



CITY OF ST. PETERSBURG, FLORIDA
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
URBAN PLANNING AND HISTORIC PRESERVATION DIVISION

STAFF REPORT

Community Planning and Preservation Commission Certificate of Appropriateness Request

Report to the Community Planning and Preservation Commission from the Urban Planning and Historic Preservation Division, Planning and Development Services Department, for Public Hearing and Executive Action scheduled for **Tuesday, April 13, 2021, beginning at 2:00 p.m.**, in Council Chambers of City Hall, 175 Fifth St. N., St. Petersburg, Florida. Everyone is encouraged to view the meetings on TV or online at www.stpete.org/meetings.

UPDATE: COVID-19

Procedures will be implemented to comply with the CDC guidelines during the Public Hearing, including mandatory face coverings and social distancing, with limitations on the number of attendees within Council Chambers. The City's Planning and Development Services Department requests that you visit the City website at www.stpete.org/meetings and contact the case planner for up-to-date information pertaining to this case.

According to Planning and Development Services Department records, Commissioners Sharon Winters and Jeff Wolf reside or have a place of business within 2,000 feet of the subject property. All other possible conflicts should be declared upon the announcement of the item.

AGENDA ITEM:

CITY FILE NO.: 21-90200008

REQUEST:

After-the-Fact COA. Request for approval of as-built conditions relating to new construction at 736-18th Avenue NE. The as-built conditions deviate from several conditions of approval, for which the applicant is now requesting a modification or compliance waiver.

APPLICANT:

Richard McGinnis

OWNER:

MTBH Holdings LLC

PARCEL ID NO.:

17-31-17-83221-068-0030

ADDRESS:

736 18th Ave. NE

LEGAL DESCRIPTION:

NORTH SHORE ADD REV. REPLAT BLK 68, W 54 FT OF LOT 3

ZONING:

NT-3

Background

On May 8, 2018, the Community Planning and Preservation Commission ("CPPC") approved COA no. 18-90200016 for the construction of a single-family residence with attached garage at 736 18th Ave. NE ("the subject property"). The approval was appealed to the City Council, and on August 23, 2018, the appeal was denied, thus upholding the CPPC's approval. Construction of the subject property was further approved as Building Permit 18-08001081, which staff reviewed for consistency with Commission approval.

A post-construction inspection by historic preservation staff found a number of discrepancies from plans that were approved by CPPC and the building permits subsequently reviewed by staff. Several of these discrepancies involve design details that were specifically recommended during the COA review process to mitigate the subject property's visual mass and lack of texture. These elements are seen as important aspects of any new construction's historic compatibility within historic contexts such as the local historic district in question. Details of the divergence from approved plans are included in Appendix A.

Staff Recommendation

Based on a determination of general inconsistency with Chapter 16, City Code of Ordinances and visual divergence from approved COA 18-90200016, staff recommends that the Community Planning and Preservation Commission **deny** the request for an after-the-fact modification to the Certificate of Appropriateness. Staff suggests the following actions be taken prior to the approval of the historic preservation final inspection and the granting of a Certificate of Occupancy for the subject property:

1. The perimeter/site wall at the subject property's front right (west) elevation be recessed from the façade's wall plane and constructed with an operable gate.
2. Railings be added to the front porch as shown in plans submitted with COA 18-90200016.
3. This approval will be valid for 24 months beginning on the date of revocation of the local Emergency Declaration.

Appendix A:

Staff Memorandum



To: The Honorable Copley Gerdes, Chair, and Members of the Community Planning and Preservation Commission.

From: Derek Kilborn, Manager, Urban Planning and Historic Preservation Division, Planning and Development Services Department

Date: March 2, 2021

Subject: *After-the Fact COA 21-90200008*. Request for approval of as-built conditions relating to new construction at 736-18th Avenue NE. The as-built conditions deviate from several conditions of approval, for which the applicant is now requesting a modification or compliance waiver.

- Owner: MTBH Holdings, LCL
- Address: 736 18th Avenue Northeast
- Parcel ID: 17-31-17-83221-068-0030
- COA Resource: 18-90200016 (Approved May 8, 2018)
- Historic Resource: North Shore Section – 700 Block of 18th Avenue NE

ANALYSIS:

This memorandum was prepared in response to the applicant's request for final approval of the construction project at 736 18th Avenue Northeast, which includes several changes to plans presented to, and approved by, the Community Planning and Preservation Commission ("CPPC"), City Council ("Council"), and City Staff, comprising the Urban Planning and Historic Preservation Division ("UPHP"), Development Review Services Division ("DRS"), and Construction Services and Permitting Division ("CSP").

From the beginning of this proposal for new construction, historic preservation staff has provided counsel to both proponents and opponents, recommended approval of the proposed plan, reinforced its favorable recommendation during appeal to City Council, and defended against a legal challenge from opponents. Upon final inspection however, historic preservation staff identified four (4) important deficiencies that are explained in further detail below. These deficiencies were modified or removed during the construction phase without formal notice, public hearing discussion, or amended construction drawings.

Following final inspection, rejection comments were posted in the City's permitting and records database. The applicant subsequently argued for relief, to which historic preservation staff responded that only one (1) of the three (3) outstanding items could be cured administratively. Without physical alterations to match the approved COA and construction plans, these three (3) remaining items would require a

modification to the previously approved plans via a public hearing review by the CPPC. The applicant has requested a public hearing review.

