

# PLANNING AND ZONING BOARD

## CITY OF DELRAY BEACH

### ---STAFF REPORT---

**MEETING DATE:** October 17, 2016

**ITEM:** **Swinton Commons-Alley Abandonment, Block 61 (2016-080)** - Abandonment of the alley right-of-way within Block 61, Town of Linton Plat, in association with the proposed Swinton Commons development.

**RECOMMENDATION:** Recommend approval to the City Commission.

#### GENERAL DATA:

Applicant..... MGM Sundry House, LLC

Agent..... Bonnie Miskel, Esq. – Dunay, Miskel  
and Backman LLP

Location..... Block 61, bounded by West  
Atlantic Avenue to the north, SW  
1<sup>st</sup> Avenue to the west, SW 1<sup>st</sup>  
Street to the south, and South  
Swinton Avenue to the east.

Property Size..... Approx. 9,198.43 square feet

Existing FLUM ..... Other Mixed Use (OMU)

Current Zoning..... Old School Square Historic Arts  
District (OSSHAD) with CBD  
(Central Business District) overlay.

#### Adjacent Zoning:

North: OSSHAD with CBD Overlay

East: OSSHAD

South: OSSHAD

West: CF (Community Facilities)

Existing Land Use..... Improved right-of-way.

Proposed Land Use..... Aggregation into adjacent lots for  
new mixed-use development.

Water Service..... Existing on Site.

Sewer Service..... Existing 8" main to be removed;  
connection provided at south end  
of block to 8" main.

## ITEM BEFORE THE BOARD

The item before the Board is that of making a recommendation to the City Commission on the proposed abandonment of the alley right-of-way located within **Block 61**, associated with the proposed **Swinton Commons** development, pursuant to LDR Section 2.4.6(M), Abandonment of Rights-of-Way.

## BACKGROUND

Block 61 is located on the south side of West Atlantic Avenue, between South Swinton Avenue and SW 1<sup>st</sup> Avenue, and is zoned Old School Square Historic Arts District (OSSHAD). The alley right-of-way was dedicated by the "Town of Linton" plat, which was recorded in Plat Book 1, Page 3. The area to be abandoned is 16 feet wide by approximately 451.46 feet long, running north and south, and approximately 139.44', running east and west.

The abandonment is to accommodate a portion of the proposed Swinton Commons development, a multi-block, mixed-use development. The proposed development within Block 61 will consist of the relocation of both The Rectory located at 20 South Swinton Avenue and the Cathcart House located at 38 South Swinton Avenue within the block, further down South Swinton Avenue. Three contributing structures will be relocated to the Sundy House property, and multiple accessory structures and the two non-contributing structures on West Atlantic Avenue will be demolished. A new, four-story mixed-use building will be constructed along West Atlantic Avenue and consist of retail and restaurant on the first floor, office on the second floor, and 16 residential units on the third and fourth floors. Four new, two-story structures will be constructed along South Swinton Avenue and consist of retail or restaurant on the ground floor and two residential units in the second floors of each structure. Along SW 1<sup>st</sup> Avenue, two three-story buildings will be constructed which consist of ground floor retail in the northern building, and a total of 12 Residential-type Inn units between the two buildings. An underground parking garage will accommodate parking, and will be constructed below a majority of the block. The proposed area to be abandoned will provide common green area within the block's new development with pedestrian access throughout.

## ABANDONMENT ANALYSIS

Pursuant to **LDR Section 2.4.6(M)(1)**, public right-of-way may be abandoned (returned) to the fee description of adjacent property to the same degree in which it was originally obtained (i.e. property dedicated exclusively from a single parcel shall be returned to that parcel; property dedicated through subdivision shall be divided at the center line and returned equally to abutting parcels.)

As previously stated, the subject alley right-of way was dedicated by the Town of Linton plat. The applicant owns the entire block and proposes to redevelopment the entire block, thereby permitting the land to be absorbed into the development.

The City's Environmental Services Department (ESD) has reviewed the request and has not indicated any concerns. For any existing utility easements to be abandoned, the utilities within those easements must be relocated subject to approval by the appropriate jurisdiction and County/State agencies. Any new easement dedications will require that the approved Resolution allow the acceptance of the replacement easements since the plat will not be approved concurrently. The utility companies will be required to sign-off on the composite utility plan which will indicate all replacement easements prior to the replat. The existing sewer line which runs through the entire alley will be removed; sewer connection will be provided at the south end of the block and connect to the 8" main which remains in the Sundy House block.

## REQUIRED FINDINGS

Pursuant to **LDR Section 2.4.6(M)(5)**, prior to any right-of-way abandonment being approved, the following findings must be made:

A) That there is not, nor will there be a need for the use of the right-of-way for any public purpose.

The alley proposed for abandonment presently serves a public purpose as it provides access to the rear of the properties throughout the block. However, the entire block has the same property owner and will be redeveloped leaving no further need for public use of the alley right-of-way. In addition, the existing alley did not provide a connection to other alleys in adjacent blocks, and therefore, will not impact public use in this aspect, either.

B) That the abandonment does not, nor will not, prevent access to a lot of record.

As stated above, the entire block will be redeveloped and replatted. The redevelopment has been designed to provide access to the multiple buildings which does not require rear access. The rear access in alleyways is typically utilized by delivery trucks and waste collection. However, an area has been reserved for these purposes within the building at the southwest corner of the block.

C) That the abandonment will not result in detriment to the provision of access and/or utility services to adjacent properties or the general area.

As previously noted, the review of the subject abandonment without the concurrent review of a plat will require that any new replacement easement dedications be permitted with the Resolution to ensure continued provision of access and services to utilities.

## REVIEW BY OTHERS

At its meeting of September 22, 2016, the **Community Redevelopment Agency** (CRA) considered the complete development request, which included the subject abandonment, and the consensus was to not support the request.

The **West Atlantic Redevelopment Coalition** (WARC) has not yet considered the development request due to the canceled meeting on October 6, 2016. If the meeting is rescheduled prior to the Planning and Zoning Board meeting, the WARC recommendation will be presented during the Staff presentation.

Courtesy notices have been provided to the following groups and neighborhood associations:

- Delray Citizen's Coalition

Formal public notice has been provided to property owners within a 500' radius of the subject property. The Planning Department has not received any letters of opposition to the abandonment. Additional letters of objection or support, if any, will be provided at the Planning and Zoning Board meeting.

## ALTERNATIVE ACTIONS

A. Continue with direction.

- B. Move a recommendation of approval of the request for the abandonment of the alley right-of-way located within **Block 61**, associated with the **Swinton Commons** development, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations.
- C. Move a recommendation of denial of the request for the abandonment of the alley right-of-way located within **Block 61**, associated with the **Swinton Commons** development, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is not consistent with the Comprehensive Plan and that the required findings of LDR Section 2.4.6(M)(5) cannot be made.

<b>RECOMMENDED ACTION</b>
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Move a recommendation of approval to the City Commission of the request for the abandonment of the alley right-of-way located within **Block 61**, associated with the **Swinton Commons** development, by adopting the findings of fact and law contained in the staff report, and finding that the request and approval thereof is consistent with the Comprehensive Plan and meets criteria set forth in Section 2.4.6(M)(5) of the Land Development Regulations.