



**MINUTES  
CITY OF LAKE WORTH BEACH  
PLANNING & ZONING BOARD REGULAR MEETING  
CITY HALL COMMISSION CHAMBER  
WEDNESDAY, JANUARY 06, 2021 -- 6:00 PM**

**ROLL CALL and RECORDING OF ABSENCES:** Board members *present in City Commission Chambers:* Anthony Marotta, Vice-Chair; Mark Humm; Juan Contin; Daniel Tanner; Laura Starr. *Virtual Board member attendance:* Greg Rice, Chairman; Robert Lepa. Also present were: Andrew Meyer, Senior Community Planner; Erin Sita, Assistant Director for Community Sustainability; William Waters, Director for Community Sustainability; Pamala Ryan, Board Attorney; Sherie Coale, Board Secretary.

**PLEDGE OF ALLEGIANCE** Led by M. Humm

**ADDITIONS / DELETIONS / RECORDING AND APPROVAL OF THE AGENDA** None

**APPROVAL OF MINUTES:**

A. October 7, 2020 Meeting Minutes

**Motion:** M. Humm moved to accept the October 7, 2020 minutes as presented; J. Contin 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**CASES:**

**SWEARING IN OF STAFF AND APPLICANTS** Christa Simmons, Notary-State of Florida, administered oath to those wishing to give testimony.

**PROOF OF PUBLICATION** Provided in meeting packet.

1) PZB 20-01400035

PZB/HRPB 20-03100008

**WITHDRAWALS / POSTPONEMENTS** None

**CONSENT** None

**PUBLIC HEARINGS:**

**BOARD DISCLOSURE:** M. Humm, J. Contin, A. Marotta and L. Starr all received calls and/or emails from attorney for applicant but did not return calls or speak with anyone. D. Tanner received calls from persons representing the applicant; R. Lepa did receive calls but referred the caller to city staff. G. Rice did not speak to anyone nor receive any calls.

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

**Presiding Vice-Chair Anthony Marotta** briefly read the following description of the proposed project, then mentioned the need to address, as a preliminary matter, the request of one of three (3) affected parties for a continuance to allow time to prepare his case.

**Board Attorney Pamala Ryan** states the Board is in possession of the written requests from Mr. Daniel Hiatt requesting an additional continuance. It was granted @ December 2, 2020. As the first continuance was granted, and according to the City Ordinance, any further requests would be at the discretion of the Board.

**Affected Party:** Mr. Daniel Hiatt

- Believes questionable notice was given in December 2020. Specifically he is unhappy with the notice period, that the USPS was not making deliveries in the four-day weekend holiday period including Thanksgiving Thursday, Friday, Saturday or Sunday; he discussed getting the meeting continued but heard rumor the Board could not reach quorum.
- Does not recall receiving notice of the continuance being granted. Sent the request for the continuance. Every affected party gets one continuance, this is exactly why the Ordinance is in place.
- The reason for this request being his attorney, Thomas Baird, on December 30 advised Mr. Hiatt he was not available for the January meeting and recused himself from the case. Mr. Hiatt was then referred to another attorney, who he was not able to “get up to speed” with him.
- In a December 5 email, the attorney for Doka, asked his position on the project. After responding to him, he never heard any community outreach until yesterday.
- Made it perfectly clear to PZ Board members of a new owner for the GSG Investments properties (Eastern Metal-tenant) in addition to contacting the attorney for the new owner, who was not interested in a continuance at that time and now suddenly is present in the zoom room for this meeting.
- Mr. Hiatt states that even if his continuance request is denied, due to inadvertently using up his continuance last month, Board cannot produce any authorization of that, perhaps either Mr. George Garamy or Seth Malamut (Stag Industrial) could be granted a continuance.

**Assistant Director for Community Sustainability Erin Sita** had a request from Mr. Malamut to speak on the issue. As of this afternoon he had not requested a continuance.

Seth Malamut- In-house counsel for Stag Industrial based in Boston- Acknowledges they are not filed as an affected party. Having recently acquired the properties, he would only request a continuance because he does not have enough information on the project to determine if the new owner should or should not be concerned with the project. He has received some information provided by staff but is still unclear as to what is going to happen on the property. He has not spoken with his tenant (Eastern Metal Supply), Stag Industrial is a professional landlord. It is unknown if Eastern Metal Supply, which does not have a fee interest in the property, would have concerns about the use of the property in question.

**Attorney Lisa Reves of Saul Ewing, Arnstein & Lehr, Co-Council for the applicant:** - Mr. Hiatt received a continuance in December. Mr. Malamut should take up the issue with the seller. Umdasch-Doka property owners are ready to proceed and opposes the continuance request.

**Board Attorney:**

- Regarding Mr. Malamut's request for a continuance: Project applications must be moved along under State law; stacked multiple individual requests to continually, indefinitely, postpone projects were not the intention of the Ordinance.
- Regarding Mr. Hiatt's allegation that he never received correspondence: Mr. Hiatt requested and received a continuance prior to the question of a quorum. As the continuance was granted, staff did not continue to push for another member to be physically present at the meeting.
- On December 2 Mr. Hiatt spoke with E. Sita informing her he needed the continuance to get an attorney. Now, coincidentally, this time his chosen attorney, Mr. Thomas Baird, informed Mr. Hiatt he could not represent him in January so this is the reason for this continuance request.