In summary, the three (3) outstanding items requiring Commission review include the following:

- **Front Wing Walls (Starts on Page 4).** The front wing walls were constructed flush with the front plane of the house; the applicant is requesting they be allowed to stay without reconstruction. Historic preservation staff believes the body of evidence demonstrates that a recessed wall was expected throughout the COA and permitting process. Historic preservation staff continues to recommend they be reconstructed with a recess behind the front plane of the house.



- **Front Gate (Starts on Page 4).** The front gate, located west of the main house, was not constructed; the applicant is requesting the requirement for a gate be waived. Historic preservation staff believes that the gate is an important design feature helping to deconstruct the scale of this building along the streetscape and providing an important egress from the rear yard. Historic preservation staff continues to recommend the gate be installed.



- Railings (Starts on Page 15).** The front railings, located along the first floor, were not constructed; the applicant is requesting the requirement for railings be waived. The evidence for railings is consistent throughout the plan review process, and was explicitly noted for their contribution toward attenuating the building height and mass of the front elevation. It was debated as part of the original COA application in 2017, responsively included in the COA application in 2018, and consistently presented on all the plan drawings submitted for construction permits. Historic preservation staff continues to recommend the railings be installed.



The fourth item relating to recessed French doors was reviewed administratively and does not require further action. The item is included here for your information and reference only:

- **French Doors (Starts on Page 16).** The French doors were installed flush with the front plane of the house; the evidence for a recessed French door requirement is mixed. While at least one rendering submitted for the public hearings show shading to indicate recessed French doors at the front wall plane, this was not explicitly stated in any of the other associated plan and permitting documents.



FRONT WING WALLS AND GATE

The front wing walls across the front elevation of the house was clearly understood by City Staff, CPPC, and City Council to be recessed off the front plane of the house. City staff does not accept the applicant's contention by email on Friday, July 31, 2020, that, "...the construction plans and elevations don't show any reference to the location" as this is disproven by earlier staff reports and the following documentation.

The subject of a front wing wall off-set was first debated as part of the pre-application process for COA Application No. 17-90200047, during which time the applicant proposed front wing walls flush with the front plane of the house. The City staff report explained why this may be inappropriate to the District and included a condition of approval requiring a front wing wall off-set at the front plane of the house. This COA was denied by the CPPC.

A subsequent COA Application No. 18-90200016 was submitted to resolve the perceived deficiencies of the denied proposal and incorporate the otherwise recommended conditions of approval, including the front wing wall off-sets at the front plane of the house. The original condition of approval was not included

in the City staff report for COA 18-90200016 because the plan drawings were updated to reflect the recessed wall.

Finally, an email and attachment submitted by the applicant to Laura Duvekot, Historic Preservationist, as recently as March 27, 2020, clearly shows the approved wall locations with a gate and wall off-set from the front plane of the house. Using the applicant's own description and plan drawings, there was no indication to City staff that a change from the approved wall off-sets was being requested or executed.

CPPC Staff Report
COA 17-90200047
Public Hearing February 13, 2018
Plans prepared by BDG Design Group

From page 11 of 35:

Dimensions and Footprint

The **footprint** of the proposed dwelling is irregular given the layout of the first floor structures. However, when considering the proposed yard walls, which present an encompassing enclosure that surrounds the front and both side yards attached to the primary building, the footprint and street visual becomes inconsistent within the District in that it lacks the historic visual openness. No meaningful offset or articulation is established that softens the extent of the wall. This is a common feature common for Modern architecture. Walls do exist within the District and surrounding area, being most commonly used at the sites of homes inspired by Mediterranean Revival style architecture. **Despite the existence of this precedent, the continuity between the proposed dwelling's façade and flush yard walls increases the building's visual footprint and may be inappropriate to the District.**

From Conditions of Approval page 29 of 35:

Required Conditions of Approval

1. *A lower roof pitch of two feet shall be required to attenuate the effect of the proposed dwelling's height. A parapet cap of contrasting metal or natural stone shall be applied to each parapet rake to further detract from the dwelling's appearance of verticality.*
2. *The surround walls shall be designed to assist with mitigation of the building's height, by:*
 - *Creating offsets from façade walls;*
 - *Adding entry cheek walls;*
 - *Shortening the front stoop at the left side of the façade, allowing the full vertical primary wall to reveal itself and adding a horizontal course near the foundation area; and*
 - *Indentations/offsets of walls along the east elevation.*

