





DEVELOPMENT SERVICES

David L. Recor, ICMA-CM, Development Services Director
E: david.recor@copbfl.com | P: 954.786.4664 | F: 954.786.4504

ADMINISTRATIVE MEMORANDUM NO. 18-421

TO: Planning and Zoning Board

VIA: David L. Recor, ICMA-CM, Director of Development Services 

VIA: Jennifer Gomez, AICP, Assistant Director of Development Services 

FROM: Maggie Barszewski, AICP, Planner

SUBJECT: Hurok Plat Request
Plat P&Z #18-14000003/ February 27, 2019 Meeting

DATE: February 16, 2019

A plat is a map, drawn to scale, showing the divisions of a piece of land. It can delineate blocks, streets alleys and easements. Further refinement often splits blocks into individual lots, usually for the purpose of selling the described lots; this has become known as subdivision. The statutory definition of subdivision according to Chapter 177.031(18), F.S. is “the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and re-subdivisions.” Upon the filing of a plat, legal descriptions can then refer to block and lot-numbers rather than portions of sections. In order for plats to become legally valid, a local governing body must normally review and approve them.

In Broward County, such legal authority is bestowed upon the Broward County Commission as stipulated within Article 7 of the Broward County Administrative Rules Document. Section 7.2 – ‘Countywide Platting Authority’ states that “No plat of lands lying within Broward County, either in the incorporated or unincorporated areas, may be recorded in the Official Records prior to approval by the County Commission.” Section 7.4 provides for the input of each local government within Broward County, whereby a plat application must first be approved by the local jurisdiction before final approval with the County Commission. That section states that “local Jurisdictions shall require platting at least in those circumstances where the Broward County Land Use Plan requires platting.”

In this request, the applicant is requesting plat approval for the Hurok Plat. The agent James McLaughlin representing the owner of the property, U.S. Gateway Investments, LLC, is requesting a plat approval for a subject property that includes one parcel that encompasses a previously platted property combined with an adjacent unplatted parcel. The proposed plat restricts the property to a maximum building of 80,000 square feet of commercial use. The subject property consists of 4.24 acres and is currently vacant.

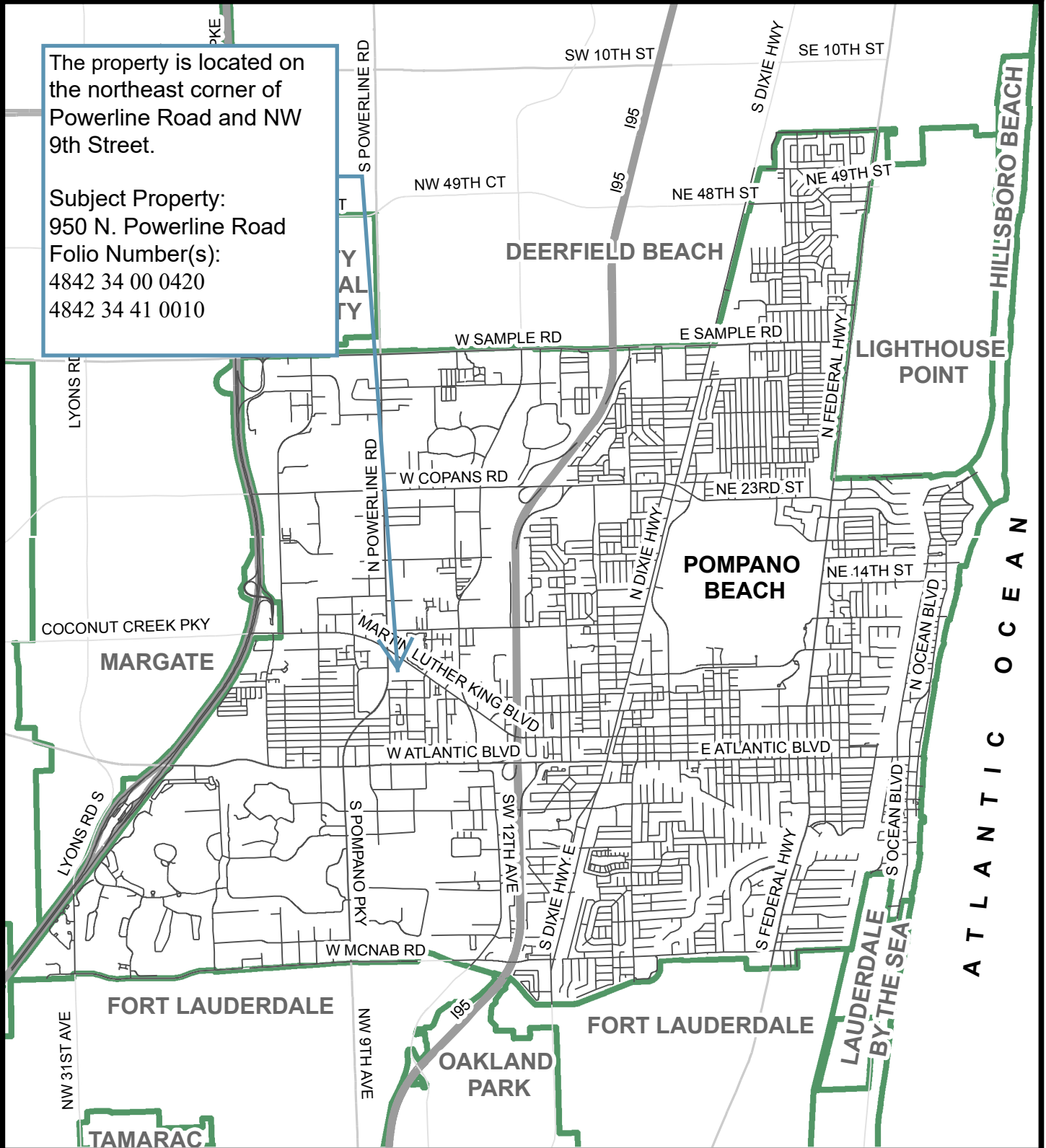
The property is generally located on the northeast corner of Powerline Road and NW 9th Street.

CITY OF POMPANO BEACH LOCATION MAP



The property is located on the northeast corner of Powerline Road and NW 9th Street.

Subject Property:
950 N. Powerline Road
Folio Number(s):
4842 34 00 0420
4842 34 41 0010



1 in = 1 miles

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

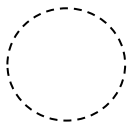
LEGEND

FOR LAND USE PLAN

Symbol Classification Units/ Acre

	Gross Residential Density
	Residential
E	Estate
L	Low
LM	Low- Medium
M	Medium
MH	Medium-High
H	High
* C	Commercial
CR	Commercial Recreation
I	Industrial
T	Transportation
U	Utilities
CF	Community Facilities
OR	Recreation & Open Space
W	Water
RAC	Regional Activity Center
	Boundaries
	City of Pompano Beach

13 Number



Reflects the maximum total number of units permitted within the dashed line of Palm Aire & Cypress Bend being 9,724 and 1,998