The purpose of the Ordinance was to allow affected parties time to retain representation not to run the clock out on a project. It is within the Board's discretion to grant another continuance if they see fit.

**Board:** A. Marotta- Please address Mr. Hiatt's statement of questionable notice.

**Assistant Director for Community Sustainability** - The noticing referred to by Mr. Hiatt as being questionable, met and exceeded all legal time requirements for courtesy notices. It was consistent with regulations. Notices were sent in November and Mr. Hiatt expressed concern the notice was sent over the Thanksgiving holiday period, that the USPS did not make deliveries until the following Monday. The courtesy notices, which are in fact courtesy notices not required notices, were postmarked 13 days prior to the meeting, exceeding the minimum required by 3 days. Site signs were simultaneously posted on the site and the project was noticed in the newspaper.

As the December meeting was not opened to vest (preserve) that notice, courtesy notices were again sent on December 10, 2020 (for this meeting), along with the placement of new site signage placed and re-noticing in the newspaper.

Seth Malamut requests proof the previous property owner, GSG investments, received notice.

Staff can confirm, with the certificate of mailing, that the notice was sent to the previous property owner.

**Board:** J. Contin -The due diligence period prior to the acquisition of the GSG Investments property would have revealed this action was in progress. Finds it to be surprising this information wouldn't have been found during that time period. He is familiar with and does quite a bit of due diligence work in the course of his own profession.

Seth Malamut states one can only get the benefit of the disclosure provided by the seller. The seller would be obligated to forward the notice if it were in their possession. It will not go unnoticed.

**Presiding Vice-Chair** queries Board members as to additional questions of the affected party, Mr. Daniel Hiatt.

L. Starr questions if Mr. Hiatt is objecting to the project or asking for the continuance?

**Staff:** The question of an additional continuance is being addressed at this time. Should that be denied, Mr. Hiatt will make a presentation.

**Board:** D. Tanner asks if the Board is obligated to continue the item or are they able to move forward?

**Board Attorney:** The Board is within its right to move forward if they so choose and are not obligated to continue the case. A motion to deny or grant a continuance should be made.

**Board:** J. Contin – questions for purposes of clarity, that December was considered a continuance.

**Affected Party:** Mr. Hiatt – does not consider it a continuance, states staff does not have any documentation of his commitment.

**Board Attorney:**

- No documentation of a commitment is required. Mr. Hiatt never responded to the Board Attorney's emails. The fact that he did not respond does not mean the emails were not sent.
- The email to Mr. Hiatt stated December 16 or January 6 were dates being considered for the subsequent meeting giving him time to hire legal counsel. A formal response is not required. Once the continuance was granted, staff did not pursue getting a live quorum for the meeting.

**Affected Party:** Mr. Hiatt, in questioning the email, asks if the email mentions failing to get a quorum? Believes it is time to quit talking. If the Board is not in favor of granting a continuance at this time, how can it be explained that Mr. George Garamy requested and was denied a continuance? Let's close this out and give everyone some time. You can't kick everyone out. This is why the Ordinance was put in place, so this kind of nonsense would not happen. Who said what, what did they say. I am not responsible for making everybody happy.

**Board Attorney:** Staff did not pursue getting a live quorum after Mr. Hiatt requested the continuance. Prior to that staff was trying to get a live quorum.

**Board:** A. Marotta- please clarify the granting of the continuance was through that email.

**Board Attorney:** Yes, it was.

**Board:** L. Starr - When?

**Board Attorney:** On the day of the meeting December 2, 2020 @ 4:47 pm, she was forwarded the email from staff which questioned how Mr. Hiatt did not have notice when clearly the notice was sent. Around 4:54 pm when the Board Secretary, in place, was having difficulty getting a quorum, instead of having her continue to call and pursue getting a live quorum (all Board members have been witness to the practice before), and as the continuance request was in hand, the continuance was granted over the applicant's request to continue. The applicant still wanted to move forward.

**Affected Party:** Mr. Hiatt- States the email sent involved not having a quorum.

**Board Attorney:** The email stated you were granted a continuance.

**Affected Party:** Mr. Hiatt- Let's just say I'm disqualified, George Garamy, who never asked for a continuance in December, has also been denied a continuance at this time. The reason he (Mr. Hiatt) asked for the continuance was in November the notices are purposefully mailed by the applicant before a major holiday knowing the Post Office is not open in the days after a holiday. Since everyone has complained about that, the courtesy notice deadline has been

changed by the Ordinance too. Let's move on to George Garamy, stop wasting time on who said what.

