



**CITY OF DANIA BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

DATE: December 14, 2010

TO: Robert Baldwin, City Manager

VIA: Robert Daniels, Director *Robert Daniels*

FROM: Corinne Lajoie, AICP, Principal Planner *CLJ*
Kristin Dion, Planner *end*

SUBJECT: TX-27-10: The applicant, Daniel Jaramillo for Dan's Deals on Wheels Auto Transport and Sales, LLC is requesting a text amendment to Section 115-40 of the Unified Land Development Code to allow outdoor vehicle storage in the I-G zoning district as a special exception use.

PROPERTY INFORMATION:

EXISTING ZONING	Industrial General (I-G)
LAND USE	Industrial
OVERLAY DISTRICT	Westside Master Plan Study Area – Sub Area 1 Griffin Road West

Dan's Deals on Wheels Auto Transport and Sales LLC is an auto transport and sales company located in the Town of Davie which stores its vehicles at 4601 SW 44th Avenue in Dania Beach. The applicant received a notice of violation from Code Compliance regarding overnight parking of semi-tractor trailers and passenger vehicles in January of 2007, which is still active and unresolved. Prior to purchasing the property, Dan's Deals sublet the property from the previous owner which operated as an auto repair/auto body shop with accessory auto storage. The previous use existed when the property was zoned Broward County M-2. After annexation into the City of Dania Beach in 2001, the zoning changed from M-2 to I-G, the use was allowed to remain as a legally non-conforming use. However, per Section 710-50(A) of the Unified Land Development Code (previously identified in Chapter 28, Article 8 of the Code of Ordinances), nonconformities may not be expanded or changed. Therefore, when Dan's Deals purchased the property under I-G zoning, and used it solely for vehicle storage, it resulted in a code violation as outdoor storage as a primary use is prohibited.

The applicant is requesting to change the Industrial General (I-G) zoning district to allow interim overnight parking for passenger vehicles and tractor trailers as a special exception use. The tractor trailers are used to transport the passenger vehicles from one location to another for sale or rental purposes. The applicant's property is located within the West Side Master Plan (the Plan) study area. The Plan recommends marine uses for this location and recommends residential uses for the parcels adjacent to the marine use area.

The applicant's original application requested a text amendment to allow outdoor storage as a permitted use in the I-G zoning district and the item was heard by the Planning and Zoning Board on October 20, 2010. At that time staff recommended denial considering that I-G properties front Stirling Road and also abut residential properties in other areas of the City. Staff did not support outdoor storage in these areas. Therefore, the Planning and Zoning Board tabled this item to November 17, 2010 to allow time for staff to meet with the applicant to discuss alternative remedies. Staff met with the applicant on November 10, 2010. At this meeting all agreed to recommend approval of outdoor storage as a special exception in the I-G district. Further, the special exception would need to meet specific criteria to prevent this use in close proximity to residential neighborhoods and along principal road frontages.

PROPOSED TEXT AMENDMENT(S):

Section 115-40, Schedule of Permitted Uses, Unified Land Development Code

Outdoor storage of
passenger vehicles,
trailers, and tractor-
trailers

SE in I-G (74,78)

74 – On site parking and storage of vehicles shall not be visible from right-of-way.

78.-

a. Use shall not be permitted within the Community Redevelopment Area.

b. A five foot (5') wide perimeter landscaped buffer shall be required on all sides of the property.

c. Use must be separated from any arterial roadway by a minimum of 500 feet.

d. Outdoor activities and movement of vehicles shall be permitted only between the hours from 7:00 a.m. to 7:00 p.m.

PLANNING AND ZONING BOARD ACTION

On November 17, 2010 the Planning and Zoning Board recommended approval of the proposed text amendment.

STAFF RECOMMENDATION

Staff recommends approval of a text amendment to allow outdoor storage as a Special Exception in the I-G zoning district, subject to conditions. In addition to the text amendment, the applicant will need to apply for the special exception approval, which will be heard by the Planning and Zoning Board only. Staff will recommend a sunset period of 5 years due to the recommendations within the WestSide Master Plan.

DEC 3 2010 Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida

Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

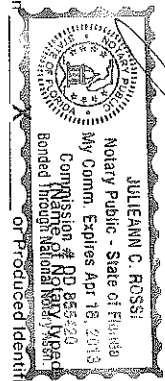
Before the undersigned authority personally appeared Lana L. Reed who on oath says that he/she is a duly authorized representative of the Classified Department of the Sun-Sentinel, daily newspaper published in Broward/Palm Beach/Miami-Dade County, Florida, that the attached copy of advertisement, being, a NOTICE OF PUBLIC HEARING in the matter of THE CITY OF DANIA BEACH - TX-27-10 appeared in the paper on December 3, 2010 AD ID 2301163. Affiant further says that the said Sun-Sentinel is a newspaper published in said Broward/Palm Beach/ Miami-Dade County, Florida, and that the said newspaper has heretofore been continuously published in said Broward/Palm Beach/Miami-Dade County, Florida, each day, and has entered as second class matter at the post office in Fort Lauderdale, in said Broward County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant says that he/she has neither paid, nor promised, any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Lana L. Reed, Affiant

Lana L. Reed

Sworn to and subscribed before me on 3 December, 2010, A.D.

