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Timothy Stillings, *Director*  
City of Delray Beach  
Planning and Zoning  
100 NW 1<sup>st</sup> Avenue  
Delray Beach, Florida 33444

**RE: Withdrawal of Request to appeal Historic Preservation Board's ("HPB") decisions on June 27, 2017 related to Certificates of Appropriateness ("COA") associated with the Swinton Commons Project (2016-073)**

Dear Tim,

As you are aware, the City of Delray Beach's ("City") HPB considered several COA's for the Swinton Commons Project at its June 26<sup>th</sup> meeting, which was continued to June 27, 2017. Ultimately, HPB denied the following COAs:

1. 2016-073 Class V Site Plan Application;
2. Landscape Plan;
3. Architectural Elevations;
4. Waivers;
5. Relocation of Building A (Rectory);
6. Relocation of Building B (Rectory Annex);
7. Relocation of Building C (Bakery);
8. Relocation of Building E (Cathcart House);
9. Relocation of Building F (Peach House);
10. Demolition of Building E1 (Cathcart Garage); and
11. Demolition Building G-ACC (Garage Structure).

On June 12, 2017, our firm, acting as authorized agent for the Applicant, MGM Sundry House, LLC, appealed the HPB's denials for COA items 5 through 11 above, but did not specifically appeal the site plan and associated landscape plan, architectural elevations, and waivers. Moreover, on July 18, 2017, the City Commission voted to appeal all of the COAs approved by the HPB for the Swinton Commons Project, which include the following COAs (collectively, "HPB Approvals"):

1. Conditional Use;
2. Relocation of Building D;
3. Relocation of building G (Yellow House);
4. Relocation/Reconstruction of Building H (White House);
5. Demolition of Building T (Check Cashing Store);
6. Demolition of Building U;
7. Demolition of Building V;
8. Demolition of Building W;
9. Demolition of Building X;
10. Demolition of Building Y; and
11. Demolition of Building Z.

The hearing for the aforementioned appeals is currently scheduled for October 17, 2017. Because the Swinton Commons Project site plan is not the subject of any appeal, it follows that there is no site plan to implement the HPB Approvals. As such, no action on the HPB's Approvals can be taken until a new site plan is submitted and approved.

On September 6, 2017, the Applicant filed a new site plan application, entitled the Midtown Delray Project, which includes all of the elements of the Swinton Commons Project previously supported by staff, but also attempts to address the principal concerns expressed at the HPB hearings. The new site plan is currently undergoing staff review and will ultimately be presented to the HPB for review and approval. In an effort to move the new and improved site plan forward and avoid confusion with appeals associated with the old site plan, the Applicant respectfully withdraws its June 12, 2017 appeal. Applicant also respectfully requests that the City Commission reconsider its appeal of the HPB Approvals in order to allow the evaluation of a new and improved site plan on its own merits and without any confusion that may result from a discussion that would focus on an old, unrelated plan that has now been revised to be consistent with the City's Code of Ordinances. Finally, as the approvals were not really contested by the public, reconsideration of any of the HPB Approvals would not be a valuable exercise.

If you have any further questions or require additional information, feel free to contact me at 561-405-3321 or at [bmiskel@dmblaw.com](mailto:bmiskel@dmblaw.com).

Best,



Bonnie Miskel, Esq.

CC: Steven Michael  
Max Lohman