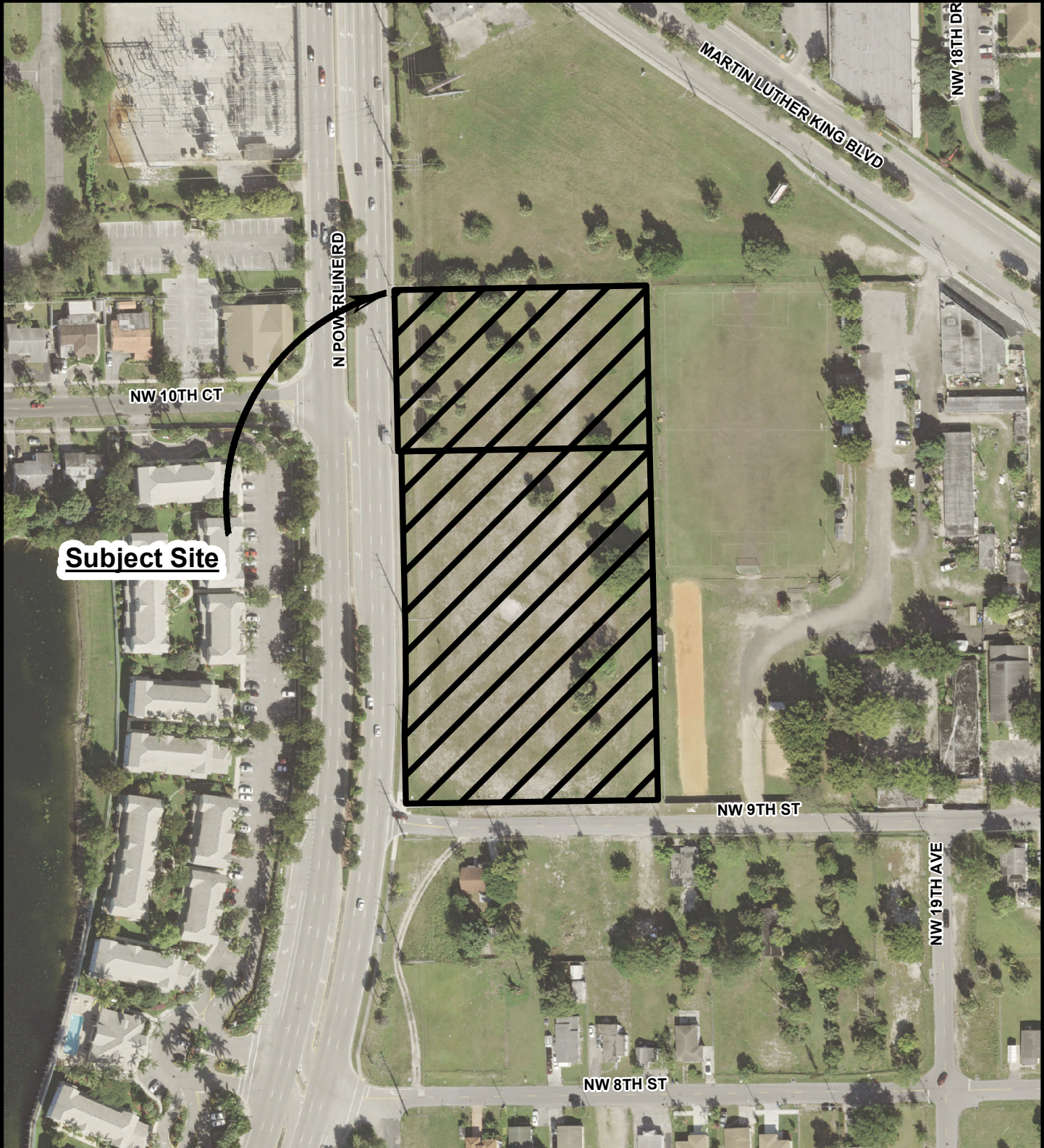
*	Existing
>	Proposed

FOR ZONING MAP

Symbol District

RS-1	One-Family Residence
RS-2	One-Family Residence
RS-3	One-Family Residence
RS-4	One-Family Residence
RD-1	Two- Family Residence
RM-12	Multi-Family Residence
RM-20	Multi-Family Residence
RM-30	Multi-Family Residence
RM-45	Multi-Family Residence
RM-45/HR	Overlay
RPUD	Residential Planned Unit Dev.
AOD	Atlantic Boulevard Overlay District
MH-12	Mobile Home Park
B-1	Limited Business
B-2	Neighborhood Business
* B-3	General Business
B-4	Heavy Business
RO	Residence Office
M-1	Marina Business
M-2	Marina Industrial
I-1	General Industrial
I-1X	Special Industrial
O-IP	Office Industrial Park
BP	Business Parking
BSC	Planned Shopping Center
PCI	Planned Commercial / Industrial Overlay
PR	Parks & Recreation
CR	Commerical Recreation
CF	Community Facilities
T	Transportation
PU	Public Utility

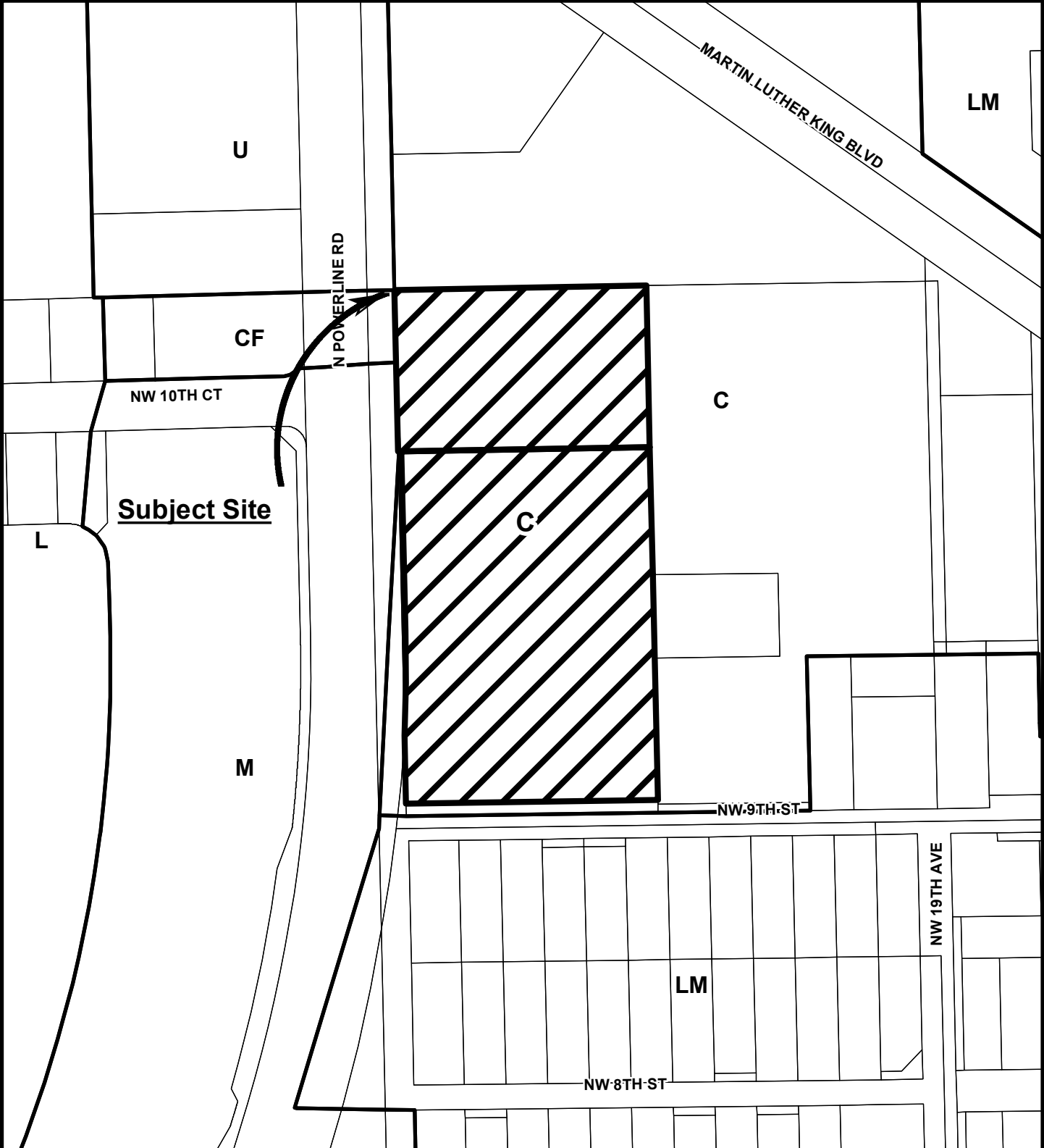
CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

