

# HISTORIC PRESERVATION BOARD

## CITY OF DELRAY BEACH

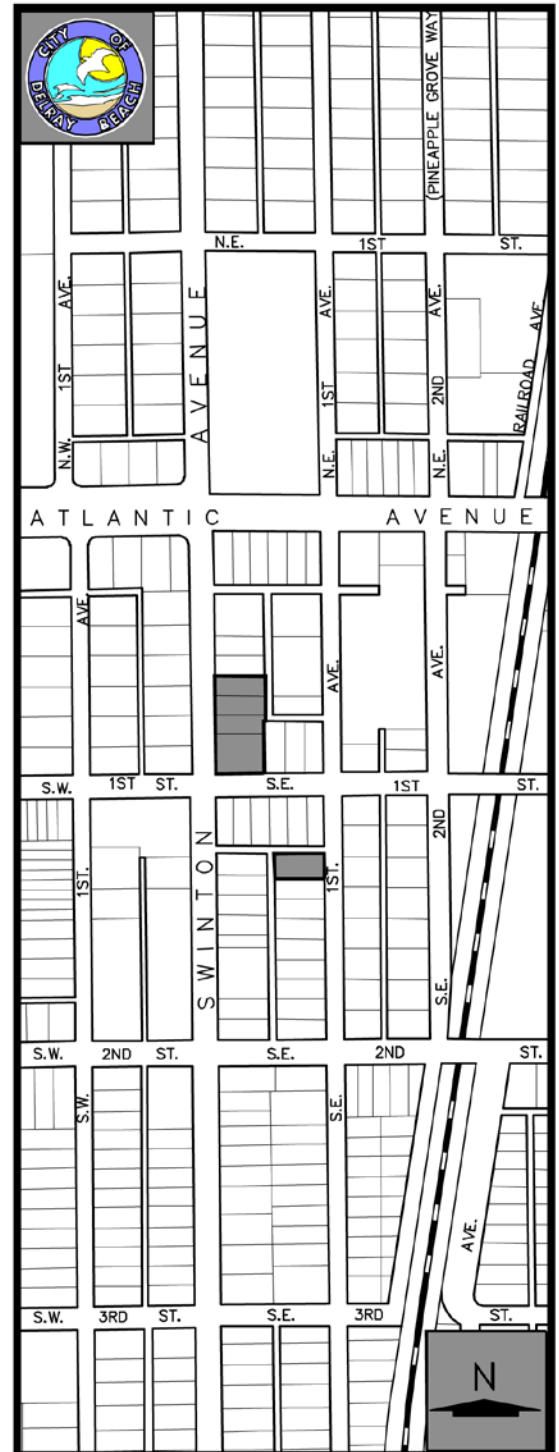
## STAFF REPORT

**MEETING DATE:** July 6, 2016  
**ITEM:** 27 – 43 South Swinton Avenue & 104 SE 1<sup>st</sup> Avenue, Swinton Social, Old School Square Historic District – Extension request of an approved Certificate of Appropriateness and Class V Site Plan (2011 – 178) for the establishment of spa and restaurant uses, and a valet parking lot.

**RECOMMENDATION:** Approve for 24 months.

### GENERAL DATA:

**Owner:** BBC Holdings, LLC  
**Agent:** Currie Sowards Aguila Architects;  
Bob Currie  
**Location:** 27 – 43 South Swinton Avenue;  
104 SE 1<sup>st</sup> Avenue  
**Property Size:** South Swinton Avenue: .74 acres  
SE 1<sup>st</sup> Avenue: .18 acres  
**Future Land Use Map:** Other Mixed Use (OMU)  
**Current Zoning:** Old School Square Historic Arts  
District (OSSHAD)  
**Adjacent Zoning:**  
South Swinton Avenue  
North: OSSHAD  
South: OSSHAD  
East: OSSHAD w/Central Business District  
(CBD) Overlay  
West: OSSHAD  
SE 1<sup>st</sup> Avenue  
North: OSSHAD w/CBD Overlay  
South: OSSHAD  
East: CBD  
West: OSSHAD  
**Proposed Land Use:** South Swinton Avenue: Spa and  
Restaurant  
SE 1<sup>st</sup> Avenue: Valet Parking Lot  
**Water Service:** Existing on site  
**Sewer Service:** Existing on site