**Staff:** E. Sita offers to shares the email on the screen.

**Presiding Vice-Chair:** Questions if Mr. Garamy's requested continuance was for the December meeting, or this meeting?

**Assistant Director for Community Sustainability-** spoke with Mr. Garamy and advised there is only one affected party ordinance for **all** affected parties. Otherwise it would cause indefinite postponements. This possibility and implications were discussed at City Commission.

Seth Malamut: Asks how Ms. Sita can advise the Board of the intent of the Ordinance?

**Assistant Director for Community Sustainability** states she was a co-author of the Ordinance and present during the City Commission discussion.

**Staff:** There is one 30-day continuance for all affected parties.

**Board Attorney:** The continuances do not stack allowing any issue to go on indefinitely. There is a State Statute on how long a project can be held up, this is belaboring the issue at hand.

**Affected Party:** Mr. Hiatt indicates in the email that Christina Morrison is solely a real estate agent with whom he is associated and managing a different portion of the Marlin Industrial Park when on November 25 she requested the staff report.

**Board:** D. Tanner - All told there was an additional 30 days to do the due diligence and build the case. D. Tanner motions to move forward with hearing the case. A. Marotta suggests denying the request for continuance.

**Motion:** D. Tanner moves to deny the request for a continuance; J. Contin 2<sup>nd</sup>.

**Vote:** L. Starr-Nay Greg Rice-Nay Bob Lepa – Nay Ayes- J. Contin, M. Humm, A. Marotta, D. Tanner. Motion passes 4-3.

**A. PZB Project Number 20-01400035:** Consideration of a Major Site Plan with Sustainable Bonus and Conditional Use Permit to construct a +/-47,000 square foot distribution facility and repair and maintenance uses within the Industrial Park of Commerce (I-POC) zoning district commonly referred to as "Umdasch/Doka" and located at 2209 7th Avenue North, PCN # 38-43-44-20-01-066-0010.

**Staff Presentation:** A. Meyer provides an overview of the proposed request. The property is zoned Industrial Park of Commerce. From the 1950's-1970 there was a landfill near the southern boundary of the property. Currently it is a vacant lot and undeveloped. The City designated the area a brownfield on March 3, 2009 with the adoption of Resolution 03-2009. The applicant has begun remediation through Florida Dept. of Environmental Protection. Structures on the property would be comprised of three (3) buildings: an office of approximately 10,150 sq. feet, warehouse and maintenance shop of 26,617sq feet and an 11,160 sq. foot canopy totaling approximately 47,927 square feet. The nature of business would be a distribution facility with repair and maintenance for safety and protection systems, sale and rental of concrete form work and miscellaneous parts and materials to contractors throughout Florida. Inspection of returning rental equipment will occur under the canopy, while repair will occur inside the maintenance building. The storage of equipment will be stored east of the building. Employee parking would be to the west, truck circulation will be to the east of the buildings. The entrance would be secured with gates and not open to the public. A lake is proposed on the southern end for

buffering, as well as a six (6) foot concrete fence on the southern and western boundaries. The 200-foot canal to the west provides buffering in addition to a six (6) foot concrete wall.

The Sustainable Bonus request for one additional foot will be to screen the rooftop equipment in the office portion of the building. The project was found to be in compliance with the City Comprehensive Plan, Strategic Plan and Land Development Regulations. Conditions of Approval are reviewed including those from Lake Worth Drainage District requiring bank stabilization.

**Applicant:** Louis Goldberg-Senior Facilities Manager for Umdasch USA dba as DOKA USA. It is crucial to have a good relationship with the neighbors. Similar to Lake Worth Beach, the Chicago site also borders residential neighborhoods. They provide concrete form systems, safety and protection systems both leased and sold. They would be relocating from Broward County. The project would bring approximately 50 jobs to just over 9.79 acres. A video of the Chicago facility is shown.

**Attorney Lisa Reves of Saul Ewing, Arnstein & Lehr, Co-Council for the applicant:** Approval is recommended by staff. Will provide @ 50 well paying jobs on 9.79 acres. The north extent of the site will house the office, warehouse and maintenance shop; to the south side of the building an open canopy for returning equipment inspections. More intense uses are oriented toward the rear of the building. There will be three (3) access points from 7<sup>th</sup> Avenue North. The westernmost entrance is for passenger vehicles only. The architecture is generally Modern and faces 7<sup>th</sup> Avenue North. Buffering tools include a precast six (6) foot concrete wall to the south and west. The eastern boundary will have a chain link fence. Hedging is also included along the western edge of the property

In response, rebuttal to Mr. Hiatt's comments, she offers the following information as shown on an email:

- On October 19, 2020-When asked to meet, Mr. Hiatt mentioned there would be no point in meeting with the applicant as he would never approve. His interest would be in having a larger project that would increase the value of his property.
- December 4 – when questioned what the objections were;
- December 5 – she was informed that they don't want our type of mess on the western boundary.
- December 30- from Thomas Baird asking applicant to postpone this meeting. Ms. Reves has offered to meet with everyone up until the time of this meeting and has been rejected on each occasion.
- Displays a photo taken @ December 30 through the fence from Mr. Hiatt's southern property 3694 23<sup>rd</sup> Ave S toward the Eastern Metal property depicting the exact use he is complaining about. Mentions there is an upcoming magistrate hearing with Mr. Hiatt's property on the docket.
- Displays a copy of the certificate of mailing showing both of Mr. Hiatt's properties received notification.

