

Meeting Date: February 9, 2016

Agenda Item 30

REQUESTED COMMISSION ACTION:

Consent	X	Ordinance	Resolution	Consideration/ Discussion	Presentation
_____	_____	_____	_____	_____	_____

SHORT TITLE

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 155 "ZONING CODE", BY AMENDING SECTION 155.2406., "SPECIAL EXCEPTION" TO MODIFY REVIEW STANDARDS FOR APPLICATIONS FOR SPECIAL EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

In order to allow sufficient time to study the provision of health care uses, check cashing stores, convenience stores, liquor or package stores, pawn shops, thrift shops and dormitories in the City, on July 14, 2015 the City Commission adopted Ordinance 2015-67, which enacted a temporary moratorium on these uses. Staff has undertaken a study of the uses and is recommending that in various Zoning Districts these uses require Special Exception approval. A use designated as a Special Exception in a particular zoning district is a use that may be appropriate in the district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. Therefore in addition to the text amendments addressing the above referenced uses, Staff is concurrently recommending revisions to the City's Special Exception criteria specifically addressing impacts and other consideration of neighboring properties. The text amendments were recommended at the December 16, 2015 Planning and Zoning Board meeting.

- (1) Origin of request for this action: Development Services Dept.
- (2) Primary staff contact: Robin M. Bird/ Karen Friedman KBF Ext. 7792
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	12/11/2015	Approval	Memo #15-662 <i>[Signature]</i>
City Attorney	01/11/2016	Approval <i>1/15/16</i>	Memo #2016-367 <i>[Signature]</i>
X Planning and Zoning Board		Approval	Memo #16-004 (01/12/2016)
X City Manager			<i>[Signature]</i>

Ordinance Workshop	Resolution	Consideration
1st Reading _____	1st Reading _____	Results: _____
2nd Reading _____	_____	Results: _____
_____	_____	_____
_____	_____	_____



City Attorney's Communication #2016-367
January 11, 2016

TO: Karen Friedman, AICP, Principal Planner
FROM: Mark E. Berman, City Attorney
RE: Ordinance Amending Section 155.2406., "Special Exception"

As requested in your memorandum of December 17, 2015, Department of Development Services Memorandum No. 15-667, the following form of Ordinance, relative to the above-referenced matter, has been prepared and is attached:

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.2406., "SPECIAL EXCEPTION" TO MODIFY REVIEW STANDARDS FOR APPLICATIONS FOR SPECIAL EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Please carefully review the ordinance to ensure that it meets with your request.


MARK E. BERMAN

/jrm
l:cor/dev-srv/2016-367

Attachment

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.2406., "SPECIAL EXCEPTION" TO MODIFY REVIEW STANDARDS FOR APPLICATIONS FOR SPECIAL EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.2406., "Special Exception," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.2406. SPECIAL EXCEPTION

...

D. Special Exception Review Standards

A Special Exception shall be approved only on a finding that there is competent substantial evidence in the record that the Special Exception, as proposed:

1. Is consistent with the comprehensive plan;

...

5. Is appropriate for its location and is compatible with the general character of ~~surrounding neighboring~~ lands and the uses permitted in the zoning district(s) of ~~surrounding neighboring~~ lands; Evidence for this standard shall include, but not be limited to, population density, intensity, character of activity, traffic and parking conditions and the number of similar uses or special exception uses in the neighborhood;

...

7. Adequately screens, buffers, or otherwise minimizes adverse visual impacts on ~~adjacent neighboring~~ lands;

...

9. Maintains safe and convenient ingress and egress and traffic flow onto and through the site by vehicles and pedestrians, and safe road conditions around the site and neighborhood;

10. Allows for the protection of property values and the ability of neighboring lands to develop uses permitted in the zoning district; ~~and~~

11. Fulfills a demonstrated need for the public convenience and service of the population of the neighborhood for the special exception use with consideration given to the present availability of such uses;

~~11~~ 12. Complies with all other relevant city, state and federal laws and regulations; and

13. For purposes of determining impacts on neighboring properties and/or the neighborhood, the terms neighboring properties and neighborhood shall include the area affected by the requested special exception, which is typically an area of 500 ft to a one-half mile radius from the subject site.

...

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2016.