## ITEM BEFORE THE BOARD

The item before the Board is consideration of a twenty-four month time extension for the approvals of a Certificate of Appropriateness and Class V Site Plan for the adaptive reuse and development of the properties located at **27, 31, 35, and 43 South Swinton Avenue** and **104 SE 1<sup>st</sup> Avenue (aka Swinton Social), Old School Square Historic District**, pursuant to LDR Section 2.4.6(H).

## BACKGROUND

**27 - 43 South Swinton Avenue:** The subject properties consist of Lots 11, 12, 13, 14, and 15, Block 69, Town of Delray Beach. The 0.74-acre property presently contains four (4) one-story, frame vernacular, single-family residences constructed between 1937 and 1950, which have been abandoned for a number of years. One accessory structure (garage) remains on the southernmost property.

In 2003, a COA and Class V Site Plan application were approved by the Board. The approved development was for the adaptive reuse of the residences to retail, office, and restaurant. However, the approval expired, and no improvements to either the historic structures or the property have occurred.

**104 SE 1<sup>st</sup> Avenue:** The subject property consists of Lot 11, Block 70, Town of Delray Beach and measures approximately .18 acres. A one-story, multi-family dwelling was constructed on the property in 1952; it was demolished in 2004. The property has since remained vacant.

Both properties are zoned Old School Square Historic Arts District (OSSHAD), and are located within the Old School Square Historic District. The four residences on South Swinton Avenue are classified as contributing in the historic district.

**2011:** At the Historic Preservation Board meeting of November 16, 2011, a COA and Class V Site Plan (2011-178) were approved for both sites.

The approval for the properties located at **27-43 South Swinton Avenue** was for the adaptive reuse from single-family residential to restaurant and personal services (spa). The approval was subject to the following conditions:

1. That the height of all accessory structures not exceed the height of any of the historic (principal) structures;
2. That any replacement siding be of wood to match the existing profile and type;
3. That more aesthetically appropriate lighting fixtures be provided;
4. That the restroom and check-in pavilions comply with the 10' rear setback requirement, or that a variance to the requirement be submitted and approved by the HPB;
5. That all signage associated with the spa and restaurant uses be submitted as a separate COA requiring HPB approval;
6. That the valet queue be indicated on the subject property of South Swinton Avenue and indicated the minimum queuing length of 100';
7. That a 1' dedication be accepted along SE 1<sup>st</sup> Street, adjacent to the property, prior to issuance of the building permit;
8. That a 20' x 20' corner clip dedication at the northeast corner of South Swinton Avenue and SE 1<sup>st</sup> Avenue be accepted prior to issuance of the building permit;
9. That a 2' right of way dedication from the north/south alley (Block 69) adjacent to the property be accepted prior to issuance of the building permit;
10. That all kitchen vents and rooftop equipment be indicated and be property screened, subject to review for compliance with LDRs;

11. That the lighting within the rear of the property at the Spa be indicated, subject to compliance with the LDRs and CPTED review;
12. That the location of all air conditioning units, generators, etc be properly indicated on the site plan and comply with height, setback, and screening requirements;
13. That the seating at the juicebar be fixed;
14. That adequate access from the rear gate to the paved area by the swimming pool is not acceptable through the sand, and be revised to a paved walkway is required;
15. That the egress thru nano-style doors from café be provided to comply with fire safety requirements;
16. That shutterdogs be provided for all shutters;
17. That a Unity of Title between the two properties be recorded prior to Site Plan certification; and,
18. That the southernmost sidewalk entry on the side leading to the Café be widened by 1' to provide a more direct and inviting pedestrian access.

