



## Temporary Use Permit Narrative NW 33<sup>rd</sup> Street Parking Lot

Submittal – May 17, 2022

Resubmittal – August 29, 2022

### **Request**

On behalf of the Property Owner, 33 NW 33<sup>rd</sup> St Industrial, LLC % Criterion Group (“Property Owner” or “Applicant”), Shutts and Bowen, LLP and Bohler Engineering have prepared and hereby respectfully submit the enclosed application for a Temporary Use Permit (“TUP”) for Outdoor Storage as a principal use. The 10.33-acre subject property (“Site” or “Property”), Parcel ID No. 4842 21 07 0070, is an asphalt paved surface parking lot with 726 parking spaces. There are no structures on the Site. The property is located on the northwest corner of Northwest 33<sup>rd</sup> Street and Northwest 27<sup>th</sup> Avenue. The Site currently has three access points: two on Northwest 27<sup>th</sup> Avenue and one on Northwest 33<sup>rd</sup> Street.

### **Project History**

The Site is part of the Pompano Industrial Park (“PIP”) Third Addition Plat (Plat Book 111, Page 33) and was originally part of the PIP Development of Regional Impact (“DRI”). The original Development Order (“DO”) for the PIP was adopted by the Broward County Board of County Commissioners on March 9, 1981. On September 1, 1983, the PIP DRI was annexed into the City of Pompano Beach (“City”) and by the adoption of Ordinance No. 85-9 on December 4, 1984, the City Commission approved a new DO for the PIP. The ±382,000 square feet (“sq. ft.”) Festival Marketplace to the north of the Site was constructed in 1986 on Tracts A and B of the plat, but the subject Site remained undeveloped according to historical aerials until 1995 when it was paved as a parking lot.

In December 1993, the then-property owner/applicant, who owned both the Festival Marketplace and the subject Site, applied to the City to rezone the Site from Industrial (“I-1”) to I-1 with an overlay of Planned Commercial/Industrial (“PCI”) for the purpose of providing additional parking for the Festival Marketplace. The rezoning was approved by the adoption of Ordinance No. 94-30 on April 5, 1994. Subsequently, the Site was paved as a surface parking lot. According to the staff report, staff found the request was logical because the I-1 zoning did not permit parking for retail uses but the use was permitted under the PCI overlay. The City Commission approved the rezoning with the condition that the use on the Site be limited to parking only. The approved site plan correlating with that rezoning is attached hereto as Exhibit “A”.

In the intervening years, the City’s zoning code was amended to allow a parking lot as a principal use in the I-1 zoning district. On June 23, 2020, the property was rezoned once more from I-1/PCI to General Industrial (“I-1”) via Ordinance No. 2020-57. No changes were proposed to the Site, and the condition restricting the use on the Site to a parking lot was not carried forward. Moreover, the rezoning removed the master plan requirements from the Site. In

October 2020, a DO amendment for the Festival Marketplace was approved to add commercial square footage and a gas station; the Site was not included in that DO. On November 10, 2020, a DO of the PIP DRI was abandoned by the City Commission via Ordinance No. 2020-2121. Therefore, subsequent amendments to the Site's improvements are required to comply with the City's comprehensive plan and zoning code without State oversight. Concurrently, a site plan to redevelop the Site with warehouse, distribution or storage uses was under review. The application was withdrawn in 2021, however, it should be noted that the Festival Marketplace was not part of the site plan review.

In October 2021, the parking lot was sold to the Applicant, effectively putting the parking lot under new ownership, separate from the Festival Marketplace.

### **Code Enforcement**

On November 23, 2021, the Property Owner was issued a notice of violation from a Code Compliance Inspector (Case No. 22020025, attached hereto as Exhibit "B") for "vehicles being stored on the property without approval to do so", for conducting an activity on the Site without the proper permits to do so, for landscape maintenance and litter violations. The Applicant has since cleaned up the Site and the landscaping to remedy the maintenance violations. The Site is already approved for parking as a principal use but according to the citation, and confirmed by the Applicant, vehicles are parked overnight by a lessee. Therefore, in order to remedy the citation, the Applicant is hereby requesting a TUP to allow Outdoor Storage as a principal use while working toward a more permanent solution, with the submission of a Special Exception application to allow Outdoor Storage as a principal use, which was submitted on August 15, 2022.

### **Temporary Use Permit**

A TUP shall be approved only on a finding that the temporary use as proposed:

1. Is on its face temporary in nature;

**Response:** *Yes. Approval of a TUP will allow the Applicant to utilize the Site for Outdoor Storage so that the vehicles can continue to be parked overnight as permitted under the I-1 zoning district while working toward a more permanent solution and appropriate use approval.*

2. Is in harmony with the spirit and intent of this Code;

**Response:** *Yes. The request is in harmony with the spirit and intent of the Code. In our discussions with Development Services staff, the option of a TUP for Outdoor Storage was presented as a short-term solution to remedy the violation.*

3. Is not detrimental to property or improvements in the surrounding area, or to the public health, safety, or general welfare;

**Response:** *As noted, the Site has been a parking lot since the mid-1990s and is surrounded by industrial or commercial uses. The prior approval for the parking lot was in accordance with the I-1/PCI zoning district and correlating site plan. Based on the Code Enforcement notice, a use approval is required in order for vehicles to be permitted to be parked overnight. The site plan submitted as part of this application and attached hereto as Exhibit "C", was also submitted as part of the aforementioned Special Exception application. The site plan indicates the parking lot will be improved in accordance with the zoning code, with appropriate screening and landscaping, and all existing roadway entrances are to remain subsequently causing no impact, adverse or otherwise, to the surrounding roadways, properties or improvements in the surrounding area or to the public health, safety, and welfare.*