Julieann C. Rossi
(Signature of Notary Public)



Personally Known _____
or Produced Identification _____

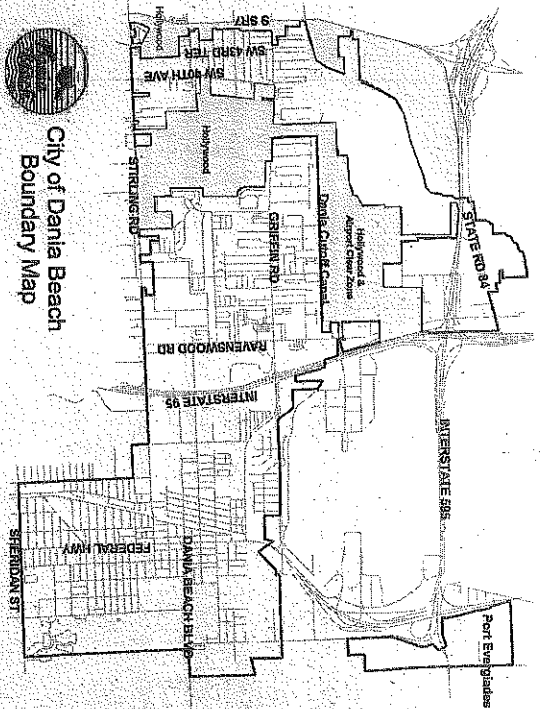
DAN'S DEALS

TX-27-10 - TEXT AMENDMENT NOTICE OF PUBLIC HEARING CITY OF DANIA BEACH

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City Commission, on Tuesday, December 14, 2010 at 7:00 p.m., or as soon thereafter as possible in the Dania Beach City Commission Room, Administrative Center, 100 West Dania Beach Blvd., Dania Beach, Florida 33004, for the purpose of hearing any comments which might be made to the following request:

TX-27-10: The applicant, Daniel Jaramillo representing Dan's Deals on Wheels Auto Transport and Sales, LLC, is requesting a text amendment to the Dania Beach Land Development Code Part 1 "Use Regulations", Article 115 "Industrial Districts: Permitted, prohibited, special exception uses, and conditions of use", Section 115-40 "Schedule of permitted uses" to allow outdoor vehicle storage as a Special Exception use in the I-G zoning district.

AN ORDINANCE AMENDING ARTICLE 115, "INDUSTRIAL DISTRICTS: PERMITTED, PROHIBITED, SPECIAL EXCEPTION USES, AND CONDITIONS OF USE" OF THE LAND DEVELOPMENT CODE OF THE CITY OF DANIA BEACH, FLORIDA, BY AMENDING SECTION 115-40, ENTITLED "SCHEDULE OF PERMITTED USES" TO ALLOW OUTDOOR VEHICLE STORAGE AS A SPECIAL EXCEPTION USE IN THE I-G ZONING DISTRICT, PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.



City of Dania Beach
Boundary Map

Copies of the proposed request are available for viewing in the Community Development Department, 100 West Dania Beach Blvd., Dania Beach, Florida between the hours of 8:00 a.m. and 4:00 p.m., Monday - Friday. Please call (954) 924-6805 x3645 for more information. Interested parties may appear at the public hearing and be heard with respect to the proposed petition.

In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings, should contact the City Clerk's office, 100 W. Dania Beach Blvd., Dania Beach, FL 33004, (954) 924-6800 x3625, at least 48 hours prior to the meeting.

Please be advised that if a person decides to appeal any decision made by the Local Planning Agency, the Planning and Zoning Board or the City Commission with respect to any matter considered at this hearing, such person will need a verbatim record of the proceedings and for this purpose, such person 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. The city does not provide or prepare such record pursuant to f.s. 286.0105.

Lou Ann Patellaro
Building and Planning Operations Mgr.