**Presiding Vice Chair:** Affected parties presentations shall now be heard.

**Affected Party Mr. Hiatt:** Having owned the property for 30 years, states the proposed use is not fitting in this Light Industrial area. It is a recycling center with dirty trucks in a small area. Pressure cleaning, sand and cement. Investigated the Pompano Beach site. Asked staff if they had driven down and investigated the Pompano site The presentation does not accurately reflect the activity west of I-95 in Pompano Beach, it is a mud pit. This property needs someone to

come in de-muck and clean up the soil contaminates and build some industrial buildings to generate tax base. They will most likely erect a lean-to, never generate any tax base, not planning on de-mucking just building over the dumpsite not going to properly develop. It all boils down to a truck stop and a garage. Small buildings, nothing but a nuisance. Going to need all the space 254 feet between his building and to the west to store all their junk. A six (6) foot fence cannot obscure a thirty (30) foot building. Did staff look at the site in Pompano or google the site in New Jersey which looks like a cesspool? They will do what they want. Believes the 50 jobs it is bringing is proportionally too small, in comparison to the 50 jobs in his buildings on less acreage. It is the last piece of prime industrial land and will become a nuisance. Mentions the Boutwell Road improvements and general improvement of the area. States they are buying at a discount because de-mucking is costly. The lake allows them to build what they want. Cleaning steel forms is messy and usually done with petrol based cleaning agents which will happen outside. Regarding his magistrate hearing, the city has suspended all code inspections on the interior and haven't gotten their annual thing. How will the pallets be secured prior to a hurricane? It would be better placed in the western communities of Palm Beach County or St. Lucie or Indian River counties.

Mr. George Garamy - States the aerial view of other sites do not correlate to the video. Does not show how the forms are cleaned. The traffic impacts will be enormous in addition to the cement dust and discharge into the canal. Eastern Metal takes everything inside during a hurricane, has concerns this might be difficult for the applicant to do, will it be taken in, strapped down or become flying missiles? It is incumbent upon the City to get the most bang for the buck for tax purposes, this development proposal seems to be less than half the potential. Is the discharge stormwater or treated water? Mentions to the northeast of the property, along Boutwell Road, new apartments are approved and anticipated to be built.

Christina Morrison – Manages the Marlin Commerce Center Condominiums to the east of the site. How can an accessory use (outside storage) be bigger than the structure, twice the size of the building? She and her tenants work very hard to keep their building clean and neat. Outdoor storage of that size in proximity to their building is concerning. It has not been disclosed what is being stored there. Outdoor storage typically involves run-off and trash. What are the activities? Regarding the cleaning of construction equipment, the applicants stated only water will be used but other sites use chemicals to clean the concrete off the equipment so why is this site different in that it will not use chemicals? How can damage be precluded or avoided? Joins the other affected parties in their concerns regarding dirt, dust and noise. This project limits the ability of the city to generate substantial taxes with an underdeveloped site. Does not meet the criteria for a conditional use approval in the City since these issues have not be addressed. The surrounding businesses are all clean, quiet businesses. Please deny the application.

**Public Comment:** Comments were received from the following and read into the record.

Carolyn Zara- 626 Koogle Road Mansfield Ohio, (no property owned in that name in Palm Beach County) – Expresses concerns against the proposal.

One Real Estate Investment LLC – 888 Brickell Ave. Miami, FL -Owners of Oakwood Apartments to the south of the proposed project – against the proposal.

Elise Crohn -402 Elizabeth Road – west of the proposed project – unincorporated Palm Beach County – against the proposal.

Speaking on their own behalf:

Robert Pouncey - President of Marlin Commerce Center Condominium the proposed height at 31 feet is not conducive to maintaining property values. The six (6) foot chain link fence will not help with the unsightly view from their second-floor windows when they have clients present. The video is impressionable but it doesn't reflect the businesses around these areas. Has concerns about the waterways. Not conducive for the businesses in his building. Please deny the site plan at this time, there are far more lucrative projects that could go at this location.

Seth Malumut – Does not know that he would object to the project but is in need of additional information. The Board should consider asking for additional materials/information such as traffic studies and to address the concerns that have been raised.

**Attorney Neil Schiller of Saul Ewing, Arnstein & Lehr- Co-Council for the applicant:**

Questions to A. Meyer:

- Is the parcel zoned Industrial?

A. Meyer confirms the zoning is Industrial Park of Commerce and the future land use is Industrial.

- Did staff find, after reviewing the staff reports and studies, that the proposal meets or exceeds all city requirements?

A. Meyer confirms that it is consistent with the City Land Development Regulations.

Questions to Louis Goldberg:

- Please explain how the forms are cleaned. Mr. Goldberg defers to Jared Wright, Southeast Operations Director.

