

Legislation Text

File #: LN-24, **Version:** 3

PLANNING AND ZONING/LOCAL PLANNING AGENCY

Meeting Date: JUNE 23, 2021

MURPHY EXPRESS REZONING

Request: Rezoning
P&Z# 20-13000005
Owner: Dixie Properties & Investments LLC and Upper Pompano Properties & Investments LLC
Project Location: 1661 N Dixie Highway
Folio Number: 484226000383 & 484226000380
Land Use Designation: C (Commercial)
Zoning District: B-3 (General Business)
Commission District: 4
Agent: Paola A. West (954-529-9417)
Project Planner: Maggie Barszewski (954-786-7921) / maggie.barszewski@copbfl.com

Summary:

SUMMARY

This approximate 2.98-acre property is located on the west side of Dixie Hwy., south of NE 17th Court. The applicant is requesting to rezone the property from B-3 (General Business) to B-4 (Heavy Business). The subject site consists of two parcels that currently have two buildings consisting of a total of approximately 21,000 square feet. The owners/Applicants are Dixie Properties & Investments, LLC and Upper Pompano Properties & Investments, LLC. The Applicants' intent is to increase the allowable uses on the property. Although the applicants are requesting a rezoning to B-4, Staff is concerned that some of the uses that are permitted in the B-4 District would not be compatible with the adjacent residential properties. The applicant, therefore, volunteered to limit certain types of B-4 uses that are believed to be incompatible with the surrounding properties. This rezoning request was reviewed by the Development Review Committee (DRC) on November 4, 2020.

SITE-SPECIFIC ZONING MAP AMENDMENT (REZONING) REVIEW STANDARDS

In determining whether to adopt or deny a proposed Zoning Map Amendment, the City shall weigh the relevance of information submitted by the applicant and consider the extent to which the proposed amendment is consistent with the Future Land Use Category and any applicable goals, objectives and policies of the Comprehensive Plan. The review criteria for a Site Specific Rezoning Application is as follows:

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.

A. The following policies of the City's Comprehensive Plan Land Use Element have been identified as pertinent to this rezoning:

Policy 01.03.04

Consider the preservation of established single family neighborhoods in all rezonings, land use plan amendments and site plan approvals.

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 01.03.07

Require the provision of building height transitions and decorative structural or vegetative buffers between different density residential land uses, and residential and non-residential land uses.

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:

- A. Density;
- B. Design;
- C. Distance to similar development;
- D. Existing adjoining uses;
- E. Proposed adjoining uses;
- F. Readiness for redevelopment of surrounding uses; and.
- G. Proximity to mass transit.

B. 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 the DRC on November 4, 2020.
2. The property is located on the west side of Dixie Hwy., south of NE 17th Street.
3. The subject property to be rezoned is 2.98 acres.
4. The property is not platted.
5. The existing zoning and uses of adjacent properties are as follows:

DIRECTION	ZONING	LAND USE	ACTUAL USE
NORTH	RS-2/RD-1/B-3	Low 1-5/Commercial	SF, Duplex Houses/Auto Body & Paint Repair Shop
SOUTH	B-3	Commercial	Vacant
EAST	T	Transportation	Dixie Hwy/R&R/Sand & Spur
WEST	RS-2	Low 1-5	SF Houses

6. The Land Use Designation is C (Commercial).

C. Analysis

This general area was annexed in the late 1970s and has had many challenges over the years with disparate uses being in close proximity since many such uses had been carried over from Broward County's Zoning Code. Historically, the establishment on the subject property operated as a towing business. There are several industrial-style buildings located on the site that date as far back as 1974. In 2015, the property was converted to function as an 'Auto and Truck Rental Facility' use with a temporary permit. Ultimately on August 8, 2018 a Site Plan was approved that included a redesign of the existing parking, upgraded pedestrian and vehicular circulation, as well as paved access throughout the automobile and truck-storage area. To mitigate potential impact on the residential adjacent to the north and west, a buffer and perimeter landscaping was required with the Site Plan approval. That buffering met modified-Type B Buffer requirements, shielding the use to the greatest-extent possible (since a structure and wall had historically been located on the property line).

In addition, the business on the property located adjacent to the north of the subject parcel has historically operated as a legal non-conforming 'Automotive Paint and Body shop', which is permitted in B-4, however not in that property's zoning designation of B-3. Additionally, this area has a line of industrially zoned properties located one lot south of the subject property site, along NE 16th Street. Therefore, the requested rezoning, to some extent, provides for a transition between the B-3 Zoning to the north along Dixie Highway and the Industrial Zoning along NE 16th Street to the south.

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.

To meet the above-listed criteria, considering the compatibility of adjacent land uses is required in all of the above-listed policies. In addressing this, the applicant provides for compatibility by offering voluntary restrictions to limit the B-4 uses. The list of uses in 'Table A' below, identifies the B-4 uses that the applicant is voluntarily prohibiting.

Table A

Uses Voluntarily Prohibited By Applicant
Sports Shooting
Auto Paint & Body Shop
Auto Wrecker Service
Laundry, Dry Cleaning, Carpet Cleaning & Dying Facility
Tool Repair Shop
Manufacturing, Assembly or Fabrication, Light
Self-Storage & Mini-Warehouse Facility
Warehouse Distribution & Storage
Pawnshop

All other uses listed within Section 155.3305 (Heavy Business B-4 Zoning District) would be allowed as listed (by right or with restrictions) if this rezoning is approved; however such approval would not be effective until the Voluntary Declaration of Restrictive Covenant instrument is recorded listing the above uses as being prohibited.

