

BEACH, FLORIDA, REZONING PROPERTY LYING ON THE WEST SIDE OF DIXIE HIGHWAY, SOUTH OF NE 17TH COURT AND COMMONLY KNOWN AS 1661 NE 17TH COURT FROM B-3 (GENERAL BUSINESS) TO B-4 (HEAVY BUSINESS); PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

**\*This item will be stricken from the Agenda.**

(Staff Contact: Jean Dolan/David Recor)

**A motion was made by Vice Mayor Perkins, seconded by Commissioner McGee, that the Quasi-Judicial/ Ordinance be STRICKEN. The motion carried unanimously.**

22. [21-757](#) **P.H. 2021-104: (PUBLIC HEARING 1ST READING)**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, REZONING PROPERTY LYING ON THE WEST SIDE OF DIXIE HIGHWAY, SOUTH OF NE 17TH COURT AND COMMONLY KNOWN AS 1661 N. DIXIE HIGHWAY FROM B-3 (GENERAL BUSINESS) TO B-4 (HEAVY BUSINESS); PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Jean Dolan/David Recor)

Jean Dolan, Development Services Department, presented the item and stated that the approximate 2.98 acres property is located on the west side of Dixie Highway south of NE 17th Street. The applicant is requesting to rezone the property from General Business (B-3) to Heavy Business (B-4). The subject site consists of 2 parcels that currently have 2 buildings consisting of approximately 21,000 square feet. The intent of the applicant is not to redevelop, but to increase the allowable uses on the property. The criteria for rezoning approval is consistent with the Future Land Use category and the applicable goals, objectives and policies in the Comprehensive Plan. The applicant proposes to ensure compatibility by offering voluntary restrictions to limit the B-4 uses that are located on the property. The uses prohibited are as follows:

- Sport shooting, auto paint and body shop, auto wrecker service, laundry and dry cleaning, carpet cleaning and dyeing facilities, tool repair shop, manufacturing, assembly or fabrication light, self-storage and mini warehouse facilities, warehouse distribution and storage and pawn shop.

Staff believes that the applicant has adequately provided competent substantial evidence that the B-4 rezoning request would result in uses compatible with the surrounding area. The request was heard at the July 28, 2021, Planning and Zoning Board hearing and the Board unanimously recommended denial of the rezoning request.

Tom Johnston, Esq., 633 East Atlantic Boulevard, Pompano Beach, FL, stated that Paola West will be making the technical presentation and then he will conclude with some last comments. Kate Murphy is also attending the meeting on behalf of the ownership of the property.

Paola West, Senior Land Planner, Pine West, 10152 Indian Town Road, Unit 159, Jupiter, FL, stated that the request before the City Commission is for 1661 North Dixie Highway. The property is west of the stables and the Air Park, north of NW 16. This is two parcels that are unified in the covenant in lieu of the Unity of Title, which allows the property to function as one. The only way to undo it is through the Development Services Director in the City's format. Therefore, they are requesting a rezoning from B-3 to B-4, and there is no master plan. In addition, they have a grant of easement for the purposes of drainage to function as one site. The property did obtain minor site plan and major building design approval in 2018. The property owners proposed to rezone it to allow for automotive nature uses, and commercial uses to be permitted by right the subject property. Currently, the code requires a special exception be obtained for most of these uses. The property owner would prefer to allow by right as opposed to having to go before the Zoning Board of Appeals every time there is a special exception desired. Also, they wanted to remain consistent with the reconfiguration that happened with the site plan.

Continuing, Ms. West then provided a summary of the annexation and the historical zoning of the property and provided several images to include how the property looked prior to annexation. There is one criterion that they must meet in order to rezone. They will have to provide substantial evidence that they are consistent with the Future Land Use, the Comprehensive Plan and any adopted City Plans on record. The property is currently Commercial (C) land use, the uses, the proposed and the existing are all commercial in nature, which will not change. All uses are permitted by the City's Comprehensive Plan. In the B-4 district the intent is to provide employment generating businesses as well as providing flexibility for more of the heavier commercial uses. Ms. West opined that rezoning the property to B-4 would also allow for a good transition between the industrial up to the commercial to the north.

