

RESOLUTION NO. 128-22

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE PURSUANT TO THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES AND THE COMPREHENSIVE PLAN OF THE CITY OF DELRAY BEACH, TO ALLOW OUTDOOR DINING AT NIGHT FOR A RESTAURANT ASSOCIATED WITH THE PROJECT KNOWN AS CITY CENTER DELRAY, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, MDG Banyan Delray Partners, LLC, (“Owner”) is the owner of a parcel of land measuring approximately 0.76 acres including Lots 13, 14, 15, and 16, Block 60 (“Property”), as depicted in “Exhibit A,” attached hereto and incorporated herein; and

WHEREAS, Neil Schiller, Esq., Government Law Group (“Agent”), on behalf of the Owner, submitted a Conditional Use application (File No. 2021-126) to allow outdoor dining at night for a restaurant in the proposed City Center Delray project, a Class V Site Plan application (File No. 2022-060) for the property abutting the intersection of North Swinton Avenue and West Atlantic; and

WHEREAS, the request for conditional use approval for outdoor dining at night is only applicable to Lots 15 & 16, Block 60 of the proposed City Center Delray project; and

WHEREAS, the Property is zoned Old School Square Historic Arts District (“OSSHAD”) with Central Business District (“CBD”) Overlay, within the locally and nationally designated Old School Square Historic District; and

WHEREAS, pursuant to Section 4.4.24(D) of the City of Delray Beach Land Development Regulations (“LDR”), outdoor dining which operates at night, is permitted as a conditional use within OSSHAD with CBD Overlay zoning districts; and

WHEREAS, LDR Section 2.4.5(E)(5), requires the approving body to 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; nor
- (b) Hinder development or redevelopment of nearby properties; and

WHEREAS, at its meeting on August 3, 2022, the Historic Preservation Board voted 6 to 0 to recommend approval to the Planning and Zoning Board; and

WHEREAS, at its meeting on August 15, 2022, the Planning and Zoning Board voted 5 to 0 to recommend approval to the City Commission; and

WHEREAS, the request for conditional use approval to allow outdoor dining at night was presented to the City Commission at a quasi-judicial hearing conducted on September 19, 2022; and

WHEREAS, the City Commission considered the conditional use request and has considered the respective findings as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated herein by this reference and are approved.

Section 2. The City Commission makes positive findings that the requested conditional use will not have a significantly detrimental effect upon the stability of the neighborhood within which it will be located and will not hinder development or redevelopment of nearby properties.

Section 3. The City Commission approves the conditional use request to allow outdoor dining at night for the restaurant, as depicted in Exhibit "A" – Legal Description.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Neil Schiller, Esq. at 200 S Andrew Avenue, Ste 601, Fort Lauderdale Beach, FL 33301.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2022.

Shelly Petrolia, Mayor

ATTEST:

Katerri Johnson, City Clerk

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

Lots 13 and 14, Block 60, Map of the Town of Linton (now Delray Beach), according to the map or plat thereof as recorded in Plat Book 1, Page 3, Public Record of Palm Beach County, Florida, LESS and EXCEPT that portion conveyed to the State of Florida by Warranty Deed recorded in O.R. Book 1253,Page 461 and described as follows: The South 20 feet of Lots 13 and 14,Block 60, according to the Plat of Original Town of Linton, as recorded in Plat Book 1, Page 3 ,in the Public Records of Palm Beach County , Florida, in Section 17,Township 46 South, Range 43 east, and that part of said Lot 13 which is included in the external area formed by a 25 foot radius arc which is tangent to a line 20 feet north of and parallel to the South line of said lot 13 and tangent to the East line of said Lot 13.

Lots 15, Block 60, Map of the Town of Linton (now Delray Beach), according to the map or plat thereof as recorded in Plat Book 1, Page 3, Public Record of Palm Beach County, Florida, LESS and EXCEPT that portion conveyed to the State of Florida by Warranty Deed recorded in O.R. Book 1021,Page 410 and described as follows: The South 20 feet of Lots 15,Block 60, according to the Plat of Original Town of Linton, as recorded in Plat Book 1, Page 3 ,in the Public Records of Palm Beach County , Florida, in Section 17,Township 46 South, Range 43 East.

Lot 16, Block 60, Map of the Town of Linton (now Delray Beach), according to the map or plat thereof as recorded in Plat Book 1, Page 3, Public Record of Palm Beach County, Florida, LESS and EXCEPT that portion conveyed to the State of Florida by Warranty Deed recorded in O.R. Book 1607,Page 471 and described as follows: The South 20 feet of Lot 16,Block 60, according to the Plat of Original Town of Linton, as recorded in Plat Book 1, Page 3 ,in the Public Records of Palm Beach County , Florida, in Section 17,Township 46 South, Range 43 east, and that part of said Lot 16 which is included in the external area formed by a 25 foot radius arc which is tangent to a line 20 feet north of and parallel to the South line of said lot 16 and tangent to the East line of said Lot 16.