



MEMORANDUM

TO: Historic Preservation Commission

FROM: Growth Management Department

RE: Appeal from Action of the Unified Development Ordinance (UDO) Administrator
(ZONE-05-23-017996)

DATE: June 7, 2023

CC: Stephen Steese, ICMA-CM, Town Manager
Heather C. Colin, AICP, Assistant Town Manager

REQUEST: The Appellants, Eugene and Melanie Marks, of Joha LLC, owners of 9 Bruin Road, have appealed the determination of the Unified Development Ordinance (UDO) Administrator decision dated April 26, 2023, to uphold a failed Rough-HD inspection associated with Building Permit RNEW-08-22-2266 (Attachment 2, pages 3-4).

The Rough-HD inspection was failed by Town Staff because non-approved windows were installed on the building known as 9 Bruin Road (also known as the Joiner House), which do not comply with the approved Certificate of Appropriateness-Historic District, COFA-03-22-016484 (Attachment 2). The Appellants believe that the UDO Administrator's decision to uphold the failed Rough-HD inspection is erroneous, thus the appeals application (Attachments 1).

BACKGROUND: The Joiner House is a Contributing Resource to the Old Town Bluffton Historic District. The house was relocated from the western portion of the subject property by disassembly and reassembled on the eastern side of the same property with the approval of the Historic Preservation Commission (HPC) subject to conditions. The HPC approved the COFA-HD on July 6, 2022, with multiple conditions, including a condition that "[t]he Applicant retain all original components to the maximum degree as reasonably and economically feasible." If retention was not possible, another condition of the COFA-HD approval stated that "...any substitutes to original windows, doors, brick foundation, brick piers, and roofing panels must be submitted to staff for determination as to the appropriateness of the substitute materials."

Existing windows were to have been retained and repaired, if needed, in the older, historic portion of the building. Through the approval of the Building Permit, it was indicated that should any windows need to be replaced as they were beyond repair, Town Staff approved windows manufactured by Marvin Windows from the Elevate collection, which is a fiberglass exterior window with a traditional wood window appearance. During the Rough-HD inspection of the building on April 13, 2023, Town Staff observed that *all* windows on the building were replaced

with vinyl windows manufactured by Pella. Not only were these windows not approved by Town Staff, but the Appellants never contacted Town Staff regarding their desire to use alternate Pella vinyl windows for the entire building. As provided in UDO Sec. 3.18.6.A., “[a]n Applicant who has been granted a Certificate of Appropriateness-HD shall notify the UDO Administrator of any proposed amendments to approved plans.”

In a letter dated April 25, 2023, the UDO Administrator informed Mr. Marks of the reasons why the windows failed the Rough-HD inspection, as well as other items that failed the inspection but that are not subject to this appeal (Attachment 2).

AUTHORITY OF THE HISTORIC PRESERVATION TO HEAR AN APPEAL: The HPC was created by the Town of Bluffton, a South Carolina municipality as defined by S.C. Code Ann. § 5-1-20(1), in accordance with S.C. Code Ann. § 6-29-880. The HPC is authorized, pursuant to S.C. Code Ann. § 6-29-890 and the Town of Bluffton Unified Development Ordinance, to hear, review and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of a zoning ordinance.

In exercising the above power, the HPC may take one of the following actions regarding the denial of the Rough Inspection-HD as it relates to the installation of the unapproved Pella windows:

- Reverse the determination of the UDO Administrator to allow the installed windows to remain;
- Affirm, wholly or in part, the determination of the UDO Administrator; or,
- Modify the determination of the UDO Administrator.

The HPC’s order, requirements, decisions, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

ATTACHMENTS

In accordance with the South Carolina Code of Laws, S.C. Code Ann. § 6-29-890(B), upon receipt of an appeal, Staff is required to immediately transmit to the Historic Preservation Commission all of the papers constituting the record upon which the action appealed from was taken. The record consists of the following documents:

1. Appeals Application and Narrative and Submittal Documents
2. Zoning Letter and Attachments – April 26, 2023
3. Receipt of Public Notice
4. Joiner Follow Up from 4-21-2023 Site Walk

Town Staff and the Appellants reserve the right to submit additional documents at or before the hearing to the extent allowed by the Rules of Procedure for the Historic Preservation Commission.