PASSED SECOND READING this _____ day of _____, 2016.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

:jrm
1/5/16
L:ord/ch155/2016-82

**PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY
MEMORANDUM #16-004**

DATE: January 12, 2016
TO: City Commission
FROM: Planning and Zoning Board/ Local Planning Agency
SUBJECT: Proposed Text Amendments to Zoning Code,
155.2406.D, Special Exception Review Criteria

At the meeting of the Planning and Zoning Board/ Local Planning Agency held on December 16, 2015, the Board considered proposed text amendments to Article 2 (Administration) of the Zoning Code, as set forth in the Department of Development Services Administrative Report 15-662.

After analyzing the existing review standards and the review criteria utilized by the City between 1994 and 2012, Staff recommends revisions to the Special Exception Review Criteria as follows:

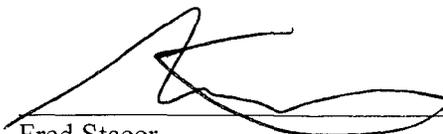
With regards to Criteria #5 – Staff recommends a text amendment that clarifies that appropriateness and compatibility is with neighboring lands (a definition of neighboring is also inserted as Criteria #12). The text amendment clarifies how appropriateness and compatibility is determined.

Staff recommends revisions to Criteria #7 and 9 that address the need to include neighboring lands.

With regards to Criteria #10 – Staff recommends a text amendment that reinserts review criteria from Ord. 1994-56 and addresses the need for the use in the neighborhood, including the availability of the use.

With regards to Criteria #12 – Staff recommends a text amendment that reinserts a definition of neighborhood specific to this section. The definition references 500 ft – ½ mile. These distances take into consideration the mailed notice standard (properties within 500 ft) as well as the service area for a Neighborhood Park, per the City's Comprehensive Plan (½ mile radius).

With a unanimous vote for the approval of the amendments, it is the recommendation of the Board that the text amendments be approved.



Fred Stacer
Chairman
Planning and Zoning Board/ Local Planning Agency

Karen Friedman introduced herself to the Board. Staff is recommending text amendments to the Zoning Code regarding public hearing notice requirements.

Several applications currently require notices to be mailed five (5) calendar days prior to the Advisory Board Hearing. Due to recent routing changes with the USPS, this number of days appears to no longer provide adequate notice of hearings. During the Audience To Be Heard portion of the October 27, 2015 City Commission hearing, Staff was directed to increase the mailed noticing deadlines from five (5) calendar days to six (6) business days. Staff has already implemented this new procedure and the text amendment will codify the requirement.

Staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

Mr. Evans asked how six business days was determined. Karen Friedman stated that applicants have to be ready earlier and...

Mr. Evans asked if there are statutory requirements. Carrie Carver stated that the City Attorney's office is very supportive of the code change. This is in line with... Florida Statutes says reasonable notice. This is only for the mailed notice.

Mr. Syrek asked if we could advertise the planning and zoning items on Channel 78.

Discussion.

MOTION made by Richard Klosiewicz and seconded by Dwight Evans to recommend approval of the proposed text amendments to increase the public hearing noticing deadlines. All voted in favor of the above motion; therefore, the motion passed.

7. Chapter 155 Text Amendments, Special Exception Review Criteria

Staff is recommending revisions to the Special Exception review criteria in the Zoning Code.

Karen Friedman introduced herself to the Board and stated that this proposed text amendment is related to the temporary moratorium and the standards and recommendations that were reviewed by the Planning and Zoning Board at the special set hearing (November 30th). Staff is recommending requiring Special Exception approval for several existing uses (that are currently permitted uses) as well as for several new uses that will be identified in the code which will require special exception approval. Staff reviewed the Special Exception Review Criteria, specifically Staff analyzed the existing review standards and the review criteria utilized by the City between 1994 through 2012. Mrs. Friedman stated that a line by line analysis was done and it is included in the Board's backup. Based on this analysis, Staff is recommending revisions to the review criteria:

Criteria #5 – The text amendment would clarify that appropriateness and compatibility is with neighboring lands (a definition of neighboring is also inserted as Criteria #12). The text amendment would clarify how appropriateness and compatibility is determined.

Criteria #7 – The text amendment would clarify how the properties would need to be buffered that addresses compatibility with neighboring lands.

Criteria #9 – The text amendment would clarify that traffic and issues related to vehicular movement would need to address the neighborhood.

Criteria #10 – The text amendment adds back in the consideration of the need for this use in the neighborhood, including the availability of the use.

Mrs. Friedman stated that staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

Mr. Stacer asked if the Board had any questions and received no response.

MOTION made by Walter Syrek and seconded by Richard Klosiewicz to recommend approval of the proposed text amendments to section 155.2406. All voted in favor of the above motion; therefore, the motion passed.

