

Special Exception Narrative

Northwest 33rd Street Parking Lot

Submittal: August 15, 2022

Request

On behalf of the Property Owner, 33 Northwest 33rd 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 Special Exception (“SE”) 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 814 parking spaces. There are no structures on the Site and none are proposed. The property is located on the northwest corner of Northwest 33rd Street and Northwest 27th Avenue. The Site currently has three access points: two on Northwest 27th Avenue and one on Northwest 33rd 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 (“CC”) 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, requested a rezoning of the Site from Industrial (“I-1”) to I-1 with an overlay of Planned Commercial/Industrial (“PCI”) for the purpose of providing overflow parking for the Festival Marketplace. The rezoning was approved on April 5, 1994 via Ordinance No. 94-30. With changes to the zoning code and decline of the brick and mortar retail landscape, and declining demand for the Festival Marketplace in particular, on June 23, 2020, the property was rezoned back to General Industrial (“I-1”), with no conditions of approval, via Ordinance No. 2020-57. The rezoning removed the master plan requirements from the Site. On November 10, 2020, the PIP DRI was abandoned via Ordinance No. 2020-1021, and any subsequent amendments to the Site’s improvements are required to comply with the City’s comprehensive plan and zoning code without State oversight.

In October 2021, the parking lot was sold to the Applicant, putting the parking lot under new ownership. The Applicant is proposing to use the Site as a parking lot for trucks. The vehicles will be parked overnight, and therefore, in accordance with the code, the Applicant is requesting a SE to allow Outdoor Storage, instead of a parking lot, as a principal use. An application for a Minor Site Plan Review (“SPR”) will be submitted separately.

Code Enforcement

On November 23, 2021, the Applicant was issued a notice of violation from a Code Compliance Inspector (Case No. 22020025, attached hereto as Exhibit “A”) 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. In order to remedy the use violation, the Applicant applied for a Temporary Use Permit (“TUP”) in May 2022, to allow Outdoor Storage as a principal use. The request was denied at the June 16, 2022 Zoning Board of Appeals (“ZBA”) hearing. However, a motion for reconsideration has been filed and is on the August 18, 2022 ZBA agenda. It should be noted that when the Applicant bought the property, there was already a lease in place for the vehicles parked on the Site. Once notified of the violation, the Applicant began the process of remedying the Code Enforcement action. Should the motion and TUP be granted, it will allow the Applicant to utilize the property as it has been used since before the Applicant assumed ownership, while the SE and SPR are under review.

Special Exception Review Standards

Except for community residences and recovery communities, a Special Exception shall be approved only on a finding that there is competent substantial evidence in the record that the Special Exception, as proposed:

1. Is consistent with the comprehensive plan;

Response: *Yes. The Property is in the I-1 zoning district, and has an Industrial land use category, wherein transportation facilities are permitted. This is consistent with comprehensive plan Section 3.02.F, Industrial.*

2. Complies with all applicable zoning district standards;

Response: *Yes. The proposed use is an industrial use permitted as a SE in the I-1 zoning district. The Site complies with the development regulations for the I-1 zoning district. At 10.33 acres, the Site exceeds the minimum lot size, width, and depth for the I-1 district. The Site is currently a paved parking lot with no structures, and no new structures are proposed at this time. The site plan complies with landscape and screening standards required for the proposed use.*

3. Complies with all applicable use-specific standards in Article 4: Use Standards;

Response: *Yes. The proposed use complies with all applicable Art. 4 Use Standards as follows:*

2. Definition

Outdoor Storage as a principal use is the keeping, in an area that is not totally and permanently enclosed, of any finished goods, material, merchandise, boats, or vehicles in the same place for more than 24 hours, where such storage is the principal use of a lot. This use does not include a junkyard or salvage facility or the display and storage of vehicles as part of an automobile, recreational vehicle, trailer, or truck sales or rental use.

