



## CITY OF POMPANO BEACH FLORIDA

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**CITY HALL OFFICES:**

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PLANNING AND ZONING BOARD/LOCAL  
PLANNING AGENCY

March 28<sup>th</sup>, 2018  
Wednesday

City Commission Chambers

6:00 P.M.

### ***MINUTES***

A. Call to order by the Chairman of the Board, Mr. Fred Stacer at 6:05 PM.

B. **ROLL CALL:**

Fred Stacer  
Joan Kovac  
Jocelyn Jackson  
Tony Hill  
Jerry Mills  
Richard Klosiewicz  
Rhonda Eaton

*Also in attendance:*

Luis Bencosme, Zoning Technician  
Maggie Barszewski, Planner  
James Saunders, Assistant City Attorney  
David Recor, Development Services Director  
Brett Fetting  
Dennis Mele  
Jennifer Simervil  
Tim Hernandez

**C. MOMENT OF SILENCE**

A moment of silence was observed.

**D. APPROVAL OF THE MINUTES:**

Approval of the minutes of the meeting on February 28<sup>th</sup>, 2018.

**MOTION** was made by Jerry Mills and seconded by Tony Hill to approve the meeting minutes of February 28<sup>th</sup>, 2018. All voted in favor of the motion.

**E. INDIVIDUALS TESTIFYING PLACED UNDER OATH**

City staff and members of the public testifying before the Board at the meeting were placed under oath by Luis Bencosme, Zoning Technician and Notary Public in the State of Florida.

**F. EASEMENT VACATIONS****1. 1570 SW 13TH COURT FLORIDA BECKNELL INVESTORS LLC /  
BECKNELL UTILITY EASEMENT ABANDONMENT  
Planning and Zoning #17-27000003**

Consideration of the request by **J. MARK SHAPLAND** on behalf of **1570 SW 13TH COURT FLORIDA BECKNELL INVESTORS LLC** to abandon a 20-foot wide Utility Easement located along a portion of the eastern boundary of the property located at 1570 SW 13th Court. The applicant intends to construct a new 68,996 sq. ft. warehouse facility on the currently vacant subject property. The property is legally described as follows:

ALL OF THAT CERTAIN 20 FOOT WIDE FLORIDA POWER AND LIGHT EASEMENT LYING IN TRACT "A", 1570 SW 13TH COURT PLAT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 183, PAGES 89 AND 90, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING IN SECTION 3, TOWNSHIP 49 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT "A"; THENCE SOUTH 00°07'20" EAST ALONG THE EAST BOUNDARY OF SAID TRACT "A", A DISTANCE OF 350.00 FEET; THENCE DEPARTING FROM SAID BOUNDARY, RUN SOUTH 89°52'40" WEST, A DISTANCE OF 20.00 FEET; THENCE NORTH 00°07'20" WEST, A DISTANCE OF 350.75 FEET; THENCE SOUTH 87°58'24" EAST ALONG THE NORTH BOUNDARY OF SAID TRACT "A", A DISTANCE OF 20.01 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA.

SAID LANDS CONTAINING 0.161 ACRES (7,008 SQUARE FEET) MORE OR LESS.

**AKA: 20-foot wide Utility Easement at 1570 SW 13<sup>th</sup> Court**

ZONED: I-1 (General Industrial)

STAFF CONTACT: Maggie Barszewski (954) 786-7921

Ms. Maggie Barszewski, Planner, introduced herself to the Board and stated that the applicant intends to build a new warehouse facility and that the easement serves no current or future public use. Currently, service-provider comments from the Fire Department, AT&T, TECO, and Comcast have not yet been received. These comments must be received within a reasonable time period prior to placement on the City Commission agenda. Based on the service providers' comments that have been received, the abandonment of this utility easement meets the standards of Section 155.2431D. 1. & 2, and therefore staff recommend approval of this request with a condition.

Given the information provided to the Board, staff provides the following alternative motions for the Board's review.

### Alternative Motions

#### I- Approve with conditions

Recommend approval to the City Commission with the following condition:

1. This request will not be placed on a City Commission Agenda until all positive comments are received from each service provider, or until 60 days from the date of this recommendation, whichever occurs first.

#### II- Table

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

#### III- Denial

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

Staff recommends alternative motion number I.

Mr. Brett Fetting (4242 S 1<sup>ST</sup> Avenue, Lyons, IL) presented himself to the Board as the applicant. He had no objections to the conditions made by staff or any additional comments.

Dr. Mills asked the applicant why he needs the 20 foot easement vacated.

Mr. Fetting responded that the proposed building would be located on the existing easement.

Ms. Barszewski clarified that the proposed paving and landscaping is where the easement currently is located.

Mr. Stacer asked if anyone in the audience wished to speak. There were none.

**MOTION** was made by Joan Kovac and second by Richard Klosiewicz to recommend approval of the abandonment PZ #17-27000003 per Alternative Motion I as described in the staff report. All voted in favor of the motion; therefore, the motion passed.

