

8/13/2018

Major Temporary Use Expiration - 1661 N Dixie Hi-

From: Daniel Keester <Daniel.Keester@copbfl.com>

To: Thomas Johnston <tjwm1@aol.com>

Cc: Bill Murphy <WMurphy50@aol.com>; jhandley <jhandley@craventhompson.com>; Scott Reale <Scott.Reale@copbfl.com>; Pamela Stanton <Pamela.Stanton@copbfl.com>; David Recor <David.Recor@copbfl.com>

Subject: Major Temporary Use Expiration - 1661 N Dixie Highway

Date: Thu, Aug 2, 2018 5:42 pm

Attachments: 17-15000008 Order.pdf (126K)

Mr. Johnston,

I am reaching out to you, as you were listed as the agent for the Major Temporary Use Permit, filed on behalf of your client Upper Pompano Properties & Investments, LLC. At the July Zoning Board of Appeals Meeting (2017), the Major Temporary Permit was approved in order to utilize a vacant lot for an automotive and Light Truck Rental and Display without complying with the applicable development standards required by code. There were 4 conditions are a part of the approval:

1. Installation of the required street trees and Type B buffer along the north and western property lines abutting RS-2 zoning districts (where ever a building does not exist) shall be permitted and installed within 90 days of this approval. *(Completed, building permit 17-8386)*
2. Submittal of the Minor Site Plan and Major Building Design applications within 120 days of this approval. *(Completed, application number 17-12000057)*
3. Submittal of Building Permit applications within 180 days of this approval. *(Not Complete)*
4. Obtain all necessary governmental permits and approvals, prior to commencing construction, including Minor Site Plan approval, Major Building Design approval, building and zoning compliance permits, as well as final inspections for building and zoning compliance permits. *(Not Complete)*

The Development Order was signed off by the Chairman and filed with this Department on August 17, 2017. The major temporary use permit is only valid for 12 months, which means that it expires on August 17, 2018. The conditions of the approval were not met. Given the fact that the conditions of the Temporary Permit were not fully in compliance and it does not appear that all approvals can be addressed prior to the expiration, then this department must take the necessary steps to revoke the approval. The Zoning Board of Appeals does not meet in August, the next Zoning Board of Appeals Meeting is in September. The deadline to submit for that meeting is August 21st, but you must schedule a pre-submittal meeting with the Senior Planner prior to your submittal. I've copied the Senior Planner, Scott Reale, on this email.

I've attached a copy of the signed order to this email, for your reference. Should you have any questions, please let us know.



EXHIBIT **A**

THE ZONING BOARD OF APPEALS
CITY OF POMPAÑO BEACH, FLORIDA

Landowner: Dixie Properties LLC & Investment and Upper Properties LLC
Address: 1661 N Dixie Highway
Zoned: General Business (B-3)
Folio(s): 4842 26 00 0380; 4842 26 00 0383

Legal Description:

26-48-42 PARCEL DESC AS: COMM AT PT ON W/L OF FEC RR R/W BEING 2050.72 FROM S/L OF SAID SEC 26, NW 40 TO POB, SW 209.19, W 351.64, N 300, E 270.68, SW 59.19, SE 155 TO POB, LESS R/W FOR ST RD 811 PER OR 21796/903, AND LESS POR DESC AS: COMM AT PT ON W/L FEC RR R/W BEING 2163.84 FROM S/L SEC 26, SLY 113.12, WLY 195 TO POB NW 13.05, NE 54.66, E 17.54, SW 59.20 TO POB together with 26-48-42 PORTION OF S 1/2 OF NE 1/4 OF SE 1/4 OF SAID SEC DESC AS: COMM AT INTERSEC OF S/L SEC 26 & W R/W/L FEC RR, NLY ALG W R/W/L 1730.80 TO POB, W 361.80, N 117.80, E 393.14, SLY ALG SAID W R/W/L 122.22 TO POB, LESS R/W FOR OLD DIXIE HWY

REQUEST:

Applicant Landowner is requesting Major Temporary Use Permit approval as required by Chapter 155: Article 5 [Development Standards] of the Pompano Beach Zoning Code in order to utilize an existing lot for Automotive and Light Truck Rental and display without complying with the applicable development standards as required by Code.

