



TOWN OF PALM BEACH
Planning, Zoning & Building Department
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PLANNING, ZONING, & BUILDING DEPARTMENT

PZ&B Staff Combination Memorandum: Town Council and Landmarks Preservation Commission

FROM: Wayne Bergman, MCP, LEED-AP^{WB}
Director PZ&B

SUBJECT: ZON-24-003 (COA-23-047) 340 ROYAL POINCIANA WAY (COMBO)

MEETING: DECEMBER 13, 2023 TC
DECEMBER 20, 2023 LPC

ZON-24-003 (COA-23-047) 340 ROYAL POINCIANA WAY (COMBO)—SPECIAL EXCEPTION AND VARIANCE. The applicant, TUTTO MARE LLC and SIDNEY SPIEGEL, TRUSTEE OF TRUST #31520371 DATED OCTOBER 25, 1984, has filed an application requesting Town Council review and approval for (1) a Special Exception for a new restaurant within the Royal Poinciana Theatre building at the west side of The Royal Poinciana Plaza, (2) a Special Exception for outdoor café seating in association with the restaurant, and (1) a Variance to exceed the maximum height of rooftop kitchen equipment. The Landmarks Preservation Commission shall perform design review of the application.

COA-23-047 (ZON-24-003) 340 ROYAL POINCIANA WAY (COMBO). The applicant, TUTTO MARE LLC and SIDNEY SPIEGEL, TRUSTEE OF TRUST #31520371 DATED OCTOBER 25, 1984, has filed an application requesting modifications to previously approved Certificate Of Appropriateness for exterior façade alterations to the south and west facades, including a variance to exceed the maximum height for new rooftop kitchen equipment. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval

Applicant: TUTTO MARE LLC and SIDNEY SPIEGEL
Professional: Keith Spina / Spina Orourke + Partners
Representative: James M. Crowley, Esq

HISTORY:

The Royal Poinciana Playhouse was constructed in 1957. Building permits indicate that the Playhouse has had maintenance work, exterior alterations, and additions over the years, but has not been severely altered since construction in 1957. The building has been vacant since 2004 and was in need of full interior and exterior rehabilitation.

Most recently, a substantial demolition and reconstruction project with additions was approved at the February 16, 2022, pursuant to COA-22-003 including the support for 12 variances. At the March 09, 2022 town council development review meeting, an application was reviewed and approved for 12 variances with variance #5 being withdrawn by applicant and with condition that a new declaration of use agreement replace the 1979 Agreement with conditions of approval and

returned for review by the Town Council at the April 13, 2022 meeting, pursuant to ZON-22-018. Below is list of the itemized variances approved by Town Council for reference:

- **Variance 1:** *Sec. 134-1262(10)*: Overall building length of 175'-2" & 158'-9" in lieu of the 150' maximum allowed.
- **Variance 2:** *Sec. 134-1262(8)*: Building height for the theater building expansion in lieu of the 25' maximum allowed in the C-PC Zoning District.
 - **2A:** Reconstruct playhouse building at 46.83' (flyspace) and 28.25' (theater) due to 50%+ demolition.
 - **2B:** New additions at 27.417' in excess of maximum height allowed.
- **Variance 3:** *Sec. 134-1607(1)*: To allow 16 air conditioning equipment on the roof at the maximum 108 inches in height in lieu of the 48 inch maximum.
- **Variance 4:** *Sec. 134-1607(1)*: To allow (2) exhaust equipment at 84 inches in height in lieu of the 36 inches permitted in the C-PC zoning district.
- **Variance 5:** *Sec. 134-1262(11)*: To allow landscaped open space at 15.6% in lieu of the 16% previously approved by variance as documented in the 1979 Agreement and the 255 required in the C-PC zoning district. **WITHDRAWN**
- **Variance 6:** *Sec. 50-114: Floodplain Variance*: To allow a portion of the finished floor elevation to be 5.5' NAVD to match existing landmarked building.
- **Variance 7:** *Sec. 134-2211*: Request to eliminate loading zone requirements for new construction over 4,000 SF.
- **Variance 8:** *Sec. 134-2172*: To allow new 90° parking spaces adjacent to a drive aisle nonconforming in width.
- **Variance 9:** *Sec. 134-2175*: Request to eliminate 39 required parking spaces by providing 679 parking spaces in lieu of the 718 previously approved at the property.
- **Variance 10:** *134-2179(f)*: To allow for parking in the street side-yard setback.
- **Variance 11:** *134-2179(f)*: To allow for parking in front yard setback.
- **Variance 12:** *Sec 134-2237(2)*: Reestablish existing 3 vehicle tandem parking.