Response: *The proposed use will be consistent with the definition, as trucks will be parked on the property overnight, but no enclosed structures are proposed.*

3. Standards

Outdoor Storage as a principal use shall comply the following standards:

- a. Perimeter buffer and screening standards
 - i. The area(s) used for Outdoor Storage shall be fully enclosed with a fence or masonry wall no less than eight feet high in accordance with Section [155.5302](#), Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

Response: *Please see the conceptual site plan submitted herein. Required fencing is proposed along all the entire property perimeter. The height will be no less than eight feet, but not to exceed ten feet in height in order to screen the vehicles parked on-site from view.*

- ii. Perimeter buffers in accordance with Section [155.5203.F](#), Perimeter Buffers, shall be provided between the Outdoor Storage area(s) and the site's boundaries, with a type C buffer provided between an Outdoor Storage area and the front lot line, a type B buffer provided between an Outdoor Storage area and any side or rear lot line adjoining a street, and a type A buffer provided between an Outdoor Storage area and any other side or rear lot line.

Response: *Please see the conceptual site and landscape plans submitted herein. A type C buffer is proposed along Northwest 33rd Street, a type B buffer is proposed along Northwest 27th Avenue and type A buffers are proposed along the north and west property lines. New landscaping material will be installed in the perimeter buffers to allow the installation of the proposed fences. The existing trees and shrubs in the parking lot landscape islands and medians will be preserved in place and additional landscape materials will be added, as needed, to meet current code requirements. The existing trees in the perimeter buffers along the street frontages will be preserved to the greatest extent possible. However, some adjustments will need to be made to allow for the installation of the proposed fence. Along Northwest 33rd Street there are eight trees scheduled for removal on the preliminary landscape plans. Considering the location, species, and condition, there are eight Hong Kong Orchids (*Bauhinia blakeana*) that are currently located directly below overhead utilities that may cause maintenance issues in the future along Northwest 33rd Street. The requirement of the fence with perimeter shrubs the landscape scope of this project provides an opportunity to replace these trees that may present issues in the future with more suitable buffer tree species that also meet Florida Power & Light's Right Tree, Right Place guidelines.*

On Northwest 27th Avenue, the Applicant is proposing to add shrubs and understory trees amongst the existing canopy trees. The predominant tree along the south end of Northwest 27th Avenue is oaks. Along the north end, a couple of trees are proposed to remain, and multiple dead trees scheduled for removal (please see the Tree Disposition submitted with this application). There are overhead utilities along this stretch of road, so all proposed tree species are understory trees comprised of Silver Buttonwood, Orange Geiger Trees, and Spanish Stopper. The proposed fence has been placed to avoid existing utilities and structures with a cocoplum hedge.

The remaining buffers along the northern and short western sections of the property will include 38 additional canopy trees including Gumbo Limbo, Mahogany, and Wild Tamarind Trees. With the proposed perimeter fence, the required shrubs will either be a continuation of cocoplum or other native species of regularly available shrubs.

No changes are proposed to the existing site lighting at this time. The site is not in or near a wellfield protection zone, and as it pertains Sec. 155.5801, Purpose [related to Sustainable Development Standards], the site plan promotes sustainability through adapting what is an existing underutilized asphalt parking lot and repurposing it in a way that requires no demolition or new construction (except for required perimeter screening) instead of disturbing undeveloped land or demolishing and redeveloping an existing site.

iii. Development Existing on or Before April 27, 1999.

Response: *Not applicable.*

- b. Any repair of equipment shall be conducted on a paved surface or within an enclosed building.

Response: *Minor repairs of the vehicles, if needed will be conducted on a paved surface.*

- c. All areas used for Outdoor Storage shall have a surface that avoids dust and safeguard groundwater.

Response: *As an asphalt parking lot with existing on-site drainage infrastructure, the proposed use complies with this standard.*

- d. If the Outdoor Storage area is covered, the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

Response: *Not applicable*

- e. Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

Response: *Not applicable*

- f. Materials shall not be stored higher than the height of the screening.

Response: *The Site will comply with this standard. Please see the conceptual site and landscape plan submitted herein.*

- d. All areas used for Outdoor Storage shall have a surface that avoids dust and safeguard groundwater.