* * * * *

ORDER

Upon presentation of the Applicants' request for a Major Temporary Use Permit at a public hearing before the Zoning Board of Appeals ("Board"), and upon review and consideration of all testimony, evidence and argument presented at the hearing, the Board finds that competent substantial evidence was presented to satisfy the review standards for granting a Major Temporary Use pursuant to the City of Pompano Beach Zoning Code.

THEREFORE, the Applicant's Request for the above Major Temporary Use Permit is GRANTED and the Applicant must fulfill the following:

1. Substantial compliance with the approved Site Plan (PZ: 17-12000057), and obtain final zoning compliance and building permit approvals prior to the expiration of this approval.

This matter was heard before the Zoning Board of Appeals, and the Board pronounced its decision on October 15, 2020.

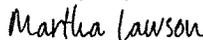
DocuSigned by:



Dan Yaffe, Chairman, Zoning Board of Appeals

Filed with the Development Services Department this October 28, 2020 day of October, 2020

DocuSigned by:



Martha Lawson, Head Secretary, Development Services

Johnston & Metevia PA
Thomas W. Johnson, Esq
2335 E. Atlantic Blvd Ste 301
Pompano Beach, FL 33062

EXHIBIT B

PROCEEDINGS BEFORE THE ZONING BOARD OF APPEALS

OF THE CITY OF POMPANO BEACH, FLORIDA

IN RE APPEAL:

APPEAL #95-21

DRISCOLL'S TOWING SERVICE
c/o Robert Driscoll
1701 N. Dixie Highway
Pompano Beach, Florida 33060

A portion of the South one-half of the Northeast one-quarter of the Southeast one-quarter of Section 26, Township 48 South; Range 42 East, Broward County, Florida, more fully described as follows:

COMMENCING at the intersection of the South line of said Section 26, and the West right of way line of the F.E.C. Railway; thence Northerly along the said West right of way line a distance of 1730.80 feet to the Point of Beginning; thence West making an angle of $74^{\circ} 32' 35''$ in the Southwest quadrant a distance of 361.80 feet; thence North making an included angle of $89^{\circ} 24' 30''$ a distance of 117.80 feet; thence East, making an included angle of $90^{\circ} 35' 30''$ a distance of 393.14 feet to a point on the said West right of way line of the F.E.C. Railway; thence Southerly along the said West right of way line a distance of 122.22 feet to the Point of Beginning, less the right of way for Old Dixie Highway;

AND

A parcel of land lying West of the F.E.C. Railroad right of way in the South half of the Northeast one-quarter of the Southeast one-quarter of Section 26, Township 48 South, Range 42 East, Broward County, Florida, being more particularly described as follows:

COMMENCING at a point on the West line of the F.E.C.R.R. right of way, said point being 2050.72 feet from the South line of Section 26, as measured along the West line of F.E.C.R.R. Right of way; thence North $76^{\circ} 02' 40''$ West a distance of 40.00 feet to the Point of Beginning; thence South $13^{\circ} 57' 20''$ West a distance of 209.19 feet; thence South $88^{\circ} 29' 55''$ West a distance of 351.64 feet; thence North $00^{\circ} 54' 35''$ West a distance of 300.00 feet; thence North $88^{\circ} 29' 55''$ East a distance of 270.68 feet; thence South $13^{\circ} 57' 20''$ West a distance of 59.19 feet; thence South $76^{\circ} 20' 40''$ East, a distance of 155.00 feet to the Point of Beginning.

