



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING  
100 NW 5TH AVENUE, DELRAY BEACH, FLORIDA 33444  
(561) 243-7040

## HISTORIC PRESERVATION BOARD STAFF REPORT

### 246 North Swinton Avenue

Meeting	File No.	Application Type
November 04, 2020	2021-022	Historic Property Ad Valorem Tax Exemption

### REQUEST

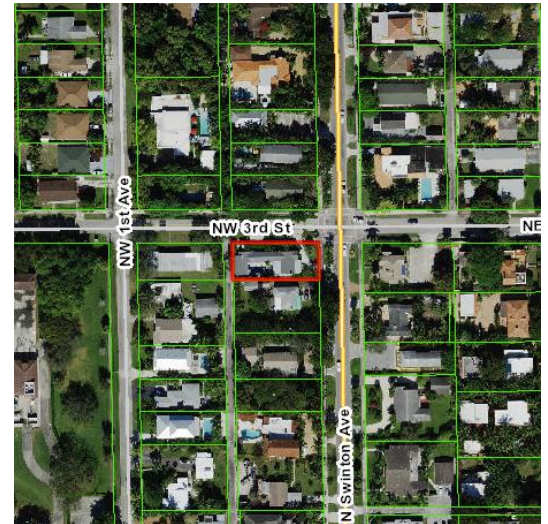
The item before the Board is a recommendation to the City Commission for a Historic Property Ad Valorem Tax Exemption (2021-022) request associated with additions and alterations to a contributing structure located at **246 North Swinton Avenue, Old School Square Historic District.**

### GENERAL DATA

**Owners:** James H. Grabow  
**Agent:** James H. Grabow  
**Location:** 246 North Swinton Avenue  
**PCN:** 12-43-46-17-49-058-0010  
**Property Size:** 0.1684 acres  
**Zoning:** OSSHAD (Old School Square Historic Art District)  
**Historic District:** Old School Square Historic District  
**FLUM:** HMU (Historic Mixed Use)  
**Adjacent Zoning:**

- OSSHAD (Old School Square Historic Art District) (North)
- OSSHAD (Old School Square Historic Art District) (West)
- OSSHAD (Old School Square Historic Art District) (South)
- OSSHAD (Old School Square Historic Art District) (East)

**Existing Land Use:** Residence  
**Proposed Land Use:** Residence



### BACKGROUND AND PROJECT DESCRIPTION

The subject property is located at 246 N. Swinton Avenue, at the southwest corner of North Swinton Avenue and NW 3<sup>rd</sup> Street. The property is zoned OSSHAD and property contains a 1,106 square foot principal residence and a 594 square foot garage. According to City property cards, the residence and associated garage were constructed in 1941. Improvements were made to the garage in 1954, expanding its size to the west and south.

On April 10, 2004, a Certificate of Appropriateness (COA) 2004-199 was administratively approved to allow the structure to be painted pale pink for the body of the building and with hunter green woodwork and trim. A door with fanlight was also approved for installation. On October 4, 2006, COA 2006-437 was approved by the Historic Preservation Board for the installation of as-built accordion shutters and an exterior color change. On April 18, 2007, COA 2007-117 was approved by the Historic Preservation Board for a new retractable awning. On January 07, 2014, COA 2014-075 was approved by the Historic Preservation Board for a color change to allow the structure to be repainted; although, the color change was not completed.

#### Project Planner:

Project Planners: Katherina Paliwoda, Planner  
[PaliwodaK@mydelraybeach.com](mailto:PaliwodaK@mydelraybeach.com)

#### Review Dates:

HPB: November 4, 2020

#### Attachments:

1. Tax Exemption Application
2. Warranty Deed & Tax Bill
3. Certificate of Occupancy
4. Approved Plans & Survey
5. Before & After Photographs

On November 1, 2017, COA 2017-221 was approved for alterations to the existing single-family residence, conversion of the existing garage to a one-bedroom residential unit, construction of new covered carport/breezeway to connect the main residence to the new residential unit as well as a new pool, BBQ area, and a four foot high wall. It is noted that the garage was illegally converted to a residential unit previously. While the additional unit is permitted in the OSSHAD, it cannot be determined when this conversion took place; thus, the subject request also includes the conversion of the existing garage to a residential unit to establish the unit legally. In October 30, 2017, a pool permit was approved for a 232 sq. ft pool with a 2,152 sq. ft. deck and patio addition.

On February 13, 2019, COA 2018-063 was administratively approved to modify the fence design approved for the contributing property.

