

## MEMORANDUM

DATE: April 1, 2013

TO: Planning and Zoning Board

THROUGH: Robin Meyers, AICP, Director  
Planning, Zoning and Building Department

FROM: Steve Schield, AICP, ASLA, CFM, Planner  
Planning, Zoning and Building Department

SUBJECT: Mar Vista Restaurant, Amended Special Exception  
for Outdoor Dining  
Special Exception Order 2013-01

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PROPERTY OWNER/  
APPLICANT: Ed Chiles, Owner

SITE LOCATION: 760 Broadway, Longboat Key, Florida  
Mar Vista Restaurant

EXISTING ZONING: C-1 (Limited Commercial) Zoning District

EXISTING USE: Restaurant

REQUEST: The applicant requests approval of an amended Special Exception application that would modify a previously approved outdoor dining area in a proposed second story addition.

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### **PROJECT SUMMARY**

The applicant currently has an approved Special Exception for 59 outdoor seats on a new second floor covered deck area, they are requesting approval to amend the Special Exception to provide outdoor dining service in the proposed second story addition for a maximum of 60 seats (59 approved) on the proposed second story deck, they are also requested to increase the total number of approved seats by 11 seats. There will be 62 seats (54 existing) in the first floor porch area, and 46 seats in the outdoor area next to the building. This will be a total of 168 outdoor dining seats, along with 12 seats (10 approved) in the enclosed bar area for a total of 180 seats at the restaurant located at 760 Broadway (see chart below). The proposed dining areas represent an increase of

11 seats from the existing restaurant seating of 169 seats. The Special Exception is proposed as part of a concurrent Site Plan Amendment application. Approval of outdoor dining requires a Special Exception approved by the Planning and Zoning Board. Final approval of the site plan changes is by the Town Commission.

A breakdown in the existing and proposed seating is provided in the chart below.

<b>Location</b>	<b>Existing</b>	<b>Proposed</b>	<b>Difference</b>
Indoor 1 <sup>st</sup> floor	59	0	-59
Proposed 2 <sup>nd</sup> story	0	60	+60
1 <sup>st</sup> floor porch	54	62	+8
Uncovered outdoor area	46	46	No change
Bar	10	12	+2
<b>Total</b>	<b>169</b>	<b>180</b>	<b>+11</b>

As indicated in the above chart, all of the indoor seating from the first floor of the restaurant will be relocated to the proposed second story seating area.

The standards for the granting of a Special Exception are outlined in Section 158.126 *Special exception uses* of the Town's Zoning Code. Additional standards for the granting of a Special Exception for outdoor dining are provided in Section 158.136 *Outdoor dining for restaurants*.

Staff met with the applicant's representatives and agent to discuss how best to achieve the desired outdoor dining within the requirements of the code. Staff provided the applicant with photocopies of the applicable code sections, including Sections 158.126, 158.128, and 158.136. Staff worked with the applicant to address the various sections of the code that regulate special exceptions for outdoor dining and site plan amendments. It should be noted that Section 158.136 predominantly addresses outdoor dining on the ground level. This application presented unique challenges that staff and the applicant worked through. The Zoning Code requirements for screening outdoor dining were written for at-grade outdoor dining areas, and not for second story or higher outdoor dining areas. A Special Exception for outdoor dining requires that the proposed dining area be screened from adjacent properties and rights-of-way by screening that is at least 80 percent opaque. The applicant proposes screening the dining area with walls and lattice that meet this requirement, along with a 14' to 16' vegetated buffer along the eastern property line.

### **STAFF ASSESSMENT**

The second story addition is the proposed location for the outdoor dining area. This area will contain a maximum of 60 seats (see attached site plan) as well as a service area that will not be used for food preparation. The proposal does represent a small

increase of restaurant seating from 169 seats to 180 seats (168 outdoor dining seats). Most of the new second floor outdoor seating is being relocated from the interior of the restaurant on the first floor. Twelve bar stools will remain in the interior area at the bar. However, the bar area will be available to customers and the applicant was required to account for this area, and the relocated retail area, in the parking calculations. In addition, the applicant had to supply parking for the private meeting room and new deck in the existing office building. Through the application of the parking provisions of Section 158.178 *Commercial revitalization – Waivers*, as adopted by the Town Commission in 2003, the applicant was required to provide a minimum of 45 parking spaces and was able to provide 46 parking spaces.

