

**G. REZONINGS**

**2. 140 NW 16<sup>TH</sup> ST LAND TR SUNCO TH LLC TRSTEE / POMPANO IMPORTS**

**Planning and Zoning #17-13000007**

Consideration of the REZONING submitted by **DENNIS D. MELE** on behalf of **140 NW 16<sup>TH</sup> ST LAND TR SUNCO TH LLC TRSTEE** to rezone the property from B-2 (Community Business) to B-4 (Heavy Business) in order to develop the property. The subject site currently has four small buildings consisting of a total of 6,808 square feet. The contract purchaser of the property, "Pompano Imports," contends that the current zoning is inappropriate and ineffective, denying any appropriate use of the property. In the Narrative, the applicant provides ancillary information regarding the type of work proposed to be conducted on the property, which is not required for a Rezoning Application and cannot and has not been considered by staff when reviewing this request. Although the applicant is requesting a rezoning to B-4, they are offering to restrict the property to limit certain types of B-4 uses that they believe would be in conflict with the surrounding properties. All parcels are legally defined as follows:

THE WEST 468.27 FEET OF THE NORTH ½ OF THE NORTH ½ OF THE SE ¼ OF THE SE ¼, LESS THE NORTH 25 FEET FOR COUNTY ROAD, LESS THE EAST 7.77 FEET OF THE SOUTH 100 FEET, OF SECTION 26, TOWNSHIP 48 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA.

ALL OF THE DESCRIBED LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA AND CONTAINING 143,776 SQUARE FEET (3.301 ACRES) MORE OR LESS.

AKA: 140 NW 16<sup>th</sup> Street

ZONED: B-2 (Community Business)

STAFF CONTACT: Maggie Barszewski (954) 786-7921

Ms. Barszewski stated that in the review criteria it states that the applicant must provide competent substantial evidence that the proposed amendment:

a. Is consistent with the Future Land Use Category and any applicable goals, objectives, and policies of the comprehensive plan and all other applicable city-adopted plans.

To meet the above-listed criteria, considering the compatibility of adjacent land uses is required in Policy 01.03.11. In addressing this, the applicant provides for compatibility by offering voluntary restrictions to limit the B-4 uses that would otherwise be allowed in the existing building. For clarification in the table below, Staff has identified those uses that would be added if this rezoning were to be approved with the voluntary restrictions offered by the applicant.

Uses Allowed in B-4, not allowed in B-2 (with restrictions)	Zoning Code Section
Telecommunication facility on a new freestanding tower	155.4204.F.
Place of worship as principal use instead of Special Exception	155.4211.D.
New Automobile and Light Truck Sales	155.4219. J.
Automotive repair & maintenance facility	155.4219.E.
Car wash or auto detailing	155.4219.H. [ <i>Special Exception Use</i> ]
Parking deck or garage (as principal use)	155.4219. O.
Parking Lot (as a principal use)	155.4219. P.
Plant nursery, wholesale	155.4230. A.
Showroom, wholesale	155.4230. B.
Other wholesale use	155.4230. C.

To further explain what uses, in fact, can be allowed on the subject property, staff has modified the Consolidated Use Table that is included in the Zoning Code as “Appendix A”, which is provided as *Attachment 2* of this report. The uses that would be allowed after eliminating the voluntary deed restricted uses are listed in yellow (not struck – through) on this modified table. The voluntary restrictions are those uses that are struck through.

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 for rezoning because there is General Industrial zoning located to the north of the subject property, and existing non-conforming warehouses located to the south. The rezoning would be compatible with the surrounding existing uses. Furthermore, the applicant is volunteering to record a Declaration of Restrictive Covenant restricting the more intense uses that are allowed in B-4, which will prevent those uses to apply to this property. This will provide the required compatibility with the surrounding uses, thereby employing the principals of the Comprehensive Plan and meeting those requirements.

#### **D. P&Z Review & Recommendation**

Given the information provided to the Board, as the finder of fact, staff provides the following recommendation and alternative motions, which may be revised or modified at the Board’s discretion.

#### **Alternative Motion I**

Recommend approval of the rezoning request as the board finds the rezoning application is consistent with the aforementioned pertinent Future Land Use policies.

**Alternative Motion II**

Table this application for additional information as requested by the Board.

**Alternative Motion III**

Recommend denial as the Board finds that the request is not consistent with the following pertinent Future Land Use policies.

**Policy 01.03.11** Consider the compatibility of adjacent land uses in all Land Use Plan amendments and rezonings.

**Policy 01.03.12** The following criteria may be used in evaluating rezoning requests:

1. Density;
2. Design;
3. Distance to similar development;
4. Existing adjoining uses;
5. Proposed adjoining uses;
6. Readiness for redevelopment of surrounding uses; and.
7. Proximity to mass transit.

Staff recommends alternative motion I.

**DISCUSSION**

Dr. Mills stated that nothing in the surrounded area is before.

Ms. Barszewski stated that the City is not considering what the applicant would like to build. If the applicant states a use, they would not be binded for it.

Mr. Mills asked why a B-4 if everything around is a B-3

Mr. Stacer asked....

Mr. Barszewski stated that the applicant will voluntarily provide a covenant.

Mr. Stacer asked what binds them to the restrictive convenents.