**G. REZONINGS**

**2. 140 NW 16<sup>TH</sup> ST LAND TR SUNCO TH LLC TRSTEE / POMPANO IMPORTS  
Planning and Zoning #17-13000007**

Consideration of the REZONING submitted by **DENNIS D. MELE** on behalf of **140 NW 16<sup>TH</sup> ST LAND TR SUNCO TH LLC TRSTEE** to rezone the property from B-2 (Community Business) to B-4 (Heavy Business) in order to develop the property. The subject site currently has four small buildings consisting of a total of 6,808 square feet. The contract purchaser of the property, “Pompano Imports,” contends that the current zoning is inappropriate and ineffective, denying any appropriate use of the property. In the Narrative, the applicant provides ancillary information regarding the type of work proposed to be conducted on the property, which is not required for a Rezoning Application and cannot and has not been considered by staff when reviewing this request. Although the applicant is requesting a rezoning to B-4, they are offering to restrict the property to limit certain types of B-4 uses that they believe would be in conflict with the surrounding properties. All parcels are legally defined as follows:

THE WEST 468.27 FEET OF THE NORTH ½ OF THE NORTH ½ OF THE SE ¼ OF THE SE ¼, LESS THE NORTH 25 FEET FOR COUNTY ROAD, LESS THE EAST 7.77 FEET OF THE SOUTH 100 FEET, OF SECTION 26, TOWNSHIP 48 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA.

ALL OF THE DESCRIBED LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA AND CONTAINING 143,776 SQUARE FEET (3.301 ACRES) MORE OR LESS.

AKA: 140 NW 16<sup>th</sup> Street

ZONED: B-2 (Community Business)

STAFF CONTACT: Maggie Barszewski (954) 786-7921

Ms. Barszewski explained that this rezoning is for Pompano Imports, who is the contract purchaser of the property. She stated that there currently are four buildings on the site. She noted that the applicant has included information in their application regarding how

the site will be used but that this ancillary information has not been considered by staff in its review of the request. The applicant's intention is to rezone because they contend the current zoning is inadequate for the site. She provided an overview of the surrounding zoning and land uses. The applicant has voluntarily submitted a restrictive use covenant to prohibit certain B-4 uses that may not be compatible with the surrounding properties. She stated that in the review criteria it states that the applicant must provide competent substantial evidence that the proposed amendment:

Ms. Barszewski stated that the applicant provides for required compatibility by offering voluntary restrictions to limit the B-4 uses that would otherwise be allowed in the existing building. For clarification, in the table below Staff has identified those uses that would be permitted if this rezoning were to be approved with the voluntary restrictions offered by the applicant.

Uses Allowed in B-4, not allowed in B-2 (with restrictions)	Zoning Code Section
Telecommunication facility on a new freestanding tower	155.4204.F.
Place of worship as principal use instead of Special Exception	155.4211.D.
New Automobile and Light Truck Sales	155.4219. J.
Automotive repair & maintenance facility	155.4219.E.
Car wash or auto detailing	155.4219.H. [ <i>Special Exception Use</i> ]
Parking deck or garage (as principal use)	155.4219. O.
Parking Lot (as a principal use)	155.4219. P.
Plant nursery, wholesale	155.4230. A.
Showroom, wholesale	155.4230. B.
Other wholesale use	155.4230. C.

In light of the voluntary restrictions, staff believes that the applicant has adequately provided competent substantial evidence in addressing the Comprehensive Plan's Policy regarding incompatibility that could otherwise have resulted from an approval of this B-4 rezoning request.

Staff is of the opinion that there is a reasonable basis to support this request for rezoning because there is General Industrial zoning located to the north of the subject property, and existing non-conforming warehouses located to the south. The rezoning would be compatible with the surrounding existing uses. Furthermore, the applicant is volunteering to record a Declaration of Restrictive Covenant restricting the more intense uses that are allowed in B-4, which will prevent those uses to apply to this property. This will provide the required compatibility with the surrounding uses, thereby employing the principles of the Comprehensive Plan and meeting those requirements.

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.

Dr. Mills asked if the development the applicant intends to build can be permitted in the B-3 (General Business) zoning district.

Ms. Barszewski stated that the City of Pompano Beach is not considering the intended development. The City is simply concerned with the compatibility of the proposed zoning with the Comprehensive Plan because an applicant can propose a certain use but would not be bounded to implement it.

Dr. Mills asked why B-4 (Heavy Business) is proposed if everything around the property is zoned B-3.

Ms. Barszewski suggested that the applicant is the correct person to answer Dr. Mills above question.

Mr. Stacer asked why alternative motion I does not mention the voluntary Declaration of Restrictive Covenant.

Ms. Barszewski stated that it is a part of the record that the applicant will voluntarily record this restrictive use covenant and explained the process by which this takes place. She explained that the document will be reviewed by the City Attorney's office and presented to the City Commission once the Board agrees on a list of restrictions. Then, the document would be recorded and the applicant would then be bounded to the restrictions.

