

Mr. Stacer opened the hearing to the public. Seeing that there was no one in the audience who wished to speak, the hearing was closed.

MOTION was made by Tony Hill and seconded by Jerry Mills to approve Site Plan PZ #17-12000022 subject to the six conditions of staff. All voted in favor of the motion, therefore the motion passed.

I. OTHER BUSINESS

**6. CHAPTER 155 ZONING CODE TEXT AMENDMENTS, NEW
AUTOMOBILE AND LIGHT TRUCK SALES
Planning and Zoning #17-81000001**

Consideration of a text amendment requested by **ROD A. FEINER** on behalf of **DALY REAL ESTATE LLC** to insert a new use into the Zoning Code, Section 155.4219 (Commercial: Motor Vehicle Sales and Service Uses) as well as Appendix A: Consolidated Use Table. The proposed use is: "Limited Auto Dealership; Fleet Automobile Sales."

Ms. Paola West, Principal Planner, presented herself to the Board. She stated that the applicant is requesting a new use be inserted into the Zoning Code, Section 155.4219 (Commercial: Motor Vehicle Sales and Service Uses) as well as Appendix A: Consolidated Use Table.

The proposed use is: "Limited Auto Dealership; Fleet Automobile Sales."

The proposed definition of the use is: a use which consists of premises on which "those automobiles never having an individual owner and were purchased directly from a manufacturer by a corporate entity whose purpose is to purchase a fleet of vehicles and operate that fleet of vehicles for short term rentals which are currently being offered to sale. Fleet vehicles are part of a total fleet exceeding Five Thousand (5,000) vehicles and have never been re-sold for consideration to another person or entity, except to a related corporate entity such as a direct or indirect parent, subsidiary or affiliate." The goal of the proposed text amendment is to recognize and properly identify auto rental agencies (such as Avis, Budget, etc.) that now offer their vehicles for sale to be purchased by the public. The vehicles being offered for sale are in like-new condition (no older than 2 years) and the sale of automobiles is the principal use of the business, not accessory to car rental. The proposed permitted by right districts are I-1 and I-1X. The zoning districts where the use would be allowed only with the approval of a Special Exception are B-3 and B-4.

Ms. West stated that this text amendment was reviewed at DRC on May 17, 2017. Provided the Board approves the text amendment as submitted, staff recommends approval of the text amendment, subject to the following revision:

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Use Specific Standard: Add a use specific standard requiring that accessory auto service is subject to Special Exception approval. This requirement would apply in addition to the requirement for the principal use to obtain Special Exception in a B-3 or B-4 zoning district.

Mr. Hill asked for clarification about the 5,000 units described.

Mr. Rod Feiner (1404 S Andrews Avenue, Fort Lauderdale, FL) introduced himself to the Board as the attorney for the property owner. He stated that the 5,000 vehicles described are all in the regional area. They are not purchased at the same time, but are owned by the same company at the same time. The text amendment fills a gap that was created by a change in the market. Used car sales are only allowed in B-4. Previously, the rental car companies buy their cars directly from the manufacturers and would then sell the cars back to the manufacturers after a year or two. Due to the financial crash of 2008 and the auto bailout, manufacturers no longer buy these cars back. This has created a new use of selling former rental cars. The cars would be classified and restricted in special ways that other used cars would not be. The text amendment proposes restrictions to differentiate it in the same way the exotic cars are noted in the use standards. There would be a requirement that the land be at least .75 acres of property, have a showroom, and have a maximum separation requirement of ½ mile from a new car dealership. The requirements would practically limit the use to large companies like Avis, Budget, Hertz, and Enterprise.

Mr. Hill asked for further clarification of the 5,000 units.

Mr. Feiner responded that the 5,000 cars would be in the regional fleet and that this would prohibit smaller companies from using this use classification. He suggested that the 5,000 vehicles would need to be licensed in the state of Florida.

Ms. Kovac asked about the affiliation of the applicant.

Mr. Feiner stated that the applicant land owner wants to use his property on Federal Highway to sell fleet vehicles on his property. He stated that it would not be appropriate to rezone the property because of the surrounding land use and zoning.

Ms. Eaton asked staff if new car sales are allowed in B-4.

Ms. West confirmed this.

Ms. Eaton stated that the proposed amendment favors a particular person. She stated that Federal Highway is plagued by all of the car dealerships and is afraid that this will only make the problem worse. She also noted that it is discriminative to other companies such as Off Lease. She expressed a concern that the show room requirement is very small. She stated that she agrees with the letter from Kim Briesmeister of the CRA.

Mr. Feiner stated that the location requirement was suggested by staff and added that the use is special exception use, so they will be reviewed by the Zoning Board of Appeals.

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He stated that only a few companies would be able to utilize this new category and that these cars would only be 12 to 18 months old on average.

Ms. Eaton asked for clarification on Special Exceptions.

Ms. West stated that the Zoning Board of Appeals would have to review and approve a special exception request for this use in any B-3 or B-4 zoning district.