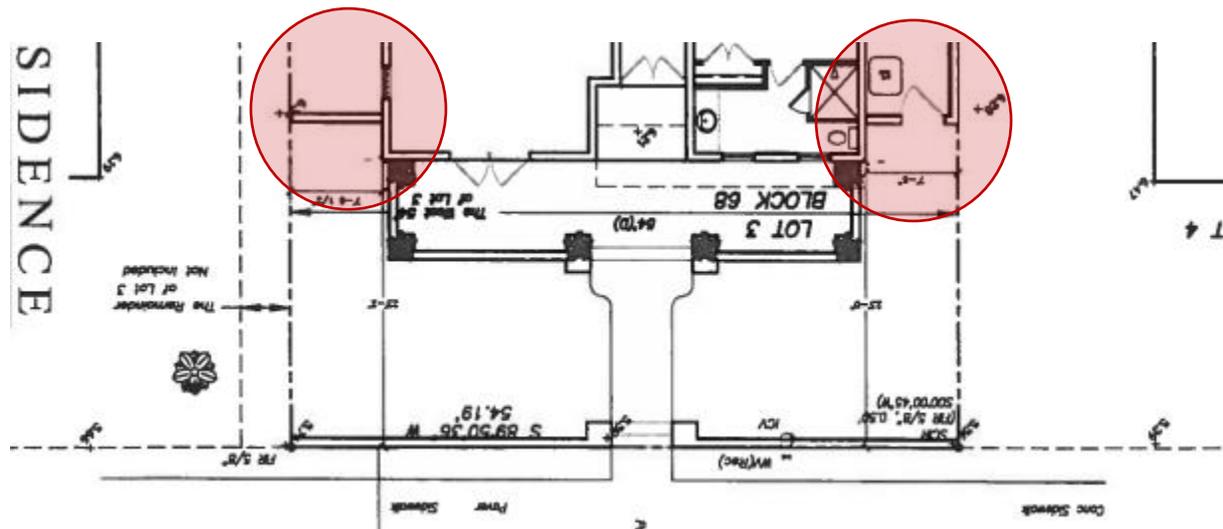
CPPC Staff Report
COA 18-90200016
Public Hearing May 8, 2018
Plans prepared by Cooper Johnson Smith

9. Appurtenances of the new construction such as walls, gates and fences, vegetation and landscape features, shall, if necessary, form cohesive walls of enclosures along a street, to ensure visual compatibility of the new construction with contributing resources in the district.

The applicant proposes a full-depth wall enclosure along the east side yard and a partial wall enclosure at the south alley-facing elevation. Site walls also appear at the front elevation, articulated slightly back from the line created by the façade. In addition and as discussed above, a front site wall would also enclose the lower portion of the front yard for its full length. Site and enclosing yard walls do exist in the subject district on houses with Mediterranean influences. These walls tend to be shaped and sometimes serve as side attachments that incorporate gates and arcades. Newer examples appear along yard property lines, with the earliest found documented to 1961.

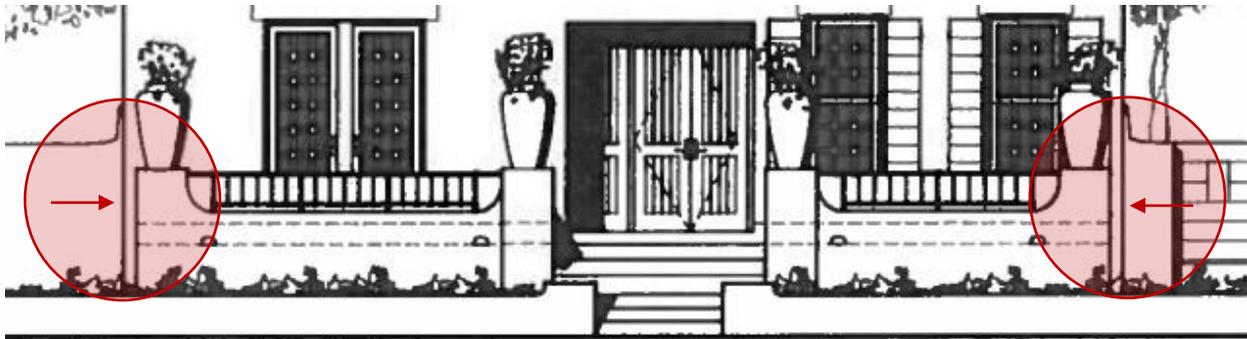
10. The mass of the new construction in relation to open spaces, the windows, door openings,

Appendices, Page 10 of 52:



Appendices, Page 11 of 52:

The red arrows show a break line delineating the main house from the recessed wall, consistent with the submitted (and now approved) site plan and color rendering.

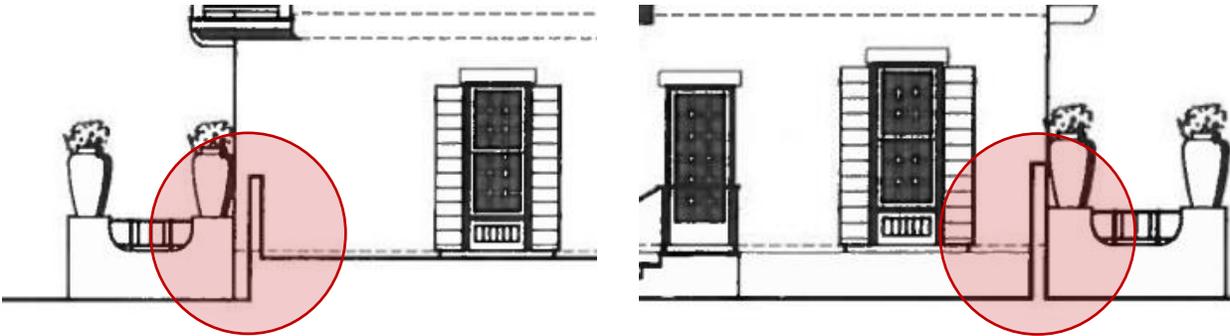


FRONT ELEVATION

SCALE 1/8"=1'-0"

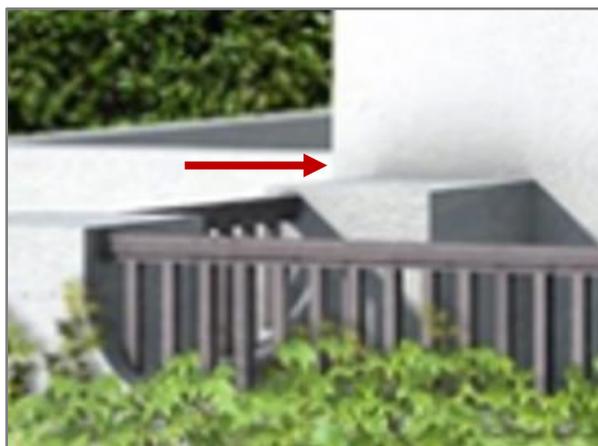
Appendices, Page 12 and 13 of 52:

The applicant has rightfully pointed out that the wall location on this plan drawing (east elevation) is flush with the front plane of the house, but continues to be refuted by the associated reports and all other plans in the permit set as highlighted in this memorandum.