The applicant proposes to construct two stairways and an elevator for customers to access the upstairs dining area, as well as another stairway for employee access and a dumbwaiter. Two new bathrooms have been constructed that meet accessibility standards.

### **158.126 - Special Exception**

As per town code Section 158.126(A), *Findings*:

*Before any Special Exception shall be granted, the Planning and Zoning Board shall make a written finding that the granting of the special exception will not adversely affect the public interest and certifying that the specific requirements governing the individual special exception, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable:*

### **Findings of Fact**

To facilitate the Board's review and consideration of the special exception petition, Staff has reviewed the application and plat documents, and provides the following findings of fact:

1. **The proposed use complies with all elements of the Comprehensive Plan.** Staff found that the modifications to the proposed second story addition at the Mar Vista Restaurant were consistent with the Comprehensive Plan. The outdoor dining use is connected to the existing restaurant facilities and is consistent with its principal use. According to the applicant, the proposed addition would increase the economic viability of the restaurant. Increased economic viability of a commercial entity on Longboat Key, while maintaining the health, safety, welfare and property values of the community, is consistent with the Goals, Objectives, and Policies (GOPs) of the Future Land Use Element of the Comprehensive Plan. The proposed Site Plan Amendment is

consistent with and promotes the Transportation Element GOPs because the site will provide safe access and accommodation for multi-modal forms of transportation, including pedestrians, bicyclists, and customers arriving by water. The proposed site redesign is consistent with and promotes the Conservation and Coastal Management Element and Infrastructure GOPs by providing for a stormwater redesign through construction of a stormwater retention area. The proposed use complies with and is not inconsistent with all other elements of the Comprehensive Plan.

2. **The proposed use is a permitted special exception use as set forth in the Schedule of Use Regulations.** Zoning Code Section 158.125 *Schedule of use regulations* lists restaurants with outdoor dining as a special exception use in C-1 (Limited Commercial) zoning districts.
3. **Safe and convenient ingress and egress to the property and proposed structures has been provided.** The site redesign will redirect pedestrian traffic from entering on the east side drive aisle to a walkway between the buildings and the parking lot. Two sets of stairs and an elevator will allow the public to access the new dining area.
4. **Additional off-street parking is being provided.** The request for the special exception for outdoor dining will increase the required off-street parking. The applicant meets the Town's parking requirements through the redesign of the site and through the use of the *Commercial revitalization – waivers* section of the code (158.178). The proposed addition and redesign of the restaurant results in a need to provide 45 parking spaces. The proposed redesign will provide 46 spaces, including boat slips and bicycle racks. No additional loading zones are necessitated by the outdoor dining area.
5. **Existing refuse or service areas are satisfactory to serve the outdoor dining area.** The current location of the dumpster is in the parking lot on the Lois Avenue side of the restaurant. The dumpster location was moved away from the main parking lot to a location along Lois Avenue near the southwest corner of the property. This location provides adequate access for the waste management company. The proposed dumpster is stored within an enclosure designed to fully screen the dumpster from view. The refuse and service areas for the site are satisfactory and the proposed addition and outdoor dining area do not create a need for increased refuse and service areas.
6. **New utility service is provided.** The bathroom facilities have already been completed, which resulted in an increase in bathroom fixtures on the site.
7. **Adequate screening and buffering of the proposed use has been provided.** The applicant proposes to screen the second story dining area from

adjacent residential properties along Lois Avenue, Broadway, and the adjacent residentially zoned property to the east. The proposed outdoor dining area will be screened by a solid lower wall topped by lattice that is at least 80 percent opaque in compliance with the code. This screening is shown on the architectural drawings included in the application. Further screening of the dining area will be provided along the site's eastern boundary adjacent to residentially zoned property and along Lois Avenue by landscaping and trees, adding to the visual protection of these two residential areas.

