



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### City Center Delray

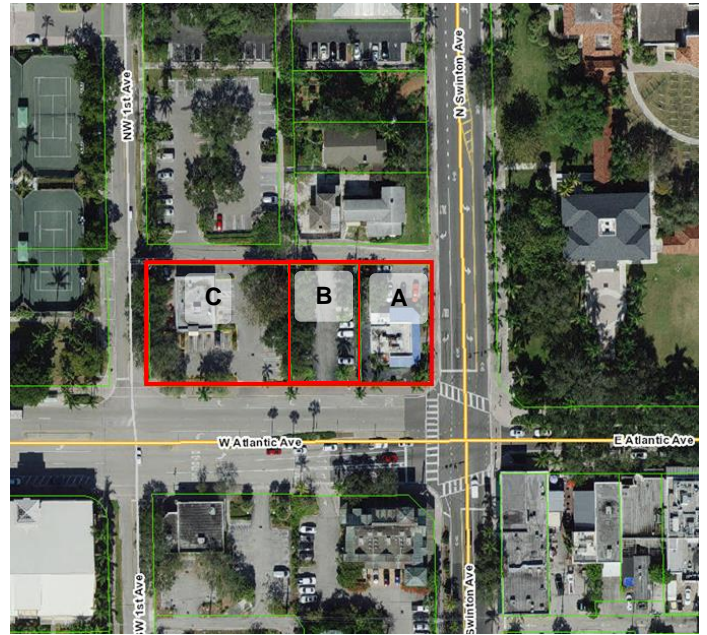
Meeting	File No.	Application Type
August 15, 2022	2022-126	Conditional Use (Outdoor Dining)
Applicant	Owner	Authorized Agents
John Szerdi	MDG Banyan Delray Partners, LLC	John Szerdi and Neil Schiller

**Request**  
 Provide a recommendation to the City Commission regarding a Conditional Use request to allow outdoor dining at night for a restaurant associated with the project known as City Center Delray, located within Old School Square Historic District.

### Background Information

The subject property is specifically located at the northwest corner of North Swinton Avenue and West Atlantic Avenue and is within the Locally and Nationally Designated Old School Square Historic District. The subject property consists of three parcels (map at right), which will be redeveloped as a unified site:

- (A) 10 North Swinton Avenue (which currently contains a Masonry Vernacular style 1951 building that was formerly occupied by an outdoor dining restaurant known as Doc's All American),
- (B) an unaddressed parking lot located west of 10 North Swinton Avenue, and
- (C) 37 West Atlantic Avenue (Dunkin Donuts, a Masonry Vernacular style circa 1980 building and associated parking).



The Doc's property is listed as a contributing resource within the National Register designated Old School Square Historic District, but the property is listed as a non-contributing resource within the Local Register designated Old School Square Historic District.

The 2009 Old School Square Historic District Resurvey recommended that the Doc's property be reclassified as contributing, as the Period of Significance was being expanded to include those eligible resources constructed between 1944 and 1965; however, the owner requested that the subject property not be reclassified. Upon adoption of Ordinance No. 10-10 on June 1, 2010, the Period of Significance for the Old School Square Historic District was expanded to 1965, and 10 of the properties that were recommended for reclassification were not reclassified to contributing, including the subject property, because the property owners were allowed to "opt-out" of this process.

It is noted that the 2020 Historic Resource Resurvey of the Old School Square Historic District retains the recommendation that the property be reclassified as a contributing structure to the Local Register of Historic Places. The 2020 Historic Resource Resurvey project is expected to be scheduled for review by the Historic Preservation Board and City Commission at the end of this year.