All B-3 uses are allowed in a B-4 rezoning and the following additional uses will also be allowed if this rezoning is approved (with the Voluntary Restrictions stated above):

Table B

Additional Permitted, Special Exception and Accessory Uses if B-4 Is Approved (With Voluntary Restrictions in Table A)

Use	B-3	B-4*	Use-Specific Standards
Radio or Television station	Special Exception	Permitted	155.4204.B
Fire Training Facility/	Not Permitted	Permitted	155.4208
Specialty Medical Facility	Special Exception	Permitted	155.4209.B
Urgent Care Facility 24 hours	Special Exception	Permitted	155.4209.C
Specialty Hospital	Special Exception	Permitted	155.4209.D
General Hospital	Special Exception	Permitted	155.4209.E
Medical or Dental Lab	Special Exception	Permitted	155.4209.F
Civic Center	Special Exception	Permitted	155.4211.A
Animal Shelter or Kennel	Not Permitted	Permitted	155.4214.B
Boat or Marine Repair & Servicing	Not Permitted	Permitted	155.4215.E
Boat Towing Service	Not Permitted	Permitted	155.4215.G
Amusement Arcade	Not Permitted	Permitted	155.4217.A
Arena, Stadium or amphitheater	Special Exception	Permitted	155.4217.B

Golf Driving Range	Not Permitted	Permitted	155.4217.G
Miniature Golf Course	Not Permitted	Permitted	155.4217.H
Automotive parts sales with installation	Special Exception	Permitted	155.4219.D
Automotive repair and maintenance facility	Special Exception	Permitted	155.4219.E
Battery Exchange Station	Special Exception	Permitted	155.4219.G
Used Automobile and Light Truck Sales with Indoor Display	Not Permitted	Permitted	155.4219.K
Used Auto & Light Truck Sales & Outdoor Display	Not Permitted	Special Exception	155.4219.L
Muffler/transmission sales and installation	Special Exception	Permitted	155.4219.N
Taxi or Limousine Service Facility	Not Permitted	Permitted	155.4219.Q
Tire Sales and Mounting	Special Exception	Permitted	155.4219.R
Heavy truck/recreational vehicle/trailer rental	Special Exception	Permitted	155.4219.U
Contractor's Office	Not Permitted	Permitted	155.4220.A
Crematory	Not Permitted	Permitted	155.4221.D
Lawn Care, Pool or Pest Control Service	Not Permitted	Permitted	155.4221.I
Flea Market	Not Permitted	Special Exception	155.4222.I
Thrift Shop	Special Exception	Permitted	155.4222.O
Educational, Scientific or Industrial Research and Development	Not Permitted	Special Exception	155.4226.B
Fuel Oil or Bottled Gas Distribution	Not Permitted	Special Exception	155.4226.D
Audio and Visual Recording and Production Studio	Not Permitted	Permitted	155.4226.K
Printing or Other Similar Reproduction Facility	Not Permitted	Permitted	155.4226.L
Cabinet or furniture manufacture and woodworking	Not Permitted	Permitted	155.4227.B
Food and/or Beverage products manufacturing (without slaughtering)	Not Permitted	Special Exception	155.4227.E
Plant nursery, wholesale	Not Permitted	Permitted	155.4230.A
Showroom, wholesale	Not Permitted	Permitted	155.4230.B
Other wholesale	Not Permitted	Permitted	155/4230.C
Outdoor storage (as an accessory use)	Not Permitted	Special Exception	155.4303.W
Storage shed (as an accessory use)	Not Permitted	Permitted as Accessory	155.4303.FF

Alcoholic beverage sales as an accessory use to a brewery, winery or distillery	Not Permitted	Permitted as Accessory	155.4303.SS
Moving vendors on private property (as an accessory use)	Not Permitted	Permitted as Accessory	155.4303.VV

*To be permitted on the site, all uses listed must also meet the Zoning Development Regulations including Parking, Buffering, etc. The building may require a “Change of Use” before these uses will be suitable for the existing buildings. Those uses classified as Industrial (155.4226 to 155.4230) require a Type C buffer and will not be permitted to locate on the site unless the existing buffer is modified to Type C standards.

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 because the rezoning (as restricted) would be compatible with the surrounding existing uses. This compatibility is the result of the applicant volunteering the recordation of a Declaration of Restrictive Covenant restricting the more-intense uses that are allowed in B-4 from being permitted on this property.

Staff Recommendation:

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

Alternative Motion 1: Recommend approval of the rezoning request as the Board finds the rezoning application is consistent with the aforementioned pertinent Future Land Use goals, objectives, and policies, and all applicable Zoning Code standards. This recommendation is subject to the applicant providing staff with the above-mentioned Voluntary Restrictive Covenant prior to placement on the City Commission agenda (such Covenant would not be recorded until after second reading of a proposed Ordinance).

Alternative Motion 2: Table this application for additional information as requested by the Board.

Alternative Motion 3: Recommend denial as the Board finds that the rezoning request is not consistent with the Future Land Use goals, objectives, and policies of the Comprehensive Plan cited in this report, as required in Section 155.2404.C.

Staff recommends Alternative Motion 1.