

ORDINANCE NO. 2008- 12

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING SECTION 155.005 OF CHAPTER 155, "ZONING CODE", OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY REZONING SEVERAL PARCELS LYING NORTH AND SOUTH OF NORTH RIVERSIDE DRIVE AND GENERALLY WEST OF THE JUNCTION WITH NORTH OCEAN BLVD. (S. R. A1A) FROM B-2 (COMMUNITY BUSINESS) TO B-3 (GENERAL BUSINESS); PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, fourteen (14) days' notice has been given by publication in a paper of general circulation in the City; notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the aforesaid notice, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be, and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That the City Commission of the City of Pompano Beach, having considered the evidence and argument presented at the public hearing, finds:

SECTION 2. That Section 155.005 of Chapter 155 of the Code of Ordinances of the City of Pompano Beach, Florida, is amended to include therein rezoning of the following described property:

See Exhibit "A" Attached Hereto and Made a Part Hereof.

which land is hereby rezoned from a present zoning classification of B-2 (Community Business) to B-3 (General Business), as said zoning classification is defined by Chapter 155 of the Code of Ordinances of the City of Pompano Beach, Florida.

SECTION 3. That the Planning Director is hereby directed to mark the zoning provided for in this Ordinance on the Official Zoning Map of the City of Pompano Beach.

SECTION 4. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. This Ordinance shall become effective upon passage.

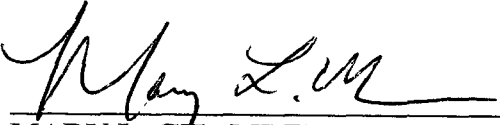
PASSED FIRST READING this 13th day of November, 2007.

PASSED SECOND READING this 11th day of December, 2007.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

GBL/jrm
8/21/07
I ord/ch155/2007-270

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1:

Lots 22 and 23 of Block 20, HILLSBORO SHORES SECTION "B", according to the Plat thereof, as recorded in Plat Book 22 at Page 39 of the Public Records of Broward County, Florida.

Parcel 2:

Lots 19, 20 and 21 of Block 20, HILLSBORO SHORES SECTION "B", according to the Plat thereof, as recorded in Plat Book 22 at Page 39 of the Public Records of Broward County, Florida.

AND

Condominium Units "A", "B", 1-11, inclusive of FISH CITY MARINA CONDOMINIUM according to the Declaration of Condominium thereof as recorded in Official Records Book 9704 at Page 924 of the Public Records of Broward County, Florida.

Parcel 3:

Lot 15 of Block 19, HILLSBORO SHORES SECTION "B", according to the Plat thereof, as recorded in Plat Book 22 at Page 39 of the Public Records of Broward County, Florida.

Parcel 4:

Lot 14 of Block 19, HILLSBORO SHORES SECTION "B", according to the Plat thereof, as recorded in Plat Book 22 at Page 39 of the Public Records of Broward County, Florida

Return to:

Name: Neil M. Schiller, Esq.

Address: Becker & Poliakoff, P.A.
Emerald Lake Corporate Park
3111 Stirling Road
Ft. Lauderdale, FL 33312-6525

This Instrument Prepared by:

Neil M. Schiller, Esq.
Becker & Poliakoff, P.A.
Emerald Lake Corporate Park
3111 Stirling Road
Ft. Lauderdale, FL 33312-6525

SPACE ABOVE THIS LINE FOR PROCESSING DATA

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DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this 20th day of November, 2007, by Pompano Waterway Development, LLC a Utah Limited Liability Corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain real property located in Pompano Beach, Florida, as described on Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, Declarant applied to the City of Pompano Beach, Florida ("City") for rezoning ("Application") the Property from B-2 to B-3 (the "Rezoning"); and

WHEREAS, on July 25, 2007, the Planning and Zoning Board conducted a public hearing on the Application; and

WHEREAS, on November 13, 2007, the City Commission conducted its first public hearing on the Application and on November 27, 2007, the City Commission conducted its second public hearing on the Application and approved the rezoning, relying upon the representations by the Declarant that the use of the Property would be restricted as set forth below; and

WHEREAS, Declarant has agreed, as a material inducement to City supporting the Application, to place restrictions upon the Property as more fully set forth below.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, maintained, transferred, sold, conveyed and owned subject to the terms and conditions and restrictions set forth in this Declaration.

