

# MEMORANDUM

## Development Services

### ADMINISTRATIVE MEMORANDUM NO. 17-303

DATE: August 10, 2017

TO: Planning and Zoning Board

VIA: David L. Recor, ICMA-CM, Acting Development Services Director  
Jennifer Gomez, Assistant Development Services Director

FROM: Maggie Barszewski, AICP, Planner

RE: Rezoning – From B-2 Neighborhood Commercial to B-3 (General Commercial)  
Location – 20 SW 27<sup>th</sup> Avenue

August 23, 2017 Meeting

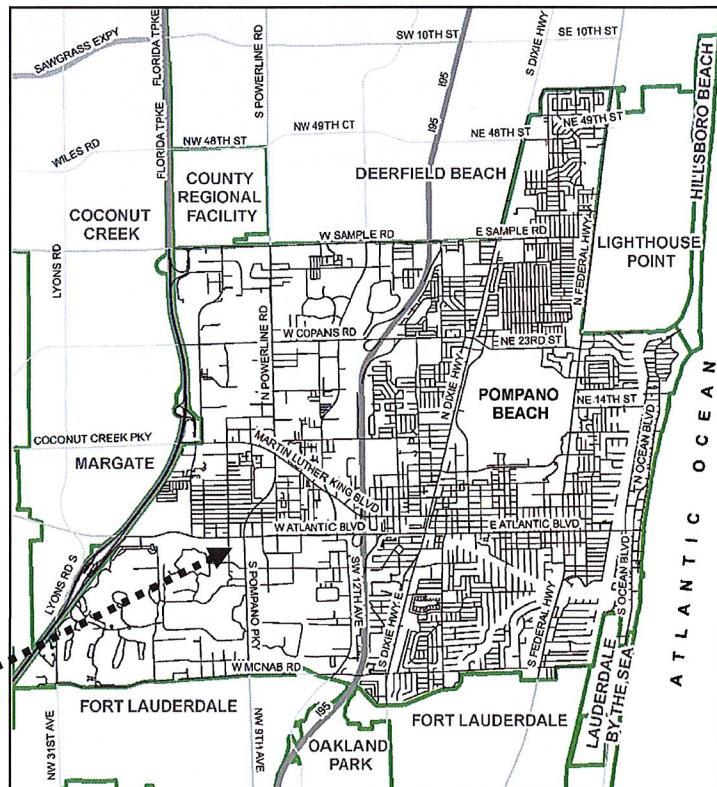
P&Z # 16-13000006

#### Request

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 (*see attached letter*) in order to modify the list of voluntary restrictions.

This approximate .66-acre property is located at 20 SW 27 Avenue. 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 (*see attached Voluntary Restricted Uses List*)

20 SW 27 Avenue  
Folio: 494204230010



## LEGEND

### FOR LAND USE PLAN

Symbol      Classification Units/ Acre

	Gross Residential Density	
	Residential	
E	Estate	
L	Low	
LM	Low- Medium	
M	Medium	
MH	Medium-High	
H	High	
*	C	Commercial
CR	Commercial Recreation	
I	Industrial	
T	Transportation	
U	Utilities	
CF	Community Facilities	
OR	Recreation & Open Space	
W	Water	
LAC	Local Activity Center	
RAC	Regional Activity Center	
	Boundaries	
	City of Pompano Beach	
	Number	
	Reflects the maximum total number of units permitted within the dashed line of Palm Aire & Cypress Bend being 9,724 and 1,998	