A waiver to reduce the number of parking spaces required on site (24-43 South Swinton Avenue & 104 SE 1<sup>st</sup> Avenue) from 53-33 was also approved by the HPB. A second waiver was approved to permit 7 parallel parking spaces to be located between the existing structures and South Swinton Avenue.

The approval for the property at **104 SE 1<sup>st</sup> Avenue** was to develop the vacant parcel into a Valet Parking Lot. The approval was subject to the following conditions:

1. That the wood fence be increased to a height of 6' along the south and west perimeter, except within the front and side street setback areas, where it may be increased to a height of 4', outside of the maximum 3' height within the sight visibility triangle;
2. That any fencing which is more than 75% opaque be setback 2' from the property line and screened with hedging which measures the height of the fence within two years of planting;
3. That a variance to the Open Space requirement be submitted and approved by the HPB or that the Site Plan be revised to meet the Open Space requirement, all subject to HPB review and approval;
4. That an agreement with the City be recorded in order to provide the required parking as valet on SE 1<sup>st</sup> Avenue;
5. That a 5' dedication along SE 1<sup>st</sup> Avenue adjacent to the property be accepted prior to issuance of a building permit;
6. That a 2'6" dedication from both the east/west & north/south alleys (Block 70) adjacent to the property be accepted prior to issuance of the building permit.

Subsequent to the HPB approval, the City Commission approved three waivers associated with the Class V Site Plan application at their regular meeting on December 6, 2011. The waivers were approved for the following relief:

1. 27-43 South Swinton Avenue: Permit a 6' high wall within the side street setback along a portion of SE 1<sup>st</sup> Street, whereas LDR Section 4.5.1(E)(3)(a)1.c., limits heights of fences and walls to 4' within the side street setback.
2. 104 SE 1<sup>st</sup> Avenue: Permit a drive aisle width of 22', whereas LDR Section 4.6.9(F)(3)(d) requires a drive aisle width of 24'.
3. 104 SE 1<sup>st</sup> Avenue: Permit a landscape buffer to measure between 1'6" and 6'4" wide (as indicated on the submitted plan), whereas LDR Section 4.6.9(F)(3)(i) requires a perimeter landscape buffer to measure 10' wide.

A variance (2012-031) to reduce the open space requirement from 25% to 14.9% on the property located at 104 SE 1<sup>st</sup> Avenue was approved by the HPB at its meeting of December 7, 2011. The variance was approved in association with the approved valet parking lot.

**2013:** A twenty-four month extension request was approved at the Board's meeting of November 20, 2013, subject to the following conditions of approval:

**27-43 South Swinton Avenue**

1. That the historic structures be maintained in a safe and secure manner, and that all window or door openings which may be broken or open, be covered up and painted to match the buildings;
2. That LDR Section 4.6.16 be applied and any plans requiring revision be submitted, with any revisions requiring a site plan modification or relief be submitted and approved separately;
3. That a 1' dedication be accepted along SE 1st Street, adjacent to the property, prior to issuance of a building permit;
4. That a 20' x 20' corner clip dedication at the northeast corner of South Swinton Avenue and SE 1st Avenue be accepted prior to issuance of a building permit;
5. That a 2' right of way dedication from the north/south alley (Block 69) adjacent to the property be accepted prior to issuance of a building permit.

**104 SE 1<sup>st</sup> Avenue**

1. That an agreement with the City be recorded in order to provide the required parking as valet on SE 1<sup>st</sup> Avenue, prior to issuance of a Certificate of Occupancy;
2. That a 5' dedication along SE 1<sup>st</sup> Avenue adjacent to the property be accepted prior to issuance of a building permit;
3. That a 2'6" dedication from both the east/west & north/south alleys (Block 70) adjacent to the property be accepted prior to issuance of a building permit.

