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3. **Planning & Zoning #20-17000009**

Special Exception – JPM Investment Co LTD

Applicant Landowner is requesting Special Exception approval as required by Section 155.4219(L)(1) [Districts Where Permitted] of the Pompano Beach Zoning Code in order to utilize the subject property (Zoning District: I-1) for used automobile and light truck sales with outdoor display.

ADDRESS: 929 SW 8th Street
ZONED: General Industrial (I-1)
FOLIOS: 4942 02 03 0870

Mr. Scott Reale, Senior Planner, presented himself to the Board and stated that the Applicant Landowner is requesting a Special Exception approval as required by Section 155.4219(L) (1) [Districts Where Permitted] of the Pompano Beach Zoning Code in order to utilize the subject property (Zoning District:

I-1) for used automobile and light truck sales with outdoor display. The property has an I-Industrial land use designation and is located on SW 8 Street, between S Andrews Avenue and I-195. Mr. Reale described the land use patterns of the surrounding properties. He stated that the subject property has an active Business Tax Receipt for VEHICLE LEASE/RENT CARS, TRUCKS, RV'S. However, the Zoning Use Certificate specifies, "NO OUTDOOR STORAGE – INDOOR ONLY." Additionally, the subject property has two open code compliance cases and a detailed report for each case is included in the materials backup.

Mr. Reale stated that by way of history, this property actually obtained Special Exception approval (PZ# 15-17000011) from the ZBA for used automobile sales with outdoor display in 2015. However, the Order ultimately expired because the required Minor Site Plan was never completed. Nevertheless, staff approved a Zoning Use Certificate to allow used vehicle sales with indoor display only because that use is permitted by right in the I-1 zoning district. However, the open code violations suggest noncompliance. Additionally, a Variance was granted in 1978 (#78-54) in order to provide three parking spaces for a building addition, rather than 16 parking spaces as required by code. While no building permits are currently in plan review, there are a couple of old open building permits (BP# 12 -6528; BP# 06-5398) that should be closed out, finalized, or withdrawn.

Mr. Reale stated that the conceptual site plan submitted with this application suggests that additional relief will be required specifically for landscaping and the perimeter buffer requirements. He stated that this was discussed with the applicant regarding which relief route they would be seeking but at this point staff decided the best approach was to get the Special Exception back in place. Mr. Reale mentioned the review standards for a Special Exception are included in the staff report for reference and that Staff does not find the Applicant has met the necessary prerequisites for granting a Special Exception, specifically standards 2 and 3 regarding compliance with all applicable zoning standards and use-specific standards. However, should the Board determine the Applicant has provided competent substantial evidence to satisfy the 13 Special Exception Review standards, Staff recommends the Board include the following conditions as part of the Order.

1. Obtain all necessary governmental permits and approvals including Building and Zoning Compliance permits.
2. Provide required perimeter buffer around all perimeters of the site, or successfully obtain relief.
3. Address/remedy all open code violations.
4. Close out, final, or withdraw any open building permits.

Mr. Reale mentioned Code Compliance was in attendance for any related questions.

Mr. Yaffe asked for more information on the standards that Staff does not feel the applicant has met. Mr. Reale responded that the property has not been in compliance per the approved Zoning Use Certificate, specifically the limitation on outdoor storage. This means that the property is not in compliance with the use specific standards related to the outdoor use that is currently in place. Typically, Staff would prefer that compliance issues be addressed prior to requesting a Special Exception. There was a site plan application submitted a few years ago but never went anywhere. This is why the use specific standards are not applicable and thus the site is out of compliance.

Mr. Yaffe asked if they were cited for parking vehicles resulting in the request. Mr. Reale responded that there are two open cases related to vehicles being stored and advertised outside and violating the Zoning Use Certificate guidelines.

Mr. Joseph Clements and Mr. Jonathan Frank were placed under oath by Martha Lawson, Department Head Secretary and State of Florida Notary Public.

Mr. Clements (3460 S Ocean Blvd., Palm Beach) introduced himself to the Board. He stated they wanted to submit the site plan and have had the Assistant City Manager and Chief Engineer at the site. He mentioned they are not able to provide the city with what they are requiring at this time. He mentioned they

have been working closely with the city and are willing to do everything they need to do but they have a drainage issue on the property. He stated the road that dead ends adjacent to the property floods by 2-3 feet. He believes the recent I-95 berm work chocked off the sheet flow. The water from the road and from neighboring properties drains into their property. He mentioned that they have tried to work with the city to not put in drainage because of the flooding. This would be a financial problem for the city.

Mr. Yaffe interrupted and asked that the focus be brought back to the outdoor storage request. Mr. Clements mentioned he would like the Code Compliance representative to go first and stated that due to the drainage issue, they cannot install plants to fix the code violation.

Mr. Yaffe asked if they were storing cars outside. Mr. Jonathan Frank (929 SW 8th Street, Pompano Beach) responded that yes, they were storing cars outside as well as inside. Mr. Yaffe asked if Mr. Frank was aware that he is in violation in doing that. Mr. Frank responded that yes, he knew and that they obtained a Special Exception years ago to get the project started. With this approval, he built the property up and when they were close to getting site plan approval, they could not make the drainage to work since all of the neighbor's properties drain to his property with the street being low. When the Special Exception was granted, the drainage could have worked since I-95 did not have another lane. In the last 3 years, I-95 widened to include an additional lane, a ditch abutting this property, and a built up the berm 2-3 feet which now bathtubs his whole property. This causes an issue for the cars that are there.

Mr. Yaffe asked why the cars are not parked inside since they are not supposed to have outdoor storage. Mr. Frank responded his building can only handle 40 cars inside. Mr. Yaffe mentioned this is a business problem and by code they are not allowed to have outdoor storage.

Mr. Anthony Flores, Code Compliance Manager, introduced himself to the Board. He explained the two cases are similar. He mentioned they removed the grass in the swale and replaced it with gravel, and are parking vehicles in the right-of-way. They obtained a Business Tax Receipt, which closed a related violation. They are also storing vehicles outside and there are missing trees from the property, which need to be replaced. They need approval for the use of the property and they were also in violation for installing signs without a permit. The sign violation is also closed now. Mr. Flores presented site photographs as violation evidence to the Board.

Mr. Frank mentioned that the neighbors also have gravel in their front area display and the reason they have this is for drainage. The grass is killed by the flooding and drainage problems.

Mr. James Saunders, Assistant City Attorney, interjected and clarified that the focus needs to remain on the Special Exception request.

Mr. Joe Clements mentioned he was under the impression that staff would be recommending in favor. They do not have proper representation and they are taken aback by the recommendation. They would like to put off the item to the next meeting so that they have proper representation.

Mr. Saunders reiterated that this is a Zoning Board of Appeals meeting and matters that come to the Board are matters that applicants file for the Board to consider. Any conversations with staff have no bearing on how this Board handles such applications. Mr. Clements stated he understood.

(1:18:53)

MOTION by Ross Shulmister and second by Charlotte Burrie that the Board postpone hearing application PZ#20-17000009 to the October 15th, 2020 meeting.

Mr. Saunders mentioned this may not be enough time for the applicant to return. Mr. Yaffe asked the applicant if this was enough time. Mr. Clements and Mr. Frank responded that yes, this was enough time.

All voted in favor. Mr. Yaffe suggested that prior to the next meeting and prior to Code Compliance taking photographs of the site, there should be no vehicles parked outside. Mr. Yaffe asked if the item needs to be

readvertised. Mr. Reale responded that if it is date certain, it does not need to be readvertised.

(1:21:21)

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