Relevant requests from the application and approval history for 10 Swinton Avenue are summarized below:

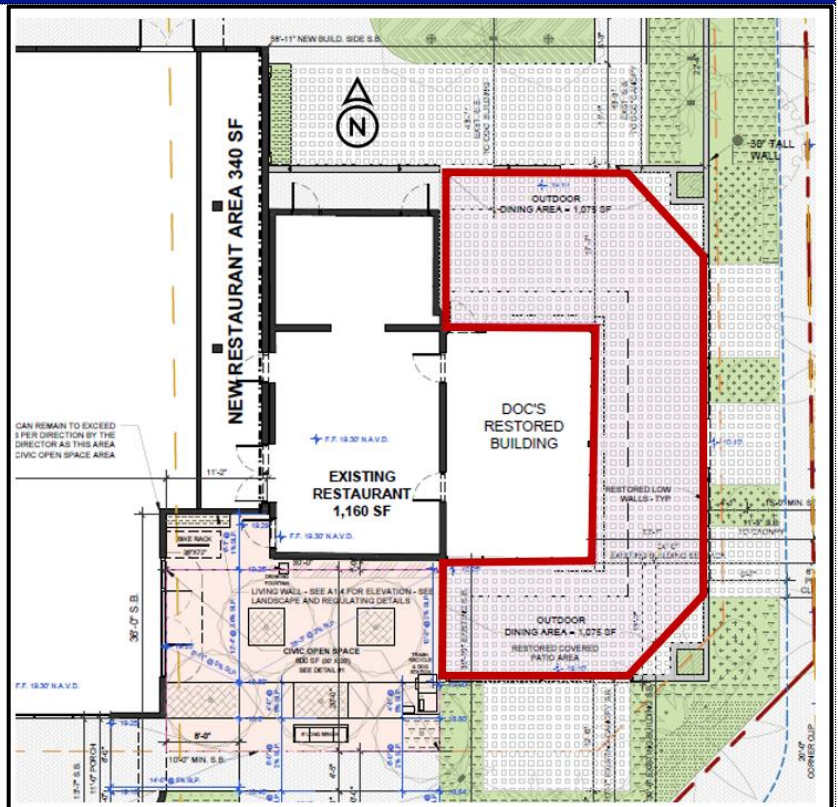
- **1980s.** A bathroom addition was added to the Doc's restaurant in the 1980s, as well as a large awning surrounding the front and sides of the structure.
- **1990s.** The existing neon sign was restored in the 1990s. In 1994, COA 8-217 was approved by the Historic Preservation Board for improvements to the building as well as the addition of new code compliant landscaping, and a new parking lot to the west of the restaurant building.
- **2020.** An application was submitted for a Land Use Map Amendment (LUMA) to change the 0.76-acre property's Land Use designation from Historic Mixed Use (HMU) to Commercial Core (CC) (Ordinance No. 35-21) and a rezoning to change the property's zoning from Old School Square Historic Arts District (OSSHAD) to Central Business District (CBD) (Ordinance No. 34-21). An application was submitted to Individually Designate the Doc's property (10 N. Swinton Avenue) to the Local Register of Historic Places (Ordinance No. 28-21). Other submittals during this time included a Sketch Plan Review, Class V Site Plan, Certificate of Appropriateness, Waiver, In-Lieu of Parking, and Conditional Use. The request for the LUMA and rezoning was denied, and the request to designate 10 N. Swinton Avenue on the Local Register was expected to be scheduled for 2<sup>nd</sup> Reading before the City Commission < ballpark date >, but was postponed at the request of the applicant.
- **2021.** Doc's All American closed.
- **2022.** The applicant submitted a request for conditional use approval to allow outdoor dining at night for a restaurant, which will occupy the existing Doc's building within the City Center Delray project.

#### Description of Proposal

The subject proposal includes a conditional use request to allow outdoor dining at night within Lots 15 & 16, Block 60 of the proposed City Center Delray project, within the OSSHAD zoning district. Portions of the project are located within the CBD Overlay area and are also subject to standards within the CBD zoning district.

The City Center proposal includes utilization of the former Doc's restaurant and the existing 1,075 square foot outdoor dining area (2,575 square feet of total restaurant area). The request is applicable only to the existing Doc's building, which will be retained as part of the proposed mixed use, multi-story redevelopment of the 3 properties as a unified site totaling 0.76 acres.

