

**Alternative Motion III**

**Denial of the Commercial Flex Allocation.** Furthermore the Board finds that the allocation of the Commercial Flex is found to be not consistent with the goals, objectives and policies of the Comprehensive Plan, specifically:

**POLICY 01.03.11**     Consider the compatibility of adjacent land uses in all Land Use Plan amendments and rezonings.

**POLICY 01.03.12**     The following criteria may be used in evaluating rezoning requests:

1. Density;
2. Design;
3. Distance to similar development;
4. Existing adjoining uses;
5. Proposed adjoining uses;
6. Readiness for redevelopment of surrounding uses; and.
7. Proximity to mass transit.

Dr. Jerry Mills said that he does not understand the distinction between industrial vs. hotel. Ms. Karen Friedman stated that the applicant was suggested to submit an interpretation letter so that they can further evaluate the proposed use to understand how it would be handled both through the comprehensive plan and the zoning code. After the interpretation process, the City determined that from a zoning point of view the use would be called industrial and commercial from a land use perspective.

Ms. Joan Kovac asked the applicant if they will provide sleeping accommodations and showers. Ms. Vita Lipari (28 AV North 724, St. Petersburg, FL 33704) stated that the accommodations would be for employees to take mandatory DOT rest periods before getting back on the road. The building will have an exercise room, lounge, computer room and showers. The property will not be open for the public.

**MOTION** was made by Jerry Mills and seconded by Richard Klosiewicz to approve the commercial flex allocation. All voted in favor of the above motion; therefore, the motion passed.

**H.     ABANDONMENT/VACATION REQUESTS**

**4.     JEAN C. EMMANUEL / VACATION OF RIGHT-OF-WAY AT SOUTHLAND AVENUE**  
**Planning and Zoning #14-18000001**

Consideration of the request by **JEAN C. EMMANUEL** to abandon a .32 acre portion of SW 9<sup>th</sup> Avenue located to the north of the intersection of SW 9<sup>th</sup> Avenue and SW 8<sup>th</sup> Street, lying east of the I-95 wall. The width of the right-of-way varies from 60-feet to 30-feet. The right-of-way was

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Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // LB

never developed nor used as a street. The property is legally described as follows:

THIRTY FEET (30') OF S.W. 9<sup>TH</sup> AVENUE LYING CONTIGUOUS AND ADJACENT TO LOTS 10, 11 AND 12, BLOCK 12, OF THE AMENDED PLAT OF FAIRVIEW, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 25, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, LYING AND BEING IN THE CITY OF POMPANO BEACH, FLORIDA, PLUS THE EAST FORTY FEET (40') OF SW 9<sup>TH</sup> AVENUE, LYING CONTIGUOUS AND ADJACENT TO THE SOUTH 30 FEET OF LOT 13, AND THE NORTH 117.07 FEET OF THE SOUTH 147.07 FEET LYING WEST OF LOT 13 AND THE NORTH 12.75 OF THE SOUTH 159.82, OF THE WEST 30 FEET OF S.W. 9<sup>TH</sup> AVENUE LYING WEST OF LOT 13, ALL IN BLOCK 12, OF THE AMENDED PLAT OF FAIRVIEW, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 25, OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, LYING AND BEING IN THE CITY OF POMPANO BEACH, FLORIDA.

AKA: Area lying to the east of the I-95 wall north of intersection of SW 9<sup>th</sup> & SW 8<sup>th</sup> Street

STAFF CONTACT: Maggie Barszewski (954)786-7921

Ms. Maggie Barszewski introduced herself to the Board as a Planner, and stated that the applicant and owner, Jean Emanuel, is requesting the abandonment of a .32 acre portion of SW 9<sup>th</sup> Avenue located to the north of the intersection of SW 9<sup>th</sup> Avenue and SW 8<sup>th</sup> Street, lying east of the I-95 wall. The width of the right-of-way varies from 60-feet to 30-feet. The right-of-way was never developed nor used as a street.

Ms. Barszewski presented an aerial image of the property, and explained that the request is from Jean Emmanuel who wants to build a duplex in the property that is currently undeveloped. The applicant initially requested abandoning the area adjacent to the west of his property. However, the staff was not supportive of the request unless the applicant included the entire block of the right-of-way. Ms. Barszewski stated that notifications were sent to property owners that would be receiving property through certified mail.

Ms. Barszewski used a map to explain a hammerhead cutout. A dead-end currently exists at the location. The Fire Department requests a hammerhead cutout when there is a dead end. Ms. Barszewski stated that a portion of the easement should not be abandon in case a hammerhead cutout is needed and funds become available to build it. Currently, four service providers have not responded to the easement agreement request, including ATT, Tico Gas, FPL and Comcast.

