

# HISTORIC PRESERVATION BOARD

## CITY OF DELRAY BEACH

### ---STAFF REPORT---

**MEETING DATE:** June 26, 2017 and June 27, 2017 (if needed)

**ITEM:** 20 W Atlantic Avenue, Old School Square Historic District (Building 'U') – Consideration of a Certificate of Appropriateness for the demolition of a non-Contributing structure.

**RECOMMENDATION:** Approve

#### GENERAL DATA:

**Owner/Applicant:** Atlantic Ave Development, LLC  
and MGM Sundy House, LLC

**Agent:** Bonnie Miskel, Esq. – Dunay, Miskel  
and Blackman, LLP

**Location:** 20 W Atlantic Avenue between  
SW 1<sup>st</sup> Avenue and Swinton Avenue

**Zoning District:** Old School Square Historic Arts  
District (OSSHAD), CBD overlay, and  
OMU.

**Historic District:** Old School Square Historic  
District

**Building Reference:** Building ('U')

**Year Built:** 2001

**Present Use:** Mixed-Use  
Residential/Commercial

**Proposed Use:** N/A



## ITEM BEFORE THE BOARD

The item before the Board is a Certificate of Appropriateness (COA) for the demolition of Building 'U' located 20 W Atlantic Avenue, Old School Square Historic District, pursuant to LDR Sections 4.5.1 (E)(5) and 4.5.1(F).

## BACKGROUND & PROJECT DESCRIPTION

Built in 2001, Building 'U' was built outside the period of significance for OSSHAD historic district (1902-1965). The property consists of Lot 01, Block 61 and is located Southeast corner lot of Swinton and Atlantic Avenue, between SW 1<sup>st</sup> Avenue and South Swinton Avenue. Building 'U' carries OSSHAD zoning with a Central Business District (CBD) overlay and Other Mixed Use (OMU) allowing it to have more intense development now and of Other Mixed Use (OMU). The combination of CBD zoning and an OMU future land use allows for a mixed-use structure of up to 53' at a FAR of 1:1.

Building 'U' is a, 6,848 SF three-story, frame vernacular building with an L-shaped high pitch side gable roof enhanced with multiples dog house dormers, balconies, turret and wide overhang above the first floor facing West Atlantic Avenue. The east façade fronting on South Swinton exhibits large front gable projections, balconies and wide overhangs above the first floor. The structure has a metal roof and multi-colored wood lap siding and appears in good condition. The first floor commercial use exhibits store front windows. The residents that occupy the 2<sup>nd</sup> and 3<sup>rd</sup> floors access their apartments from a railed wood exterior staircase located near a rear parking lot. Building 'U' is associated with the developmental history of the area that occurred during the early 2000's.

Building 'U' is well maintained and occupied with various businesses, restaurants with residents in the upper floors. There is no history of code violations.

*Structures that are individually designated as historic or are located in historic districts shall be maintained in a secure and attractive manner. All defective structural and decorative elements of such building facades shall be repaired or replaced in a workmanlike manner, to match as closely as possible the original materials and construction of the building. All exterior walls shall have all loose material removed and patching or resurfacing shall be accomplished to match the existing or adjacent surfaces as to materials, color, bond, and joining. All cornices, trim and window frames that are damaged, sagging or otherwise deteriorated shall be repaired or replaced to be made structurally sound and all exposed materials painted, stained or otherwise treated in a consistent manner.*

Building 'U' appears to have not been altered since its construction in 2001.

The current condition of the Building 'U' indicates that it has been well maintained. The building built in 2001 is outside the period of significance of OSSHAD (1902-1965) and is considered non-contributing, nor is it eligible for listing in the National Register of Historic Places. With its location on West Atlantic Ave, on Block 61 and its OMU and CBD overlay, which allows for a more intense development, the Applicant is requesting demolition of Building 'U' as part of the Swinton Commons redevelopment project.

The current request is to demolish Building 'U' not preserve it. Building 'U' is a fairly recent structure, built in 2001, outside the period of significance of OSSHAD. As a non-contributing

structure and the combination of CBD overlay and an OMU allows for a mixed-use structure of up to 53' at a FAR of 1:1, the Applicant is requesting demolition of Building 'U'. The existing 6,848 SF of non-residential space equates to a FAR of 0:423, making it a prime property for redevelopment.

## **ANALYSIS**

**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.**

The applicable Standards are provided below:

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 1); 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 2); Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved. (Standard 5); 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 6)

The above Standards apply to properties that are being rehabilitated, restored or reconstructed. Based on the findings, Building 'U', built in 2001 is considered non-contributing and is located within a CBD overlay on Block 61. The request before the Board is for demolition, not rehabilitation, restoration or reconstruction. Subsequent analysis of Building 'U' as non-contributing does not warrant being relocated or reconstructed, therefore the Secretary of Interiors Standards for Rehabilitation Standard 1, 2, 5, & 6 and the Delray Beach Historic Preservation Design Guidelines are not applicable.

