

ORDINANCE NO. 009-2023

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE VI, DISTRICT REGULATIONS, DIVISION 8, C-TS TOWN-SERVING COMMERCIAL DISTRICT, SECTION 134-1107, PERMITTED USES, SECTION 134-1109, SPECIAL EXCEPTION USES; DIVISION 9, C-WA WORTH AVENUE COMMERCIAL DISTRICT, SECTION 134-1157, PERMITTED USES, SECTION 134-1159, SPECIAL EXCEPTION USES; DIVISION 11, C-PC PLANNED CENTER DISTRICT, SECTION 134-1257, PERMITTED USES, SECTION 134-1259, SPECIAL EXCEPTION USES; DIVISION 12, C-B COMMERCIAL DISTRICT, SECTION 134-1304, SPECIAL EXCEPTION USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Chapter 134, Zoning Article VI, District Regulations, Division 8, C-TS Town-Serving Commercial District, is hereby amended as follows:

Sec. 134-1107. - Permitted uses.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses.

(1) ~~However, All future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council~~

approval. For example, if a ladies apparel store of 8,000 square feet exists in the C-TS district and the owner wishes to change to an antique store of the same size or subdivide into two 4,000-square foot offices, the owner would need to apply for and obtain approval of a special exception from the town council.

(2) No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

Section 134-1109. - Special exception uses.

(b) ~~An owner or tenant of a property, located within the C-TS district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt. When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-TS district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.~~

Section 2. Chapter 134, Zoning Article VI, District Regulations, Division 9, C-WA Worth Avenue Commercial District, is hereby amended as follows:

Sec. 134-1157. - Permitted uses.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses shown in subsection (a) of this section which contain more than 4,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses under article VI of this chapter pertaining to nonconforming uses.

(1) ~~However,~~ All future changes of use shall be limited to those uses listed as permitted uses on the list contained in this section with a maximum gross leasable area of 4,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to another, wherein the new use will involve a gross leasable area exceeding 4,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining

to special exception uses). ~~In effect, this will allow any existing use over 4,000 square feet, in a district with a 4,000 square footage limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval. For example, if a ladies apparel store of 10,000 square feet exists in the C-WA district and the owner wishes to change to an antique store of the same size or subdivide into two 5,000 square foot offices, the owner would need to apply for and obtain approval of a special exception from the town council.~~

(2) No existing commercial use which is subject to the 4,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 4,000 square feet.

Section 134-1159.- Special exception uses.

(b) ~~An owner or tenant of a property, located within the C-WA district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt. When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-WA district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 8,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.~~

Section 3. Chapter 134, Zoning Article VI, District Regulations, Division 11, C-PC Planned Center Commercial District, is hereby amended as follows:

Sec. 134-1257. - Permitted uses.

(b) Regulation of existing nonconforming commercial uses. Any existing uses contained on the list of permitted uses under subsection (a)(2) of this section which contain more than 3,000 square feet of gross leasable area (GLA) shall be classified as existing nonconforming uses (refer to division 2 of article IV of this chapter).

(1) ~~However,~~ All future changes of use shall be limited to those uses listed as permitted uses in subsection (a) of this section with a maximum gross leasable area of 3,000 square feet, and if a change of use is contemplated from one general commercial category (retail and services; office, professional and business services; or banks and financial institutions) to

another, or from one generic use (residential, commercial, public/private group use) to another, wherein the new use will involve a gross leasable area exceeding 3,000 square feet, the contemplated new use shall be subject to prior approval of a special exception application by the town council before the change is made (refer to sections 134-227 through 134-233 pertaining to special exception uses). ~~In effect, this will allow any existing use over 3,000 square feet, in a district with a 3,000 square foot limitation, to continue operating at its existing scale or to change to another use within the same general commercial category without town council approval.~~

(2) No existing commercial use which is subject to the 3,000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1,500 feet of the existing licensed businesses, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 3,000 square feet.

Section 134-1259.- Special exception uses.

(b) ~~An owner or tenant of a property, located within the C-PC district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt. When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-PC district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.~~

Section 4. Chapter 134, Zoning Article VI, District Regulations, Division 12, C-B Commercial District, is hereby amended as follows:

Section 134-1304, Special Exception Uses.

(b) ~~An owner or tenant of a property, located within the C-B district, which property has received approval of a special exception after March 31, 1980, shall be required to obtain approval by the town council under the provisions of section 134-229 prior to being granted a new business tax receipt. This subsection shall not apply to renewal of an existing business tax receipt. When a change of ownership or tenancy occurs within a space legally permitted under a previously approved special exception for its size (SF) or location within the C-B district, a new special exception review and approval by town council shall not be required, provided that the proposed new occupant is substantially similar in nature to a valid, pre-existing permitted or special exception use, and does not elicit a change of use or change in categorized permitted uses, as~~

determined by the Director of Planning, Zoning and Building or designee. This provision shall not apply to any space that is in excess of 6,000 square feet of gross leasable area (GLA). This provision shall not apply to a change in ownership or tenancy of a property which operated as a restaurant, nightclub, bars/lounges, cafés, dining rooms, private clubs, outdoor cafe seating in association with a restaurant, or similar food and beverage operation, which shall be required to obtain approval as a special exception by the town council under the provisions of section 134-229 prior to being granted a building permit, Certificate of Occupancy/Completion, or new business tax receipt.

Section 5. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 6. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 7. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach, Florida.

Section 8. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this ____ day of ____, 2023; and for the Second and Final Reading on this ____ day of ____, 2023.

Danielle H. Moore, Mayor

Margaret Zeidman, Town Council President

Bobbie Lindsay, President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kelly Churney, Acting Town Clerk

Edward Cooney, Town Council Member