



TOWN OF PALM BEACH
Planning, Zoning & Building Department
360 South County Road
Palm Beach, FL 33480
(561) 838-5431 • 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-22-113 (ARC-22-182) 380 S COUNTY RD (COMBO)

MEETING: OCTOBER 12, 2022

ZON-22-113 (ARC-22-182) 380 S COUNTY RD (COMBO)-SPECIAL EXCEPTION W/ SITE PLAN REVIEW AND VARIANCES. The applicant, Le bar a vin (Ann DesRuisseaux), has filed an application requesting Town Council review and approval for a Special Exception Request with Site Plan Review and including variances (1) to reduce required parking (by 2 spaces), (2) to reduce the street side (south) setback for the proposed ground floor terrace addition, (3) to reduce the required sidewalk clearance width, (4) to reduce the required drive aisle width, (5) to reduce required landscape open space, and (6) to exceed the maximum allowable height for mechanical equipment on a rooftop of an existing two-story building. The applicant is also seeking a Special Exception Request for a restaurant use from an existing bar/lounge. Additionally, the applicant is seeking approval for Special Exception Request with Site Plan Review for outdoor café seating (22 seats + 8 outdoor seats previously approved) on private property and a Special Exception for a restaurant use in conjunction to an existing bar/lounge. The Architectural Commission will perform design review of the application.

ARCOM NOTICE:

ARC-22-182 (ZON-22-113) 380 S COUNTY RD (COMBO). The applicant, Le Bar a Vin (Ann DesRuisseaux), has filed an application requesting Architectural Commission review and approval for the construction of new 370 SF Covered Dining Area, a new 519 SF back of house addition to an existing bar/lounge under the existing second floor footprint to an existing two-story building, including variances from setback requirements, drive aisle widths, open space requirements, height of rooftop mechanical equipment and to reduce the required parking. This is a combination project that shall also be reviewed by Town Council as it pertains to zoning relief/approval.

Applicant: 380 S County LLC (Phillip Norcross, Manager)
Professional: Spina Orourke + Partners
Representative: Maura Ziska

HISTORY:

- 9/11/19 Architect Dan Kahan approached the Town with a “pop up” Wine Bar at 380 S. County Rd.
- 9/18/19 Former Director of PZB approved the use of the Wine Bar, as it is permitted by right under the code.
- 12/18/19 Permit application B-19-82652 is made for interior and exterior renovations to the

building.

- 1/6/20 ARCOM staff approval, A-20-00824, granted for first floor to be converted to a Wine Bar. Staff approval in conjunction with the conversion of the first floor of the existing building to a wine bar. The applicant requested that the existing covered entry vestibule on the east side be enclosed. A new pair of doors with sidelites (to match) would be re-installed. Also, at the north side of the building, the center window would be replaced with a new pair of aluminum and glass french doors.
- 1/22/20 Permit B-19-82652 is issued. Seven revisions follow the issuance of this permit, all of which were approved.
- 1/23/20 ARCOM staff approval, A-20-00859, granted for a patio on the north side of the building.
- 2/5/20 Request made for Administrative Outdoor Seating and Administrative Site Plan Review.
- 2/7/20 ARCOM staff approval, A-20-00889, granted for outdoor seating on the new patio. Staff approval in conjunction with the conversion of the first floor of the existing building to a wine bar, the applicant requested that the small landscaped area at the northeast corner of the building be converted to hardscape with 6 outdoor seats. The seats would be deducted from the proposed interior seating count. Additional landscaped open space would be added in other areas of the property to offset the loss.
- 10/1/20 Business Tax Receipt is issued for the Wine Bar.
- 11/19/20 Kimley Horn approached Paul Castro – the use will become a restaurant.

Since then, the Town has made considerable zoning modifications pertaining to “all restaurant uses” in the Town. No longer outright permitted uses, as of June 9, 2021 all restaurants, outdoor seating, and bars are permitted only through the Special Exception review and approval process by Town Council.

