



DEPARTMENT FOR COMMUNITY SUSTAINABILITY
Planning Zoning Historic Preservation Division
1900 2ND Avenue North
Lake Worth Beach, FL 33461
561-586-1687

DATE: May 13, 2020

TO: Members of the Planning and Zoning Board

FROM: William Waters, AIA, NCARB, LEED, AP BD+C, ID SEED, Director for Community Sustainability

MEETING: May 20 , 2020

SUBJECT: **PZB Project Number 20-02100002:** Request by John Banting of PBB Construction, LLC on behalf of Daniel Aquino and Angel Arroyo of AM Lucerne Holdings, LLC for consideration of a zoning use interpretation as to whether a veterinary clinic is permitted in the Downtown (DT) zoning district. The subject property is located at 406 Lucerne Avenue, with a PCN of 38-43-44-21-15-026-0150.

ISSUE:

This is a request for a zoning use interpretation by the planning and zoning board as to whether veterinary clinic less than 2,500 sf is permitted in the DT zoning district. The applicant, John Banting of PBB Construction, LLC on behalf of Daniel Aquino and Angel Arroyo of AM Lucerne Holdings, LLC, applied for a minor site plan amendment in February 2020 that included site improvements related to a proposed veterinary clinic at the subject site. In the minor site plan application, the proposed use was identified by the applicant as a low intensity (less than 2,500 sf) Single Destination Commercial use. The City's Development Review Officer (DRO) determined that the proposed use at 406 Lucerne Avenue is a veterinary clinic w/o boarding. Veterinary clinic uses are not permitted in the City's Downtown (DT) zoning district according to Section 23.3.-6 Use Tables, while low intensity single destination commercial uses are permitted by right. Per Sec. 23.3-4 (Inclusionary as to permitted use) "questions of whether a use is of a type listed shall be interpreted by either the planning and zoning board or the historic resources preservation board, but no use variance shall be approved."

The subject property is a large lot (13,068 square feet), located in the northwest corner of Lucerne Avenue and North Federal Highway. The Applicant intends to operate a veterinary clinic w/o kennel at the site in the existing 2,499 sf building.

Staff Recommendation:

Staff, through its DRO, denied the request for a veterinary clinic at this location because it does not qualify as a low intensity Single Destination Commercial use and recommends that the board interpret the permitted use table of the LDRs in manner consistent with the DRO's decision based on the analysis in the following section.

STAFF'S INTERPRETATION ANALYSIS:

Per section 23.3-4, entitled "Inclusionary as to permitted use", principal, accessory and conditional uses "specifically stated for each zoning district shall be the only uses permitted. Any use proposed within any given zoning district which is not a stated use or use type within said district is expressly prohibited." This means that unless a use is specifically stated as appropriate for a district in the use table, then it is not permitted. Further, the use table is constructed such that if a use is specifically listed under the medium or high intensity use category and not under the low intensity use category, it is an intentional omission that identifies that use as higher intensity use type.

In the LDRs, there are several general uses designed to catch a broad spectrum of typical uses that may occur. This includes the City's single-destination commercial use definition. These broader use types may include uses that then may be further defined, regulated and limited by review permit type and additional supplemental requirements. The intent of these broader uses is to allow for flexibility in the permitting of unanticipated uses that are of similar nature. The single-destination commercial use is an example of one of the City's broad use categories. While veterinary clinic is one of the uses included in the single-destination use definition, it is a use that has been further defined and regulated as well as specifically listed in the permitted use table. The veterinary clinic is considered a more vehicle and parking intensive use and was specifically omitted from the low intensity use category for commercial.

Finally, the DT district is designed for the historic commercial core of Lake Worth Beach. The district's purpose is to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential use. Certain commercial uses are not permitted in the district because they will be detrimental to the retail, dining, entertainment and/or office functions of the area.

As the veterinary clinic use is specifically defined and regulated as medium and high intensity use in the permitted use table, and generally is not consistent with the principally pedestrian oriented shopping district, the City's DRO has determined that the use is not permitted in the DT district. Further, as the proposed "veterinary clinic" business will be a veterinary clinic w/o boarding, it would not be permitted in the district and the subject location.

APPLICANT'S INTERPRETATION ANALYSIS: Please see attached Zoning Interpretation Request in Attachment A

BOARD'S AUTHORITY:

Sec. 23.3-4 of the code provides that the board has the authority to interpret "questions of where a use type is listed:"

The intent of this chapter is that it be "inclusionary." That is, principal uses, accessory uses, and conditional uses specifically stated for each zoning district shall be the only uses permitted. Any use proposed within any given zoning district which is not a stated use or use type within said district is expressly prohibited. **Questions of whether a use is of a type listed shall be interpreted by either the planning and zoning board or the historic resources preservation board, but no use variance shall be approved.**

POTENTIAL MOTION:

I MOVE TO APPROVE PZB PROJECT NUMBER 20-02100002: Request for a **Zoning Interpretation**, interpreting the code to allow a veterinary clinic to operate as permitted by right in the DT zoning district. The project will be remanded to staff to include relevant conditions.

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 20-02100002: Request for a **Zoning Interpretation**, interpreting the code as disallowing a veterinary clinic to operate as permitted by right in the DT zoning district.

Attachments:

- A. City's Land Development Regulations References
- B. Letter from Applicant

ATTACHMENT A
DEPARTMENT FOR COMMUNITY SUSTAINABILITY
PLANNING, ZONING AND HISTORIC PRESERVATION DIVISION
PZB Project Number 20-02100002

City's Land Development Regulations References

Sec. 23.3-14. - DT—Downtown.

- a) *Intent.* The "downtown (DT) district" is designed for the commercial core of Lake Worth, primarily along Lake and Lucerne Avenues from Golfview to the Florida East Coast Railroad right-of-way. The DT district is intended to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential use. **Certain commercial uses are not permitted in the district because they will be detrimental to the shopping or office functions of the area.** The establishment of certain uses is subject to conditional use review to ensure they will not have a negative impact on nearby residential uses or on the commercial viability of their neighbors. The district implements in part the downtown mixed use land use category of the Lake Worth Comprehensive Plan.

Sec. 23.1-12. - Definitions.

Single-destination commercial uses: The following commercial uses are categorized as single destination for zoning district purposes and those that are substantially similar or related:

- Auction rooms.
- Automobile insurance claims services.
- Bait shops.
- Bar and restaurant equipment sales.
- Bicycle sales and service stores.
- Building material supply establishments, retail.
- Catering establishments as accessory to restaurants, but not direct selling establishments as listed in SIC 5963.
- Electrical supply stores.
- Food storage lockers.
- Funeral homes and mortuaries.
- Furniture and domestic equipment rental establishments.
- Furniture refinishing.
- Greenhouses and nurseries.
- Janitorial equipment and supply establishments.
- Locksmith establishments.
- Medical and dental supply sales and rental sales.
- Monument sales establishments.
- Motion picture studios.
- Newspaper distributing agencies.
- Nurseries, retail, for the sale of plant materials grown off the premises.
- Plumbing supply stores.
- Related office temporary help service.
- Repair shops for household appliances, furniture, small motors and machines and other small mechanical and electrical equipment.
- Taxidermists.
- Trade schools not involving industrial, motor vehicles, or other heavy equipment.
- Upholstering, cloth and canvas products fabrication, including the fabrication of clothing, slipcovers, awnings and similar products.
- Veterinary establishments, but not kennels.