Jared Wright – Oversees the owned facility in Atlanta and leased property in Pompano Beach. At the Pompano site, adjacent (unpaved) properties cause dust and/or mud runoff onto the asphalt resulting in a constant battle. In the DOKA owned facilities, the forms are cleaned indoors with the water captured in the recyclerator or discharged per local code.

- What is the difference between Pompano Beach and this facility?

Night and day, everything is exposed in Pompano, unlike the enclosed Atlanta facility which is how they like to operate.

- Talk about the New Jersey facility.

It is not a DOKA owned facility, that is also a leased facility. It is difficult to find land to purchase and develop in that area.

- Speak to the hurricane plan for this site.

Several days prior, everything lightweight is moved inside, heavier items are stacked on top of things that aren't moved inside keeping in mind that most items are well in excess of 100 lbs.. With the four (4) hurricanes that have come through, there have been no problems or issues with things flying around.

Questions to George Balaban P.E. of Kimley-Horn

- Give your expert opinion about the drainage.

The facility will have over 2,000 linear feet of exfiltration trench all over the property prior to discharge into the canal. It is more than sufficient drainage. South Florida Water Management and Lake Worth Drainage District both require permits.

Questions to Jared Wright-



- Discuss the traffic in Pompano Beach and Atlanta and what will happen at this site.

It takes nearly 45 minutes to unload a truck, at 10 trucks per day, that equates to a full day. On average they process about 10 trucks per day (5-6 departing and 4 arriving), it could be as high as 15 but that would be extreme. That would be an entire full working day with two (2) crews.

- Since we've heard about serving as the hub for the entire state of Florida, is it still the same 15 trucks?

The site will serve primarily the areas from the Tampa/Orlando and south. The panhandle is served by Atlanta due to proximity, so the entire state will not be served by this site.

- How long have you been with DOKA?

Eighteen years.

**Attorney Neil Schiller** advised the Presiding Vice Chair that Jared Wright should be identified as an expert witness in the operations of DOKA.

Questions to Adam Kerr – Traffic Engineer of Kimley-Horn

Adam Kerr – Traffic study was prepared, utilizing the approved rates by Palm Beach County and City of Lake Worth it will not be a significant increase or impact. As the site is in the Industrial Park of Commerce, it is also a (TCEA)Traffic Concurrency Exception Area meaning impacts have already been taken into account.

For the record all the evidence presented tonight has been through competent substantial evidence, which is the standard in quasi-judicial hearings, expressed through the testimony of the witnesses and the staff report.

Questions to Mr. Hiatt-

- Is it not true we spoke on Monday? Response: Yes
- In the conversation to address your objections and concerns, is it not true we, along with the client, agreed to meet and speak before or after this meeting?

**Mr. Hiatt:** Don't lead me, here's what happened. I suggested a postponement.

**Attorney Neil Schiller:** Again, is it not true we agreed to meet and speak? Response: No

**Attorney Neil Schiller:** Respectfully, that's not true. I did offer to meet with you.

Cross examination is leading. You will have your opportunity for the same.

Is it not true you also previously objected to projects on this site? Response: Yes

**Affected Parties Questions for applicant and staff:**

Questions from Mr. Hiatt - Did anyone from City staff from William Waters all the way down, visit the Pompano Beach site?

Response: Staff did not travel to Pompano Beach, review was based on the submittal documents.

Did anyone do a Google earth search to view an aerial of the site?

Response: The application and materials including a traffic study, site plan, landscape plan and other technical requirements were the basis for the recommendation. It was based upon the technical analysis.

Does anyone know when the site was annexed into the City?

**Director for Community Sustainability:** It was annexed into the City about 2004-2006.

Mr. Hiatt: County zoning granted it light industrial park, original owners were told nothing would change and they would be protected from these types of uses. In looking at the Plat that was approved back in the late 80's, he understands now that it is annexed it may be different, but thought it would remain light industrial. Has carpet layers, electricians, antique restoration, service people who live and work in the city. States the Board members were present for the recycling center proposal and doesn't even know why they are considering approving this project.

**Board:** The Board hasn't taken any action yet.

Mr. Hiatt states he is referring to staff.

**Director for Community Sustainability:** Prior to 2013 the zoning was low traffic industrial with much more intrusive, and intense uses than what is now allowed. Following three (3) years of review, initiated in 2010, it was rezoned in August of 2013.

**Mr. Hiatt to Attorney Lisa Reves of Saul Ewing, Arnstein & Lehr, Co-Council for the applicant-**

- Regarding his code violations, states the city is not coming out for inspections.

Lisa Reves: asks if there is a question for her? It is credible to say she was merely bringing it to the Board's attention.

Mr. Hiatt questions the relevancy. L. Reves states it does have relevancy.

**Mr. Hiatt to Attorney N. Schiller-**

Received a call about Monday noon from Mr. Schiller.

