

# TOWN OF PALM BEACH

Information for Town Council D. R. Meeting on: August 12, 2024

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To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, <sup>WPB</sup> Director of PZB and James Murphy, <sup>JM</sup> Asst. Director of PZB

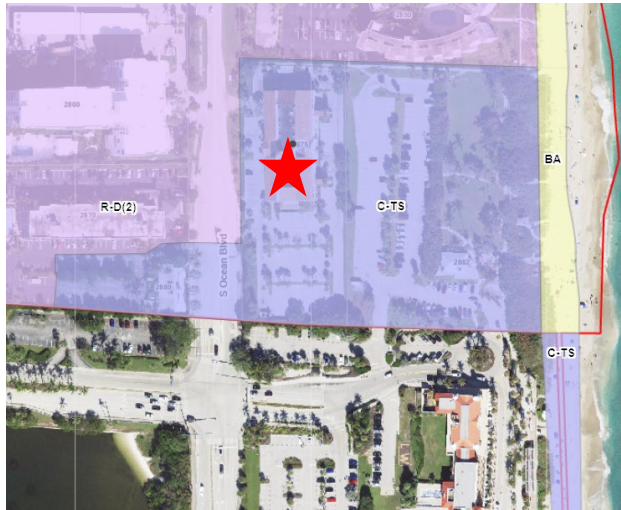
Re: Zoning in Progress 'ZIP' Waiver: Aqua Café

Date: July 31, 2024

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## **STAFF RECOMMENDATION**

Staff recommends the Town Council grant the waiver of the zoning in progress to allow the existing restaurant operation, Aqua Café, located at 2875 South Ocean Boulevard to convert an existing back of restaurant storage space to allow for a new take-out area to the existing restaurant operations.



## **GENERAL INFORMATION**

The exiting restaurant is zoned C-TS, Commercial Town-serving district, located in the south end of the Town of Palm Beach. The existing restaurant has been in operation since 2020 with an indoor-outdoor setting of 92 seats. The restaurant is one of the retail bays located on the ground floor of a 30,000 SF two-story office building. The Mediterranean-style building stands on a 2.2-acre parcel with a large parking lot adjacent to the Lake Worth Beach Casino and public beach.

At the June 12, 2024 Town Council meeting, the Council approved (4-1) a zoning in progress in regard to the regulation of the location and limitation of the number of restaurants, bars, night clubs, lounges and for-profit private clubs in all commercial zoning districts of the town in which said uses are special exception uses, specifically, the C-TS Town-Serving Commercial District, C-WA Worth Avenue District, C-OPI Office, Professional And Institutional District, C-PC Planned Center District, and C-B Commercial District, pursuant to RESOLUTION NO. 069-2024. The Resolution provided for a 'waiver' provision in Section 4 of the Resolution from the zoning in progress to be reviewed and approved by the Town Council providing for a path for such uses to apply for the development review process.

It is believed that these Special Exception uses may be a contributing factor to the Town's traffic and congestion in parts of the Town that are adversely affecting the Town's public health, safety and welfare.

It is staff's opinion, that the granting of this waiver in this specific instance does not contravene the study of said Special Exception uses which is being undertaken by the Planning and Zoning Commission and the Town regarding said matters.

Attached: Zoning in Progress Resolution No. 069-2024  
Applicant's Letter of Intent including Proposed Plans

RESOLUTION NO. 069-2024

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH DECLARING ZONING IN PROGRESS IN REGARD TO THE REGULATION OF THE LOCATION AND LIMITATION OF THE NUMBER OF RESTAURANTS, BARS, NIGHT CLUBS, LOUNGES AND FOR-PROFIT PRIVATE CLUBS IN ALL COMMERCIAL ZONING DISTRICTS OF THE TOWN IN WHICH SAID USES ARE SPECIAL EXCEPTION USES, SPECIFICALLY, THE C-TS TOWN-SERVING COMMERCIAL DISTRICT, C-WA WORTH AVENUE DISTRICT, C-OPI OFFICE, PROFESSIONAL AND INSTITUTIONAL DISTRICT, C-PC PLANNED CENTER DISTRICT, AND C-B COMMERCIAL DISTRICT; DIRECTING THAT WHILE ZONING IS IN PROGRESS THAT NO PERMITS SHALL BE PROCESSED OR GRANTED WHICH ARE IN CONTRAVENTION OF THE STUDY WHICH IS BEING UNDERTAKEN BY THE PLANNING AND ZONING COMMISSION AND THE TOWN REGARDING SAID MATTERS; EXCEPTING ANY APPLICATIONS WHICH HAVE BEEN PREVIOUSLY FILED AND UNDER CONSIDERATION BY THE TOWN; PROVIDING THAT THE TOWN COUNCIL MAY GRANT A WAIVER TO ZONING IN PROGRESS UPON APPLICATION AND FOR GOOD CAUSE SHOWN; PROVIDING AN EFFECTIVE DATE.

