



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-22-014 227 ROYAL POINCIANA WAY

MEETING: February 09, 2022

ZON-22-014 227 ROYAL POINCIANA WAY—VARIANCES AND SPECIAL EXCEPTION. The applicant, PNC Bank (Barry Criss, Officer), has filed an application requesting Town Council review and approval for a Special Exception and Variance to locate an additional PNC Bank financial services office within 1500 feet of another PNC Bank.

Applicant: PNC Bank

Professional: Edlund, Dritenbas, Binkley Architects & Associates

Representative: Harvey Oyer, Esq.
Roger Ramdeen

HISTORY:

The site plan for Via Flagler was originally approved in 2015 pursuant to application for Site Plan Review#13-2014 with Special Exceptions and Variances.

PROJECT DATA:

Zoning District: C-TS

Future Land Use: Commercial

Lot Size: 1.21 Acres

SURROUNDING PROPERTIES:

North: Two-story 2020 multi-use building

South: 1900 golf course

East: Two-story 2020 multi-use building

West: 1973 financial building

THE PROJECT:

The applicant has submitted plans, entitled "Via Flagler by the Breakers: 227 Royal Poinciana Way", as prepared by **Dailey Janssen Architects**, dated 12/06/2021.

The following is the scope of work for the Project:

- To occupy 2,717 SF of commercial space on the ground floor of Building 2 within the Via Flagler project.

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

- **SPECIAL EXCEPTION:** Sec 134-1109: Special Exception for Bank/Financial Institution in Commercial-Town Serving zoning district.

- VARIANCE 1: Sec 134-1107(b): To allow banking institution to occupy additional space within 1500 feet of the existing business with a gross leasable area of more than 3000 square feet. Proposed 204'-9"

SPECIAL EXCEPTION CRITERIA SEC. 134-229

The requirements for granting a special exception use under this chapter are as follows:

- (1) The use is a permitted special exception use as set forth in article VI of this chapter.
- (2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and morals will be protected.
- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- (4) The use will be compatible with adjoining development and the intended purpose of the district in which it is to be located.
- (5) The use will comply with yard, other open space, and any special requirements set out in article VI for the particular use involved.
- (6) The use will comply with all elements of the comprehensive plan.
- (7) The use not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
- (8) Adequate ingress and egress to property and proposed structures thereon and off-street parking and loading areas will be provided where required, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (9) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic impact shall be compatible and in harmony with properties in the district.
- (10) Location, availability and compatibility of utility service for the use shall be satisfactory to ensure health and safety.
- (11) Refuse and service areas for the use shall not adversely affect automotive and pedestrian safety and convenience, traffic flow and control, or access in case of fire or catastrophe.
- (12) In all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. The applicant shall submit evidence satisfactory to the town council that not less than 50 percent of the customers of the proposed use will be town persons. Evidence submitted in support of this contention shall include credible data or information suitable for review by the town to determine the credibility and the appropriateness of the applicant's conclusion. The submittal shall include a description of the types of information used and the methodology employed to arrive at the conclusion. Information used shall include, but shall not be limited to, lists of customer/client addresses or certification thereof by an independent certified public accountant approved by the town, market studies prepared by independent professional firms, or data from similar operations under the control of the applicant. The town may in the future require the applicant to demonstrate to the satisfaction of the town council that the special exception use is continuing to be town-serving.
- (13) If historic/specimen trees are located on the subject property, the location of said historic/specimen trees shall be identified on a signed and sealed survey. In addition, adequate landscaping, screening and barricade protection of historic/specimen trees shall be demonstrated to be provided as required in this chapter.
- (14) The proposed use will not place a greater burden than would be caused by a permitted use on municipal police services due to increased traffic or on fire protection services due to the existence of or increased potential for fire/safety code violations

VARIANCES CRITERIA SEC. 134-201

The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town council must and shall find the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.
- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
 - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
 - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
 1. Be granted only for the continuation of the same hotel or residential use; and
 2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

CONSISTENCY WITH THE COMPREHENSIVE PLAN:

A preliminary review of the project indicates that the proposed **bank use** is **consistent** with the **Commercial** designation of the Future Land Use Map of the Comprehensive Plan.

COMPLIANCE WITH ZONING CODE:

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

- Sec 134-1107(b): To allow banking institution to occupy additional space within 1500 feet of the existing business with a gross leasable area of more than 3000 square feet. Proposed 204'-9"

STAFF ANALYSIS

The Site is developed with a mixed-use (commercial and residential) project known as Via Flagler project. The Applicant currently has a Wealth Management Branch located at 231 Royal Palm Way. This location will be closing in February 2022 and the Applicant desires to relocate the Wealth Management Branch to the Site. According to the applicant, it is important to note that the Wealth Management Branch is a completely separate and distinct operation when compared to the Retail Branch, although both Branches fall under the PNC Bank entity. Staff has no concerns with the application.