



CITY OF POMPANO BEACH
FLORIDA

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ZONING BOARD OF APPEALS
City Commission Chambers

July 20, 2017
6:00 P.M.

AGENDA

A. Call to order by the Chairman of the Board, Mr. Daniel Yaffe.

B. **ROLL CALL:**
George Cuolahan
John J. Geer, Jr.
Robert Kintchen
Ross Shulmister
Paul Webb
Dan Yaffe

C. **APPROVAL OF THE MINUTES:**
Meeting of June 15, 2017

D. **EXPLANATION OF PREREQUISITES AND BOARD PROCEDURES**

E. **INDIVIDUALS TESTIFYING PLACED UNDER OATH**

F. **PUBLIC HEARING**

1. **Planning & Zoning # 17-1500007**
MAJOR TEMPORARY USE PERMIT – OB PROPERTIES, LLC
Consideration of a request by **OB Properties, LLC** for a MAJOR TEMPORARY USE PERMIT from the provisions of Chapter 155: Article 5 [Development Standards] and Chapter 155: Article 4 [Use Standards] of the City of Pompano Beach Zoning Code in order to install above ground equipment for the purpose of remediating petroleum contamination in soil and groundwater on the subject property (Zoning District: B-3) without complying with the applicable development and use standards as required by Code.

The property in this Public Hearing is as follows:

Parcel A”, CRESTHAVEN NO. 3, according to the Plat thereof as recorded in Plat Book 37, Page 11, of the Public Records of Broward County, Florida, less the West 193.34 feet thereof and less the North 150 feet. Said tract having a frontage of 151.45 feet of Federal Highway and 150 feet on N.E. 29th Street.
All less road right-of-way.

AKA: 2901 N Federal Highway
ZONED: B-3 (General Business)
FOLIOS: 484224130011

2. **Planning & Zoning # 17-15000008**
MAJOR TEMPORARY USE PERMIT – UPPER POMPANO PROPERTIES
& INVESTMENTS, LLC AND DIXIE PROPERTIES & INVESTMENTS
LLC

Consideration of a request by **Upper Pompano Properties & Investments, LLC and Dixie Properties & Investments LLC** for a MAJOR TEMPORARY USE PERMIT EMPORARY USE PERMIT from the provisions of Chapter 155: Article 5 [Development Standards] of the City of Pompano Beach Zoning Code in order to utilize a vacant lot for Automotive and Light Truck Rental and display without complying with the applicable development standards as required by Code.

The property in this Public Hearing is as follows:

Parcel ‘A’ A parcel of land lying west of the FEC Railroad right-of-way in the south one-half of the northeast one-quarter of the south-east one-quarter of Section 26, Township 48 South, Range 42 East, Broward County, Florida, being more particularly described as follows: Commence at a point on the west line of the FEC Railroad right-of-way, said point being 2050.72 feet from the south line of Section 26, as measured along the west line of the FEC Railroad right-of-way; thence north 76°02’40” west, a distance of 40.00 feet to the point of beginning; thence south 13°57’20” west, a distance of 209.19 feet; thence south 88°29’55” west, a distance of 351.64 feet; thence north 00°54’35” west, a distance of 300.00 feet; thence north 88°29’55” east; a distance of 270.68 feet; thence south 13°57’20” west, a distance of 59.19 feet; thence south 76°02’40” east; a distance of 155.00 feet to the point of beginning, less therefrom that certain right-of-way for North Dixie Highway (State Road 811) taken by order of taking recorded in OR Book 21796, page 903 of the public records of Broward County, Florida. **Parcel ‘B’**A portion of the south one-half of the northeast one-quarter of the southeast one-quarter of Section 26, Township 48 South, Range 42 East, Broward County, Florida, more fully described as follows: Commencing at the intersection of the south line of said Section 26, and the west right-of-way line of the FEC Railway; thence northerly along the said west right-of-way line, a distance of 1730.80 feet to the point of beginning; thence west making an angle of 74°32’35”, in the southwest quadrant, a distance of 361.80 feet; thence north making an included angle of 89°24’30”, a distance of 117.80 feet; thence east making an included angle of 90°35’30”, a distance of 393.14 feet to a

point on the west right-of-way line of the FEC Railway; thence southerly along the said west right-of-way line, a distance of 122.22 feet to the point of beginning, less the right-of-way of Old Dixie Highway.