A verbal project update was provided by the applicant's representative at the November 16, 2022 LPC meeting where the overall progress of the project was presented to the Commission that included an expanded scope of demolition and exterior wall reconstructions due to structural and site exploratory reasons.

THE PROJECT:

The applicant has submitted plans, entitled "TUTTO MARE THE ROYAL POINCIANA PLAZA", as prepared by **Spina Orouke + Partners**, date stamped by the Town, November 09, 2023.

The applicants are proposing the following scope of work at the property:

- New build out of 200-seat restaurant within the Royal Poinciana Theatre building, formerly the Celebrity Room, at the west side of The Royal Poinciana Plaza and a new outdoor seating component along the waterfront.
- Exterior façade alterations to the south and west façades from previously approved COA.
- New kitchen mechanical equipment rooftop projections.

The following Special Exceptions with Site Plan Review is required for completion of the project as presented:

- **SPECIAL EXCEPTION #1** Restaurant use (200 seats) in the C-PC district **Sec. 134-1259**

(a)(6)

- **SPECIAL EXCEPTION #2** Outdoor café seating (64 seats) in association with a restaurant **Sec. 134-1259 (a)(17)**

The following Variances are required for completion of the project as presented;

- **VARIANCE #1 Sec. 134-1607(1)** Variance to exceed the maximum height of 36” to permit an 84” high kitchen scrubber on the roof of the Royal Poinciana Playhouse building.

The applicants have included a detailed Letter of Intent providing a project narrative, comprehensive descriptions of all current requests including required Code relief, and have provided responses to pertinent variance, special exception, and site plan review criteria.

Site Data			
Zoning District	C-PC Planned Center	Lot Size (SF)	512,726 SF
Future Land Use	COMMERCIAL	Total Building Size (SF)	34,517 SF
Finished Floor Elevation	5.5’ NAVD	Designated Landmark	11/12/08
Year of Construction:	1957	Architect:	John Volk
# of Restaurant Seats:	Indoors: 136 Outdoor Patio: 64 Total: 200 seats	Restaurant Square Footage (SF):	Indoors: 6,825 SF Outdoor Patio: 1,565 SF
# of Parking Spaces:	Current: 679 spaces Proposed: N/C	# of Banked Spaces:	Current: 43 Proposed: 63
Surrounding Properties / Zoning			
North	Flagler Memorial Bridge / Municipal park / R-B		
South	1956 Seven-story Condominiums / R-D(2)		
East	Breakers Golf Course / PUD-A		
West	Lake Worth Lagoon		

STAFF ANALYSIS

The application is for the new restaurant space and outdoor dining component to the new Royal Poinciana Playhouse event space. Minor fenestration changes are also proposed for the west and north building elevations. The larger application, the additions, the seat count, the total parking, trash location, delivery and valet operation for the restaurant were approved in a previous application. The applicant has submitted a draft Declaration of Use for consideration.

In summary, the applicant proposes the following hours of operation:

- 8:00 a.m. to 10:00 PM Sunday through Thursday, and
- 8:00 a.m. to 11:00 p.m. Friday and Saturday.

The restaurant will be open for breakfast, lunch and dinner and the total seat count is 200. Other pertinent operational conditions are itemized in the DoU.