Attorney N. Schiller in returning his call at @ 4:14 pm, apologizes if it was not as expedient as Mr. Hiatt had hoped. Everyone swore under oath, he'll take his word regarding who called who first and did not return calls. He did speak to the applicant (client) who stated they could not afford another thirty (30) day delay further informing Mr. Hiatt he would make himself and his clients available on Tuesday, Wednesday morning as well as after this January 6 meeting.

**Mr. Hiatt** acknowledges refusing the offer. The notice mailings and ordinance cause these problems. The Affected Party Ordinance took months to pass.

Attorney N. Schiller states the notice issue is an important issue however Mr. Hiatt was just shown he had knowledge in September and October when L. Reves reached out to him. She reached out twice before the hearing.

**Director for Community Sustainability** clarifies the process with regard to Compassionate Code – Use and Occupancy inspections have continued as usual, only the interior inspections are carried over to the next cycle. Exterior inspections remain the same.

**Mr. Garamy** questions to Jared Wright:

How large is the Lawrenceville Georgia site? Response: It is a six (6) acre lot with a similar size building without the canopy.

In observing the Georgia site, it does not have the amount of forms, but the New Jersey site has a lot of forms and framework. How can there be that many trucks with less forms?

Response: The Lawrenceville site stores overflow from the Atlanta site, the Pompano Beach site mirrors it in size and volume.

Are the procedures the same from facility to facility? Response: the procedures are the same, the environment is different.

Christina Morrison questions to applicant or staff-

- Will the Pompano Beach site be closing? Respons: Yes.
- Will the dust and dirt will be left in Pompano? Response: Yes, the difference being the buildings will not be open-air, they will be owning a fully enclosed property.
- Why is it not being proposed as outdoor storage when the building is less than a third of the size?

**Attorney L. Reves-** It is not the size of the outdoor storage that determines the primary use. The storage is secondary to the office, engineering, design, sales and management activities.

Ms. Morrison renews her concerns about the proximity to clean uses.

Mr. Pouncey would like to add/emphasize the unsightliness of the fence as well as traffic issues. All existing and additional traffic will be going to 7<sup>th</sup> Avenue North (without the benefit of a stoplight). The best would be to stay small, light industrial.

### **Board members questions to applicants, affected parties and staff.**

J. Contin- With regard to the repeated issue of water quality, have there been any reports submitted?

Staff: LWDD is a reviewer as well as SFWMD both requiring permits for discharge into the local waterways. City staff/ engineers have reviewed the plans for drainage. The exfiltration trench, in funneling into the lake will act as a secondary treatment which will then discharge to the waterway. Regarding PPM (parts per million) those entities are under the jurisdiction of the Florida Dept of Environmental Protection.

J. Contin- Is there anything other than water utilized for concrete removal (in general) Jared Wright confirms only pressurized water is utilized.

Staff: Staff has been notified by the State the applicant has agreed to remediate the existing brownfield site. The previous landfill will be remediated.

J. Contin – Is pleased the applicant is willing. Neil Schiller- Some of the cleanup has begun.

D. Tanner- how is the primary use determined? Is it based upon square footage?

W. Waters- There isn't a principal use of outdoor storage. Any outdoor storage regardless of size would be accessory to the principal use. For example, the parking of vehicles, whether employee cars or service trucks, would support and discharge the activities of the business thus making it an accessory use. Outdoor storage, in and of itself, does not occur on its own without a principal use.

Attorney Lisa Reves clarifies any misunderstanding regarding the primary use which is: engineered formworks kept on-site and then shipped to the job. The forms themselves are of no use without the engineering and design and office support.

D. Tanner – The engineering and office work could be done offsite. There is no direct connection between the office and the storage.

**Attorney Lisa Reves** -There is a direct connection. The engineering is performed here, the formwork is accessory to the main use of design and engineering work.

D. Tanner-Regarding the clarification of using the chemicals to clean the forms. Mr. Wright states only water is used, all materials are galvanized or steel.

D. Tanner – would the applicant be averse to increasing the barrier to minimize the dust, noise or visual screening? A big concern is seeing what's taking place, not an opaque barrier but noticeably more buffer.

Neil Schiller inquires of Louis Goldberg, the applicant/client, if he would be willing to go above the minimum requirements?

**Attorney Lisa Reves-** The applicant has already gone above code with the six (6) foot concrete cast wall and landscaping in excess of code.

Staff- The Condition of Approval will require the chain link fence, as depicted on the site plan, be an opaque fence or wall 6-8 feet in height.

Staff- full shielding is not required per code.

D. Tanner-asks if the height of the stored materials will be six feet or less?

Mr. Wright states the allowed height is governed by the Fire Marshall. The height in Pompano is fifteen (15) feet and it is variable by county.

D. Tanner – What are the specific imposed requirements by LWDD and SFWMD?

**George Balaban, P.E.-** the total suspended solids and nutrients should be treated prior to discharge. Those activities occur throughout the exfiltration trench and lake.

D. Tanner – for concrete? George Balaban there is no specific mitigation for the concrete.

D. Tanner- is it similar to marble/granite cutting? Mr. Wright – It's captured in the inside trench it falls, dries and then is thrown away via roll off dumpsters.

