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MICHAEL S. WEINER, ESQ.
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February 14, 2019

Via Hand Delivery and E-Mail

Ms. Katerri Johnson
City Clerk
City of Delray Beach
100 NW 1st Ave.
Delray Beach, FL 33444

Re: Administrative Appeal, 143 S. Swinton Ave.

Dear Ms. Johnson:

This letter is an appeal filed pursuant to Section 2.4.7(E) of the City of Delray Beach Land Development Regulations ("LDRs") on behalf of Nigel Development, Inc. (the "Appellant") the owner of property located at 143 S. Swinton Ave., Delray Beach, Florida 33444 (the "Property"). This is an appeal of an administrative interpretation and/or a finding made by an approving body and/or of a decision made by an approving body.

This appeal is being made by Sachs Sax Caplan, P.L. counsel for the Appellant, pursuant to Section 2.4.7(E)(2) of the LDRs. The required appeal fee in the amount of \$1,000.00 is enclosed. The action being appealed is the decision by the Historic Preservation Board (the "Board") to deny the waiver request, deny the Class V Site Plan and Certificate of Appropriateness, deny the landscape plan, deny the architectural elevations, deny the setback variance request, and deny the landscape variance request. The action was taken by the Board at its meeting on February 6, 2019, and the Board sent a letter to Appellant on February 12, 2019 detailing its decision. A copy of the letter from the Historic Preservation Board is attached as Exhibit "A". The basis of the appeal is discussed further below. The Appellant's interest is that the Appellant is the owner of the property and is unable to construct the desired addition to the existing structure without approval of the Historic Preservation Board.

At its February 6, 2019 meeting, the Historic Preservation Board failed to consider substantial competent evidence meeting the standard of proof for the support of the applications. The Board's decision is not supported in that the evidence submitted met the burden of proof. Accordingly, the Board's decision was both erroneous and inconsistent with the ordinances and regulations of the City of Delray Beach.

Appellant is respectfully requesting that the City Commission conduct a hearing de novo and determine that the Appellant is entitled to approval of the waiver request, the Class V Site Plan and Certificate of Appropriateness, the landscape plan, the architectural elevations, the setback variance request, and the landscape variance request.

We request this matter be placed on the meeting agenda for the next regular City Commission meeting. Upon your receipt of these materials, if you believe any additional documentation is required, please contact us. We reserve all rights, including but not limited to the right to submit additional evidence in support of this appeal at or prior to the City Commission hearing.

Very truly yours,

SACHS SAX CAPLAN

A handwritten signature in dark ink, appearing to read "Michael S. Weiner", is written over the printed name.

Michael S. Weiner

CC: Lynn Gelin, Esq., via email
Mr. Tim Stillings, via email
Mr. Mark Lauzier, via email

Enclosure



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

February 12, 2019

Jaime Mayo – Nigel Development, Inc.
3705 North Federal Highway
Delray Beach, FL 33483
jmayo@hnm-architecture.com

RE: Notification Letter for 143 South Swinton Avenue – Certificate of Appropriateness (COA) 2018-155 and Variance Request 2018-156

Mr. Mayo:

At its meeting of February 6, 2019, the Historic Preservation Board (HPB) made the following rulings:

Waiver:

Recommended denial to the City Commission for the Waiver request to allow the maximum length of building fronting a street to exceed 60 feet for a total of 63.5 feet facing Swinton Avenue for the property located at **143 S. Swinton Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the criteria set forth in the Land Development Regulations Section 2.4.7(B)(5).

Site Plan and COA

Denied Class V Site Plan and Certificate of Appropriateness 2018-155 for the construction of a 1-story 2,789 square foot addition to the existing contributing structure for the property located at **143 S. Swinton Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the criteria set forth in the Land Development Regulations Sections 2.4.5(F)(5) and 2.4.6(H)(5).

Landscape Plan

Denied Landscape plan for the property located at **143 S. Swinton Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the criteria set forth in the Land Development Regulations Section 2.4.5(H)(5).

Architectural Elevations

Denied Architectural Elevations for the property located at **143 S. Swinton Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the criteria set forth in the Land Development Regulations Sections 2.4.5(I)(5) and 4.5.1(E)(8).

Setback Variance

Denied Setback Variance request to reduce the side interior setback from the required 7'-6" to 5'-0" for the property located at **143 S. Swinton Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the criteria set forth in the Land Development Regulations Section 2.4.7(A)(5).

Landscape Variance

Denied Landscape Variance request to reduce the required width of two landscape islands from 9' to 5' 8½" for the landscape island located on the northeast side of the property, and 6' 2" for the landscape island located at the southeast side of the property located at **143 S. Swinton Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the criteria set forth in the Land Development Regulations Section 2.4.7(A)(5).

Next Steps

Pursuant to the City of Delray Beach Land Development Regulation Section 2.4.7(E), you have the right to appeal the decision by the Board to the City Commission. Such an appeal must be filed within ten (10) working days of the Board action.

If you have any questions, please contact me via email at hoylandm@mydelraybeach.com or by phone at (561) 243-7039.

Regards,

A handwritten signature in black ink that reads "Michelle Hoyland". The signature is fluid and cursive, with the first name "Michelle" and last name "Hoyland" clearly distinguishable.

Michelle Hoyland,
Principal Planner
Historic Preservation

Cc: Departmental File