LAW OFFICES
HAGEN & HAGEN, P. A.
ATTORNEYS AND COUNSELORS AT LAW
3531 GRIFFIN ROAD • FT. LAUDERDALE, FLORIDA 33312

MAX M. HAGEN ▼♦♦
KEVIN L. HAGEN †♦♦
JASON WEAVER*♦

TELEPHONE: (954) 987-0515
TELEFACSIMILE: (954) 964-3764
WWW.HAGENLAWFIRM.COM

♦ ADMITTED TO U.S. SUPREME COURT
▼ ALSO ADMITTED TO TENNESSEE BAR
† ADMITTED TO 11TH CIRCUIT COURT OF APPEALS
♦ ADMITTED TO U.S. DISTRICT COURTS FOR SOUTHERN
AND MIDDLE DISTRICTS OF FLORIDA
* OF COUNSEL

PLEASE REFER TO
OUR FILE #

November 16, 2010

6635-1

Via E-Mail: kdion@ci.dania-beach.fl.us

Kristin Dion
Community Development Department
100 W Dania Beach Blvd
Dania Beach, FL 33004

RE: Text Amendment Schedule for November 17

Dear Kristin:

In reference to your November 15, 2010 e-mail with the attachment thereto dated November 17 to coincide with the scheduled Planning and Zoning Board Hearing on Thursday, November 17, 2010 at 7:00 p.m., the city has defined the terms and conditions as we discussed at our meeting at City Hall.

The client, Gary Brooks and I have reviewed the proposed recommendation and we are prepared to move ahead to accept that proposal at the Planning and Zoning Board Hearing.

There are several items that may be involved at a later date that I would like to bring to your attention before the hearing:

1. In connection with the staff recommendation that provides for a Sunset of five (5) years from the date of the approval of the Text Amendment, we talked about the events that could result in the applicant renewing his request for the subject exception beyond the five (5) year time frame, if certain events have not occurred, such as no real progress in connection with the proposed Westside Master Plan and any other substantive matter that would affect the right to the continued use of the property for its present usage. The way the recommendation is set forth, it would appear that unless there is a mandatory Sunset provision that would act in the nature of a statute of limitations then it would appear that we could go back to the city, based upon the circumstances at that time and request an extension of

the continued use of the property. Initially, we thought, we would put in some possible condition for the exception to be extended and that has been omitted from the recommendation.

2. Assuming that the Text Amendment with its conditions are approved by the Planning and Zoning Board and subsequently approved by the city council, we would enter into a Stipulation to dismiss the pending litigation provided that the applicant pays the city's current expenses for special counsel that has been advising the Planning and Zoning Board with regard to the Text Amendment and the fees and costs expended by the city attorney in connection with the prosecution of the code violation. Based upon the estimated fees and costs that have been incurred to date, we could probably have a side letter from the city attorney that covers that aspect of the amicable settlement. In that connection, it would be helpful if we could get you to provide us with present estimated expenses so the client can be prepared to have those funds available when the Stipulation is completed and signed by the parties.
3. We also discussed that the parking area would not require a paved surface that would result in significant expenses and proper irrigation. Since that is not a condition on the recommendation, I do not think anything else needs to be set forth in that connection.
4. It is our further assumption that once the Text Amendment with the conditions has been approved by the city, the appropriate department will issue the applicant an occupational license for the present use.
5. Once the Stipulation is signed the parties will dismiss the subject foreclosure action with prejudice with the Defendant bearing its own fees and costs, but being responsible for the fees and costs incurred by the Plaintiff.

Please be kind enough to circulate this memo to the parties that need to review that and as soon as you can please call me to discuss the items set forth herein and we will be prepared to move ahead as outlined at the Planning and Zoning Hearing on Thursday.

Thank you for your continued cooperation in getting this matter resolved on an amicable basis.

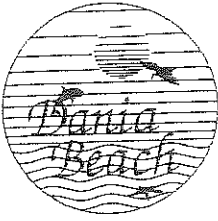
Very truly yours,



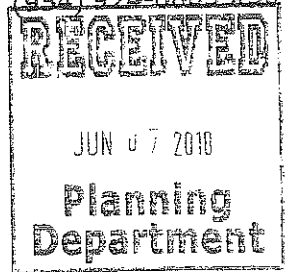
MAX M. HAGEN

MMH/cc

cc: Gary Brooks, Esq.
Daniel Jaramillo



City of Dania Beach, Florida
 Department of Community Development
 Planning and Zoning Division
 (954) 924-6805 X3643



General Development Application

- Administrative Variance
- Assignment of Flex/Reserve Units
- Land Use Amendment
- Plat
- Plat Delegation Request
- Rezoning
- Site Plan
- Special Exception
- Trafficway Waiver
- Variance
- Roadway Vacation
- Other: TEXT AMENDMENT

May 27, 2010

Date Rec'd: _____

Petition No.: TX-27-10

THIS APPLICATION WILL NOT BE ACCEPTED UNTIL IT IS COMPLETE AND SUBMITTED WITH ALL NECESSARY DOCUMENTS. Refer to the application type at the top of this form and "Required Documentation" checklist to determine the supplemental documents required with each application. For after the fact applications, the responsible contractor of record shall be present at the board hearing. Their failure to attend may impact upon the disposition of your application. As always, the applicant or their authorized legal agent must be present at all meetings. All projects must also obtain a building permit from the City's Building Department.

