveloped, in a manner so that the future use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.

The development proposal involves a relocation and rehabilitation of the existing structure within the subject property. There are no concerns with respect to soil, topographic or other physical considerations. With respect to the adjacent land uses, the property is in an area surrounded by a residential uses. The proposal is consistent with the subject Objective.

Future Land Use Policy A-4.1 Prior to approval or recommending approval of any land use or development application for property located within a historic district or designated as a historic site, the Historic Preservation Board must make a finding that the requested action is consistent with the provisions of Section 4.5.1 of the Land Development Regulations relating to historic sites and districts and the “Delray Beach Design Guidelines”.

The structure is contributing to the Nassau Park Historic District. The proposal can be found to be consistent with the requirements of the Comprehensive Plan and the provisions of LDR Section 4.5.1 relating to historic sites and districts as well as the “Delray Beach Historic Preservation Design Guidelines”. The proposal represents the conservation and rehabilitation of a contributing structure that has been damaged due to fire through relocation within the subject site. The project is particularly important to the Nassau Park Historic District given the fact that the structure is one of 22 contributing structures within the district and should it be lost it would be the first and only other home to be demolished since 1988 when the structure located at 234 South Ocean Boulevard was demolished to make way for a multi-family development. That demolition proved to be the catalyst for designation of the Nassau Park Historic District.

As a result, the proposal can be deemed to be consistent with the subject Objective and Policies.

VARIANCE ANALYSIS

The applicant has requested 3 setback variances, which are summarized below:

Variance 1

Pursuant to LDR Section 4.3.4(K), required front setback within the R-1-A District is 25’.

The subject request is a variance to reduce the front setback from the required 25’ to 14’5”.

Variance 2

Pursuant to LDR Section 4.3.4(K), required side interior setbacks within the R-1-A District are 7’6”.

The subject request is a variance to reduce the side interior setback on the east side of the property from the required 7’6” to 6’6”.

Variance 3

Pursuant to LDR Section 4.3.4(K), required side interior setbacks within the R-1-A District are 7’6”.

The subject request is a variance to reduce the side interior setback on the west side of the property from the required 7’6” to 4’ 1½”.

Pursuant to LDR Section 2.2.6(D), the Historic Preservation Board (HPB) shall act on all variance requests within an historic district, or on a historic site, which otherwise would be acted upon by the Board of Adjustment.

Pursuant to LDR Section 2.4.7(A)(6) - Alternative Findings of the Historic Preservation Board: The Board may be guided by the following to make findings as an alternative to the variance standard criteria:

VARIANCE REQUEST 1 FRONT (NORTH) SETBACK REDUCTION

Pursuant to LDR Section 4.3.4(K), required front setbacks within the R-1-A District are 25’.

A variance request has been submitted to reduce the required front setback from 25’ to 14’5” on the north side of the property.

Pursuant to LDR Section 2.4.7(A)(6), Alternative findings of the Historic Preservation Board. The Board may be guided by the following to make findings:

(a) That a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare.

The variance will not be contrary to the public interest, safety, or welfare, and it will aid in maintaining the historic character of the property by retaining the historic streetscape and building facade. Replacement of the fire damaged structure with a new home could have a negative effect on the Nassau Park Historic District. There are 24 structures within the district and 22 of those structures are contributing to the historic integrity of the district, and represent a collection of historic structures.

Positive findings can be made.

(b) That special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places.

Special conditions and circumstances exist, due to the small size of the subject property and the required 40' right-of-way dedication for Nassau Street along the north side/front of the property. Currently, Nassau Street is an 18'8" wide right-of-way where 60' is required. The City Engineer has indicated that the planned right-of-way width for Nassau Street will be reduced to 40' with the adoption of the planned Comprehensive Plan update; thus, a 10'6" dedication is required for the subject property. The dedication will reduce the depth of the property from 100' to 89'4" and reduce the overall lot area from 5,500 sq. ft. to 4,917 sq. ft.

