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June 26, 2023

Zoning Board of Appeals
City of Pompano Beach
100 West Atlantic Boulevard, Dept. 1510
Pompano Beach, Florida 33060

Via Electronic Mail: scott.reale@copbfl.com

RE: Variance for 1820 NW 21 ST, folio 484227130010

Dear members of the Zoning Board of Appeals,

PlanW3st is representing applicant SES WPB, LLC in pursuit of Variance approval for the above-referenced properties. The properties are located south of Copans Road, at the intersection of NW 21st Street and NW 18th Avenue in Pompano Beach (refer to **Exhibit "A"** included with this narrative). Currently, the properties house a sexually-oriented gentlemen's club. The contract buyer ("Applicant") intends to use the property for an industrial tenant that obtains clean concrete from various sources for processing/crushing. The crushed concrete will be eventually converted into Limerock Bearing Ratio (LBR) material to be repurposed for construction and transported to jobsites as needed. The use is described in further detail in the Special Exception application filed concurrently with this Variance application. No improvements are needed to the site other than the required landscaping and buffers for the use and removal of surplus parking.

The subject parcel is located within the I Industrial Land Use designation, as well as the I-IX Special Industrial Zoning District. Since the described use is not defined within the zoning code, a request for use classification was requested from the City's Department of Development Services. The city confirmed, via Zoning Letter 23-02000107, that "[t]he proposed use described would be most closely related to an Industrial Waste-Related Service Uses *[sic]* pursuant to Section 155.4229...Waste-Related Service Uses are permitted in I-1 and I-1X Zoning Districts by Special Exception..." In order for the owner to obtain approval of the proposed use, which is not defined in the zoning code but most "closely related to" an Industrial Waste-Related Use, the property is required to obtain Special Exception for use and Variance approval from the 1,000-foot distance separation requirement from a junkyard or another outdoor Waste-Related Service Use (section 155.4229.E.2).

155.4229. INDUSTRIAL: WASTE-RELATED SERVICES USES

...

E. Additional Standards for Outdoor Waste-Related Service Uses

A Waste-Related Service Use is considered to be an Outdoor use if all or a portion of the use's operations, including storage and sorting, are located outside of a fully enclosed structure. In addition to the general standards listed in Section [155.4229.D](#), Outdoor Waste-Related Service Uses shall be required to comply with the following standards:

...

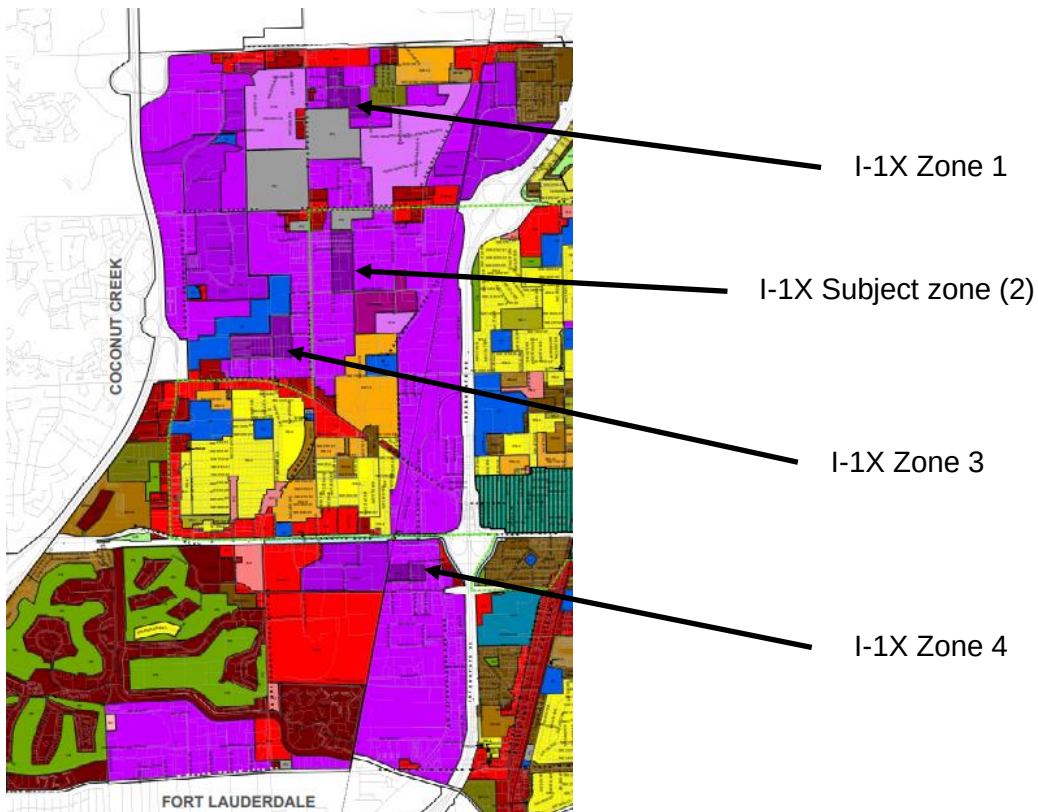
2. The lot shall be located at least 1,000 feet, as measured by airline distance from property line to property line, from another lot containing a junkyard or an Outdoor Waste-Related Service Use;