AKA: 1659-1993 and 1701 North Dixie Highway

ZONED: B-3

PETITIONER:

DRISCOLL'S TOWING SERVICE

Requests:

Three (3) variances be granted as follows:

- 1) Variance from the provisions of Section 155.098 (B) and (D) (Nonconforming Use) of Chapter 155 of the Code of Ordinances in order to expand a towing operation onto an abutting property.
- 2) Variance from the provisions of Section 155.113 (B) (4) (Parking) of Chapter 155 of the Code of Ordinances in order to provide 14 parking spaces, rather than 41 parking spaces as required by the Code.

EXHIBIT C

- 3) Variance from the provisions of Section 155.132 (Landscaping, Existing Uses) of Chapter 155 of the Code of Ordinances in order to increase an existing parking area by 20% or more without full compliance with the Landscape Code.

WHEREAS, it appears that special and peculiar circumstances which are not the result of the actions of the petitioner or his representative affect the land, buildings or structures for which approval is sought, and further, that the denial of the request by the petitioner would deprive the petitioner of the reasonable use of his property, NOW, THEREFORE, the Zoning Board of Appeals finds that the granting of this permission will be in harmony with the general purpose and intent of the Zoning Ordinances of the City of Pompano Beach, Florida, and will make possible the reasonable use of the petitioner's property. The Board further finds that to deny the petitioner his request would impose an unreasonable and unnecessary hardship upon the petitioner and that the granting of this permission is wholly harmonious and consistent with the best interest of the general public.

IT IS, THEREFORE, ORDERED THAT PERMISSION IS GRANTED TO
PETITIONER:

DRISCOLL'S TOWING SERVICE

To:

- 1) Expand a towing operation onto an abutting property, as requested.
- 2) Provide 14 parking spaces, as requested.
- 3) Increase an existing parking area by 20% or more without full compliance with the Landscape Code, as requested.

This Approval is subject to the following conditions:

- 1) Apply for and acquire required site plan approvals from the Development Review Committee (DRC).
- 2) Provide sod and irrigation in the landscape area in accordance with the Landscape Plan provided.
- 3) Substantial compliance with the Landscape Plan submitted.
- 4) A five foot (5') wide landscape area shall be provided along the west and north sides of the site, abutting the residential areas, to be planted with ten foot (10') high native shade trees, 30 feet on center. The five foot (5') landscape area to be mulched and drip irrigation to be provided for the trees.

This Approval shall become effective and final fifteen (15) days from the date of passage provided however that in the event an appeal, as provided for in Section 155.025, has been timely filed, no action may be taken on the order by the Zoning Board of Appeals until the conclusion of the appeal before the City Commission.

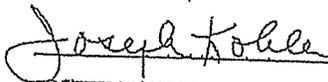
In accordance with the provisions of Section 158.024 (J) of the Code of Ordinances, the relief granted by the Zoning Board of Appeals is limited to the authority vested in the Board and does not exempt the petitioner or owner

from the responsibilities of obtaining all applicable permits and/or approvals as may be required by law, or by the City, for both new and existing structures,

Any variance, special exception, temporary permit or other decision of the Zoning Board of Appeals shall expire and become null and void 180 days after said action unless, within the said 180 day period, or other time period as ordered by the Board, any and all permits and/or approvals required by law, or by the City, including building permits, have been properly acquired or unless within the 180 day period, a request is made consistent with the Code of Ordinances seeking an extension of time for the variance, special exception or other specific order that had been approved by the Board. If no approval or permit is required, the use allowed by the Zoning Board of Appeals must be commenced within the said 180 day period unless otherwise provided by the Board or unless within the 180 day period a request is made consistent with the Code of Ordinances seeking an extension of time for the variance, special exception or other specific order that had been approved by the Board.

Any request for an extension from the time frames as required by an order of the Zoning Board of Appeals must be made by the petitioner or owner and it shall be the petitioner's or owner's burden to establish a good and sufficient cause for any extension of time. There shall be no more than five (5) extensions of time in any one case, each of which shall be no greater than 180 days or in the aggregate in excess of 900 days for any variance, special exception or other specific order of the Zoning Board of Appeals.

DONE AND ORDERED this 22nd day of December, 1994.



JOSEPH KOHLER
Chairman
Zoning Board of Appeals