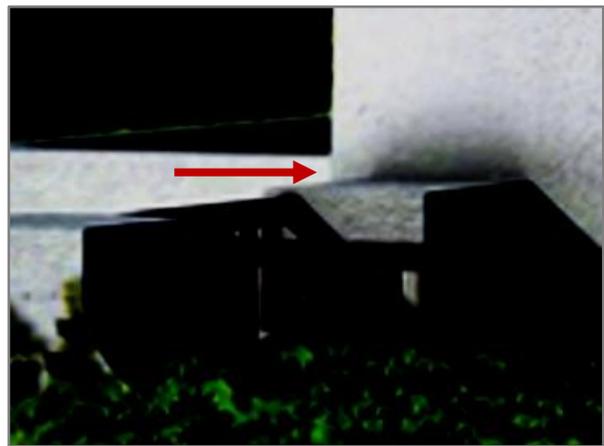


Color Rendering:

In addition to the elevations, the color rendering submitted with this COA application includes shading to appropriately delineate between the front plane of the house and the recessed wall.

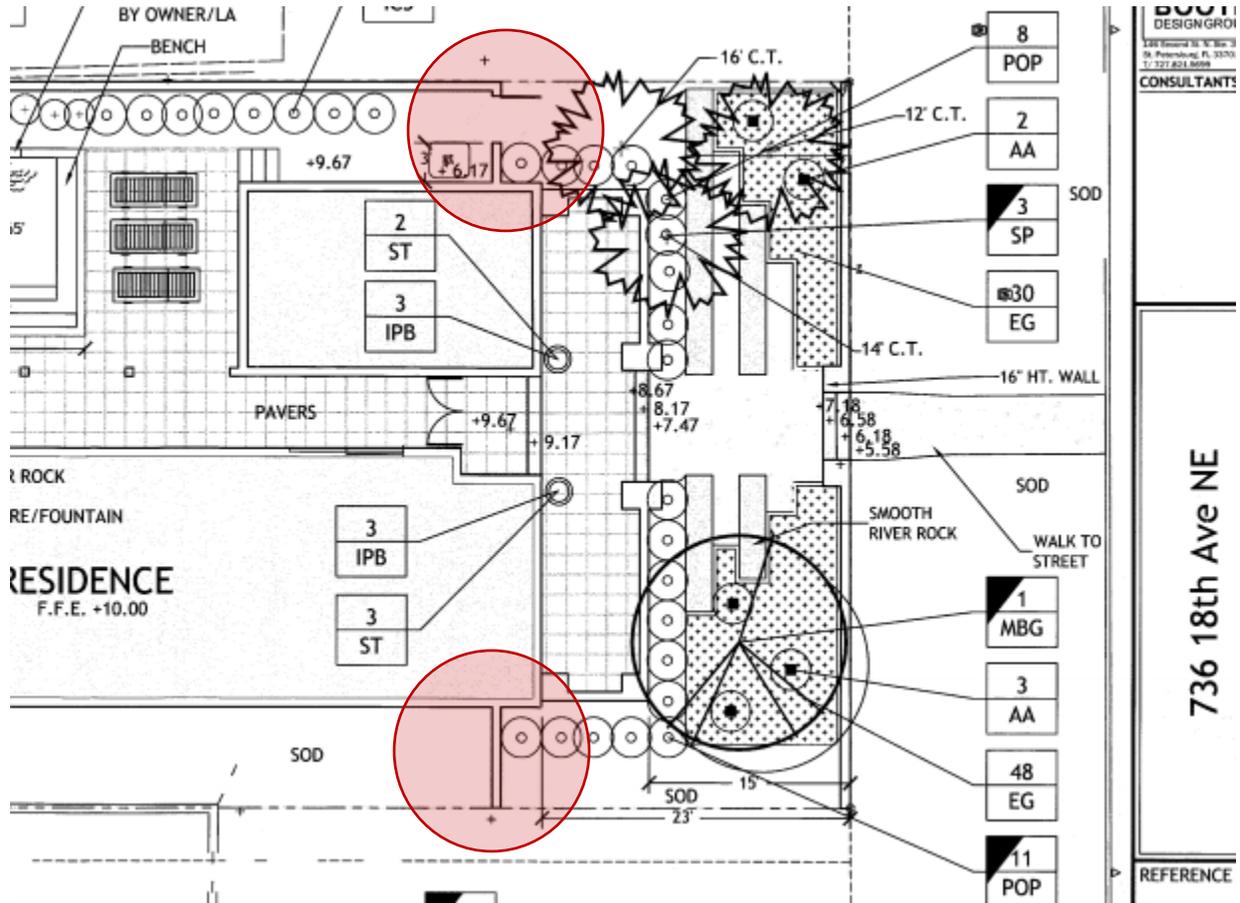


Cropped color elevation.