Ms. Eaton asked if this applicant would need to request a Special Exception.

Ms. West confirmed this and explained that this is described in the staff report.

Mr. Klosiewicz asked what is currently on the applicant's property.

Mr. Feiner stated that it is an exotic car dealer.

Mr. Klosiewicz asked how those cars would be different than the exotic cars.

Ms. West responded that the new car definition includes exotic cars.

Mr. Feiner added that the City Commission deemed exotic cars as being more approximate to new cars than used cars.

Mr. Klosiewicz asked why there are restrictions of sales of used cars in certain zoning districts.

Ms. West stated that the lots for used cars tend to be smaller and the cars are much older.

Mr. Stacer stated that new car sales businesses tend to be much nicer than used car sales businesses.

Mr. Feiner added that new car dealers are allowed to have used car sales as an accessory to the new sales.

Mr. Stacer asked if there is any restriction in the east CRA.

Mr. Feiner stated that there would be no locations available in the East CRA since there are no new car dealerships. He stated that there would only be two locations possible in the west CRA. He stated that they would be amenable to add in a restriction from the CRA areas.

Ms. Sarver cautioned against including any language prohibiting this use from the CRA areas. She suggested using distance requirements instead.

Mr. Stacer stated that he doesn't want to see any car uses along Atlantic Boulevard.

Ms. Sarver stated that there were similar concerns against restricting Medical Marijuana from the CRA districts and so distance requirements were used instead. She stated that she has not yet vetted this request closely but would have the opportunity to work with staff and the applicant to find a solution before going to the City Commission.

Mr. Feiner suggested that the Board can include a condition to the effect that a prohibition be included subject to the details of it being worked out with staff.

Ms. West voiced her concern against making a prohibition from the CRA areas.

Ms. Sarver pointed out the differences between how marijuana uses and this new car sales use might impact the legality of prohibiting their location.

Ms. West pointed out that the AOD does not permit auto uses, and the portion of the proposed ETOC outside of the AOD is zoned B-1 or B-2, neither of which permit auto sales.

Mr. Stacer reiterated that by whatever form it takes he does not wish to see auto sales in this part of the City, especially after the recent CRA purchase of land that was done specifically to extinguish an auto use.

Ms. Eaton stated that the City has not completely fleshed out the overlay district and where future ones might be located. She questioned whether there would be multiple locations that would be allowed to be this use and if not, she asked if this would be legal.

Ms. Sarver responded that other parcels of land could be acquired that could make new locations eligible for this use.

Mr. Stacer pointed out that it would be permitted by right in certain zoning districts.

Mr. Hill asked about the existing Hertz dealership.

Mr. Feiner stated that they are legally nonconforming.

Ms. Jennifer Gomez, Assistant Development Services Director, explained that the future ETOC will take in most of the AOD, all of the B-1 parcels, and some B-3 parcels.

Ms. Dolan added that the ETOC language that is being drafted will prohibit auto-oriented uses in any case.

Mr. Hill asked why the CRA does not support staff's suggestion of the new use being within ½ mile.

Mr. Feiner stated that the CRA would like this new use to be separated from each other, not that they would be separated from the new car dealerships.

Dr. Mills asked if rental car companies cannot sell cars.

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Mr. Feiner stated that they cannot sell their used cars in B-3.

Ms. Eaton stated that she thinks the CRA's recommendation should be further discussed.

Ms. West stated that a change of use would require a site plan to be approved, which would make the property more code compliant.

Mr. Feiner stated that they do not agree with the limit on the frontage to 100 feet.

Dr. Mills asked why the CRA is being discussed when there are comments from the CRA that says they have no objections.

Ms. West stated that the CRA originally thought that this request was tied to a specific address which is outside the CRA boundaries.

Mr. Feiner stated that their comments in the letter submitted were specific to the location.

Mr. Hill stated that he doesn't see any change in the text amendment from the comments from the DRC.

Ms. West stated that most of the issues were satisfied with clarification.

Mr. Feiner added that there was a change regarding repair.

Mr. Hill stated that his car also qualifies from everything except that it is not a fleet vehicle. He argued that a used car is a used car, regardless of whether it was a rental.

Mr. Feiner stated that the fleet vehicles are kept in a certain condition. They would also be required to be titled in the name of the corporation until it is sold.

Mr. Stacer opened the hearing to the public. Seeing that there was no one in the audience who wished to speak, the hearing was closed.

MOTION was made by Joan Kovac and seconded by Richard Klosiewicz to recommend approval of the Text Amendment PZ #17-81000001 subject to the recommended revision of staff as well as to not allow this use within the CRA areas, subject to Development Services staff and the City Attorney's office working on the details, and also that the 5,000 vehicles required be titled in the State of Florida. All voted in favor of the motion with the exception of Rhonda Eaton and Tony Hill, therefore the motion passed.

7. FLEXIBILITY RECEIVING AREA MAP AMENDMENT

Consideration of a Flexibility Receiving Area map amendment requested by **CITY OF POMPANO BEACH** to address changes in the

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