

Our File Number: 46679.00002 Writer's Direct Dial Number: 954.468.1391 Writer's E-Mail Address: hdavis@gunster.com

June 22, 2021

VIA ELECTRONIC MAIL

Daniel Keester-O'Mills, AICP Development Services City of Pompano Beach 100 W. Atlantic Boulevard Pompano Beach, FL 33060

Re: <u>Request for Major Temporary Use Permit Narrative - U-Haul Co. of Florida</u> <u>for Property Located at 1120 NE 48th Street, Pompano Beach, Florida</u>

Dear Daniel:

The Applicant, U-Haul Co. of Florida (the "Applicant") is seeking a Major Temporary Use Permit pursuant to Section 155.2412 of the City of Pompano Beach (the "City") Zoning Code. The Applicant has endured several hardships these past couple of years and is requesting a Major Temporary Use Permit to allow its automobile and light truck and trailer rental and accessory retail sales business (the "Current Use") to continue operating for an additional one-year period until such time as a new site plan can be processed and approved.

The Applicant is the owner of property located at 1120 NE 48th Street, Pompano Beach, Florida (the "Property"). The Property is approximately 1.62 acres in size and is located at the southeast corner of NE 48th Street and North Dixie Highway, east of the FEC railroad. See, Location Map attached as **Exhibit 1**. The Property is zoned Industrial (I-1) and currently contains a 4,029 square foot single story building. The Current Use is a permitted use within the I-1 Zoning District and the Applicant has a Business Tax Receipt license to operate the Current Use on the Property. See, 2020 – 2021 Business Tax Receipt, attached as **Exhibit 2**. The Applicant has previously improved the Property to comply with as much of the Zoning Code as possible, including installing a landscape buffer around the Property and renovating the existing structure. The Property has no code enforcement violations pending and is not detrimental to property or improvements in the surrounding area, or to the public health, safety or general welfare. The Current Use is consistent and compatible with the surrounding area. Due to various unfortunate situations and hardships these past few years, the Applicant has not been able to complete the site plan approval process. The Applicant is now ready to proceed.

Las Olas Centre, Suite 1400, 450 East Las Olas Boulevard • Fort Lauderdale, FL 33301-4206 954-462-2000 | Fax: 954-523-1722 | www.gunster.com

BACKGROUND

The Applicant purchased the Property in 2016 with a plan to redevelop the unused industrial parcel into a productive U-Haul Equipment Rental and Self-Storage facility (the "Intended Use"). Prior to purchasing the Property, the Applicant conducted thorough due diligence to confirm that self-storage facilities would be permitted on the Property. At the time of purchase, self-storage facilities were permitted as of right on the Property within the I-1 zoning district. Because the Applicant was proposing a change of use which included a self-storage facility, the City required a major site plan application to be submitted. While the site plan was being worked on, the Applicant filed for a Major Temporary Use Permit (P&Z: 15-15000014) so it could utilize the existing building and lot for its Current Use. The Temporary Major Use application was granted by the Zoning Board of Appeals ("ZBA") at its February 18, 2016 meeting. See, ZBA Order dated March 17, 2016 attached as **Exhibit 3**. The temporary use was valid for one year and the Order imposed six conditions, all which were satisfied including that the Applicant was to submit for site plan approval.

The Applicant timely submitted a site plan application and plans for the Intended Use in 2016 (P&Z: 16-12000059) and began the site plan approval process (the "1st Application"). The 2016 Application was reviewed by the members of the Development Review Committee at a "Pre-Application Meeting" and extensive comments were issued to the Applicant regarding the Intended Use. The Applicant tried to address the comments by utilizing the existing structure on the Property, but the work that needed to be done to address all of the City's comments could not be accomplished without a significant reduction in unit volume, multiple variances and extensive costs. While the Applicant was trying to work out the site plan issues, it requested and was approved for an additional Major Temporary Use Permit (P&Z: 17-15000017), so that the facility could continue operating until the Applicant could submit a revised site plan for the Intended Use. See, ZBA Order dated February 15, 2018 attached as **Exhibit 4**. The temporary use was valid for one year (until February 18, 2019) and the Order imposed only one condition, which was that the Applicant was to submit for site plan approval.

The Applicant again timely submitted a site plan application and revised plans for the Intended Use (P&Z: 18-12000032) (the "2nd Application") that were reviewed by the members of the Development Review Committee at a "Pre-Application Meeting." The City once again issued extensive comments for the Intended Use that were almost impossible to address due to the configuration of the Property with the existing structure.

