



CITY OF POMPANO BEACH
FLORIDA

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ZONING BOARD OF APPEALS
City Commission Chambers

October 20, 2016
6:00 P.M.

AGENDA

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

B. **ROLL CALL:**
Daniel Yaffe
Paul Webb
George Cuolahan
Ross Shulmister
Robert Kintchen

C. **APPROVAL OF THE MINUTES:**
Meeting of September 15, 2016

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

E. **INDIVIDUALS TESTIFYING PLACED UNDER OATH**

F. **PUBLIC HEARING**

1. **Planning & Zoning # 16-1700008**
SPECIAL EXCEPTION – LINDIMAR MANAGEMENT, INC.

Consideration of a request by Lindimar Management, Inc. for SPECIAL EXCEPTION approval as required by Section 155.4229 B. 1. [Districts Where Permitted] of the City’s Code of Ordinances in order to utilize the subject property (Zoning District: I-1X) as a “Materials Recovery Facility” and “Solid Waste Transfer Station.”

The property in this Public Hearing is as follows:

PARCEL "A" OF SILLS PROPERTIES PLAT NO.3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 141, PAGE 7, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

TOGETHER WITH; PARCELS A AND B, OF ROWAN PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 102, AT PAGE 35, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

TOGETHER WITH A PORTION OF NORTHWEST 32ND STREET ADJACENT TO "ROWAN PLAT NO. 1", AS RECORDED IN PLAT BOOK 102, AT PAGE 35, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF PARCEL "B" OF SAID "ROWAN PLAT NO. 1"; THENCE NORTH 89°28'48" WEST, ALONG THE NORTH LINE OF SAID PARCEL "B", A DISTANCE OF 108.75 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE TO THE LEFT AT WHICH A RADIAL LINE BEARS NORTH 52°36'36" WEST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 73°44'25" A DISTANCE OF 64.35 FEET; THENCE SOUTH 89°28'48" EAST ALONG THE SOUTH LINE OF PARCEL "A" OF SAID "ROWAN PLAT NO. 1", A DISTANCE OF 109.08 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "A"; THENCE SOUTH 00°49'53" WEST, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING. LESS THOSE DEDICATION PARCELS CONVEYED TO THE CITY OF POMPANO BEACH BY QUIT CLAIM DEED, FILED MARCH 8, 2005, IN OFFICIAL RECORDS BOOK 39193, AT PAGE 248.

AKA: 1840 NW 33 Street
ZONED: I-1X (Special Industrial)
FOLIOS: 484222480010, 484222170010, 484222170020

2. **Planning & Zoning # 16-15000007**

MAJOR TEMPORARY USE PERMIT – MARK & PATRICIA MACEK

Consideration of a request by Mark and Patricia Macek for a MAJOR TEMPORARY USE PERMIT from the provisions of Chapter 155: Article 5 [Development Standards] and Article 4 [Use Standards] of the City of Pompano Beach Zoning Code for the installation of a temporary accessory structure (outdoor holiday display) in the required front yard setback and in front of a principal structure in a residential zoning district (Zoning District: RS-2).

The property in this Public Hearing is as follows:

LOT 22 AND 23, BLOCK 5 OF "CYPRESS POINT," ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 28, PAGE 16 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

AKA: 2700 SE 6th Street
ZONED: RS-2 (Single Family Residential 2)
FOLIOS: 494306191260

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.