



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5430 • www.townofpalmbeach.com

PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP
Director PZ&B

SUBJECT: ZON-22-002 (ARC-21-093)
150 WORTH AVE, STE 234

MEETING: February 09, 2022

ZON-22-002 (ARC-21-093) 150 WORTH AVE, STE 234 (COMBO)—SPECIAL EXCEPTION WITH SITE PLAN REVIEW. The applicant, Cojimar Palm Beach (Joseph Hernandez and Charles Masson), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review requesting outdoor seating (28 total seats) at the first (20 seats) level and second (8 seats) level of the two-story Esplanade retail building in conjunction with a new restaurant (Cojimar) to occupy the second floor space of a prior restaurant.

ARCOM NOTICE:

ARC-21-093 (ZON-22-002) 150 WORTH AVE, STE 234 (COMBO). The applicant, Cojimar Palm Beach (Joseph Hernandez and Charles Masson) has filed an application requesting Architectural Commission review and approval for exterior seating (28 seats) in association with a new second floor restaurant (COJIMAR). The outdoor seating will require a Special Exception Review w/Site Plan Review by the Town Council.

Applicant: Cojimar Palm Beach (Joseph Hernandez and Charles Masson)
Professional: Jeffrey Brasseur /Brasseur and Drobot Architects
Representative: Maura Ziska

HISTORY:

At the December 17, 2021 ARCOM meeting, the Architecture Commission deferred the matter for one month to refine the seating plan and refine or remove the first floor umbrella and seating areas. At the January 26, 2022 after considerable discussion, the item was deferred to the February 23, 2022 ARCOM meeting in order to assess the location and amount of seating approved by Town Council.

This TC item was continued from the January 12, 2022 TC meeting without discussion to the February 09, 2022 meeting.

THE PROJECT:

The applicant has submitted plans, entitled "OUTDOOR SEATING TO THE COJIMAR RESTURANT", as prepared by **Brasseur and Drobot Architects**, dated 01/03/2022.

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The applicant has submitted plans, entitled "OUTDOOR SEATING TO THE COJIMAR RESTURANT", as prepared by **Brasseur and Drobot Architects**, dated 01/03/2022.

The following is the scope of work for the Project:

- New outdoor seating furniture.

The following Special Exceptions and Variances required to complete the project:

- Special Exception Use (outdoor dining) w/ site plan review by Town Council.

SPECIAL EXCEPTION CRITERIA SEC. 134-229

The requirements for granting a special exception use under this chapter are as follows:

- (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.

SEC. 134-2106. - STANDARDS AND CRITERIA FOR SPECIAL EXCEPTION AND OUTDOOR CAFE PERMIT APPLICATION REVIEW.

The standards and conditions required to be met as part of the special exception application and outdoor cafe seating permit approval are those provisions provided for in section 123-229 and the following criteria and conditions:

- (b) Criteria and conditions required to be met for approval of outdoor cafe seating on private property not within a street sidewalk:
 - (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.

SITE PLAN REVIEW CRITERIA SEC. 134-329

Before any site plan shall be approved, approved with changes, or denied, the town council shall make a finding that the approval of the site plan will or will not adversely affect the public interest and certify that the specific zoning requirements governing the individual use have or have not been met and that, further, satisfactory provision and an arrangement has or has not been made concerning the following matters, where applicable:

- (1) Sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership or control, use and permanent maintenance of common open space, common facilities or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the town.
- (2) Intensity of use and/or purpose of the proposed development in relation to adjacent and nearby properties and the effect thereon; provided, however, that nothing in this subsection shall be construed as granting the town council the authority to reduce residential densities below that permitted by the use regulations in article VI of this chapter.
- (3) Ingress and egress to the property and the proposed structure thereof, with particular reference to automotive and pedestrian safety; separation of automotive traffic; traffic flow and control; provision of services and servicing of utilities and refuse collection; and access in case of fire, catastrophe or emergency.
- (4) Location and relationship of off-street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the property, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.
- (5) Proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the property boundaries.
- (6) Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the consequences of such drainage on overall town capacities.
- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.
- (8) Recreation facilities and open spaces, with attention to the size, location and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the property, and relationship to communitywide open spaces and recreation facilities.
- (9) Such other standards as may be imposed by this chapter for the particular use or activity involved.
- (10) Height of commercial structures with reference to adjoining buildings, the effect on uniformity in height, and the general principle of retaining the low profile scale of commercial architecture.
- (11) Visible size and bulk. The proposed development should be so arranged that it minimizes the visible bulk of the structures to drivers and pedestrians on abutting roadways, the point of reference being the centerline of the abutting roadways, with the intent being to

maintain visual impact of multistory buildings at the same relative level of intensity as a single-story building at the minimum required setback.

CONSISTENCY WITH THE COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **restaurant use** is **consistent** with the **Commercial** designation of the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH ZONING CODE:

A preliminary review of the project indicates that the application, as proposed, appears to be consistent with the Town code.

Site Data			
Zoning District	C-WA	Lot Size (SF)	88,749 SF
Future Land Use	COMMERCIAL	Total Building Size (SF)	N/C
Total Licensed Seats	151	Proposed Outdoor Seats	28

Surrounding Properties / Zoning	
North	2000 Two-story commercial building
South	1994 Six-story hotel "Colony Hotel"
East	1970 Seven-story Condominium
West	1950 One-story commercial building

STAFF ANALYSIS

The proposed seating is self-contained within the commercial Esplanade and will be no negative impact to any surrounding properties. The following matters will need to be addressed prior to obtaining an outdoor café permit:

- Missing storage plan at close. Please illustrate how and where tables and chairs will be stored inside the restaurant in plan.
- Section 134-2107: Will need to indemnify and hold town harmless in the form of an insurance policy of not less than \$1m.