### FOR ZONING MAP

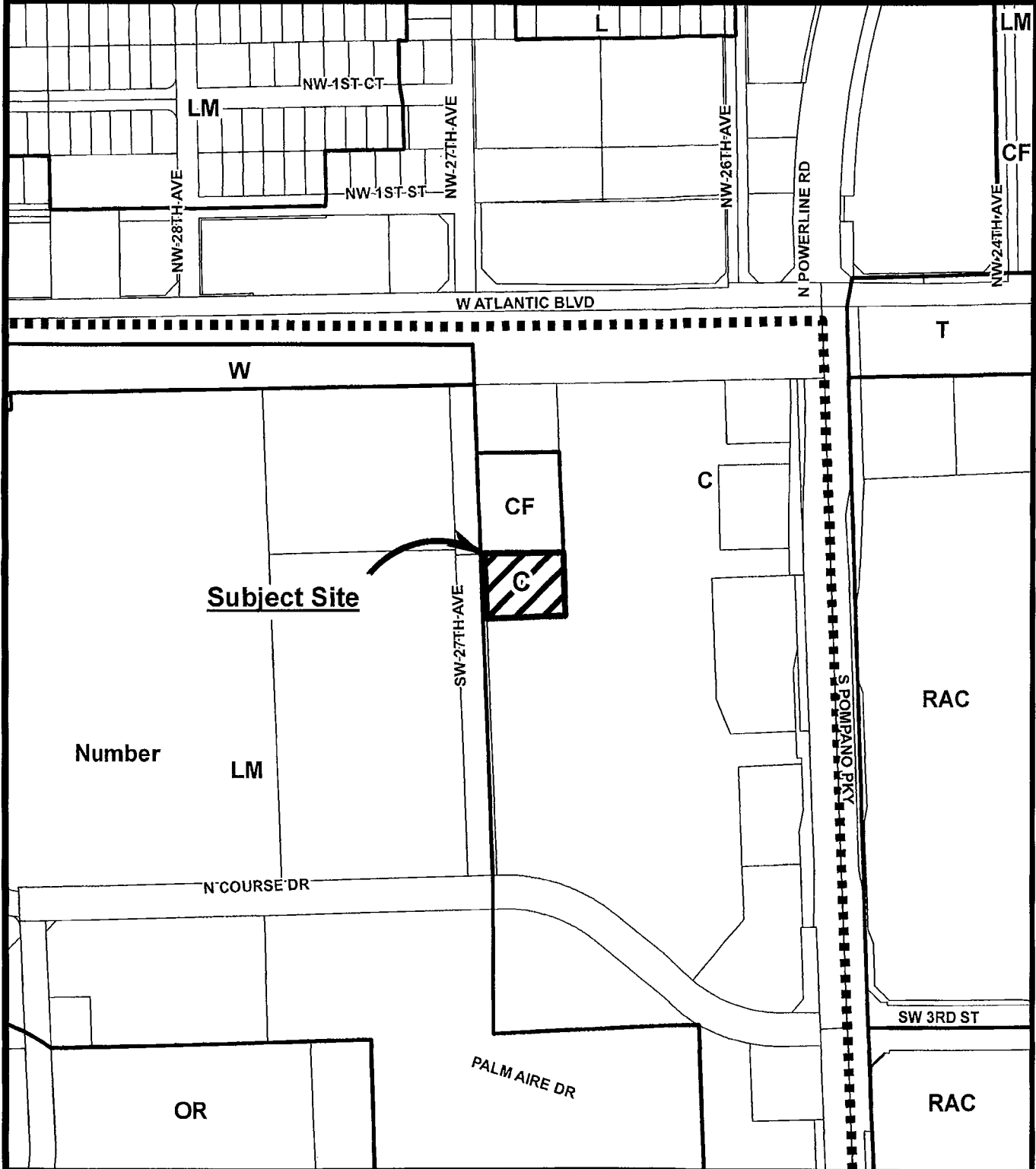
Symbol      District

RS-1	One-Family Residence
RS-2	One-Family Residence
RS-3	One-Family Residence
RS-4	One-Family Residence
RD-1	Two- Family Residence
RM-12	Multi-Family Residence
RM-20	Multi-Family Residence
RM-30	Multi-Family Residence
RM-45	Multi-Family Residence
RM-45/HR	Overlay
RPUD	Residential Planned Unit Dev.
AOD	Atlantic Boulevard Overlay District
MH-12	Mobile Home Park
B-1	Limited Business
B-2	Neighborhood Business
B-3	General Business
B-4	Heavy Business
M-1	Marina Business
M-2	Marina Industrial
LAC	Local Activity Center
I-1	General Industrial
I-1X	Special Industrial
O-IP	Office Industrial Park
BP	Business Parking
BSC	Planned Shopping Center
PCI	Planned Commercial / Industrial Overlay
PR	Parks & Recreation
CR	Commerical Recreation
CF	Community Facilities
T	Transportation
PU	Public Utility