Mr. Stacer asked if B-2 (Community Business) has the same height restriction as B-4 of 105 feet.

Ms. Barszewski confirmed this.

Dr. Mills asked how the Board can vote on the item if they haven't looked at the actual covenant.

Ms. Barszewski stated that the use restrictions will not change once agreed by the Board and are included in the backup.

Mr. James Saunders, Assistant City Attorney, clarified when the declaration will be put together by staff and reviewed by his office. He said that the restrictions proposed are being presented to the Board at this time.

Ms. Eaton asked that the differences between the B-2 and B-4 should have been presented to the Board more clearly.

Ms. Barszewski responded that she highlighted the permitted uses in B-4 and crossed out the uses that the applicant will give up.

Mr. Dennis Mele (200 E. Broward Boulevard, Fort Lauderdale, FL) introduced himself to the Board as the applicant's attorney. He showed a location map of the site and surrounding properties, noting those that have submitted letters of support. He explained that they have drafted and submitted a copy of the Declaration of Restrictive Covenant, but they were told by staff to wait for the recommendation of the Board as the process would include the Board's recommendation. He stated that B-4 is being requested because staff recommended that it would be needed in order to establish the intended auto sales preparation use. The applicant recognizes that this is a zoning vote and not a site plan consideration, but they still attempted to address the City's concerns regarding the proposed development. He showed the Board a zoning map to explain the adjacent zoning districts and current uses. He added that the scope of work will include paving the parking lot and making the lot more secure. The lot will be screened with landscaping and fencing.

Ms. Eaton asked if there will be auto painting.

Mr. Mele responded that there will be no auto repair or painting.

Ms. Eaton asked if there are adequate turn-around facilities for the car carriers.

Mr. Mele stated that the trucks should be coming from NW 16<sup>th</sup> Street and that they will have adequate turn around areas within the site.

Mr. Hill asked why the applicant indicates in the Rezoning application that there are no B-2 uses that would be appropriate for the property.

Mr. Mele stated that the current zoning clearly allows for certain uses on the property, and explained that their intended is not permitted in B-2.

Mr. Hill asked for the location on the property that the cars are dropped off currently.

Mr. Mele stated that the applicant is doing some major improvements at the dealership as well as the proposal for this site. He believes that the applicant can make the subject property look just as good as the dealership. He noted that, if the property is available for redevelopment in the future, it could be easily redeveloped into a different allowable use.

Mr. Hill asked about the old IHOP.

Mr. Mele responded that the applicant purchased the old IHOP to consolidate it as part of the dealership.

Ms. Kovac asked if the covenant will run with the land.

Mr. Mele confirmed this and stated that they could only be modified with approval of the City Commission.

Ms. Eaton asked the applicant to list the voluntarily restricted uses.

Mr. Mele read aloud the use restrictions per the proposed Declaration of Restrictive Covenant.

Ms. Eaton asked Mr. Mele if he knows which of the proposed uses are allowed.

Mr. Mele stated that he does not have the allowed uses at hand. He explained that the request includes the uses allowed in B-3 and a few more uses.

Mr. Stacer stated that B-4 shares some uses with the I-1 zoning district.

Ms. Eaton commented that the uses that should be restricted are the ones that are noxious.

Mr. Mele commented that some of the restricted uses are not considered problematic by the applicant, but that they were instructed to include them in the Declaration of Restrictive Covenant.



Mr. Stacer asked if the location is the old American Trust property.

Mr. Mele confirmed that it is the same location.

Mr. Stacer asked if the covenant will help with the parking agreement with the nearby residential project.

Mr. Mele confirmed that the Declaration of Restrictive Covenant will help when the Atlantic Tower project is occupied by residents and the dealership is no longer able to use the parking garage.

Ms. Barszewski clarified that the proposed list of restrictions was provided by the applicant and staff did not direct them to include any specific use restrictions. If there are some uses the Board wishes to add or eliminate, now would be the time to do it.

Mr. Mele reiterated that he was not advised that the Board could make modifications to the list of restrictions but would be happy to proceed in this manner.

Mr. Stacer asked if anyone in the audience wished to speak.

Ms. Jennifer Simervil (140 NW 15<sup>th</sup> Place, Pompano Beach) asked if the rezoning would affect her property.

Mr. Mele confirmed that it will not affect her property.

Ms. Eaton said that the restricted uses seem to be too restrictive. She asked if certain restricted uses could be permitted in the future.

Ms. Barszewski stated that any changes would basically require a rezoning of the property.

Mr. Mele contended that a rezoning would not be needed. Rather, the Declaration of Restrictive Covenant would have to be amended.

Ms. Barszewski responded that if someone wanted to make a change to the Declaration of Restrictive Covenant, a rezoning would be required, including a full notice and advertisement.

