



**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
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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-22-076 331 S COUNTY RD

MEETING: July 13, 2022

**ZON-22-076 331 S COUNTY RD—SPECIAL EXCEPTION WITH SITE PLAN REVIEW.**

The applicant, Café L'Europe (Mark Marcello), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review for outdoor café seating on public right-of-way (34 seats) in conjunction with an existing restaurant.

Applicant: Café L'Europe (Mark Marcello)  
Professional: SpinaOrourke + Partners  
Representative: Maura Ziska

**HISTORY:**

10/12/71 – Variance No. 36-71 – Permission to convert a 144 SF area (previously storage) into office space without providing required off-street parking.

07/12/88 – Special Exception No. 8-88 – To allow conversion of the restaurant into a private dining club, a Special Exception Use in the C-TS District.

11/13/20 – Special Exception File No. Z-20-00295, which approved the following:

- Section 134-1109 (14): Special Exception with Site Plan Review is being requested to relocate 20 seats from the inside 175 seats of Café L'Europe and relocate them outside along the sidewalk for dinner. 12 seats were proposed along South County Road and 8 seats were proposed along Brazilian Avenue.
- Section 134-1113(5)c: A variance to permit awnings at 4.75 feet of clear sidewalk (along South County Road) in lieu of the 10 foot minimum required; and to have 7.75 feet of clear sidewalk (along Brazilian Avenue) in lieu of the 10 foot minimum required.

The seating approval was appealed. At the 05/12/21 Town Council, the applicant formally withdrew the application for the special exception and variance request. Since then, the establishment has relied upon its outdoor seating approved under the Town's seating program during the COVID pandemic.

The application today does not propose any seating along Brazilian Avenue, nor does it seek any variance relief.

**THE PROJECT:**

The applicant has submitted plans, entitled "Café L'Europe", as prepared by **SpinaOrourke + Partners** stamped 05/13/22

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

- Special Exception Use (for outdoor café seating on public right-of-way (34 seats) in conjunction with an existing restaurant) w/ site plan review by Town Council.

The following Special Exceptions, Site Plan Review and/or Variance(s) is required to complete the project:

- Sec. 134-1109(14): Special Exception for outdoor café seating.
- Sec. 134-2106(a) Criteria and conditions required to be met for approval of outdoor cafe seating on 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 prepared foods for takeout only, or private, social, swimming, golf, tennis or yacht club. The exception is that a specialty food use, including the 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) An outdoor cafe seating area is restricted to the area abutting the boundary lines of the property on which the business owned by the applicant is located.
  - 4) Outdoor cafe seating shall not be allowed where the outdoor seating furniture would be placed within five feet of bus stops, loading zones, valet parking stands, sight triangles or other structures or areas determined by the director to require clearance for the public. For the purpose of this chapter outdoor cafe seating furniture is defined as tables, chairs, umbrellas, portable heaters, mist sprayers and any other customarily usual objects used in the outside cafe seating area.
  - 5) No outdoor cafe seating furniture shall be allowed within five feet of a pedestrian crosswalk.
  - 6) All outdoor cafe seating furniture shall be located in such a manner that a minimum five foot-wide unobstructed pedestrian path is maintained at all times.
  - 7) No outdoor cafe seating furniture shall be permitted around the perimeter of an outdoor seating area that would have the effect of forming a physical or visual barrier discouraging the use of the pedestrian sidewalk.
  - 8) An outdoor cafe seating area is prohibited from having music.
  - 9) No wait stations shall be allowed outside on the sidewalk. All wait stations on private property shall not be visible from a sidewalk or street.
  - 10) All kitchen equipment used to service the outdoor cafe seating shall be located within a building.
  - 11) All outdoor cafe seating furniture and associated lighting shall be aesthetically and architecturally pleasing and approved by either the Architectural Commission or Landmark Preservation Commission, whichever is applicable.
  - 12) An outdoor cafe seating area shall not count toward any maximum square footage limitations.
  - 13) 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.

- 14) No outdoor cafe seating furniture located within the public right-of-way shall be attached, chained or in any manner affixed to any tree, post, sign or other fixtures, curb or sidewalk within or near the permitted area.
- 15) 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.

Site Data			
Zoning District	C-TS	Lot Size (SF)	9,676 SF
Future Land Use	COMMERCIAL	License	00035669
Indoor Seats	175	Outdoor Seats	34

Surrounding Properties / Zoning	
North	Two-story commercial / office
South	ToPB Police Station
East	Surface parking lot
West	Mizner Fountain

**CONSISTENCY WITH THE COMPREHENSIVE PLAN:**

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

**STAFF ANALYSIS**

Outdoor seating, whether in sidewalk cafes or upon outdoor private areas, expands business activity and ultimately adds vitality to an area. The currently approved restaurant occupies 5,973 SF on the first floor of an existing 9,676 SF, one story building. The restaurant is currently approved for 175 indoor seats. The scope of this application includes a request to relocate 28 of the currently approved seats outdoors as indicated in the seating plan. There are no proposed modifications to currently approved seat count or the exterior of the structure in this application. Approval of the Special Exception request for outdoor seating on the Town right-of-way will also allow the applicant to place furniture within the required open space sidewalk clearance of 8' where 10' width is required along the west (South County Road) property line, a relaxation from Sec 134-1113(5)(c). All of the proposed seats are situated along South County Road. Note that pursuant to Sec. 134-2105. - Application. After town council approval of a special exception zoning application, the applicant shall file for an outdoor cafe seating permit application to the director of the planning, zoning and building department.