



CITY OF DELRAY BEACH
DEPARTMENT OF DEVELOPMENT SERVICES
100 N.W. 1ST AVENUE • DELRAY BEACH • FLORIDA 33444 • (561) 243-7040



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HISTORIC PRESERVATION BOARD STAFF REPORT

160-166 SE 1ST Avenue (A.K.A Lot 2 – Magnolia Place)

Meeting	File No.	Application Type
February 4, 2026	HP-423-2026	Certificate of Appropriateness, Variance and Waiver

REQUEST

The item before the Board is consideration of a Certificate of Appropriateness, Variance, and Waiver (HP-423-2026) request for the installation of artificial turf in association with the construction of a new 2-story duplex structure on the property located at **160-166 SE 1ST Avenue (A.K.A Lot 2 – Magnolia Place), Old School Square Historic District**.

GENERAL DATA

Owner/Applicant: 130 SE 1ST LLC

Location: 160-166 SE 1ST Avenue

PCN: 12-43-46-16-R5-000-0020

Property Size: 0.19 Acres

Zoning: Old School Square Historic Arts District (OSSHAD)

LUM: HMU (Historic Mixed Use)

Historic District: Old School Square Historic District (OSSHAD)

Adjacent Zoning:

- North: OSSHAD
- East: Central Business District (CBD)
- West: OSSHAD
- South: Multiple Family Residential (RM)

Existing Land Use: Residential

Proposed Land Use: Residential



BACKGROUND AND PROJECT DESCRIPTION

The subject property is known as Lot 2 within the new 5-lot subdivision known as Magnolia Place (F.K.A Downtown Delray Villas). The property is zoned OSSHAD (Old School Square Historic Arts District) and is located within the Locally Designated Old School Square Historic District.

On January 17, 2024, the Historic Preservation Board denied A Certificate of Appropriateness (COA) for the demolition of a circa 1978, non-contributing, single-family structure and construction of a 2-story, French Colonial style duplex structure on Lot 2 of the Magnolia Place subdivision. The request and denial also included 4 variances and 1 waiver request as listed below:

Variances:

- A variance to exceed the maximum lot coverage from 40% to 45.5%;
- A variance to allow a reduction in the required 10' north side interior setback to 5' for a swimming pool associated with the rear (west) duplex unit;

Project Planner:	Review Dates:	Attachments:
Michelle Hewett, Senior Planner, hewettm@mydelraybeach.com	February 4, 2026	<ol style="list-style-type: none"> 1. Plans 2. Photographs 3. Artificial Turf Documents 4. Justification Statements

- A variance to allow a reduction in the required 10' south side interior setback to 8'4" for a swimming pool associated with the front (east) duplex unit; and
- A variance to allow a reduction in the required 25' front setback to 10'8" for a swimming pool associated with the front (east) duplex unit.

Waiver:

- A waiver to the historic preservation Visual Compatibility Standards to allow the front duplex unit to encroach within the required Building Height Plane.

The COA, Variances, and Waiver requests were subsequently appealed by the owner/applicant to the City Commission who ultimately approved the request on February 20, 2024.

A building permit (24-220600) was issued for the subject property, and the project is nearing completion. However, artificial turf was installed, where sod was approved and permitted. Subsequently, a Certificate of Appropriateness application, with a Waiver and Variance were submitted, for the following:

Waiver:

To allow for the use of artificial turf on the subject property where it otherwise would not be permitted, pursuant to Land Development Regulation (LDR) Section 4.6.16(E)(12) – Artificial Turf

Variance:

To allow a reduction for the minimum required 25% open space to 10.9% for the installation of Artificial Turf, pursuant to Land Development Regulation (LDR) Section 4.3.4(K).

The request is now before the board.

ZONING AND LANDSCAPE ANALYSIS

Pursuant to Land Development Regulation (LDR) Section 2.4.12(A)(5), prior to approval, a finding must be made that any Certificate of Appropriateness is consistent with Historic Preservation purposes pursuant to Objective HPE 1.4 of the Historic Preservation Element of the Comprehensive Plan; the provisions of Section 4.5.1; the Delray Beach Historic Preservation Design Guidelines; and, the Secretary of the Interior's Standards for Rehabilitation.

ZONING USE AND REVIEW

Pursuant to LDR Section 4.4.24(F) – Old School Square Historic Arts District (OSSHAD)

Development Standards: The use is residential (duplex), which is a permitted use within the OSSHAD zoning district.