Mr. James Saunders stated that the issue that has been presented to the Board is in regards to the rezoning from B-2 to B-4. He believes that if a change of use that is allowed in B-4 is proposed in the future, a rezoning would not be needed, but the Declaration of Restrictive Covenant would have to be amended.

Mr. Stacer asked if the change in use would have to come back to the Planning and Zoning Board.

Mr. Saunders responded that it would be considered a rezoning and not just a modification of the Declaration of Restrictive Covenant if the proposed change in use would impact the zoning of the property.

Mr. Mele responded that he knows of instances in which Declaration of Restrictive Covenants have prescribed different courses of action for any proposed amendment.

Mr. Klosiewicz asked how an amendment covenant would not allow certain uses.

Mr. Saunders clarified that the document itself should explain how any proposed modifications to the restrictions should be handled.

Mr. Klosiewicz asked what would be the basis for denying such an amendment.

Mr. Mele stated that the key aspect is that the applicant voluntarily restricts these uses and that the burden of proof lies with them when going before the City Commission.

Mr. Klosiewicz asked if the Board needs to have some sort of reasoning when approving a restriction of permitted uses in a given zoning district.

Mr. Mele stated that this is not an instance where a voting body needs to give an explanation behind a “no” vote since this is a voluntary restriction offered by the applicant.

Mr. Stacer asked if anyone on the Board cares if any future amendment comes back to this Board.

Mr. Hill said that he is curious how these documents are generally written by the Attorney’s office. He has seen some several Declaration of Restrictive Covenant presentations at previous City Commission meetings and is curious about the policy.

Ms. Barszewski, referring to a recent example of a health park Rezoning application, indicated that the applicant wanted to change the list of uses between the Planning and Zoning Board and City Commission. The applicant was required to return to the Planning and Zoning Board before proceeding to the City Commission.

Mr. Hill asked if an applicant would return to the Board for an amendment after they have received City Commission approval.

Ms. Barszewski responded that she has never had an applicant return to the Board under those circumstances. She added that the issue at the previous night’s City Commission hearing was regarding access and not uses. She stated that there was no need for the restrictions to continue since the applicant was willing to do what the Department of Transportation wanted.

Mr. Mele stated that the applicant is fine with whatever process the Board agrees on for in regards to future amendments.



project was approved for Major Site Plan review at the January 24, 2018 Planning and Zoning Board (D.O. 17-12000041 see Attachment I). The proposed plat restricts the property to a maximum building of 1,000,000 sq. ft. of industrial use. The subject property is 2,124,200 sq. ft. or 48.795 acres and is currently operating as a cement plant. The property is Zoned I-1 (General Industrial) and has an Industrial Land Use designation. It is generally located on the south side of NE 48<sup>th</sup> Street between N Dixie Highway and NE 14<sup>th</sup> Avenue, more specifically described as follows:

THE EAST 30.00 FEET AND THE WEST 30.00 FEET (AS MEASURED AT RIGHT ANGLES) OF TRACT 1, LESS THE NORTH 35.00 FEET THEREOF AND ALL OF TRACT 4 OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 48 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK B, PAGE 164, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH:

PORTIONS OF TRACTS 5 AND 8 OF SAID SECTION 13, MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT 5; THENCE SOUTH 00°33'47" WEST, ON THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 254.33 FEET; THENCE DUE WEST, A DISTANCE OF 1353.04 FEET; THENCE SOUTH 19°08'10" WEST, A DISTANCE OF 248.02 FEET; THENCE NORTH 74°21'01" WEST, A DISTANCE OF 109.57 FEET; THENCE NORTH 15°38'59" EAST, ON THE EAST RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILROAD, AND ON THE WEST LINE OF SAID TRACTS 8 AND 5, A DISTANCE OF 476.75 FEET; THENCE DUE EAST, A DISTANCE OF 1413.75 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

PORTIONS OF TRACT 5 AND 8, AND ALL OF TRACT 9 OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 48 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK B, PAGE 164, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 9; THENCE SOUTH 89°59'14" WEST, ON THE SOUTH LINE OF SAID TRACT 9, A DISTANCE OF 1681.74 FEET; THENCE NORTH 15°38'59" EAST, ON THE EAST RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILROAD, AND ON THE WEST LINES OF SAID TRACTS 9, 8 AND 5, A DISTANCE OF 552.83 FEET; THENCE SOUTH 74°21'01" EAST, A DISTANCE OF 109.57 FEET; THENCE NORTH 19°08'10" EAST A DISTANCE OF 248.02 FEET; THENCE DUE EAST, ON THE A LINE PARALLEL WITH THE NORTH LINE OF SAID TRACT 5, A DISTANCE OF 1353.04 FEET; THENCE SOUTH 00°33'47" WEST, ON THE EAST LINES OF SAID TRACTS 5, 8 AND 9, A DISTANCE OF 736.75 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

PARCEL 1 (WESTERN TRACT):

