

MEMORANDUM

DATE: November 22, 2013

TO: Planning and Zoning Board (PZB)

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

THROUGH: Alaina Ray, AICP, Interim Director
Planning, Zoning & Building Department

SUBJECT: Special Exception – Outdoor Dining
555 Bay Isles Parkway

PROPERTY OWNER: W. Howard Rooks

APPLICANT: W. Howard Rooks

SITE LOCATION: 555 Bay Isles Parkway, Longboat Key, Florida
Vacant Restaurant

ZONING: MUC 1 – Mixed Use Community

REQUEST: The applicant requests approval by the Planning and Zoning Board of a Special Exception application for a 50 seat outdoor dining area that would allow for food and beverage service on an existing 1,600 square foot outdoor paved area.

STAFF SUMMARY

The owner proposes to provide outdoor dining in an existing 1,600 square foot paved area. This area is adjacent to the southwest corner of an existing 6,360 square foot vacant restaurant building, which is in the process of being opened as a new restaurant. The proposed outdoor area has a separate access door to the existing restaurant building. There is also existing sidewalk access from the restaurant parking lot and the adjacent property (Publix). The applicant currently has 210 seats approved in the restaurant and proposes to add 50 additional seats to the proposed outdoor dining area. This would result in 260 total seats approved for the restaurant, with 81 existing

parking spaces. Town Code Section 158.128 requires one (1) parking space for every four (4) restaurant seats, which would require a minimum of 65 parking spaces.

Outdoor dining areas require a Special Exception approved by the Planning and Zoning Board. The standards for the granting of a Special Exception are outlined in Section 158.126 of the Town Zoning Code. Additional standards for the granting of a Special Exception for an outdoor dining area are found in Section 158.136. Staff met with the applicant and his representatives to discuss the proposed expansion. At that time, Staff provided photocopies of the applicable code sections including, but not limited to Section 158.126, *Special Exception Uses*, and Section 158.136, *Outdoor Dining for Restaurants*.

STAFF ASSESSMENT

158.126 - Special Exception

As per Town Code Section 158.126(A), 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

Staff reviewed the subject application and plat documents, and provides the following findings of fact:

1. The proposed use complies with all elements of the Comprehensive Plan.
2. The proposed use is a Special Exception use as set forth in the Schedule of Use Regulations.
3. Safe and convenient ingress and egress to the property is provided to the proposed outdoor dining area.
4. No additional off-street parking is required for the outside dining area, due to the fact that the existing parking lot has sufficient parking spaces (65 required, 81 provided).
5. Existing refuse or service areas are satisfactory to serve the additional outdoor dining area.
6. New utility service to the outdoor dining area is not proposed.
7. Adequate screening and buffering of the outdoor dining area is adequate.

8. Signs and additional exterior lighting are not proposed.
9. The outdoor dining area has no impact on yard and other open space requirements.
10. The proposed use conforms to all applicable regulations governing the district in which it is located, and the approved site plan order.
11. The proposed use is compatible with adjacent properties and other properties in the district.

158.136 – Outdoor dining for restaurants

The purpose of Section 158.136 is to provide standards, which are specifically applied to Special Exception use applications for outdoor dining 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 a restaurant with indoor 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 this provision.**
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 outdoor preparation of food and drink 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 dining area is adjacent to the existing outdoor dining area and has an existing access door from the restaurant to the outdoor dining area. The proposed area would also have pedestrian outdoor access from the parking lot and the adjacent property by existing sidewalks.**
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 is not located in any required yards and does not abut a residentially zoned lot.**

6. All outdoor areas shall meet the regulations for parking under section 158.128 as may be modified by subsection 158.178(A) (1). **The existing 81-space parking lot exceeds the number of spaces required for the existing restaurant and the additional 50 outdoor seats.**
7. The entire ground service area of the outdoor dining area shall have an improved walking surface. **The proposed area is currently paved.**
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 proposed outdoor dining area is delineated with fencing and vegetation.**
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 11:00 a.m. to 11:00 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 to this provision.**
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 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 is aware of and agrees to this condition.**
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. Outdoor dining located in a bay or canal waterfront yard may be covered by a permanent roof structure or retractable or collapsible awning or canopy, so long as it meets the criteria outlined in Section 158.136(A)(14). **No roof structure, awning, or canopy is proposed at this time.**
15. No signs, unless specifically exempted in the Town Sign Code, shall be permitted within the outdoor dining area. **The applicant acknowledges that any installation of additional signs must meet all sign code requirements and be approved by the Town before installation.**
16. 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 Planning and Zoning Board **approve** the Special Exception application for the outdoor dining area at 555 Bay Isles Parkway with the following conditions:

1. The outdoor dining area shall be limited to 1,600 square feet as shown on the attached site plan, dated November 21, 2013.
2. Safe and convenient ingress and egress to the property shall be maintained.
3. The outdoor dining area shall be used only for food service, drink service, as a waiting area, and for casual seating.

4. 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.
5. The outdoor dining area shall be considered an expansion of a restaurant. Accordingly, the outdoor dining area shall be designed in such a manner that it will maintain a free, unobstructed connection between the restaurant and outdoor dining areas. All regulations that pertain to restaurant dining areas shall apply to the outdoor dining areas.
6. The improved walking surface area of the outdoor dining area shall be maintained.
7. The applicant shall maintain the fencing and vegetation that provide physical delineation of the perimeter of the outdoor dining area.
8. The hours of operation for the outdoor dining area shall be 11:00 a.m. to 11:00 p.m.
9. 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.
10. 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.
11. The screening of the outdoor dining area from all adjacent properties and right-of-ways shall be maintained.
12. 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 or hurricane, the furniture shall be physically secured or stored within the restaurant building or other on-site enclosed storage area.
13. No roof structure, awning, or canopy shall be permitted without additional approval.
14. No signs, unless specifically exempted in the Town Sign Code, shall be permitted within the outdoor dining area.
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.

ATTACHMENTS

Attached, please find a copy of the Special Exception application and support documentation. If you should have any questions, or desire additional information, please contact the Planning, Zoning & Building Department.

XC: David Persson, Acting Town Attorney
Alaina Ray, Interim Director – Planning, Building & Zoning Department