



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING
100 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444
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HISTORIC PRESERVATION BOARD STAFF REPORT

12 SE 1st Avenue

Meeting	File No.	Application Type
June 2, 2021	2021-140	Class I Site Plan Modification and Certificate of Appropriateness

REQUEST

The item before the Board is consideration of a Class I Site Plan Modification and Certificate of Appropriateness (2021-140) request for the installation of a white aluminum pergola on the 3rd story rooftop of the non-contributing multi-residential structure located at **12 SE 1st Avenue, Old School Square Historic District**.

GENERAL DATA

Owner: John and Kimberly Mallon
Location: 12 SE 1st Avenue Unit# 302
PCN: 12-43-46-16-L7-003-3020
Property Size: 0.273 Acres
Zoning: Old School Square Historic Arts District (OSSHAD) with Central Business District (CBD) Overlay
Historic District: Old School Square Historic District
LUM: Other Mixed Use (OMU))
Adjacent Zoning:

- OSSHAD (North) with CBD Overlay
- OSSHAD (West) with CBD Overlay
- OSSHAD (South) with CBD Overlay
- CBD (East)

Existing Land Use: Residence
Proposed Land Use: Residence



BACKGROUND INFORMATION & PROJECT DESCRIPTION

The property is located on the west side of SE 1st Avenue and contains a 3-story mixed-use building built in 2007. The structure is non-contributing to the Locally and Nationally Designated Old School Square Historic District and is zoned OSSHAD (Old School Square Historic Arts District) within the CBD Overlay.

At its meeting of January 19, 2005, the Historic Preservation Board approved a demolition request, Certificate of Appropriateness, Class V Site Plan, landscape plan, design elements, an internal adjustment, and waivers associated with the HVA Corporation (12 SE 1st Avenue) development proposal. The project consisted of the demolition of the existing non-contributing single-family dwelling and accessory garage; the construction of a three-story, mixed-use building (2,100 sq. ft. retail; 8 two-bedroom residential condominium units); the construction of the associated parking, refuse enclosure,

Project Planner: Project Planners: Katherina Paliwoda, Planner PaliwodaK@mydelraybeach.com	Review Dates: HPB: May 5, 2021	Attachments: <ol style="list-style-type: none">1. Photos2. Plan3. Materials
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and landscaping. Then, at its meeting of February 2, 2005, HPB approved revised design elements for HVA Corporation (12 SE 1st Avenue).

The subject request is for the installation of a white aluminum pergola on the rooftop Penthouse unit #302, located on the southeast corner of the non-contributing, multi-residential structure. It is noted that on February 24, 2021 a permit application (21-195332) was submitted for the installation of the rooftop pergola; however, as the proposal is located within an historic district and modifies the exterior of the non-contributing structure, review by the Historic Preservation Board is required prior to issuance of a building permit. The request is now before the board.

REVIEW AND ANALYSIS

Pursuant to LDR Section 2.4.5(G), Modifications to site and development plans - Class I. Changes in architectural elevations which require Board action.

Pursuant to LDR Section 2.4.5(G)(5), Findings. Formal findings are not required for a Class I or II modification.

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.

ZONING AND USE REVIEW

Pursuant to LDR Section 4.4.24(C)(6)(c), Accessory Uses - Lots 1—7, Lots 16—18 and 19-24, Block 69, the uses allowed as accessory uses in Section 4.4.13(C) pursuant to the base district and special regulations of the Central Business District regulations shall also be allowed in the OSSHAD:

Pursuant to LDR Section 4.4.13(C)(4)(g) - Rooftop Terraces: These regulations are intended to guide the use of rooftops in the downtown.

- 1. Rooftop uses.** Rooftop terraces may be used for outdoor dining, open-air lounges, exercise and fitness activities (both as principal or accessory uses), rooftop gardens, urban agriculture, and recreational amenities.
- 2. General Standards for rooftops.** All rooftop terraces shall comply with the following standards:
 - a.** Rooftop terraces shall be architecturally compatible with the design of the overall building.
 - b.** Rooftop terraces shall be designed to mitigate potential impacts to surrounding properties.
 - i.** Lighting standards of Section 4.6.8 apply. All rooftop lighting shall be full cutoff luminaries to minimize spillover on adjacent properties. Light poles may not extend beyond the maximum building height limit.