**Pursuant to LDR Section 4.5.1(F), Demolition, demolition of historic or archaeological sites, or buildings, structures, improvements and appurtenances within historic districts shall be regulated by the Historic Preservation Board and shall be subject to the following requirements:**

- (1) No structure within a historic district or on a historic site shall be demolished before a Certificate of Appropriateness has been issued pursuant to Section 2.4.6(H).**

Building 'U' shall not be demolished until a COA has been issued pursuant to Section 2.4.6(H).

- (2) The application for a Certificate of Appropriateness for demolition must be accompanied by an application for a Certificate of Appropriateness for alterations to the structure or the redevelopment of the property.**

Building 'U' shall not be demolished until a COA demolition and a COA for the redevelopment of the property has been issued

- (3) Demolition shall not occur until a building permit has been issued for the alterations or redevelopment as described in the applicable Certificate of Appropriateness.**

The subject COA is accompanied by a Class V Site Plan for Swinton Commons, which encompasses the subject property. The demolition permit shall not be issued until the building permit is issued for the redevelopment project, which includes other demolitions and relocation of structures.

- (4) All structures approved for demolition and awaiting issuance of a building permit for the alterations or redevelopment shall be maintained so as to remain in a condition similar to that which existed at time that the Certificate of Appropriateness for demolition was approved unless the Chief Building Official determines that an unsafe building condition exists in accordance with Section 4.5.3(G).**

At this time the Chief Building Official has not determined that that Building 'U' is unsafe, consequently, it will remain in existing condition until the CEO for demolition is approved.

This requirement is to ensure that either further neglect takes place, if already in a bad condition, or that the building not fall into disrepair due to neglect while awaiting a building permit. Some properties, although there is an approved site plan, are not redeveloped, and therefore, the structure should be maintained to ensure its viability in the future.

- (5) A Certificate of Appropriateness for demolition of 25% or more of contributing or individually designated structure shall be subject to the following additional requirements:**

- (a) A demolition plan shall accompany the application for a Certificate of Appropriateness for demolition. The plan shall illustrate all portions of the existing structure that will be removed or altered.**
- (b) The Certificate of Appropriateness for demolition and the Certificate of Appropriateness for alterations or redevelopment shall meet the "Additional Public Notice" requirements of LDR Section 2.4.2(b)(1)(i).**

Building 'U' is located within the Swinton Commons CBD overlay on Block 61 where mixed-use redevelopment allows for more intense. Based on Requirement (5) above, (a- b) apply to contributing or individually designated structures. Building 'U' proposed for demolition is considered non-contributing and is not individually designated. Consequently (5) (a – b) pursuant to LDR Section 4.5.1(E) (5), Standards and Guidelines are not applicable.

- (6) The Board upon a request for demolition by a property owner, shall consider the following guidelines in evaluating applications for a Certificate of Appropriateness for demolition of designated historic sites, historic interiors, or buildings, structures, or appurtenances within designated historic districts;**
- (a) Whether the structure is of such interest or quality that it would reasonably fulfill criteria for designation for listing on the national register.**
  - (b) Whether the structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty or economically nonviable expense.**
  - (c) Whether the structure is one of the last remaining examples of its kind in the designated historic district within the city.**
  - (d) Whether retaining the structure would promote the general and value of a particular culture and heritage.**
  - (e) Whether there are approved plans for immediate reuse of the property if the proposed demolition is carried out, and what effect those plans will have on the historic district designation or the individual designation of the property.**

In accordance with the criteria above:

- (a) Building 'U' does not fulfill criteria for designation for listing in the National Register of Historic Places.
- (b) Building 'U' design, craftsmanship or material if reproduced would be an economically non-viable expense.
- (c) Building 'U' is not one of the last remaining examples of its kind in the designated historic district within the city. There are other similar buildings noted within and outside the historic district that were built for utilitarian purposes with no architectural significance.
- (d) Retaining Building 'U' would not promote the general and value of a particular culture and heritage.
- (e) There are proposed plans for immediate reuse of the property if the proposed demolition is carried out. The current site will become part of a setting where three historically significant houses will be ultimately located. The demolition of Building 'U' will not negatively impact the designation of the historic district. The OSSHAD will continue to be a designated historic district.