The restaurant proprietor has not yet been identified, but the request is for operations until 2:00 a.m. It is noted that the proposed restaurant will have no indoor seating. Consistent with the historic form of the restaurant, all proposed seating is outdoor under the area of covered awning located on the front (east) elevation of the restaurant, at the northwest corner of the intersection of N. Swinton Avenue and W. Atlantic Avenue (figure at right).



A restaurant with outdoor dining as its primary use has existed on this property since the 1950's when it was first built; the restaurant has never had an indoor dining area. However, in 1993, outdoor dining at night was established as a conditional use in OSSHAD. Since the use pre-dated the OSSHAD conditional use requirement for outdoor dining, it was considered a legal non-conforming use until 2021 when the restaurant closed. Therefore, pursuant to **LDR Section 1.3.3(B)(3), Discontinuance of use**, *If any nonconforming use on land ceases for any reason for a continuous period of 30 days, every subsequent use of the land shall conform to the*

requirements specified for the zoning district in which the land is located.

Pursuant to **LDR Section 4.4.24(B) Principal uses and structures**, the following types of uses are allowed within the OSSHAD as a permitted use:

- (7) *Restaurants of a sit-down nature such as a cafe, snack shop, full-service dining but excluding any drive-in and/or drive-through facilities or features.*
- (12) *Within the following described areas, the uses allowed as permitted uses in Section 4.4.13(B) pursuant to the base district and special regulations of the Central Business District regulations shall also be allowed in the OSSHAD:*
  - (a) *Lots 13-16, Block 60;*
  - (b) *Lots 1-4, Block 61;*
  - (c) *Lots 1-7, Lots 16-18 and 19-24, Block 69;*
  - (d) *Lots 23-25, Block 70;*
  - (e) *Lots 7—8, and the South 34.75 feet of Lot 6, Block 75; and*
  - (f) *Lots 1—6, Block 76.*

Based upon the above regulation, restaurant uses are permitted as a principal use at this location.

Pursuant to **LDR Section 4.4.24(C), Accessory uses and structures permitted**. The following uses are allowed when a part of, or accessory to, the principal use:

- (5) *Outdoor dining areas which are accessory or supplemental to a restaurant or business use, provided the operation of the outdoor dining area is limited to daylight hours.*

Based upon the above regulation, an outdoor dining area that operates during daylight hours is permitted as an accessory use to a restaurant. However, pursuant to **LDR Section 4.4.24(D), Conditional uses and structures allowed**, the following uses are allowed as conditional uses within the OSSHAD:

- (1) *Outdoor dining which operates at night or which is the principal use or purpose of the associated restaurant.*

Both the OSSHAD and CBD Overlay areas permit restaurants as a principal use and allow outdoor dining areas that are accessory or supplemental to a restaurant, provided the operation of the outdoor dining area is limited to daylight hours. However, the operation of outdoor dining at night requires approval of a conditional use. The applicant seeks approval to operate the proposed restaurant and associated outdoor dining areas at night.

The subject conditional use request is associated with a Class V Site Plan Modification and Certificate of Appropriateness that also includes a Waiver and In-Lieu Parking request for the property, which will be reviewed by the Historic Preservation Board at a future date. The Conditional Use request is now before the Historic Preservation Board for review and recommendation to the Planning and Zoning Board.

The applicant has submitted a justification statement for the conditional use request (attached).

## Review and Analysis

Pursuant to **LDR Section 4.4.24(E)(4)**, Conditional uses must be approved pursuant to Section 2.4.5(E). Prior to action by the Planning and Zoning Board, the conditional use request must be reviewed by the Historic Preservation Board with a recommendation forwarded to the Planning and Zoning Board.