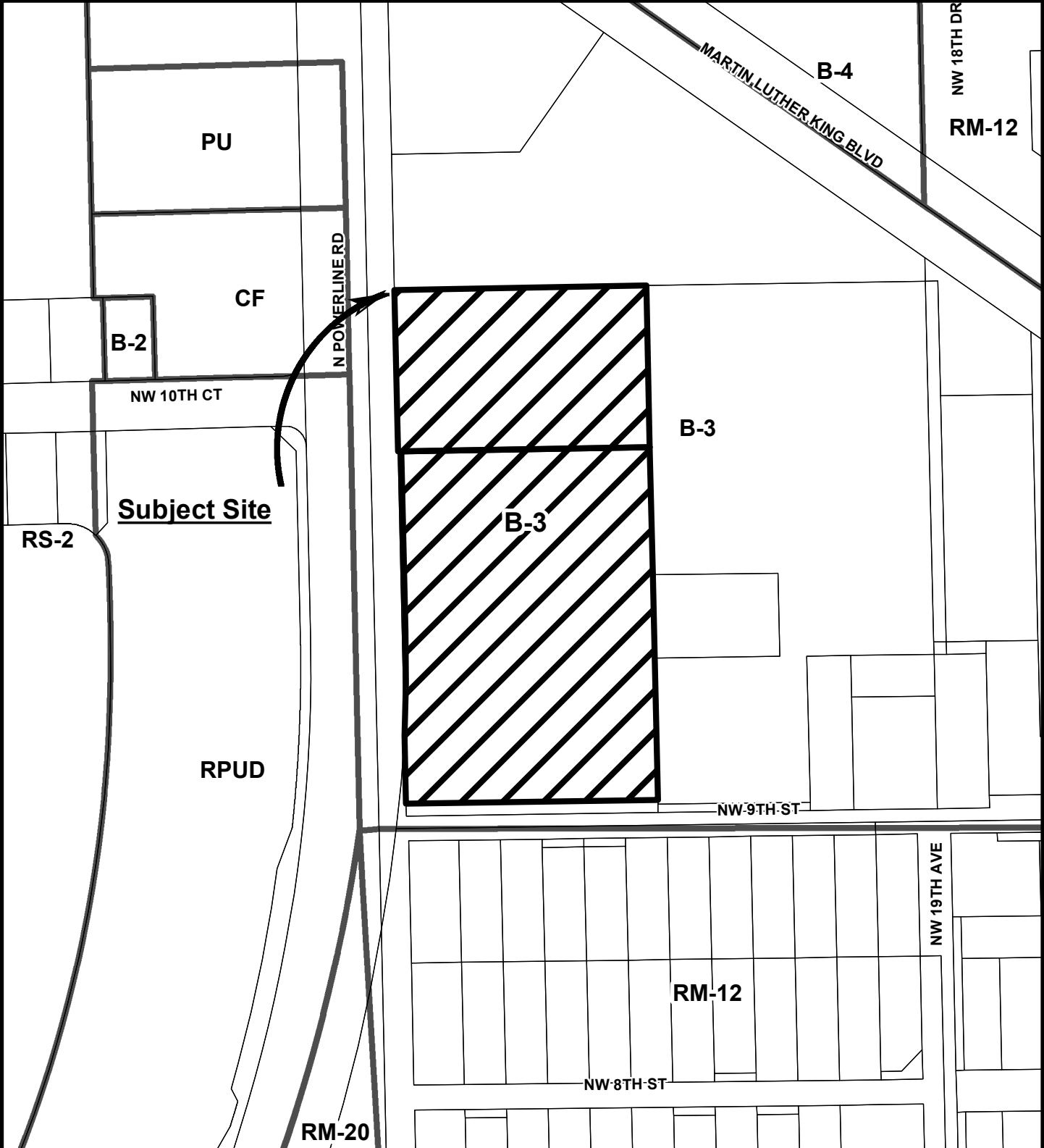
CITY OF POMPANO BEACH OFFICIAL LAND USE MAP



1 in = 167 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

CITY OF POMPANO BEACH OFFICIAL ZONING MAP



1 in = 167 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES

Section 155.2410. PLAT

A. Purpose

The purpose of this section is to provide a review procedure to conform to the Broward County Land Use Plan's requirement that local governments require compliance with the county's platting requirements and to ensure subdivisions of land within the city:

1. Provide for the orderly growth and development of the city;
2. Coordinate proposed streets with existing and planned streets in the city's street system, and with other public facilities;
3. Provide rights-of-way for streets and utility easements;
4. Avoid congestion and overcrowding of streets;
5. Ensure there is adequate access to development;
6. Ensure there are adequate utility facilities to serve development;
7. Ensure there is adequate open space and recreation facilities to serve development; and
8. Ensure there is proper recordation of land ownership or property owner association records, where applicable.

D. Plat Review Standards

An application for a Plat shall be approved only on a finding that the proposed subdivision or development on the lots proposed to be platted meets all of the following standards:

1. The development complies with the applicable standards in [Part 7](#) (Lots) of [Article 5](#): Development Standards;
2. The development complies with all other applicable standards in this Code;
3. The development complies with all requirements or conditions of any applicable development orders (e.g., Planned Development);
4. Any land within the platted lot(s) that is necessary to comply with the Broward County Trafficways Plan has been conveyed to public by deed or grant of easement;
5. The development complies with any applicable hazardous material licensing requirements in the Broward County Wellfield Protection Ordinance; and
6. All facilities for the distribution of electricity, telephone, cable television, and similar utilities, shall be placed underground.

Staff Analysis

The property is Zoned B-3 (General Business) and has a Commercial Land Use designation. This plat was reviewed by the Development Review Committee (DRC) on April 4, 2018, and found to be in general compliance with the City's Land Development Regulations. The Broward County Development Review Report (DRR) recommendations are reflected on the plat, including the dedication of a 22 foot of right-of-way easement along Powerline Road for the as-yet unplatted portion of the property. There is a concurrent application request being processed to abandon the 28-foot "Road Reservation Easement" that Broward County determined was not necessary for future right-of-way.

The applicant was asked to submit an Interpretation Application in order to clarify what use is intended on the property to ensure that the appropriate use classification is permitted and compatible for the future business at this location. Attachment I includes the Applicant's Interpretation Application Submittal and Staff's-corresponding response letter. The determination by Staff concluded the following:

The detailed description outlining the proposed operations for this business appears to be comparable to a "Retail Sales Establishment, Large." The use described in the narrative specifically stands apart from an industrial use or warehouse as the primary focus of the customers and transactions are retail, directly to the customer/end-user, and not sold to an intermediary. It is therefore determined that the proposed "Retail Sales Establishment, Large" shall be permitted By Right in the B-3 zoning district.