Based on State of Florida regulations, a Historic Property Ad Valorem Tax Exemption can be approved for a project before, during, or after it has been undertaken. The applicant therefore requests consideration of the Historic Property Ad Valorem Tax Exemption as the project is complete. It is noted that the applicant submitted the Exemption application request in October 2020, which will result in a gap year for property taxes.

#### **HISTORIC PROPERTY AD VALOREM TAX EXEMPTION**

Pursuant to LDR Section 4.5.1(J), a tax exemption is available for improvements to qualifying contributing properties in a designated historic district or individually designated properties, as listed in Section 4.5.1(I). Qualifying properties shall be exempt from that portion of ad valorem taxation levied by the City of Delray Beach on one hundred percent (100%) of the increase in assessed value resulting from any HPB approved renovation, restoration, rehabilitation, or other improvements of the qualifying property made on or after the effective date of the original passing of Ordinance 50-96 on November 19, 1996.

LDR Section 4.5.1(J)(1), clarifies that the exemption does not apply to the following:

- (a) Taxes levied for payment of bonds;
- (b) Taxes authorized by a vote of the electors pursuant to Section 9(b) or Section 12, Article 7 of the Florida Constitution; or
- (c) Personal property.

LDR Section 4.5.1(J)(2), explains the exemption period shall be for ten (10) years, unless a lesser term is set by the City Commission.

- (a) The term of the exemption shall be specified in the resolution approving the exemption and shall continue regardless of any changes in the authority of the City to authorize such exemption or change in ownership of the property.
- (b) To retain an exemption, the historic character of the property and the improvements which qualified the property for an exemption must be maintained in their historic state over the period for which the exemption was authorized.

LDR Section 4.5.1(J)(4) provides the parameters for qualifying properties and improvements. The subject property qualifies as it is listed on the Local Register of Historic Places. LDR Section 4.5.1(J)(5) requires that for an improvement to a historic property to qualify the property for an exemption, the improvement must:

- (a) be consistent with the United States Secretary of the Interior's Standards for Rehabilitation, as amended; and
- (b) be a constructed and/or installed improvement as approved by the Historic Preservation Board and as established in rules adopted by the Department of State, Division of Historical Resources, FAC 1A-38, as amended which defines real property improvements as changes in the condition of real property brought about by the expenditure of labor and money for the restoration, renovation, or rehabilitation of such property. Improvements shall include, but are not limited to modifications, repairs, or additions to the principal contributing building and its

associated accessory structures (i.e. a garage, cabana, guest cottage, storage/utility structures, swimming pools), whether existing or new. The exemption does not apply to improvements made to non-contributing principal buildings, existing non-contributing accessory structures, or undesignated structures and/or properties; and,

- (c) be consistent with Section 4.5.1(E), "Development Standards", of the City's Land Development Regulations; and
- (d) include, as part of the overall project, visible improvements to the exterior of the structure.

The request meets the above criteria (a) and (b) through previous approval by the Board of the associated improvements outlined above which constituted its compliance with the Secretary of the Interior's Standards for Rehabilitation, as well as the rules of Florida Administrative Code 1A-38, promulgated by the Florida Department of State, Division of Historical Resources. The request further meets criterion (c) per the COA approval, which applied the LDR Development Standards in the assessment of the proposal. Finally, the request meets criterion (d) as the project encompasses visible improvements to the exterior of the building and related property.

Pursuant to LDR Section 4.5.1(J)(7), any property owner, or the authorized agent of the owner, that desires an ad valorem tax exemption for the improvement of a historic property must submit a Historic Property Tax Exemption Application to the Planning and Zoning Department upon completion of the qualifying improvements.

- (a) The application shall indicate the estimated cost of the total project, the estimated cost attributed solely to the historic structure, and project completion date as determined by the Certificate of Occupancy issued by the Building Department.
- (b) The Historic Property Tax Exemption Application shall be accompanied by a copy of the most recent tax bill from the Palm Beach County Property Appraiser for the property; a new property survey illustrating the improvements; a copy of the building permit application indicating estimated project cost; a copy of the Certificate of Occupancy/Final Inspection; and photographs illustrating the before and after of each improvement, including both the interior, exterior, and all new construction. The photographs shall be identified with a date and description indicating the impact of the improvement.
- (c) The application must be submitted within three (3) months from the date of issuance of a Certificate of Occupancy.
- (d) The Historic Preservation Planner will inspect the completed work to verify such compliance prior to Historic Preservation Board review.
  - a. If the Historic Preservation Board determines that the work is a qualifying improvement and is in compliance with the approved plans and the review standards contained in Section 4.5.1(E), the Board shall recommend that the City Commission grant the Historic Property Tax Exemption Application.
  - b. Upon a recommendation of approval of a Historic Property Tax Exemption Application by the Historic Preservation Board, the application shall be placed by resolution on the agenda of the City Commission for approval. The resolution of the City Commission approving the application shall provide the name of the owner of the property, the property address and legal description, a recorded restrictive covenant in the official records of Palm Beach County as a condition of receiving the exemption, and the effective dates of the exemption, including the expiration date.
  - c. If the Historic Preservation Board determines that the work as completed is either not consistent with the approved plans or is not in compliance with the review standards contained in Section 4.5.1(E), the applicant shall be advised that the request has been denied.