THE WEST 150 FEET OF THE EAST 305 FEET OF TRACT 1 OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 48 SOUTH, RANGE 42 EAST, LYING EAST OF THE FLORIDA EAST COAST RAILWAY RIGHT- OF-WAY, LESS THE NORTH 35 FEET THEREOF, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK B, PAGE 164, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL 2 (EASTERN TRACT): THE EAST 155 FEET OF LOT 1, LESS THE EAST 30 FEET THEREOF AND LESS THE NORTH 35 FEET THEREOF, LESS THE NORTH 125 FEET THEREOF, OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 48 SOUTH, RANGE 42 EAST; ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK B, PAGE 164, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL 3 (MIDDLE TRACT):

A PORTION OF TRACT 1 OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 48 SOUTH, RANGE 42 EAST, RECORDED IN PLAT BOOK B, PAGE 164, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE WEST 139 FEET OF THE EAST 444 FEET OF TRACT 1, SECTION 13, TOWNSHIP 48 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA, LESS THE NORTH 35 FEET THEREOF FOR ROAD RIGHT-OF-WAY FOR N.E. 48TH STREET, AND LESS THE SOUTH 18 FEET OF THE NORTH 53 FEET THEREOF, AS ADDITIONAL ROAD RIGHT-OF-WAY FOR N.E. 48TH STREET.

TOGETHER WITH:

THE WEST 60 FEET OF THE EAST 504 FEET OF LOT 1 OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 48 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK "B", PAGE 164, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; LESS THE NORTH 35 FEET THEREOF.

SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA AND CONTAINING 2,124,200 SQUARE FEET OR 48.795 ACRES, MORE OR LESS.

AKA: Generally located on the south side of NE 48<sup>th</sup> Street between N Dixie Highway and NE 14<sup>th</sup> Avenue

ZONED: General Industrial (I-1)

STAFF CONTACT: Maggie Barszewski, AICP (954) 786-7921

Ms. Barszewski stated that this plat for a 48.795 acre property was reviewed at a Development Review Committee meeting held on December 6, 2018, and found to be in compliance with the City's Land Development Regulations. All comments from the DRC meeting have been addressed. It limits the property to 1,000,000 square feet of industrial use and is currently zoned I-1 with an Industrial Land Use designation. The associated site plan was approved at the January 24, 2018 Planning and Zoning Board meeting. All service provider letters have been submitted and there is a Broward County development review report that requires a list of items to be provided on the plat. Staff has

Development Services staff recommends approval of this Plat with the following conditions to be satisfied prior to the City Commission hearing:

1. Plat cover page must be signed and sealed by the surveyor and signed by all owners.
2. State under the "Plat Notes" that this Plat is restricted to 1,000,000 square feet of industrial use.
3. The Broward County Development Review Report (DRR) recommendations listed on Attachment II are all required to be on the plat.

Mr. Mike Vonder Meulen (301 E. Atlantic Boulevard, Pompano Beach, FL) introduced himself to the Board. He stated that this plat is a companion item for the site plan that has already been approved by the Planning and Zoning Board for this site.

Ms. Eaton asked if the applicant has worked out a solution with Broward County regarding the modification of the road median.

Mr. Vonder Meulen responded that they are still meeting with the County to come up with a solution. They plan on meeting soon with them to present their final design proposals.

Mr. Stacer if this is part of the County Traffic Ways approval.

Mr. Vonder Meulen stated that the Traffic Ways Plan tells them how much right-of-way must be dedicated. He added that work done to the roadway must be bonded through the County.

Mr. Stacer asked if anyone in the audience wished to speak. There were none.

**MOTION** was made by Joan Kovac and seconded by Rhonda Eaton to recommend approval of the Plat PZ #17-14000016 subject to the three conditions of staff. All voted in favor of the motion; therefore, the motion passed.

**I. SITE PLAN REVIEWS**

**4. CITY OF POMPANO BEACH/ PARCEL E**  
**Planning and Zoning #15-12000047**

Consideration of the MAJOR SITE PLAN submitted by **TIM HERNANDEZ** on behalf of **CITY OF POMPANO BEACH** in order to construct a new Tiki Hut and renovate the existing concession stand that will include a small addition. The site plan is part of a larger master plan for the beach and pier, which includes a parking garage, hotel, retail, and restaurant space west of Pompano Beach Blvd, between NE 3rd Street and NE 2<sup>nd</sup> Street. The original Master Plan was adopted by the City Commission (Ordinance 2015-15), and amended last year (Ordinance 2018-03). This application is referred to as "Parcel E," which is based off a labeling convention on a phasing plan submitted with the rezoning. Although, this property is not a part of the Planned Development, the area east of Pompano Beach Blvd was designed and planned as a whole. The proposed building and Tiki Hut has a building footprint of 2,852 sq. ft. on a 75,000 sq. ft. (1.72 acre) site (3.8% lot coverage). All parcels are legally defined as follows:

THAT PORTION OF LOTS 4 AND 5, BLOCK 7, POMPANO BEACH, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 93, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID BLOCK 7;

THENCE NORTH 09°09'21" EAST ALONG THE WEST LINE OF SAID BLOCK 7, A DISTANCE OF 13.46 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 09°09'21" EAST ALONG SAID WEST LINE, A DISTANCE OF 156.70 FEET;

THENCE SOUTH 80°50'39" EAST, A DISTANCE OF 121.00 FEET;

THENCE NORTH 09°09'21" EAST, A DISTANCE OF 2.00 FEET;

THENCE SOUTH 80°50'39" EAST, A DISTANCE OF 14.44 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIAL BEARING OF SOUTH 80°58'59" EAST;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 48.00 FEET, A CENTRAL ANGLE OF 21°04'56", AND AN ARC DISTANCE OF 17.66 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHEAST;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 52.00 FEET, A CENTRAL ANGLE OF 24°25'18", AND AN ARC DISTANCE OF 22.16 FEET TO A POINT OF TANGENCY;

THENCE SOUTH 05°40'39" WEST, A DISTANCE OF 34.38 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHEAST;

THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 19.31 FEET, A CENTRAL ANGLE OF 22°35'05", AND AN ARC DISTANCE OF 7.61 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIAL BEARING OF SOUTH 85°38'37" EAST;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 59.50 FEET, A CENTRAL ANGLE OF 20°24'53", AND AN ARC DISTANCE OF 21.20 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIAL BEARING OF NORTH 06°51'55" WEST;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 14.40 FEET, A CENTRAL ANGLE OF 48°00'07", AND AN ARC DISTANCE OF 12.06 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 53.76 FEET, A CENTRAL ANGLE OF 63°18'13", AND AN ARC DISTANCE OF 59.40 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTHEAST;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 36.65 FEET, A CENTRAL ANGLE OF 58°43'00", AND AN ARC DISTANCE OF 37.56 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 53.11 FEET, A CENTRAL ANGLE OF 10°43'16", AND AN ARC DISTANCE OF 9.94 FEET TO THE SOUTH LINE OF SAID BLOCK 7;

THENCE SOUTH 88°57'35" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 26.41 FEET;

THENCE NORTH 35°51'48" WEST, A DISTANCE OF 16.14 FEET TO THE POINT OF BEGINNING.

LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA.  
CONTAINING 18,642 SQUARE FEET, MORE OR LESS

**AKA: 222 N Pompano Beach Boulevard**

**ZONED: PR / AOD (Parks and Recreation/ Atlantic Boulevard Overlay District)**

**STAFF CONTACT: Daniel Keester-O'Mills (954) 786-5541**

Ms. Paola West, Principal Planner, introduced herself to the Board. She stated that the applicant is requesting Major Site Plan approval in order to construct a new Tiki Hut and

renovate the existing concession stand that will include a small addition. The site plan is part of a larger master plan for the beach and pier, which includes a parking garage, hotel, retail, and restaurant space west of Pompano Beach Blvd, between NE 3rd Street and NE 2nd Street. The original Master Plan was adopted by the City Commission (Ordinance 2015-15), and amended last year (Ordinance 2018-03). This application is referred to as "Parcel E," which is based off a labeling convention on a phasing plan submitted with the rezoning. Although, this property is not a part of the Planned Development, the area east of Pompano Beach Blvd was designed and planned as a whole. The proposed building and Tiki Hut has a building footprint of 2,852 sq. ft. on a 75,000 sq. ft. (1.72 acre) site (3.8% lot coverage). This site plan was reviewed by the Development Review Committee (DRC) on February 7, 2018, and reviewed by the Architectural Appearance Committee (AAC) on March 22, 2018.

Ms. West stated that pursuant to Section 155.2304(C) [Application Subject to Staff Recommendation], the Development Services Director has compiled the department reports from the Development Review Committee (DRC) meeting and are recorded on file with the Department of Development Services. Provided the Board approves the site plan as submitted, Staff recommends approval of the Major Site Plan subject to the following outstanding conditions from the February 7, 2018 DRC meeting:

1. Be advised of the following items:
  - a. All ground mounted mechanical equipment must be screened from view using a hedge, fence or wall, as required by code (155.5301. A. 2.).
  - b. Proposal for "Outdoor Stage" must be in compliance with the City Code of Ordinances and obtain the necessary approvals for each performance (as needed refer to § 132.26 OUTDOOR MUSICAL PERFORMANCE).
  - c. All lighting proposed as part of the new development that can be seen from the beach must comply with the City Code of Ordinances related to lighting requirements for marine turtle protection (155.5402.).
2. Provide additional documentation to verify the techniques that were used to satisfy the requirement of 12 sustainable development points required by code section §155.5802.
3. For permit approval, obtain the following final approvals:
  - a. A Development Order for Major Building Design from the Architectural Appearance Committee. (§155.2408.B.1)
  - b. A copy of approval from the Florida Fish & Wildlife Conservation Commission, noting review of the proposed site plan for sensitivity of marine life.
  - c. CPTED plan approved by the Broward Sheriff's Office. (§155.2407.E.9)
  - d. Provide a survey, to verify all elevations applicable to the site in accordance with City Ordinance 152.29 (C). All elevations, plans and surveys must be in NAVD format and noted on the plans and survey.
4. Landscape and Irrigation Plans must comply with Zoning Code requirements as verified by the City's Urban Forestry Division.