\*  
>

* Existing
> Proposed

# CITY OF POMPANO BEACH OFFICIAL LAND USE MAP



1 in = 333 ft

3

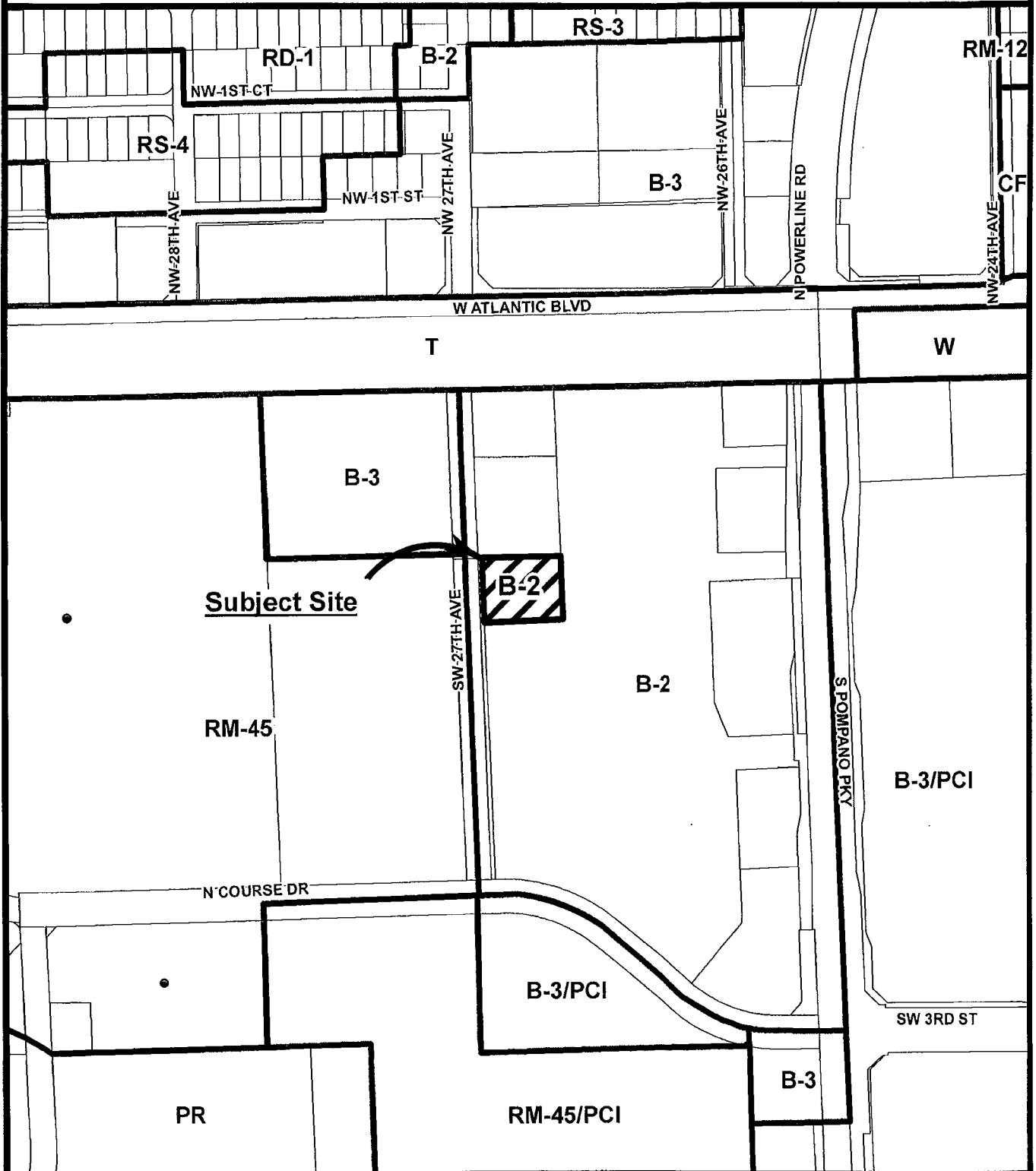
PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES

5/12/2017

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# CITY OF POMPANO BEACH OFFICIAL ZONING MAP



1 in = 333 ft

4

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES

5/12/2017

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# CITY OF POMPANO BEACH AERIAL MAP



1 in = 333 ft

5

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DEPARTMENT OF  
DEVELOPMENT SERVICES

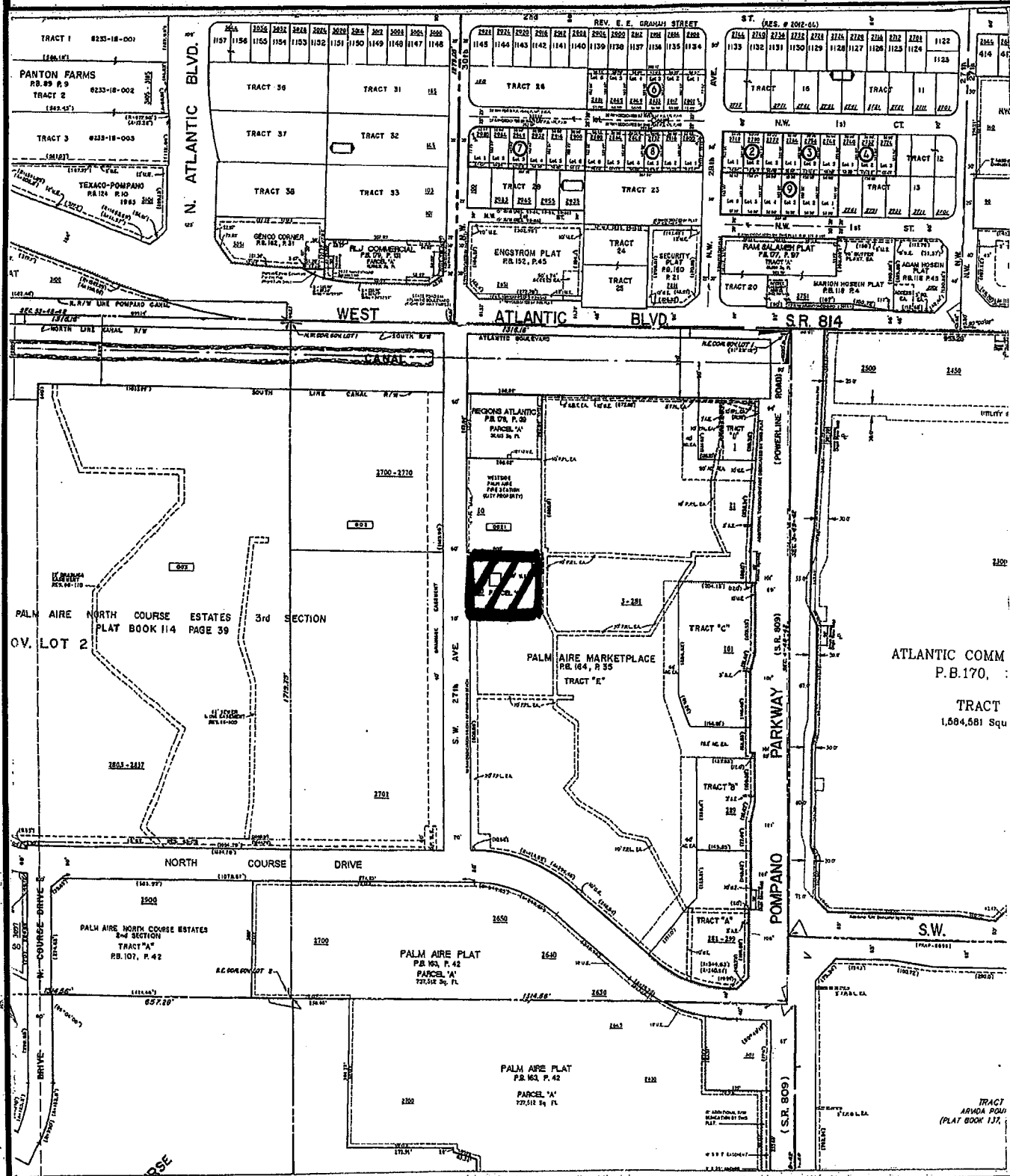
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EXCERPT FROM THE CITY OF POMPANO BEACH  
PLAT MAP