While the 2nd Application was pending, the City was working to impose a moratorium on new self-storage facilities. In early 2019, the City hired a consulting firm to conduct a supply and demand and equilibrium analysis for the Pompano Beach market and surrounding secondary market for self-storage uses. The study led to Staff drafting proposed self-storage regulations which imposed new design requirements and required self-storage facilities in the I-1 Zoning

District to be approved only by a Special Exception review process. This new ordinance would no longer permit Applicant's self-storage development to be an as-of-right development in the I-1 Zoning District and placed additional restrictions on the Property and hardships on the Applicant. The City Commission passed the moratorium on September 24, 2019, placing a six-month prohibition on accepting or processing self-storage facilities (the "Moratorium"). Between December 2019 and May 2020, the City processed the text amendments to change the self-storage regulations, so that Applicant's pending 2nd Application would not be permitted as-of-right, and would now require additional processes, review and a redesign of the entire project. This caused a significant delay with the Applicant's project.

Over the course of these past few years, the Applicant has faced several hardships. With the proposed moratorium on self-storage facilities affecting the 2nd Application, with COVID-19 shutting down operations all around the country, and with the Applicant's regional vice president who presided over this Property and redevelopment project becoming sick with COVID-19 and eventually passing away, the Applicant really suffered and efforts to develop the Property stalled.

The Applicant now wishes to move forward by changing the plans to completely remove the self-storage facility use and use the Property for automobile, light truck and trailer rentals, for accessory retail sales for packing and moving, and for a warehouse for the storage of U-Box portable storage and moving containers and rental equipment (the "New Use"). The New Use is a permitted use within the I-1 Zoning District and compatible with the surrounding area. The New Use site plan involves a completely new design including the removal of the existing structure on the Property to accommodate the New Use, which will comply the Property with the Zoning Code. See, proposed Site Plan attached as <u>Exhibit 5</u>.

The Applicant is requesting a Major Temporary Use Permit to allow the Current Use to continue while the New Use application and plans are being reviewed and processed. To evidence the Applicant's commitment to the New Use project, the Applicant has already submitted the New Use site plan application (P&Z: 21-12000027) (the "2021 Application"). The 2021 Application was reviewed by the members of the Development Review Committee at a "Pre-Application Meeting" on June 8, 2021 and the comments, now that the existing structure will be removed in its entirety, are being quickly addressed. Once completed, the Applicant will submit for a full review by DRC and approval by the Planning and Zoning Board.

REVIEW STANDARDS

Pursuant to Zoning Code Section 155.2412, the following responses address the Major Temporary Use Permit Review Standards and provide competent substantial evidence to support the Applicant's request for the Temporary Use Permit:

a. Is on its face temporary in nature.

The request by the Applicant for a Temporary Use Permit to allow the Current Use to temporarily remain on the Property is temporary in nature. The Applicant has already submitted the 2021 Application for the New Use and once the site plan is approved, the New Use will permanently replace the Current Use. The New Use, once approved, will be in full compliance with the Zoning Code.

b. Is in harmony with the spirit and intent of this Code.

The temporary use is in harmony with the spirit and intent of the Code. The Code is in place to make sure uses on properties are consistent and compliant with the regulations. The temporary use is a permitted use within the I-1 Zoning District and the Property meets the spirit and intent of the development regulations, including improvements made to the Property by the Applicant consisting of the installation of the landscape bufferyard and the significant improvements made to the structure on the Property.

c. Is not detrimental to property or improvements in the surrounding area, or to the public health, safety or general welfare.

The temporary use is consistent and compatible with the uses in the surrounding area and is not detrimental to property or to the public health, safety or general welfare. The temporary use is a small truck rental facility with accessory retail services for packing and moving. The temporary use will not adversely impact this heavily industrial neighborhood.

d. Does not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods.

The Property is located in the I-1 Industrial Zoning District and is surrounded by industrial uses. To the west of the Property is the FEC Railroad and Dixie Highway, to the south are large warehouse, storage and distribution facilities and to the north and east are various industrial uses including outdoor storage for construction materials. The Property's temporary Current Use will have no adverse effect or noise impacts on any adjoining permanent uses or nearby residential neighborhoods.

e. Is compatible with any principal uses on the site.