Prior to the proposed relocation, the existing front setback is 36'5½", following the right-of-way dedication, the front setback for the existing structure will be 25'10½", which meets code requirements. However, the proposal includes relocation of the structure north on the site in order to accommodate an addition to the rear of the home. The relocation further reduces the required front setback to 14'5". It is noted that the structure will be situated approximately 25' from the edge of pavement, if the pavement width for Nassau Street is not increased, then the structure will sit "in line" with the adjacent structures to the east and west of the subject property.

Positive findings can be made.

(c) That literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site.

Literal interpretation of the code and existing ordinances is requiring a 10'6" right-of-way dedication along Nassau Street, reducing the size of the already small property. Specifically, the property is being reduced in size from 100' to 89.4' making the property non-conforming with respect to lot depth. The new configuration factored with required setbacks leaves approximately 54' for a building envelope, where 65' would be permitted without the dedication. Additionally, given the code requirements for historic properties, additions are not permitted forward of the front building plane. Overall, literal interpretation of the code alters the historic character of the historic district making preservation of the structure difficult.

Positive findings can be made.

(d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.

The requested variance will not significantly diminish the historic character of the historic site nor the historic district. There are structures on surrounding properties that have existing non-conforming front setbacks. Further, the requirement for the road dedication will ultimately be required of all properties as improvements are made over time. Should a right-of-way dedication be required for the neighboring properties, those properties would likely not meet the minimum front setback requirements for existing structures. While the structures would not be closer to the pavement, their proximity to the right-of-way would be reduced. The platted road is only 18.8' wide along this block with a 5.6' reservation for parking purposes on each side of the road. The maximum area dedicated for vehicular and access purposes is 24.4'. The historic character of Nassau Street is that of a collection of small scale cottages within the first platted subdivision east of the Intracoastal Waterway.

Positive findings can be made.

(e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.

The requested variance is necessary to accommodate an appropriate adaptive reuse of the historic cottage. The required 10'6" dedication along Nassau Street leaves a 14'5" setback after the structure is relocated forward

on the lot. Relocation of the structure along with the proposed rear addition preserves the historic streetscape rather than replacing the fire damaged structure with a new building.

Positive findings can be made.

**VARIANCE REQUEST 2
SIDE INTERIOR (EAST) SETBACK REDUCTION**

Pursuant to LDR Section 4.3.4(K), required side interior setbacks within the R-1-A District are 7'6".

A variance has been submitted to reduce the required side setbacks from 7'6" to 6'6" on the east side of the property.

Pursuant to LDR Section 2.4.7(A)(6), Alternative findings of the Historic Preservation Board. The Board may be guided by the following to make findings:

(a) That a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare.

The variance will not be contrary to the public interest, safety, or welfare, and it will aid in maintaining the historic character of the property by retaining the historic streetscape and building facade. Replacement of the fire damaged structure with a new home could have a negative effect on the Nassau Park Historic District. There are 24 structures within the district and 22 of those structures are contributing to the historic integrity of the district, and represent a collection of historic structures. The request will allow for the relocation and centering of the structure on the property; redistributing the existing non-conforming setbacks on both the east and west sides of the home.

Positive findings can be made.

(b) That special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places.

Due to the small size of the lot and its historic setting within the R-1-A zoning district, special conditions and circumstances exist that are not applicable to other historic lands or structures. The existing siting of the residence has existing, non-conforming side setbacks on both the east and west sides of the property. The variance to reduce the setback on the east side of the property will allow for an overall improvement of the siting of the structure on the property.

Positive findings can be made.

(c) That literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site.

Literal interpretation of the code would alter the historic character of the historic site to an extent that it would not be feasible to preserve the historic character of the site due to the small size of the property. The variance to the east side setback would reduce a minimal amount of the existing setback non-conformities. The existing width of the property would not be able to accommodate the existing structure on the property while providing for required setbacks on both side interior setbacks.

Positive findings can be made.

(d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.

The requested variance will not significantly diminish the historic character of the historic site nor the historic district as there are structures on surrounding properties that have existing non-conforming setbacks. The variance ensures the historic character of the property is maintained.

Positive findings can be made.

(e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.