The Development Services and Engineering Department have a concern regarding the trucks entering and exiting the site from NW 9th Street (the south side is a residential street with single family homes). Staff is additionally concerned that trucks coming off the highway system (I-95 and the Turnpike) could use NW 9th Street as a truck cut-through road to get on/off Dr. MLK Jr. Boulevard. As submitted, the Non-Vehicular Access Line would allow an opening for truck traffic to have access onto NW 9th Street.

City Comprehensive Plan Policy 01.02.01 states that the City should "Require new commercial and residential (of more than 10 dwelling units) development to provide their primary access to the abutting arterial roadway system with only secondary access points to local streets so that traffic impacts to single family neighborhoods are minimized." City Comprehensive Plan Policy 01.02.02 states that the City should "require a traffic impact analysis for development projects when necessary to determine post-development conditions of adjacent roadways and the local multimodal transportation system."

Furthermore, Zoning Code Section 155.5101.(F) ACCESS AND CIRCULATION, states that the developer shall dedicate additional right-of-way along the street frontage or in the vicinity of the development and to provide roadway, bikeway, sidewalk, and other access and circulation improvements within the street right-of-way where the city determines such improvements are reasonably necessary to ensure the safe, convenient, efficient, and orderly accommodation of vehicular and pedestrian traffic demands and impacts generated by the proposed development. Staff recommends the plat either (1) include a right turn only restriction onto NW 9th Street (exiting the property), or (2) amend the NVAL the full length of the property line along NW 9th Street. Staff also recommends the applicant propose off-site street improvements on NW 9th Street that would discourage truck cut-through traffic along NW 9th Street and ensure the safe, efficient and orderly accommodation of vehicular traffic demands generated by the proposed development. This has been included in the recommended conditions prior to scheduling the plat on the City Commission agenda.

Service providers are required to provide a letter, prior to City Commission approval. There are no objections to the proposed plat from the following entities:

- FDOT: FDOT has provided the approval of various access points on Powerline Road and has no objection with the plat request subject to two conditions: 1) Minimum driveway length of 25 feet to first conflict point or 100 feet if gated, and 2) Recordation of a cross access easement with adjacent northern property prior to permit.
- Teco Peoples Gas: Teco Gas has reviewed the plat and has no objection.
- AT&T: AT&T has reviewed the plat and has no objection.
- Comcast: Comcast has reviewed the plat and has no objection.
- FPL: FPL has reviewed the plat and has no objection.

Development Services Department Recommendation

Development Services staff recommends **approval** of this plat with the following conditions 1 through 4 to be satisfied prior to scheduling the plat on the City Commission agenda:

1. Plat cover page shall be signed and sealed by the surveyor and signed by all owners;
2. The Mayor’s signature block shall be updated to the appropriate name;
3. The applicant shall propose off-site street improvements on NW 9th Street (examples could include strategically placed traffic calming, landscaping, curb extensions, diverters and/or roundabouts, etc.), to the satisfaction of the Development Services Director and City Engineer, that would discourage truck traffic along NW 9th Street and ensure the safe, efficient and orderly accommodation of vehicular traffic demands generated by the proposed development;
4. On the south side of the property, either (1) include a right turn only restriction onto NW 9th Street (exiting the property), or (2) amend the NVAL the full length of the property line along NW 9th Street;
5. The applicant shall note on the plat the construction of a sidewalk along NW 9th Street as required by Chapter 155.5101.1.1.b. of the Zoning Code;
6. As required by FDOT, a minimum driveway length of 25 feet to first conflict point or 100 feet if gated shall be provided on the Major Site Plan; and
7. As required by FDOT, the applicant shall record a cross access easement with the adjacent northern property prior to permit.

Attachment I
Interpretation Application
And
Development Services Response Letter



City of Pompano Beach
 Department of Development Services
 Planning & Zoning Division

100 W. Atlantic Blvd Pompano Beach, FL 33060
 Phone: 954.786.4634 Fax: 954.786.4666

Interpretation Application

Indicate the Type of Interpretation requested	Zoning Map District Boundaries _____	Unspecified Uses _____
	Text Provisions _____	ZONING TYPE

950 NORTH POWERLINE ROAD		B-3
STREET ADDRESS		Zoning District
GREEN LAND TRUST PLAT (178-64) + PORTION 34-48-42		
SUBDIVISION	BLOCK #	LOT #
Representative's or Agent's interest in property (Owner, Lessee, Etc)		AGENT
Has any previous application(s) been filed?		Yes _____ No <input checked="" type="checkbox"/>
If Yes, give date of hearing and finding		

Owner's Representative or Agent	Landowner (Owner of Record)
MCLAUGHLIN ENGINEERING CO.	U.S. GATEWAY INVESTMENTS, LLC
Business Name	Business Name
JAMES MCLAUGHLIN, PSM	KEMAL EMRE OLCAR, MANAGER
Print Name and Title	Print Name and Title
Signature	Signature
1-7-19	1-04-2019
Date	Date
1700 NW 64TH STREET #400	2022 W. ATLANTIC BOULEVARD
Street Address	Street Address
FORT LAUDERDALE, FL 33309	POMPANO BEACH, FL 33069
Mailing Address City/ State/ Zip	Mailing Address City/ State/ Zip
(954) 763-7611	(954) 977-4876
Phone Number	Phone Number
MECO 400@AOL.com	ozzie@hurok.com
Email	Email
Indicate your preferred medium to receive agendas and notifications: _____ Mail _____ E-Mail	Indicate your preferred medium to receive agendas and notifications: _____ Mail <input checked="" type="checkbox"/> E-Mail



City of Pompano Beach
Department of Development Services
Planning & Zoning Division

100 W. Atlantic Blvd Pompano Beach, FL 33060
Phone: 954.786.4634 Fax: 954.786.4666

Interpretation Application

OWNER'S CERTIFICATE

This is to certify that I am the owner of the subject lands described in this application and that I have authorized the filing of the aforesaid application.

Owner's Name: US GATEWAY INVESTMENTS, LLC - KEMAL EMRE OLCAR, MANAGER
(Print or Type)
Address: 2022 W. ATLANTIC BOULEVARD
POMPANO BEACH, FL 33069
(Phone: (954) 977-4876 (Zip Code)
Email address: ozzie@hurok.com

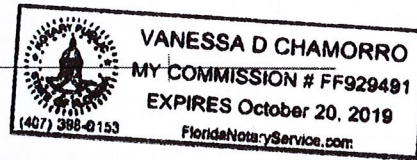
(Signature of Owner or Authorized Official)

SWORN AND SUBSCRIBED before me this 4TH day of JANUARY, 2019.

NOTARY PUBLIC, STATE OF FLORIDA

VANESSA CHAMORRO

(Name of Notary Public: Print, stamp, or Type as Commissioned.)