Ms. Barszewski stated that once the Board agrees on a list of restrictions, they will be presented to the City Commission. It will not be part of the rezoning so that the City doesn't create contract rezoning. The applicant will be binded to the restrictions once it is recorded.

Mr. Stacer asked if B-2 has the same height as B-4. More specifically is the height will be 105 ft.

Ms. Barszewski stated that the height it is 105 ft.

Mr. Mill asked how the Board can vote on the item if they haven't looked at the actual covenant.

Ms. Barszewski stated that the restriction will not change once agreed by the Board and is included in the backup.

Mr. James stated that when the declaration will be put together by staff. He said that the restrictions are presented to the board at this time.

Ms. Eaton stated that the information about the difference between the B-2 and B-4 Zoning Districts and the restriction.

Ms. Barszewski stated that she highlighted the permitted uses in B-4 and crossed out the uses that the applicant will give up.

Dennis Mele (200..) introduced himself to the Board. He showed a location map of the properties and listed the uses of the surrounding properties. He stated that they have drafted and submitted a copy of the restrictive covenant, but they were told to wait for the recommendation of the Board. The process would include the Board's Recommendation. The applicant recognizes that this is a zoning vote, but they have addressed the City's concerns. He showed a zoning map to explain the adjacent Zoning Districts and current uses.

Mr. Mele stated that the scope of work will include paving the parking lot and making the lot more secure. The lot will be screened.

Ms. Eaton asked if there will be no auto painting.

Mr. Mele agreed that there will be no auto repair or painting.

Ms. Eaton asked if there are adequate turn around facilities.

Mr. Mele agreed..

Ms. Hill asked why.

Mr. Mele stated that the used doesn't work for this.

Mr. Hill asked where the cars will be dropped off.

Mr. Mele stated that the applicant is doing some major improvements at the dealership as well. There is some parallel parking on 8<sup>th</sup> Street. He believes that the applicant can make the subject property look just as good as the dealership. In the future, if the property is available for redevelopment, it could be developed into an allowable use. The applicant purchased an IHop and made it part of the dealership.

Ms. Kovac asked how the covenant will be recorded.

Mr. Mele stated..

Ms. Eaton asked the applicant to list the use restrictions.

Mr. Mele read allowed the use restrictions per the covenant.

Ms. Eaton asked if the Mr. Mele knows the allowed six uses.

Mr. Mele stated that it is like B-3, but a bit more extra uses.

Mr. Stacer stated that B-4 share some uses with the I-1 zoning district.

Mr. Stacer asked if the location is the old American Trust.

Mr. Mele agreed with Mr. Stacer.

Mr. Stacer asked if the covenant will help with the parking agreement with the nearby residents.

Mr. Mele stated that they know that once that they will have to leave the property and the covenant will help.

Ms. Barszeski stated that the list was provided by the applicant. If there are some uses the Board wishes to eliminate they must do it now.

Jennifer Senay (140 NW 15<sup>th</sup> Place) asked if the rezoning would affect her property.

Mr. Mele stated that it will not affect her property.

Ms. Eaton stated if a use?

Ms. Barszewski stated that any changes would require a rezoning of the property.

Mr. Mele stated that he was at last night City Commission. He said that a rezoning would not be needed. The covenant would have to be amended.

Ms. Barszewski stated that Robin Bird agree that if someone wants to make a change to the restrictive covenant, a rezoning would be need.

Mr. James Saunders stated that the issue that has been presented to the board is the rezoning from B-2 to B-4. If a change of use occurs and in the change of uses was included, he believes a rezoning would not be needed. The restrictive covenant would have to be amended.

Mr. Stacer asked if the change in use would have to come back to the Planning and Zoning Board.

Mr. Klosiewicz asked if the applicant chooses to amend the covenant, what...

Mr. Saunders stated that if the applicant chooses to eliminate one of the uses....

Mr. Mele stated that the applicant voluntarily restricted the uses.

Mr. Klosiewicz stated that there has to be an explanation if the Board chooses to vote against.

Mr. Mele stated that...

Mr. Hill said that he is curious how the document is written by the Attorney's office. He said that he has seen some restrictive covenant presentations at previous commission meetings. He is curious about the policy.

Ms. Barszewski stated that the applicant wanted to change the list of uses between the PZB and City Commission. She advised that they had to come back to the PZB again. She said that the restrictive covenant heard at the previous City Commission meeting was for access. There was no need for the restrictions since the applicant was willing to do what the DOT required.

Mr. Mele stated that applicant is fine with the Board's final decision.

Ms. Eaton stated that as long as there is a magnitude...

Mr. Stacer asked if a policy will be made for future restrictive covenant.

Mr. Stacer stated that the staff's concerns would have to be included in the motion so that the item comes back should any changes be made to the covenant.

Mr. Klosiewicz stated that there must be a State policy or something.

Mr. Mele stated that the staff was discussing the property at 225 South Federal Highway...

Mr. Stacer closed

**An amendment to the Motion was made to have the rezoning come back to the Planning and Zoning Board....**

**MOTION** was made by Jerry Mills and second by Tony Hill to recommend approval of the rezoning PZ #17-13000007 per Alternative Motion I as described in the staff report. All voted in favor of the motion; therefore, the motion passed.

(1:06:19)

**H.**

**PROPOSED PLATS**