AKA: 1661 North Dixie Highway
ZONED: B-3 (General Business)
FOLIOS: 484226000380 & 484226000383

3. **Planning & Zoning # 17-11000009**

VARIANCE – VECTOR OF POMPANO BEACH, LLC

Consideration of a request by **Vector of Pompano Beach, LLC**, for a VARIANCE from each of the following provisions of the City of Pompano Beach Code of Ordinances:

1. Section 155.5601(C)(2)(b) [Maximum Building Size], in order to allow a multi-family building with a length of 212 linear feet, rather than limit the building length to 180 linear feet as required by Code.
2. Section 155.5102(D)(1) [Minimum Number of Off-street Parking Spaces], in order to allow a multi-family development with 0 guest parking spaces, rather than provide the required 3 guest parking spaces as per Code.
3. Section 155.3304(C) [Intensity and Dimensional Standards], in order to allow individual townhouse lots with less than the minimum area of 1,800 sq ft. as required by Code.
4. Section 155.5203(D)(5)(a) [Landscaping Between Vehicular Use Areas and Buildings] in order to allow a multi-family development with less than the required 24-foot the minimum landscaped area as per Code.
5. Section 155.4302(B)(2)(g) [Prohibited Location of Accessory Uses and Structures], in order to allow a pool and a trash enclosure to be located in front of the principal structure rather than prohibit any accessory uses or structures in front of a principal structure as per Code.
6. Section 155.5301(C)(2)(a) [Location], in order to allow a trash enclosure with a 0-foot setback, rather than provide the required 5-foot setback as per Code.

The property in this Public Hearing is as follows:

Lots 1, 2, 3, 4, and 5 , Block "B", AMENDED PLAT OF LOTS 1, 2, 3, 4, and 5 , BLOCK B, of SANTA BARBARA SHORES. according to the plat thereof, as recorded in Plat Book 51, Page 48, of the public records of Broward County, Florida, together with the South one-half (S 1/2) of that certain alley lying North of and adjacent to said lot 5, now vacated. **Less:** The West 5 feet of Lot 1, AMENDED PLAT OF LOTS 1, 2, 3, 4, and 5 , BLOCK B, of SANTA BARBARA SHORES. A Subdivision as shown on the plat recorded in Plat Book 51, Page 48, of the public records of Broward County, Florida. **And Less:** The East 5 feet of Lot 5 and the South half of the adjoining alley lying North of Lot 5 , AMENDED PLAT OF LOTS 1, 2, 3, 4, and 5 , BLOCK B, of SANTA BARBARA SHORES. a

Subdivision as shown on the plat recorded in Plat Book 51, Page 48, of the public records of Broward County, Florida. Said land situated, lying and being in the City of Pompano Beach, Broward County, Florida and containing 26,896 square feet or 0.9174 acres, more or less.

AKA: 2119 SE 9th Street
ZONED: B-3 (General Business)
FOLIOS: 494306350010

4. **Planning & Zoning # 17-11000010**
VARIANCE – BRYAN MILLER

Consideration of a request by **Bryan Miller**, for a VARIANCE from the provisions of Section 155.4303(NN)(3)(b)(i) [Standards for Specific Accessory Uses and Structures] of the City of Pompano Beach Code of Ordinances, in order to maintain a chickee hut providing less than 1 foot setback, rather remove and reconstruct the chickee hut with a 3 foot setback as required by Code..

The property in this Public Hearing is as follows:

Lot 12, Block 1, of Cresthaven No. 7, according to the Plat thereof, as recorded in Plat Book 43, Page 10, of the public records of Broward County, Florida, lying and being in the city of Pompano Beach, Broward County Florida.

AKA: 1050 NE 24 Street
ZONED: RS-3 (Single Family Residences)
FOLIOS: 484224170120

5. **Planning & Zoning # 17-11000011**
VARIANCE – BROWARD COUNTY WATER AND WASTEWATER SERVICES

Consideration of a request by **Broward County Water and Wastewater Services**, for a VARIANCE from the following provisions:

1. 155.5301(A)(2)(b) [Ground-Mounted Mechanical Equipment] of the City of Pompano Beach Code of Ordinances, in order to install new mechanical equipment on an existing site without installing additional screening for each current and future unit, rather than install a fence, hedge or similar device at a height equal to or exceeding the height of the proposed mechanical equipment as required by Code.
2. Section 155.4213(B)(3)(b) [Utility Use, Major] of the City of Pompano Beach Code of Ordinances, in order to allow a water treatment facility eliminate the required perimeter buffer and landscaping requirements for the north and west property lines, rather than provide the required Type B Buffer around the entire perimeter with landscaping on the interior and exterior of the wall, as per Code.

The property in this Public Hearing is as follows:

A PORTION OF PARCEL "F" BROWARD COUNTY PLAT No 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 107, PAGES 47, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. **LESS AND EXCEPT THE FOLLOWING RIGHT-OF-WAY: PARCELS 3, 4 AND 6 CONTAINED IN THE BROWARD COUNTY RESOLUTION 1999-8, ADOPTED JANUARY 12, 1999 AND RECORDED JANUARY 25, 1999 IN OFFICIAL RECORDS BOOK 29173, PAGE 631 OF THE PUBLIC RECORDS OF BROWARD COUNTY , FLORIDA AND PARCELS 3A AND 4A CONTAINED IN BROWARD COUNTY RESOLUTION 2003-540, ADOPTED AUGUST 12, 2003 AND RECORDED SEPTEMBER 26, 2012 IN OFFICIAL RECORDS BOOK 49108, PAGE 1928 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.**

AKA: 2401 N. Powerline Road
ZONED: PU (Public Utilities)
FOLIOS: 484228070060

**6. Planning & Zoning # 17-11000012
VARIANCE – ALAN PLUMBER**

Consideration of a request by **Alan Plumber** for a VARIANCE from the provisions of Section 155.3203 (C) [Single-Family Residence – Intensity and Dimensional Standards] of the City of Pompano Beach Code of Ordinances, in order to maintain a building that has a 3 foot interior side yard setback, rather than provide the 7.5 feet required by Code.