...

We understand that a Variance shall only be approved on a finding that the request as proposed meets the following standards and we believe we meet them all:

- a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;

The City's zoning code does not separate use of land from land conditions or the structure that houses a particular use of land in most cases. Uses have use and site standards that need to be met in order for a use to be approved. The extraordinary condition applicable to this property that doesn't apply to other properties in the vicinity is in the proposed use of the land and structure. This use is neither defined in the zoning code nor defined as a waste-related use, but considered similar to it. The distance separation for the outdoor component is not comparable to that of a junkyard, construction and demolition disposal facility, land clearing debris disposal facility, material recovery facility, solid waste transfer station, tire disposal or recycling facility, waste composting facility, or waste-to-energy plant. Additionally, the use will be replacing a commercial sexually-oriented business that does not get the exposure or visibility that a typical commercial business in a commercial zoning district does. The applicant specifically chose the city's heaviest industrial zoning district to maintain compatibility; an already limiting factor since there are only 4 I-1X (similar-size) zones in the entire city.



- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;

The fact that the use is not defined in the zoning code and needs the closest-related use interpretation is not the fault of the owner. The property is located within the City's most intensive industrial zoning district, which permits heavy manufacturing uses. Even though the use is not defined as heavy manufacturing or a waste-related, the use is still industrial in nature and proposed in the most compatible of the city's zoning districts. Additionally, imposing separation standards for a use that isn't defined as the use being it is being categorized as, is limiting and restricting for this applicant.

- c. Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;

The applicant specifically chose the city's heaviest industrial zoning district to maintain compatibility and avoid any confusion on the proposed use impacts. After all, the I-1X zoning district has historically permitted not only heavy industrial uses but also the least intensive ones—somewhat of an industrial "catch-all". Locating to another industrial parcel does not change the fact that the use is not defined and needs interpretation and classification. The distance separation for the use will still be applied elsewhere, where the separation from not only a waste-related use but also a junkyard, will apply. It is important to note that the impacts of the proposed use are not at all comparable to those of defined waste-related uses. If not permitted in the I-1X zone, then where if at all?

- d. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.

Without this interpretation of use, the proposed use would not be permitted in the city at all. Because the use is interpreted as being most similar to waste-related use, the separation requirements need to be met, which are in place for waste-related uses due to their nature and impacts. The impacts of the proposed use are not comparable to a waste-related use. The separation requirements being applied are more restricting on this use, a use primarily comprised of concrete crushing and outdoor storage, rather than on an actually defined waste-related use. The applicant will make any site alterations required to accommodate the use, providing a well-buffered, compatible use in the city's most intensive industrial use.

- e. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;

The separation requirement that minimally applies to this site from another waste-related use or junkyard is less than 1,000 feet. Aerial inspection shows a Junk Dealer located directly west of the subject site, with BTR records search confirming Gardner Foreign Auto Parts is located at 2090 NW 21st Street.