L. Starr - Does the E-4 connect to LW Lagoon (Intracoastal)? – Response: Yes, they are interconnected.

**George Balaban, P.E. –** The trench is an 8x6 foot percolation trench, which also provides filtration prior to reaching the canal. There is triple the amount of filtration required.

L. Starr– Is it monitored? George Balaban: Yes, in addition to renewing permits every five 5 years, a report must be filed

L. Starr – would the applicant be willing to do it more often? George Balaban- This is standard practice.

L. Starr – What type of repair work is conducted? Mr. Wright- Forms are metal with wood face, dents are pulled/ removed as well as repair to any damaged forms.

L. Starr- Client is already remediating the site without owning? Response: Yes, with permissions of property owner

L. Starr- what is the projected time frame for the project?

Mr. Louis Goldberg - Environmental remediation- The plan is filed and proposed to the FDEP, realistically within 16-24 months. A lot of site work is required prior to construction, the property must be de-mucked, fill will be brought in and the canal banks will be stabilized with rip rap.

L. Starr – Has there been a lot of environmental analysis on the property?

**Applicant Louis Goldberg-** has spent a lot of money with testing and assessments.

**George Balaban, P.E. –** Groundwater modeling will be required to ensure compliance.

William Waters – Has received preliminary funding for Brownfield remediation. Was contacted by Chris Burroughs to set up an advisory committee including Ms. Christina Morrison and Mr. Daniel Hiatt. In which case they would have been advised as early as September of last year that the property was about to undergo changes.

Louis Goldberg wants to rehabilitate the site and for it to be as clean a site as possible and will take the steps to be in compliance. Based on what is found when clearing, that will determine how it is handled.

**Board:** L. Starr – Mr. Pouncey stated he had two (2) story units,

**Mr. Pouncey** - Marlin Commerce Center is condo type construction. In his unit the north building next to the property. Although the site is overgrown right now. Ms. Reves showed a six (6) foot concrete wall that did not come to the adjacent property line. With the windows in the second floor, the view could be impactful.

Neil Schiller states the Condition was already stated for an opaque fence of 6-8 feet per code with landscaping.

**Mr. Pouncey**- It does not cover even with 6-8 feet in height; does not want to look at the big open field, from his northside of the building it would be at most 12 feet of landscape and Marlin Commerce Center fence.

Lisa Reves states Laurel Live Oak Wax Myrtle and Cocoplum Hedge will compose the plantings in that area. There is a good bit of distance between that building and the storage.

**Staff:** Mr. Pouncey's building is situated roughly 100 foot east and 40 feet south of the property lines.

**Board:** A. Marotta – For the city attorney – should the Board factor in the claims for not being the best tax use? Response: No

The Sustainable Bonus is for just 1 foot in height to disguise the rooftop equipment.

Confirmed that this the same site seen by Board @ year ago.

**Board:** A. Marotta to the Applicant -Mr. Hiatt stated in testimony this is nothing but a recycling facility, please address the concern.

Neil Schiller-It is not a recycling facility, as he is attorney for Solid Waste Authority for PBC, he knows recycling. The dust and dirt are germane to the Pompano site due to the unique nature of the neighbors. It is a distortion of the truth to state it is a recycling center and an attempt to reflect negatively on the applicant and business.

Louis Goldberg- Heard it referred to as a trash dump/recycling center. They are an international organization. It is imperative to know where everything is, to have it neat and orderly, it becomes difficult to be a successful operation. To say otherwise is a fabrication of the truth.

**Jonathan Haigh Landscape Architect for applicant-** On the southeast property buffer there will be a hedge and smaller trees due to planting adjacent to power lines. Twelve feet in height at time of planting of Silver Buttonwood and Wax Myrtles. Please note the north wall of the building to the south is windowless and the sight cannot be seen from the building.

**Board:** A. Marotta asks about the noise. Mr. Wright responds- Forklift noise outside, the pressure washing and saw noise will be inside. The doors facing the storage yard will be open during hours. Louis Goldberg indicates the decibel levels will be well within City ordinance levels. Hours of operation will be 7-4:30 Monday to Friday occasionally on Saturday.

**Presiding Vice-Chair:** In 30 seconds or less from each of the affected parties, what type project on the site would they not object to?

D. Hiatt- supported Goodwill building; nice buildings everywhere up and down Boutwell;

G. Garamy – High-tech light industrial similar to what is in the Marlin Industrial Park. Increases tax base and protects his investment.

C. Morrison – more light industrial, small bay users. The highest demand at this time.

R. Pouncey – light industrial. This one takes up a lot of property and don't want to look at it.

**Board:** L. Starr -How many forklifts will be operating on the property? where will they be stored? Discuss the window view from Mr. Pouncey's building.

Mr. Wright- There will be eight to nine LP (not diesel) forklifts stored inside at night.

**Jonathan Haigh, Landscape Architect** – The adjacent building does not have windows on the north or west side of the building.

