



## HISTORIC PRESERVATION BOARD STAFF REPORT

### 150 Marine Way

Meeting	File No.	Application Type
March 1, 2023	2023-052	Certificate of Appropriateness

### REQUEST

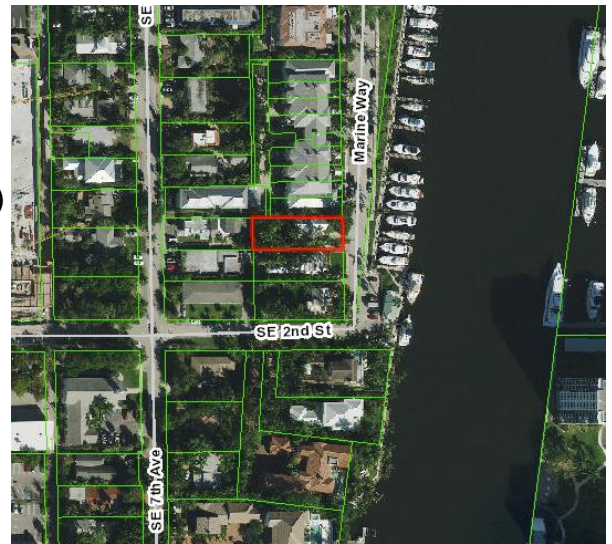
The item before the Board is consideration of a Certificate of Appropriateness (2023-052) request associated with changes to window glass appearance and fence material for an existing, single-family non-contributing residence located at 150 Marine Way, within the Marina Historic District.

### GENERAL DATA

**Owners:** Steven Schachter and Jaqueline Tutiven  
**Designated Agent:** Azure Development  
**Location:** 150 Marine Way  
**PCN:** 12-43-46-16-01-126-0130  
**Property Size:** 0.16 acres  
**Zoning:** Multiple Family Residential-Medium Density (RM)  
**Historic District:** Marina Historic District  
**Land Use:** Medium Density Residential  
**Adjacent Zoning:**

- RM - Multiple-Family Residential (North)
- RM - Multiple-Family Residential (West)
- RM - Multiple-Family Residential (South)
- CF – Community Facility (East)

**Existing Use:** Residential  
**Proposed Use:** Residential



### BACKGROUND AND PROJECT DESCRIPTION

The subject 0.16-acre property is located on the east side of SE 7<sup>th</sup> Avenue between SE 1<sup>st</sup> Street and SE 2<sup>nd</sup> Street. The property is located within the Locally and Nationally Registered Marina Historic District and consists of Lot 13, Block 126, Town of Delray.

On April 4, 1995, the City Commission granted approval of a waiver from the Land Development Regulation Section 4.1.4(C) "Use of Lots of Record" to allow the property owner to construct a single-family residence on the non-conforming lot. The code stated that when two or more adjoining lots of record are under the same ownership, they shall not be developed except in accordance with the minimum frontage and area requirements for the district. As the vacant lot was non-conforming with respect to lot width which at the time was required to be 60' where only 50' existed. At the March 15, 1995 meeting, the Historic Preservation Board (HPB) approved a request to construct a new 2-story, Vernacular style, single-family residence on the subject property. The structure was subsequently built in 1996. Then, on August 27, 1997, a sight easement was granted for the site, which exists in the front yard of the property.

<b>Project Planner:</b> Katherina Paliwoda, Planner, Paliwodak@mydelraybeach.com Michelle Hoyland, Principal Planner, HoylandM@mydelraybeach.com	<b>Review Dates:</b> HPB: March 1, 2023	<b>Attachments:</b> 1. Justification Statement 2. Materials and Color Samples 3. Plans
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On January 15, 2020, the HPB reviewed COA (2019-271) for the demolition of the existing two-story, Vernacular, non-contributing single-family residence and construction of a new two-story single-family residence on the subject property. The Board had concerns with respect to the massing, scale, character, and appropriateness of the structure to the Marina Historic District and moved to continue the request with direction to the March 4, 2020 HPB meeting. The applicant revised the proposal in response to the Board's direction and the board reviewed the revised request at the March 4, 2020 meeting. The Board still had concerns with the massing and appropriateness of the structure and ultimately denied the request.

On July 17, 2020, the applicant submitted a new COA (2020-219) request for demolition of the existing, two-story, non-contributing single-family residence and construction of a new two-story Vernacular style residence. In addition, the new two-story single-family residence included a detached, 2-car garage with a second story cottage and swimming pool in the rear of the property. The request was approved by HPB on October 7, 2020 and was subsequently built. A Certificate of Occupancy (CO) was issued by the Building Division on July 15, 2022.

During the final building inspection, it was noted that a PVC fence was installed on the west (rear) and south side of the property, which was not part of the project approval. The approved certified plans included aluminum rail and masonry walls throughout the property. The existing masonry wall to the rear of the property still remains. Additionally, the installed window and door glass appearance is that of green, reflective windows while the certified, approved plan set indicated that all window and door glass would be "clear & non-reflective" (refer to Certified Plan Sheet A-5). Since the completed project is not in compliance with the Certified Approved HPB plan, a code enforcement violation was issued for the property.

The applicant submitted a COA (2023-052) request on December 21, 2022, for changes to the approved window and door glass appearance and to request the use of PVC material for fencing along the south side, and northwest corner of the property. The request is now before the board.

#### 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 1.4 of the Historic Preservation 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.

#### ZONING AND USE REVIEW

Pursuant to LDR Section 4.4.6(F)(1) - Medium Density Residential (RM) - Development standards: The provisions for the R-1-A District shall apply for single family detached dwellings. Pursuant to LDR Section 4.4.3(F) - Single-Family Residential (R-1-A) Development Standards: the development standards as set forth in Section 4.3.4 shall apply.

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 applicable standards.

The existing use as a single-family residence is a permitted use within the RM zoning district and the proposal is in compliance with the applicable requirements for the R-1-A zoning district.

## **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) – Minor Development.**

The subject application is considered “Minor Development” as it involves “The construction, reconstruction, or alteration of less than 25 percent of the existing floor area of the building and all appurtenances.”

Pursuant to LDR Section 4.5.1(E)(3)(a)(1.)(d) – Buildings, Structures, Appurtenances and Parking: Buildings, structures, appurtenances and parking shall only be moved, reconstructed, altered, or maintained, in accordance with this chapter, in a manner that will preserve the historical and architectural character of the building, structure, site, or district:

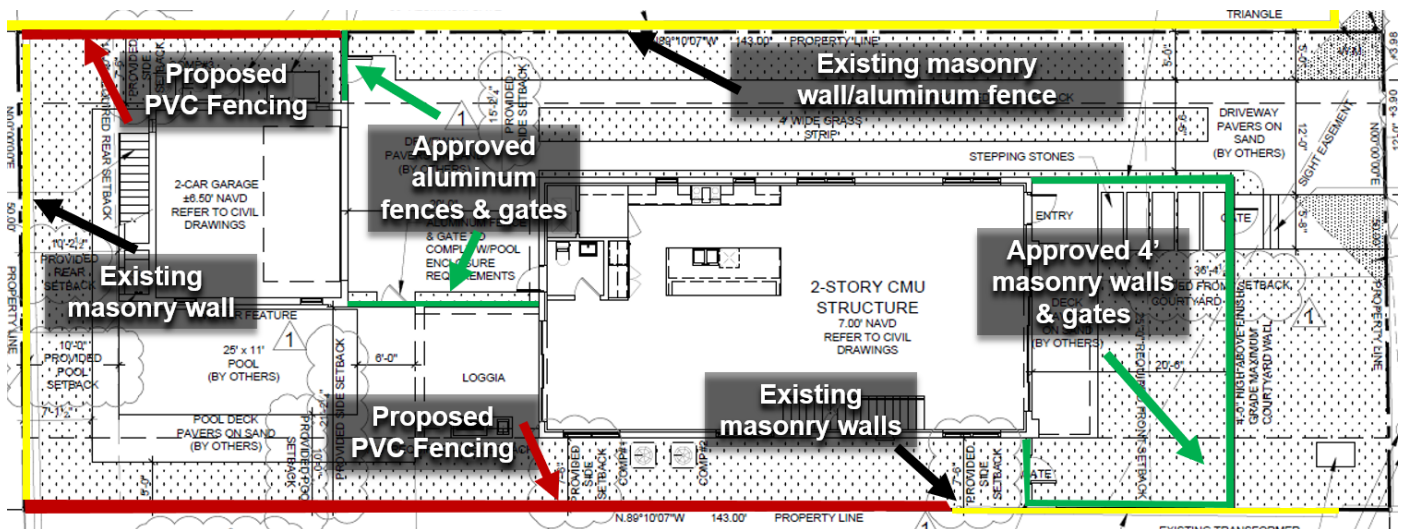
**(a) Appurtenances:** Appurtenances include, but are not limited to, stone walls, fences, light fixtures, steps, paving, sidewalks, signs, and accessory structures.

**1. Fences and walls.** Fences and walls. The provisions of Section 4.6.5 shall apply, except as modified below:

**(d) Non-historic and/or synthetic materials are discouraged, particularly when visible from a public right-of-way.**

The request includes the installation of a PVC fence along the south side of the property and along the northwest side of the property behind the detached garage structure. The fencing has been installed and the COA is a result of code enforcement action.

As the use of the material throughout the property requires Board approval, and although the northwest area of the fence can be considered not visible from the public right-of-way. It is noted that the certified set included approvals for aluminum and masonry walls throughout the property (see image below). The approved certified set also indicated existing masonry walls to the west (rear) and north sides of the property. PVC fencing was not included with the original COA approval.



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.

Pursuant to LDR Section 4.5.1I(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 4.5.1I(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 4.5.1I(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.

With regard to **LDR Section 4.5.1(E)(7)(d), Relationship of Materials, Texture, and Colors**, the proposal includes the installation of PVC fencing and the windows that are green and reflective in appearance. PVC is a synthetic material that is not commonly used within the historic district. As previously noted, the PVC fencing exists on the south side of the property (partially visible from the right-of-way), and to the northwest side of the site behind the front wall plane of the detached 2-story garage. This material was never approved by HPB for use on this site.

**Pursuant to LDR Section 4.5.1(E)(3)(a)(1)(d.), Non-historic and/or synthetic materials are discouraged, particularly when visible from a public right-of-way**, this regulation's intent is to maintain the integrity of the Marina Historic District by utilizing authentic materials. In the past there have been projects that have been approved to utilize PVC fencing, primarily in the rear of the property; yet, there are cases where the board has not approved the use of PVC for any property (front or rear).



**Pursuant to LDR Section 4.5.1(E)(7)(7)(d), 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. Windows on structures located within historic districts are typically clear with no appearance of color, tint, or reflectivity. The requirements of both the Delray Beach Historic Preservation Design Guidelines and the Secretary of the Interior's Standards and Guidelines are noted below with respect to compatibility for materials within historic districts. Both guidelines allow for some level of differentiation between new construction and historic structures; however, the direction to ensure compatibility with historic materials has required the appearance of windows (color, tint, and reflectivity) to generally be clear.

When the project was approved by HPB, the window and door schedule included notes to ensure the glass would be clear, non-reflective, with no tint (see image below from certified sheet A-5). This is to ensure structures have a style and appearance that is compatible with other structures within a district and also retains the integrity of the Marina Historic District. It is noted that the structure is new construction, and therefore considered a non-contributing structure within the district. However, as with any new construction within an historic district, compliance with the Visual Compatibility Standards and local & federal Guidelines are important so that when the building reaches 50 years, it may be considered contributing to the district; therefore, the Board must consider whether or not the window color, tint, and reflectivity is appropriate to the Marina Historic District.

It is important to note that energy calculations are required at the time of building permit per the Florida Building Code, particularly in the case of new construction. The calculations take into a consideration the materials of the building envelope, the roof, the energy performance of the systems within the building such as A/C, heating, etc. In this case, the front façade with the broad expanses of windows contributes to the challenges in meeting the energy calculations. There is a threshold for energy performance that these combined elements must meet.

**Per the Secretary of the Interior's Guidelines, the recommended approach for new construction:**

NEW EXTERIOR ADDITIONS TO HISTORIC BUILDINGS AND RELATED NEW CONSTRUCTION	
RECOMMENDED	NOT RECOMMENDED
Using the same forms, materials, and color range of the historic building in a manner that does not duplicate it, but distinguishes the addition from the original building.	Duplicating the exact form, material, style, and detailing of the historic building in a new addition so that the new work appears to be historic.
Basing the alignment, rhythm, and size of the window and door openings of the new addition on those of the historic building.	
Incorporating a simple, recessed, small-scale hyphen, or connection, to physically and visually separate the addition from the historic building.	
Distinguishing the addition from the original building by setting it back from the wall plane of the historic building.	