WHEREAS, traffic and congestion within the Town have become highly problematic and are adversely affecting the Town's public health, safety and welfare; and

WHEREAS, it is believed that the proliferation of restaurants, bars, nightclubs, lounges and for-profit private clubs is a contributing factor to this problem; and

WHEREAS, the Town Council has directed its Planning and Zoning Commission to consider an ordinance regulating the number and location of restaurants, bars, night clubs, lounges and for-profit private clubs within all commercial zoning districts of the Town in which such uses are special exception uses; and

WHEREAS, so as not to frustrate the purpose and intent of the matter under consideration and the resulting ordinance, the Town Council hereby wishes to declare zoning in progress directing that the Town's Building Department not process any applications or grant any permits which may be in contravention of the matters under study; and

WHEREAS, any applications filed prior to this declaration of zoning in progress are hereby excepted from these provisions;

NOW, THEREFORE be it resolved by the Town Council of the Town of Palm Beach, Palm Beach County, Florida as follows:

Section 1. Zoning in progress is hereby declared in all commercial zoning districts of the Town in which restaurants, bars, nightclubs, lounges and for-profit private clubs are permitted, specifically, in the C-TS Town Serving Commercial District, C-WA Worth Avenue District, C-OPI Office, Professional and Institutional District, C-PC Planned Center District, and C-B Commercial District.

Section 2. This declaration of zoning in progress provides that no permits for new restaurants, bars, nightclubs, lounges or for-profit private clubs shall be processed or granted during the period that this matter is under consideration and study by the Town, with the

exception of any applications pending with the Town prior to the date of this resolution.

Section 3. Zoning in progress shall remain in effect for the duration of this matter being under consideration by the Town through its Planning and Zoning Commission and the Town Council and until an ordinance relating to this matter is adopted which period of consideration and adoption is intended to be concluded by December 10, 2024. Nothing shall preclude the Town Council from extending the period of zoning in progress in consideration of this matter if determined necessary by the Town. This declaration of zoning in progress is of a temporary nature so as to allow a careful but expeditious study of this matter and may be concluded prior to the December 10, 2024, date if an ordinance relating to this matter is adopted prior to said date.

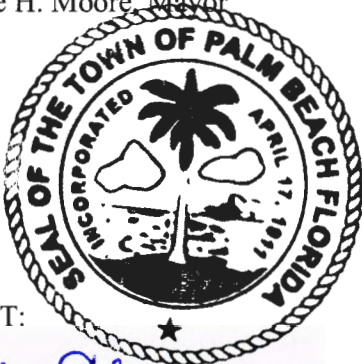
Section 4. Nothing herein shall preclude the Town Council, upon application and for good cause shown from granting a waiver to zoning in progress.

Section 5. This resolution shall become effective immediately upon passage.

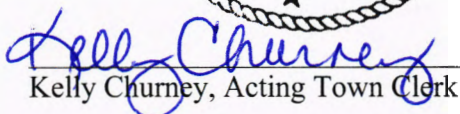
**PASSED AND ADOPTED** in a regular adjourned session of the Town Council of the Town of Palm Beach this 12th day of June, 2024.

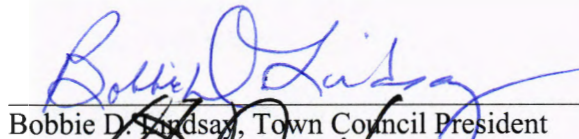


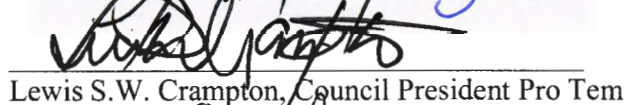
Danielle H. Moore, Mayor

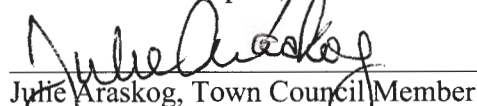



ATTEST:

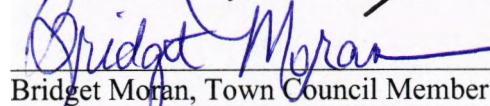
  
Kelly Churney, Acting Town Clerk

  
Bobbie D. Lindsay, Town Council President

  
Lewis S.W. Crampton, Council President Pro Tem

  
Julie Araskog, Town Council Member

  
Edward A. Cooney, Town Council Member

  
Bridget Moran, Town Council Member

# KOCHMAN & ZISKA PLC

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Ronald S. Kochman\*  
Maura A. Ziska  
Alexander D. Kochman

\*Also admitted in New York

Esperanté  
222 Lakeview Avenue, Suite 1500  
West Palm Beach, Florida 33401

Telephone: (561) 802-8960  
Facsimile: (561) 802-8995

July 29, 2024

Mr. Wayne Bergman  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

***Re: Waiver to Zoning in Progress for Acqua Express Cafe***

Dear Mr. Bergman:

Please let this letter stand as a request by Acqua Express Café for a waiver to the recently enacted Zoning in Progress that would prohibit any new restaurants from obtaining approval. Since the proposal is to expand the existing restaurant by converting a portion of the existing food storage area into a "Carry Out" counter, a "waiver" is necessary to proceed with the new addition of the "Carry Out" retail sales counter. Aqua Express Cafe is a restaurant, however, the space they are adding is only for take-out, which was not included in the Zoning in Progress. There is only one double door between the two spaces, used for employee's access only. The intent of the Zoning in Progress is to control new restaurant traffic. However, take-out customers are already going to the existing restaurant to pick-up orders. The new space is simply shifting customers from the existing restaurant to the new counter, not adding new customers or foot traffic.

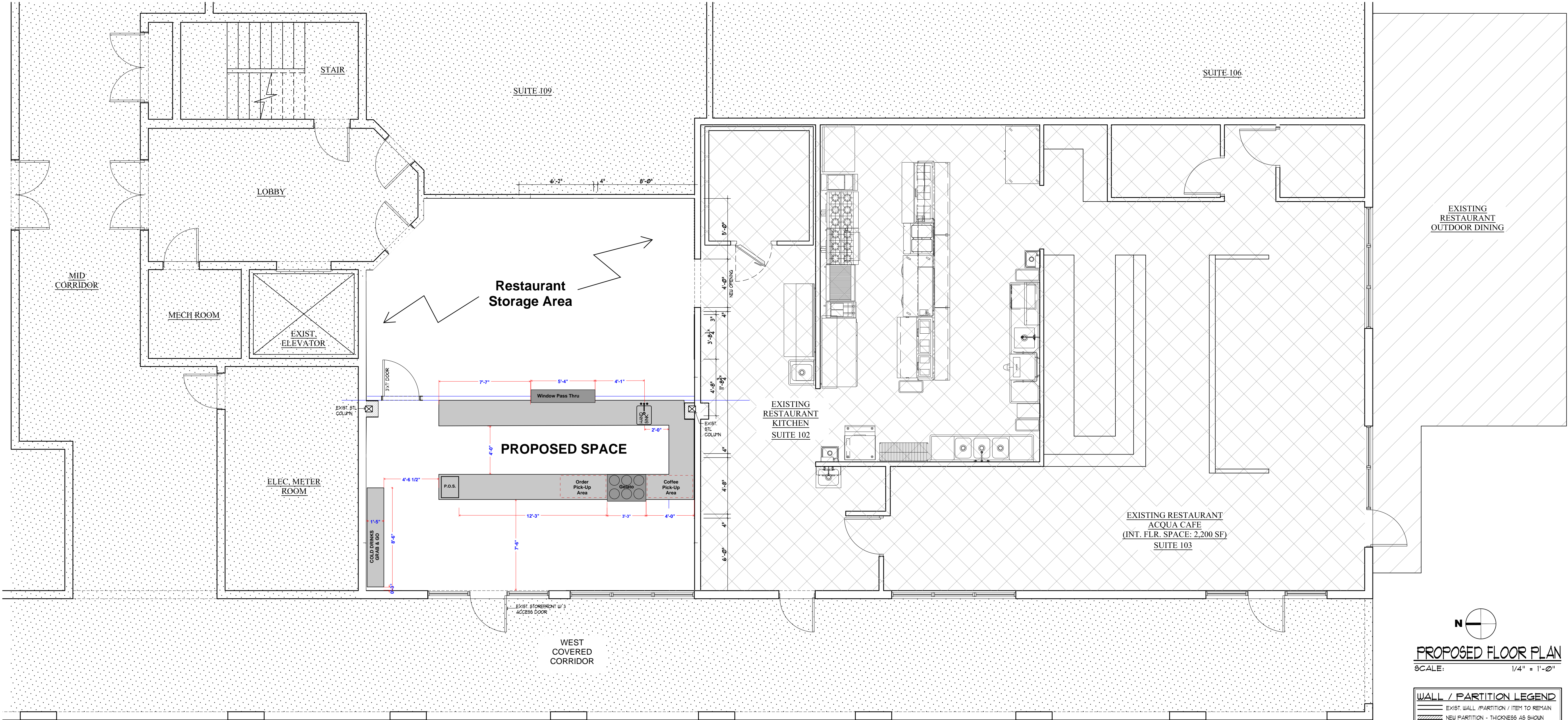
The proposal at 2875 South Ocean Blvd., Suite 101, is to better efficiently serve the building and its occupants while continuing to provide quality products to its patrons. Acqua Express Café is a bustling restaurant in need of the Carry Out expansion for the convenience of its patrons and will serve the local community with both a delectable menu selection and philanthropic efforts.. A waiver should be granted to clear the take-out counter. If there is any further info that may help clarify this point, please feel free to reach out anytime.