8. **Signs and additional exterior lighting are proposed.** Additional exterior lighting is proposed along the stairways and in the ceiling of the upstairs outdoor dining area. The lighting proposed is indirect lighting along the stairs and in the upstairs facility that will provide no glare past the property boundaries as demonstrated by the lighting plan submitted by the applicant. No new signs are proposed.
9. **The applicant meets all yard and other open space requirements.** As proposed, the outdoor dining area will be located on top of the existing restaurant and not in a yard area. The proposed second story outdoor dining patio is approximately 61 feet from the Broadway right-of-way, approximately 60 feet from the Lois Avenue right-of-way, and approximately 49 feet from the Moore's Restaurant property line. The C-1 (Limited Commercial) zoning district requires a 45-foot street setback and a 30-foot side yard setback from a residential property. The addition of stairways, an elevator, and the installation of new bathrooms will increase the non-open space coverage on the site within the maximum limits of the code for the C-1 (Limited Commercial) zoning district.
10. **The proposed use conforms to all applicable regulations governing the district in which it is located, with the approval of the site plan amendment.** The C-1 (Limited Commercial) zoning district allows for restaurants with outdoor dining. The current use of the property is the Mar Vista Restaurant and the proposed use is for an outdoor dining area attached to the restaurant.
11. **The proposed use is generally compatible with adjacent properties and other properties in the district.** The properties on three sides of the restaurant facility are zoned residential and Sarasota Bay lies adjacent to the fourth side. The restaurant has been a part of the surrounding neighborhood, known as "The Village", for over fifty years. The proposed addition of a second story outdoor dining area continues this existing use of the property as a restaurant. The applicant has proposed several design features to minimize external impacts including indirect lighting along the stairs and in the upstairs facility that will remove any glare extending past the property boundaries. The

applicant will also screen the upstairs area from surrounding residential properties with a lattice of at least 80 percent opacity and additional landscaping along the eastern property line.

### **Section 158.136 – Outdoor dining for restaurants**

The purpose of Section 158.136 *Outdoor dining for restaurants* is to provide standards, which are specifically applied to special exception use applications for an outdoor dining area at a restaurant. An outdoor dining area at a restaurant shall not be permitted unless it complies with each of the following standards:

1. **The principal use of the property shall be a restaurant that provides indoor dining, outdoor dining, or both types of dining.** The principal use of the subject property is the Mar Vista Restaurant providing both indoor and outdoor dining.
2. **The outdoor dining area shall be used only for food service, drink service, as a waiting area, and for casual seating.** Applicant is aware of and agrees to use the second story outdoor dining area only for food service, drink service, as a waiting area, and for casual seating.
3. **All food and drink preparations shall take place within the confines of an enclosed restaurant building located on the same site as the outdoor dining area.** No preparation of food and drink in the second story area is proposed.
4. **An outdoor dining area shall be considered an expansion of a restaurant. Accordingly, an outdoor dining area shall be designed in such a manner that will maintain a free, unobstructed connection between the restaurant and outdoor dining areas. All regulations that pertain to restaurant dining areas shall apply to outdoor dining areas.** The proposed second story outdoor dining area provides a free unobstructed connection to the restaurant through three different stairways and an elevator.
5. **An outdoor dining area may be located within the required street yard, the required canal, bay, or pass waterfront yard, and within a non-required yard. An outdoor dining area shall not be located in any required side or rear yard when that yard abuts residential property.** The proposed area does not lie within any yard areas.
6. **All outdoor dining areas shall meet the regulations for parking under Section 158.128 as may be modified by subsection 158.178(A)(1).** The applicant utilized the Town's Commercial Revitalization Ordinance, Section

158.178 (shown below), to provide sufficient off-street parking for all on-site uses, including the additional patron area on the first floor and the second story outdoor dining area.

Section 158.178(A)(1)(b)(iv)

*Restaurant: 1 space per 100 net square feet (restrooms, waiting areas, food preparation and staging areas, hallways and other non-patron areas exempt).*

4,454 sq. ft. patron area/100 sq. ft per space - 45 spaces

Spaces provided:

Car parking spaces provided on-site	-	31 spaces
14 boat slips	-	14 spaces
<u>1 bike rack for 5 bikes</u>	-	<u>01 space</u>
Total spaces provided	-	46 spaces