- Personally know to me, or
- Produced identification:

(Type of Identification Produced)

\$ 225



City of Pompano Beach
Department of Development Services
Planning & Zoning Division

100 W. Atlantic Blvd Pompano Beach, FL 33060

Interpretation Application

Phone: 954.786.4634 Fax: 954.786.4666

155.2423. INTERPRETATION

(Below is a summary of Section 155.2423. For the complete language, please refer to the Zoning Code)

PROCEDURE

1. Final decision by the Development Service Director.

APPLICATION CHECKLIST

The following copies shall be submitted to the Principal Planner.	
<ul style="list-style-type: none"> • One (1) Original Copy • One (1) Digital Copy in PDF, unless indicated otherwise 	
<input checked="" type="checkbox"/>	Application Fee as established by resolution of the City Commission <i>(no copies required)</i>
<input checked="" type="checkbox"/>	Completed application with original signatures.
<input checked="" type="checkbox"/>	Proof of ownership (owner's certificate form must be completed by owner).
<input checked="" type="checkbox"/>	Legal description (Digital copy in WORD)
<input checked="" type="checkbox"/>	Written Narrative indicating type of Interpretation and reason for request/ Narratives must be on letterhead, dated, and with author indicated. (Digital copy in WORD)
<input checked="" type="checkbox"/>	Current survey. <i>Surveys to be recent and must show all improvements on the property</i>

US GATEWAY INVESTMENTS LLC

2022 W. ATLANTIC BLVD.
POMPANO BEACH, FL 33069
TEL: 954-977-4876

December 21, 2018

Mr. David Recor
Development Services Director
City of Pompano Beach
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

Re: Proposed Retail Use Hurok Plat

Dear Mr. Recor,

US Gateway Investments, LLC, the property owner, respectfully requests that the property subject to this request ("Site") be platted for a retail commercial building. Staff has suggested that the owner's intended use may not be an approved use in the B-3 zoning district. Even though the final specific user and site plan are technically not part of the plat application requirements, and although not the intent, the owner could sell or lease it to another entity. The plat is only one step in site development and not a final approval of an end user.

Regardless, per our last meeting and previous discussions with CRA and City Staff over a two year period, the owner would like to continue to cooperate with staff and offers the following pertinent information that the intended use is in fact a Retail Establishment permitted in the B-3 District a defined by the Zoning Code..

Staff has questioned that the proposed use of the property is more of an industrial or warehouse use rather than retail. As you are well aware the development, retail environment and the way products are made available to the customers has changed dramatically in the past 40 years. Today's consumer picking out tile and stone is no different from buying appliances, furniture or a vehicle. The property and new building will be used to for a showroom and display of marble and stone in bulk quantities for selection and purchase. There is no outdoor storage. Therefore, we offer the following in response to the criteria:

1. Actual or projected characteristics of each activity likely to occur at the unlisted use;

The owner, US Gateway Investments, LLC, (hereafter "Developer") intends to construct a retail building which will operate similar to a furniture store or appliance store and new car franchise. All permitted and existing in B-3 locations in Pompano Beach and surrounding cities. Just as Brandsmart, City Furniture, Ikea and Carl's Furniture, or for that matter a new car franchise. The Marble and Stone business services an ever increasingly competitive market and more selective clientele. The customer will arrive in the front of the building, greeted by a receptionist/salesperson and introduced to view the products in the retail showroom setting. The building will house slabs of marble and stone crates of tile and pavers. The customer looks at samples on boards and displays. Marble and stone is a natural product and comes in many different shades and veining. Cut stone and marble cannot be stored outdoors subject to sunlight and temperature changes. Much like at a car dealership where the customer choses model from

the showroom floor, the customer chooses the type of stone or marble, they are then taken to the bulk slab and stone display to pick the particular shade, vein and grain in a hands on fashion. Once final payment is made on the selected stock, the product is readied for pickup. Once the product is picked up by the purchaser, it is theirs.

2. *The type, size, orientation, and nature of buildings, and structures devoted to each activity;*

The Developer will be designing the site to meet the demands of the retail marble and stone industry. Inventory display and storage requirements of product for customer selection with a 60,000 square foot climate controlled building.

3. *The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;*

The business expects to employ 25 individuals and operating from 8:30am to 5:30pm, six days a week. The site will operate with 24 hour security which may or may not include a guard depending on the system to be utilized.

4. *Vehicles used and their parking requirements, including the ratio of the number of spaces required per unit area or activity;*

The Developer has already confirmed with staff they have met the parking requirements and documented they will meet the requirements with 120 spaces.

5. *Transportation requirements, including the model split for people and freight, by volume type, and characteristics of traffic generation to and from the site;*

The site is expected to be a very low trip generator for a retail establishment. Deliveries will total about 12 per week on 40 foot trucks, considerably smaller than a car carrier or Publix truck. In all, a conservative estimate of employees and customers would not exceed 200 trips per day.

6. *Relative amounts of sales from each activity;*

Sales will take place in the office location near the front of the building. Please note that one customer may buy several different products at one time. For example a good customer remodeling a house will buy one color marble slab for the kitchen, another for the master bath and another for the guest bath. They may also buy the flooring materials for each room at the same time, or on several visits. But we hope to have steady traffic and regular flow of retail customers.

7. *The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building, and the predominant types of items stored;*

As previously stated there is no outdoor storage or display.

8. *Customer type for each activity;*

Customers will be private individual home owners, designers, architects and contractors. The same people who shop at Home Depot, Lowes, Brandsmart and Bloomingdales!

9. *How each use is advertised, including signage;*

The business uses design media and internet. Exterior signage will meet code requirements and aesthetics will be addressed.

10. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;

None of the above are anticipated. There is no noise as there is no stone cutting, fabricating or finishing on site. Deliveries are unloaded in minutes.

11. Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and

Not Applicable

12. The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types allowed in the zoning district;

The use of the site is for retail sale of inventory within a Totally and Permanently enclosed building per the City zoning code. Inventory storage should have zero impact on adjacent lands. Definitely will not have any greater impact than the surrounding uses.

Early discussions took into account the definitions in Attachment A as an integral part of purchasing the property. Because the main sales showroom is separated, does not mean the entire building is not accessible to customers. In this way it operates like a car lot but the customers are taken to the product completely indoors..

13. Although not a specific requirement, you did ask me to address: What distinguishes this as not a Showroom Wholesale listed in the use table?

Mr. Recor, respectively please see the definition for the City of Pompano Beach Zoning Code in the Attachment A. We were presented with these almost 2 years ago prior to purchasing the property. Referencing what has been stated above, we do not sell to other stores or operate a distribution business. All our product is sold to the end user who must make arrangements to pick up the product. Much like Home Depot, Lowes and Brandsmart, we do have contractor pricing, however over 70% of our sales are home owners at residential pricing with full state sales tax.

Thank you for your consideration. We graciously wish to proceed with the plat to the January Planning and Zoning Board meeting. Please feel free to contact our office with any questions or concerns.

Sincerely,

Ozzie Gomez
General Manager

Attachment

Attachement A

PART 5 TERMS AND USES DEFINED

Other Retail Sales Establishment

Any establishment primarily engaged in the sale, rental, and incidental servicing of goods or commodities that are generally delivered or provided on the premises to a consumer, and that is not specifically listed in the principal use tables. Examples include, but are not limited to, furniture stores, floor covering stores, window treatment stores, computer and electronics stores, camera stores, optical goods stores, clothing stores, shoe stores, luggage stores, jewelry stores, sporting goods stores, piece goods stores, department stores, florists, office supply stores, gift stores, and pet supply stores.

Other Wholesale Use

Any establishment primarily engaged in selling goods, generally in large quantities, to other businesses for subsequent resale, and that is not specifically listed in the use tables. Such use generally includes facilities for storage and distribution of goods, and may include display areas.

Retail Sales (as accessory uses)

The Retail sales of any products of or associated with a principal use being offered for retail sale to the general public.

Retail Sales Establishment, Large

Any retail sales establishment constituting a single business engaged in retail sales activities and located in a stand-alone single tenant building with a gross floor area of 60,000 square feet or more.

Showroom, Wholesale

An establishment that combines office and showroom uses with warehouse uses for the primary purpose of wholesale trade, display, and distribution of products.

