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December 28, 2020

City of Pompano Beach  
Development Services, Planning & Zoning Division  
100 West Atlantic Boulevard, Dept. 1510  
Pompano Beach, Florida 33060

Via Electronic Mail: [Scott.Reale@copbfl.com](mailto:Scott.Reale@copbfl.com)

RE: Special Exception for The New Auto Toy Store (929 SW 8<sup>th</sup> Street, folios 494202030880 & 494202030870)

Dear members of the Zoning Board of Appeals (ZBA),

PlanW3st represented applicant JPM INVESTMENT CO LTD (The New Auto Toy Store) in pursuit of a Special Exception for the above-referenced property at the December 17<sup>th</sup> ZBA Meeting. The Board granted the Special Exception with staff's suggested conditions and added an additional condition that display of vehicles be limited to the area west of the building that is adjacent to I-95. Neither the property owner (Pamela Hensley) nor the tenant (owner of The New Auto Toy Store, Jonathan Frank) were present at that hearing to contest that condition. They are collectively the "Applicant".

After the hearing concluded, I spoke to Mr. Frank and learned that Mr. Frank was at the meeting as a member of the public (not seen) and was not made available as applicant to speak on behalf of the item. This did not provide my client with due process and he was thus not allowed to discuss or argue the condition that was placed on the Special Exception before it was granted.

We herby request the Board reconsider the item solely to discuss the last condition placed on the Special exception. We accept Staff's conditions and do not wish to discuss them. As it is required in the ZBA Rules of Procedure- Motions for Rehearing, a petitioner requesting rehearing shall establish all of the following, which we hereby are establishing:

1. That there is new evidence which could not have been discovered before the hearing by the exercise of due diligence;

As previously mentioned, my client was provided access to the meeting as applicant to argue or even discuss the condition placed on the Special Exception. This unjustly denies my client's right to due process. Has my client been present to represent the project, he would have stated into the record that the role reason for purchasing the property was for the vicinity and view from I-95. His business would suffer if he is not able to display his vehicles in an area visible from I-95. Additionally, there are several instances where properties are displaying vehicles abutting I-95 by right currently. Not permitting my client to do so, would be placing an unjust condition on his property and would otherwise confer a special privilege on other lands or structures that are similarly situated.

- a. The property two sites directly north of this property (the old Sultan & Sons lot- 650 SW 9<sup>th</sup> Terrace) was approved for the same use for HGreg several years ago. The property was rezoned and site planned for that use, with the majority of the vehicle display being located within the building but highly visible from I-95. Their business model at the time was to look like a vending machine for cars. This project was never built but the approval is in City record.
- b. The property located at 480 SW 9<sup>th</sup> Terrace, which abuts I-95 to the west, is currently and has been displaying golf carts outdoors since 2011.
- c. The property located at 350 West Copans Road (Mercedes) has outdoor display of vehicles and also abuts I-95 on the east side. They did a major renovation to their site to accommodate outdoor display of vehicles in 2016.
- d. The property at 6606 N Andrews Avenue in Fort Lauderdale (Jaguar) is abutting I-95 on the west side and has both indoor and outdoor vehicle display.

2. That the evidence is material and not merely cumulative and;

This evidence was in place and needed at the time of the hearing and has not changed nor is it piecemeal; therefore, the evidence is wholly material and not cumulative.

3. There is a strong likelihood that the new evidence will affect the results if a new hearing is granted.

Would the Board have had the chance to discuss the condition with the applicant, there may have been a different outcome. The Board could have negotiated an alternative location, a modified buffer, or even eliminated the condition altogether with my client's testimony and evidence.

Thank you for your reconsideration. We respectfully request you allow us a rehearing to discuss the matter.

Please do not hesitate to contact me with any questions.



Paola A. West, ISA-CA, CFM  
*Land Planner*