

May 28, 2024

Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Re: LOI for 253 Royal Poinciana Way Unit A ("Field of Greens" Restaurant)
Zoning Case Number: ZON-24-0011

We are pleased to submit the accompanying documents and drawings in connection with our application for Special Exception and Variance Approval for the new Field of Greens restaurant located at 253 Royal Poinciana Way, Unit A, Palm Beach, FL, which is part of the 249 Royal Poinciana Way property as identified by the Palm Beach County Property Appraiser (the "Property"). The Field of Greens restaurant was recently granted special exception and variance (parking) approval at 281 Royal Poinciana Way, which would allow them to move from another location on Royal Poinciana Way; however, because of a programming change at the 281 Royal Poinciana Way property, we need to essentially "transfer" the Field of Greens approval to a different location a few feet away at 253 Royal Poinciana Way. The new restaurant space is almost identical to the size of the previously approved restaurant space at 281 Royal Poinciana Way (new space is 8 square feet larger); however, the new restaurant space will have less fixed seating (19 seats proposed, 22 seats previously approved). Therefore, the shifting of the restaurant from the 281 Royal Poinciana Way location to the 253 Royal Poinciana Way location will be a decrease in the impact to the general area for both parking and traffic.

The project proposes to include a nineteen-seat restaurant, with 269 square feet of seating area without fixed seating, and approximately 600-foot kitchen and prep area (noted as "Back of House"). Based on the number of seats and the square-footages for the other areas, fifteen parking spaces are required. Through the principal of equivalency, the 1,240 square-foot space used for retail use previously is credited with providing seven (7) parking spaces, even though there are no parking spaces provided on site. A parking variance is therefore requested for the eight (8) parking space deficiency, which is detailed latter under the Variance request. Neither a parking study nor a traffic study were performed for this application, because of the de minimus impact this extremely small restaurant will have compared to its previous retail use. Furthermore, these items were not required for the previous Field of Greens application for the 281 Royal Poinciana Way

property, which had a greater number of seats, and was approved by Town Council just three months ago in February of this year.

Criteria for Approval of Application

A. Special Exception Approval in accordance with Section 134-229.

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.
- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
- (6) The use will comply with all elements of the comprehensive plan.
- (7) The use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.
- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information

suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.

- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.
- (14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations.

Per Section 134-1109(22), Code of Ordinances, Special Exception approval is required for a restaurant use. No change is proposed to the building footprint, nor are there any exterior changes proposed to the building. The Field of Greens restaurant has been operating for many years in a nearby space on Royal Poinciana Way without any issues, and a restaurant use in this space is compatible with the other commercial uses along this street, which include other restaurants. Field of Greens caters to the needs of the Town's residents and visitors, and poses no threat to the public's health, safety, welfare, and morals, and will not adversely affect property values in the area. Furthermore, Field of Greens in this location is consistent with the Town's Comprehensive Plan in that it is a "town serving" commercial business. No visual, noise or odor pollution will be produced by the restaurant. All other criteria for approving a special exception use are not affected by the proposed application, because no changes are proposed to the ingress and egress onto the Property, and sufficient utilities and services are available to support the use.

B. Variance in accordance with Section 134-201(a).

Variance Criteria:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
 - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with the town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of

the terms under which the variance is granted, shall be deemed a violation of this chapter.

Variance Requested:

A request for Variance from Section 134-2176, which requires parking for the restaurant to be provided on site based on restaurant seating and non-seating area space. There are currently no parking spaces available on the property; however, based on the principal of equivalency, the approximately 1,240 square feet of gross leasable space would be given credit for seven (7) parking spaces. There are nineteen (19) seats proposed with an approximately 600 square-foot kitchen/back-of-house space, and 269 square feet of seating area that does not have fixed seating; therefore, fifteen (15) parking spaces are required (7 spaces for fixed seating, and 8 spaces for back-of-house and non-fixed-seating space). There is no available area on the Property that could be used for parking, which necessitates the need for the variance.

Justification for Variance Requested:

While there is no parking on the Property, there is an abundance of public parking spaces along Royal Poinciana Way and Coconut Row that will easily provide enough parking for the existing businesses and the proposed restaurant. Other businesses in the area have deficient parking, therefore, approval of the parking variance will not confer on the applicant a special privilege and will be in harmony with the general intent of the zoning district, and this area in particular. The hardship for this requested variance is that there is simply no space available to provide parking on-site. Furthermore, a parking variance for not providing sufficient parking was granted on February 14th of this year as part of the previously mentioned move of the restaurant to the 281 Royal Poinciana Way property, so essentially this parking variance would be moving from one location to another very close location on the same street.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JCS', is positioned above the printed name.

James M. Crowley