The requested variance is necessary to accommodate an appropriate adaptive reuse of the historic cottage. The requested variance also allows for the side interior setbacks for the residence to accommodate the original

structure to be moved forward and slightly to the east of the property allowing for a minimal amount of extra space on the east side of structure from the property line. The variances requested affect the original structure only. Relocation of the structure along with the proposed addition to the rear of the property preserves the historic streetscape rather than replacing the fire damaged structure with a new building.

Positive findings can be made.

**VARIANCE REQUEST 3
SIDE INTERIOR (WEST) SETBACK REDUCTION**

Pursuant to LDR Section 4.3.4(K), required side interior setbacks within the R-1-A District are 7'6".

A variance has been submitted to reduce the required side setbacks from 7'6" to 4'11" on the west side of the property.

Pursuant to LDR Section 2.4.7(A)(6), Alternative findings of the Historic Preservation Board. The Board may be guided by the following to make findings:

(a) That a variance is necessary to maintain the historic character of property and demonstrating that the granting of the variance would not be contrary to the public interest, safety, or welfare.

The variance will not be contrary to the public interest, safety, or welfare, and it will aid in maintaining the historic character of the property by retaining the historic streetscape and building facade. Replacement of the fire damaged structure with a new home could have a negative effect on the Nassau Park Historic District. There are 24 structures within the district and 22 of those structures are contributing to the historic integrity of the district, and represent a collection of historic structures. The request will reduce the existing non-conformity on west interior side setback of the structure on the property.

Positive findings can be made.

(b) That special conditions and circumstances exist, because of the historic setting, location, nature, or character of the land, structure, appurtenance, sign, or building involved, which are not applicable to other lands, structures, appurtenances, signs, or buildings in the same zoning district, which have not been designated as historic sites or a historic district nor listed on the Local Register of Historic Places.

Due to the small size of the lot and its historic setting within the R-1-A zoning district, special conditions and circumstances exist that are not applicable to other historic lands or structures. The existing siting of the residence on the property has existing non-conforming side setbacks that a variance would improve on the west side of the property, allowing for an overall improvement of the siting of the structure on the property.

Positive findings can be made.

(c) That literal interpretation of the provisions of existing ordinances would alter the historic character of the historic district, or historic site to such an extent that it would not be feasible to preserve the historic character of the historic district or historic site.

Literal interpretation of the code would alter the historic character of the historic site to an extent that it would not be feasible to preserve the historic character of the site due to the small size of the property. The variance to west side setback would reduce a minimal amount of the existing setback non-conformities. The existing width of the property would not be able to accommodate the existing structure on the property while providing for the required setbacks on both side interior setbacks.

Positive findings can be made.

(d) That the variance requested will not significantly diminish the historic character of a historic site or of a historic district.

The requested variance will not significantly diminish the historic character of the historic site nor the historic district as there are structures on surrounding properties that have existing non-conforming setbacks. The variance ensures the historic character of the property is maintained.

Positive findings can be made.

(e) That the requested variance is necessary to accommodate an appropriate adaptive reuse of a historic building, structure, or site.

The requested variance is necessary to accommodate an appropriate adaptive reuse of the historic cottage. The requested variance also allows for the side interior setbacks for the residence to accommodate the original

structure to be moved forward and slightly to the east of the property allowing for a minimal amount of extra space on the west side of structure from the property line. The variances requested affect the original structure only. Relocation of the structure along with the proposed addition to the rear of the property preserves the historic streetscape rather than replacing the fire damaged structure with a new building.

Positive findings can be made.

Note: As required by the LDRs, a notice regarding the subject variance requests was sent to those property owners located within a 500' radius of the subject property.

WAIVER ANALYSIS

Pursuant to LDR Section 4.5.1(E) – Development Standards. Relief from Subsections (1) through (9) may be granted by seeking a waiver approvable by the Historic Preservation Board, unless otherwise stated.

The applicant has requested 2 waivers to LDR Section 4.5.1 as noted below:

Pursuant to LDR Section 4.5.1(E)(3)(a)(2)(a), Garages and carports are encouraged to be oriented so that they may be accessed from the side or rear and out of view from a public right-of-way.

The subject request is a waiver to permit a front facing garage door.

Pursuant to LDR Section 4.5.1(E)(7)(m)(6), Additions shall be secondary and subordinate to the main mass of the historic building and shall not overwhelm the original building.