Sincerely,

*Maura Ziska*  
Maura Ziska

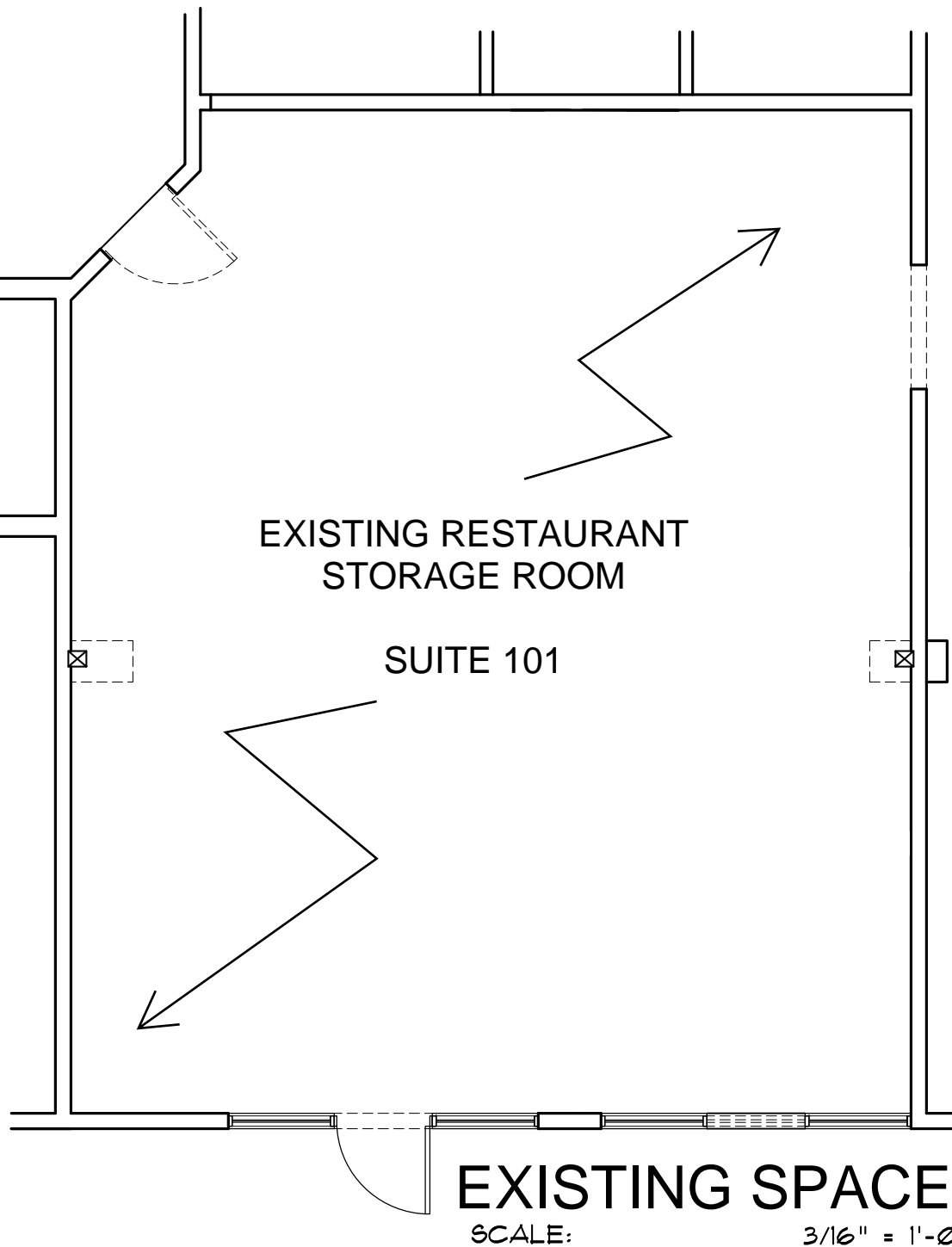
/maz  
Attachment  
cc: Client





**PROPOSED FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

WALL / PARTITION LEGEND	
	EXIST. WALL / PARTITION / ITEM TO REMAIN
	NEW PARTITION - THICKNESS AS SHOWN
	WALL / PARTITION / ITEM TO BE REMOVED
	EXIST. RESTAURANT INDOOR AREA
	EXIST. RESTAURANT OUTDOOR AREA
	EXIST. SPACES NOT AFFECTED WITH WORKS



**PARKING CALCULATION**

BLDG. FLR.	SUITE	USE	GROSS AREA	REQUIREMENTS	SPACES REQUIRED
PIZZA TAKE-OUT	101	SALES (RETAIL)	288 SF	1 PER 200 SF	2
(190 SF TOTAL)	101	SUPPORT SPACES	502 SF	1 PER 300 SF	2
TOTAL SPACES REQUIRED					
CURRENT REAL ESTATE OFFICE	101	SALES OFFICES	850 SF	1 PER 250 SF	4

**NOTES:**  
1- BUSINESS LICENSING: ACQUA ESPRESSO WILL OPERATE AS A SEPARATE ENTITY (SEPARATE BUSINESS TAX RECEIPT) FROM ACQUA CAFE AND WILL OPERATES AS ADDITIONAL D/B/A UNDER ACQUA FB, LLC.  
2- AREA: ACQUA ESPRESSO - INSIDE AREA: 190 SF  
ACQUA CAFE - INSIDE AREA: 2200 SF  
TOTAL INTERIOR FLOOR AREA: 2390 SF  
3- SEATING: NO INTERIOR SEATING REQUIRED. THIS IS A WALK-IN COUNTER PICK-UP ONLY.  