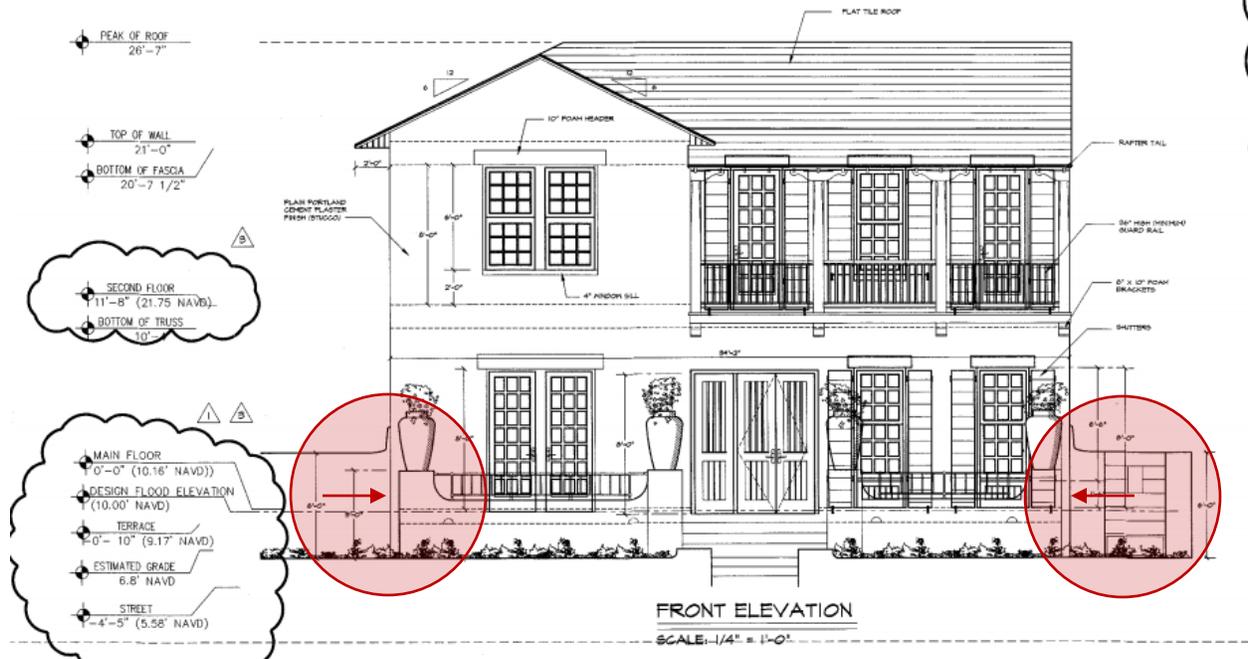


Cropped color elevation with adjusted brightness (-40%) and contrast levels (75%) to show hard shade line at corner.

Page L1.00 Landscape Plan:

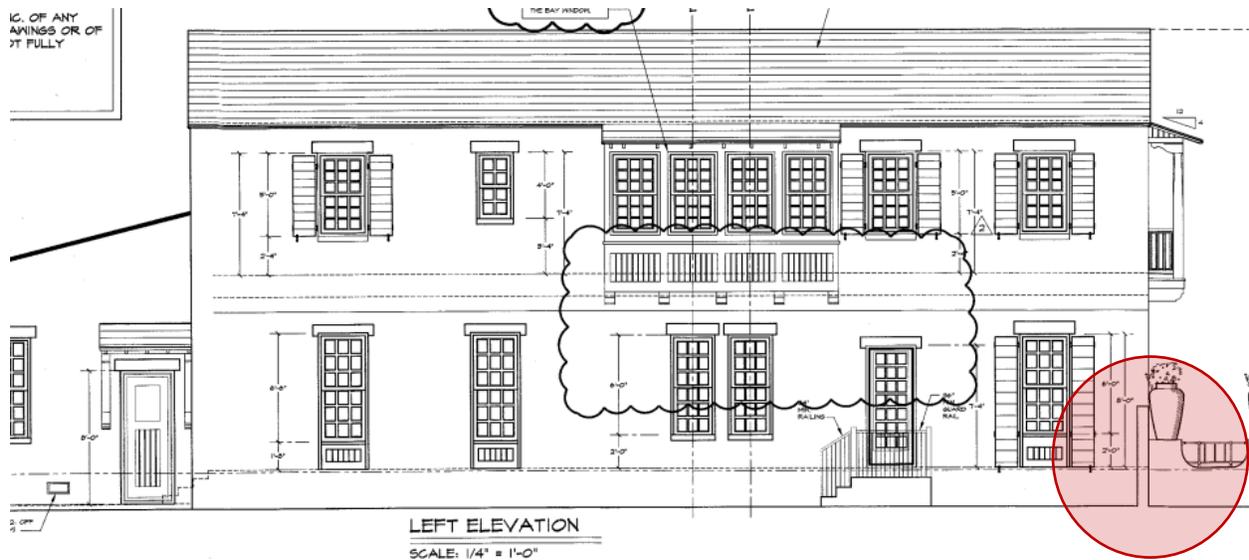


Sheet A2 Front and Right Elevation:



Sheet A3 Rear and Left Elevation:

As noted earlier, this plan drawing (east elevation) is flush with the front plane, but continues to be refuted by the associated reports and all other plans in the permit set as highlighted in this memorandum.