NOTE: The original conditions of approval were in compliance at the time of the 2013 extension. Any outstanding conditions were included in the extension approval.

**2014:** In accordance with the 2013 Site Plan extension, a revised Landscape Plan was submitted for compliance with the Landscape Regulations. The plan was found to be in compliance with the exception of the previously approved 6' wide landscape islands at 104 SE 1<sup>st</sup> Avenue. At its meeting of June 18, 2014, the Board approved the waiver to maintain the 6' wide islands from the required 9' width.

**2015-2016:** An additional extension to July 15, 2016 was granted under Executive Order 15-173 which was issued on August 28, 2015 and declared a State of Emergency in preparation for Tropical Storm Erika.

The project has not commenced; therefore, an extension request for the COA and Class V Site Plan has been submitted and is before the Board for consideration. The HPB Staff Report for the meeting of November 16, 2011 is attached for reference and includes a complete description of the approved project.

The present agent has inquired about the demolition and reconstruction of the building at 43 South Swinton Avenue given the fire damage that has occurred. Staff has responded to the agent and indicated that a Class III Site Plan Modification and submittal of information compliant with the Demolition regulations of LDR Section 4.5.1(F) will be required as part of a separate review from the subject extension request.

Note: At its meeting of February 7, 2012, the City Commission approved a Conditional Use (2012-022) request for the establishment of outdoor dining on the property located at 27-43 South Swinton Avenue. The Conditional Use was approved subject to conditions; an extension was approved by the City Commission in 2014. A second extension is to be considered by the City Commission at its July 5, 2016 meeting.

## EXTENSION REQUEST & ANALYSIS

Pursuant to **LDR Section 2.4.4(F)(1-3)**, extensions may be granted to the previously approved application, pursuant to the following:

(1) **General:**

- (a) A written request for an extension must have been received by the City at least forty-five (45) days prior to the expiration date;
- (b) The letter must set forth the basis and reason for the extension;
- (c) The extension shall be considered by the same body which granted the original approval;
- (d) The extension, if granted, shall be for eighteen months unless otherwise stated;

The applicant initially submitted the subject extension request concurrent with the Site Plan Extension request on November 2, 2015, prior to receiving the "State of Emergency" extension. The reason for the request is that construction has not started "due to lack of funding" until the site plan is certified. The applicant has requested a twenty-four month extension, which if approved, would extend the approval to July 15, 2018.

The extension is to be considered by the HPB. While there are associated waivers that were approved by the City Commission, the waivers do not require extension and are valid for the same time as the site plan approval.

As no construction has occurred, this extension request is to be considered pursuant to LDR Section 2.4.4(F)(3) "No Construction" as follows:

(3) **No Construction:** When the project has not commenced construction, or construction has not been deemed substantial, the request for extension shall be considered pursuant to the following:

- (a) The project shall be evaluated pursuant to the land development regulations in effect at the time of consideration of the extension request and shall comply with such current requirements;
- (b) Additional submittal information including a new application and copies of previously submitted material may be required;
- (c) The granting body must make findings pursuant to 2.4.4(B);
- (d) The granting body may impose additional conditions of approval pursuant to 2.4.4(C) to insure compliance with any applicable changes to regulations or changes in circumstances which have occurred since the previous approval.

The criteria noted above are considered as follows:

- (a) At the time of review, the Board felt that the proposal complied with the LDRs and made positive findings upon approving the site plan with conditions; no LDR Sections which would impact the approved site plan have been revised since the 2013 extension.
- (b) The conditions of approval have been addressed as evident on revised plans that were submitted.
- (c) LDR Section 2.4.4(B) requires positive findings of Article 3.1. The Board made these positive findings upon approval of the development proposal;
- (d) At the time of approval, the Board incorporated conditions of approval to provide for a proposal which complied with the required review criteria. Additionally, Staff has no further recommendations for additional revisions to the plans.