At the 02/23/22 ARCOM meeting, the item was discussed and deferred to the 03/23/22 ARCOM meeting to restudy the project. Also, the Commission motioned (6-1) that implementation of the proposed variances will cause negative architectural impact to the subject property. At the 03/09/22 Town Council Development Review meeting, the item was deferred for one month at the request of the applicant.

At the March 23, 2022 ARCOM meeting a more intense combo application was approved (6-1 design | 4-3 variances) including substantial second and first floor additions, pursuant to ARC-21-039 (ZON-21-003). That application was subsequently denied (3-2 variances | 4-1 Special Exception) at the Town Council Development Review meeting at the April 13, 2022 meeting.

THE PROJECT:

The applicant has submitted plans, entitled "Building Renovations for 380 S County Road Le Bar - Ground Floor", as prepared by **Spina O'Rourke + Partners**, dated Aug. 01, 2022.

The scope of work for the Project:

- The construction of a new 368 SF covered porch addition.
- The construction of a new 519 SF ground floor (BOH) addition.
- Site alterations including associated parking, hardscape and landscape modifications.
- The retention of the existing small outdoor dining area on the north side of the building.

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- SPECIAL EXCEPTION (1): Section 134-1109(22): For restaurant use (expansion).
- SPECIAL EXCEPTION (2): Section 134-1109(14): For outdoor café seating: 22 seats.
- SITE PLAN REVIEW: Section 134-1112: Site plan approval for new building additions.
- VARIANCE (1): Section 134-2176: to reduce the required parking by 2 parking spaces required for the 519 SF first floor addition for restaurant back of house;
- VARIANCE (2): Section 134-1113(5)b: For a street side yard setback of 4'-7' feet in lieu of the 5-foot minimum required on Peruvian Avenue.
- VARIANCE (3): Section 134-1607(1): For a 24'-0" wide drive aisle between 90-degree parking spaces in lieu of the 25'-0" required.
- VARIANCE (4): Section 135-1113(5)c: For a 9'-10" walkway along Peruvian Avenue in lieu of the 10-foot minimum required.
- VARIANCE (5): Section 134-1113(11): Variance to reduce the required landscaped open space of 11.8% of in lieu of the 12.4% existing and the 25% minimum required
- VARIANCE (6): Section 134-1607(1): Variance request to exceed the maximum height of the mechanical equipment on the roof to be 60" in lieu of the 36" maximum allowed.

Site Data			
Zoning District	C-TS Zoning District	Lot Size (SF)	13,125 SF
Future Land Use	COMMERCIAL	Total Building Size (SF)	Exist: 6,165 SF
C-O-R	6.29'	Tenant Size (SF)	Exist: 2,310 SF Prop: 2,610 SF
Finished Floor Elevation	6.68' NAVD	Flood Zone	AE 6
Project			
	Required/Allowed	Existing	Proposed
Lot Coverage	70% (9,188 SF)	31% (4,103 SF)	35% (4,622 SF)
Parking Space	2 new spaces <i>Variance required</i>	20 existing	20 provided
Seats	108	100 interior 8 exterior	78 interior 30 exterior
Landscape Open Space	25% (3,281 SF)	12.7% (1,673 SF)	11.6% (1,534 SF) <i>Variance required</i>
Surrounding Properties / Zoning			
North	One-story commercial (Church Mouse)		
South	Parklet/Plaza		
East	One-story commercial (Bricktops)		
West	Two-story 1953 private club (Club Colette)		

CONSISTENCY WITH THE COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **application** is **consistent** with the **COMMERCIAL** designation of the Future Land Use Map of the Comprehensive Plan, but the proposal is an intensification of use and contrary to many aspects of the comprehensive plan. Basically, any new or expanded commercial use could be considered a conflict with the direction of the Comp Plan:

- Land Use Element Page I-5. The Town recognizes that future development and attendant population growth would aggravate traffic problems, perhaps bringing the Town to a critical level of overuse. The Town has therefore adopted the following policy regarding growth: To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character and to overall property values of the community, the Town will take all technical and administrative measures legally available, including the use of this Comprehensive Plan, to minimize the change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow.
- Land Use Element Page I-6. It continues to be a major objective of the Town to inhibit further commercialization, contain commercial uses to limited geographic locations, and to promote commercial uses which are primarily oriented to serving the needs of residents, employees and visitors staying in accommodations in the Town, while discouraging those businesses that attract customers and clients from off the Island.
- Land Use Element Page I-30. POLICY 2.3 Development orders shall be issued by the Town only for new non-residential development or redevelopment that is consistent with the Future Land Use Map and descriptions and intensities of land use as set forth in the following policies. 2.3.1 The following definitions shall pertain to the application of the non-residential land use designations and associated policies: a. "Town-serving" shall mean establishments principally oriented to serving the needs of Town persons and not substantially relying on the patronage of persons not defined as Town persons. Commercial establishments (other than those in the "Commercial – Office, Professional & Institutional" (C-OPI) zoning district, which are not required to meet town-serving requirements) of 3,000 square-feet or less of gross leasable area in the C-PC, C-TS and C-B zoning districts, and 4,000 square-feet or less of gross leasable area in the C-WA zoning district are assumed to meet the intent of the first part of this definition. b. "Town persons" shall mean all full-time and seasonal residents of the Town as well as visitors staying at accommodations in, or employees working in establishments located within, the Town.
- Land Use Element Page I-32. POLICY 2.4 To prevent critical and dangerous overuse of its streets, parking resources, public services and facilities, and damage to its historic character, and to overall property values of the community, the Town will take all technical and administrative measures legally available, to minimize the change or transition of existing low-density areas or structures to more intensive use patterns, and thereby lower the pattern of density, where possible, and to minimize tourism inflow.
- Land Use Element Page I-32. POLICY 2.5 Continue to enforce the provisions of the Town's Zoning Ordinance which are directed toward the encouragement of Town-serving commercial uses and the discouragement of those uses which are likely to attract patronage on a regional level.

COMPLIANCE WITH ZONING CODE:

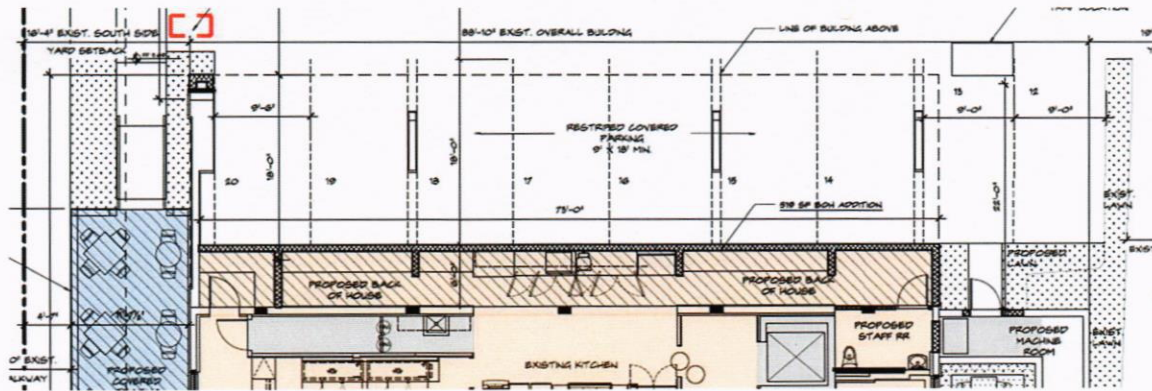
A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town code:

- Property falls within flood zone AE-6. If value of improvements exceeds 50% of the value of the building value, the building must be brought up to applicable codes including finished floor elevation requiring flood panels.
- SPECIAL EXCEPTION (1): Section 134-1109(22): For restaurant use (expansion).
- SPECIAL EXCEPTION (2): Section 134-1109(14): For outdoor café seating: 22 seats.
- SITE PLAN REVIEW: Section 134-1112: Site plan approval for new building additions.
- VARIANCE (1): Section 134-2176: to reduce the required parking by 2 parking spaces required for the 519 SF first floor addition for restaurant back of house.
- VARIANCE (2): Section 134-1113(5)b: For a street side yard setback of 4'-7' feet in lieu of the 5-foot minimum required on Peruvian Avenue.
- VARIANCE (3): Section 134-1607(1): For a 24'-0" wide drive aisle between 90-degree parking spaces in lieu of the 25'-0" required.
- VARIANCE (4): Section 135-1113(5)c: For a 9'-10" walkway along Peruvian Avenue in lieu of the 10-foot minimum required.
- VARIANCE (5): Section 134-1113(11): Variance to reduce the required landscaped open space of 11.8% of in lieu of the 12.4% existing and the 25% minimum required
- VARIANCE (6): Section 134-1607(1): Variance request to exceed the maximum height of the mechanical equipment on the roof to be 60" in lieu of the 36" maximum allowed.

STAFF ANALYSIS

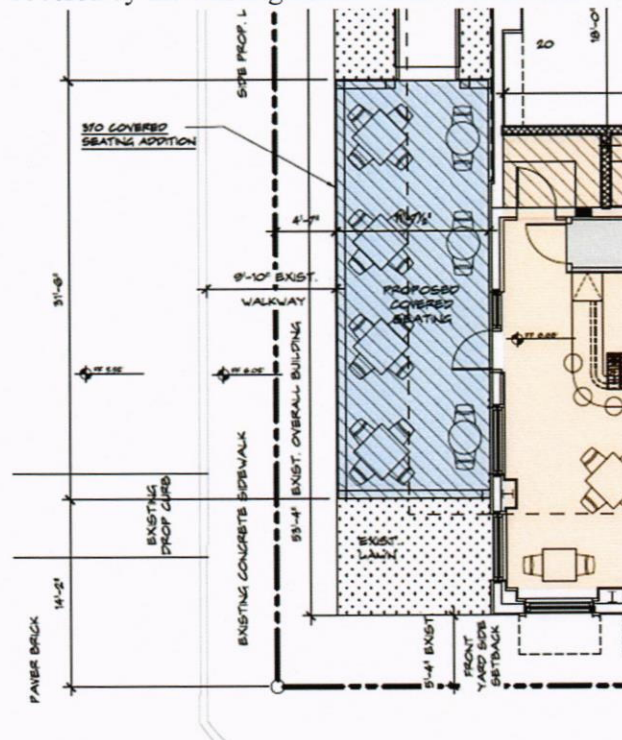
The structure is an existing two-story approximately 6,000 SF building located on a corner lot just south of the Town Hall Square Historic District. The site is currently operating and licensed as a 108 seat wine bar/ lounge serving food, 'Le Bar a Vin', on the ground floor with a separate office space on the second level. No additional seating capacity is proposed over the existing license. The applicant is proposing a small 368 SF covered porch addition to the south side of the existing structure that will replace its current side green space serving as location for the temporary COVID outdoor seating. The covered terrace dining area will replace a small green space with outdoor seating on the south side of the building in a more permanent and refined architectural treatment. This element is very similar to the previously approved covered dining area. One of the differences in this iteration is the fixed storefront system along the south elevation as opposed to the prior nana wall operable system previously presented.

The applicant is proposing the construction of a new 519 SF ground floor addition for back of house (BOH) food and beverage services westward to displace existing covered parking spaces; along with, the reconfiguration of the drive aisles and parking in the rear of the structure. The proposed ground floor expansion westward will displace 7 existing covered surface parking spaces westerly from the site plan. All parking spaces will comport with the required parking stall dimensions, but the applicant is seeking variance relief for the width of the one-way drive aisles and back-up space.



Staff is generally supportive of the application as it allows for the ground floor improvements to the existing food and beverage establishment in the form of an expanded kitchen and BOH areas as a solution without the elimination of existing surface parking as seen in a previous application.