Please also see definition of Wholesale from Merrim-Websters Dictionary

Wholesale noun whole·sale | \ 'hōl-, sāl \ **Definition of *wholesale***

: the sale of commodities in quantity usually for resale (as by a retail merchant)



City of Pompano Beach
Department of Development Services
Building Inspections Division

100 W. Atlantic Blvd Pompano Beach, FL 33060
Phone: 954.786.4670 Fax: 954.786.4677

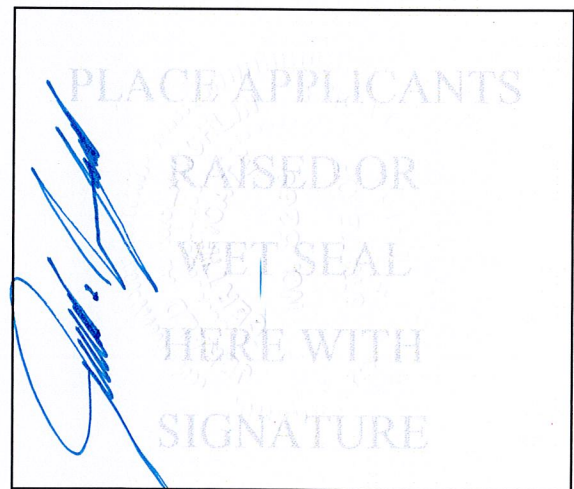
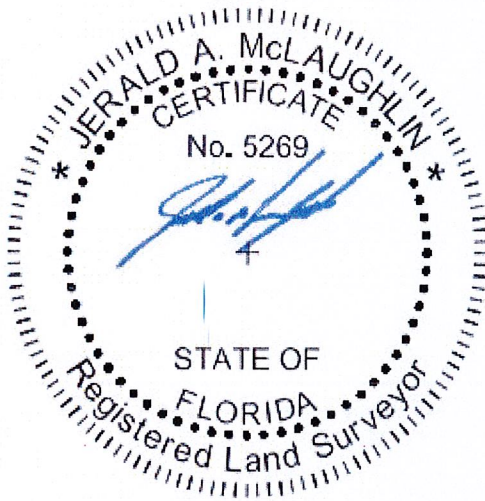
Electronic Signature Affidavit

Governing Law. The Undersigned understands that the electronic signing and sealing of documents is governed by Florida law, specifically but not limited to Florida Statute Section 481.221 and 472.025, The Electronic Signature Act of 1996 (F.S. 668.01-668.006) and Florida Administrative Code sections 61G1-16.005 and 61G15-23.003. Pompano Beach has attempted to create an electronic signature process in compliance with Florida law but shall not be liable in any manner for any violations of professional licensure regulations. It is the Undersigned's responsibility to ensure compliance with all laws, regulations, and ordinances that govern his/her professional license.

By signing this document, you are not only agreeing to the foregoing but certifying that: Any willful falsification of any information contained herein is grounds for disqualification.

US GATEWAY INVESTMENTS, LLC
APPLICANT NAME (Please print)

McLaughlin Engineering Company
NAME OF COMPANY



ELECTRONIC SIGNATURE WITH CERTIFICATION
NUMBER VISABLE (PE / AA ect.)

DD49B0150A9A8F62AB92

ELECTRONIC SIGNATURE SERIAL NUMBER

POMPANO BEACH APPLICATION NUMBER



DEVELOPMENT SERVICES

David L. Recor, ICMA-CM, Development Services Director
E: david.recor@copbfl.com | P: 954.786.4664 | F: 954.786.4504

February 12, 2019

Interpretation Letter Number: 19-04500001

McLaughlin Engineering Co.
Attn: James McLaughlin
1700 NW 64th Street #400
Fort Lauderdale, FL 33309

cc: U.S. Gateway Investments, LLC
Attn: Kemal Emre Olcar, Manager
2022 W Atlantic Blvd
Pompano Beach, FL 33069

Re: 950 N Powerline Rd / Folio Number: 4842-34-41-0010

Dear Mr. McLaughlin –

The City of Pompano Beach Development Services Department has reviewed your Interpretation application and narrative dated January 8, 2019. The narrative requests confirmation of a retail establishment on the above-referenced property, which is currently zoned B-3, General Business District. As described in your narrative, the owner is proposing to develop the site with a new 60,000 square foot building for a “showroom and display of marble and stone in bulk quantities for selection and purchase.” The applicant has submitted a narrative addressing each criteria for an unlisted use as identified in Sections 155.2423, Interpretation, and 155.4601, Interpretation of Unlisted Uses, which provide the procedure and criteria for interpreting and allowing unlisted principal uses.

The applicant has compared the large air-conditioned building to that of a furniture store or new car franchise. The customers will be greeted at the entrance and welcome to view the product in the retail showroom setting, where the building will house slabs of marble and stone crates of tile and pavers to see the variety of shades and veining of specific batches. The vast majority (70%) of sales are directly to homeowners at residential pricing that include sales tax. There will be no outdoor storage or outdoor display as these natural products are not intended for direct sunlight or temperature variations. Additionally, there will be no stone cutting, fabrication or finishing on-site and the estimated number of trips generated for deliveries is anticipated at approximately 12 per week.

Section 155.4601, Interpretation of Unlisted Uses, provides that the Development Services Director shall interpret an unlisted principal use as an allowed permitted use in a particular zoning district only after determining that the nature, function, and duration of the use and the impact of allowing it in the zoning district are so similar to those of a use type or use category that is allowed in the zoning district, that the unlisted use should be deemed allowed in the same manner.

As noted above, the subject property is currently zoned B-3, General Business District. The B-3 zoning district is established and intended to accommodate a diverse range of moderate-intensity retail, service, office, recreation/ entertainment, visitor accommodation, and institutional uses that serve the

residents and businesses in the community at large. The B-3 zoning district permits a variety of Retail Sales and Service Uses as a principal use allowed by right.

After reviewing the information submitted, and evaluating the various use categories in the Zoning Code, staff has determined that the use described in your narrative is permitted in the B-3 zoning district. The detailed description outlining the proposed operations for this business appears to be comparable to a "Retail Sales Establishment, Large." The use described in the narrative specifically stands apart from an industrial use or warehouse as the primary focus of the customers and transactions are retail, directly to the customer/ end-user, and not sold to an intermediary.

It is therefore determined that the proposed "Retail Sales Establishment, Large" shall be permitted By Right in the B-3 zoning district. The relevant characteristics of the proposed use does not substantially differ from the characteristics of existing uses in the area. The subject property is abutting a major right-of-way (N Powerline Road), thereby keeping the proposed traffic from local roads. Additionally, the impact on adjacent lands created by the proposed use type do not appear to be greater than that of other use types allowed in the B-3 zoning district.

Note that any party aggrieved by a final decision by the Development Services Director may appeal the decision within 30 days of the date of the decision or interpretation to the appellate board responsible for reviewing such appeals (Zoning Board of Appeals), as set forth in Section 155.2424C, Appeals Procedure.

Respectfully,

THE CITY OF POMPANO BEACH

David L. Recor, ICMA-CM
Development Services Director

cc: Greg Harrison, City Manager
Mark Berman, City Attorney
Jennifer Gomez, Assistant Development Services Director

Excerpts from the City of Pompano Beach Code of Ordinances Chapter 155: Zoning Code
Full Code available online at www.amlegal.com

155.4221. COMMERCIAL: RETAIL SALES AND SERVICE USES - PERSONAL SERVICES

A. Art, Music, or Dance, Studio
1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
	P					P						P	P	P	P	P

2. Definition

An art, music, or dance, studio is an establishment consisting of workspace primarily used by one or more artists, artisans, photographers, or musicians for the production of visual and performing art. This use does not include formal instruction, which is considered a Specialty Arts School.

