

May 31, 2023

City of Pompano Beach
Zoning Board of Appeals
100 W. Atlantic Blvd.
Pompano Beach, FL 33060

Request: Variance from Section 155.5604 Residential Compatibility Standards

Site Address: 1531-1537 North Dixie Highway

Dear Members of the Zoning Board of Appeals,

On behalf of the Pompano Beach Community Redevelopment Agency (Property Owner) and Gery Fernandez (Applicant), KEITH (Agent) is seeking a variance from Section 155.5604.C.4.b which states: Off-street surface parking areas located adjacent to single-family residential development shall be screened by a Type "C" perimeter buffer in accordance with Section 155.5203.F, Perimeter Buffers. Section 155.5203.F further describes the Type "C" perimeter buffer as a minimum 10-foot landscape strip with an 8-foot-high masonry wall.

The applicant is proposing a 10-unit two-story townhouse development with 2-car driveways and 1-2-car garages, landscape, patios and fenced-in courtyards. A survey and site plan are included in the application package. The site is zoned B-3 which allows for up to 50 units per acre on the property. The abutting properties and zonings are T & PR to the east (Pompano Air Park and FEC Railway), B-3 to the north and south (commercial building to the north and vacant to the south) and RS-2 to the west (vacant and single family).

The proposed site plan complies with all other zoning code requirements and is anticipated to be a model project for the City's and CRA's new vision of Dixie Highway Corridor in this area. Adding residential development and home ownership to the Dixie Highway Corridor should create a vast improvement to the current vacant lots/blocks along this portion of Dixie Highway. This project will have multi-tiered landscaping along the property abutting the single-family residential area except for areas used as driveways for residents. The frontage along Dixie Highway will also contain a multi-tiered landscaping. The proposed project design is consistent with the city's current goals to revitalize the area and the plan is also consistent with the Kendall Crossing Corridor Study as it relates to transit and pedestrian connectivity.

Property History

The property has been vacant since 1995 (aerial verified). Prior to demolition, the property operated as private commercial businesses until February/March of 1994 when the property along Dixie between NW 15th Court and NW 15th Place was taken by the Florida Department of Transportation (FDOT) for a road widening project for Dixie Highway. In 2000, the remnant parcels were transferred from FDOT to the City of Pompano Beach.

A portion of 1531-1537 N Dixie Highway (folio [484226470010](#)) was conveyed to the CRA from the City on April 23, 2002.

When the City prepared the deed the City imposed affordable housing restrictions on this parcel and other parcels in error. Specifically 1531 N Dixie Highway (former folio [484235290120](#)) and 1537 N Dixie Highway (former folio [484235290141](#)). A corrective deed was recorded December, 2021 to remove the restrictions imposed in error.

1533 N Dixie Highway (former folio [484235290130](#)) and 1535 N Dixie Highway (former folio [484235290140](#)) were conveyed from the City to the CRA June 1, 2006 with a 5 year affordable housing restriction which has now expired.

The 4 separate folios were later unified when BCPA recorded the Declaration of Covenants and Restrictions in INSTR# 117768551.

One of the CRAs main goals is to eliminate slum and blight within its boundaries. The CRA has been in negotiations with the applicant since July of 2021. CRA staff received an unsolicited proposal from FD Construction Consulting, Inc. for the construction of 10 townhomes on the proposed site. The CRA approved the Property Disposition and Development Agreement on September 30, 2021, and the Agreement contemplated the construction of the 10 townhome units by September 30, 2023. However, due to the COVID-19 pandemic, various business shutdowns affected the financial markets. Financing options were limited which caused timing challenges for the Developer. CRA staff received a request to extend the construction completion timeline from September 30, 2023 to December 31, 2024. The project has secured pre-development and construction funding. The City Commission acting as the Pompano Beach CRA approved the extension for the development agreement for 10 townhomes on April 18, 2023.

The following is a response to Section 155.2420 Review Standards providing substantial evidence for approval of the variance request.

- a) There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;

Response: Due to the FDOT road widening project in 1994, the lot depth was reduced substantially from 129.8 feet to 84.6 feet (a reduction of 45.2 feet in lot depth or a 35% lot reduction). This lot narrowness makes it extremely difficult to redevelop the property.

Individual driveways to each townhome cannot be achieved along Dixie Highway because the roadway is on the Broward County Trafficways. Broward County will not allow individual driveways onto Dixie Highway. The driveways for the townhomes will be located in the rear of the property along a public alley. For Fire Department safety purposes, the alley must be widened thus further



reducing the depth of the lot for redevelopment.

- b) The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;

Response: These extraordinary conditions of the site are not a result of the actions of the landowner. The taking of over a third of the lot was the result of actions by FDOT and due to those actions, the property has remained vacant since 1995.