Revision Memorandum
Prepared by Derek Kilborn
Dated October 24, 2019

On October 19, 2018, historic preservation staff provided plan review comments on NSFR permit application 18-08001081, noting that the fenestration at the building's east elevation did not match the application which had been approved by the CPPC, upheld by City Council, and then challenged in Court by an immediate neighbor.

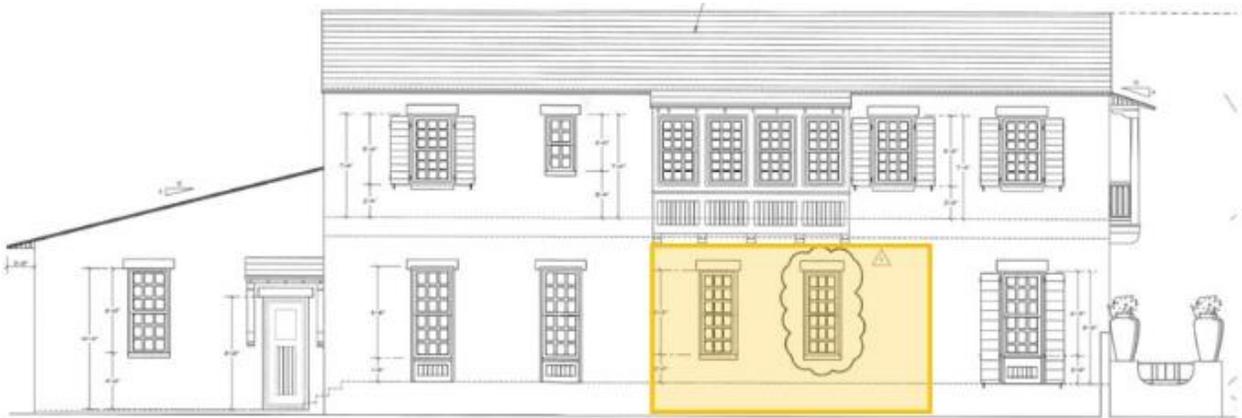
The inconsistency of the fenestration at the east elevation was determined to constitute a substantial design change from the plans as submitted during the COA application. City staff concluded that the proposed change from the originally approved plans created a misalignment between first- and second-floor openings that detracted from the overall rhythm required by the subject property's proposed Monterey-inspired design. The plan review was returned to the applicant for correction accordingly.

Under a later resubmission, the proposed fenestration at the east elevation was shown to have reverted to the original design approved under COA 18-90200016. City staff approved this change on September 13, 2019. Finally, on October 22, 2019, the applicant submitted another request to revise the fenestration at the east elevation, which was administratively approved by City staff and further described in a *Revision Memorandum* dated October 24, 2019.

Original east elevation approved by the CPPC and upheld by City Council:



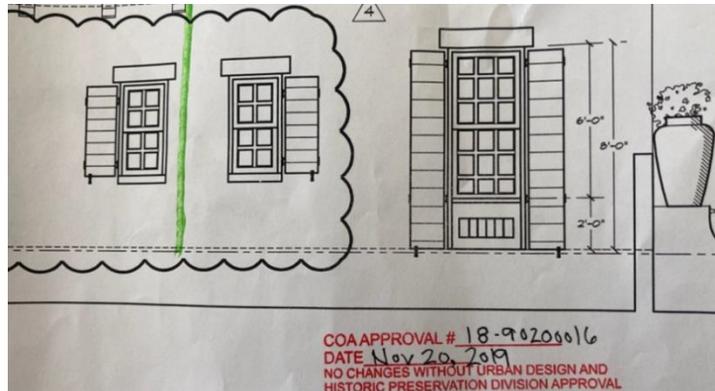
Submitted to permitting on September 18, 2018:



Submitted to permitting on October 23, 2019

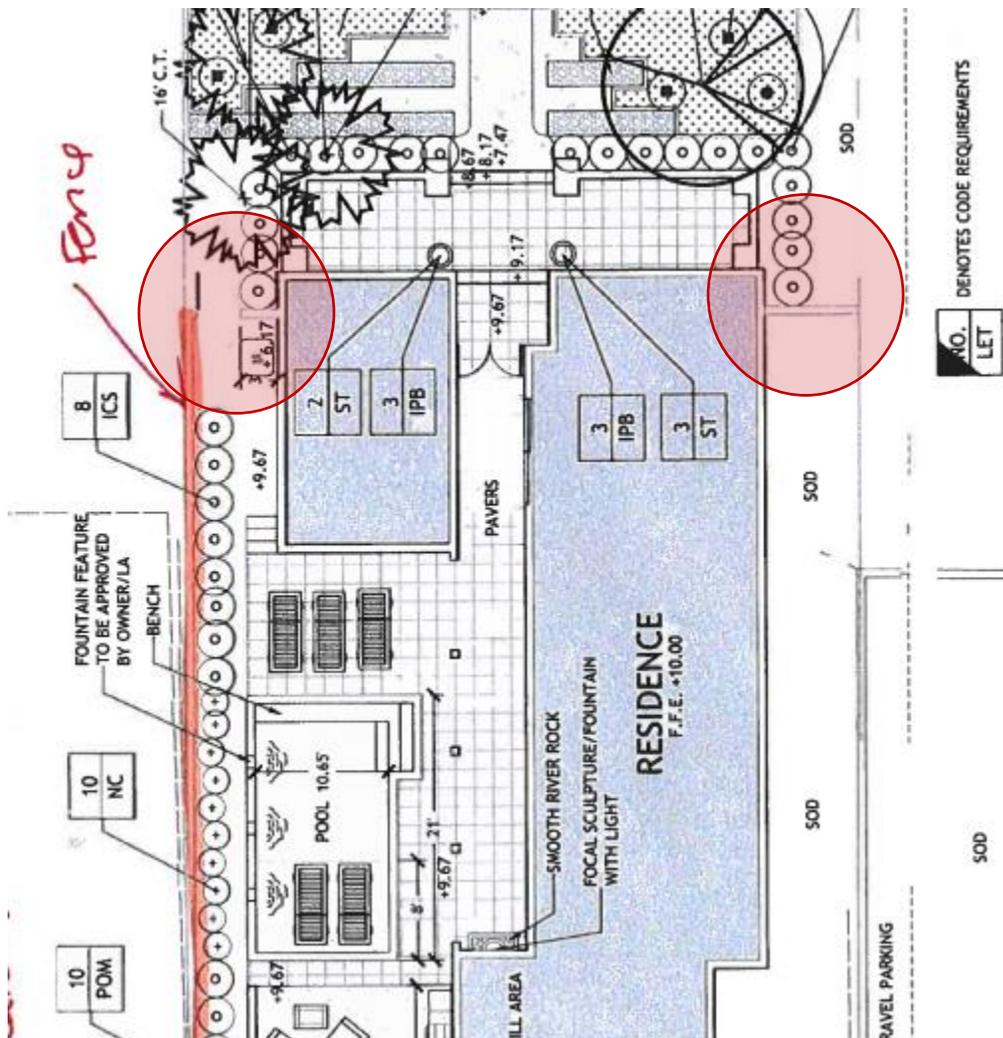


As noted by the applicant, this plan drawing (east elevation) is flush with the front plane of the house, but continues to be refuted by the associated reports and all other plans in the permit set as highlighted in this memorandum. The revision and approval stamp in the example below was for the plan change inside the bubble.



**Email from Richard McGinnis to Laura Duvekot
Dated March 27, 2020**

Perhaps the most significant evidence relating to the wall off-set and gate is a document emailed from the applicant to our Division as *recently* as March 27, 2020. The email attachment clearly shows the approved wall locations with a gate and wall off-set from the front plane of the house.



RAILINGS

This subject of a railing was first debated as part of the pre-application process for COA Application No. 17-90200047, during which time no railing was proposed. The City staff report suggested that a railing along the frontal stoop wall might attenuate height, which was a principal concern of the neighbors, City Staff and CPPC. This COA was denied by the CPPC.

A subsequent COA Application No. 18-90200016 was submitted to resolve the perceived deficiencies of the denied proposal and incorporate the otherwise recommended conditions of approval, including the a railing system across the frontal stoop wall. The original condition of approval was not included in the City staff report for COA 18-90200016 because the plan drawings were updated to reflect the railing system. The subject railings were also included in the permit drawings as demonstrated herein.

CPPC Staff Report

COA 17-90200047

Public Hearing February 13, 2018

Plans prepared by BDG Design Group

From page 27 of 35

system of structures beginning with the wide frontal stoop that extends the full width of the façade projecting eight feet toward the sidewalk from the exterior wall. The stoop is really a large platform elevated to a height of several risers appearing as an open porch feature. A pair of doors leads onto the platform from the interior of the dwelling. The secondary porch is more of a recessed portico that leads from this stoop into an internal corridor that is open to the elements, yet furnishes access to the living spaces of the dwelling. **The CPPC should consider a wrought-iron fence system along the frontal stoop wall that may attenuate height. Also, a frontal balcony at the second story that incorporates a metal railing may also help to attenuate the starkness of the wall planes.**

From Conditions of Approval page 29 of 35:

4. *The roof cladding shall be changed to an appropriate tile or natural material. A high quality architectural shingle may suffice pending review by staff.*
5. *Ornamental wrought iron railing should be considered by the CPPC as a historic design reference to the top of the front stoop—the height of the stoop wall may be shortened to accommodate this effect; the same treatment should be considered for the frontal, second-floor window run, which may reference the historic railing of the Monterey architectural style and lessen the amount of surface stucco.*
6. *Any design changes not included as part of this COA review and approval, shall require the approval of the CPPC, except for minor changes as deemed appropriate by Staff.*

RECESSED FRENCH DOORS

The applicant has cited the 3D rendering that was used in all public hearings and the principal exhibit used to gain approval from the CPPC and City Council. The color rendering is of the front elevation only and does not substitute for the more detailed aspects of site plan and elevation drawings, which are the basis for the City Staff report and CPPC and City Council's approval. Once again, the color elevation validates the City staff original position by clearly showing shading consistent with a recessed opening.

Historic preservation staff started here by looking outside the historic preservation program to the standard zoning regulations. Section 16.20.010.11 states, "*Windows shall not be flush mounted. Windows recessed less than three inches shall feature architectural trim including a header, sill and side trim or decorative shutters. Windows recessed three inches or more shall feature a windowsill. Trim is not required if not consistent with the architectural style, i.e. Modern or Mediterranean Revival.*" The City's Development Review Services Division has confirmed that this requirement applies only to windows and does not extend to doors.