Location Address: 4601. S.W 44TH AVE DANIA FL. 33316

Lot(s): SEE ATTACHED Block: _____ Subdivision: NEW MAN'S SURVEY

Recorded Plat Name: same

Folio Number(s): 5041-25-0550 Legal Description: SEE ATTACHED w/o

Applicant/Consultant (Legal Representative) (circle one) HAGAN & HAGAN

Address of Applicant: HAGAN P.A. AT: MAX M. HIGAN 3831 Everflin Rd Ft. Lauderdale

Business Telephone: 954-987-0515 Home: _____ Fax: 954-364-3864

Name of Property Owner: DAN'S DEALS ON WHEELS AND TRANSPORT AND SALES

Address of Property Owner: 5300 S. ST. RD. 7 HOLLYWOOD FL.

Business Telephone: 954-583-1347 Home: 954-305-8796 Fax: 954-583-2783

Explanation of Request: LAND USE DARK TRUCKS THEY ARE AN EXCESSIVE BUSS.
 For Plats please provide proposed Plat Name for Variances please attach Criteria Statement as per Article 10.13 of Chapter 28, Zoning Code.

Prop. Net Acreage: 1/2 Gross Acreage: 1/2 Prop. Square Footage: _____

Existing Use: DARK TRUCKS overnight Proposed Use: SAME

Is property owned individually, by a corporation, or a joint venture? CORP. LLC

Is property owned individually, by a corporation, or a joint venture? Corp (LLC)

I understand that site plan and variance approval automatically expires within 12 months of City Commission approval, pursuant to Ordinance No. 2005-040.

by [Signature] Applicant/ Owner signature
Print Name Daniel Jaramillo
Managing Member
Date 3/3/10

APPLICANT, CONSULTANT, OR LEGAL REPRESENTATIVE NOTARIZED SIGNATURE

Sworn to and subscribed before me
This 3 day of March 2010

Applicant/Consultant/Representative:

Signature: [Signature]
Date: 3/3/10

[Signature]
Sign Name of Notary Public
State of (Florida)

by Daniel Jaramillo
(Print Name)

Print Name MAX M. HAGEN
Notary Public
MY COMMISSION # DD 501697
EXPIRES: April 26, 2010
Bonded Through Budget Notary Services

5300 So IR7 Holly, FL 33314
Street Address, City, State and Zip Code

Commission Expires: _____
Seal:

904-583-1307 904-583-2783
Telephone No. & Fax No.

INDIVIDUAL OWNER NOTARIZED SIGNATURE:

This is to certify that I am the fee simple owner of subject lands described above and that I have authorized (Applicant/Consultant/Representative) _____ to make and file the aforesaid application.

Sworn to and subscribed before me
This _____ day of _____ 20____

Owner: _____
Signature: _____
Date: _____

Sign Name of Notary Public
State of ()

(Print Name)

Print Name of Notary

Street Address, City, State and Zip Code

Commission Expires: _____
Seal:

Telephone No. & Fax No.

CORPORATION NOTARIZED SIGNATURE:

This is to certify that the below referenced corporation is the owner of subject lands described above and that I, as a duly authorized officer, have authorized (Applicant/Consultant/Representative) Daniel Jaramilla to make and file the aforesaid application.

Sworn to and subscribed before me

This 3 day of March 2010

Max M. Hagen
Sign Name of Notary Public
State of (Florida)

Print Name of Notary MAX M. HAGEN
MY COMMISSION # DD 501967
EXPIRES: April 26, 2010
Commission Expires April 26, 2010
Seal: Provided Thru Budget Notary Services

Corporation Name:

Don's Dealer on Wheels Auto Transport & Sales, LLC

Signature:

Daniel Jaramilla

(Print Name)

Managing Member

(Print Title)

5300 S. STYRA 7 Hollywood FL 33204

Street Address, City, State and Zip Code

954-583-1347 954-583-2783

Telephone No. & Fax No.

JOINT VENTURE/PARTNERSHIP NOTARIZED SIGNATURE:

This is to certify that the below referenced that the duly authorized persons are the owners of subject lands described above and that all partners have authorized (Applicant/Consultant/Representative) _____ to make and file the aforesaid application.

Sworn to and subscribed before me

This _____ day of _____ 20____

Sign Name of Notary Public
State of ()

Print Name of Notary

Commission Expires: _____
Seal:

Signature: _____

Date: _____

(Print Name)**

Street Address, City, State and Zip Code

Telephone No. & Fax No.

**Each partner must sign. Attach duplicate sheets as required.