- (7) No decision of the Board shall result in undue economic hardship for the property owner. The Board shall determine the existence of such hardship in accordance with the definition of undue economic hardship found in Section 4.5.1(H).**

The Applicant has not claimed undue economic hardship with respect to this request. If the Applicant decides to claim undue economic hardship, the APPLICANT must provide necessary information required under Historical Preservation Ordinance Article 4.5: Section 4.5.1.

- (8) The Board's refusal to grant a Certificate of Appropriateness requested by a property owner for the purpose of demolition will be supported by a written statement describing the public interest that the Board seeks to preserve.**

Should the Board deny the request, the Board shall provide an explanation within the motion and a written supporting statement for the record describing the public interest that the Board seeks to preserve.

- (9) The Board may grant a certificate of appropriateness as requested by a property owner, for demolition which may provide for a delayed effective date. The effective date of the certificate will be determined by the Board based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The Board may delay the demolition of designated historic sites and contributing buildings within historic districts for up to six months while demolition of non-contributing buildings within the historic district may be delayed for up to three months.**

If approved, the property owner is not permitted to demolish the structure until a building permit is issued concurrently with the approved redevelopment. Therefore, an additional delay is not necessary, unless the Board can determine that additional time would assist in finding an alternative to the demolition.

- (10) Request for Demolition Justification Statement: A justification statement shall accompany the application for a Certificate of Appropriateness for demolition of any contributing structure in a historic district or individually designated historic structure. The justification statement must include the following:**
- (a) A certified report from a registered architect or engineer which provides documentation explaining that the building is structurally unsound and is damaged beyond the ability to repair it at a reasonable cost. The report must include photographs to substantiate the damage.**
  - (b) A certified report from an engineer, architect, general contractor, or other qualified professional which documents the projected cost of repairing the structure and returning it to a safe and habitable condition.**
  - (c) An appraisal of the property in its current condition, its value as vacant land and its potential value as a preserved and restored historic property.**
  - (d) Documentation that reasonable efforts have been made to find a suitable alternate location for the structure within the City of Delray Beach to which the contributing/ individually designated historic.**
  - (e) Documentation that the APPLICANT or property owner has taken such steps as it deems necessary to preserve the structure requested for demolition including consultation with community groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies, or agencies and exploration of the possibility of moving one or more structures or other features.**

Request for Demolition Justification Statement (10) applies to contributing buildings or individually designated historic structure. Since Building 'U', built in 2001, outside the period of significance of OSSHAD (1902-1965) is considered non-contributing to OSSHAD nor individually designated, Justification Statement Requirements (a-e) are not applicable.

**(11) Salvage and Recordation of Historic Structures:**

- (a) The property owner shall contact the Delray Beach Historical Society for the purpose of salvaging and preserving specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in the restoration of the other historic properties. Confirmation of such efforts shall be provided in a written statement and submitted with the other demolition application prior to consideration by the Historic Preservation Board.**
- (b) The Board may, with the consent of the property owner, request that the Delray Beach Historical Society, or the owner, at the owner's expense, record the architectural details for archival purposes prior to demolition.**
  - i. The recording may include, but shall not be limited to photographs, documents and scaled architectural drawings to include elevations and floor plans.**
  - ii. One (1) copy of the recording shall be submitted to the City's Planning and Zoning Department, and one (1) copy shall be submitted to the Delray Beach Historical Society for archiving purposes.**

In compliance with Standard (11) (a- b) and at the expense of the Applicant, with City staff, shall conduct an inventory shall be conducted of all historically salvable materials from the structures to be demolished prior to release of demolition permits, including but not limited to flooring, doors, windows, and hardware. The Applicant would reuse materials on relocated properties where possible. A copy of the recorded inventory shall be submitted to the City's Planning & Zoning Department and the Delray Beach Historical Society for archiving purposes.

<b>ALTERNATIVE ACTIONS</b>
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- A. Continue with direction.
- B. Move approval of the COA (Building 'U') for the demolition of the structure located at 20 West Atlantic Avenue, Old School Square Historic District, by adopting the findings of fact and law contained in the staff report and finding that the request is consistent with LDR Sections 4.5.1 (E)(5) and 4.5.1(F).
- C. Move denial of the COA (Building 'U') for the demolition of the structure located at 20 West Atlantic Avenue, Old School Square Historic District, by adopting the findings of fact and law contained in the staff report and finding that the request is not consistent with LDR Sections 4.5.1 (E)(5) and 4.5.1(F).

<b>RECOMMENDATION</b>
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Move approval of the COA (Building 'U') for the demolition of the structure located at 20 W Atlantic Avenue, Old School Square Historic District, by adopting the findings of fact and law contained in the staff report and finding that the request is consistent with LDR Sections 4.5.1 (E)(5) and 4.5.1(F).