- c) Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship.

Response: The CRA in their development agreement with the applicant specify a 10-unit townhouse development. The applicant attempted to produce alternative site plans sufficient to avoid the variance. One design allowed for duplex style homes; however, duplex units are not permitted in B-3. Another design would be a multi-story apartment building; unfortunately, this type of development is completely out of character of what the City, CRA and developer are trying to accomplish.

The use of the alley to access the driveways and townhomes is integral to the design of the project. If a buffer and wall is required between the alley and the driveways, the townhome project cannot be built. There is insufficient lot depth to accommodate the buffer, roadways, driveway and the townhome buildings.

- d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.

Response: The applicant believes the variance would not confer any special privilege onto the landowner and would allow the reasonable development of the property consistent, compatible and similar in height with the surrounding residential area to the west.

- e) The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;

Response: Granting of this variance from Section 155.5604.C.4.b is the minimum request for reasonable use and development of the land. The current site plan as proposed incurs the least impact to the site while providing a sufficient use of the site along with proper screening of the adjacent residential area with multi-tiered landscaping; and thus, satisfying all additional land development code requirements.

- f) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;

Response: The applicant believes granting the variance is in harmony with the general purpose of its intent of the code. The applicant is proposing a two-story

townhouse development which is similar to the size and scale of the abutting single-family homes. The applicant is not proposing to maximize the permitted density (50 dwelling units per acre) nor permitted intensity in height (105 feet). The townhouse project is intended to be a model for the type of density and intensity of redevelopment anticipated along this portion of the Dixie Highway Corridor.

- g) The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and

Response: Approval of this variance will not adversely affect the health or safety of the persons residing or working in the neighborhood, nor would granting the variance be injurious to the property or improvements in the neighborhood; nor would granting the variance be detriment to the public welfare in any way. The proposed townhomes are proposed at a height of 29-feet which is lower than the permitted maximum height (35 feet) in the RS-2 zoning district. The applicant's intention is to develop the property similar in size and scale to the surrounding area. As stated above, the developer is not maximizing the site as allowed by the B-3 zoning district. The requirements in Sec. 155.5604.C.4.b appear excessive for similar types of housing and are not warranted.

- h) The Variance is consistent with the comprehensive plan.

Response: The applicant believes the granting of the variance is consistent with the following goals, objectives, and policies in the comprehensive plan including:

Goal 1: The attainment of a living environment which provides the maximum physical, economic and social well-being for the city and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

Policy 01.01.13 The City shall utilize flexibility units and redevelopment units to increase residential densities within the flex receiving area when consistent with the community character; adjacent land uses; and public school capacity both within Pompano and affected contiguous municipalities; and has undergone a compatibility review relative to potential impacts on Environmentally Sensitive Lands and County or regional parks in accordance with Policy 2.10.01 of the Broward County Land Use Plan.

Objective 01.04.00 - Major Corridor Land Use Support and promote the intermix of residential and commercial uses along major traffic corridors.

Policy 01.04.01 - The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and redevelopment units and approval of land use plan map amendments allowing for mixed use and residential developments.

Policy 01.07.04 - Through the ongoing updates to the land development regulations consider the development of various housing units types and residential lots including single family, cluster homes, zero lot line, staggered setbacks and zipper lots, coach houses, townhouses, stacked townhouses, courtyard buildings, terraced buildings and sculptured towers.

Policy 01.07.08 - Through ongoing updates to the land development regulations develop new zoning districts that encourage redevelopment, including mixed use along major highway corridors.

Objective 01.08.00 - Community Redevelopment Areas Amend the Land Use Plan map and Zoning map to support new development and redevelopment in the Community Redevelopment Areas.

Policy 01.14.01 - The City shall emphasize re-development and infill, which concentrates the growth and intensifies the land uses consistent with the availability of existing urban services and infrastructure in order to conserve natural and man-made resources.

Goals 03 - To provide structurally safe, affordable, uncrowded and otherwise adequate residential shelter for all existing and anticipated future residents of the City of Pompano Beach that utilize energy efficient, sustainable design, resilient construction techniques, materials and renewable energy resources.

Objective 03.01.00 - Housing to Accommodate Future Population The City should provide, through the undertaking or support of public and private development efforts, sufficient housing units through the long range planning horizon to meet the anticipated population through 2040. Provision of these units shall be based on the need for adequate and affordable housing for all segments of the existing and future population including those households with very-low, low, and moderate income and those with special housing needs, including homelessness.

Policy 03.08.01 - The City shall, through the mixed-use land use and zoning districts and other means, encourage new housing projects which contain compact building design principles, mixed use, pedestrian activity and support multi-modal transportation options.

Respectfully Submitted,



Michael Vonder Meulen, AICP

CC: Gery Fernandez
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