

Individuals testifying in front of the Board were placed under oath by Saul Umana, Planner.

## **E. NEW BUSINESS**

(11:15)

### **1. LN-246**

### **FIBERBUILT UMBRELLAS & CUSHIONS COMMERCIAL FLEX**

<b>Request:</b>	Commercial Flex
<b>P&amp;Z#</b>	22-05000001
<b>Owner:</b>	2201, LLC.
<b>Project Location:</b>	6 Residential lots north of 2201 W. Atlantic Boulevard
<b>Folio Number:</b>	Multiple Folios
<b>Land Use Designation:</b>	LM (Low-Medium 10 DU/AC)
<b>Zoning District:</b>	RM-12 (Multiple-Family Residential-12)
<b>Agent:</b>	John Tice
<b>Project Planner:</b>	Jean Dolan

Ms. Jean Dolan, Planner, introduced herself to the Board and stated the Applicant, 2201 LLC, is requesting the application of commercial flexibility on 6 lots north of and contiguous to 2201 West Atlantic Boulevard, a commercial property that also had previously been allocated commercial flexibility. The underlying land use on all 6 lots is Low-Medium Residential. The allocation of commercial flexibility will allow a commercial use in the LM 10 land use designation and a concurrent rezoning to B-3 so it can be developed as an additional building associated with the existing Design Center at 2201 W. Atlantic Boulevard. The City has 272.64 acres of commercial flexibility available. This request is for approximately 1.1 acres of commercial flexibility and therefore can be accommodated. Ordinance 84-58 applied commercial flexibility to 2201 West Atlantic Boulevard and rezoned it from RM-12 to B-3. That process effectively landlocked the eastern 5 of the 6 residential lots because road access was not required to be granted from the 2201 property as part of that development approval. Given the past history of commercial flex on this property and the difficulty developing the 6 residential lots as anything other than part of the 2201 property due to access constraints, this is a reasonable approach to developing this area. An application for Commercial Flexibility shall only be submitted to City Commission for consideration if the request meets the following review standards found in Section 154.61(D):

1. Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter (Chapter 154).
2. The nonresidential development within the residential land use designation will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses.

She stated staff provided seven (7) policies from the Comprehensive Plan that support the request. Given the information provided to the Board, staff provides the following alternative motions, which may be revised or modified at the Board's discretion.:

- Alternative Motion I: Approval of the requested Commercial Flexibility with the following conditions:
  1. Prior to being placed on a City Commission agenda, the Applicant will include the required Type C buffer on the north property line adjacent to the existing single-family homes and correct the setback measurements on the conceptual site plan.
  2. Prior to being placed on a City Commission agenda, the Applicant will submit Unity of Title documents to unify all of the individual lots with 2201 West Atlantic Boulevard.
  3. Prior to site plan approval, the Applicant will need to submit for an abandonment of the existing 25' access easement along the north property line of the area subject to the commercial flexibility.
- Alternative Motion II: Table this application for additional information as requested by the Board.

- Alternative Motion III: Recommend denial of the Commercial Flexibility as the Board finds it is not consistent with the goals, objectives, and policies of the Comprehensive Plan.

Ms. Dolan stated that staff recommends Alternative Motion I.

Mr. John Tice (1311 West Newport Center Drive, North Miami) and Mr. Joshua Pinsky (6499 Powerline Rd # 304, Fort Lauderdale, FL 33309) introduced themselves to the Board on behalf of the applicant.

Mr. Stacer opened the public hearing.

Mr. Daniel Underwood (2230 Northwest 2<sup>nd</sup> Street) said he was speaking on behalf of the elderly residents of the six lots. He spoke on the amount of amount of traffic and the truck fumes coming from the building. He asked for an easement to the backyards of the 6 homes fronting on NW 2<sup>nd</sup> Street.

Mr. Tice reviewed the proposed plan and stated the new plan will completely screen the loading zone. He said it will be a Type C buffer and would help the residential view.

Ms. Coleman stated that if the easement is removed the residents will not be able to get their boats or cars out of their backyards. Mr. Pinsky clarified there is currently no easement on record, and he reviewed the property line.