Response: *As an asphalt paved parking lot with established on-site drainage infrastructure, the Site will comply with this standard.*

4. Avoids overburdening the available capacity of existing public facilities and services, including, but not limited to, streets and other transportation facilities, schools, potable water facilities, sewage disposal, stormwater management, and police and fire protection;

Response: *Due to no additional structures being proposed on the property, no adverse impact is anticipated on the existing public facilities and services including potable water, sanitary sewer, irrigation, and stormwater management. All existing roadway entrances are to remain subsequently causing no impact, adverse or otherwise, to the City streets and transportation facilities. The Site is intended to be used as Outdoor Storage so that vehicles can be parked overnight. The use will not impact public services including police and fire protection.*

5. Is appropriate for its location and is compatible with the general character of neighboring lands and the uses permitted in the zoning district(s) of neighboring lands. Evidence for this standard shall include, but not be limited to, population density, intensity, character of activity, traffic and parking conditions and the number of similar uses or special exception uses in the neighborhood;

Response: *The proposed use is compatible with the general character of neighboring lands and is an appropriate use for this location. The Site is part of the PIP plat. The surrounding uses for at least a half mile around are non-residential in nature, with a commercial use, and a landfill to the north and light industrial uses, such as warehouse, logistics, manufacturing and processing and distribution uses, to the east and south. Florida's Turnpike and a lake are to the west of the Site. It is important to note too, that the property to the north was recently rezoned to I-1 zoning making it likely that another industrial use will be built in the near future. No new intensity or density will be added to the Site, and there are no residential developments in the vicinity. In fact, the nearest residential use is more than half a mile away, on the west side of the Turnpike. Outdoor Storage use is appropriate for this location as it will serve to support the needs of nearby delivery services.*

6. Avoids significant adverse odor, noise, glare, and vibration impacts on surrounding lands regarding refuse collection, service delivery, parking and loading, signs, lighting, and other site elements;

Response: *The proposed use is not a nuisance, nor is any aspect of it noxious in nature. The Site has existed in its existing configuration since 1995 as a parking lot and will continue to be used as such. The purpose of this request to permit the vehicles to legally remain on-site overnight.*

7. Adequately screens, buffers, or otherwise minimizes adverse visual impacts on neighboring lands;

Response: *Based on the Outdoor Storage standards set forth by the City, the site will be screened with either a fence or opaque wall at the minimum height of eight feet in order to adequately screen the intended use from the neighboring lands. The Site will also conform to the landscape buffering requirements, further minimizing adverse visual impacts.*

8. Avoids significant deterioration of water and air resources, scenic resources, and other natural resources;

Response: *The proposed Site will not adversely impact the adjacent stormwater pond or any other scenic/natural resources. The drainage structures that ultimately discharge into the northern wet pond are intended to remain as existing, therefore, providing no impact, adverse or otherwise.*

9. Maintains safe and convenient ingress and egress and traffic flow onto and through the site by vehicles and pedestrians, and safe road conditions around the site and neighborhood;

Response: *The proposed use requires that no impacts or redevelopment of the existing ingress and egress driveways are necessary, therefore, are not proposed. The traffic flow will increase slightly due to the overnight parking of delivery service vehicles increasing, however, will not be detrimental to the overall public safety or public roadway conditions.*

10. Allows for the protection of property values and the ability of neighboring lands to develop uses permitted in the zoning district;

Response: *The proposed use will have no impact on property values or the ability of neighboring lands to develop in the zoning district.*

11. Fulfills a demonstrated need for the public convenience and service of the population of the neighborhood for the special exception use with consideration given to the present availability of such uses;

Response: *Companies such as FedEx and Amazon have a well-established presence in the vicinity. Online commerce remains in high-demand in the post-pandemic era. Amazon's expansion in South Florida with various types of distribution centers, including last-mile and order fulfillment centers is expected to continue in the near future. The growth of such companies, that service the northern County region, requires a large fleet of vehicles, and a place to park them overnight if there is insufficient space to accommodate them on the parent site. The proposed use will fulfill a demonstrated need so that companies like Amazon and FedEx can continue to serve the public.*

12. Complies with all other relevant city, state and federal laws and regulations; and

Response: *The proposed SE and site plan comply with all other relevant city, state and federal regulations.*

13. For purposes of determining impacts on neighboring properties and/or the neighborhood, the terms neighboring properties and neighborhood shall include the area affected by the requested special exception, which is typically an area of 500 feet to a one-half mile radius from the subject site.

Response: *The radius noted has been reflected in the response to the standards as it relates to impacts on neighboring properties.*

CONCLUSION

On behalf of the Property Owner, we respectfully request favorable review and approval of this application for a Special Exception 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 A – 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.

Case Status	Open	Case #	22020025	Date Next Inspection	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

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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