SCALE: NTS

6

NORTH

## **Review and Summary**

**A.** Pursuant to Section 155.2207(B) [Development Review Committee Report and Notice to Applicant], the Development Services Director has compiled the department comments from the Development Review Committee (DRC) meeting held on 1/4/17. Review comments from that meeting are summarized below:

### **Zoning**

1. The applicant must demonstrate the reasons that this property should be rezoned to B-3 and how such a rezoning would meet the intent specified in the following Code provisions:

#### **§155.3304. GENERAL BUSINESS (B-3)**

##### **A. Purpose**

The General Business (B-3) district is established and intended to accommodate a diverse range of moderate-intensity retail, service, office, recreation/entertainment, visitor accommodation, and institutional uses that serve the residents and businesses in the community at large (e.g., most retail sales and service uses, restaurants, offices, banks, restaurants, gasoline filling stations, marinas, auto and boat sales and service uses, theaters, hotels, child care facilities, vocational or trade schools, health care facilities, places of worship). It also accommodates complementary residential uses (e.g., live-work and upper-story dwellings) and moderate- to high-density multifamily development (either stand-alone or mixed with commercial development).

2. The applicant must demonstrate that the review standards have been met as stated in the following Code provisions:

#### **§155.2307**

##### **A. Burden of Proof and Persuasion**

The applicant bears the burden of demonstrating that an application complies with applicable review standards. The burden is not on the city or other parties to show that the standards are not met by the applicant.

#### **§155.2403. GENERAL ZONING MAP AMENDMENT (REZONING)**

##### **C. General Zoning Map Amendment Review Standards**

The advisability of a general amendment to the Official Zoning Map is a matter committed to the legislative discretion of the City Commission and is not controlled by any one factor. In determining whether to adopt or deny a proposed General Zoning Map Amendment, the city shall weigh the relevance of and consider whether the extent to which the proposed amendment:

1. Is consistent with the Future Land Use Category and any applicable goals, objectives, and policies of the comprehensive plan.

##### **Review for consistency with City's Comprehensive Plan**

The applicant must provide competent and substantial evidence that there is consistency with the following policies concerning compatibility:

##### **Future Land Use**

Policy 01.03.06 Consider density and intensity revisions with an emphasis on minimal negative impacts to existing residential areas, particularly single family areas.

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.

**Comments:**

This is a request to intensify the Commercial Zoning designation from B-2 (Community Business) to B-3 (General Business). The applicant has not demonstrated consistency with the above-listed policies concerning compatibility with the surrounding properties; and there is also a possible issue with spot zoning.

The adjacent properties include:

- North – B-2 Zoned land
- East – B-2 Zoned land
- South – B2 zoned land
- West – RM-45 – Multiple-Family Residential

There are many uses in the B-3 zoning district that Staff considers to be incompatible with the residential uses directly adjacent to the subject property. Therefore staff would not be able to support this request to rezone the subject property unless the concerns of compatibility and spot zoning are addressed. The applicant has mentioned an intent to conduct a Neighborhood meeting per §155.2302 of the Code. Such a meeting could address possible compatibility concerns with the surrounding properties.

## **Engineering Department**

No Comments

## **CRA**

This project is not within the CRA and does not conflict with the CRA redevelopment goals/objectives. The CRA offers no comments or objections at this time.

## **Utilities**

Please note that additional comments may be forthcoming contingent upon submittals and review process.

- The Utilities department has no comment with regard to the requested Rezoning from B-2 / Community Business to B-3 / General Business.