Ms. Barszewski stated that given the information provided to the Board, staff provides the following alternative motions for the Board's review:

**Alternative Motions**

**I- Approve with conditions**

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Recommend approval to the City Commission with the following conditions:

1. This request will not be placed on a City Commission Agenda until all comments are received from each service provider, or until 60 days from the date of this recommendation, whichever occurs first.
2. Prior to placement on a City Commission agenda, an easement shall be included in the Ordinance that satisfies the Engineering & Utility Departments.

## **II- Table**

Table this abandonment request to allow time for the Applicant to address any objections raised by the affected parties.

## **III- Denial**

Recommend denial to the City Commission as the Board finds that the easement serves a public purpose and should not be abandoned.

Dr. Jerry Mills asked if the property is 30 feet wide. Ms. Maggie Barszewski stated that it narrows down to 30 feet behind the applicant's property. However, there is a portion to the south that is 60 feet wide.

Mr. Jean Emmanuel (7107 NW 47 Ln, Coconut Creek, FL 33073) introduced himself to the Board as the applicant. Dr. Jerry Mills asked the applicant for the purpose of the easement abandonment. Mr. Emmanuel explained that he wants to build a duplex.

Dr. Jerry Mills asked the staff if he will be able to build the duplex considering the size of the property. Ms. Maggie Barszewski stated that this is an additional property that would allow him to build the duplex.

Ms. Joan Kovac asked if Mr. Jean Emmanuel understands the two conditions proposed by staff. Ms. Maggie Barszewski repeated the question to Mr. Emmanuel, and he stated that he understands and accept the conditions.

Mr. Machel Colquhoun (871 SW 8 ST, Pompano Beach, FL 33062) introduced himself to the Board and stated that he is the owner of LOT 13, which is a property adjacent to the subject property. Mr. Colquhoun does not see the benefit of acquiring the additional property.

Mr. Richard Klosiewicz asked the applicant if he objects to the abandonment due to the increase in property taxes or the maintenance. Mr. Colquhoun restated that there are three reasons reinforcing his decision: increase in property taxes, higher property maintenance and lack of use for the extra property. Ms. Barszewski confirmed that taxes will increase even though there is a utility easement attached to the property.

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Ms. Barszewski stated that staff believes the whole easement should be abandoned rather than just half of it. Mr. Fred Stacer asked Ms. Barszewski the reasoning behind this decision. Ms. Barszewski responded that they are not in favor of creating areas that are pockets. The entire area is a public right-of-way. A pocket area of public right of way will be created by abandoning a portion of the easement.

Mr. Richard Klosiewicz asked a question about the physical impact created in this area by not including it as part of the abandonment. Ms. Barszewski stated that the area will not look any different. The only factor that would change is the ownership of the property. The question is if the land should be publicly owned or privately owned. The City will be maintaining less property if it becomes privately owned.

Dr. Jerry Mills asked why the applicant cannot abandon only 30 feet next to Jean Emmanuel's property. Mr. Richard Klosiewicz stated that an amendment can be made to the motion.

**MOTION** was made by Jerry Mills and seconded by Richard Klosiewicz to amend Alternative Motion I to only abandon 30 feet of the right of way. All voted in favor of the above motion; therefore, the motion passed.

**MOTION** was made by Dwight Evans and seconded by Joan Kovac to recommend approval of the abandonment request (AS AMENDED) subject to the two (2) conditions of staff. All voted in favor of the above motion; therefore, the motion passed.

**5.     STEVE PAVLOU / PAVLOU UTILITY EASEMENT VACATION**  
**Planning and Zoning #16-27000002**

Consideration of the request by **STEVE PAVLOU** to abandon a 5-foot wide utility easement located at 605 SE 28 Avenue, in order to construct an in-ground swimming pool. The area to be abandoned is approximately 362.5 square feet. The property is legally described as follows:

THE WEST 5 FEET OF LOT 3, BLOCK 5 OF CYPRESS POINT,  
ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK  
28, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY,  
FLORIDA, OTHER-WISE KNOWN AS 605 SE 28<sup>TH</sup> AVENUE, POMPANO  
BEACH, FLORIDA.

AKA: Utility easement at 605 SE 28<sup>th</sup> Avenue  
STAFF CONTACT: Maggie Barszewski (954)786-7921

**MOTION** was made by Joan Kovac and seconded by Richard Klosiewicz to take item number 5 out of order. All voted in favor of the above motion; therefore, the motion passed.