

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-22-106 251 SUNRISE AVE

MEETING: August 10, 2022

ZON-22-106 251 SUNRISE AVE – SPECIAL EXCEPTION REQUEST WITH SITE PLAN REVIEW AND VARIANCE(S) The applicant, PB Catch (Daniel Smith), has filed an application requesting Town Council review and approval for Special Exception Request with Site Plan Review and Variance for outdoor café seating on public right of way in conjunction with an existing restaurant. A variance is being requested to provide 4 ft of unobstructed sidewalk where 5 ft is required.

Applicant: PB Catch (General Manager Daniel Smith)
Professional: PB Catch (Daniel Smith)

THE PROJECT:

The applicant has submitted plans, entitled "Final Plan ZON-22-106 PB Catch", as prepared by **Daniel Smith** dated June 16, 2022.

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

- Special Exception Use (outdoor café seating on public right of way and private property in conjunction with an existing restaurant) w/ site plan review by Town Council.
- Variance to provide 4 ft of unobstructed sidewalk where 5 ft required.

The following variances, special exception and site plan review are 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.
- Sec. 134-2106 (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 Data			
Zoning District	C-TS	Existing license	#00957691 Dining Room 150 seats indoor
Future Land Use	COMMERCIAL	Outdoor Seats	38 outdoor seats 32 (8 four-tops) 6 (3 two-tops)

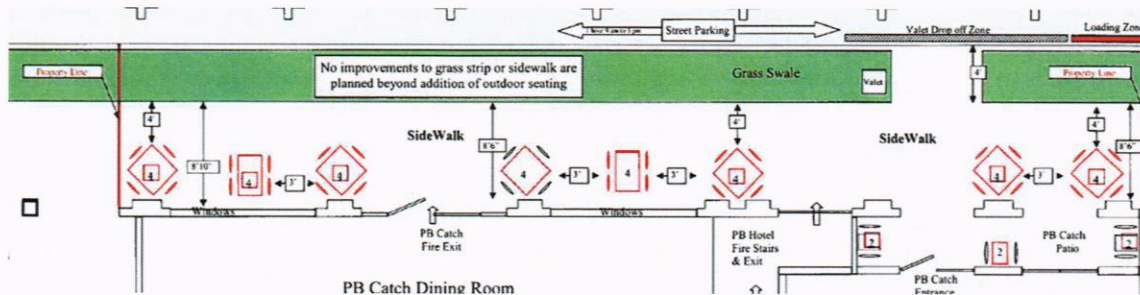
CONSISTENCY WITH THE COMPREHENSIVE PLAN:

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.

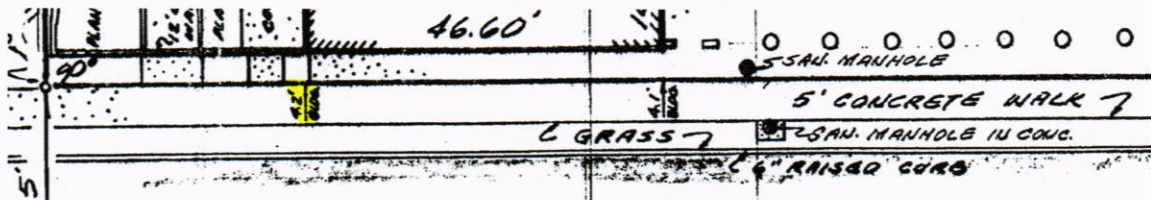
STAFF ANALYSIS

Outdoor seating, whether in sidewalk cafes or parklets, increases the use of the Town's outdoor public spaces, expands business activity and ultimately, adds vitality to an area. PB Catch is requesting a Special Exception Use to secure an annual Outdoor Cafe Permit in order to continue to utilize the public sidewalk in front of the restaurant for table service. The applicant is proposing to continue the ability to locate the previously permitted forty (38) seats outdoors encroaching onto the public right-of-way and to allow for a 4' unobstructed sidewalk rather than the 5' specified, as

they have been operating with during the last 18 months. Note, the 38 proposed outdoor seats are predominantly located on private property under the existing covered terrace and will be deducted from the overall dining capacity (150 seats) that the restaurant is currently licensed for.



The applicant is proposed to encroach approximately 8"-12" into the public sidewalk from under the covered front patio that is on private property. Review of the survey indicates that several building elements of the Palm Beach Hotel already encroach into the 5'-wide concrete walkway (sidewalk). The Palm Beach Hotel was designed by architect Mortimer Dickinson Metcalfe and completed in 1925. As such, the offending element of the seating plan will not be any more impactful than the already existing encroachments by the venerable landmarked edifice.



And finally, in order to reduce the appearance of a cluttered environment, the Town Council required that all outdoor furniture be brought in after closing. 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.