4. Does not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;

**Response:** *Complies. The parking lot and outdoor storage uses will not have any adverse effects or noise impacts on adjoining permanent uses or nearby residential neighborhoods. There are no nearby residential neighborhoods; the nearest residential use is more than on-half a mile to the west. The only adjoining property is the aforementioned Festival Marketplace, which is connected to the Site only via a drive aisle on the northeast corner of the Property. However, none of the lessee's employee or fleet vehicles will enter the Site through the Festival Marketplace, but will only enter via the dedicated driveways on Northwest 33<sup>rd</sup> Street and Northwest 27<sup>th</sup> Avenue. The Site is separated from the Festival Marketplace by a ±180 feet wide lake with the exception of the drive aisle connection. The separation of uses, use of dedicated driveways, and landscape buffers and screening will ensure no impact to the adjoining permanent use.*

5. Is compatible with any principal uses on the site;

**Response:** *Not applicable. There are no other uses on the Site.*

6. Is located on a site containing sufficient land area to allow the temporary use and associated structures, and accommodate any associated parking and traffic movement, without disturbing environmentally sensitive lands; and,

**Response:** *Complies. The Site was previously approved as a 10.33-acre parking lot and no changes are proposed to its existing configuration. There are no environmentally sensitive lands in the vicinity to disturb. There are no existing or proposed structures on the Site and at no time will the number of vehicles parked or stored on the Site exceed the number of parking spaces.*

7. Complies with all applicable use-specific standards in Section 155.4403.

**Response:** *Not applicable. However, the Applicant intends to meet the code's requirements for Sec. 155.4228.A.3 to the greatest extent possible.*

**CONCLUSION**

On behalf of the Property Owner, we respectfully request favorable review and approval of this application for a TUP for Outdoor Storage as a principal use. Please feel free to contact us with any questions or additional information in support of the requests.

Respectfully submitted,

Shutts & Bowen LLP

*Meredith Leigh*

Meredith S. Leigh  
Land Use Planner



## Exhibit B – Code Enforcement Case 22020025 Case Overview, dated November 23, 2021

### Case Overview

#### Property/Incident Information

Owner	Address	Site Address
33 NW 33RD ST INDUSTRIAL LLC % CRITERION GROUP	28-18 STEINWAY ST ASTORIA, NY 11103	NW 33 ST, POMPANO BEACH, FL 33069

#### Legal Description

POMPANO INDUSTRIAL PARK 3RD ADD 111-33 B TRACT G, LESS BEG SE COR SAID TRACT G, W 40, N 204.33 TO P/C, SELY 209.15 TO POB FOR BLOUNT RD PROJ NO 5201

#### Description

Vehicles being stored on property without approval to do so.

<b>Case Status</b>	Open	<b>Case #</b>	22020025	<b>Date Next Inspection</b>	3/1/2022
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**Notes**

1. 155.5102 - Commercial vehicles parked at a location different from where the business location exist. Please park vehicles at the facilities where it is intended to serve.
2. 155.8202.B - Commercial vehicles stored on property without the proper approvals/permits to do so. Please obtain the proper approvals/permit for storing vehicles.
3. 96.26(C)(1) - Trash/Litter deposited adjacent to property. Please clean and remove trash/litter from property perimeter.
4. 96.26(C)(3) - Landscape overgrown. Please cut and maintain property.

If you have any questions please contact Sean Miller at 305-780-2937 or [smiller@cgasolutions.com](mailto:smiller@cgasolutions.com)

#### Documents Issued

Date Issue	Document Type
11/23/2021	Complaint
11/23/2021	Courtesy Notice
2/1/2022	Affidavit of Non-Compliance
2/1/2022	Notice of Violation
2/3/2022	Notice of Hearing

#### Violations

Ordinance/Regulation	Section	Description	Date Complied
Chapter 155: Zoning	155.5102 C.3 a.v. - General Standards for Off-Street Parking and Loading Areas. Location and Arrangement	The off-street parking facilities required under this chapter shall be located on the same lot or parcel of land the facilities are intended to serve, unless permissible in accordance with all applicable provisions of Section 155.5102.J., Off-Street Parking Alternatives.	Not in Compliance - Reinspection Date: 3/1/2022
Chapter 155: Zoning	155.8202.B. SPECIFIC VIOLATIONS	It shall be a violation of this Code to undertake any activity contrary to the provisions of this Code, including but not limited to any of the following: B. Occupy or use land or a structure without first obtaining all appropriate development permits, and complying with their terms and conditions.	Not in Compliance - Reinspection Date: 3/1/2022
Chapter 96: Health and Safety	96.26(C)(1) Public Nuisance; Unauthorized Accumulation	The following are declared to be public nuisances when occurring upon any street, sidewalk, alley, or other public place or property, or upon any private property: Any unauthorized accumulation of construction debris, garbage, horticulture trash, or refuse.	Not in Compliance - Reinspection Date: 3/1/2022

**Case Overview**

Chapter 96: Health and Safety	96.26(C)(3) Public Nuisance; Overgrowth of Grass/Weeds	The following are declared to be public nuisances when occurring upon any street, sidewalk, alley, or other public place or property, or upon any private property: The presence of grass and/or weeds in excess of 12 inches in height from the ground up on any undeveloped non-residentially zoned property or the presence of grass and/or weeds in excess of 6 inches in height from the ground up on any developed property or on any undeveloped residentially-zoned property.	Not in Compliance - Reinspection Date: 3/1/2022
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