## **Fire Department**

This P&Z application is able to meet all of the Fire Department requirements at this time for REZONING ONLY. Site plan approval will be required, maintaining all proper fire department access and water supply requirements as per chapter 18 of NFPA 1 as amended from time to time.

\*Additional comments may follow throughout the remainder of the permitting process. The buildings shall be in compliance with All NFPA Standards prior to receiving Fire Department approval.



## **BSO**

No Comments

## **Building Division**

Additional comments may follow throughout the remainder of the permitting process. At this time, the Building Division has no objections. Buildings shall comply with the 2014 Florida Building Code, HVHZ requirements, and appropriate floodplain ordinances.

1) Provide Survey, to verify all elevations applicable to the site, in addition, elevations at plans and survey must be in NAVD format and noted at plans and survey.

a. Elevations will be in accordance with City Ordinance 152.29 (C)

2) 53.14 - Erosion and sedimentation control permit to be submitted at the time of permit.

3) A construction fence and permit will be required when any construction activity will occur and it shall contain all construction debris, airborne and otherwise, on the subject construction site as per City Ordinance 152.06.

4) Parking spaces complying with 502 that serve a particular building or facility shall be located on the shortest accessible route from parking to an entrance complying with 206.4. All spaces must be located on an accessible route that is at least 44 inches (1118 mm) wide and so that users:

a) are not compelled to walk or wheel behind parked vehicles except behind his or her own vehicle.

## **Landscape Review**

All landscape must be in accordance with the approved plan on file.

## **Solid Waste**

No Comments

**B. The following policies of the City's Comprehensive Plan have been identified as pertinent to this rezoning:**

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.

**C. Findings of Fact. Development Services Department Staff submits the following factual information which is relevant to this Rezoning Application:**

1. The rezoning was reviewed by DRC on January 4, 2017.
2. The property is located at 20 SW 27 Avenue.
3. The overall site is .66 net acres and has a 17,230-square foot building on it.
4. The Zoning and uses of adjacent properties are:

Property	Adjacent Property	Zoning District	Existing Use
East of A1A	North	B-2 (Community Business)	Fire Station
	South	B-2 (Community Business)	Palm Aire Marketplace Retail & offices
	East	B-2 (Community Business)	Palm Aire Marketplace Retail & offices
	West	RM-45	Assisted Living Facility

5. The Land Use Designation is C (Commercial).
6. The review criteria for a Site-Specific Rezoning Application are in compliance with the proposed zoning reclassification standards in:
  - Section 155.2404.C, Site-Specific Zoning Map Amendment Review Standards
    1. The applicant has provided, as part of the record of the public hearing on the application, competent substantial evidence that the proposed amendment:
      - a. Is consistent with the Future Land Use Category and any applicable goals, objectives, and policies of the comprehensive plan and all other applicable city-adopted plans.

## D. Analysis

In the review criteria it states that the applicant must provide competent substantial evidence that the proposed amendment:

- a. Is consistent with the Future Land Use Category and any applicable goals, objectives, and policies of the comprehensive plan and all other applicable city-adopted plans.

This requirement was also stated in the DRC Planning and Zoning comments state:

- 1) The need to demonstrate consistency with the Comprehensive Plan Policies concerning compatibility with the surrounding properties; and
- 2) There is also a possible issue with spot zoning.

In addressing number 1 above, the applicant addresses the compatibility issue by offering voluntary restrictions to limit the B-3 uses that would otherwise be allowed in the existing building. For clarification, Staff has identified in the table below, the uses that this applicant is requesting to add to the B-2 District uses that are currently allowed on the property (excluding the voluntary restricted uses).