As it pertains to Variance #1 to reduce the required parking, currently the building contains 20 existing surface parking spaces on site towards the western portion of the site—9 of which are covered by the existing cantilevered second floor. The applicant is proposing to extend the ground



floor westerly to occupy a portion of the footprint of existing 7 spaces and displace those slightly to the west, still covered by the second floor. The expanded first floor (BOH) 519 SF addition require 2 new parking spaces. The existing bar/restaurant already utilized the principle of equivalency for required parking determination for the change of use from bank/office to bar/restaurant in order to permit 108 seats. Staff is amenable to the request since the proposal does not proposed to eliminate any of the existing covered surface spaces in order to accommodate a modest expansion for back of house use for the food and beverage operations and provide a working kitchen, enclosed air-conditioned trash area, and improved valet operations.

As it pertains to Variance #2 for a street side yard setback of 4'-7' feet in lieu of the 5-foot minimum required on Peruvian

Avenue and Variance #4 for a 9'-10" walkway along Peruvian Avenue in lieu of the 10-foot minimum required. In the C-TS town-serving commercial district there is no minimum side yard required for one-story structures, but a side yard shall be five feet if provided. However, when the property is abutting any R district, a ten-foot side yard is required on that side. The neighboring property to the west is zoned R-D(2), although operating as a commercial private club. Staff has no objections to the proposed reduction of the side street setback in order to further activate the street and create urban a more defined urban building edge in the town center in the form of the elevated covered dining terrace.

As it pertains to Variance #3, to reduce by 1' the required 25' width of a back-up for a vehicular in order to provide 24'-0" wide drive aisle between 90-degree parking spaces in lieu of the 25'-0" required. Staff has no concerns with the slight reduction in the back-up width due to the reconfirmation of the existing surface parking lot. The required 25' back-up requirement is required for all parking areas regardless of the size and intensity of the commercial parking lot. As such, the site contains only two uses—the bar/lounge and the upstairs office. The more intense use, the commercial bar/lounge, will be predominantly handled by the proposed valet operators. As such staff does not have exceptional concerns about the traffic patterning and the safety aspects of the reduced back-up.

As it pertains to Variance #5, to reduce the required landscaped open space of 11.8% of in lieu of the 12.4% existing and the 25% minimum required. The applicant has made efforts to minimize the amount of decreased open space caused by the new dining terrace. The proposed configuration shows additional open space gained through the reduction of the vehicular drive aisle from the curb cut off of South County Road.

As it pertains to Variance #6 to exceed maximum height of mechanical equipment (AC and new kitchen exhaust) on the existing roof of the two-story structure. Staff has no objections to the request as it is the logical placement of such equipment, provided that the existing sloped barrel tile roof or other screening methods adequately mitigate any negative visual impact when viewing the building from within the r-o-w or across the street. Currently there is not a kitchen scrubber proposed, staff would strongly recommend that the applicant explore the incorporation of a rooftop scrubber which would greatly aid in the control of common kitchen exhausts that contains grease, smoke, and odors and assist in filtering these properly to help meet air quality standards.

As it pertains to the proposed use, while permitted, the proposal includes two separate Special Exception Requests to be reviewed by Town Council.

- The first Special Exception Request is to expand the existing restaurant use on the first floor (expansion of 2nd floor), pursuant to Section 134-1109(22).

The second Special Exception Request is to allow outdoor café seating, pursuant to Section 134-1109(14). 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. Outdoor seating, whether in sidewalk cafes or parklets, along private property visible to the rights-of-way, increases the use of a city's outdoor public spaces, expands business activity and ultimately, adds vitality to an area. The applicant is proposing to continue the ability to locate the previously permitted twenty-two (22) seats outdoors on the proposed private outdoor dining terrace area of the space along Peruvian Avenue, weather permitting. Additionally, the applicant would like to continue to operate its other existing outdoor dining area consisting of eight (8) seats within the north portion of the building, approved with permits. 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.

And of course, the project is subject to site plan review, pursuant to Section 134-1112.