4- LANDSCAPING: NO LANDSCAPE SCOPE REQUIRED. CHANGES TO INSIDE OF BUILDING ONLY.  
5- EXTERIOR SIGNAGE: SEPARATE PERMIT - NOT IN THIS PERMIT'S SCOPE OF WORK. (SIGN WILL BE SIMILAR IN NATURE TO EXISTING ACQUA CAFE SIGNAGE AND WITHOUT LIGHTING).  
6- PARKING: NO REVISION TO PARKING PROPERTY'S PARKING SPACES REQUIRED.

ZONING APPLICATION: Z-20-00303

PROJECT No  
DATE:  
07/18/24

REVISIONS

TENANT BUILD-OUT  
FLOOR PLAN  
SUITE 101

TENANT LUNCH TAKE-OUT ADDITION TO:  
ACQUA CAFE  
SUITE 101  
2875 S. OCEAN BLVD., PALM BEACH, FL 33400

*Giacomelli Architecture, Inc.*  
• 148 OHIO ROAD • LAKE WORTH • FLORIDA • 33467 •  
• (561) 714-6997 • LLC #AA003453 •

DARIO C. GIACOMELLI  
LIC. #AB000533  
SHEET No  
A-1





EXISTING CONDITION OF  
BREEZWAY TO NOT BE  
IMPACTED BY THIS  
CONSTRUCTION

EXISTING CONDITION OF  
EXTERIOR FACADE TO  
NOT BE IMPACTED BY  
THIS CONSTRUCTION



PROJECT No

DATE:  
07/18/24

REVISIONS

TENANT BUILD-OUT  
FLOOR PLAN  
SUITE 101

TENANT LUNCH TAKE-OUT ADDITION TO:  
ACQUA CAFE  
SUITE 101  
2875 S. OCEAN BLVD. PALM BEACH, FL. 33480

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DARIO C. GIACOMELLI  
LIC. #AB000533

SHEET No

A-2