8. Chapter 155 Text Amendments, AOD Parking Modifications

HEARD FIRST

In conjunction with the proposed text amendments resulting from the Temporary Moratorium, Staff has prepared revisions to the parking modifications for the AOD that are set to expire on January 4, 2016. The intent of the proposed parking modifications is to encourage the redevelopment of the AOD by incentivizing those uses that further the purpose of the district and incentivizing the redevelopment of properties that are the most challenging in terms of providing parking (i.e. existing development and/or small lots). The proposed amendments include a five year extension to the parking reductions.

Mrs. Friedman introduced herself to the Board and stated that this text amendment is in conjunction with the moratorium text amendments which were reviewed by the Board at the November 30th special set hearing. The proposed text amendments address revisions to the modified parking standards for the Atlantic Boulevard Overlay District (AOD) to reflect the recommendations as a result of the moratorium. The proposed amendments include a five year extension to the parking reductions. The exemptions have been tailored down to target the uses that are highly desirable in the AOD. In summary, Eating and Drinking Establishments (excluding halls for hire and nightclubs), Retail Sales and Service Uses (with a few exceptions), and Professional Offices would be targeted use categories and would be eligible to be exempt from parking requirements or would have reduced parking requirements. Mrs. Friedman asked the Board if they had any questions.

Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // kem



MEMORANDUM

Development Services

ADMINISTRATIVE MEMORANDUM NO. 15-662

DATE: December 11, 2015
TO: Planning and Zoning Board
VIA: Robin M. Bird, Director of Development Services *RB*
FROM: Karen Friedman, AICP, Principal Planner *KBF*
RE: Proposed Revisions to §155.2406.D, Special Exception Review Criteria

As a result of the research and reports addressing the uses subject to the Temporary Moratorium, Staff has recommended requiring Special Exception approval for several existing uses as well as for several new uses. Therefore in conjunction with these recommendations, Staff analyzed the Special Exception Review Criteria. More specifically Staff analyzed the existing review standards and the review criteria utilized by the City between 1994 through 2012 (a copy of Staff's analysis is attached). Based on this analysis Staff is recommending revisions to the review criteria as follows:

Criteria #5 – The text amendment would clarify that appropriateness and compatibility is with neighboring lands (a definition of neighboring is also inserted as Criteria #12). The text amendment would clarify how appropriateness and compatibility is determined.

Criteria #7 – The text amendment would clarify that buffering etc... needs to address neighboring lands.

Criteria #9 – The text amendment would clarify that traffic etc... needs to address the neighborhood.

Criteria #10 – The text amendment reinserts review criteria from Ord. 1994-56 and addresses the need for the use in the neighborhood, including the availability of the use.

Criteria #12 – The text amendment reinserts a definition of neighborhood specific to this section. The definition references 500 ft – ½ mile. These distances take into consideration the mailed notice standard (properties within 500 ft) as well as the service area for a Neighborhood Park, per the City's Comprehensive Plan (½ mile radius).

Staff's Request

Staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

§ 155.2406. SPECIAL EXCEPTION

...

D. Special Exception Review Standards

A Special Exception shall be approved only on a finding that there is competent substantial evidence in the record that the Special Exception, as proposed:

1. Is consistent with the comprehensive plan;
2. Complies with all applicable zoning district standards;
3. Complies with all applicable use-specific standards in Article 4: Use Standards;
4. Avoids overburdening the available capacity of existing public facilities and services, including, but not limited to, streets and other transportation facilities, schools, potable water facilities, sewage disposal, stormwater management, and police and fire protection;
5. Is appropriate for its location and is compatible with the general character of ~~surrounding~~ neighboring lands and the uses permitted in the zoning district(s) of ~~surrounding~~ neighboring lands. Evidence for this standard shall include, but not be limited to, population density, intensity, character of activity, traffic and parking conditions and the number of similar uses or special exception uses in the neighborhood;
6. Avoids significant adverse odor, noise, glare, and vibration impacts on surrounding lands regarding refuse collection, service delivery, parking and loading, signs, lighting, and other site elements;
7. Adequately screens, buffers, or otherwise minimizes adverse visual impacts on ~~adjacent~~ neighboring lands;
8. Avoids significant deterioration of water and air resources, scenic resources, and other natural resources;
9. Maintains safe and convenient ingress and egress and traffic flow onto and through the site by vehicles and pedestrians, and safe road conditions around the site and neighborhood;
- ~~10.~~ Fulfills a demonstrated need for the public convenience and service of the population of the neighborhood for the special exception use with consideration given to the present availability of such uses;
10. Allows for the protection of property values and the ability of neighboring lands to develop uses permitted in the zoning district; and
11. Complies with all other relevant city, state and federal laws and regulations.
- ~~12.~~ For purposes of determining impacts on neighboring properties and/or the neighborhood, the terms neighboring properties and neighborhood shall include the area affected by the requested special exception, which is typically an area of 500 ft to a one-half mile radius from the subject site.