The request was heard by the Historic Preservation Board (HPB) on August 3, 2022, and HPB voted 6-0 to recommend approval of the request. Following City Commission' action on the conditional use request, the HPB will review and act upon the request for a Certificate of Appropriateness (COA) and Class V Site Plan.

### LDR Section 2.4.5(E), Establishment of a Conditional Use

Pursuant to **LDR Section 2.4.5(E)(1), Rule**, the City Commission, by motion, after review and recommendation for approval by the Planning and Zoning Board may approve or reject a request for a conditional use.

The City Commission will review the subject request at an upcoming meeting. The request was reviewed by the Historic Preservation Board on August 3, 2022. In addition, a recommendation of approval by the Planning and Zoning Board is required to the City Commission. Conditional use requests that do not receive a recommendation of approval by the Planning and Zoning Board do not move forward to the City Commission for consideration.

### REQUIRED FINDINGS

Pursuant to **LDR Section 2.4.5 (E)(5), Findings**, in addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

- a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;
- b) Hinder development or redevelopment of nearby properties.

The subject site encompasses three parcels located at the southeast intersection of North Swinton Avenue and West Atlantic Avenue. The property is located within the OSSHAD district with CBD overly on the site's frontage to the south. The outdoor dining component is situated on the northeast, east, and southeast sides of the property side of the property along the subject corner of the intersection. The proposed restaurant and outdoor dining areas are commercial uses within the boundary of the project site along with additional retail and office uses. Adjacent to the property to the west are the city tennis courts. Situated directly across North Swinton Avenue to the east is Old School Square. The Delray Beach Community Redevelopment Agency (DBCRA) office and public parking lot are located directly north of the subject property. To the southeast of the property, is Bull Bar (stand-alone bar), Tennis, Inc. (retail), and Jimmy's Bistro (restaurant). Directly south is the most recently approved Sundry Village project, which includes, restaurant (with outdoor dining at night), retail, and office use. The Delray Beach Public Library and associated parking lot, exists to the southwest, which is zoned CF (see map above). The location of outdoor dining along at such a prominent intersection (as it has historically existed) will likely contribute to the continuation of a positive pedestrian experience within the central downtown area.



In consideration of the request, the Board must consider if the proposed nighttime outdoor dining area will have a significantly detrimental effect upon the stability of the neighborhood and the surrounding areas. The OSSHAD is the only mixed-use zoning district that also allows single-family residential and duplex uses, which is likely the basis for requiring a conditional use approval for outdoor dining to continue operating into the nighttime hours. The conditional use process allows the approving bodies to evaluate the circumstances of a particular request on its own particular conditions. While the proposed City Center Delray development provides a

mix of uses, there are no single-family residences included in the development plan of Block 60. Single-family residences do, however, exist within the block to the north; one is 90 feet to the north, adjacent to the DBCRA Office Building, and the other is 315 feet to the north directly south of Dadas Restaurant (which also includes outdoor dining at night). The proposed outdoor dining areas are surrounded by non-residential uses along the intersection of two major downtown corridors (Atlantic and Swinton Avenues), which provides a measure of buffering for residential properties.

The request is not expected to hinder development nor redevelopment of nearby properties. The proposal will restore and rehabilitate the structure associated with Doc's and retain the historic form and use of the building. A restaurant use with outdoor dining at night has existed on the subject property for more than 70 years; if approved, the conditional use request would re-establish the use that had existed previously. Additionally, the proposal is associated with a request that will restore and rehabilitate the structure known as Doc's, which helps to retain the rich local history of the area while, further stimulating economic development of the downtown.

Subject to separate site plan approval, the proposed outdoor dining areas will be situated under a covered awning surrounding the existing Doc's building from the northeast to southeast areas along South Swinton Avenue and West Atlantic Avenue. The proposed Civic Open Space area is located to the west of the outdoor dining area on the south side of the property which fronts West Atlantic Avenue and South Swinton Avenue. The dining area will be set back from the adjacent rights-of-way and will be buffered by landscaping with low walls to match what was existing on site. All hardscaping elements, such as the walkway pavers throughout the site, are proposed in compliance with the CBD zoning regulations. In addition, the subject request is anticipated to make improvements to the pedestrian connection of E. Atlantic Avenue to W. Atlantic Avenue, which will make the area safer and attractive to visitors.