Mr. Underwood returned to the podium to ask about the easement area. Mr. Pinsky clarified there was no easement on record when his client purchased the property. Ms. Dolan clarified the 25' access easement on the north was half of the public street intended to serve the lots. She said it was not dedicated to the use of the properties to the north.

Ms. Aycock asked about parking vehicles in backyards. Ms. Dolan replied that the code does specifically allow storing multiple boats on a single-family lot.

Ms. King asked why 18-wheelers are coming down 2<sup>nd</sup> Street. Mr. Underwood stated when the trucks miss their turn, they utilize 2<sup>nd</sup> Street. Mr. Tice stated the trucks do access the building, but the new plan will hide all truck activity. He said the whole building will buffer the activity. He reviewed the main truck route. Mr. Pinsky said he cannot determine who the trucks traveling down 2<sup>nd</sup> Street are delivering for.

Assistant City Attorney Saunders reminded the Board of the application request and review standards.

Mr. Stacer closed the public hearing.

Ms. King asked the applicant to add signage to further encourage trucks not to travel through the residential area. Mr. Stacer stated that recommendation should be addressed during the site plan approval process.

Mr. Klosiewicz asked what control the City has over size of vehicles on certain roads. Ms. Dolan replied that the Engineering Department plays a role when they assign different weight standards and limits for individual roads.

Ms. Coleman asked for clarification on the information Ms. Dolan shared about the previous roadway and easement.

Ms. Dolan responded that she has not seen surveys on the properties to the north to know if they are required to dedicate 25' for a roadway through their backyards but it is highly unlikely as it would make those lots nonconforming in size and create double frontage lots which is not something the City normally does. The 25' access easement on the north of the lots receiving commercial flexibility was not intended to provide access to the SF homes to the north but was intended for access for the lots to the south.

Ms. Dolan added a fourth condition that the applicant will provide signage that indicates no right turn out of the loading area.

(39:32)

**MOTION** by Carla Coleman and seconded by Richard Klosiewicz that the Board finds that competent, substantial evidence has been presented for the Commercial Flex that satisfies the review criteria, subject to the 4 conditions outlined in Alternative Motion 1 provided by staff. All voted in favor. The motion was approved.

(43:04)

2. [LN-245](#) **FIBERBUILT UMBRELLAS & CUSHIONS REZONING**

<b>Request:</b>	Rezoning
<b>P&amp;Z#</b>	22-13000001
<b>Owner:</b>	2201, LLC.
<b>Project Location:</b>	6 Residential Lots North of 2201 W. Atlantic Blvd.
<b>Folio Number:</b>	Multiple Folios
<b>Land Use Designation:</b>	LM (Low Medium 5-10 DU/AC)
<b>Zoning District:</b>	RM-12 (Multiple-Family Residence 12)
<b>Agent:</b>	John Tice
<b>Project Planner:</b>	Jean Dolan

Ms. Jean Dolan, Planner, introduced herself to the Board and stated the applicant is requesting to rezone the 6 residential lots north of and contiguous to 2201 West Atlantic Boulevard from RM-12 to B-3 following approval of the concurrent request for commercial flexibility. The subject 6 lots are currently vacant and will be developed as a commercial building as an expansion of the existing commercial design center on the 2100 West Atlantic Boulevard property. The area north of these lots is residential, primarily single-family homes, while the area to the south is commercial in nature. The applicant will be required to provide an incompatibility buffer (Type C which requires a minimum 10-foot-wide space with an 8-foot-high masonry wall and required landscaping) between the subject lots and the residential lots to the north. As criteria for rezoning, the Applicant must provide competent, substantial evidence that the proposed amendment 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. The policies in the Comprehensive Plan relevant to this rezoning request are provided in Section ‘A’ of this report. These policies generally require rezoning consistent with the land use designation; compatibility with adjacent properties, particularly the single-family homes; adequate public facilities and service capacity to accommodate the demands of the project. It is Staff’s conclusion that the B-3 rezoning will be in conformance with the land use designation if the commercial flexibility being requested concurrently with the rezoning is approved. Given that the 2201 property was given commercial flex in 1984 and that approval land locked the 6 residential lots in question, the application of commercial flexibility, rezoning to B-3 and unification of all the lots with the 2201 property to accommodate access is the most logical approach to the reasonable development of these 6 lots. A Type C buffer between the proposed commercial expansion and the homes to the north, as well as the proposed building height, will provide reasonable compatibility as defined by the standards in the City’s zoning code. There is mass transit service to the site. Staff finds there is substantial evidence to support this request.