Since historic preservation staff previously remarked that the color rendering should be supported by the more detailed site plan and elevation drawings, the expectation for windows and doors to be recessed should also be documented elsewhere in the City staff report or permit drawings. Condition of Approval No. 1 states that details of finer materials will be provided as they become available. City staff used its discretion by allowing this project to move forward through the COA process with an understanding that details would eventually be provided in accordance with the approved plan and its color rendering for recessed windows and doors. Since historic preservation staff cannot find an explicit statement in the permitting process requiring the subject doors to be recessed, despite a color rendering to the contrary, historic preservation staff has administratively waived this requirement.



Staff is recommending denial of the after-the-fact request and compliance with the original approved plan, negotiated through multiple public hearings, including one appeal, and a legal challenge. The outstanding items noted herein include:

1. Front Wing Walls
2. Front Gate
3. Railings

CC: Elizabeth Abernethy, Director, Planning and Development Services Department
Don Tyre, Building Official, Construction Services and Permitting Division
Laura Duvokot, Historic Preservationist II, Urban Planning and Historic Preservation Division
Michael Dema, Assistant City Attorney
Heather Judd, Assistant City Attorney

Appendix B:

Public Comments

Letter submitted by:
Dr. W.T. (Britt) Cobb Jr
726 18th Avenue NE

- 1) In the original COA application COA 17-90200047 the applicant Mr. McGinniss represented to Staff and to the CPPC his intent to plant shade trees between the Façade of 736 18 and the street, using this credit to maximize bonus in the FAR calculations and allow a larger house. See applicant supplied Figure 1 (p1), 4 (p12), 7 (p15) and 9 (p16) of Addendum to Staff Report COA 17-90200047. In the figures a tree approximately equal in height to the second floor eave is seen at the East front of the house. While only a single tree is illustrated, McGinniss claims a bonus credit for two (0.02 total credit) to allow maximizing bonus and therefore equaling the maximum FAR allowance for anywhere in the city.

McGinniss further relies on this calculation in the approved COA application 18-90200016 (the appendices reference the original '00047 application), McGinniss maintains his bonus credit of 0.02 for the two trees, despite having removed any indication of such planting in any of the supplied drawings or illustrations. (See appendix E of COA 18-90200016). He therefore used these calculations to mislead staff and the CPPC that he was again allowed maximum FAR bonus and the COA as issued is not in compliance.

Mr. McGinniss represented that he was allowed the maximum bonus of 0.2. Based on this full bonus the he submitted to Staff and the CPPC that he should be allowed (based on a lot size 5965 sqft) a maximum house size of 3579 sqft. With the house as built being 3551 sqft.

Shade trees are not installed, nor do any of the submitted plans indicate there was any intent of doing so, the allowable bonus should have been 0.18 resulting in a maximum allowable house area of 3460 sqft. Therefore the original COA granted was not in compliance with city code and the house as built is not in compliance as a result of the misrepresentation from Mr. McGinniss' calculations.

- 2) All submitted plans and illustrations of the proposed house indicated a solid concrete 6' fence/wall along the west (pool side) back yard and the adjoining property. This was also addressed several times during the CPPC meetings and discussions, due to the concern of excessive run off from the property now that the roof line is directing increased water shed to that side, and most of the yard being filled and raised 4' above grade for a pool deck with non-porous surfaces. Not only do the plans show this, but Mr. McGinniss assured the CPPC there would be a stuccoed and painted concrete wall to address the concerns.

In completing the house the solid concrete wall has been replaced with an open chain-link fence.

- 3) All submitted plans for COA indicate a pass through gate in the side wall on the west side of the house, as would be common in the neighborhood or indeed as in most houses. By building two side walls to the property line with no gates, there is no way to transit between the front and back yards without going through the actual house.

Therefore any services such as lawn or pool care that would commonly park their vehicles and equipment trailers on the front curb on 18th Ave NE, now regularly park in and block alley access, and due to the need to pull past the property to unload equipment from their trailers, also commonly block ingress and egress from adjacent home owners garages and drives.

- 4) Submitted plans and illustrations indicate a railing surrounding the front porch between the raised posts to blend to the style of the historic district. These have been omitted in the construction.
- 5) The Notice of the review of the COA indicates the owner of the property is MTBH Holding LLC, however the property is listed with the property appraiser with a homestead exemption to Mr. McGinniss, potentially misrepresenting the tax status to the county and city of St. Petersburg.

Appendix C:

Maps of Subject Property

20TH AVE NE

COFFEE POT BLVD NE

19TH AVE NE

700 Block of 18th Avenue Northeast

18TH AVE NE

ELM ST NE

17TH AVE NE

WALNUT ST NE

BEACH DR NE

Community Planning and Preservation Commission

736 18th Ave NE

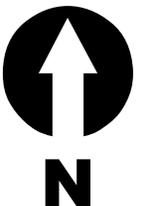
AREA TO BE APPROVED,

SHOWN IN



CASE NUMBER

21-90200008



SCALE:
1" = 150'

20TH AVE NE

COFFEE POT BLVD NE

19TH AVE NE

700 Block of 18th Avenue Northeast

18TH AVE NE

ELM ST NE

17TH AVE NE

WALNUT ST NE

BEACH DR NE

Community Planning and Preservation Commission

736 18th Ave NE

AREA TO BE APPROVED,

SHOWN IN



CASE NUMBER

21-90200008



SCALE:
1" = 150'