The subject request is a waiver to allow for an addition that is setback 61' 10" and not visible from the public right-of-way.

WAIVER REQUEST 1

Pursuant to LDR Section 4.5.1(E)(3)(a)(2)(a), Garages and carports are encouraged to be oriented so that they may be accessed from the side or rear and out of view from a public right-of-way.

The subject request is a waiver to permit a front facing garage door, visible from a public right-of-way.

Pursuant to LDR Section 2.4.7(B)(5) – Findings: The following findings must be made prior to approval of a waiver:

(a) Shall not adversely affect the neighboring area;

There is an existing carport on the subject property, which faces the front of the property and is visible from the adjacent Nassau Street right-of-way. The proposed garage is to be constructed in place of the existing carport. Allowing relief for this request would not adversely affect the neighborhood area as other lots within the District have carports and garages which are visible from the public right-of-way.

Positive findings can be made.

(b) Shall not significantly diminish the provision of public facilities;

The request is for a private residence and will not significantly diminish the provision of public facilities.

Positive findings can be made.

(c) Shall not create an unsafe situation; and,

Due to the small size of the property, allowing for a front facing garage in place of the existing carport allows for the property to be utilized as it exists. Further, the 55' wide property would not allow for a garage that is side loaded.

Positive findings can be made.

(d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Given that there is an existing carport where the garage is proposed and that there are other structures within the district that have front facing garages, this request would not grant any special privileges in that the same waiver would be granted under similar circumstances.

Positive findings can be made.

WAIVER REQUEST 2

Pursuant to LDR Section 4.5.1(E)(7)(m)(6), Additions shall be secondary and subordinate to the main mass of the historic building and shall not overwhelm the original building.

The subject request is a waiver to allow a 2-story addition in the rear of the 1-story home.

Pursuant to LDR Section 2.4.7(B)(5) – Findings: The following findings must be made prior to approval of a waiver:

(a) Shall not adversely affect the neighboring area;

The 2nd story addition is proposed in the rear of the property, has been setback from the front of the structure, but will be visible from the public right-of-way. The addition has been designed to be low in scale, in that the proposed ceiling heights are a standard 9'. The design of the addition can be seen to be secondary, and subordinate to the main massing of the historic structure but will be visible from the adjacent public right-of-way. Overall, the proposal is not intended to have an adverse effect on the neighboring area.

Positive findings can be made.

(b) Shall not significantly diminish the provision of public facilities;

The proposal is required to meet the standards for drainage, which will be reviewed at the time of building permit. The proposed 2-story addition to the 1-story residence is not intended to significantly diminish the provision of public facilities.

Positive findings can be made.

(c) Shall not create an unsafe situation; and,

The proposed 2-story addition to the 1-story structure is not intended to create an unsafe situation.

Positive findings can be made.

(d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

As many of the structures within the district are two story residences, this request would not grant any special privileges in that the same waiver may be granted under similar circumstances.

Positive findings can be made.

DEMOLITION ANALYSIS

Pursuant to LDR Section 4.5.1(F), Demolitions – Demolition of historic or archaeological sites, or buildings, structures, improvements and appurtenances within historic districts shall be regulated by the Historic Preservation Board and shall be subject to the following requirements:

- 1. No structure within a historic district or on a historic site shall be demolished before a Certificate of Appropriateness has been issued pursuant to Section 2.4.6(H).**
- 2. The application for a Certificate of Appropriateness for demolition must be accompanied by an application for a Certificate of Appropriateness for alterations to the structure or the redevelopment of the property.**
- 3. Demolition shall not occur until a building permit has been issued for the alterations or redevelopment as described in the applicable Certificate of Appropriateness.**
- 4. All structures approved for demolition and awaiting issuance of a building permit for the alterations or redevelopment shall be maintained so as to remain in a condition similar to that which existed at time that the Certificate of Appropriateness for demolition was approved unless the Chief Building Official determines that an unsafe building condition exists in accordance with Section 4.5.3(G).**
- 5. A Certificate of Appropriateness for demolition of 25 percent or more of contributing or individually designated structure shall be subject to the following additional requirements:**
 - a. A demolition plan shall accompany the application for a Certificate of Appropriateness for demolition. The plan shall illustrate all portions of the existing structure that will be removed or altered.**