Given the information provided to the Board, staff provides the following 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 goals and policies assuming the commercial flexibility is approved based on the conceptual site plan and building height provided which provides a Type C buffer to the north, requires a Unity of Title, and provides signage about turning.
- 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 Future Land Use Goals and Policies listed in Section ‘A’ of this report.

Ms. Dolan stated that staff recommends Alternative Motion I.

Mr. Stacer asked about the location of the wall within the 8-foot buffer. Ms. Dolan replied that the code requires it to be in the center with landscaping on both sides. Mr. Stacer suggested adding a personnel gate to service the landscaping. Assistant City Attorney Saunders asked for clarification on whether the building height is 30 feet, or 24 feet as indicated in the backup. Ms. Dolan said up to 55 feet is compatible with residential. Mr. Stacer said the building application indicates 24 feet or less. Ms. Dolan confirmed they have increased their request to 30 feet. Mr. Stacer stated that Alternative Motion I indicated 24 feet. Ms. Dolan recommended removing the height from the motion.

Mr. Tice reintroduced himself to the Board on behalf of the applicant and noted they have no additional information to share.

Mr. Stacer opened the public hearing.

Mr. Underwood (2230 Northwest 2<sup>nd</sup> Street) asked if a wall would be put in his backyard and if there would be an easement. Mr. Stacer replied that the wall would either be located on the edge of the applicant’s property or four feet back into the applicant’s property. He added there would be no dedicated easement.

Mr. Stacer closed the public hearing.

(53:48)

**MOTION** by Joan Kovac and seconded by Richard Klosiewicz that the Board finds that competent, substantial evidence has been presented for the Rezoning that satisfies the review criteria, subject to the conditions provided by staff under Alternative Motion I, minus the height. All voted in favor. The motion was approved.

(55:34)

3. [LN-308](#) **LUXURY CAR TEXT AMENDMENT**

<b>Request:</b>	Public Initiated Text Amendment
<b>P&amp;Z#</b>	22-81000002
<b>Owner:</b>	James Batmasian
<b>Project Location:</b>	3051 N. Federal Highway
<b>Folio Number:</b>	484224140020
<b>Land Use Designation:</b>	C (Commercial)
<b>Zoning District:</b>	B-3 (General Business)
<b>Agent:</b>	John Rinaldi
<b>Project Planner:</b>	Lauren Gratzer

Ms. Lauren Gratzer, Planner, introduced herself to the Board and stated the applicants John Voigt, Attorney and James Kahn, Planner, are requesting to amend the Motor Vehicle Sales and Service Uses of the Zoning Code [section 155.4219] in order to create a new use designation for Used Luxury Automobile Sales with Indoor and Outdoor Display. This new use designation will create section 155.4219.W. Used Luxury Automobile Sales with Indoor/Outdoor Display. Concurrently, the Consolidated Use Table of the City’s Zoning Code (also known as Appendix A) and Article 9: Definitions and Interpretation, Part 5: Terms and Uses Defined will be updated to reflect the new use and definition. She reviewed the definition, standards, and the following staff suggestions:

- All automobiles included in the category must provide increased levels of comfort, equipment, amenities, quality, performance, and associated status compared to moderately priced cars
- The use shall not be located within two miles of another Used Luxury Automobile Sales with Indoor/Outdoor Display use

She referenced the map highlighting the eligible properties that meet the proposed text amendment criteria has been enclosed for reference. This map shows one-hundred and eleven (111) properties within Pompano Beach would be qualified for this new proposed use that previously would otherwise either 1) not allow a used car dealership or 2)