



TOWN OF PALM BEACH

Planning, Zoning & Building Department

November 23, 2020

Ms. Maura Ziska, Esq.
222 Lakeview Avenue
Suite 1500
West Palm Beach, FL 33401

Subject: Z-20-00295, 331 South County Road

Dear Ms. Ziska:

The Town Council, at its November 13, 2020 meeting, conditionally approved your client's application for Special Exception with Site Plan Review to relocate 20 seats from the inside 175 seats of Cafe L'Europe to the outside sidewalk for dinner. In addition, the Council approved 11 new arched top awnings and a new fabric to the existing awning. The new awnings project 3 feet off the face of the building and the bottom of the awning is 9 feet above the existing sidewalk. The existing entrance awning projects approximately 10 feet over the existing sidewalk. The existing frame will remain unchanged and only the fabric is being changed out. As part of the conditional approval, the seating is allowed to have 4.75 feet of clear sidewalk along South County Road in lieu of the 10-foot minimum required and 7.75 feet of clear sidewalk along Brazilian Avenue in lieu of the 10-foot minimum required. The condition of approval is that the seating on the Brazilian Avenue side of the sidewalk is required to end all table service by 10:00 p.m. and the applicant is required to come back to the Town Council for reconsideration at its May Town Council meeting or immediately after any viable complaint is determined by the Town.

The Town Council approval is identified on the stamp approved and stamp dated plan package dated September 18, 2020 from Spina Orourke & Partners Prior to the issuance of a building permit, the property owner voluntarily committed to either provide a recorded utility easement or an easement agreement satisfactory to the Town that ensures a recorded easement will be granted, if necessary, to underground utilities in the area.

The approval of this zoning application constitutes only zoning approval and does not relieve the owner and/or applicant from obtaining additional Town approvals as may be required such as construction permits.

The work authorized under the approval of this zoning application must be commenced within three years from the date of approval or said approval will expire.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul Castro".

Paul Castro, AICP
Zoning Manager

cc: Wayne Bergman, Director of Planning, Zoning and Building
Laura Groves van Onna, Historic Preservation Planner
Bradley Falco, Zoning Technician zf & pf



TOWN OF PALM BEACH

Planning, Zoning & Building Department

May 25, 2021

Ms. Maura Ziska, Esq.
222 Lakeview Avenue
Suite 1500
West Palm Beach, FL 33401

Subject: Z-20-00295, 331 South County Road

Dear Ms. Ziska:

The Town Council, at its May 12, 2021 meeting, reconsidered the subject zoning application related to the special exception and variances for outdoor seating. After hearing all testimony, the Town accepted your client's request to withdraw that portion of the application related to the special exception and variances for outdoor seating. As such, the permanent outdoor seating is no longer permitted on this property.

If you have any questions, please contact me at (561)227-6406.

Sincerely,

Paul Castro, AICP
Zoning Manager

cc: Wayne Bergman, Director of Planning, Zoning and Building
James Murphy, Asst. Director of Planning, Zoning and Building
Laura Groves Van Onna, Historic Preservation Planner
Brad Falco, Planner 1
Carla Marcote, Code Enforcement zf
& pf

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continuing without any stipulations other than the Declaration of Use. Carla Marcote, Code Enforcement, reported two complaints with no violations found.

Council Member Araskog asked the solution for complaints that were below the decibel level. Zoning Manager Castro responded they could speak before the Council in public comment.

Motion made by Council Member Crampton and seconded by Council Member Cooney, to allow The Colony to continue operations under the existing Declaration of Use. Motion carried by unanimously, 5-0.

d. **Z-20-00295 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) 331 S COUNTY RD -**

Reconsideration of the Approval for Cafe L'Europe, Z-20-00295, Special Exception with Site Plan Review, 331 South County Road

Ex parte communications were disclosed by Council Members Cooney, Araskog, Crampton, Council President Zeidman, Council President Pro Tem Lindsay and Mayor Moore.

Administrative Specialist Churney swore in John Eubanks. Keith Spina had previously been sworn. The other speakers, Jennifer and Mark Marcello, had also been sworn.

Zoning Manager Castro introduced the item.

Ms. Ziska stated that under the COVID seating, they were allowed 35 outdoor seats, while under the variance they were allowed 20 outdoor seats.

Town Attorney Randolph stated that if the restaurant was still operating under the COVID seating, the variances should be retracted while there was a lawsuit to be heard.

Town Attorney Randolph clarified for Council Member Araskog that a decision should be made regarding the variance. A lawsuit had been filed challenging the Town granting the variance. Also, COVID rules had changed allowing restaurants to have full capacity, which were changes from the time the variance was granted. Council should consider whether they still wished to grant the variance for outdoor seating.

Ms. Ziska stated that the applicant was there to be reviewed after 6 months but had not operated under the variance that had been granted. Town Attorney Randolph clarified that the Council was reviewing whether to allow the variance to go forward with a pending lawsuit, with outdoor seating under review for changes, and with the Governor's order changing seating from 50% to 100% capacity.

Council President Zeidman suggested Zoning in Progress should be declared for outdoor seating.

Town Attorney Randolph asked that this be heard today. Mayor Moore was concerned that Council Member Cooney had not

heard the first presentation. Discussion ensued regarding reconsideration.

Attorney Ziska asked about making the sidewalk wider. Staff responded. Discussion ensued regarding the applicable section of code.

Town Manager Blouin commented on the administrative procedure which instituted the COVID approval for outdoor seating, and unintended consequences.

Keith Spina, Spina O'Rourke, presented the architectural plans for the outdoor seating.

Jennifer Marcello, owner, stated there had been an overwhelming response to the outdoor seating. She said many local citizens had supported their request. She discussed the monies spent on the beautification of the outdoor area around the restaurant. She questioned that only one objection could have such an effect on their business and the future of outdoor dining. She confirmed her commitment to the Town.

Council President Zeidman called for public comments.

John Eubanks, attorney representing Thomas O. McCarthy at 140 Brazilian Avenue, discussed his client's objections to the zoning application. He also believed that the COVID seating should not be allowed.

Town Attorney Randolph stated that the Town Council should not consider the temporary outdoor seating at this time.

Ms. Ziska stated her applicant would like to withdraw the special exception, site plan review and variance request at this time.

Motion made by Council Member Araskog and seconded by Council Member Crampton to accept the withdrawal of the special exception and variances related to outdoor seating and site plan review, except for the awnings, for Cafe L'Europe. Motion carried unanimously, 5-0.

- e. **Z-20-00299 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R A Estate Residential The application of 1015 SOUTH OCEAN LLC (MAURA ZISKA, MANAGER), applicant, relative to property located at **1015 S OCEAN BLVD**, legal description on file, is described below. 1) Section 134 840: Special Exception with Site Plan Review to allow the construction of an 11,031 square foot two story residence on a non-conforming lot that is 97.97 feet in depth in lieu of the 150 foot minimum required In the R A Zoning District. 2) Section 134 843(a)(5): A request for a variance to allow a front setback of 16 feet 7.5 inches in lieu of the 35 foot minimum required in the R A Zoning District. 3) Section 134 843(a)(9): A request for a variance to allow a rear setback of 2 feet 7 inches in lieu of the 15 foot minimum required in the R A Zoning District. 4) Section 134 843(a)(6)b: A request for a