## ASSESSMENT & CONCLUSION

The 2013 extension request letter noted that recent “*economic events*” and the difficulty “*to secure funding*” were the reasons behind the project being on hold. The letter also specified that a “*new partner*” had joined the project and, therefore, the economics of the project are “*no longer an issue.*” The request was not unreasonable in that the property owner had shown a good faith effort by submitting plans which address the conditions of approval shortly after receiving the initial approval, and subsequent revisions have also been addressed. The only outstanding issue of a Unity of Title A Unity of Title has been required for the project to ensure that the valet parking lot at 104 SE 1<sup>st</sup> Avenue was not a “stand alone” parking lot which is not permitted within the OSSHAD zoning district. The paperwork for the Unity of Title has been submitted, and after much internal discussion and review, the applicant is able to submit the Unity of Title to the Clerk of the Circuit Court of Palm Beach County for recordation, and the plans may be certified.

As previously noted, the Board approved the application with conditions based upon positive findings with respect to the Land Development Regulations, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior’s Standards for Rehabilitation. Further, there have not been any significant LDR amendments which impact the subject development. As a result, the development extension request should not be affected as an appropriate and compatible development is being provided.

Based on the analysis given and the justification request statement, positive findings can be made with respect to LDR Sections 2.4.4(D) and (F)(1) & (3) to extend the site plan modification approval.

## ALTERNATIVE ACTIONS

- A. Postpone with direction.
- B. Move approval of the request for an extension of the Certificate of Appropriateness and Class V Site Plan (2011-178) for the property located at **27, 31, 35, and 43 South Swinton Avenue and 104 SE 1st Avenue (aka Swinton Social), Old School Square Historic District**, by adopting the findings of fact and law contained in the staff report, and finding that the request, and approval thereof, meets criteria set forth in Sections 2.4.4(D) and (F)(1) & (3) of the Land Development Regulations.
- C. Move denial of the request for an extension of the Certificate of Appropriateness and Class V Site Plan (2011-178) for the property located at **27, 31, 35, and 43 South Swinton Avenue and 104 SE 1st Avenue (aka Swinton Social), Old School Square Historic District**, by adopting the findings of fact and law contained in the staff report, and finding that the request, and approval thereof, does not meet criteria set forth in Sections 2.4.4(D) and (F)(1) & (3) of the Land Development Regulations.

<b>R E C O M M E N D A T I O N</b>
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**27, 31, 35, and 43 South Swinton Avenue**

Approve the request for an extension of the Certificate of Appropriateness and Class V Site Plan (2011-178) for the property located at **27, 31, 35, and 43 South Swinton Avenue (aka Swinton Social), Old School Square Historic District**, by adopting the findings of fact and law contained in the staff report, and finding that the request, and approval thereof, meets criteria set forth in Sections 2.4.4(D) and (F)(1) & (3) of the Land Development Regulations, subject to the following conditions of approval:

1. That the extension be granted for 24 months, with an expiration date of July 15, 2018; and,
2. That the historic structures be maintained in a safe and secure manner, and that all window or door openings which may be broken or open, be covered up and painted to match the buildings.

**104 SE 1<sup>st</sup> Avenue**

Approve the request for an extension for the Certificate of Appropriateness and Class V Site Plan (2011-178) for the property located at **104 SE 1<sup>st</sup> Avenue (aka Swinton Social), Old School Square Historic District**, by adopting the findings of fact and law contained in the staff report, and finding that the request, and approval thereof, meets criteria set forth in Sections 2.4.4(D) and (F)(1) & (3) of the Land Development Regulations, subject to the following conditions:

1. That the extension be granted for 24 months, with an expiration date of July 15, 2018; and,
2. That an agreement with the City to provide the required parking as valet on SE 1<sup>st</sup> Avenue be approved by the City Commission and recorded prior to issuance of a Certificate of Occupancy.

**Report Prepared By:** Amy E Alvarez, AICP, Senior Planner