Zoning Code 155.2406.D / New Code	Ord. 1994-56 / Old Code	Comment
1. Is consistent with the comprehensive plan;	(1) Will be consistent with the city's comprehensive plan	No change recommended
2. Complies with all applicable zoning district standards;	(6) Will not adversely affect the health, safety, security, morals, or general welfare of the neighborhood.	No change recommended.
3. Complies with all applicable use-specific standards in Article 4: Use Standards;	(8) Conforms with all other specific standards set forth in the code of ordinances or the comprehensive plan.	No change recommended
4. Avoids overburdening the available capacity of existing public facilities and services, including, but not limited to, streets and other transportation facilities, schools, potable water facilities, sewage disposal, stormwater management, and police and fire protection;	(7) Will not, with consideration given to existing development in the area and development permitted under the current zoning provisions, overburden existing public services and facilities including schools, police and fire protection, water, sanitary sewer, public road, storm drainage, and other public improvements and will not create a hazard by virtue of its site and location to residents, visitors or workers in the neighborhood.	No change recommended
5. Is appropriate for its location and is compatible with the general character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;	(2) Will be in harmony with the general character of the neighborhood. In determining whether the proposed special exception use will be in harmony with the character of the neighborhood, consideration shall be given, but not limited to, population density, intensity, character of activity, traffic and parking conditions and the number of similar uses or special exception uses in the neighborhood.	Add "neighborhood" to criteria. Recommend adding back in <i>"consideration shall be given, but not limited to, population density, intensity, character of activity, traffic and parking conditions and the number of similar uses or special exception uses in the neighborhood."</i>
6. Avoids significant adverse odor, noise, glare, and vibration impacts on surrounding lands regarding refuse collection, service delivery, parking and loading, signs, lighting, and other site elements;	(7) Will not, with consideration given to existing development in the area and development permitted under the current zoning provisions, overburden existing public services and facilities including schools, police and fire protection, water, sanitary sewer, public road, storm drainage, and other public improvements and will not create a hazard by virtue of its site and location to residents, visitors or workers in the neighborhood.	No change recommended
7. Adequately screens, buffers, or otherwise minimizes adverse visual impacts on adjacent lands;		Add "neighborhood" to criteria
8. Avoids significant deterioration of water and air resources, scenic resources, and other natural resources;	(7) Will not, with consideration given to existing development in the area and development permitted under the current zoning provisions, overburden existing public services and facilities including schools, police and fire protection, water, sanitary sewer, public road, storm drainage, and other public improvements and will not create a hazard by virtue of its site and location to residents, visitors or workers in the neighborhood.	No change recommended
9. Maintains safe and convenient ingress and egress and traffic flow onto and through the site by vehicles and pedestrians, and safe road conditions around the site;	(4) Shall not create a traffic hazard or nuisance with consideration given, but not limited to, location of existing uses, turning movements in relation to the access to public roads and intersections or its location in relations to other buildings or proposed buildings on or near the site within the neighborhood, the traffic pattern from such buildings or by reason of the special exceptions' location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital or other public use or place of public assembly.	Add "neighborhood" to criteria
10. Allows for the protection of property values and the ability of neighboring lands to develop uses permitted in the zoning district; and	(5) Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood with consideration given, but not limited to, noise, vibration, fumes, odors, dust, glare, other environmental hazard, or physical activity which will be generated and is otherwise present in the area.	No change recommended
11. Complies with all other relevant city, state and federal laws and regulations.		No change recommended
	(3) There exists a need for the public convenience and service of the population of the neighborhood for the special exception use with consideration given to the present availability of such uses.	Recommend adding this language back in.
	For the purpose of this section, the term neighborhood shall be defined as the area affected by the requested special exception.	Add this language back in but add in quantifiable standards. 500 feet is mailing requirement. However the Open Space / Recreation element states a Neighborhood park serves radius of up to one half (1/2) mile. Therefore include both.