Pursuant to LDR Section 4.3.4(K) Development Standards and LDR Appendix A Definitions, duplex structures within OSSHAD zoning district, in addition to the minimum 40% lot coverage restrictions, a minimum of 25% non-vehicular open space shall be provided. Interior and perimeter landscaping may be applied toward meeting this requirement.

Pursuant to Appendix A of the LDRs – OPEN SPACE. All areas of natural plant communities or areas replanted with vegetation after construction, such as: revegetated natural areas; tree, shrub, hedge or ground cover planting areas; and lawns. Water bodies and artificial turf areas cannot be used to calculate open space areas.

LANDSCAPE REVIEW - ARTIFICIAL TURF:

Pursuant to Section 4.6.16(E)(12) – Artificial Turf

Artificial turf is allowed on both residential and non-residential properties, subject to the following requirements:

- a) General.
 - i. The installation of artificial turf requires a landscape permit.
 - ii. Artificial turf areas may not be included in open space calculations.
 - iii. Artificial turf is considered pervious but cannot be used within permanent drainage features, including ponds and swales.
 - iv. Artificial turf shall not be installed closer than five feet to the property line.
 - v. Artificial turf shall not be installed in or be visible from a public or private right-of-way.
 - vi. Artificial turf may be used in combination with living plants as part of a landscape design, but artificial turf shall not by itself constitute landscaping.
- b) Locational criteria.
 - i. Residential and commercial uses. Residential and commercial properties are subject to the following additional criteria:
 1. After building coverage, hardscaping areas, and minimum open space requirement areas are subtracted from the total lot area, no more than 15 percent of the remaining lot area may be comprised of artificial turf.
 2. Artificial turf is allowed in rear and interior side yards, and in side street yards when shielded from view. Artificial turf may also be used in conjunction with driveway pavers.
 - ii. Recreational uses. Artificial turf is allowed in recreational use areas, and is not required to be shielded from view.
 - iii. Historic. On properties located within a Historic District or on Individually Designated Sites, as listed on the Local Register of Historic Places, artificial turf is only allowed in rear and side yards and must be shielded from view.
- c) Materials and installation. All artificial turf must comply with the following minimum standards for materials and installation.
 - i. The artificial turf system shall be lead-free, and use recycled or organic plant-derived materials and natural infill components, including, but not limited to, cork, coconut, corn husk, rice husk, and sand. The use of crumb rubber and other synthetic materials shall be prohibited in all applications except for sports fields. Documentation must be provided that identifies all recyclable or natural components of the artificial turf system.
 - ii. Permit applications shall include Total Content Leach Protocol (TCLP) test documentation demonstrating that the artificial turf yarn and backing materials are disposable under normal conditions at any U.S. landfill station.
 - iii. A minimum eight-year manufacturer's warranty is required.
 - iv. All artificial turf shall be installed over a subgrade that provides positive drainage and an evenly graded mass of compacted, porous crushed rock aggregate material. Bases may not be comprised of sand only. Proper drainage shall be provided for all artificial turf installations to prevent runoff or pooling of water.
 - v. Artificial turf must be designed and permitted with a minimum permeability of 30 inches per hour per square yard.
 - vi. Artificial turf must have lifelike individual blades of grass that emulate natural turf or sod lawn areas with the grain pointing in a single direction, and no visible seams.

- vii. Artificial turf shall not be installed directly against the trunk of trees or palms. A three-foot mulch bed measured from the base of the tree or palm must be maintained. Installation around existing trees shall be monitored and may be restricted to ensure that the overall health of the tree will not be compromised.
- viii. An in-progress inspection shall be required to ensure that the appropriate base material has been installed to manufacturer specifications. A final inspection shall also be required.

d) Maintenance. Artificial turf shall be maintained free of dirt, mud, stains, weeds, debris, tears, holes, impressions, and fading. Maintenance shall include, but not be limited to cleaning, brushing, debris removal, repairs of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matter areas, weeds, and invasive roots, and maintenance of edges.

The approved site plan and issued permit set indicated that all areas of open space were to be sodded in accordance with the requirements of the Land Development Regulations (LDR). The installed artificial turf does not meet the open space requirements nor all of the pertinent artificial turf requirements, thus a Waiver and Variance were submitted to address the after-the-fact installation. While relief has been requested from the entire artificial turf section, as installed, the artificial turf is meeting the following portions of the above code section per the applicant, for reference:

LDR Section 4.6.8(E)(12)(a)(iii). Artificial turf is considered pervious but cannot be used within permanent drainage features, including ponds and swales.