- b. The Certificate of Appropriateness for demolition and the Certificate of Appropriateness for alternation or redevelopment shall meet the "Additional Public Notice" requirements of LDR Section 2.4.2(B)(1)(j).**

The proposal is for the demolition of less than 25% of the original contributing structure, which includes the original kitchen and the 1950's bathroom addition (169 sq. ft.). The later additions, which include the utility/laundry room, carport, enclosed porch are not considered contributing as they were constructed after the period of significance. The proposed demolition is of areas that are in the rear of the property and their removal will not negatively affect the historic integrity of the structure.

RELOCATION ANALYSIS

Pursuant to LDR Section 4.5.1(E)(6)(b)(1), Relocation of Contributing or Individually Designated Structures, Criteria - when considering the relocation of a contributing structure from a historic district, or an individually designated structure from a site, the Board shall be guided by the following, as applicable:

- c. Whether the structure will be relocated within the same historic district, into a new historic district, or outside of a historic district;**
- d. Whether the proposed relocation may have a detrimental effect on the structural soundness of the building or structure;**
- e. Whether the proposed relocation would have a negative or positive effect on other historic sites, buildings, or structures within the originating historic district, at the new site;**
- f. Whether the new surroundings of the relocated structure would be compatible with its architectural character; and,**
- g. Whether the proposed relocation is the only practicable means of saving the structure from demolition.**

The original structure will be relocated or shifted north on the lot by 11'5" in order to accommodate a new 1 & 2-story and addition in the rear of the property. The relocation will allow for the fire damaged portions of the house to be repaired, including the roofing members, crawl space and foundations which will ensure structural stability. The proposed relocation will move the house forward on the lot but will keep the face of the structure in-line with the existing structures on Nassau Street, preserving the streetscape of the Nassau Park Historic District. The proposed rehabilitation provides for a restoration of important architectural features, such as replacement of the inappropriate vinyl siding with wood siding. The requirements for Visual Compatibility limit additions to the most inconspicuous and least public side of the property, usually the rear, ensuring protection of the façade. In this specific case, the structure has been damaged by fire. The owners considered demolition of the structure but instead chose to relocate and rehabilitate the structure.

Pursuant to LDR Section 4.5.1(E)(6)(b)(2), Relocation of Contributing or Individually Designated Structures, Relocation Plan - when considering the relocation of a contributing or individually designated structure, the Board shall require a Relocation Plan that includes the following:

- a. A detailed explanation of the relocation method including the type of machinery and equipment to be utilized;**
- b. A demolition plan illustrating any parts of the structure to be removed or modified to facilitate the relocation;**
- c. An illustration of locations where the building will be split, as applicable;**
- d. The name of the Florida Licensed Building Mover who will relocate the structure(s) and the following support materials, if available:**
 - i. A description of the Florida Licensed Building Mover's past experience in moving historic buildings of a similar construction technique.**
 - ii. Photographs of prior relocation projects completed by the Florida Licensed Building Mover taken before and after the relocation, if applicable.**
- e. A certified engineering report which includes:**
 - i. A relocation feasibility study with an assessment of the building's structural condition to determine any damage that might occur during the move.**

- ii. Details and a description of the historic structure's construction type including technique and materials and current condition of materials.**
- iii. Identification of any areas of concern, and how these areas will be addressed prior to the relocation.**

The applicant is proposing "Ducky Johnson Home Elevation, LLC" (Mover) is the Florid Licensed Contractor who will relocate the structure. The Mover has indicated that they have elevated over 5,000 buildings since 2013 and one of the owners of the company, Charlie Johnson, is a 3rd generation house mover from Grand Ridge, FL. The Mover will utilize the "Unified Jacking Machine" to elevate and lower the building. Illustrations have been provided, which indicate where the building will be split. The split coincides with portions of the structure that are proposed for demolition, leaving approximately 880 sq. ft. to be moved north on the lot. A certified engineer's report has been provided that details the structures construction type as well as damage resulting from the fire. A General Contractor's estimate has been provided detailing the cost for repair of the structure once the relocation is complete.