Uses Allowed in B-3, not allowed in B-2 (with restrictions)	Zoning Code Section
Community Center	155.4205. A.
Library	155.4205. B.
Museum	155.4205. C.
Senior Center	155.4205. D.
Specialty Medical Facility*	155.4209. B. [ <i>Special Exception Use</i> ]
Urgent Care Facility 24 hours	155.4209. C. [ <i>Special Exception Use</i> ]
General Hospital	155.4209. E. [ <i>Special Exception Use</i> ]
Medical or Dental Lab	155.4209. F. [ <i>Special Exception Use</i> ]
Pet Hotel	155.4214. C.
Veterinary hospital or clinic	155.4214. D.
Conference or training center	155.4216. B.
Other Outdoor Commercial or membership recreation/ entertainment use	155.4217. N. [ <i>Special Exception Use</i> ]
Automotive parts sales without installation	155.4219. C.
Repair of scientific or professional instruments	155.4226. M.
*Voluntary Restricted Uses specifically prohibits “substance Abuse Treatment facilities, and outpatient rehabilitation facilities” within Specialty Medical Facilities.	

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. They also conveyed their request that the voluntary restrictions include bar and nightclub uses. Even with this revised list, the applicant is prohibiting these uses as well as the entire category of “Eating and Drinking Establishments”.



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. Furthermore, 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. Finally, the applicant voluntarily agreed to meet with the neighboring community where the rezoning was viewed by those attending as a benefit to the neighborhood since it would result in the provision of useful services within close proximity.

**D. Recommendation:**

Given the information provided to the Board, as the finder of fact, staff provides the following recommendation and alternative motions, which may be revised or modified at the Board's discretion.

**Alternative Motion I**

Recommend approval of the rezoning request as the board finds the rezoning application is consistent with the aforementioned pertinent Future Land Use policies.

**Alternative Motion II**

Table this application for additional information as requested by the Board.

**Alternative Motion III**

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;
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 I**

Date: 07.11.2017

To: City of Pompano Beach, Planning and Zoning Department

Re: Request for Site Rezoning - 20 SW 27<sup>th</sup> Ave, Pompano Beach FL

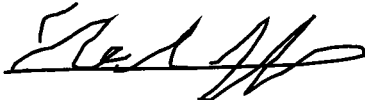
To Whom It May Concern:

Please accept this letter as my formal request for reconsideration and to be heard at the upcoming August Planning Board meeting. It was brought to our attention that our Letter of Demonstration was too broadly self restricting uses in order to support the request of change from B-2 to B-3 zoning.

We have put together the Declaration of Restrictive Covenants (as requested by City Staff) to read more concisely and list specifically the uses to be restricted.

Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shalina Jaffer', written over a horizontal line.

Shalina Jaffer

Project Manager / Owner Representative



## Voluntary Restricted Uses List

1. Assisted living facility
2. Continuing care retirement community
3. Rooming or boarding house
4. Radio or television station
5. Telecommunications facility, on a new freestanding tower
6. Youth center
7. College or university
8. School, elementary
9. School, high
10. School, middle
11. Vocational or trade school
12. Courthouse facility
13. Specialty hospital
14. Specialty medical facility - substance abuse treatment facilities and outpatient rehabilitation facilities
15. Nursing home facility
16. Civic center
17. Lodge or club
18. Place of worship
19. Transportation passenger station/terminal
20. Solar energy collection system (as a principal use)
21. Pet shop
22. Any Boat and Marine Sales and Service Uses
23. Day labor service
24. Telephone call center
25. Arena stadium, or amphitheater
26. Other indoor commercial or membership recreation/entertainment use
27. Automotive parts sales with installation
28. Automotive repair and maintenance facility
29. Battery exchange station
30. Car wash or auto detailing
31. New Automobile and Light Truck sales
32. Automobile and Light Truck rental
33. Muffler/transmission sales and installation
34. Park deck or garage (as principal use) 37. Parking Lot (as principal use)
35. Tire sales and mounting
36. Heavy Truck/recreational vehicle/trailer rental
37. Check cashing or payday loan store
38. Fortune telling establishment
39. Funeral home or mortuary
40. Laundromat
41. Tattoo or body piercing establishment
42. Auction house
43. Consignment boutique
44. Local liquor or package store
45. Regional liquor or package store
46. Beer or wine store
47. Thrift shop
48. Retail sales establishment, large
49. Indoor mall or marketplace
50. Hotel or motel
51. Bar or lounge
52. Brewpub
53. Hall for Hire
54. Nightclub
55. Restaurant
56. Specialty eating or drinking establishment