As the use of artificial turf is considered pervious, this will not affect drainage calculations, and as there are no permanent drainage features, that portion is not applicable. All required on-site retention is provided via underground exfiltration trenches.

LDR Section 4.6.8(E)(12)(c)(iv). All artificial turf shall be installed over a subgrade that provides positive drainage and an evenly graded mass of compacted, porous crushed rock aggregate material. Bases may not be comprised of sand only. Proper drainage shall be provided for all artificial turf installations to prevent runoff or pooling of water.

The artificial turf is installed over gravel base.

LDR Section 4.6.8(E)(12)(c)(v). Artificial turf must be designed and permitted with a minimum permeability of 30 inches per hour per square yard.

Per attached manufacturer's permeability test, the test infiltration rate is >100 in/hr.

The turf also appears to be meeting **LDR Section 4.6.8(E)(12)(c)(i)** The artificial turf system shall be lead-free, and use recycled or organic plant-derived materials and natural infill components, including, but not limited to, cork, coconut, corn husk, rice husk, and sand. The use of crumb rubber and other synthetic materials shall be prohibited in all applications except for sports fields. Documentation must be provided that identifies all recyclable or natural components of the artificial turf system, as the infill note on the artificial turf laboratory testing document indicates sand. Staff also conducted a site visit to confirm the appearance of the turf, which can be considered appropriate in accordance with **LDR Section 4.6.8(E)(12)(c)(vi)** Artificial turf must have lifelike individual blades of grass that emulate natural turf or sod lawn areas with the grain pointing in a single direction, and no visible seams. The turf is soft and was not hot to stand on.

All other portions of this section are not being met and require a Waiver. Specifically for historic review, there is concern with the use of artificial turf in the front and side street areas of the property. The artificial turf LDRs were developed to allow the use of turf where it would be shielded from view, such as rear and side yard areas, given it is a synthetic material and such are typically discouraged for use within historic districts. The project is considered new construction and it is noted that landscape review

and analysis is not typically required for single family/duplex structures, rather is reviewed at the time of building permit.

Review of the Variance for open space and the Waiver for use of artificial turf is noted later in this report.

HISTORIC PRESERVATION ANALYSIS

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 4.5.1E(2) – Major and Minor Development.

The subject application is considered “Minor Development” as it involves “new construction within the OSSHAD zoning district.”

SECRETARY OF THE INTERIOR'S STANDARDS

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.

The use of artificial turf on the subject property is a site related ground improvement. With the initial approval of the project, the City Commission made findings that the proposal was consistent with the requirements of the LDRs, which reference these Secretary of the Interior's Standards and Guidelines. Particularly applicable is Standard 9, which indicates that *"new work shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and the environment"*. The proposal involved demolition of the existing structure and clearing of the site to accommodate the new construction, which included all landscape features such as trees and grass. However, it is noted that much of the Secretary of the Interior's Guidelines provide guidance towards the use of authentic materials that contribute to a site and its setting, in this case the Old School Square Historic District. The Guidelines provide specific recommended approaches to new construction to ensure compliance with these ten standards. Particularly as follows:

BUILDING SITE	
RECOMMENDED	NOT RECOMMENDED
<p>Replacing in kind an entire feature of the site that is too deteriorated to repair (if the overall form and detailing are still evident) using the physical evidence as a model to reproduce the feature. Examples could include a walkway or a fountain, a land form, or plant material. If using the same kind of material is not feasible, then a compatible substitute material may be considered.</p>	<p>Removing a character-defining feature of the site that is unrepairable and not replacing it, or replacing it with a new feature that does not match.</p>
	<p>Using a substitute material for the replacement that does not convey the same appearance of the surviving site feature or that is physically or ecologically incompatible.</p>
	<p>Adding conjectural landscape features to the site (such as period reproduction light fixtures, fences, fountains, or vegetation) that are historically inappropriate, thereby creating an inaccurate appearance of the site.</p>

SETTING (DISTRICT / NEIGHBORHOOD)

RECOMMENDED	NOT RECOMMENDED
<p>Replacing in kind an entire building or landscape feature in the setting that is too deteriorated to repair (if the overall form and detailing are still evident) using the physical evidence as a model to reproduce the feature. If using the same kind of material is not feasible, then a compatible substitute material may be considered.</p>	<p>Removing a character-defining feature of the building or landscape from the setting that is unrepairable and not replacing it or replacing it with a new feature that does not match.</p> <p>Using a substitute material for the replacement that does not convey the same appearance of the surviving building or landscape feature in the setting or that is physically or ecologically incompatible.</p>