- f. The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;

The variance request is in harmony with the purpose and intent of the code as defined in section 155.1103 [General Purpose and Intent]. As the general purpose of the code is to promote the public health, safety, and general welfare, as well as implement the goals, objectives, and policies of the City of Pompano Beach Comprehensive Plan, the variance will assist in implementing with the following:

- A. Preserve and enhance present advantages and overcome present handicaps that exist in the city*
- B. Encourage the most appropriate use of land, water, and resources;*
- C. Deal effectively with future problems that may result from the use and development of land;*
- E. Conserve, develop, utilize, and protect natural and historic resources;*
- F. Maintain and protect the character and stability of the community and its established neighborhoods*
- J. Establish comprehensive, consistent, effective, efficient, and equitable standards and procedures for the review and approval of land development that recognize and respect the rights of landowners and consider the interests of the city's citizens.*
- I. Promote sustainable development and reduce greenhouse gas emissions by encouraging less auto-dependent development patterns, renewable energy use, energy conservation, water conservation, vegetation, urban agriculture, recycling and waste reduction, and hazard-resilient development*

Additionally, the variance request is in harmony with the general purposes of industrial base zoning districts as defined in section 155.3401 [General Purposes of Industrial Base Zoning Districts], which are established for the general purpose of ensuring there are lands in the city that provide a wide range of manufacturing, storage, and related uses to meet household and business needs. The variance request emphasizes the following purposes:

- A. Provide appropriately located lands for the full range of commercial uses needed by the city's residents, businesses, and workers, consistent with the goals, objectives, and policies of the comprehensive plan and any functional plans and small area plans adopted the city's Community Redevelopment Areas (CRAs);*
 - B. Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city and surrounding communities;*
 - C. Create suitable environments for various types of industrial uses, and protect them from the adverse effects of incompatible uses;*
 - D. Minimize the impact of industrial development on residential and commercial uses; and*
 - E. Promote sustainable development in terms of energy efficiency and conservation, greenhouse gas reductions, food security, materials recycling, and similar sustainability goals.*
- g. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and*

The variance would allow a compatible industrial use to replace a commercial sexually-oriented business use in the city's most intensive industrial zoning district. As the surrounding uses and zones are industrial and the proposed use limits public access more than the existing use does, the approval of this variance request will not adversely affect the health or safety of persons working in the neighborhood. There are no residential areas in the immediate vicinity. The separation requirement does not provide a protection from injury to property or improvements in the neighborhood, nor does it provide a protection to maintain the public

welfare—especially for a use that is not technically defined as waste-related by the zoning code.

- h. The Variance is consistent with the comprehensive plan.

The subject properties are currently occupied by a sexually-oriented gentlemen's club and lie within the I Industrial Land Use. According to the City's adopted Comprehensive Plan, light and heavy industrial uses, such as concrete recycling, are permitted uses within the I Industrial Land Use designation. The proposed uses are consistent with the land use designation in which they will be located, as well as the adopted comprehensive plan.

As detailed in f. above, the variance promotes several goals and policies of the comprehensive plan. Additionally, the request is consistent with the following:

Policy 01.03.06: Consider density and intensity revisions with an emphasis on minimal negative impacts to existing residential areas, particularly single-family areas.

Policy 01.07.06: Through ongoing updates to the land development regulations revise prohibited and permitted uses in the mixed use, commercial, industrial and non-residential zoning districts.

Policy 01.07.12: Through ongoing updates to the land development regulations provide criteria/uses specific standards for the approval of new outdoor storage uses and a list of acceptable uses.