#### **LDR Section 2.4.4(C), Imposition of conditions**

In granting approval to any development application, the granting body may impose whatever conditions it deems necessary in order to insure:

- *The compatibility of the use with nearby existing and proposed uses.*
- *Concurrency.*
- *Consistency with objectives and policies of the Comprehensive Plan.*
- *The fulfillment of requirements of these Regulations which should have or could have been fulfilled prior to the approval action but which were not, due to conditions beyond the control of the applicant.*
- *The fulfillment of requirements of these Regulations which could have been fulfilled prior but remain outstanding; thus, providing that they will be accommodated in a later stage of processing.*

The applicant intends to operate the proposed restaurant use and associated outdoor dining areas until 2:00 a.m., which is permitted by conditional use. Historically, the former Doc's restaurant had its sole dining space as an outdoor area, and it operated at night without a negative impact to the area. It should be noted that the applicant is not required to seek conditional use approval to operate a late-night business; conditional use approval is only required for a late-night business if the proposed late-night use is within 300 feet of a residentially zoned property. While there are single family residences within the vicinity, they are zoned OSSHAD, which is a mixed-use zoning district. Should the Board deem it appropriate to place additional restrictions on the hours of operation, it must relate to the conditions above, or the required findings for establishing a conditional use (below).

#### **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, 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 Land Use Map, Concurrency, Consistency, and Compliance with the LDRs, and are discussed below

**(A) Land Use Map.** *The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.*

The subject property is designated Historic Mixed Use (HMU) on the Land Use Map, and zoned OSSHAD, OSSHAD w/ CBD Overlay. The overall review of the site plan and COA will ensure that the allowed density and maximum intensity for the HMU land use designation are in compliance. The City Center Delray project will consist of retail, restaurant, and office uses. These uses are allowed

within the OSSHAD and OSSHAD w/ CBD Overlay districts. The proposed outdoor dining at night use is permitted as a conditional use within the OSSHAD zoning district and consistent with the character of the land use.

**(B) Concurrency.** *Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.*

The application concurrency analysis pertains to the 1,075 square feet of proposed outdoor dining space, and includes compliance with traffic, schools, utilities, parks, solid waste, and drainage as described below:

Traffic. A traffic study has been submitted indicating that the overall development will generate 1,110 average daily trips (ADT), of which 406 trips are New Daily Trips. The subject property is located within the City's Traffic Concurrency Exception Area (TCEA) within the Central Business District. This designation allows the city to develop and redevelop without being constrained by the capacity standards of Palm Beach County's Transportation Performance Standards Ordinance by providing alternatives to expanding roadway capacity that benefit overall mobility, such as incentivizing future office, restaurant, and retail tenants to utilize ride sharing; creating staggered work hours; or telecommuting with flexible hours to reduce trips.

On June 24, 2022, the Palm Beach County Traffic Division (PBCTD) issued a Traffic Performance Standards letter (attached) approving the project with a condition that the restaurant use not be permitted to open prior to 10 a.m. The letter indicates that the classification of the restaurant is a "Fast Food Restaurant without a Drive-thru". An added condition of approval to the subject request is that the restaurant not open prior to 10 a.m. unless the condition is removed by the PBCTD.

Schools. The proposed area of the site pertains to commercial use therefore, the non-residential development is not subject to school concurrency evaluation.

Water & Sewer. Adequate capacity is - and will be - available to adequately provide service this site.

Parks and Recreation Facilities. Park dedication requirements are not required for non-residential uses.

Solid Waste. The Solid Waste Authority has facilities sufficient capacity to accommodate all development proposals through 2054.

Drainage. Paving and drainage plans are not required with a conditional use request.