Mr. Hill asked what times outdoor musical performances could take place at the site.

Mr. Tim Hernandez (200 Congress Park Drive, Delray Beach, FL) introduced himself to the Board as the Project Developer. He used an aerial image to show the location of all the parcels comprising the Pompano Fishing Village and explained that the concept of the development is to provide lots of options within the destination. He stated that a large tiki hut style bar is being proposed at the subject property for casual dining and that the adjacent asphalt parking lot is to be converted to green space where people can have events such as wedding ceremonies. He showed the proposed landscape plan and explained that the existing coconut palms will be relocated to create a tropical environment. The existing concession building will be clad and used as a kitchen. He showed renderings of the south, east, west and north elevations of the proposed building. He pointed out that there is a green wall being proposed along a side of the kitchen building. There were some concerns about the survivability of the plants for this wall. Thus artificial plants will be used instead of living plant material

Mr. Hill asked if an outdoor stage is being proposed.

Mr. Hernandez confirmed this.

Mr. Hill asked if this approval will allow the applicant to have outdoor music performances until 1am.

Mr. Hernandez stated that this site should be treated the same way that the City code would treat this use anywhere else in the City. He pointed out that the Planned Development for the Fishing Village does not include the properties east of Pompano Beach Boulevard.

Mr. Hill asked if the existing bathroom will continue to be a public bathroom.

Mr. Hernandez stated that the existing bathrooms will be removed, but two new public bathrooms will be built.

Mr. Hill asked if these bathrooms will be maintained by the property owner.

Mr. Hernandez responded that the City is the owner of the bathrooms, but the applicant will maintain them.

Mr. Hill stated that he is concerned with the hours of operation.

Mr. Hernandez stated that they were told that the Plan Development was not supposed to span multiple zoning districts. Therefore, it was revised to only include parcels on the west side of Pompano Beach Boulevard. He reiterated that the subject property is not part of the PDI. The operator is not going to want to be getting constant complaints from neighbors, but they are on the other side of the street.

Mr. Hill stated that no nearby residents will want to listen to a concert at 1am. He suggested that 11pm might be a reasonable end time.

Mr. Hernandez stated that the operator should be governed by whatever city code currently established for live entertainment and not any other special restrictions specific to the site.

Mr. Hill expressed his concern that the permit for outdoor music would allow them to perform until 1am.

Mr. Hernandez reiterated that they want to be good neighbors.

Mr. Hill agreed with Mr. Hernandez that any future changes should be made on a City-wide basis.

Mr. Stacer asked if the property is east of the Coastal Construction Line.

Mr. Hernandez confirmed this. He stated that for each development east of the CCL they have to obtain a permit from the State Department of Environmental Protection. Additionally, the Fish and Wildlife Commission would need to review and approve the lighting for each building for sea turtle lighting compliance.

Ms. Kovac stated that she likes the proposed building. She asked if the artificial green wall will be replaced once it starts to fade.

Mr. Hernandez confirmed that it will be maintained.

Mr. Hernandez stated that he hopes that everyone has had a chance to see the new Beach House building. He stated that they have made a big effort to identify the right users to occupy each parcel and that finding the right people is not easy.

Mr. Hill stated that he went to the Beach House last night and had a great time. He asked about the overall parking spaces requirements.

Mr. Hernandez stated that the table on the overall site plan lists the parking spaces required by code, but they are providing 400 plus additional parking spaces in anticipation of demand.

Mr. Hill asked how many spaces would be required for just this site.

Mr. Hernandez responded that it would only require around 3 parking spaces.

Mr. Hill asked where the roughly 15 existing handicap spaces will be relocated to. He stated that these spaces are currently used by handicapped patrons to visit the beach.

Mr. Hernandez stated that there are handicap spaces currently on Sea Breeze Street. He added that from his personal experience, those handicap spaces were never highly utilized.

Mr. Klosiewicz asked if this issue is germane to the site plan review.

Mr. Stacer stated that 15 handicap would be enough for 1000 regular spaces. He said that there are handicap spaces in the area.

Mr. Hill stated that he is referring to the current handicap parking lot owned by the City being removed.

Mr. Stacer asked if anyone in the audience wished to speak. There were none.

**MOTION** was made by Joan Kovac and seconded by Jerry Mills to recommend approval of the Site Plan PZ #15-12000047 subject to the four conditions of staff.