Policy 01.14.01: The City shall emphasize re-development and infill, which concentrates the growth and intensifies the land uses consistent with the availability of existing urban services and infrastructure in order to conserve natural and manmade resources

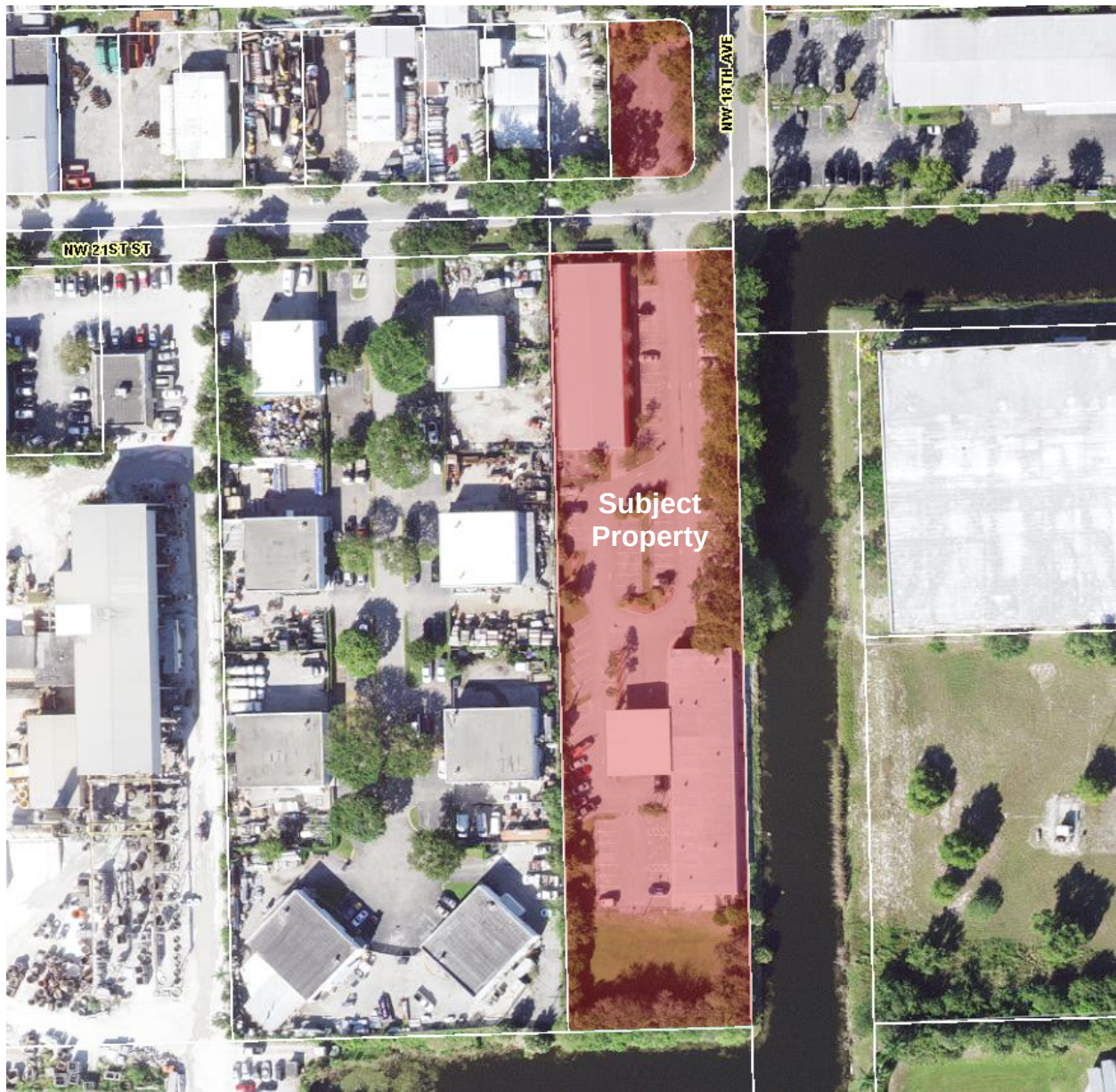
Thank you for your consideration. We respectfully request approval is granted as justified above.

Please do not hesitate to contact me with any questions.



Paola A. West, AICP, ISA-CA
Principal, Senior Land Planner

Exhibit "A"



Parcel Id: 484227120010

Owner: PP SUNSHINE OWNER LLC
%KENDRALYNN SMITH

Situs Address: 2121 NW 15 AVE POMPANO
BEACH FL 33069