Advancements have been made in the artificial turf industry, making the material more natural in appearance and function. Such as the use of individual blades of grass-like material, texture, and color. Some turf material is typically designed to be soft underfoot like organic grass/sod, it can be cooler to stand on, fade resistant, and non-toxic. Some turf material could be considered ecologically compatible from a drainage perspective in that water can drain through it. However, when turf needs to be replaced it must either be disposed of (landfill) or recycled as it is not an organic material like natural grass. Given the fact that most synthetic turf is manufactured from several different types of plastic, the recycling process is not straightforward and has not yet been perfected for wide use. While challenges exist in separating the materials making the recycling process complex, there are companies who specialize in repurposing the material.

The board will need to make a determination that the proposal is consistent and compatible with these Standards and Guidelines.

VISUAL COMPATIBILITY STANDARDS

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, Front Façade Proportion, Proportion of Openings, Rhythm of Solids to Voids, Rhythm of Buildings on Streets, Rhythm of Entrance and/or porch projections, Relationship of Materials, Texture, and Color, Roof Shapes, Walls of Continuity, Scale of a Building, Directional Expression of Front Elevation, Architectural Style, and Additions, as well 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 mentioned in this code section. Specifically, the following Visual Compatibility Standard is applicable to the subject application:

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.

The project has already been approved and constructed, and the request is for an after-the-fact installation of artificial turf where sod was approved to meet the requirements of open space. There is concern with the use of artificial turf (a synthetic material), regarding the **Relationship of Materials, Texture, and Colors** visual compatibility standard. The city's Landscape regulations relating to Artificial Turf within historic districts/sites were developed to ensure that the material could be utilized but with its use primarily being permitted in the rear or non-street facing sides of a property to protect the historic

integrity of historic sites and districts. In this instance, the artificial turf is proposed (installed) throughout the site including the front and street facing side. Given the nature and design of the site which included variances and waivers to reduce setbacks and exceed lot coverage, there are limited areas where natural open space was to be accommodated. Further, there are small swimming pools or “splash pools” situated in the front yard (and rear) of the property and the applicant has indicated that the installation of sod is not feasible from a maintenance perspective around the pools. While artificial turf is installed in all areas where sod was to be placed, it is noted that there are landscape areas surrounding the perimeter of the site, that incorporate hedging, ground cover, and trees. The board will need to make a determination that the use of artificial turf is appropriate and compatible for the site and district.

WAIVER ANALYSIS

Pursuant to LDR Section 2.1.9(E)(12)(f), Board Actions. The Board hereby has the authority to take action on the following items associated with property, sites, and structures located within a Historic District or for Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(l), pursuant to the procedures and standards of the LDR: Relief to Section 4.6.16, Landscape Regulations, through the waiver process.

Pursuant to LDR Section 2.4.11(B) A waiver involves the granting of partial or total relief from a specific development regulation. A waiver may be granted to the procedural and substantive provisions of these regulations. A waiver may be granted only for those substantive items within these regulations for which such provision is made. A waiver to substantive provisions may be granted only by the approving body with the final authority to approve or deny the related development application.

Pursuant to Section 4.6.16(E)(12) – Artificial turf is allowed on both residential and non-residential properties, subject to the following requirements:

- a) General.
 - vii. The installation of artificial turf requires a landscape permit.
 - viii. Artificial turf areas may not be included in open space calculations.
 - ix. Artificial turf is considered pervious but cannot be used within permanent drainage features, including ponds and swales.
 - x. Artificial turf shall not be installed closer than five feet to the property line.
 - xi. Artificial turf shall not be installed in or be visible from a public or private right-of-way.
 - xii. Artificial turf may be used in combination with living plants as part of a landscape design, but artificial turf shall not by itself constitute landscaping.
- b) Locational criteria.
 - iv. Residential and commercial uses. Residential and commercial properties are subject to the following additional criteria:
 1. After building coverage, hardscaping areas, and minimum open space requirement areas are subtracted from the total lot area, no more than 15 percent of the remaining lot area may be comprised of artificial turf.
 2. Artificial turf is allowed in rear and interior side yards, and in side street yards when shielded from view. Artificial turf may also be used in conjunction with driveway pavers.
 - v. Recreational uses. Artificial turf is allowed in recreational use areas, and is not required to be shielded from view.