*Discussion:*

Ms. West confirmed that there is a note in the Fishing Village master plan that states live music up to 11pm on the west side and 1am on the east side of Pompano Beach Boulevard. She stated that this is noted on the site plan, but is not sure if it is also included in the ordinance.

Mr. Hernandez stated that this is included in the approved Master Plan. They would still need to obtain a permit.

Mr. Hill stated that he is concerned because it grants approval for live music as late as 1am.

Mr. Stacer asked if this has already been approved.

Mr. Hernandez confirmed that it was approved. He pointed out that the code also limits how much noise can bleed off from one property to another.

Mr. Stacer asked if the hours of operation was included in the site plan for informational purposes since it was part of the approved master plan.

Mr. Hernandez confirmed this.

Mr. Stacer stated that he does not see how the Board has grounds to do anything since it has already been approved.

Ms. West pointed out that a permit still needs to be obtained for outdoor live music.

*Vote:*

All voted in favor of the motion with the exception of Tony Hill; therefore, the motion passed.

**J.****OTHER BUSINESS****5. DISCUSSION ON DRAFT AMENDMENTS TO 155.5302 – FENCES AND WALLS**

Discuss a draft text amendment from a Board Member that includes changes to 155.5302 Fences and Walls.

Mr. Stacer requested a motion to hear this item out of order.

**MOTION** by Jerry Mills and seconded by Richard Klosiewicz to hear this item out of order. All voted in favor the motion.

Mr. Stacer requested a motion to postpone this item.

**MOTION** by Joan Kovac and seconded by Rhonda Eaton to postpone this item until staff is ready to present this to the Board. All voted in favor of the motion.

**6. DISCUSSION ON DRAFT AMENDMENTS TO 155.5302 – FENCES AND WALLS**

Discuss a draft text amendment compiled by City staff that includes several minor amendments to 155.5302 Fences and Walls.

Mr. Stacer requested a motion to hear this item out of order.

**MOTION** by Jerry Mills and seconded by Tony Hill to hear this item out of order. All voted in favor of the motion.

Mr. Stacer requested a motion to postpone this item.

**MOTION** by Richard Klosiewicz and seconded by Rhonda Eaton to postpone this item until staff is ready to present this to the Board. All voted in favor of the motion.

**K. AUDIENCE TO BE HEARD**

There was no one in the audience who wished to speak.

**L. BOARD MEMBERS DISCUSSION**

Ms. Eaton stated that she met with staff regarding the fencing issue. She reported that there has been progress but a few questions need to be reviewed by the City Attorney's office.

Mr. Mills wished everyone a good Passover and Easter holiday.

Ms. Kovac requested that the City moves forward quickly with the undergrounding of utilities project along A1A since the G.O. bond measures have passed.

Mr. Hill asked how many Board members have read section 155.2204.B.3.d, which has to do with the Board's charge to promote citizen engagement with and understanding of the Comprehensive Plan. He is curious as to how the Board may fulfill this duty assigned to it.

Ms. Eaton stated that the Comprehensive Plan deals with property rights and even if it doesn't make a lot of sense, the City can't easily make changes to it because they would be taking away individual rights.

Mr. Hill stated that he thinks Ms. Eaton is referring specifically to the Land Use Plan and not to the Comprehensive Plan that deals with the City's overall vision and what is being done to make it happen.

Ms. Eaton stated that the Comprehensive Plan was designed based on outdated zoning requirements which in many cases should be changed. She said that people have rights and. She believes that the City does have a process of reaching out to the public.

Mr. Stacer recommended that staff put together a list of tasks for the Board as it relates to the Comprehensive Plan.

Mr. Hill said that the Board should attempt to document as many of its policies as possible given that it is very likely that many of its current members will likely be replaced after the upcoming elections.

Mr. Stacer stated that the City is getting ready to deal with the implementation of the ETOC. He asked staff if there are any restrictions or policies regarding loud music in mixed-use developments.

Ms. West stated that the City Manager can revoke permits, but that oftentimes permits are not obtained in the first place.

Mr. Stacer wondered a tenant's rights to pull a live music permit in a mixed-use building.

Ms. Eaton asked if the Board should ask staff to create a policy statement in regards to how a Declaration of Restrictive Covenant is handled.

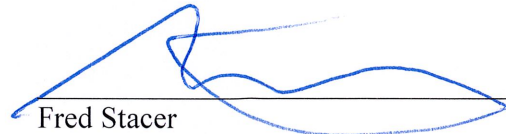
Mr. Saunders stated that the Board has rules and procedures and that perhaps this issue should be added.

## **M. REPORTS BY STAFF**

There was no report given by staff.

**N.     ADJOURNMENT**

**MOTION** by Richard Klosiewicz to adjourn the meeting at 8:06 p.m. All voted in favor.

  
\_\_\_\_\_  
Fred Stacer  
Chairman, Planning and Zoning Board