**(C) Consistency.** *Compliance with performance standards set forth in Chapter 3 and required findings in LDR Section 2.4.5(D)(5) for the Rezoning request shall be the basis upon which a finding of overall consistency is to be made. Other objectives and policies found in the adopted Comprehensive Plan may be used in making a finding of overall consistency.*

The following Comprehensive Plan polices are applicable to the request:

#### **Healthy Community Element**

Policy HCE 3.6.2: *Promote social cohesiveness by encouraging commercial developments to create spaces for social interaction and entertainment through design and place making.*

**LDR Section 4.4.13** describes civic open spaces as areas that "are privately maintained outdoor spaces which are accessible by the general public, improve the pedestrian environment, are aesthetically pleasing, and serve as an amenity for the city as a whole as well as for occupants of the building which the open space serves". Inherently outdoor dining areas provide for spaces that encourage social interaction and cohesiveness. Further, the proposed outdoor dining areas will be situated adjacent to the proposed civic open space area that will be accessible by the general public as an amenity for the city as a whole.

### **Historic Preservation Element**

Policy HPE 1.4.1: *Continue to require that the Historic Preservation Board make findings that any land use or development application for a historic structure, site or within a historic district, is consistent with the provisions of the Secretary of the Interior's Standards for Rehabilitation, the Land Development Regulations, and Delray Beach Historic Preservation Design Guidelines.*

The conditional use request requires HPB to provide a recommendation to the Planning and Zoning Board, because the subject property is within OSSHAD. The formal findings required for a conditional use application do not require the board to make findings that a proposal is consistent with the provisions of the Secretary of the Interior's Standards for Rehabilitation nor the Delray Beach Historic Preservation Design Guidelines, but it does require a finding of consistency with the LDRs. If the conditional use request is approved, the HPB will review the Site Plan and Certificate of Appropriateness at a separate hearing, and at that time the board will be required to make findings that the proposal is consistent with this policy.

### **Neighborhood, Districts, & Corridors Element**

Policy NDC 1.1.14: *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

The subject conditional use request is complementary to and compatible with adjacent land uses.

Policy NDC 1.3.22: *Use the Historic Mixed Use land use designation for properties within the Old School Square Historic District to encourage the preservation and adaptive reuse of historic structures and to maintain and enhance the historic, pedestrian scale and character, while providing for a mix of residential, commercial, and arts uses.*

The subject conditional use request is anticipated to enhance the historic, pedestrian scale and character of the historic district. The proposal includes the rehabilitation of the structure known as Doc's which will preserve the historic character the existing structure and its historic outdoor dining use, while maintaining the historic scale at the northwest corner of the intersection of Swinton Avenue and Atlantic Avenue.

### **Economic Prosperity Element**

Policy ECP 1.5.2: *Continue economic investment in activities that incentivize business expansion and development that create livable wage jobs attainable by residents in low-income neighborhoods.*

The subject request is to allow the operation of an outdoor dining area during the nighttime hours. The operation of a restaurant at this location has the potential to further support the provision of employment opportunities that are attainable by residents in low-income neighborhoods, particularly those located within close proximity to the subject property.

Policy ECP 3.3.4: *Continue to support efforts of commercial districts, streets and neighborhoods to improve their physical attributes by encouraging infill, adaptive reuse, redevelopment and other strategies.*

The subject conditional use request is associated with three adjacent parcels within Block 60. Rehabilitation of the former Doc's Restaurant and redevelopment of the remainder of the site is anticipated to have a beneficial impact upon the physical attributes of N. Swinton Avenue and W. Atlantic Avenue and will continue to support efforts of the adjacent commercial district.

**(D) Compliance with the LDRs.** *Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations*

Pursuant to **LDR Section 4.4.24(F), Development standards.** *The development standards as set forth, for the OSSHAD District, in Section 4.3.4 apply, except as modified below:*

(2) The following locations shall be subject to the development standards of the West Atlantic Neighborhood (WAN) area of the CBD Zone District:

- (a) Lots 13—16, Block 60.
- (b) Lots 1—4, Block 61.

