

SPECIAL PERMIT NO. SP-99-10
A & J JOINT VENTURE/ACTION JET SPORTS

APR 5 3 07 PM '00

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER MARCH 2, 2000 ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-99-10, TO ALLOW AN EXPANSION OF A MOTOR VEHICLE SALES, RENTAL, LEASING ESTABLISHMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, A & J Joint Venture has requested a Special Permit to allow an expansion of an existing Motor Vehicle Sales, Rental, Leasing; and

WHEREAS, on March 2, 2000 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for the expansion of an existing Motor Vehicle Sales, Rental, Leasing.

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-99-10 requested by A & J Joint Venture states as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The site is zoned GC and located in the R/O/R Future Land Use Category.
- B. The property is currently developed with a 4,000 square foot building.
- C. The current use of the site is a Motor Vehicle Sales, Rental, Leasing Establishment.
- D. The applicant proposes a 5,996 square foot expansion including a 600 square foot canopy, for a total proposed floor area of 9,996 square feet.
- E. The site is adjacent to property zoned RSF-6 and developed with single-family homes.
- F. The site is presently accessed by one driveway from 1st Street and the entire frontage of the site along 28th Avenue East which is currently used as a driveway.
- G. Staff recommends a stipulation to eliminate one of the two proposed driveways on 28th Avenue East to allow safer and more efficient ingress and egress from the site.
- H. The new building is proposed along 1st Street East, in front (west) of the existing building.
- I. The location of the proposed improvements including the building and parking, are separated from the residential land uses to the east by a retention area.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence,

documentation and the staff report presented, the above referenced Hearing Officer hereby makes the following Findings of Law:

A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.

B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).

C. Based upon the conditions of approval, the proposed use is consistent with the Comprehensive Plan and meets all requirements of the Land Development Code.

D. The expansion of the Motor Vehicle Sales, Rental, Leasing Establishment will not have a detrimental effect on the surrounding properties or on the public health, safety, or general welfare.

E. The residential properties to the east should be adequately protected given the design of the site, with the retention area separating the business from these properties, and with the installation of the required landscaped buffer.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to A & J Joint Venture for the property located at 2705 1st Street, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for Action Jet Sports, subject to the following conditions:

A. The loading area shall be striped on-site and approved with the Final Site Plan.

B. There shall be no outdoor speakers associated with this site. This shall be stated on the Final Site Plan prior to approval.

C. The proposed driveway onto 28th Avenue East, closest to the intersection of 28th Avenue East and 1st Street, shall be eliminated from the site plan prior to Final Site Plan approval.

D. The roadway buffers shown on the site plan along both 1st Street and 28th Avenue East, shall be landscaped in accordance with one of the four options presented in Figure 715B of the Land Development Code. This shall be approved with the Final Site Plan.

E. The following landscaped buffers shall be provided:

- ▶ 15 feet wide along the eastern property line,
- ▶ 5 feet wide adjacent to the professional office (along the north property line),
- ▶ 10 feet wide adjacent to the daycare establishment (along the north property line).

These buffers shall be landscaped in accordance with one of the four options presented in Figure 715.C of the Land Development Code. This shall be approved with the Final Site Plan.

F. Prior to Final Site Plan approval, concurrency shall be met relative to fire flow and drainage design.

G. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning Department.

H. There shall be no outdoor display associated with this use.

I. The site plan submitted with this application shall be part of this approval, but only be approved at the preliminary level. Administrative approval of the Final Site Plan shall be required subsequent to the Hearing

Officer's approval of the Special Permit.

- J. A 5-foot wide sidewalk shall be installed along 28th Avenue East, adjacent to this site in the right-of-way or within a pedestrian easement on the subject property. This shall be shown on the Final Site Plan.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by courts of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 5 day of April, 2000.

MANATEE COUNTY, FLORIDA

BY: _____

James A. Paulmann, as
Hearing Officer for Manatee County

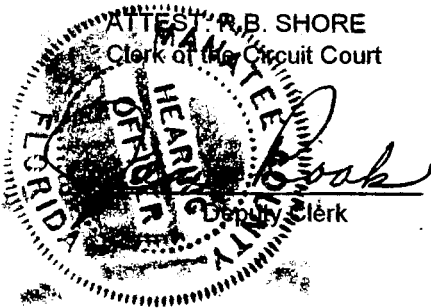


EXHIBIT "A"

LEGAL DESCRIPTION: THE W 40 FT OF LOT 15, LESS THE N 90 FT, THE E 60 FT OF LOT 15, LESS THE N 90 FT OF LOT 16, LESS THEN 90 FT OF LOT 18, LESS THAT PORTION TAKEN FOR ST RD 55 R/W DESC OR 45/534, AND THE PORTION OF LOT 19 DESC AS: BEG AT THE NE COR OF LOT 19, W 45.4 FT; S 25 FT; E 45.4 FT; AND N 25 FT TO THE POB, RESUB OF A PART OF TWIN CITIES SUB. (1461/4371) PI #47764.0005/5; AND

LOT 19, RESUB OF TWIN CITIES SUB; LESS THE FOLL: BEG AT THE NE COR OF SD LOT, RUNNING W 45.4 FT, TH S 25 FT, E 45.4 FT, N 25 FT TO POB, LESS RD R/W DESC (94/609) PI #47768.0000/7

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION