



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

100 NW 5TH AVENUE, DELRAY BEACH, FLORIDA 33444  
(561) 243-7040

## HISTORIC PRESERVATION BOARD STAFF REPORT

### 235 NE 1st Avenue

Meeting	File No.	Application Type
June 2, 2021	2021-157	Historic Property Ad Valorem Tax Exemption

### REQUEST

The item before the Board is a recommendation to the City Commission for a Historic Property Ad Valorem Tax Exemption (2021-157) request associated with additions and alterations to a contributing structure located at **235 NE 1st Avenue, Old School Square Historic District.**

### GENERAL DATA

**Owners:** Joel Darack & Laurie Clingan-Darack

**Location:** 235 NE 1st Avenue

**PCN:** 12-43-46-16-01-074-0031

**Property Size:** 0.17 acres

**Zoning:** OSSHAD (Old School Square Historic Art District)

**Historic District:** Old School Square Historic District

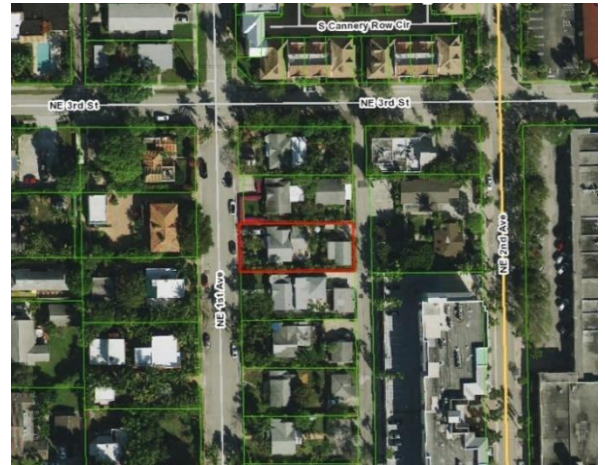
**FLUM:** HMU (Historic Mixed Use)

**Adjacent Zoning:**

- OSSHAD (Old School Square Historic Art District) (North)
- OSSHAD (Old School Square Historic Art District) (West)
- OSSHAD (Old School Square Historic Art District) (South)
- CBD (Central Business District) (East)

**Existing Land Use:** Residence

**Proposed Land Use:** Residence



### BACKGROUND AND PROJECT DESCRIPTION

The 0.17-acre subject property is located on the east side of NE 1st Avenue between NE 2nd Street & NE 3rd Street within Banker's Row area of the Locally and Nationally designated Old School Square Historic District and is zoned OSSHAD (Old School Square Historic Arts District). The property consists of a 1938 1-story Frame Vernacular style contributing single-family residence, which contains 1,503 square feet and a 1-story 516 sq. ft. guest cottage structure.

Banker's Row began from a replat of the original Block 66 as the individual lots were sold by J.C. Keen, who purchased the block from J.S. Sundry in 1924. Mr. Keen sold the lots to wealthy businessmen in Delray. The structures within the Banker's Row were built in two periods of economic growth and change, before and after the Great Depression. The block (originally established as residential) was characterized by the presence of 2-story Mediterranean Revival residences on the west side of the street and built pre-depression along with eleven 1-story Minimal Traditional Cottages (known as the Mackle Cottages) on the east side of the block, built post-depression during World War II. The Mackle cottages are named for the Mackle Brothers who built the 11 homes along the east side of the block. The row of Minimal Traditional cottages are considered a collection of homes, which significantly contrasts the Mediterranean Revival structures on the west side of the street and represent an excellent example of American history and its impact on architecture in the built environment.

#### Project Planner:

**Project Planners:** Katherina Paliwoda, Planner  
[PaliwodaK@mydelraybeach.com](mailto:PaliwodaK@mydelraybeach.com)

#### Review Dates:

HPB: June 2, 2021

#### Attachments:

1. Tax Exemption Application
2. Warranty Deed & Tax Bill
3. Certificate of Occupancy
4. Approved Plans & Survey
5. Before & After Photographs

The “Banker’s Row Plan”, developed in the early 1990s, accurately described the Mackle Cottages as relatively small, simple one-story structures, with a dominant gable and simplified façade, absent of traditional detailing with an off-center front door. With the increasing dependence on the automobile, garages were either integrated into the structure or free-standing. The houses were originally very much alike, however, changes were incorporated over the years “as owners adapted their houses to new housing needs.”

The existing home has undergone numerous renovation projects over the years, including changing the original wood double-hung widows to aluminum single-hung windows. At its meeting of April 5, 1999, the Historic Preservation Board (HPB) approved a Certificate of Appropriateness (COA) request (COA-410) for a 380 sq. ft addition to the contributing single-family residence.

At its meeting of October 2, 2019, HPB approved Certificate of Appropriateness (2019-250) and Variance (2019-251) request is for a 42 sq. ft. addition to the north side of the main structure, construction of a new sloped roof over the front porch, construction of a new pool and paver deck to the east side (rear) of the property, replacement of the concrete driveway with a paver driveway, and a variance to allow for the new addition to encroach into the north side setback.

Based on State of Florida regulations, a Historic Property Ad Valorem Tax Exemption can be approved for a project before, during, or after it has been undertaken. The applicant therefore requests consideration of the Historic Property Ad Valorem Tax Exemption as the project is complete. It is noted that the applicant submitted the Exemption application request in October 2020, which will result in a gap year for property taxes.

#### **HISTORIC PROPERTY AD VALOREM TAX EXEMPTION**

Pursuant to LDR Section 4.5.1(J), a tax exemption is available for improvements to qualifying contributing properties in a designated historic district or individually designated properties, as listed in Section 4.5.1(I). Qualifying properties shall be exempt from that portion of ad valorem taxation levied by the City of Delray Beach on one hundred percent (100%) of the increase in assessed value resulting from any HPB approved renovation, restoration, rehabilitation, or other improvements of the qualifying property made on or after the effective date of the original passing of Ordinance 50-96 on November 19, 1996.

LDR Section 4.5.1(J)(1), clarifies that the exemption does not apply to the following:

- (a) Taxes levied for payment of bonds;
- (b) Taxes authorized by a vote of the electors pursuant to Section 9(b) or Section 12, Article 7 of the Florida Constitution; or
- (c) Personal property.

LDR Section 4.5.1(J)(2), explains the exemption period shall be for ten (10) years, unless a lesser term is set by the City Commission.

- (a) The term of the exemption shall be specified in the resolution approving the exemption and shall continue regardless of any changes in the authority of the City to authorize such exemption or change in ownership of the property.
- (b) To retain an exemption, the historic character of the property and the improvements which qualified the property for an exemption must be maintained in their historic state over the period for which the exemption was authorized.

LDR Section 4.5.1(J)(4) provides the parameters for qualifying properties and improvements. The subject property qualifies as it is listed on the Local Register of Historic Places. LDR Section 4.5.1(J)(5) requires that for an improvement to a historic property to qualify the property for an exemption, the improvement must:

- (a) be consistent with the United States Secretary of the Interior's Standards for Rehabilitation, as amended; and

- (b) be a constructed and/or installed improvement as approved by the Historic Preservation Board and as established in rules adopted by the Department of State, Division of Historical Resources, FAC 1A-38, as amended which defines real property improvements as changes in the condition of real property brought about by the expenditure of labor and money for the restoration, renovation, or rehabilitation of such property. Improvements shall include, but are not limited to modifications, repairs, or additions to the principal contributing building and its associated accessory structures (i.e. a garage, cabana, guest cottage, storage/utility structures, swimming pools), whether existing or new. The exemption does not apply to improvements made to non-contributing principal buildings, existing non-contributing accessory structures, or undesignated structures and/or properties; and,**
- (c) be consistent with Section 4.5.1(E), "Development Standards", of the City's Land Development Regulations; and**
- (d) include, as part of the overall project, visible improvements to the exterior of the structure.**

The request meets the above criteria (a) and (b) through previous approval by the Board of the associated improvements outlined above which constituted its compliance with the Secretary of the Interior's Standards for Rehabilitation, as well as the rules of Florida Administrative Code 1A-38, promulgated by the Florida Department of State, Division of Historical Resources. The request further meets criterion (c) per the COA approval, which applied the LDR Development Standards in the assessment of the proposal. Finally, the request meets criterion (d) as the project encompasses visible improvements to the exterior of the building and related property.

Pursuant to LDR Section 4.5.1(J)(7), any property owner, or the authorized agent of the owner, that desires an ad valorem tax exemption for the improvement of a historic property must submit a Historic Property Tax Exemption Application to the Planning and Zoning Department upon completion of the qualifying improvements.

- (a) The application shall indicate the estimated cost of the total project, the estimated cost attributed solely to the historic structure, and project completion date as determined by the Certificate of Occupancy issued by the Building Department.**
- (b) The Historic Property Tax Exemption Application shall be accompanied by a copy of the most recent tax bill from the Palm Beach County Property Appraiser for the property; a new property survey illustrating the improvements; a copy of the building permit application indicating estimated project cost; a copy of the Certificate of Occupancy/Final Inspection; and photographs illustrating the before and after of each improvement, including both the interior, exterior, and all new construction. The photographs shall be identified with a date and description indicating the impact of the improvement.**
- (c) The application must be submitted within three (3) months from the date of issuance of a Certificate of Occupancy.**
- (d) The Historic Preservation Planner will inspect the completed work to verify such compliance prior to Historic Preservation Board review.**
  - a. If the Historic Preservation Board determines that the work is a qualifying improvement and is in compliance with the approved plans and the review standards contained in Section 4.5.1(E), the Board shall recommend that the City Commission grant the Historic Property Tax Exemption Application.**
  - b. Upon a recommendation of approval of a Historic Property Tax Exemption Application by the Historic Preservation Board, the application shall be placed by resolution on the agenda of the City Commission for approval. The resolution of the City Commission approving the application shall provide the name of the owner of the property, the property address and legal description, a recorded restrictive covenant in the official records of Palm Beach County as a condition of receiving the exemption, and the effective dates of the exemption, including the expiration date.**
  - c. If the Historic Preservation Board determines that the work as completed is either not consistent with the approved plans or is not in compliance with the review standards contained in Section 4.5.1(E), the applicant shall be advised that the request has been denied.**

The qualifying improvements were completed, and the Historic Property Ad Valorem Tax Exemption Application was submitted on May 4, 2021. The Certificate of Occupancy (C.O.) was issued on April 1, 2021. The tax exemption will be limited to the increase in assessed value (as determined by the Palm Beach County Property Appraiser) resulting from the subject improvements and provide an abatement of taxes on the City and County portions for a period of ten years from the date of approval.

**Pursuant to LDR Section 4.5.1(J)(8), Historic Preservation Exemption Covenant, the covenant required in order to qualify for the exemption:**

- (a) To qualify for an exemption, the applicant must sign and return the Historic Preservation Exemption Covenant with the Final Application/Request for Review of Completed Work. The covenant as established by the Department of State, Division of Historical Resources, shall be in a form approved by the City of Delray Beach City Attorney's Office and applicable for the term for which the exemption is granted and shall require the character of the property and qualifying improvements to be maintained during the period that the exemption is granted.**
- (b) On or before the effective date of the exemption, the owner of the property shall have the covenant recorded in the official records of Palm Beach County, Florida, and shall cause a certified copy of the recorded covenant to be delivered to the City's Historic Preservation Planner. Such covenant shall be binding on the current property owner, transferees, and their heirs, assigns and successors. A violation of the covenant shall result in the property owner being subject to the payment of the differences between the total amount of the taxes which would have been due in March of each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in Sec. 212.12(3), Florida Statutes.**

**LDR Section 4.5.1(J)(10), Revocation Proceedings, provides guidelines to revocation of the tax exemption upon violation of the recorded covenant.**

- (a) The Historic Preservation Board may initiate proceedings to revoke the ad valorem tax exemption provided herein, in the event the applicant, or subsequent owner or successors in interest to the property, fails to maintain the property according to the terms, conditions and standards of the Historic Preservation Exemption Covenant.**
- (b) The Historic Preservation Planner shall provide notice to the current owner of record of the property and the Historic Preservation Board shall hold a revocation hearing in the same manner as in Section 4.5.1(M)(10) and make a recommendation to the City Commission.**
- (c) The City Commission shall review the recommendation of the Historic Preservation Board and make a determination as to whether the tax exemption shall be revoked. Should the City Commission determine that the tax exemption shall be revoked, a written resolution revoking the exemption and notice of penalties as provided in Paragraph 8 of the covenant shall be provided to the owner, the Palm Beach County Property Appraiser, and filed in the official records of Palm Beach County.**
- (d) Upon receipt of the resolution revoking the tax exemption, the Palm Beach County Property Appraiser shall discontinue the tax exemption on the property as of January 1st of the year following receipt of the notice of revocation.**

The Sections noted above regarding the "Restrictive Covenant" and "Revocation Proceedings" are provided to demonstrate that the tax exemption is binding, and if violated, the property owner would have to comply with the consequences.

The tax exemption request complies with the criteria contained in LDR Section 4.5.1(J) as the HPB approved the associated improvements by making positive findings with respect to the applicable LDR Sections, Delray Beach Historic Preservation Design Guidelines, and Secretary of the Interior's Standards for Rehabilitation; therefore, positive findings can be made with respect to LDR Section 4.5.1(J).

## **ALTERNATIVE ACTION**

- A. Move to continue with direction
- B. Recommend approval to the City Commission of the Historic Property Ad Valorem Tax Exemption Application for improvements to the property at **235 NE 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. Recommend denial to the City Commission of the Historic Property Ad Valorem Tax Exemption Application for improvements to the property at **235 NE 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**

☒ Courtesy Notices are not applicable to this request.

☒ Public Notices are not required for this request.

☒ Agenda was posted on (05/25/2021) 5 working days prior to meeting.