RESTAURANT

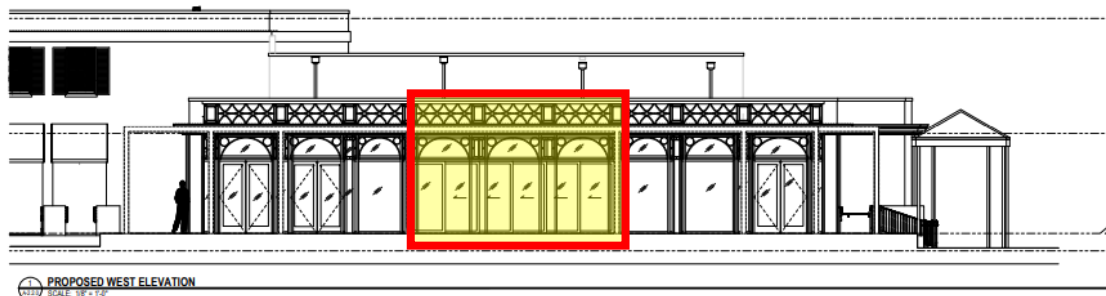
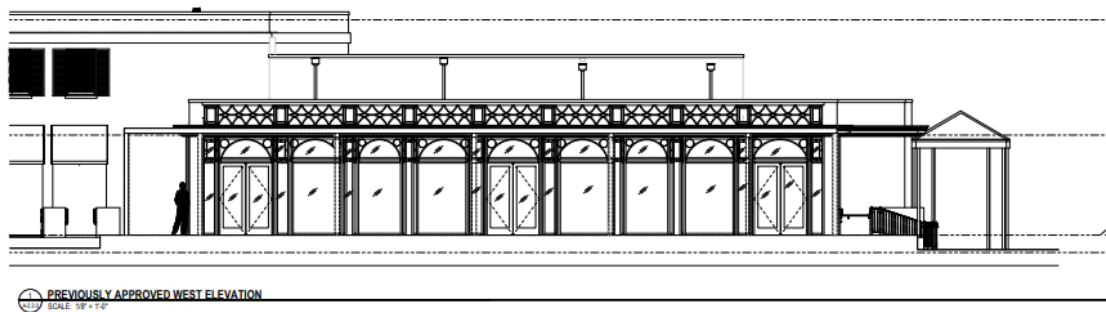
The Royal Poinciana Playhouse was designed by notable Palm Beach architect John Volk and

constructed in 1957. The Playhouse was designated as a Landmark by the Town of Palm Beach in 2008. Volk designed the Playhouse, along with Royal Poinciana Plaza to the east in the Regency Revival architectural style, which he helped to popularize into a signature Palm Beach style through his numerous post-war residential and commercial commissions. Character-defining features of Regency Revival architecture include masonry stucco facades, flat roofs with short decorative parapets, oversized fenestration (typically divided-light hung windows) at regular rhythms, masonry coining, and decorative engaged columns, cornices, and pediment window surrounds.

The Celebrity Room was the restaurant attached to The Royal Poinciana Playhouse and both were designed by Palm Beach architect John Volk. The restaurant space is proposed within the general location of the former restaurant space, with a key distinction being the primary axis to the space being reoriented to the side (south) passage. On the Celebrity Room's ceiling, a tromp l'oeil mural featured caricatured portraits of many actors and celebrities,. The "Venetian Festival" mural was proffered to remain, and is proposed to become a signature piece of the interior of the new Tutto Mare space.

EXTERIOR MODIFICATIONS:

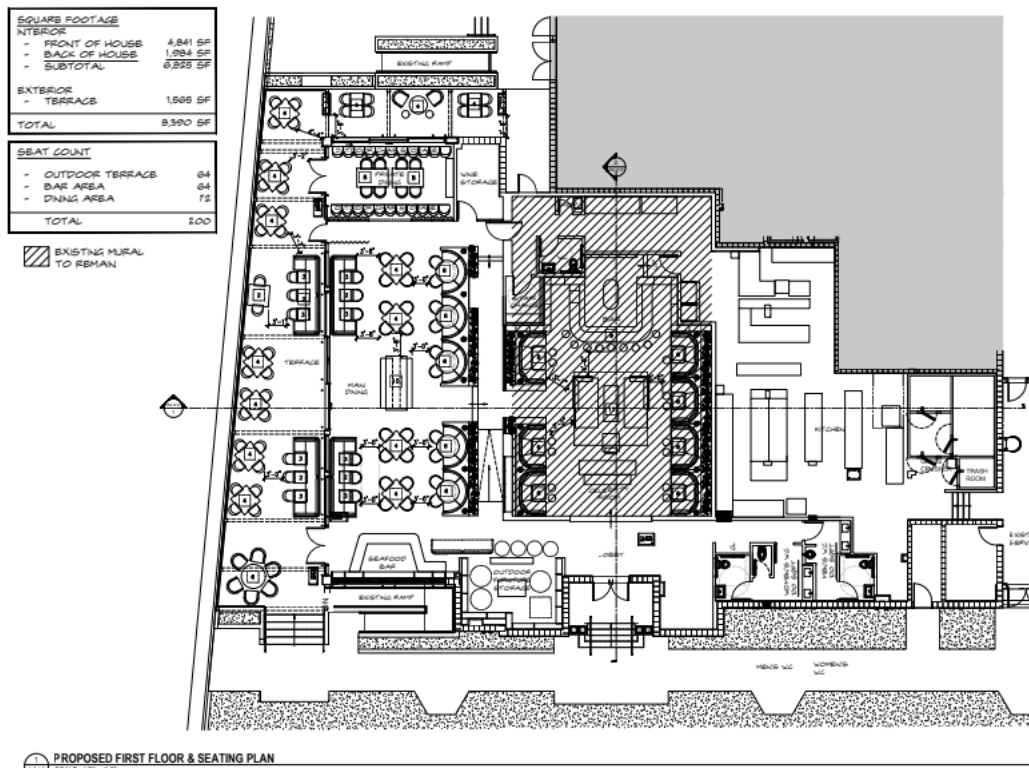
There are some exterior façade alterations to the south and west façades from previously approved COA. Primarily due to the extent of the modifications previously approved, staff has no outstanding issues with the proposal; although the Towns' Preservation consultants do raise concerns pertaining to the proposed introduction of sliding doors along the west elevation.



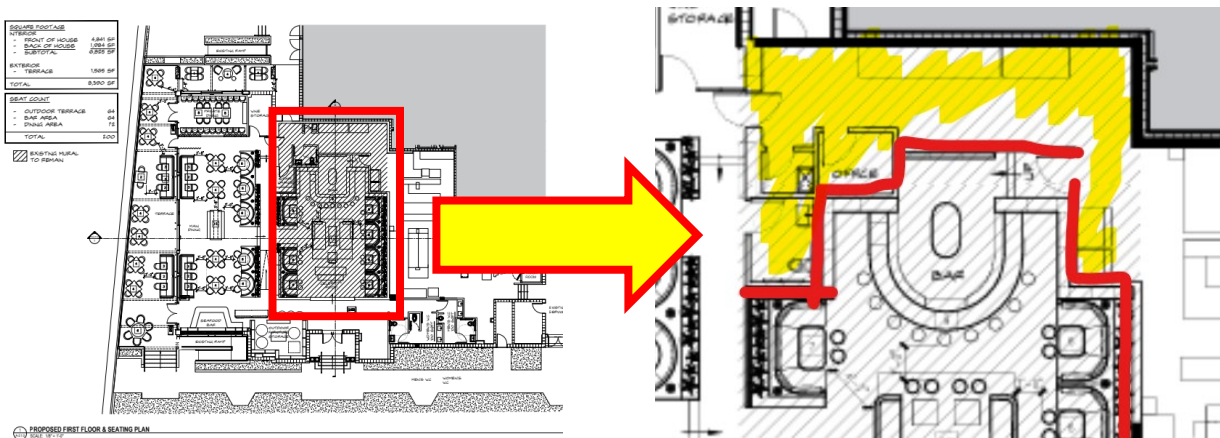
The desire for opening the sliding doors is likely due to programmatic desire to capitalize on the waterfront location of the restaurant.

INDOOR DINING:

The applicant is seeking a Special Exception (#1) for restaurant use in the C-PC district. A total of 200 seats are property with 136 seats are proposed within the interior 6,825 SF space.