The existing temporary uses are compatible with the principal uses on the site. The use as a truck rental facility with accessory retail are permitted uses and compatible with the I-1 zoning district uses.

f. Is located on a site containing sufficient land area to allow the temporary use and associated structures, and accommodate any associated parking and traffic movement, without disturbing environmentally sensitive lands.

The Property is 1.62 acres (70,575.54 square feet) and has sufficient land area to allow the temporary use and associated structure. The structure is only approximately 4,029 square feet, so there is more than enough land area for the temporary Current Use and to accommodate any associated parking and traffic movement, without disturbing environmentally sensitive lands. The Property is zoned I-1 and is located in a heavy industrial area, where there are no surrounding residential areas or environmentally sensitive lands.

g. Complies with all applicable use-specific standards in 155.4403.

Not applicable.

Please do not hesitate to contact us if you have any questions.

Sincerely,

Isl Heidi Davis Knapik

Heidi Davis Knapik

Attachments

cc: Mario Martinez Wesley Chadwick, Esq. Davina Bean Matt Giani Daniel Keester-O'Mills Brian Seymour, Esq.



pippano beach Florida's Warmest Welcome

CITY OF POMPANO BEACH BUSINESS TAX RECEIPT FISCAL YEAR: 2020 - 2021

Business Tax Receipt Valid from: October 1, 2020 through September 30, 2021

4461156 UHAUL CO OF FLORIDA P.O. BOX 21517 10/19/2020

PHOENIX AZ 85036

THIS IS NOT A BILL

THIS IS YOUR BUSINESS TAX RECEIPT. PLEASE POST IN A CONSPICUOUS PLACE AT THE BUSINESS LOCATION.

BUSINESS OWNER:UHAUL OF SOUTH FLORIDABUSINESS LOCATION:1120 NE 48 ST POMPANO BEACH FL

RECEIPT NO: CLASSIFICATION

 21-00088577
 RENTALS-EQUIPMENT

 21-00088578
 MERCHANTS-RTL \$10,000.01 TO \$20,000.00

 21-00088641
 VEHICLE LEASE/RENT CARS,TRUCKS,RV'S

NOTICE: A NEW APPLICATON MUST BE FILED IF THE BUSINESS NAME, OWNERSHIP OR ADDRESS IS CHANGED. THE ISSUANCE OF A BUSINESS TAX RECEIPT SHALL NOT BE DEEMED A WAIVER OF ANY PROVISION OF THE CITY CODE NOR SHALL THE ISSUANCE OF A BUSINESS TAX RECEIPT BE CONSTRUED TO BE A JUDGEMENT OF THE CITY AS TO THE COMPETENCE OF THE APPLICANT TO TRANSACT BUSINESS. THIS DOCUMENT CANNOT BE ALTERED.

BUSINESS TAX RECEIPTS EXPIRE SEPTEMBER 30TH OF EACH YEAR

PROCEEDINGS BEFORE THE ZONING BOARD OF APPEALS CITY OF POMPANO BEACH, FLORIDA

IN RE APPEAL:

APPEAL #15-15000014

Uhaul Co. Florida 2727 N. Central Avenue Pheonix, AZ 85004

A PORTION OF TRACT 1 OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 45 SOUTH, RANGE 42 EAST, RECORDED IN PLAT BOOK "B", PAGE 164, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID LANDS SITUATE AND LYING IN BROWARD COUNTY, FLORIDA, TOGETHER WITH THAT CERTAIN EASEMENT RECORDED 5/24/73, IN OFFICIAL RECORDS BOOK 5297, PAGE 988, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; AND SUBJECT TO THAT CERTAIN EASEMENT RECORDED 5/24/73, IN OFFICIAL RECORDS BOOK 5297, PAGE 991, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

AKA: 1120 NE 48th Street ZONED: I-1 FOLIOS: 484213010023

APPLICANT LANDOWNER: Uhaul Co. Florida

Requests:

MAJOR TEMPORARY PERMIT from the provisions of:

1) Chapter 155: Article 5 [Development Standards] of the City of Pompano Beach Zoning Code in order to utilize an existing building and lot for Automobile and Light Truck and Trailer Rental and accessory Retail Sales without complying with the applicable development standards as required by Code.

2) section 155.4219(A)(2) [Standards Applicable to Motor Vehicle Sales and Service Uses] of the City of Pompano Beach Zoning Code in order to utilize an existing building and lot for Automobile and Light Truck and Trailer Rental without complying with the applicable use standards as required by Code.