1. Recitals. The foregoing recitations are true and correct and are incorporated by reference.

2. Restrictions (a). Upon rezoning to B-3 (General Business), the Property shall be subject to the permitted uses in the B-3 (General Business) zoning district, excluding the following:

- (a) Adult arcade/gaming institution;
- (b) Auction house;
- (c) Automobile rental or leasing agencies;
- (d) Automobile sales agency and accessory used car sales and auto service;
- (e) Bowling alleys and skating rinks;
- (f) Business and commercial colleges, night schools, adult training, and similar educational enterprises;
- (g) Community care facility;
- (h) Churches;
- (i) Hospitals and clinics;
- (j) Filling station for automotive vehicles;
- (k) Funeral homes;
- (l) Movie theaters;
- (m) Printing, newspaper printing, blueprinting and other printing and reproduction facilities;
- (n) Showrooms with wholesaling by sample only;
- (o) Thrift shops for the sale of secondhand clothing and household goods;
- (p) Veterinarian, animal grooming and pet store;
- (q) Window tinting, burglar alarm and stereo and telephone installation for automobiles.

3. Modification and Termination. An amendment, modification or termination of this Declaration requires the approval of the City and recordation of a release in the Public Records of Broward County, Florida.

4. Covenant Running with the Land. This Declaration shall be recorded in the Public Records of Broward County, Florida, at Declarant's expense, and shall run with the Property described in Exhibit "A", and shall be binding on all heirs, successors and assigns.

5. Effective Date. This Declaration shall become effective upon final approval of the Rezoning including the expiration of any and all appellate periods.

IN WITNESS WHEREOF, has hereunto set its authorized hand this 20th day of November, 2007.

OWNER – CORPORATION

Pompano Waterway Development, LLC
Utah limited liability company
Name of Owner (corporation/partnership)

By [Signature]
(Signature)

Print name: Michael F. Hinds
Title: Managing Member
Address: 801 North 500 West
Suite 200
Bountiful, Utah 84010

20th day of November, 2007.

ACKNOWLEDGMENT – CORPORATION

STATE OF FLORIDA)
) ss.
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 20th day of November, 2007, by Michael F. Hinds, as Managing Member of Pompano Waterway Development, LLC, on behalf of the corporation/partnership. He or she is:

☒ personally known to me, or
☐ produced identification. Type of identification produced _____.

NOTARY PUBLIC:

[Signature]
Signature of Notary Public-State of Florida

Keith M. Poliakoff
Print, type, or stamp Commissioned Name
My commission expires:

Affix Seal Below



KEITH POLIAKOFF
Commission DD 637070
Expires February 6, 2011
Bonded Thru Troy Fain Insurance 800-385-7019

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Parcel 4:

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Return to:

Name: Keith M. Poliakoff, Esq.

Address: Becker & Poliakoff, P.A.
Emerald Lake Corporate Park
3111 Stirling Road
Ft. Lauderdale, FL 33312-6525

This Instrument Prepared by:

Keith M. Poliakoff, Esq.
Becker & Poliakoff, P.A.
Emerald Lake Corporate Park
3111 Stirling Road
Ft. Lauderdale, FL 33312-6525

INSTR # 107625746
OR BK 44996 Pages 528 - 531
RECORDED 01/14/08 14 40 44
BROWARD COUNTY COMMISSION
DEPUTY CLERK 1032
#2, 4 Pages

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WHEREAS, Declarant has agreed, as a material inducement to City supporting the Application, to place restrictions upon the Property as more fully set forth below.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, maintained, transferred, sold, conveyed and owned subject to the terms and conditions and restrictions set forth in this Declaration.

1. Recitals. The foregoing recitations are true and correct and are incorporated by reference.

2. Restrictions (a). Upon rezoning to B-3 (General Business), the Property shall be subject to following:

- (a) If a hotel is constructed on the Property, it shall be limited to one hundred and fifty (150) hotel rooms.
- (b) The Property shall not utilize Hillsboro Shores Improvement Association's private beach access.
- (c) The portion of the Property immediately adjacent to A1A shall be restricted to three stories in height excluding the facade, parapet, and screened mechanical equipment.

3. Modification and Termination. An amendment, modification or termination of this Declaration requires the approval of the City and recordation of a release in the Public Records of Broward County, Florida.

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[intentionally left blank]

IN WITNESS WHEREOF, has hereunto set its authorized hand this 20th day of November, 2007.

OWNER – CORPORATION

Pompano Waterway Development, LLC
Utah limited liability company
Name of Owner (corporation/partnership)

By [Signature]
(Signature)

Print name: Michael F. Hinds
Title: Managing Member
Address: 801 North 500 West
Suite 200
Bountiful, Utah 84010

20th day of November, 2007.

ACKNOWLEDGMENT – CORPORATION

STATE OF FLORIDA)
) ss.
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 20th day of November, 2007, by Michael F. Hinds, as Managing Member of Pompano Waterway Development, LLC, on behalf of the corporation/partnership. He or she is:

☒ personally known to me, or
☐ produced identification. Type of identification produced _____.

NOTARY PUBLIC:

[Signature]
Signature of Notary Public-State of Florida

Keith M. Poliakoff
Print, type, or stamp Commissioned Name
My commission expires:

Affix Seal Below



KEITH POLIAKOFF
Commission DD 637070
Expires February 6, 2011
Bonded Thru Troy Fain Insurance 800-385-7019

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