7. **The entire ground service area of the outdoor dining area shall have an improved walking surface.** Three stairways, an elevator, and an existing shell walkway connect the proposed dining area to the ground level entries to the restaurant.
8. **The entire perimeter of the outdoor dining area shall be physically delineated by the improved walking surface, railing, fencing, a wall, landscaping, or similar device deemed by the Planning and Zoning Board to be consistent with the intent of this subsection.** The restaurant currently has an improved walking surface in place on the ground level that will be maintained. The second story outdoor dining area will have a wall around the entire area and lattice on there sides.
9. **Hours of operation**
  - a. **The hours of operation for an outdoor dining area shall not be before or extend beyond the hours of operation for an associated indoor dining area, at which time, lights, other than safety and security lighting, shall be prohibited.**
  - b. **When an outdoor dining area is located within 250 feet of residential property, service in the outdoor dining area shall not begin before 8:00 a.m. and the outdoor dining area shall be vacated by 10:00 p.m., at which time, lights, other than safety and security lighting, shall be prohibited.**
  - c. **When a restaurant is not associated with an indoor dining facility and not within 250 feet of a residential property, service in the outdoor**

**dining area shall not begin until 6:30 a.m. and the dining area shall be vacated by 11:00 p.m., at which time, lights, other than safety and security lighting, shall be prohibited.** The hours of operation for the outdoor dining area are to be 11:30 a.m. to 10:00 p.m.

10. **No music or amplified voices shall be allowed in the outdoor dining area. Noise shall not be audible more than 50 feet from the commercial property and shall otherwise be in accordance with Section 130.02, Loud and Unnecessary Noise, of the Town code, as may be amended.** Applicant is aware of and agrees that no music or amplified voices will be allowed in the outdoor dining area.
11. **All lighting used in conjunction with an outdoor dining area shall be designed and installed in a manner to avoid glare being directed toward a public or private right-of-way, adjacent property, and the Gulf of Mexico pursuant to Chapter 100 of the Town Code, Sea Turtles, as may be amended.** The applicant agrees to adhere to the lighting plan submitted as part of the application for the Special Exception and acknowledges that any installation of additional lighting must meet all code requirements and be approved by the Town.
12. **An outdoor dining area shall be screened from all adjacent properties and right-of-ways. The required landscaped screening shall comply with the standards contained in Section 158.154(A)(1) and (2), except that the required screening in a street or waterfront yard shall have a height of three feet and the required screening in the side, rear, or non-required yards shall have a maximum height of six feet. In addition, the required screen shall be at least 80 percent opaque.** The applicant acknowledges and agrees to these conditions that the outdoor dining area shall be screened to at least 80 percent opacity from all adjacent properties and right-of-ways.
13. **All furniture within an outdoor dining area shall be portable, meaning that such furniture shall be easily removable from the outdoor dining area. Portable furniture may include tables, chairs, and umbrellas. The maximum diameter of an umbrella shall be eight feet and shall be fabric covered. In the event of a tropical storm, the furniture shall be physically secured or stored within the restaurant building or other on-site enclosed storage area.** The applicant is aware of and agrees to this condition.
14. **No signs, unless specifically exempted in the Town Sign Code, shall be permitted within the outdoor dining area.** No additional signs are proposed and the applicant acknowledges that any installation of additional signs must

meet all sign code requirements and be approved by the Town before installation.

15. **Any increase in the total number of seats at the restaurant in conjunction with the establishment of an outdoor dining area, may subject the property owner to an assessment of a sewer/water connection fee in accordance with Town Code Chapter 51, Charges, Rates and Billing.** The applicant is aware of and agrees to this condition.

### **STAFF RECOMMENDATIONS**

Staff recommends that the Board **approve** Special Exception Order 2013-01 to provide outdoor dining service for a maximum of 60 seats to be located in the proposed second story covered addition, conditioned on approval of a Site Plan Amendment, at 760 Broadway with the conditions listed in Resolution 2013-12, Exhibit "A": Conditions Requisite for Approval. If Resolution 2013-12 is not approved, approval of Special Exception Order 2013-01 would become null and void.

### **ATTACHMENTS**

Attached, please find a copy of the Special Exception application and support documentation upon which the staff assessment has been based. A copy of Special Exception Order 2013-01 is also attached. If you should have any questions, or desire any additional information, please do not hesitate to contact the Planning, Zoning & Building Department.

xc: Ed Chiles, Property Owner  
David Persson, Town Attorney  
Robin Meyer, Director – Planning, Building and Zoning Department