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<u>ORDER</u>

IT IS THE DETERMINATION OF THE ZONING BOARD OF APPEALS BY A VOTE OF 5 – 0 THAT THE REQUEST(S) FOR **TEMPORARY USE PERMIT(S)** MEET(S) THE CRITERIA AS SET FORTH IN SECTION 155.02412 (E) OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES.

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APPROVAL ORDER – MAJOR TEMPORARY USE PERMIT Zoning Board of Appeals Appeal #15-15000014 Page 2 of 2

IT IS, THEREFORE, ORDERED THAT A TEMPORARY PERMIT IS **GRANTED** TO THE APPLICANT LANDOWNER: Uhaul Co. Florida

To: Utilize an existing building and lot for Automobile and Light Truck and Trailer Rental and accessory Retail Sales without complying with the applicable development standards as required by Code; and utilize an existing building and lot for Automobile and Light Truck and Trailer Rental without complying with the applicable use standards as required by Code.

This approval is subject to the following six (6) conditions:

- 1. Submit for site plan approval within 6 months of this approval.
- 2. Subject to the following:
 - a. Within 30 days, submit a perimeter landscape plan for staff review.
 - b. Obtain Zoning Compliance and final inspection approval for the installation of perimeter landscaping no later than 90 days from the date of submittal.
- 3. For any façade changes, obtain Minor Building Design approval.
- 4. Close out and final or withdraw open permit 05-9069.
- 5. Existing sign is to be removed or properly permitted within 6 months of this approval.
- 6. Obtain all necessary governmental permits and approvals, including final inspections for building and zoning compliance permits.

This Approval shall become effective and upon passage and shall expire 12 months after issuance, unless otherwise ordered by the Board.

In accordance with the provisions of Section 155.2203 (G) of the Code of Ordinances, the relief granted by the Zoning Board of Appeals is limited to the authority vested in the Board and does not exempt the petitioner or owner from the responsibilities of obtaining all applicable permits and/or approvals as may be required by law, or by the City, for both new and existing structures.

This matter was heard before the Zoning Board of Appeals, and said Board pronounced its decision on February 18, 2016.

Daniel Yaffe, Chairman Zoning Board of Appeals

Filed with the Development Services Department this \prod day of March, 2016.

lindy Audrey Gaten Suttle

Audrey Gaten Suttle Development Services Department Head Secretary

PROCEEDINGS BEFORE THE ZONING BOARD OF APPEALS CITY OF POMPANO BEACH, FLORIDA

IN RE APPEAL:

APPEAL #17-15000017

U-Haul Ft. Lauderdale Frank Grau, President 801 S. Andrews Ave. Pompano Beach, FL 33069

A PORTION OF TRACT 1 OF THE SUBDIVISION OF SECTION 13, TOWNSHIP 45 SOUTH, RANGE 42 EAST, RECORDED IN PLAT BOOK "B", PAGE 164, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID LANDS SITUATE AND LYING IN BROWARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 1, THENCE RUN ON AN ASSUMED BEARING OF N89°59'55"W, 1013.96 FEET ALONG THE NORTH LINE OF SAID TRACT 1 TO A POINT; THENCE RUN S00°36'05"W, 35.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°36'05"W, 295.76 FEET TO A POINT ON THE SOUTH BOUNDARY OF SAID TRACT 1; THENCE RUN WEST 278.65 FEET ALONG SAID SOUTH BOUNDARY; THENCE RUN N15°39'33"E, 98.66 FEET ALONG A LINE 80.00 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF THE FLORIDA EAST COAST RAILROAD TO A POINT: THENCE RUN EAST 135.00 FEET ALONG A LINE 95 FEET NORTH OF AND PARALLEL WITH SAID SOUTH BOUNDARY OF TRACT 1, TO A POINT; THENCE RUN N07°06'36"E, 202.30 FEET TO A POINT THAT IS 35 FEET SOUTH OF SAID NORTH BOUNDARY OF TRACT 1; THENCE RUN S89°59'55"E, 95.08 FEET TO THE POINT OF BEGINNING. AND COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 1, THENCE RUN ON AN ASSUMED BEARING OF N89°59'55"W, 1013.96 FEET ALONG THE NORTH LINE OF SAID TRACT 1 TO A POINT; THENCE RUN \$00°36'05"W, 35.00 FEET TO A POINT: THENCE RUN N89°59'55"W, 95.08 FEET ALONG A LINE 35.00 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF TRACT 1 TO THE POINT OF BEGINNING; THENCE CONTINUE N89°59'55"W. 103.77 FEET ALONG SAID LINE TO A POINT: THENCE RUN S15°39'33"W. 208.49 FEET ALONG A LINE 80.00 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF THE FLORIDA EAST COAST RAILROAD TO A POINT; THENCE RUN EAST 135.00 FEET TO A POINT: THENCE RUN N07°06'36"E, 202.30 FEET TO THE POINT OF BEGINNING. TOGETHER WITH THAT CERTAIN EASEMENT RECORDED 5/24/73, IN OFFICIAL RECORDS BOOK 5297, PAGE 988, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; AND SUBJECT TO THAT CERTAIN EASEMENT RECORDED 5/24/73, IN OFFICIAL RECORDS BOOK 5297, PAGE 991, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