Pursuant to LDR Section 4.5.1(E)(6)(b)(3), Relocation of Contributing or Individually Designated Structures, Supplemental Documentation - The following information shall be provided with the application for a Certificate of Appropriateness for relocation of a contributing or individually designated structure prior to Board consideration:

- a. As built drawings of the building as it exists on its originating site before undertaking the move, particularly if the move will require substantial reconstruction, including but not limited to floor plans, elevations, and architectural details and profiles;
- b. Photographs of the site and the interior and exterior of the building, including but not limited to all elevations and exterior details.
- c. History of any code violations applied to the structure and property, along with an explanation of any pending violations or structure violations which have been issued within five (5) years of the application request.

Architectural drawings documenting the existing conditions of the structure have been provided as well as interior and exterior photographs of the structure. The recent code enforcement violation history relates to the condition of the structure since the fire.

Pursuant to LDR Section 4.5.1(E)(6)(b)(4), Relocation, Relocation of Contributing or Individually Designated Structures, Concurrent New Development Review - Applications for a Certificate of Appropriateness for relocation shall be submitted concurrently with the application for a Certificate of Appropriateness for the new development on the originating site.

A COA has been submitted and is being processed concurrently.

Pursuant to LDR Section 4.5.1(E)(6)(b)(5), Relocation, Relocation of Contributing or Individually Designated Structures, Site Maintenance - If the originating site is to remain vacant and construction of the new development will not commence for more than 90 days following the relocation, the lot shall be sodded and maintained in a manner consistent with other open space in the historic district.

The proposal involves relocation of the existing structure within the site; thus, this requirement is not applicable.

Pursuant to LDR Section 4.5.1(E)(6)(b)(6), Relocation, Relocation of Contributing or Individually Designated Structures, Successful or Unsuccessful Relocation - The relocation of a historic structure is deemed successful when either no damage occurs during or as a result of the relocation or minimal damage occurs which is not deemed to compromise the integrity (structurally and architecturally) of the structure, and when the relocation is completed in accordance with the approved Certificate of Appropriateness, including the associated Relocation Plan.

- a. If damage occurs during the relocation, then the property owner, applicant and/or Licensed Building Mover shall notify the Historic Preservation Planner and Chief Building Official within 24 hours of completion of the move to determine if the damage has compromised the integrity of the structure, thereby deeming the relocation as unsuccessful.

- b. If a relocation is not successful, then the property owner and/or applicant shall notify the Historic Preservation Planner and Chief Building Official within 24 hours of the failed relocation, or before the close of business on the next business day.
- c. Failure of any degree to successfully relocate the historic structure may result in the revocation of any site development relief (waivers, variances, internal adjustments, or other relief) associated with the relocation that has been granted by the Board or the City Commission, as required by the Planning and Zoning Director.
- d. The applicant or property owner may submit a written request for the reconsideration of any previously approved site development relief associated with the unsuccessfully relocated structure in accordance with the following:
 - i. The reconsideration request shall be submitted to the Planning and Zoning Director within five business days of notification of the unsuccessful relocation. The reconsideration will be placed on the next available agenda of the recommending or approving body as appropriate
 - ii. Requests for reconsideration shall include a statement regarding the relocation, documentation of the relocation, an explanation of the relocation failure, and how the relocation failed to meet the Relocation Plan of the approved Certificate of Appropriateness and the corrective actions to address issues caused by failed relocation.

The Applicant shall comply with this code section should there be damage that compromises the integrity of the structure and it is deemed a failure in relocation.

Pursuant to LDR Section 4.5.1(E)(6)(b)(7), Relocation, Relocation of Contributing or Individually Designated Structures, Public Notice - All applications for a Certificate of Appropriateness for the relocation of a contributing structure or an individually designated structure shall meet the "Additional Public Notice" requirements of LDR Section 2.4.2(B)(f)(j).

A notice of the Relocation was posted on the City's website at least ten days prior to the scheduled hearing and the notice was also posted at City Hall.