As the request is proposed within Lots 13-16 of Block 60, the development standards of the WAN are applicable. Pursuant to **LDR Section 4.4.13(A)(3) West Atlantic Neighborhood Sub-district**, *The West Atlantic Neighborhood Sub-district regulations are intended to be consistent with the Downtown Delray Beach Master Plan and the West Atlantic Master Plan. The emphasis of these regulations is on the preservation and enhancement of existing neighborhoods, while promoting a pedestrian friendly commercial area along West Atlantic Avenue that contains a mix of residential, commercial, and civic functions. Businesses that are oriented toward serving the local neighborhood, as opposed to a regional area, are encouraged.*

The conditional use request is anticipated to promote a pedestrian friendly commercial area along W. Atlantic Avenue and S. Swinton Avenue. Restaurant uses often serve the local neighborhood and community; the outdoor dining area provides a neighborhood amenity and a communal space, located in a high traffic pedestrian location within the downtown corridor, that contributes to the public realm.

Pursuant to **LDR Section 4.4.13(B)(5) West Atlantic Neighborhood Commercial Area**. *The location of commercial uses is limited within the West Atlantic Neighborhood Sub-district to protect established residential areas from commercial intrusion.*

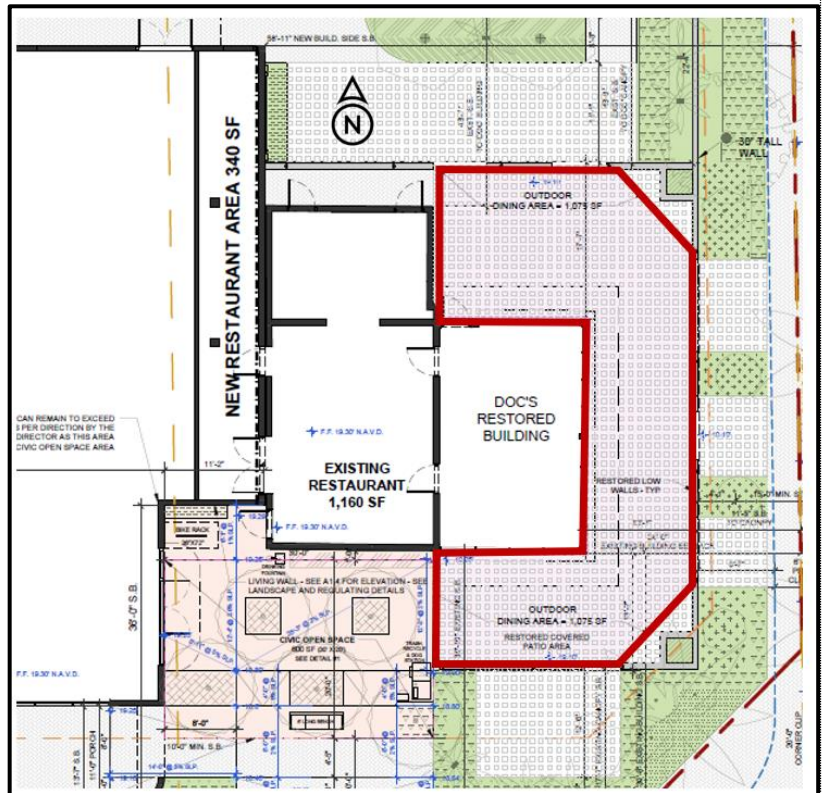
The subject property is located within the West Atlantic Neighborhood Sub-district and West Atlantic Commercial Area. The redevelopment of the site is not anticipated to have a negative effect on established residential areas, because the redevelopment of the site includes the preservation and rehabilitation of the former Doc's restaurant structure, and the conditional use request before the board would reintroduce a use historically associated with the subject property. The proposal also enhances the area and promotes a pedestrian friendly commercial district.