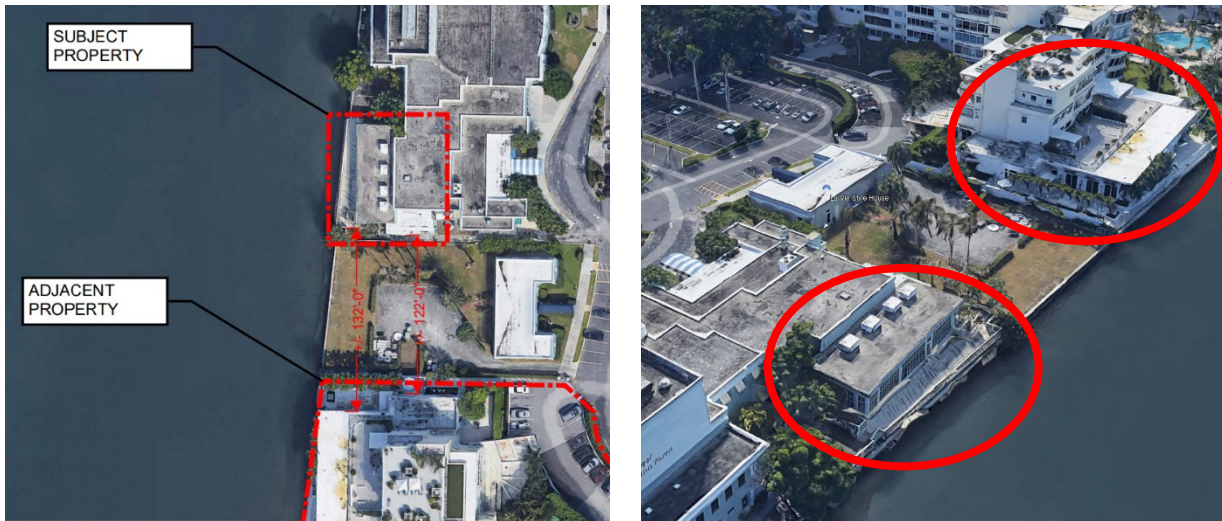
Staff does have some concerns with the interior layout of the restaurant and the incorporation of the retained mural. Sheet A-2.1.0 depicts the ceiling area of the mural, but no reflected ceiling plan has been provided as requested by staff, as it appears interior layout of space, ie back of house operations, will “interrupt” the mural. Staff has requested design details of this interior configure but has not received any additional materials or design details or resolutions



OUTDOOR SEATING

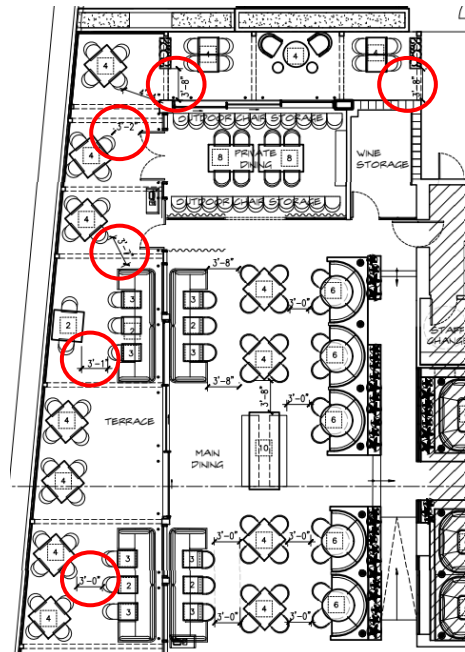
The applicant is also seeking a Special Exception (#2) for outdoor café seating. The proposed outdoor dining area is approximately 1,565 SF of direct waterfront dining. The applicant is proposing 64 seats within this area.

The neighboring residential seven-story Condominiums building to the south, Palm Beach Towers, is located approximately 132'-0" from the waterfront terrace. Although the tower does not have many exterior balconies positioned along the north side of the building that are proximate to and face the Plaza, there is one expansive terrace for a single unit at the second level (shown below).



Additionally, it must be noted that currently there is an existing restaurant located at the ground floor of the Palm Beach Towers. This restaurant, *Restaurant 44 Palm Beach*, is licensed for 151 seats with a 20 seat outdoor patio component approved via administrative approval in 2018 "as per previous outdoor seating permit".