The property in this Public Hearing is as follows:

LOT 8 BLOCK 4 OF THE PLAT OF “OCEAN-WAY PARK” AS RECORDED IN PLAT BOOK 5 AT PAGE 21 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

AKA: 211 NE 14th Avenue
ZONED: RS-2 (Single Family Residences)
FOLIOS: 484236030510

**7. Planning & Zoning # 15-17000008
SPECIAL EXCEPTION – DP DEVELOPMENT, LLC**

Consideration of a request by **DP Development of Pompano, LLC**, for SPECIAL EXCEPTION approval as required by Section 155.4228(A)(1) [Districts Where Permitted; I-1] of the City’s Code of Ordinances in order to utilize the subject property as Outdoor Storage (as a principal use).

The property in this Public Hearing is as follows:

Lot 10, Power Park, according to the Plat thereof, as recorded in Plat Book 112, Page 45 of the Public Records of Broward County, Florida.

AKA: 2240 NW 22 Street
ZONED: I-1 (General Industrial)
FOLIO: 484228100100

G. OTHER BUSINESS

H. ADJOURNMENT

VARIANCE REVIEW STANDARDS- Section 155.2420.D

- a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;
- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;
- c. Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;
- d. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.
- e. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
- f. The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
- g. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and
- h. The Variance is consistent with the comprehensive plan.

SPECIAL EXCEPTION REVIEW STANDARDS – Section 155.2406.D

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

TEMPORARY USE PERMIT REVIEW STANDARDS – Section 155.2412.E

1. Is on its face temporary in nature;
2. Is in harmony with the spirit and intent of this Code;
3. Is not detrimental to property or improvements in the surrounding area, or to the public health, safety, or general welfare;
4. Does not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;
5. Is compatible with any principal uses on the site;
6. 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; and
7. Complies with all applicable use-specific standards in Section 155.4403.

INTERIM USE REVIEW STANDARDS – Section 155.2415.D

- a. Complies with the standards in Section 155.4403.E, Interim Commercial Use or Section 155.4403.F, Interim Industrial Use, as applicable;
- b. Is consistent with the comprehensive plan;
- c. Is consistent with any adopted Master Plan;
- d. Will not create a traffic hazard or nuisance with consideration given to, but not limited to, location of existing uses, turning movements in relation to the access to public roads and intersections or its location in relation to other buildings or proposed buildings on adjacent properties;
- e. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property or the neighborhood, with consideration given to, but not limited to, noise, vibration, fumes, odors, dust, glare, other environmental hazards, or physical activity that will be generated and is otherwise present in the area; and
- f. Will not adversely affect the health, safety, security, morals, or general welfare of the neighborhood;
- g. Will not, with consideration given to the existing development in the area and development permitted under the current zoning provisions, overburden existing public services and facilities, including 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;
- h. Will be in harmony with the general character of the neighborhood, with consideration given to, but not limited to, population density, intensity, character of activity, traffic and parking conditions, and the number of similar uses in the neighborhood; and
- i. Is consistent with CPTED standards for natural surveillance, natural access control, territorial reinforcement, and maintenance.
- j. Additionally, an Interim Commercial Use shall comply with the following standards:
 - i. Will benefit the neighborhood and will be open to the public;
 - ii. Is an outdoor use that would otherwise be allowed in the zoning district in which it is located as either a Permitted Use, Special Exception Use, or Accessory Use; and
 - iii. Is a community serving use.

APPEAL REVIEW STANDARDS – Section 155.2424.D

D. REVIEW STANDARDS

1. The appellate body shall review an Appeal in accordance with the standards of this Code applicable to the decision or interpretation being appealed, and shall base its decision solely on the record established below in making the decision or interpretation being appealed. The record shall consist of all documents, hearing records, and other materials related to the decision or interpretation.
2. The appellate body may modify or reverse a decision or interpretation on appeal (in whole or in part) only if it finds that there is competent substantial evidence in the record of a clear and demonstrable error in the application of the relevant standards or provisions of this Code.
3. For Sexually Oriented Businesses, the sole issue to be considered in an Appeal is whether the Development Services Director's determination was correct, pursuant to the requirements of Article 4, Section 155.4224.

*Please note per the code Section 155.2424.D(7)(a) APPEALS DECISION-MAKING BODY REVIEW AND DECISION listed below the Board will make one of the three (3) decisions listed below and it must be approved by a Super-Majority vote.

The final decision of the appellate body shall be one of the following:

- i. Affirmation of the decision or interpretation (in whole or in part);
- ii. Modification of the decision or interpretation (in whole or in part); or
- iii. Reversal of the decision or interpretation (in whole or in part).

The concurring vote of at least four members of the ZBA is required for the board to modify or reverse a decision or interpretation by the Development Services Director.