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January 12, 2023

Town of Palm Beach
Planning, Zoning & Building Department
360 S. County Road
Palm Beach, FL 33480

Re: Letter of Intent
PROJECT NUMBER: 23-031
FINAL DROP OFF

To whom it may concern,

Bank of America, N.A. operates a financial center at 140 North County Road, Palm Beach, Florida. This location is zoned C-TS (Commercial Town Serving), which means establishments must be principally oriented to serving the needs of town persons which would not substantially rely upon the patronage of persons not defined as town persons. Code of T.P.B. § 134-1106. Permitted uses are defined, but special exception uses are allowed for certain establishments, including banks and financial centers. Code of T.P.B. §§ 134-1107, 1109(a)(12). An owner or tenant of a property, located within the C-TS district, 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. Code of T.P.B. § 134-1109(b).

Among other requirements, to be granted a special exception use under section 134-229, in all districts except the C-OPI district, and also with the exception of hotel, motel and timeshare uses, the applicant must show that the proposed special exception use will not attract the principal portion of its customers/clients from off-island locations. Code of T.P.B. § 134-229(12). To make this showing, the applicant must submit evidence to the town council that not less than 50 percent of the customers of the proposed use will be town persons. *Id.* 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. *Id.*

The Bank received a special exception use, No. 10-99, which was granted on the condition that it be required to demonstrate "Town Serving" each year at the time of renewal of the occupational license pursuant to the Town Serving Requirements, as outlined in the zoning ordinances.

The Bank has complied with this requirement. It understood that the definition of Town Serving included “[a]ll full-time and seasonal residents, as well as visitors staying in accommodations and employees working in establishments located within the Town.” Thus, its methodology to determine “Town Serving” was to create a list of customers/client addresses of the accounts domiciled at the Palm Beach Banking Center located at 140 North County Road, Palm Beach, Florida. If the customer’s address listed Palm Beach as the Town, the Bank concluded the customer was a “Town Person.” If the address had a zip code more than 25 miles away, it concluded the customer was a “Town Person.” If the account was for a known Palm Beach business, or an employee known to work in Palm Beach, the Bank concluded the customer was considered a “Town Person.”

Using the above methodology, the Bank confirmed year after year that it was serving at least 50% of Town Persons. The process is time consuming. Given the Bank’s regular compliance, and to minimize the burden on the actors involved in the process, the Bank desires to be excused from the requirement that it demonstrate “Town Serving” on an annual basis as a condition for renewal of its business tax receipt.

We appreciate your attention to this matter. Please reach out to us on behalf of the Bank with any concerns about this application.

Sincerely,

/s/ Mary J. Walter

MARY J. WALTER

MJW/dm
Enclosures

Sec. 134-229. - Requirements for granting.

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.

(Ord. No. 2-74, § 6.40(a)—(m), (r), 3-26-74; Ord. No. 3-77, § 11, 3-29-77; Ord. No. 5-78, § 12, 3-31-78; Ord. No. 7-79, § 12, 3-30-79; Ord. No. 4-80, § 6, 3-31-80; Ord. No. 1-85, §§ 3(b), 4(d), (e), 2-11-85; Ord. No. 1-90, § 4(d), 2-5-90; Ord. No. 1-91, § 4(c), (d), 4-23-91; Ord. No. 1-96, § 7, 2-5-96; Ord. No. 1-99, § 6, 4-5-99; Ord. No. 2-2011, § 2, 7-13-11; Ord. No. 7-2014, § 9, 5-14-14)