It remains to be seen what, if any, will be the audible impacts of a 64-seat **outdoor** dining component with an indoor restaurant that has operable sliding doors will have given the waterfront nature. It is commonly understood that water refracts sound and therefore sound travels further over water: less is lost up into the air. Given the adjacency of a 270 condo unit building, a sound study should be submitted by the applicant, demonstrating what impacts a 64 seat outdoor dining component will have. During the submittal process staff had requested a sound study, but has yet to receive one. At this time, it may for Town Council to consider limiting the # of seat by 50% for a full season to assess any potential impacts. Additionally, such decrease in the amount of seating will provide the room for the seating plan to comply with Sec. 134-2106 (b)(1)(4) which requires a minimum four foot-wide unobstructed pedestrian path is maintained at all times; sheet A-2.1.0 still shows conflict with this regulation in at least six (6) instances (and more are evident) which may be an indication of overpacking the 1,565 SF terrace area with seats.



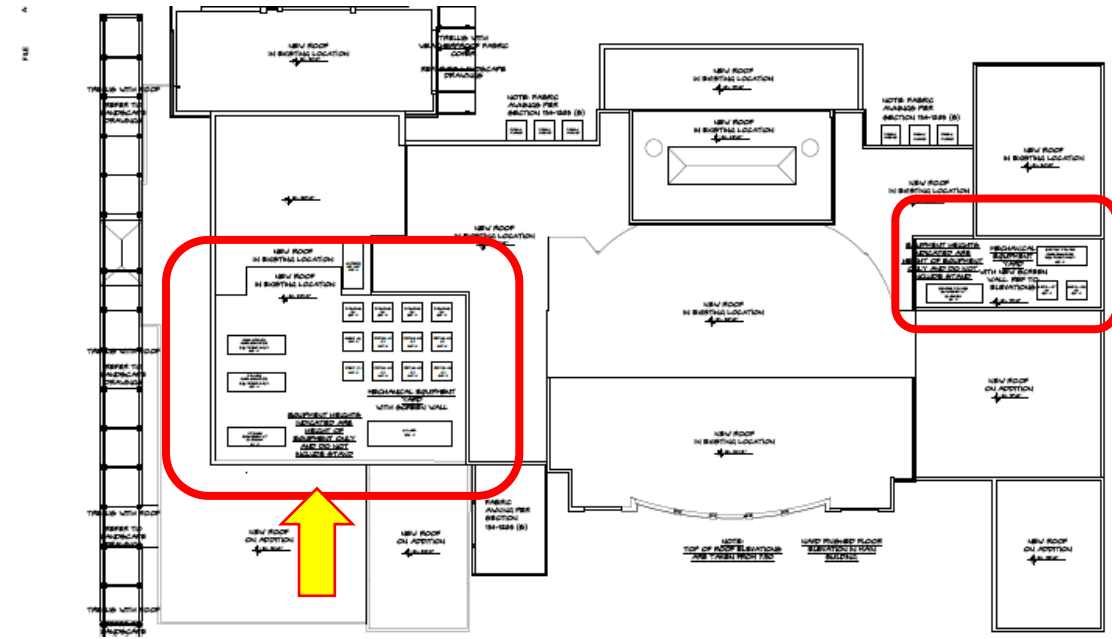
The criteria and conditions required to be met for approval of outdoor cafe seating on private property not within a street sidewalk, under Sec. 134-2106(b) are as follows:

- (1) *Outdoor cafe seating is not allowed to increase the capacity of a restaurant, dining room, retail specialty food including the sale of prepared food for takeout only, or private, social, swimming, tennis or yacht club. The exception is that a specialty foods use, including sale of prepared foods for takeout only that is under 2,000 square feet in gross leasable area may request up to eight [additional] outdoor cafe seats over the inside capacity provided that the seating meets the conditions herein.*
- (2) *Bars/lounges and nightclubs are not permitted to have outdoor cafe seating.*
- (3) *Outdoor cafe seating is restricted to boundary lines of the property on which the business owned by the applicant is located.*
- (4) *All tables, chairs, umbrellas, mist sprayer, space heaters or other customarily usual outdoor cafe seating furniture shall be located in such a manner that a minimum four foot-wide unobstructed pedestrian path is maintained at all times.*
- (5) *No objects shall be permitted around the perimeter of an outdoor cafe seating area occupied by tables and chairs that would have the effect of forming a physical or visual barrier discouraging the use of the pedestrian path.*
- (6) *An outdoor cafe seating area on private property shall only be allowed to have low-level, background music that does not exceed the maximum noise decibel requirements in sections [42-226](#) through [42-228](#) if approved by the town council as part of the special exception application approval.*
- (7) *No wait stations shall be allowed outside on a street sidewalk. All wait stations on private property shall not be visible from a sidewalk or street.*
- (8) *All kitchen equipment used to service the outdoor cafe seating shall be located within a building.*
- (9) *All outdoor cafe seating furniture, including all accessory appurtenances including but not limited to approved space heaters, misters and portable umbrellas that are located within the outdoor seating area shall be stored inside a building after close of business.*
- (10) *All outdoor cafe seating furniture, including the tables, chairs, awnings and space heater equipment shall be aesthetically and architecturally pleasing and approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.*
- (11) *The area covered by an outdoor cafe seating permit, and the sidewalk and street immediately adjacent to it, shall be maintained in a clean, neat and orderly appearance at all times and clear of any trash or refuse by the permittee. The area of the sidewalk, curb and gutter immediately adjacent to the sidewalk cafe shall be cleared of all debris during hours of operation and again at the close of each business day, or as may otherwise be determined by the director.*
- (12) *Areas associated with the outdoor cafe seating shall not count toward any maximum square footage limitations.*

VARIANCE

The 2022 application received an approval for a variance (Variance # 3) from Sec. 134-1607(1), to permit 16 air conditioning equipment units on the roof at the maximum height of 108" in lieu of the 48" maximum. As part of this application, the design features a new kitchen scrubber in the approximate location of the AC units that also exceeds the height limitation for mechanical

projections. The Town's zoning code distinguishes what types of equipment are permitted for what height allowances. This application seeks a height variance from 36" in order to permit a 84" high kitchen scrubber on the roof.



There are two rooftop areas that received approval for equipment height variance—the north and the south side. The request as part of this application pertains to adding an additional kitchen scrubber to the south side. Staff has no objections to the request as it is the logical placement of such equipment, located above the interior buildout of the kitchen and located within the allocated “rooftop equipment yard” provided that there is screening methods adequately mitigate any negative visual impact when viewing the building. The incorporation of a rooftop scrubber greatly aids in the control of common kitchen exhausts that contains grease, smoke, and odors and assist in filtering these properly to help meet air quality standards.

1979 AGREEMENT

The 1979 Agreement and subsequent 19 amendments to the venerable document establish parking requirements at the site based on [prior] variance(s) issued by the Town Council. Moreover, it conditions that the Playhouse building be used as “a theatre of the performing and/or visual arts and for lectures or other special events.” The applicant is also requesting the reallocation of 20 seats to the vested pool of parking spaces documented in The Amended and Restated 1979 Agreement (attached as Attachment “A”), because of a reduction in the size and seating for the restaurant from the 220 seats that were approved in 2022. There were 45 ‘banked seats’ when the DO was approved. Marissa Collections took 2, pursuant to Z-21-00352, when it was approved to expand its tenant space of 3,040 SF, over the 3,000 SF of GLA on June 09, 2021. Therefore, from the 45 minusing out the 2 from Marissa Collections plus these 20, for a total of 63 banked spaces.

DECLARATION OF USE

See attached draft

CONCLUSION:

Approval of the project will require three (3) separate motions to be made by the Town Council:

- (1) for final determination of approval or denial of the mechanical equipment height variance by the Town Council, and that the variance shall or shall not be granted that all of the criteria applicable to this application as set forth in [Sec. 134-201\(a\)](#), items 1 through 7 have been met.
- (2) For the Special Exception for the restaurant use.
- (3) For the Special Exception for the outdoor dining component.

The application is presented to the Commission to consider whether all of the criteria in section 54-122 have been met. Approval of the project will require two (2) separate motions:

- (1) for the overall design of the project in accordance with the [Sec. 54-123](#), subject to any imposed conditions, and
- (2) that the implementation of the proposed **Variance 1** will/will not cause negative architectural impact to the subject property.

WRB:JGM