- vi. **Historic.** On properties located within a Historic District or on Individually Designated Sites, as listed on the Local Register of Historic Places, artificial turf is only allowed in rear and side yards and must be shielded from view.
- c) **Materials and installation.**All artificial turf must comply with the following minimum standards for materials and installation.
 - i. The artificial turf system shall be lead-free, and use recycled or organic plant-derived materials and natural infill components, including, but not limited to, cork, coconut, corn husk, rice husk, and sand. The use of crumb rubber and other synthetic materials shall be prohibited in all applications except for sports fields. Documentation must be provided that identifies all recyclable or natural components of the artificial turf system.
 - ii. Permit applications shall include Total Content Leach Protocol (TCLP) test documentation demonstrating that the artificial turf yarn and backing materials are disposable under normal conditions at any U.S. landfill station.
 - iii. A minimum eight-year manufacturer's warranty is required.
 - iv. All artificial turf shall be installed over a subgrade that provides positive drainage and an evenly graded mass of compacted, porous crushed rock aggregate material. Bases may not be comprised of sand only. Proper drainage shall be provided for all artificial turf installations to prevent runoff or pooling of water.
 - v. Artificial turf must be designed and permitted with a minimum permeability of 30 inches per hour per square yard.
 - vi. Artificial turf must have lifelike individual blades of grass that emulate natural turf or sod lawn areas with the grain pointing in a single direction, and no visible seams.
 - vii. Artificial turf shall not be installed directly against the trunk of trees or palms. A three-foot mulch bed measured from the base of the tree or palm must be maintained. Installation around existing trees shall be monitored and may be restricted to ensure that the overall health of the tree will not be compromised.
 - viii. An in-progress inspection shall be required to ensure that the appropriate base material has been installed to manufacturer specifications. A final inspection shall also be required.
- d) **Maintenance.** Artificial turf shall be maintained free of dirt, mud, stains, weeds, debris, tears, holes, impressions, and fading. Maintenance shall include, but not be limited to cleaning, brushing, debris removal, repairs of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matter areas, weeds, and invasive roots, and maintenance of edges.

The request is for an after-the fact installation of artificial turf that does not comply with the entirety of this LDR section.

Pursuant to LDR Section 2.4.11(B)(5) – Findings: The following findings must be made prior to approval of a waiver:

(a) Shall not adversely affect the neighboring area;

The installed artificial turf is contained within the site. As this is considered a ground level improvement, there is no concern with the proposed artificial turf impacting neighboring areas. Additionally, the laboratory testing document for the turf indicates that it exceeds the permeability test minimum, reducing the concern of any drainage impacts to neighboring areas.

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

The artificial turf is within the boundaries of the subject property and is not anticipated to diminish the provision of public facilities.

(c) Shall not create an unsafe situation; and

Installation of artificial turf on the subject property is not anticipated to create an unsafe situation.

(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.

The LDRs relating to artificial turf were developed with consideration given to historic properties. As such, the use of artificial turf is limited to the rear and side of properties where it must be shielded from view. There are few instances where turf is utilized in historic districts, it is either not visible from the right-of-way or placed prior to the addition of the artificial turf LDRs. There is concern that this waiver may not be granted to another applicant or owner under similar circumstances, because it also involves approval of a Variance to reduce the required open space. With that said, the artificial turf is permeable and is anticipated to allow for proper drainage of the site. Finally, the installed turf does emulate the appearance of real grass, and its configuration on the site creates small areas that could be seen as difficult to maintain if it were natural grass/sod.

The board will need to make a determination that the proposal meets the above waiver findings. The property owner has submitted justification statement for the waiver request (attached).

VARIANCE ANALYSIS

Pursuant to LDR Section 2.1.9(E)(12)(d)(1), Board Actions. The Board hereby has the authority to take action on the following items associated with property, sites, and structures located within a Historic District or for Individually Designated Sites as listed on the Local Register of Historic Places in Section 4.5.1(l), pursuant to the procedures and standards of the LDR, as follows:

- **Variances - Base district development standards, Section 4.3.4, unless otherwise stated.**

Pursuant to LDR Section 2.4.11(A) A variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.

Pursuant to LDR Section 4.3.4(K) Development Standards, duplex structures within OSSHAD zoning district, in addition to lot coverage restrictions (a minimum of 40%), a minimum of 25-percent non-vehicular open space shall be provided. Interior and perimeter landscaping may be applied toward meeting this requirement.