Ms. West indicated that in the backup multiple goals, objectives and policies are provided that they feel the request meets. She pointed out that in the approved site plan they have improved the sidewalks, improved the access within the property, they have removed an entrance into the property and have combined it into one in the middle of the site. They are improving the drainage of the property, providing onsite retention in the middle, they have increased a lot of the greenspace and the landscaping, they are meeting and exceeding the buffers required for the property. Also, they are ensuring that they are better neighbors to the residents to the west, the uses are less intensive than they were in the past. The property is existing so it is not new. They are more consistent than the previous users and consistent with the nature of the area.

Mr. Johnston, read from the staff's report that was presented to the Planning and Zoning Board which is part of the backup. City staff on this matter concludes as follows:

“In light of the voluntary restrictions, staff believes that the applicant has adequately provided competent substantial evidence in addressing the Comprehensive Plan's policy regarding incompatibility that could otherwise have resulted from an approval of this B-4 rezoning request.

Staff is of the opinion that there is a reasonable basis to support this request because the rezoning (as restricted) would be compatible with the surrounding existing uses. This compatibility is the result of the applicant volunteering the recordation of a Declaration of Restrictive Covenants restricting the more-intense uses that are allowed in B-4.”

Continuing, Mr. Johnston stated that this application process has been approximately 18 months in length. They started off meeting with staff and they used the new BPD-I a rezoning category. They filed a complete application and sent through all the processes. Further meetings with staff at the end necessitated to change to another category, so they changed to PCD and prepared and filed a complete PCD application. This spring they decided to change their application from B-3 to B-4 zoning with Restrictive Covenants. Staff and the owners agreed to remove the most intense portion of the B-4 code and put those in a Declaration of Restrictive Covenants to be part of the application process to be delivered to the City, and executed and recorded at the time of the rezoning approval. The application went through the Development Review Committee (DRC) process, was cleared and there were no objections from anyone in the community nor the western Community Redevelopment Agency (CRA). Mr. Johnston then described the process they have gone through to date for rezoning, and the approvals they have received from both staff and the Planning and Zoning Board. They have checked off all the boxes of what they were supposed to be doing. He concluded that by granting this rezoning this will make the property more economically feasible and encourage new businesses to the area.

Mayor Hardin disclosed that he has had ex parte communications with the applicant and the applicant's representatives about this project.

Comr. McGee disclosed that she has had ex parte communications with the applicant's representatives about this project.

Comr. McMahan disclosed that he has had ex parte communications with the applicant in reference to the project.

Comr. Eaton disclosed that she has had ex parte communications with the applicant in reference to the project.

Comr. Floyd disclosed that she has had ex parte communications with the applicant in reference to the project.

Vice Mayor Perkins disclosed that she has had ex parte communications with the applicant in reference to the project.

Comr. Eaton noted that as she drives on Dixie Highway every day and the Avis property is a bright spot. They have done a "lovely job" with the landscaping and it is a pleasure to see. She appreciates the owner's attention to that detail and the deed restrictions. In sum, this is a distinction without a difference and would support this zoning change.

Comr. McGee noted that she appreciates the added landscaping as a buffer. Moreover, with the plans to beautify Dixie Highway with the different uses existing, which is not too pretty to look at, this is a great solution of how to attract and keep those businesses nearby, which are quality of life businesses that everybody uses and needs. Still this would help make the corridor clean and updated. She suggested that whenever possible to bring back any canopy to bring in the trees and bushes to make the place look great.

Vice Mayor Perkins indicated that initially she was against the project, however, after speaking with Mr. Johnston about it she is excited about the landscaping, especially with the improvements that are about to come

on Dixie Highway. This is a great project and she will support it.

Mayor Hardin enquired if Ms. Dolan attended the Planning and Zoning meeting. Ms. Dolan responded that she was at the meeting.

Mayor Hardin indicated that it is unusual that the Commission sees such a divergence between staff's recommendation, which is pretty strong, and the Planning and Zoning Board unanimously disapproving the project.

Ms. Dolan mentioned that the Chair of the Planning Zoning Board, Fred Stacer is currently very active with staff in developing the overlay to encourage more mixed use along the corridor. They are also adopting design standards for B-4 uses to follow the commercial design standards to upgrade the look even when the City continues to get more industrial type development along Dixie Highway. Therefore, Mr. Stacer is very strong in wanting to upgrade the whole corridor, particularly when it is adjacent to single family homes. There is a subcommittee with the Economic Development Council (EDC) and they are all working together to go over the code changes, which may go to the Planning and Zoning Board as early as October. Therefore, because of the newness of this and Mr. Stacer's passion, he was able to bring the rest of the board along in terms of saying this is not really the direction he wanted to see Dixie Highway heading.