Pursuant to **LDR Section 4.4.24(D)(1)**, *Outdoor dining which operates at night, or which is the principal use or purpose of the associated restaurant.*

The proposed covered outdoor dining space equals a total of 1,075 square feet to the north, east, and south sides of the 1,160 square foot existing structure at the intersection North Swinton Avenue and West Atlantic Avenue. Although the outdoor use area has historically existed at the existing building, a different configuration is proposed by the applicant. As previously mentioned, no indoor seating is proposed. To the right is a graphic of the proposed outdoor dining use areas on the site.

Pursuant to **LDR Table 4.4.13(L), Minimum Number of Off-street Parking Spaces Required in the CBD - Restaurants and lounges (including those located within hotels/motels) NOT in the Atlantic Avenue Parking District shall provide six spaces per 1,000 of gross square feet.**

Pursuant to **LDR Section 4.6.9(C)(8)(a), Shared parking** - *When a building or combination of buildings on a unified site or sites contains a mix of uses, the minimum total number of required parking spaces shall be determined by a method involving a calculation based upon the proposed use, hours of operation, peak demands, and designated time periods.*



Compliance with parking requirements for the subject request has been reviewed, and the required parking calculations have been met. The board will receive a separate analysis of the parking requirements as well as the In-Lieu parking request that will be reviewed



for recommendation to the City Commission concurrently with this request. In addition, a separate waiver to allow porch use as a frontage, will also be reviewed concurrently with this request. The Class V Site Plan Modification and Certificate of Appropriateness application is to be reviewed for approval by HPB at a later date.

Pursuant to **LDR Section 4.4.13(G)(4) – Civic Open Space - Additional standards**, *Civic open spaces shall meet the following minimum standards:*

- (a) *Civic open spaces must be accessible to the public during all daylight hours. A portion of a civic open space may accommodate outdoor dining provided:*
  - 1. *The business is located adjacent to the open space;*
  - 2. *The open space provides an alternative location for a sidewalk café instead of using the streetscape area of an adjoining street right-of-way; and,*
  - 3. *The size of the area is generally consistent with the potential size of a sidewalk café that could be located within the streetscape of an adjoining street right-of-way.*

The proposed 1,075 sq. ft. of outdoor dining area is situated adjacent to a proposed 600 sq. ft. civic open space area and will meet the requirements of this LDR section.

#### Review By Others

The project, inclusive of the conditional use request, was reviewed by the **Downtown Development Authority (DDA)** at its June 21, 2022, meeting; the recommendation was to approve the project with the suggestion that the railings facing Atlantic Avenue be modified to provide more visibility (from the street level) of the retailer stores in the building and for easier access to those retailers.

The conditional use request was reviewed by the **Historic Preservation Board** at its August 3, 2022 meeting; the Board recommended approval.

#### Board Action Options

- A. Move a recommendation of **approval** to the City Commission for a Conditional Use request (2022-126) to allow outdoor dining at night for the restaurant associated with the project known as City Center Delray, by finding that the request is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- B. Move a recommendation of **approval with conditions** to the City Commission for a Conditional Use request (2022-126) to allow outdoor dining at night for the restaurant associated with the project known as City Center Delray, by finding that the request is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.
- C. Motion to **deny** a Conditional Use request (2022-126) to allow outdoor dining at night for the restaurant associated with the project known as City Center Delray, by finding that the request is not consistent with the Comprehensive Plan and does not meet the criteria set forth in the Land Development Regulations.
- D. Move to **continue with direction**.

#### Public and Courtesy Notices

Courtesy Notices are not applicable to this request.

Public Notice was posted at the property 7 calendar days prior to the meeting.

Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting.

Public Notice was posted to the City's website 10 calendar days prior to the meeting.

Public Notice was posted in the main lobby at City Hall 10 working days prior to the meeting.

Agenda was posted at least 5 working days prior to meeting.