The request is to reduce the minimum required 25% open space to 10.9% for the newly constructed duplex site.

Pursuant to LDR Section 2.4.11(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:

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.

As this property is new construction, there is no concern that the variance will be necessary to maintain the historic character of the property. The variance is not anticipated to be contrary to the public interest, safety, or welfare.

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.

There are special conditions and circumstances which were granted via the previous approval to allow a reduced lot width, lot frontage, for the new construction duplex to exceed the maximum lot coverage, and reduce the required pool setbacks, providing minimal open space left to meet the 25% requirement. This special condition and circumstance, however, is not due to the property being a historic site, setting, or structure. The installation of artificial turf results in a reduction in the approved open space of 27.1% to 10.9%. There is concern that the large reduction in open space may not be granted for other sites in the same zoning district.

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 provisions of existing ordinances would require a minimum of 25% of open space to be provided on the site, a minimum standard applicable to all properties within the subject historic district. Given the nature of the project as new construction, historic character does not exist on site. With that said, application of the historic preservation regulations of the LDRs require the project to be consistent and compatible with the overall historic district as well as the structures within the district. Further, should the artificial turf be utilized in the sides and rear of the site and not the front, it may be possible for the open space requirements to have been met.

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

The use of artificial turf is a ground level improvement that is reserved for use in the rear and sides of the property. Typically, this configuration allows for natural landscape material to be utilized in the front of a site aiding in counting towards the 25% open space requirement. Given the location of the small swimming pools in front of each unit, the applicant has indicated that such configuration presents a maintenance concern.

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

This is new construction within the Old School Square Historic District. There is no proposed adaptive reuse of the structure, or site.

The board will need to make a determination that the proposal meets the above Variance findings. The property owner has submitted justification statement for the variance request (attached).

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

COMPREHENSIVE PLAN

Pursuant to the Historic Preservation Element (HPE), Objective 1.4, Historic Preservation Planning: Implement appropriate and compatible design and planning strategies for historic sites and properties within historic districts.

The objective shall be met through continued adherence to the City's Historic Preservation Ordinance and, where applicable, architectural design guidelines through the following policies:

HPE Policy 1.4.1 - Continue to require that the Historic Preservation Board make findings that any land use or development application for a historic structure, site or within a historic district, is consistent with the provisions of the Secretary of the Interior's Standards for Rehabilitation, the Land Development Regulations, and Delray Beach Historic Preservation Design Guidelines.

The subject request involves a COA, Waiver, and Variance for the installation of artificial turf and for relief from open space and artificial turf requirements associated with a development approval for the newly constructed duplex structure. With respect to the adjacent land uses, the property is a duplex structure and is in an area surrounded by a mix of residential and commercial uses including multi-family residential, duplexes, and offices. Provided the board approves the variance, 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".

SITE PLAN TECHNICAL ITEMS

1. Artificial turf shall be maintained free of dirt, mud, stains, weeds, debris, tears, holes, impressions, and fading. Maintenance shall include, but not be limited to cleaning, brushing, debris removal, repairs of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matter areas, weeds, and invasive roots, and maintenance of edges;
2. Provide a section of the installed artificial turf; and
3. Show the length of the planter between the driveways as constructed.

ALTERNATIVE ACTIONS

- A. Move to continue with direction.
- B. Approve Certificate of Appropriateness, Variance, and Waiver (HP-423-2026), for the property located at **160-166 SE 1st Avenue, Old School Square Historic District**, by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- C. Approve Certificate of Appropriateness, Variance, and Waiver (HP-423-2026), for the property located at **160-166 SE 1st Avenue, Old School Square Historic District**, by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, subject to conditions.
- D. Deny Certificate of Appropriateness, Variance, and Waiver (HP-423-2026), for the property located at **160-166 SE 1st Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.

PUBLIC AND COURTESY NOTICES

<input checked="" type="checkbox"/> Courtesy Notices are not applicable to this request	<input checked="" type="checkbox"/> Public Notice was mailed to property owners within a 500 feet radius on 1/23/26, 10 days prior to the meeting. <input checked="" type="checkbox"/> Agenda was posted on 1/28/26, 5 working days prior to meeting. <input checked="" type="checkbox"/> The site was posted on 1/28/26, 7 calendar days prior to the meeting.
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TAC Timeline Table

Review No.	Submittal Date	TAC Comments Transmitted	Board Meeting Date
1	1/20/2026	Determined Board Ready 1/22/2026	HPB Scheduled- 2/04/2026