**Per the Secretary of the Interior's Guidelines, the recommended approach for rehabilitation:**

WINDOWS	
RECOMMENDED	NOT RECOMMENDED
Modifying a historic single-glazed sash to accommodate insulated glass when it will not jeopardize the soundness of the sash or significantly alter its appearance.	Modifying a historic single-glazed sash to accommodate insulated glass when it will jeopardize the soundness of the sash or significantly alter its appearance.
Using low-e glass with the least visible tint in new or replacement windows.	Using low-e glass with a dark tint in new or replacement windows, thereby negatively impacting the historic character of the building.

**Pursuant to the Delray Beach Historic Preservation Design Guidelines:**

New construction refers to new buildings, structures (outbuildings) or additions to extant contributing or non-contributing buildings that are constructed on vacant lots within a historic district, or on an individually listed historic site. When a new building is constructed to fill in the gaps of a streetscape in a historic district, the new building is referred to as "infill" construction.

All infill must be compatible with the surrounding buildings and yet must be *differentiated* from the historic building stock. To be successful, this new design should reflect the significant themes in its environment and will include attention to:

- Height
- Materials
- Roof form
- Massing
- Set-backs
- Rhythm of openings (i.e., doors and windows)
- Relationships of solids and voids
- Scale
- Orientation

New materials, some of them synthetic, may be approved on a case-by-case basis.

### **Infill Buildings**

All new construction should complement the historic architecture of the district. The relationship of that new construction adjacent to the significant historic resources can either enhance or detract from the historic setting of the district. New construction (infill) should not create a false sense of historical development by utilizing conjectural features of stylistic elements taken from other buildings.

- Materials should be compatible in quality, color, texture, finish and dimension to those commonly found in the historic district.

- Window types and patterns, as well as their general placement, should be similar to surrounding buildings.

Pursuant to Land Development Regulation (LDR) Section 2.4.5(I)(5), Architectural (appearance) elevations, Findings. At the time of action on architectural elevations the approving Board shall make findings with respect to the objectives and standards as contained in the architectural regulations, Section 4.6.18.

An overall determination of consistency with respect to the above is required in order for an architectural plan to be approved.

Pursuant to LDR Section 4.6.18(A), Minimum requirements.

- (1) The requirements contained in this Section are minimum aesthetic standards for all site development, buildings, structures, or alterations except for single family development.
- (2) It is required that all site development, structures, buildings, or alterations to same, show proper design concepts, express honest design construction, and be appropriate to surroundings.

Pursuant to LDR Section 4.6.18(E), Criteria for board action. The following criteria shall be considered, by the Site Plan Review and Appearance Board or Historic Preservation Board, in the review of plans for building permits. If the following criteria are not met, the application shall be disapproved.

- (1) The plan or the proposed structure is in conformity with good taste, good design, and in general, contributes to the image of the City as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas, and high quality.
- (2) The proposed structure, or project, is in its exterior design and appearance of quality such as not to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.
- (3) The proposed structure, or project, is in harmony with the proposed developments in the general area, with the Comprehensive Plan, and with the supplemental criteria which may be set forth for the Board from time to time.

The board will need to make a determination that the proposal meets the required criteria for board action as listed above.

#### 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, to 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 development proposal involves the request to allow installed windows to have a green, reflective appearance and the use of PVC fencing along the south and northwest sides of the 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 historic district that comprised of single-family and multi-family



residential uses. The board will need to make a determination that the proposal can be found to be consistent with the requirements of this Comprehensive Plan Policy.

### ALTERNATIVE ACTIONS

- A. Move to continue with direction.
- B. Approve Certificate of Appropriateness (2023-052) for the property located at **150 Marine Way, Marina 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 (2023-052) for the property located at **150 Marine Way, Marina 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 the following conditions:
- D. Deny Certificate of Appropriateness (2023-052) for the property located at **150 Marine Way, Marina 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

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| <input checked="" type="checkbox"/> Courtesy Notices were provided to the following, at least 5 working days prior to the meeting:<br>Marina Historic District Homeowners Association | <input checked="" type="checkbox"/> Public notice mailers are not required for this request.<br><input checked="" type="checkbox"/> Agenda was posted on (2/22/23), 5 working days prior to meeting. |
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