AKA:1120 NE 48th StreetZONED:I-1 (General Industrial)FOLIOS:484213010023

APPLICANT LANDOWNER: U-Haul Co. of Florida

REQUEST:

MAJOR TEMPORARY PERMIT from the (2) provisions of:

1. Chapter 155: Article 5 [Development Standards] of the City of Pompano Beach Zoning Code in order to utilize an existing building and lot for Automobile and Light Truck and Trailer Rental with Self-Storage and accessory Retail Sales without complying with the applicable development standards as required by Code.

2. Section 155.4219(A)(2) [Standards Applicable to Motor Vehicle Sales and Service Uses] of the City of Pompano Beach Zoning Code in order to utilize an existing building and lot for Automobile and Light Truck and Trailer Rental without complying with the applicable use standards as required by Code.

ORDER

IT IS THE DETERMINATION OF THE ZONING BOARD OF APPEALS BY A VOTE OF 5 – 0 THAT THE REOUEST(S) FOR TEMPORARY USE PERMIT(S) MEET(S) THE CRITERIA AS SET FORTH IN SECTION 155.02412 (E) OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES.

* * * * * * * * *

IT IS, THEREFORE, ORDERED THAT A TEMPORARY PERMIT IS GRANTED TO THE APPLICANT LANDOWNER: U-Haul of Ft. Lauderdale, Frank Grau President.

To: utilize an existing building and lot for Automobile and Light Truck and Trailer Rental with Self-Storage and accessory Retail Sales without complying with the applicable development standards as required by Code. They are also requesting a Major Temporary Use in order to utilize an existing building and lot for Automobile and Light Truck and Trailer Rental without complying with the applicable use standards as required by Code.

This approval is subject to the following one (1) condition:

1. Submit for site plan approval within six (6) months of this approval.

This Approval shall become effective upon execution of this Order and shall expire 12 months thereafter, unless otherwise ordered by the Board or any of the foregoing conditions are not timely satisfied.

In accordance with the provisions of Section 155.2203 (G) of the Code of Ordinances, the relief granted by the Zoning Board of Appeals is limited to the authority vested in the Board and does not exempt the petitioner or owner from the responsibilities of obtaining all applicable permits and/or approvals as may be required by law, or by the City, for both new and existing structures.

This matter was heard before the Zoning Board of Appeals, and said Board/pronounced its decision on January 28, 2018.