**Board:** L. Starr– Is that in reference to Mr. Pouncey's building? She thought she heard him say he could see from the second floor.

**Mr. Pouncey** – States he does not have a window in his unit. Other units face east and south. Cannot recall if there are windows on the northside. Perhaps Christina Morrison, Property Manager, can answer that question.

**Board:** G. Rice – Wishes the coconut telegraph would work better; although people are very passionate, there can be misinformation. The property does not belong to Lake Worth Beach, these are two (2) private entities. There is no CRA involvement so the tax dollars go to the city coffers. If the owner could get more money for he property he would certainly have done so. In the long run it will be for the betterment of Lake Worth Beach. They will certainly take care of their investment. Is confident the City will guard the wellbeing of the water as well as the Blueway Trail running the length of the county.

**Board:** R. Lepa – Regarding environmental follow up every five years. From the drainage standpoint it is 5 years. Environmental monitoring occurs every quarter for a minimum of one year after which as required by Palm Beach County thereafter. How many jobs will be created or will those jobs be moving north? The concrete that is washed off, is it recycled or trashed?

Mr. Wright- It will be trashed. They pay for removal (in roll off's) Warehouse and Office jobs will be locally sourced.

What will the tax base be once all is complete?

Lisa Reves – Total capital investment 16 million.

**Board discussion:** J. Contin -It is a positive move all things considered. Someone else would have already taken advantage of the site if there was interest. The brownfield cleanup is major plus as many do not have the means to do so.

M. Humm- A bird in the hand is worth a couple in the bush. It is not as dirty of an operation as it was originally seemed.

D. Tanner, L. Starr, G. Rice, B. Lepa ready to vote.

A. Marotta – To get a brownfield off the books is great. It is not within Board purview to dictate what goes there. As previously stated, someone else would have already taken advantage. It's not a skyscraper and might come down in 10-15 years and become something else.

**Motion:** D. Tanner moves to approve PZB 20-01400035 with staff recommended Conditions, with the project meeting the applicable criteria based upon the data and analysis in the staff report; G. Rice 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**5 minute break 10:09 pm to reconvene.**

**B. PZHP 20-03100008 (Ordinance 2020-20):** Consideration of an ordinance to Chapter 23 “Land Development Regulations” regarding changes to temporary uses, home occupations and several minor modifications related to development standards for parking and accessory dwelling units, and maintenance easements on zero lot line properties.

**Staff:** E. Sita presents an overview of the proposed changes to the Land Development Regulations. They include:

Access easements for zero lot lines, review standards and permit processes for Temporary Uses, modifications to the Use Table, Clarification of Standards, Home Occupations in Mixed Use zoning districts, and off-street parking for accessory dwellings and in lieu of fees.

Access easement for zero lot line lots allowing for a three (3) foot (Exhibit A & G)

Temporary Use is a new section (Exhibit B) permits and administration. (Exhibit B)

Use tables has been modified to include that section. (Exhibit C)

Clarification of size and construction standards for accessory dwelling units. (Exhibit D)

Home Occupations in Mixed Use districts only- additional flexibility; Type11 (Exhibit E)

Clarifies the parking requirements for accessory dwelling units and the parking in lieu of fee is available for the City core ((only downtown (Exhibit F)).

**Board:** J. Contin-asks for specifics on changes to Home Occupations? W. Waters states it was propelled by Covid-19 in finding more creative ways to accommodate working from home. The norm is no clients in the home. This would allow more flexibility within the Mixed-Use zoning district only at this time with possible future changes to other districts but not likely for Single-Family zoned districts. It would come with restrictions and limitations including the maximum percentage (square footage, no more than 50 % of the space) that could be utilized, would involve inspections. Examples: Accountant, Architect, Attorney, Media, Public Relations. Professional offices only, it is reflective of the current direction of the economy with regard to entrepreneurs who cannot afford a leased office. E. Sita adds that HOA’s and property management companies would continue to approve/disapprove the business types.

L. Starr – Restrictions on signage for business vehicles? Staff: Although silent in this section, it is governed in other areas of the code.

A. Marotta – regarding exhibit D- size of accessory dwelling unit and parking standards.

W. Waters - The smallest size for a studio dwelling is 400 square feet. Housing code continues to prescribe minimum area size for sleeping and living areas. Accessory dwelling units are allowed everywhere except Single-Family zoning districts.

Street parking is currently allowed to be counted towards parcel parking and would be allowed to count for the home occupations as well. William – it is in mixed use districts is due to already existing parking. The changes are not intended to supercede a HOA

**Motion:** D. Tanner moves to recommend adoption of PZB 20-03000008 to City Commission; J. Contin 2<sup>nd</sup>.

**Vote:** Ayes all, unanimously.

**PLANNING ISSUES:** None

**PUBLIC COMMENTS** (3 minute limit) None

**DEPARTMENT REPORTS:** None

**BOARD MEMBER COMMENTS:** None

**ADJOURNMENT:** Motion to adjourn J. Contin; D. Tanner 2<sup>nd</sup>. **10:36 pm**