

IN THE CITY COMMISSION CHAMBERS
OF THE CITY OF DELRAY BEACH,
FLORIDA

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

**APPEAL OF THE HISTORIC PRESERVATION BOARD DECEMBER 19, 2017
CLASS V SITE PLAN, LANDSCAPE PLAN, ARCHITECTURAL ELEVATIONS,
AND DEMOLITIONS AND RELOCATIONS ASSOCIATED WITH MIDTOWN DELRAY**

1. This is an appeal of the December 19, 2017 decision by the Historic Preservation Board ("HPB") denying the Class V Site Plan, Landscape Plan, Architectural Elevations, Demolitions, and Relocations associated with Midtown Delray which came before the City Commission at its meeting on February 6, 2018.

2. The Appellants, Appellee and City staff presented documentary evidence and testimony to the City Commission pertaining to the appeal of the approval of a Class V Site Plan, Landscape Plan, Architectural Elevations, Demolition, and Relocation Actions associated with Midtown Delray. Required findings are made in accordance with Subsections I, II, III, and V.

I. LDR REQUIREMENTS FOR CLASS V SITE PLAN APPROVAL:

A. LDR Section 2.4.5(F)(5), "Findings": The approving body must make a finding that development of the property pursuant to the site plan will be compatible and harmonious with adjacent and nearby properties and the City as a whole so as not to cause substantial depreciation of property values.

AND

B. LDR Section 3.1.1, "Required Findings": Prior to the approval of development applications, certain findings must be made in a form which is part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application. These findings relate to the Future Land Use Map and Comprehensive Plan Consistency, Concurrency, and Compliance with the Land Development Regulations. At its meeting of February 6, 2018, the City Commission made positive findings with respect to the Future Land Use Map, Comprehensive Plan Consistency, and Concurrency provided conditions of approval are addressed.

Are these guidelines met?

Yes _____ No _____

II. COMPREHENSIVE PLAN:

A. Future Land Use Map/Future Land Use Element Objective A-1:

Is the property developed/redeveloped so that the future use and intensity is appropriate in terms of soil, topographic, and other applicable physical considerations, is complementary to adjacent land uses, and fulfills remaining land use needs and is consistent with the Land Use Map?

Yes _____ No _____

B. Concurrency:

Are the concurrency requirements met with respect to water, sewer, drainage, streets and traffic, parks, open space, solid waste and schools?

Yes _____ No _____

C. Consistency:

Will the granting of the Class V Site Plan, Landscape Plan, Architectural Elevations, Demolitions, and Relocations be consistent with and further the goals and policies of the Comprehensive Plan?

Yes _____ No _____

III. ARCHITECTURAL ELEVATIONS PURSUANT TO LDR SECTION 4.6.18(E):

- A. The plan of 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.**
- B. 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 of evolving environment to materially depreciate in appearance and value.**
- C. 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.**

Have the overall requirements of LDR Section 4.6.18(E) been met?

Yes _____ No _____

IV. LANDSCAPE REQUIREMENTS:

Pursuant to LDR Section 4.6.16, "Minimum Landscape Requirements", Subsection 4.6.16(H)(3), "New Multiple Family, Commercial and Industrial Development", subject to conditions of approval.

Have the overall requirements of LDR Section 4.6.16 been met?

Yes _____ No _____

V. DEMOLITIONS:

Pursuant to LDR Section Sections 4.5.1(E)(5) and 4.5.1(F), Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Is the demolition of a contributing structure located at 38½ South Swinton Avenue, consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Yes _____ No _____

Is the demolition of a contributing structure/accessory structure secondary building to Building 'G' a contributing structure (Building 'G-ACC') located at 44½ South Swinton Avenue, consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Yes _____ No _____

VI. RELOCATIONS:

Finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Is the relocation of the contributing structure on the property located at 20 W Atlantic Avenue, Block 61 to the property located at further south on Block 61 fronting on South Swinton Avenue (address to be determined), consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Yes _____ No _____

Is the relocation of the contributing structure on the property located at 20 W Atlantic Avenue, to the property located at southwest section of Block 70 (address to be determined), consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Yes _____ No _____

Is the relocation of the of the contributing structure on the property located at 22 South Swinton Avenue, to the property located at north section of Block 70 (address to be determined), consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Yes _____ No _____

Is the relocation of the of the contributing structure on the property located at 38 South Swinton Avenue, consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Yes _____ No _____

Is the relocation of the of the contributing structure on the property located at 40 South Swinton Avenue, consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations, and the Secretary of the Interior's Standards for Rehabilitation.

Yes _____ No _____

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original site plan was submitted.

4. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

5. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2017-284-SPM-HPB-CL5 and associated Class V site plan for Midtown Delray, subject to the following conditions of approval:

- a. That the locations of the generators are provided on the plans together with the source of fuel prior to certification of the site plan.
- b. That the site plan be revised to correctly note the required parking of 379 parking spaces prior to certification of the site plan.
- c. That the waivers regarding building length and setback are approved by the City Commission.

6. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2017-284-SPM-HPB-CL5 and associated landscape plan for Midtown Delray, subject to the condition that a payment of \$139,800 to the Delray Beach Tree Trust Fund for remediation of the trees to be removed.

7. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA-2017-284-SPM-HPB-CL5 and associated architectural design elements for Midtown Delray.

8. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2016-069 (Rectory, Building 'A'), 14 S. South Swinton for the relocation of the contributing structure on the property located at 20 W Atlantic Avenue, Block 61 to the property located at further south on Block 61 fronting on South Swinton Avenue (address to be determined).

9. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2016-070 (Rectory, Building 'B') for the relocation of the contributing structure on the property located at 20 W Atlantic Avenue, to the property located at southwest section of Block 70 (address to be determined).

10. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2016-071 (Building 'C') for the relocation of the contributing structure on the property located at 22 South Swinton Avenue, to the property located at north section of Block 70 (address to be determined).

11. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2016-063 (Building 'E'), a.k.a. Cathcart House for the relocation of the contributing structure on the property located at 38 South Swinton Avenue.

12. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2016-060 (Building 'F'), a.k.a. Peach House for the relocation of the contributing structure on the property located at 40 South Swinton Avenue.

13. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2016-064 (Building 'E-1') for the demolition of a contributing structure located at 38½ South Swinton Avenue.

14. Based on the entire record before it, the City Commission approves ____ / denies ____ the COA 2016-061 (Building 'G-ACC') for the demolition of a (contributing structure/accessory structure secondary building to Building 'G' a contributing structure) located at 44½ South Swinton Avenue.

15. The City Commission hereby adopts this Order this 6th day of February, 2018, by a vote of ____ in favor and ____ opposed.

ATTEST:

Cary D. Glickstein, Mayor

Katerri Johnson
City Clerk

R. Max Loman, Esq.
City Attorney