Continuing, Ms. Dolan stated that staff believes that for them to do the mixed-use corridor this could be backed down to B-3 so they can do a residential mixed-use project if it was purchased by someone who wants to redevelop the property. This applicant is not into redevelopment and is just trying to get additional uses for the buildings that are already in place. This does not preclude the future that Mr. Stacer is envisioning, so this is why staff was able to support the item. There was logic behind the divergence and it still exists.

Mayor Hardin applauded the efforts of the Planning and Zoning Board and stated that he would also like to see all of the City's corridor upgraded in the looks, uses and things of that nature. He understands that every situation can be unique and commend the Planning and Zoning Board members for their heartfelt feelings in that regard.

### **Meeting went into Recess**

**A motion was made by Vice Mayor Perkins, seconded by Commissioner McGee, that the Quasi-Judicial/ Ordinance be APPROVED FIRST READING. The motion carried by the following vote:**

**Yes:** Eaton  
Floyd  
McGee  
McMahon  
Perkins  
Hardin

**END OF QUASI-JUDICIAL PROCEEDING**

23. [21-687](#) **P.H. 2021-90: (PUBLIC HEARING 2ND READING)**  
AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, PROVIDING FOR THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2021 IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$81,625,000 TO BE APPLIED, TOGETHER WITH OTHER LEGALLY AVAILABLE FUNDS OF THE CITY, IF ANY, TO FINANCE, REIMBURSE AND REFINANCE THE COST OF ACQUIRING, CONSTRUCTING, EQUIPPING, RENOVATING, REPLACING AND IMPROVING CERTAIN PROJECTS APPROVED BY THE QUALIFIED ELECTORS OF THE CITY VOTING IN A BOND REFERENDUM HELD IN THE CITY; PROVIDED, HOWEVER THE AGGREGATE PRINCIPAL AMOUNT OF THE GENERAL OBLIGATION BONDS, SERIES 2021 TO BE ISSUED IN CONNECTION WITH (1) THE PUBLIC SAFETY PROJECTS (DEFINED HEREIN) SHALL NOT EXCEED \$30,115,000, (2) PARKS, RECREATION AND LEISURE PROJECTS (DEFINED HEREIN) SHALL NOT EXCEED \$12,465,000, AND (3) THE STREETS, SIDEWALKS, BRIDGES AND STREETSCAPING PROJECTS (DEFINED HEREIN) SHALL NOT EXCEED \$39,045,000; FIXING CERTAIN TERMS AND DETAILS OF THE GENERAL OBLIGATION BONDS, SERIES 2021; AUTHORIZING EXECUTION AND DELIVERY OF THE GENERAL OBLIGATION BONDS, SERIES 2021; DELEGATING AUTHORITY TO DETERMINE WHETHER TO INCLUDE CERTAIN PROJECT COMPONENTS IN THE PROJECTS TO BE FINANCED BY THE GENERAL OBLIGATION BONDS, SERIES 2021; AUTHORIZING THE PUBLIC SALE OF THE SERIES 2021 BONDS AND THE USE OF THE PRELIMINARY OFFICIAL STATEMENT, OFFICIAL NOTICE OF SALE AND SUMMARY NOTICE OF SALE IN CONNECTION THEREWITH; DELEGATING AUTHORITY TO THE CITY MANAGER OF THE CITY, IN CONSULTATION WITH THE CITY'S FINANCIAL ADVISOR, TO ACCEPT, PURSUANT TO A COMPETITIVE PUBLIC SALE PROCESS, THE BID OR BIDS OF THE LOWEST QUALIFIED BIDDER OR BIDDERS FOR THE PURCHASE OF THE SERIES 2021 BONDS, SUBJECT TO CERTAIN PARAMETERS AND OTHER MATTERS SET FORTH HEREIN; DIRECTING THE APPLICATION OF THE PROCEEDS OF THE GENERAL OBLIGATION BONDS, SERIES 2021; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FINAL OFFICIAL STATEMENT AND AUTHORIZING THE EXECUTION AND