

HISTORIC PRESERVATION BOARD

CITY OF DELRAY BEACH

---STAFF REPORT---

MEETING DATE: December 19, 2017

ITEM: 38½ South Swinton Avenue, Old School Square Historic District (Building 'E1') – Consideration of a Certificate of Appropriateness for the demolition of a contributing accessory structure.

RECOMMENDATION: Approve the Certificate of Appropriateness for the demolition of building 'E1'

GENERAL DATA:

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

Agent: Bonnie Miskel, Esq. - Dunay,
Miskel and Blackman, LLP

Location: 38½ South Swinton Avenue (outbuilding
between W. Atlantic Avenue and
SW 1st Street

Zoning District: Old School Square Historic Arts
District (OSSHAD)

Historic District: Old School Square Historic
District

Building Reference: Building ('E1')

Year Built: 1940

Present Use: Small residential/storage unit to
principal Building 'E'



ITEM BEFORE THE BOARD

The item before the Board is a Certificate of Appropriateness (COA) for the demolition of Building 'E1', located at 38½ South Swinton Avenue, Old School Square Historic District, pursuant to LDR Sections 4.5.1 (E)(5) and 4.5.1(F).

BACKGROUND & PROJECT DESCRIPTION

The subject property at 38½ South Swinton Avenue on Lot 13, Block 61 is located between West Atlantic Avenue and SW 1st Street in OSSHAD. This 621 SF small structure appears to have served possibly as a garage and at some point as a small guest house to the main house known as the Cathcart House (Building 'E'). According to Property Appraiser PAPA report, it was built in 1940. The Sanborn maps indicate there was a garage footprint on maps 1926, 1946 & 1963 basically at the same location. The existing building appears to be a replacement of the original. It is a one-story, simple frame vernacular with a low pitch gable roof, and lap siding walls. The interior floor plan indicate it has a kitchen, bathroom, living room and one bedroom. The west end of the building is unfinished and used for storage. There is a finished enclosed porch on the east elevation. Building 'E1' is within the Midtown Delray mixed-use redevelopment project. It is associated with the developmental history of the area that occurred during the 1940s.

Building 'E1' is a secondary building to Building 'E'. The building appears to be structurally sound, although there is some level of decay and in need of maintenance.

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.

The Property Appraiser's report indicate Building 'E1' was built in 1940 possibly replacing an earlier garage whose small footprint appeared on Sanborn map 1922. Later Sanborn maps 1926, 1946, 1963 indicates it was enlarged and later a small porch was added on the east facade. It now exhibits a one bedroom, living room with a bathroom, possibly used as a small guest house associated with Building 'E.'

The current condition of Building 'E1' appears to be structurally sound, although has some level of decay and maintenance issues. Although Building 'E1' is considered contributing, it is a secondary building to Building 'E' and has no architecturally significant features associated with the principal Building 'E'. The Applicant is requesting demolition of Building 'E1' as there is no use or rationale to include in the mixed-use redevelopment associated with Midtown Delray.

The Applicant's request is for demolition of Building 'E1', a secondary building to the Cathcart House ('E'). The request is based on the following: a) 'E-1's' utility is limited to serving as an outbuilding to the main structure, which is proposed to be relocated within Block 61; b) The proposed future use of the Cathcart House would no longer require the

utility of 'E-1'; c) Independently, 'E-1' has little individual merit; d) Its small footprint and limited use and lack of architectural significance does not warrant its relocation within the proposed Midtown Delray Redevelopment project, and; e) It does not make economic sense to relocate it and no interest has been expressed by other parties for its relocation. Additionally, the demolition of 'E-1' would not negatively affect OSSHAD, it will continue to be a designated historic district. It was built in 1940 to replace an earlier structure. It would not individually fulfill criteria for designation as a listing in the National Register. 'E-1' has no significant features and can be easily be reproduced, and it is not one of the last remaining examples of this kind in the historic district or the city in general.

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)

Building 'E1' is classified as contributing, however, it does not share any of the defining features finishes, construction techniques or has examples of craftsmanship that characterize its principal building, the Cathcart House, that should be preserved. While built in 1940 within the period of significance of OSSHAD, it is of little individual merit itself. Its demolition would not negatively affect OSSHAD as a historic district. OSSHAD would continue to be a designated historic district. The request before the Board is for demolition of 'E-1'. To demolish Building 'E-1' the applicant shall adhere to Standards and Guidelines 1, 2, 5 & 6, pursuant to LDR Section 4.5.1(E)(5) noted above as applicable, and in accordance to The Secretary of the Interior's Standards for Rehabilitation, and the Delray Beach Historic Preservation Design Guidelines, as amended from time to time.

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 'E1' 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 'E1' shall not be demolished until 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 Midtown Delray, which encompasses the subject property. The demolition permit for Building 'E1' shall not be issued until the building permit is issued for the entire 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 'E1' is unsafe, consequently, Building 'E1' shall be properly maintained in its existing condition until the COA 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 'E-1' classified as contributing is proposed for demolition. The Applicant shall adhere to the COA requirements (5) (a- b) as noted above and in compliance with of LDR Section 2.4.2(b) (1) (i).

- (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.**

The following is in compliance with the guidelines for COA for demolition as noted above.

- (a) Building 'E1' does not fulfill criteria for designation for listing in the National Register of Historic Places.
 - (b) Building 'E1' design, craftsmanship or material if reproduced would be an economically non-viable expense.
 - (c) Building 'E1' 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.
 - (d) Retaining Building 'E1' 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 proposed Midtown Delray mixed-use redevelopment. The demolition of Building 'E1' should not negatively impact the designation of the historic district. The OSSHD 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 does claim Undue economic hardship all materials must be submitted pursuant to Section 4.5.1(H).

- (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 supported by a written statement 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 development. 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.**

Building 'E-1' is classified as contributing to OSSHD and is a secondary building to the Cathcart House. The applicant shall provide A Justification Statement to accompany the application for a Certificate of Appropriateness in compliance with Standard (10) (a-e) as noted above as applicable. Relocation would not make economic sense and no interest has been expressed by the parties as to its location.

(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 (11) (a & b), at the expense of the Applicant with City staff an inventory should be conducted of all 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 recording shall be submitted to the City's Planning, Zoning and Building Department, and to the Delray Beach Historical Society for archiving purposes.

ALTERNATIVE ACTIONS

- A. Continue with direction.
- B. Move approval of the COA (Building 'E-1') for the demolition of the contributing accessory structure located at 38½ South Swinton 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 'E-1') for the demolition of the contributing accessory structure located at 38½ South Swinton Avenue, Old School Square Historic District, by finding that the request is not consistent with LDR Sections 4.5.1 (E)(5) and 4.5.1(F).

RECOMMENDATION

Move approval of the COA (Building 'E-1') for the demolition of the contributing accessory structure located at 38½ S Swinton 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).



MIDTOWN DELRAY

Number	Address
1A	14 S Swinton Ave (Relocation)
1B	20 W Atlantic Ave (Relocation)
3	22 S Swinton Ave (Relocation)
4	38 S Swinton Ave (Relocation)
5	40 S Swinton Ave (Relocation)
6	44 1/2 S Swinton Ave (Demolition)
7	38 1/2 S Swinton Ave (Demolition)



Planning, Zoning and
Building Department



Midtown Delray Boundary

Midtown Delray



1 inch = 200 feet