The qualifying improvements were completed, and the Historic Property Ad Valorem Tax Exemption Application was submitted on October 19, 2020, The Certificate of Occupancy (C.O.) was issued on June 05, 2019. The tax exemption will be limited to the increase in assessed value (as determined by the Palm Beach County Property Appraiser) resulting from the subject improvements and provide an abatement of taxes on the City and County portions for a period of ten years from the date of approval.

Pursuant to LDR Section 4.5.1(J)(8), Historic Preservation Exemption Covenant, the covenant required in order to qualify for the exemption:

- (a) To qualify for an exemption, the applicant must sign and return the Historic Preservation Exemption Covenant with the Final Application/Request for Review of Completed Work. The covenant as established by the Department of State, Division of Historical Resources, shall be in a form approved by the City of Delray Beach City Attorney's Office and applicable for the term for which the exemption is granted and shall require the character of the property and qualifying improvements to be maintained during the period that the exemption is granted.
- (b) On or before the effective date of the exemption, the owner of the property shall have the covenant recorded in the official records of Palm Beach County, Florida, and shall cause a certified copy of the recorded covenant to be delivered to the City's Historic Preservation Planner. Such covenant shall be binding on the current property owner, transferees, and their heirs, assigns and successors. A violation of the covenant shall result in the property owner being subject to the payment of the differences between the total amount of the taxes which would have been due in March of each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in Sec. 212.12(3), Florida Statutes.

LDR Section 4.5.1(J)(10), Revocation Proceedings, provides guidelines to revocation of the tax exemption upon violation of the recorded covenant.

- (a) The Historic Preservation Board may initiate proceedings to revoke the ad valorem tax exemption provided herein, in the event the applicant, or subsequent owner or successors in interest to the property, fails to maintain the property according to the terms, conditions and standards of the Historic Preservation Exemption Covenant.
- (b) The Historic Preservation Planner shall provide notice to the current owner of record of the property and the Historic Preservation Board shall hold a revocation hearing in the same manner as in Section 4.5.1(M)(10) and make a recommendation to the City Commission.
- (c) The City Commission shall review the recommendation of the Historic Preservation Board and make a determination as to whether the tax exemption shall be revoked. Should the City Commission determine that the tax exemption shall be revoked, a written resolution revoking the exemption and notice of penalties as provided in Paragraph 8 of the covenant shall be provided to the owner, the Palm Beach County Property Appraiser, and filed in the official records of Palm Beach County.
- (d) Upon receipt of the resolution revoking the tax exemption, the Palm Beach County Property Appraiser shall discontinue the tax exemption on the property as of January 1st of the year following receipt of the notice of revocation.

The Sections noted above regarding the "Restrictive Covenant" and "Revocation Proceedings" are provided to demonstrate that the tax exemption is binding, and if violated, the property owner would have to comply with the consequences.

The tax exemption request complies with the criteria contained in LDR Section 4.5.1(J) as the HPB approved the associated improvements by making positive findings with respect to the applicable LDR Sections, Delray Beach Historic Preservation Design Guidelines, and Secretary of the Interior's Standards for Rehabilitation; therefore, positive findings can be made with respect to LDR Section 4.5.1(J).

#### ALTERNATIVE ACTION

- A. Move to continue with direction
- B. Recommend approval to the City Commission of the Historic Property Ad Valorem Tax Exemption Application for improvements to the property at **246 North Swinton Avenue, Old School Square Historic District**, by finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.



- C. Recommend denial to the City Commission of the Historic Property Ad Valorem Tax Exemption Application for improvements to the property at **246 North Swinton Avenue, Old School Square Historic District**, by finding that the request is inconsistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.

**PUBLIC AND COURTESY NOTICES**

☐ Courtesy Notices are not applicable to this request

☒ Public Notices are not required for this request.

☒ Agenda was posted on (10/28/2020)5 working days prior to meeting.