



## Legislation Text

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** September 19, 2022

RESOLUTION NO. 129-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.4.13(C)(3)(a)(2)(a) OF THE LAND DEVELOPMENT REGULATIONS; APPROVING A PORCH AS A FRONTAGE TYPE ALONG WEST ATLANTIC AVENUE BETWEEN NORTH SWINTON AVENUE AND NORTHWEST 1<sup>ST</sup> AVENUE FOR THE PROJECT KNOWN AS CITY CENTER DELRAY, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI JUDICIAL).

**Recommended Action:**

Review and consider Resolution No. 129-22, approving a Waiver request to Section 4.4.13(C)(3)(a)(2)(a) to allow a porch frontage type along West Atlantic Avenue between North Swinton Avenue and Northwest 1<sup>st</sup> Avenue for the project known as City Center Delray.

**Background:**

The property is 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 10 North Swinton Avenue (Doc's All American), an unaddressed parking lot located west of 10 North Swinton Avenue, and 37 West Atlantic Avenue (Dunkin Donuts). The property currently contains a Masonry Vernacular style 1951 building that was formerly occupied by a restaurant known as "Doc's All American" with a parking lot to the west and a Masonry Vernacular style circa 1980 building that is occupied by the Dunkin Donuts coffee shop with associated parking. The Doc's property is listed as a contributing resource within the National Register designated Old School Square Historic District and the property is currently listed as a non-contributing resource within the Local Register designated Old School Square Historic District.

On December 2, 2021, a Class V Site Plan, COA, Waiver, and In-Lieu of Parking requests were submitted under the current land use and zoning of the property. On March 4, 2022, the applicant submitted a Conditional Use request to allow outdoor dining operating at night and as the principal use or purpose of the restaurant formerly known as Doc's (10 N. Swinton Avenue), as the outdoor dining use had been discontinued for more than 90 days. The City Center Delray project includes the renovation of Doc's Place (10 N Swinton Avenue), the removal of the Dunkin' Donuts building, and construction of a new 3-story, 31,779 sq. ft commercial mixed-use building in the Art Deco/Streamline Moderne style. The proposal includes retail & restaurant uses on the ground floor, and office spaces on the second & third floor. The new 3-story structure will adjoin the renovated Doc's building.

The subject request is a waiver from the Central Business District (CBD) zoning district Frontage Type requirement to allow the use of the Porch frontage type rather than the required Storefront frontage type.

The request is applicable to the proposed 3-story structure west of the existing Doc's building; it is noted that the proposal is considered a unified development of the three properties totaling 0.76 acres.

West Atlantic Avenue is designated with Required Retail Frontage. The types of uses allowed in the sidewalk-level include retail shops, restaurants, personal services, and hotels. The LDR requires the building's architecture to reinforce these uses by having a Storefront frontage type, with a high percentage of glazing, or an Arcade paired with a Storefront. Arcades, as defined in the LDR, extend into the public right-of-way, over the sidewalk to provide a covered, shaded environment for pedestrians. A parallel sidewalk is discouraged, seeking to funnel shoppers to the storefront windows. Both frontage types result in a seamless extension of the City's sidewalk. In this location, West Atlantic Avenue is not under the City's jurisdiction and is controlled by Florida Department of Transportation (FDOT), which complicates building Arcades in the right-of-way and tends to deter applicants from pursuing approval from FDOT.

The new structure proposes use of the Porch frontage type with Storefronts. Porches, which have a raised floor elevation are not typical for retail streets. However, it is important to note that the site changes in grade, over 2.5 feet from east to west across the full block. The proposed plan absorbs the change in grade through a combination of hardscape areas in the front setback area and proposed porches. The proposed design solution provides a hybrid between the Arcade and a Porch. A covered walkway lines the Storefronts, but does not extend into the right-of-way and is elevated a couple of steps above the sidewalk level. The DDA approval noted the desire to reduce the grade and need for railings as much as possible.

As the property is subject to CBD development standards, the requested waiver from the frontage type must meet two sets of findings:

Pursuant to LDR Section 4.4.13(K)(5)(a), a waiver is required to be reviewed and acted upon by the City Commission with a recommendation from the HPB prior to consideration of the Certificate of Appropriateness (COA) and Class V Site Plan request.

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the granting body shall make findings that the granting of a waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner;

Pursuant to LDR Section 4.4.13(K)(5), the following findings shall be used by the City Commission when considering waiver requests from the CBD development standards, in addition to the findings in Section 2.4.7(B)(5):

- a. The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.
- b. The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.
- c. The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan.
- d. The waiver shall not reduce the quality of civic open spaces provided under this code.

The attached Historic Planning Board Staff report provides a detailed background and analysis of the

request and the required findings.

The City Center Delray project was reviewed by the Downtown Development Authority (DDA) at its June 21, 2022, meeting and recommended for approval; the approval memo is attached.

On August 3, 2022 the HPB voted 5 to 1 to recommend approval of the proposed request (Ms. Finn dissent).

On August 10, 2022 the proposal was forwarded to the Community Redevelopment Agency (CRA) to be included on the Development Applications update memorandum.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

The Historic Preservation Board will review the Certificate of Appropriateness and Class V Site Plan Modification following action by the City Commission on the Waiver and Conditional Use requests.