- ii. Live music and music played by a disc jockey are not permitted unless within enclosed spaces; and noise control is subject to the City's Noise Ordinance.
- iii. For properties adjoining or separated by an alley from a residential zoning district, OSSHAD, or an existing residential use, rooftop terrace design shall provide screening at least six feet in height along the adjoining perimeter to limit oversight into residential properties. Privacy screening shall not extend above 60 feet and may consist of a parapet, landscape, railings, etc.
- iv. Outdoor rooftop activities (not within enclosed areas) are limited on Sunday through Thursday to the time between 7 a.m. and 10 p.m., and on Friday and Saturday to the time between 7 a.m. and 11 p.m.
- c. Parking must be provided when a principal use is located on a rooftop terrace. (For example, restaurant seating or an outdoor yoga studio). Parking is not required for amenities that are ancillary to the principal use. (For example, a swimming pool for a condominium).
- d. Railings or parapets shall be a minimum of four feet in height, consistent with proposed architectural style, and provided for the full perimeter of rooftop terrace. Railing and parapet height may not extend beyond the maximum building height of 60 feet.

Four individual rooftop terraces were part of the original site plan approval for the property and exist on the roof of the subject building. Each of the 4 terraces are associated with the 4 penthouse units within the structure. The rooftop terraces are considered a recreational amenity, which are permitted as an accessory use to the existing condominium units in the mixed-use building as the property is zoned OSSHAD with CBD Overlay.

The proposal is for the construction of a new 10' 2 1/4" tall, aluminum framed pergola to cover a majority of the terrace associated with penthouse unit #302, which is located at the southeast corner of the building adjacent to SE 1st Avenue. The proposed open-air lounge space will be used privately for the residence and is designed to be visually compatible with the existing architectural style and materials of the structure. The pergola is proposed to be attached to the concrete wall of the rooftop deck.

Below are the proposed pergola measurements:

Height	10'-2 1/4"
Length (east to west)	19'-2 1/2"
Width (north to south)	22'-4 1/4"

It is noted that with respect to the existing 42" tall parapet and railing that surrounds the rooftop terraces, the LDRs require a parapet or railing that is a minimum of 48" tall. As the certified set for the original construction of this site was approved prior to the 2018 LDR amendment via Ordinance No. 19-18 the existing parapet is considered an existing non-conformity. It was also confirmed that the existing 42" tall parapet and railing meets the current requirements of the Florida Building Code.

Pursuant to LDR Section 4.4.24(F) - Development standards. The development standards as set forth, for the OSSHAD District, in Section 4.3.4 apply, except as modified below:

- (1) The following locations shall be subject to the development standards of the Commercial Core (CC) area of the CBD Zone District, excluding exceptions to height limitations provided in Section 4.3.4(J)(4):

(a) Lots 1—7, Lots 16—18 and 19—24, Block 69;

The 3-story mixed use building exists with a top of parapet height of 45' and a mean building height of 48' within the Central Core Sub-district outside of the Atlantic Avenue Limited Height Area. Within this district, the maximum allowed height is 4 stories and 54'. The proposed pergola is to be located on the rooftop of the existing penthouse and is 11' 2 ¼" in height. The pergola will exceed the mean roof height of the existing stair tower on the roof by 2 ¼". However, it will not exceed the height of the top of the stair tower.

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 development on properties in the OSSHAD district, which are subject to CBD regulations pursuant to Section 4.4.24(B)(12).

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 proposal will comply 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.

With regard to the **Relationship of Materials, Texture, and Color**: The requested rooftop pergola will be aluminum with white powder coating. The proposed material is similar to the materials existing on the rooftop as a 42" tall parapet with powder coated aluminum railing surrounds the portions of the rooftop where the rooftop terraces exist; therefore, the materials can be considered compatible with the design of the existing structure.

With regard to the **Roof Shapes**: The proposed roof top pergola is a flat roofed structure that will be visually compatible with the existing flat roof shape of the mixed-use building. Also, with regard to **Architectural Style**: the existing structure is designed in the contemporary Vernacular architectural style. The style of the proposed pergola is simple with clean lines and minimal design elements. This style is visually compatible to what is current existing on the structure and can be considered appropriate.

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 construction of a new 10' 2¼" tall aluminum pergola on the 3rd story rooftop of the existing mixed-use building. The proposed pergola will be associated with unit #302, one of four residential penthouse units. With respect to the adjacent land uses, the property is within the Old School Square Historic District, is surrounded by commercial uses on the north and west, mixed-use on the east, and a parking garage to the south of the property. There are no concerns with respect to land uses as the existing residential use is to remain.

OPTIONAL BOARD MOTIONS FOR ACTION ITEMS

- A. Move to continue with direction.
- B. Approve the Class I Site Plan Modification and Certificate of Appropriateness (2021-140), for the property located at **12 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 the Class I Site Plan Modification and Certificate of Appropriateness (2021-140), for the property located at **12 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 the following conditions:
- 1.
- D. Deny the Class I Site Plan Modification and Certificate of Appropriateness (2021-140), for the property located at **12 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

☒ 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.

☒ Agenda was posted on (5/25/21), 5 working days prior to meeting.