Pursuant to LDR Section 4.5.1(E)(6)(d), Relocation, Supplemental Requirements, all buildings and structures approved for relocation shall comply with the following:

1. The building to be relocated shall be secured from vandalism and potential weather damage before and after its move, in a manner as approved by the Chief Building Official.
2. All structures approved for relocation and awaiting issuance of a building permit for the new development on the originating site shall be maintained so as to remain in a condition similar to that which existed at the time of the application.
3. All structures to be relocated pursuant to this Section shall comply with the requirements of Section 7.10.11, "Moving of Building: Historic Structures".

Applicant shall meet all requirements of this code section.

Pursuant to LDR Section 7.10.5, Moving of Building – Historic structure relocation bond - An applicant requesting the relocation of a contributing structure or an individually designated structure shall provide a Surety Bond or a Letter of Credit in favor of the City of Delray Beach and in a form satisfactory to the City Attorney's Office of an amount equal to 125 percent of the "fair market value" of the property which includes the value of the land and any improvements such as the historic structure, as determined by or through an MAI (Member of the Appraisal Institute) appraisal. The appraisal must be performed no more than 60 days prior to the date of application for a relocation permit. The Surety Bond or Letter of Credit shall not be released until final inspection of the successfully completed relocation to the new foundation. Failure to successfully relocate a Historic structure may result in the forfeiture of the Surety Bond or a draw on the Letter of Credit as determined by the City Commission upon recommendation by the Historic preservation Board.

This item is attached as condition of approval.

ALTERNATIVE ACTIONS

A. Move to continue with direction

- B. Approve Certificate of Appropriateness (2019-194), Variance, and Waiver requests for the property located at **1120 Nassau Street, Nassau Park Historic District** by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Sections 2.4.6(H)(5), 2.4.7(A)(6), and 2.4.7(B)(6).
- C. Approve Certificate of Appropriateness (2019-194), Waivers and Variances requests for the property located at **1120 Nassau Street, Nassau Park Historic District** by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Sections 2.4.6(H)(5), 2.4.7(A)(6), and 2.4.7 (B)(6) subject to the following conditions:
1. That a height dimension for all proposed walls and/or fences be provided on the site plan and elevation sheets;
 2. That proposed walls and/or fences meet the requirements for Relationship to travel ways, landscaping and Setbacks;
 3. That the wall along the front of the property be setback 2' from the property line in order to accommodate the required landscape screening;
 4. That a 10.6' right-of-way dedication be provided for Nassau Street; and,
 5. That the owner provide a Surety Bond or a Letter of Credit in favor of the City of Delray Beach and in a form satisfactory to the City Attorney's Office of an amount equal to 125 percent of the "fair market value" of the property which includes the value of the land and any improvements such as the historic structure, as determined by or through an MAI (Member of the Appraisal Institute) appraisal.

Site Plan Technical Item

1. That the Site Data Table be updated to correctly reflect proposed site area, lot width, open space, lot coverage, etc.
- D. Deny Certificate of Appropriateness (2019-194), Waiver, and Variances requests for the property located at **1120 Nassau Street, Nassau Park Historic District**, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in LDR Sections 2.4.6(H)(5), 2.4.7(A)(6), and 2.4.7(B)(6).

PUBLIC AND COURTESY NOTICES

☐ Courtesy Notices are not applicable to this request

☐ Courtesy Notices were provided to the following, at least 5 working days prior to the meeting:

☐ Public Notices are not required for this request.

☐ Public Notice was posted at the property on (insert date), 7 calendar days prior to the meeting.

☒ Public Notice was mailed to property owners within a 500' radius on (7/25/2019), 10 days prior to the meeting.

☐ Public Notice was mailed to the adjacent property owners on (insert date), 20 days prior to the meeting.

☐ Public Notice was published in the (insert publication) on (insert date), 10 calendar days prior to the meeting.

☒ Public Notice was posted to the City's website on (7/29/19), 10 calendar days prior to the meeting.

☒ Public Notice was posted in the main lobby at City Hall on (insert date), 10 working days prior to the meeting.

☒ Agenda was posted on (7/31/19), 5 working days prior to meeting.