

Mr. Hill stated that he would like a little more clarity as to what other processes could be done to resolve the situation. He commented that the amended condition seems overly vague.

Ms. Dolan clarified that if units are obtained from North Palm Aire, this Land Use Amendment will be dropped.

Ms. Sarver commented that it seems that the language is not to enable staff to make decisions on behalf of the Board but rather just to allow for whatever court process that is deemed necessary to play out.

Mr. Vonder Meulen stated that this issue is about the potential availability of units and whether this needs to go through the court system.

***Vote:***

All voted in favor of the motion, therefore the motion passed

**H.     ZONING MAP AMENDMENTS (REZONING)**

→ **3.     PALM AIRE GROUP LLC / POMPAÑO HEALTH PARK**  
**Planning and Zoning #16-13000006**

Consideration of the request by **SHALINA JAFFER** on behalf of **PALM AIRE GROUP, LLC** to rezone the property from B-2 (Community Business) to B-3 (General Business). This property is a 0.66-acre site and the address is 20 SW 27 Avenue. The intention of the applicant is to expand the medical uses in the building to provide such for the neighboring elderly and greater community population. The applicant has offered a voluntary declaration of restricted uses to limit certain types of B-3 uses that would be in conflict with the surrounding properties. This rezoning request was heard at the April 26, 2017 P&Z meeting where it was recommended for approval. Subsequent to that meeting, prior to City Commission consideration, the applicant made a request for reconsideration by the P&Z Board in order to modify the list of voluntary restrictions. The property is legally described as follows:

PARCEL C OF LOEHMANN'S PLAZA AT PALM-AIRE ADDITION II,  
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 105,  
PAGE(S) 1, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

AKA: 20 SW 27 Avenue  
ZONED: B-2 (Community Business)  
TO: B-3 (General Business)  
STAFF CONTACT: Maggie Barszewski (954)786-7921

Ms. Maggie Barszewski, Planner, presented herself to the Board. She stated that this rezoning request was heard at the April 26, 2017 P&Z meeting where it was

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recommended for approval. Subsequent to that meeting and prior to City Commission consideration, the applicant made a request for reconsideration by the P&Z Board in order to modify the list of voluntary restrictions.

She explained that the applicant is requesting to intensify the Commercial designation from B-2 (Community Business) to B-3 (General Business). The subject property is located across the street and south of property zoned B-3. There is a fire station to the north on B-2 zoned property with B-2 property also being on properties to the south & east. On the west is an assisted living facility zoned RM-45 (Multi-Family Residential). The existing 17,230-square foot building currently has a senior medical care and home assistance service located in it. The intention of the applicant is to expand the medical uses in the building to provide such for the neighboring elderly and greater community population. The applicant has offered a voluntary declaration of restricted uses to limit certain types of B-3 uses that would be in conflict with the surrounding properties

In light of the voluntary restrictions, staff believes that the applicant has adequately provided competent substantial evidence in addressing the Comprehensive Plan's Policies regarding incompatibility that could otherwise have resulted from an approval of this B-3 rezoning request. Furthermore, the applicant did hold a Neighborhood meeting per §155.2302 of the Code to address possible concerns of the adjacent community. Staff attended the meeting and found that the residents that attended said they were looking forward to the additional health uses that could provide more localized service to the neighborhood.

Ms. Barszewski stated that staff is of the opinion that there is a reasonable basis to support this request for rezoning because there is B-3 zoning located to the northwest of the subject property; and the rezoning would be compatible with the surrounding uses such as those within the adjacent Winn-Dixie shopping plaza. The degree of intensity that arguably is increased from the rezoning of this property from B-2 to B-3 is mitigated with the applicant volunteering to record a Declaration of Restrictive Covenant limiting the more intense uses that are allowed in B-3 which will prevent those uses to apply to this property. This will provide the required compatibility with the surrounding uses thereby employing the principals of the Comprehensive Plan and meeting those requirements.

Ms. Barszewski provided the following alternative motions:

- 1) Recommend approval of the rezoning request as the board finds the rezoning application is consistent with the aforementioned pertinent Future Land Use policies.
- 2) Table this application for additional information as requested by the Board.
- 3) Recommend denial as the Board finds that the request is not consistent with the following pertinent Future Land Use policies:
  - 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;

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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.

Staff recommends Alternative Motion 1.

Mr. Stacer asked how the current proposal differs from what was approved before.

Ms. Barszewski stated that the previous list was broader. She explained that because the declaration of restricted uses was needed before the City Commission heard the item, the applicant has revised the list of uses that would be listed.

Mr. Hill asked where the B-3 zoning district is located.

Ms. Barszewski showed the area to the northwest of the property that is currently zoned B-3.

Ms. Eaton asked for clarification regarding what uses are permitted in B-3 compared with B-2.

Ms. Barszewski responded that the intention is to show what new uses would be allowed.

Mr. Stacer added that there is a list of approximately 40 uses that the applicant would restrict on the property.

Mr. Hill asked if all of the uses determined by staff to be incompatible with the residential properties are part of the exclusion list.

Ms. Sarver confirmed that all of the uses restricted on page 15 of the staff report include the ones that staff felt were incompatible with residential. She asked that there be a condition that the City Attorney's office need to approve the instrument of restrictive covenant.

Dr. Mills asked why restaurants are not on the list.

Ms. Barszewski stated that the Board may recommend that additional uses be added to the list if they desire.

Ms. Shalina Jaffer (3410 Stallion Lane, Weston, FL) introduced herself to the Board as the agent for the property owner. She stated that the applicant had too broadly restricted the uses when they were before the Board initially. As such, the current proposal has more specifically defined uses. The intent is still to have medical uses on the property.

Dr. Mills asked for clarification as to which property is being discussed.

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Ms. Jaffer explained that it is behind the shopping center with the grocery store.

Ms. Barszewski showed the aerial view.

Mr. Hill asked if there are any new uses being allowed compared with when they were first before the Board.

Ms. Jaffer stated that the new proposal lists the uses as defined in the code as opposed to their first list which was more generic.

Mr. Hill asked why the change to B-3 is desired.

Ms. Jaffer stated that the owner wanted to do full building medical offices, which is prohibited in the B-2 zoning district.

Mr. Hill asked why the restriction on restaurants.

Ms. Jaffer stated that there was a concern from staff about the sales of alcohol.

Ms. Eaton asked why the applicant did not apply for a special exception or a variance for this desired medical use.

Ms. Paola West, Principal Planner, explained that use variances are not legal.

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.

Mr. Stacer commented that adding a condition for the City Attorney's office to review the restrictive covenant would be a good idea.

**MOTION** was made by Joan Kovac and seconded by Tony Hill to recommend approval of the Rezoning PZ #16-13000006 per Alternative Motion #1 of staff, with the added condition that the City Attorney's office review and approve the instrument of the restrictive covenant. All voted in favor of the motion, therefore the motion passed.

*The following item was postponed at the July 26, 2017 Planning and Zoning Board meeting to the August 23, 2017 Planning and Zoning Board meeting.*

**4.     225 NORTH FEDERAL HIGHWAY, LLC / ATLANTIC TOWER**  
**REZONING**  
**Planning and Zoning #17-13000002**

Consideration of the request by **DENNIS MELE** on behalf of **225 NORTH FEDERAL HIGHWAY, LLC** to rezone the subject property from B-3/AOD (General Business / Atlantic Boulevard Overlay District)

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