C. Bank or Financial Institution
1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
								S	S	S		P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P				P		P	P	P	P	P

2. Definition

A bank or financial institution is an establishment that provides retail banking services, mortgage lending, credit union services, or similar financial services to individuals and businesses. Accessory uses may include automated teller machines (ATMs) and facilities providing drive-through service. This use does not include a business commonly referred to as a check cashing store or payday loan store.

....

E. Dry-Cleaning or Laundry Drop-Off Establishment
1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
P						P						P	P	P	P	P

2. Definition

DR/dkom

A dry-cleaning or laundry drop-off establishment is a commercial establishment maintained for the drop off and pick up of clothes for off-site laundering or dry cleaning, without the operation of any laundry or dry cleaning equipment on the premises.

F. Fortune-Telling Establishment

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
			P			P							P	P	P	

2. Definition

A fortune-telling establishment is an establishment offering the telling of fortunes, forecasting of future events, or the furnishing of information not otherwise obtainable by the ordinary process of knowledge by means of any occult or psychic power, faculty, or force—including, but is not limited to: clairvoyance; clairaudience; cartomancy; phrenology; spirits; tea leaves or other such reading; mediumship; seership; prophecy; augury; astrology; palmistry; necromancy; mind-reading; telepathy; crystal gazing; magic; or other craft art, cards, talisman, charm, potion, magnetized article, or substance.

G. Funeral Home or Mortuary

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A funeral home or mortuary is an establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home.

H. Laundromat

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
P						P						P	P	P	P	P

2. Definition

A laundromat is a facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

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J. Personal and Household Goods Repair Establishment

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P						P	P	P	P	P

2. Definition

A personal and household goods repair establishment is an establishment that primarily engaged in the provision of repair services for TVs, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment—including tailor, locksmith, and upholsterer services.

K. Personal Services Establishment

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P				P		P	P	P	P	P

2. Definition

A personal services establishment is an establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature that are not typically medically related. Examples include but are not limited to, hair salons, tanning salons, nail care salons, barber shops, yoga studios, martial arts studios, massage therapy (by persons who are licensed as a massage therapist under F.S. Chapter 480), hearing aids and/or optometry services, and similar establishments—but not including any sexually oriented business.

L. Tattoo or Body Piercing Establishment

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A tattoo or body piercing establishment is an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) making indelible marks or designs on or visible through the skin of a human by puncturing or pricking the skin with a needle or other instrument and inserting ink or other pigments; or (2) creating an opening in any part of the human body, other than the outer perimeter or lobe of the ear, for the purpose of inserting jewelry or other decorative object for a non-medical purpose.

M. Check Cashing or Payday Loan Store

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
													P		P	

2. Definition

A check cashing or payday loan store is an establishment subject to regulation by F.S. Chapter 560, Money Services Businesses, and that provides check cashing and/or deferred presentment transactions.

3. Standards

A check cashing or payday loan store shall be located at least 1,000 feet from another check cashing or payday loan store or from a pawn shop.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2014-16](#), passed 1-28-14; Am. Ord. [2015-75](#), passed 9-8-15; Am. Ord. [2016-47](#), passed 3-8-16; Am. Ord. [2016-49](#), passed 3-8-16)

155.4222. COMMERCIAL: RETAIL SALES AND SERVICE USES - RETAIL SALES

A. Antique Store

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

An antique store is an establishment primarily engaged in selling antiques—i.e., a work of art, piece of furniture, decorative object, collectible object, or other item having special value because of its age, rarity, and/or association with a past era. This use does not include thrift or consignment shops.

B. Art Gallery

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P						P	P	P	P	P

2. Definition

An art gallery is an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.

C. Auction House

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

An auction house is an establishment that is primarily engaged in the public sale of goods, wares, merchandise, or equipment to the highest bidder. This use type does not include public sales of livestock or motor vehicles.

D. Book or Media Shop

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4

																	P	P	P	P
--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	---	---	---	---

M-I	CR	I-I	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P						P	P	P	P	P

2. Definition

A book or media shop is a retail store that sells or rents books, magazines, other periodicals, videos, discs, and other printed or graphic media. This use does not include an adult book or video store, which sells sexually-oriented media and is considered a sexually oriented business.

E. Consignment Boutique

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4		
																P	P

M-I	CR	I-I	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A consignment boutique is a retail establishment engaged in selling used non-donated, second-hand merchandise, and the merchandise is placed for sale with the establishment by the owner of the merchandise and upon sale of the merchandise the purchase price is divided between the establishment owner and the owner of the merchandise. The establishment shall be limited to one type of merchandise, including but not limited to, clothing and related accessories, children's apparel and furniture, sporting equipment, or furniture and related home furnishings. This use does not include the sale of guns, appliances, mattresses, or motor vehicles.

F. Convenience Store

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-I	CR	I-I	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I

2. Definition

A convenience store is a retail establishment less than 6,000 square feet engaged in the sale of food and foodstuffs, sundries, tobacco products, beer, wine, papers and magazines.

3. Standards

a. Sales of beer or wine may only be considered an accessory use to a convenience store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.

b. Convenience stores with sales of beer or wine which exceed the standards listed in subsection a. above and/or provide exterior signage for the sale of beer or wine also be considered a beer or wine store and subject to all of the standards for such use.

G. Grocery Store

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P										

2. Definition

A grocery store is a retail establishment larger than 6,000 square feet engaged in the sale of food and foodstuffs, sundries, tobacco products, beer, wine, papers and magazines.

3. Standards

a. Sales of beer or wine may only be considered an accessory use to a grocery store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.

b. Grocery stores with sales of beer or wine which exceed the standards listed in subsection a. above and/or provide exterior signage for the sale of beer or wine also be considered a beer or wine store and subject to all of the standards for such use.

H. Drug Store or Pharmacy

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P						P	P	P	P	P

2. Definition

A drug store or pharmacy is a freestanding establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

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K. Home and Building Supply Center

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
													P			

2. Definition

A home and building supply center is an establishment primarily engaged in selling a general line of new home repair and home improvement materials, supplies, and equipment, such as lumber, plumbing goods, electrical goods, tools, housewares, hardware, and lawn and garden supplies. The use may also include rental of tools and equipment, and home improvement installation services.

3. Standards

In the B-1 and B-2 zoning districts, a home and building supply center shall be limited to a total gross floor area of 30,000 square feet.

L. Local Liquor or Package Store

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	S	S

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A local liquor or package store is an alcoholic beverage establishment with a gross floor area of less than 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

M. Regional Liquor or Package Store

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A regional liquor or package store is an alcoholic beverage establishment with a gross floor area of at least 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

N. Beer or Wine Store

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	S	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A beer or wine store is an alcoholic beverage establishment licensed by the state exclusively for the retail sale of beer and/or wine in sealed containers for consumption off the premises where sold. A beer or wine store may be considered a

specialty store if the establishment emphasizes a single unique type of specialty beer or wine not readily available at a grocery or convenience store, such as beer or wine made from craft or microbreweries or wineries, or beer or wine from a specific geographic region.

3. Standards

Drive-through service is strictly prohibited.

...

P. Thrift Shop

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														S	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A thrift shop is a retail establishment primarily engaged in selling used merchandise which has been obtained through bulk-purchases, or through donations or gifts and where the donor receives no value upon the sale of such merchandise, and where the use is designed to sell donated merchandise at a price below reasonable market value. This use also includes establishments which sell used merchandise on consignment but which do not meet the definition of consignment boutique. This use does not include the sale of used guns or motor vehicles.

