

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 JUNE 27, 2017  
APPROVALS OF DEMOLITIONS AND RELOCATIONS ASSOCIATED WITH  
MIDTOWN DELRAY, FKA SWINTON COMMONS**

1. This is an appeal of the June 27, 2017 decision by the Historic Preservation Board (“HPB”) approving the Class V Site Plan, Landscape Plan, Architectural Elevations, Demolitions, and Relocations associated with Swinton Commons which came before the City Commission at its meeting on August 1, 2017.

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 Swinton Commons. 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

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 December 4, 2012, 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.

and

Central Business District Zoning District provided in Exhibit "A".

**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:** Objective B-2 of the Land Use Element of the Comprehensive Plan requires that development not exceed the ability of the City to fund and provide, or to require the provision of, needed capital improvements for the following areas.

**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 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", provided requirements set forth in Exhibit "B".

**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.

**Have the overall requirements of LDR Section 4.6.13(F)(4)(e)4 been met?**

**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.

**Are the relocations 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 appeal, subject to the following conditions set forth in Exhibits "A."

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 Lohman, Esq.  
City Attorney

## **EXHIBIT “A”**

1. That the locations of the generators are provided on the plans together with the source of fuel prior to certification of the site plan.
2. That the discrepancies exist between the architectural elevations and floor plans related to fenestration pattern, building articulation, and balcony location be resolved prior to certification of the site plan.
3. That the proposed landscaping in the front setback areas be redesigned to terrace the slope to prevent run off on the sidewalk and erosion prior to certification of the site plan.
4. That a payment of \$305,100 to the Delray Beach Tree Trust Fund for remediation of the trees to be removed.