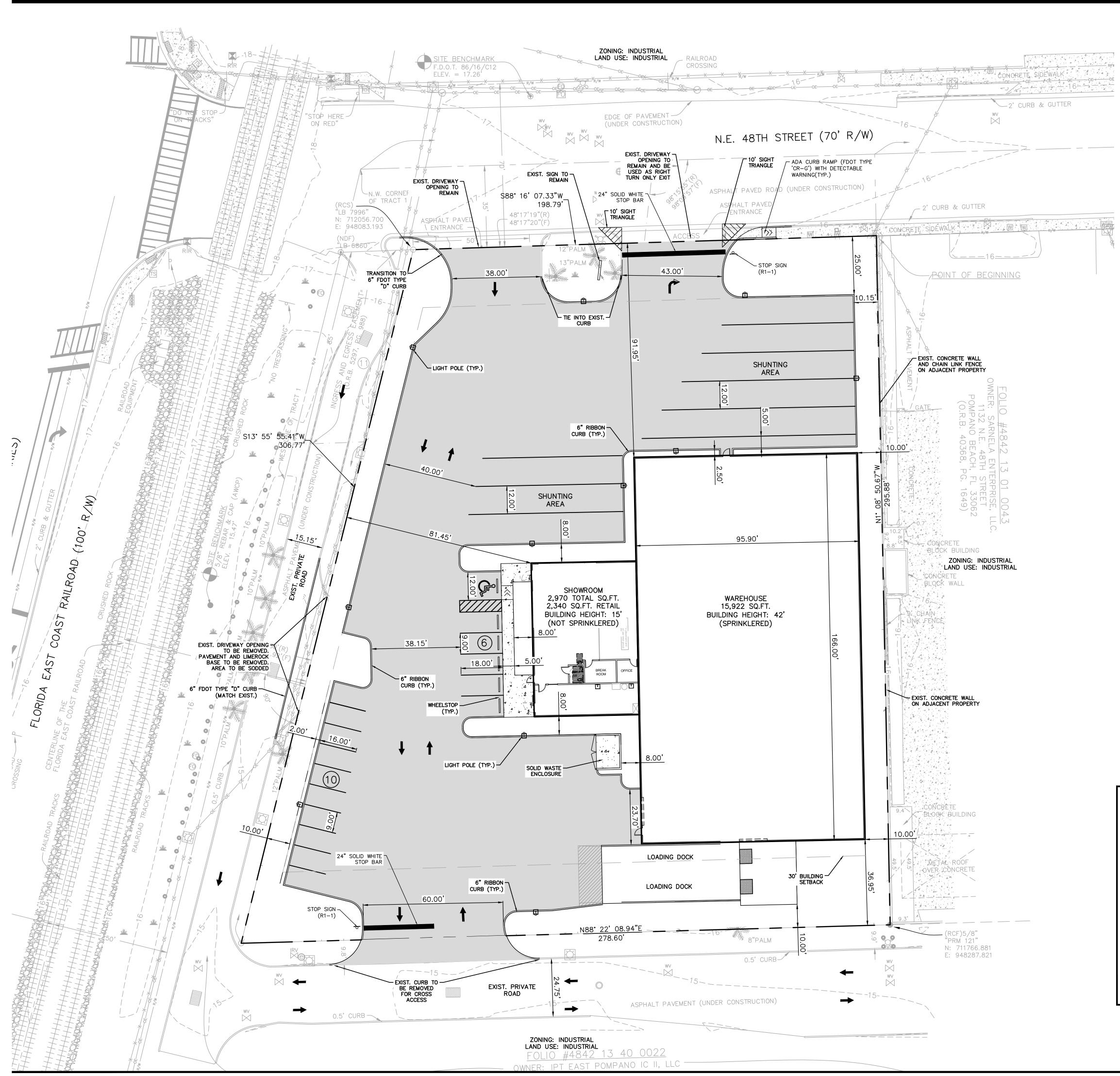
Daniel Yaffe, Chairman

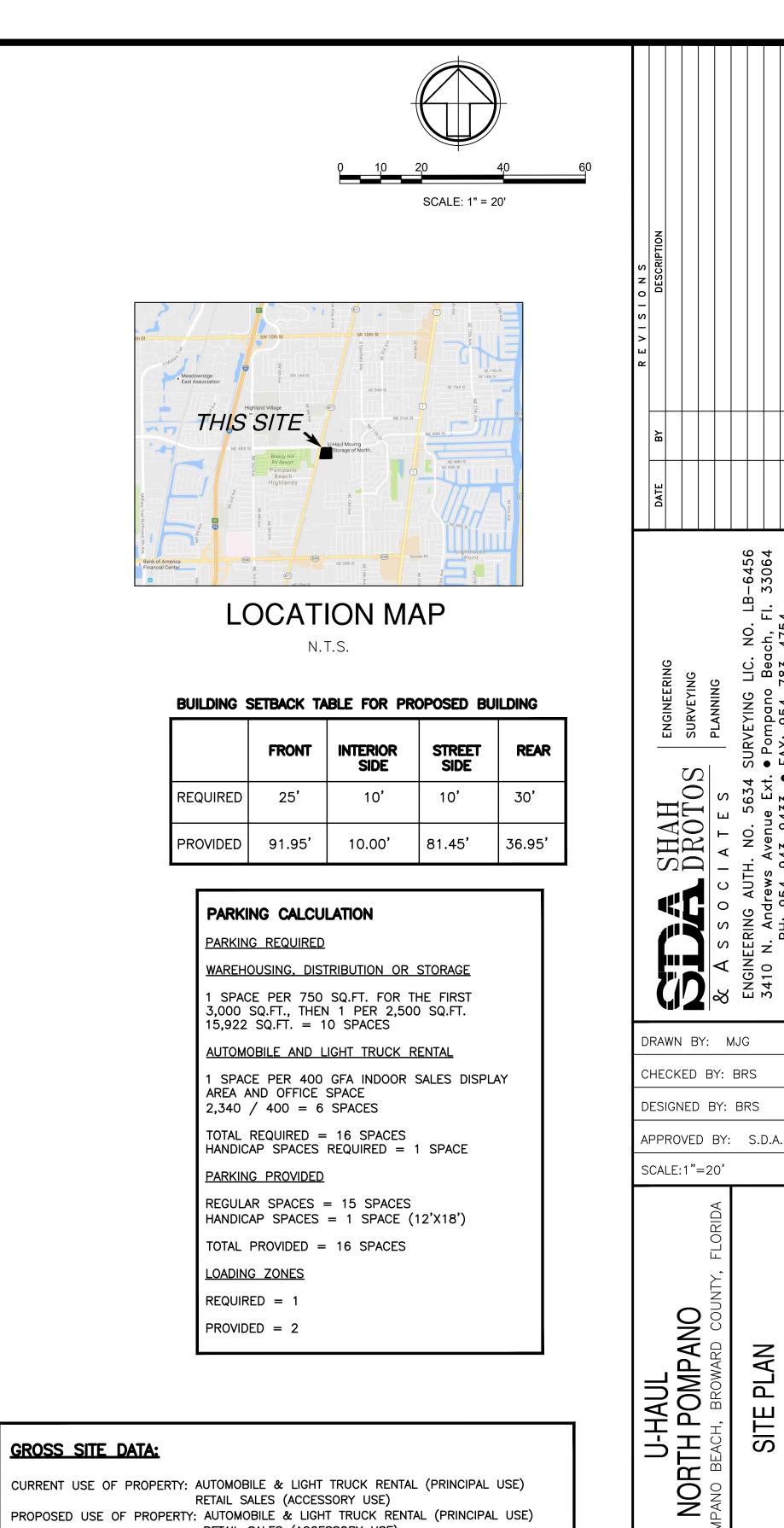
Zoning Board of Appeals

Filed with the Development Services Department this 15th day of February, 2018.

Martha auzon

Martha Lawson, Department Head Secretary **Development Services**





CURRENT USE OF PROPERTY: AUTOMOBILE & LIGHT TRUCK RENTAL (PRINCIPAL USE) RETAIL SALES (ACCESSORY USE) PROPOSED USE OF PROPERTY: AUTOMOBILE & LIGHT TRUCK RENTAL (PRINCIPAL USE) RETAIL SALES (ACCESSORY USE) WAREHOUSE STORAGE (PRINCIPAL USE) LAND USE: INDUSTRIAL ZONING: I-1 (GENERAL INDUSTRIAL) PROPOSED BUILDING HEIGHT: 42'-0" PROPOSED SITE DATA: TOTAL SITE AREA: 1.620 AC. 70,575 SQ.FT. 100.00% BUILDING FOOTPRINT AREA: 0.433 AC. 18,892 SQ.FT. 26.77% VEHICULAR USE AREA: 0.829 AC. 36,129 SQ.FT. 51.19% OTHER PAVED AREA: 0.028 AC. 1,199 SQ.FT. 1.70% GREEN AREA: 0.330 AC. 14,355 SQ.FT. 20.34% TOTAL IMPERVIOUS AREA: 1.290 AC. 56,220 SQ.FT. 79.66% TOTAL PERVIOUS AREA: 0.330 AC. 14,355 SQ.FT. 20.34% 0.433 / 1.620 = 0.267FLOOR AREA RATIO PROPOSED:

> PRELIMINARY ENGINEERING NOT FOR CONSTRUCTION

SEAL

FOR THE FIRM, BY:

MATTHEW GIANI, P.E.

FLA. P.E. No. 84229

1085A.00

CE2

DATE:

MAY 2021

JOB NO.

SHEET