3. Standards

A thrift shop shall comply with the following standards:

- a. The thrift shop shall have a designated donation area, which shall be located at the rear of the store.
- b. Donations shall only be accepted at the designated donation area.
- c. Adequate directional signage shall be provided from the main entrance of the thrift shop to direct individuals to the designated donation area. The donation area shall be noticed to prohibit depositing goods when the shop is closed.
- d. Donations left outside for more than 24 hours is considered outdoor storage and is strictly prohibited.
- e. In the B-3 Zoning District, a thrift shop shall be operated by a single tenant.

Q. Retail Sales Establishment, Large

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
													P			

2. Definition

A large retail sales establishment is any retail sales establishment constituting a single business engaged in retail sales activities and located in a stand-alone single tenant building with a gross floor area of 60,000 square feet or more.

3. Standards

- a. A large retail sales establishment shall comply with the design standards in Section [155.5602.D](#), Large Retail Establishment Design Standards.

R. Indoor Mall or Marketplace

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
														P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
													P		P	P

2. Definition

An indoor mall or marketplace is an establishment where parts of a building or buildings are partitioned to provide individual, semi-permanent spaces for the sale of goods and merchandise, including new merchandise and antiques, by multiple tenants, lessees, or licensees.

S. Other Retail Sales Establishment

I. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

Other retail sales establishments include any establishment primarily engaged in the sale, rental, and incidental servicing of goods or commodities that are generally delivered or provided on the premises to a consumer, and that is not specifically listed in the principal use tables. Examples include, but are not limited to, furniture stores, floor covering stores, window treatment stores, computer and electronics stores, camera stores, optical goods stores, clothing stores, shoe stores, luggage stores, jewelry stores, sporting goods stores, piece goods stores, department stores, florists, office supply stores, gift stores, and pet supply stores.

3. Standards

a. In the B-1 and B-2 zoning districts, such retail sales establishments shall be limited to a total gross floor area of 30,000 square feet.
 (Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2013-73](#), passed 7-23-13; Am. Ord. [2014-16](#), passed 1-28-14; Am. Ord. [2015-75](#), passed 9-8-15; Am. Ord. [2016-46](#), passed 3-8-16; Am. Ord. [2016-47](#), passed 3-8-16; Am. Ord. [2016-48](#), passed 3-8-16; Am. Ord. [2018-40](#), passed 2-27-18)

155.2424. APPEAL

A. Purpose

The purpose of this section is to establish an administrative remedy whereby persons claiming to have been aggrieved by a decision of the Development Services Director or a decision-making body may appeal that decision.

B. Right to Appeal

1. Parties aggrieved by a final decision by the Development Services Director.

A party aggrieved by a final decision by the Development Services Director identified in Table 155.2424.B, Appellate Boards for Appeals of Development Services Director Decisions, may appeal the decision to the appellate board identified in the table as responsible for reviewing such appeals, in accordance with the procedures as set forth in Section 155.2424.C, Appeal Procedure.

TABLE 155.2424.B: APPELLATE BOARDS FOR APPEALS OF DECISIONS OF DEVELOPMENT SERVICES DIRECTOR	
Application Type	Board Responsible for Reviewing Appeal
Minor Building Design	Architectural Appearance Committee (AAC)
Minor Certificate of Appropriateness	Historic Preservation Committee (HPC)
All other application types and waiver requests	Zoning Board of Appeals (ZBA)

2. A party aggrieved by a final decision by the P&Z on a Major Site Plan application, by the AAC on a Major Building Design application, or by the HPC on a Major Certificate of Appropriateness application may appeal the decision to the City Commission in accordance with this section, including the procedures as set forth in Section 155.2424.C.

3. A party aggrieved by a final decision by the Zoning Board of Appeals as provided for herein, may petition the Circuit Court for issuance of a Writ of Certiorari in the manner and within the time provided for the Florida Rules of Appellate procedure.

4. A party aggrieved by a final decision by the City Commission as provided for herein, may petition the Circuit Court for issuance of a Writ of Certiorari in the manner and within the time provided for the Florida Rules of Appellate procedure.

5. Decisions relating to application of the Building Code are appealable in accordance with the Florida Building Code and Chapter 152 (Buildings) of the Code of Ordinances.

C. Appeal Procedure

1. Step 1: Pre-Application Conference

Optional (See Section [155.2301](#).)

2. Step 2: Neighborhood Meeting

Not applicable.

3. Step 3: Application Submittal and Acceptance

Applicable (See Section [155.2303](#).), except that an appeal shall be initiated by filing a written Notice of Appeal and appeal application with the Development Services Director within 30 days of the date of the decision or interpretation being appealed.

4. Step 4: Staff Review and Action

Applicable, except that on accepting a Notice of Appeal and appeal application, the Development Services Director shall transmit the notice, application, and all the papers, documents, and other materials relating to the appealed interpretation or decision to the appropriate appellate body. These materials constitute the record of the appeal.

5. Step 5: Public Hearing Scheduling and Notice

Applicable (See Section [155.2305](#).), except that the Development Services Director shall also provide notice of the public hearing to the applicant for the decision being appealed, if different from the appellant.

6. Step 6: Advisory Body Review and Recommendation

Not applicable.

7. Step 7: Decision-Making Body Review and Decision

The following alternative procedures and standards shall apply:

a. Public Hearing and Review

i. The appellate body shall conduct a quasi-judicial hearing on the appeal in accordance with the procedures and special considerations required by Section [30.08](#) of the Code of Ordinances and by state law.

ii. The appellate body shall review the Notice of Appeal and appeal application, the record of the decision or interpretation being appealed, arguments from the appellant identifying the grounds for the appeal and basis for the alleged error in the decision being appealed, responding arguments from city staff, and any other relevant comments by other interested parties.

b. Decision

The final decision of the appellate body shall be one of the following:

- i. Affirmation of the decision or interpretation (in whole or in part);
- ii. Modification of the decision or interpretation (in whole or in part); or
- iii. Reversal of the decision or interpretation (in whole or in part).

c. Super-Majority Vote by the Zoning Board of Appeals

The concurring vote of at least five members of the ZBA is required for the board to modify or reverse a decision or interpretation by the Development Services Director.

D. Review Standards

1. The appellate body shall review an Appeal in accordance with the standards of this Code applicable to the decision or interpretation being appealed, and shall base its decision solely on the record established below in making the decision or interpretation being appealed. The record shall consist of all documents, hearing records, and other materials related to the decision or interpretation.

2. The appellate body may modify or reverse a decision or interpretation on appeal (in whole or in part) only if it finds that there is competent substantial evidence in the record of a clear and demonstrable error in the application of the relevant standards or provisions of this Code.

3. For [Sexually Oriented Businesses](#), the sole issue to be considered in an Appeal is whether the Development Services Director's determination was correct, pursuant to the requirements of [Article 4](#), Section [155.4224](#).

E. Effect of Pending Appeal

A pending appeal stays all city actions in furtherance of the decision appealed from unless the Development Services Director certifies to the appellate body reviewing the decision that because of facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings shall not be stayed other than by an order issued by the appellate body.

F. Effect of Appeal Decision

To the extent a decision on an appeal pertains to application of a particular provision of this Code in a particular circumstance, the appeal decision shall be binding on subsequent decisions by the Development Services Director or other city administrative official applying the same provision of this Code in the same circumstance.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-32](#), passed 12-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2013-43](#), passed 2-26-13; Am. Ord. [2013-73](#), passed 7-23-13; Am. Ord. [2014-16](#), passed 1-28-14; Am. Ord. [2015-75](#), passed 9-8-15 ; Am. Ord. [2017-23](#), passed 1-24-17)