

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to the Board of County Commissioners**

PH: Z13-006 (14-01-CZ10-1)

May 22, 2014

Item No. 1

Recommendation Summary	
Commission District	06
Applicant	Carol Jewelers
Summary of Requests	The applicant is seeking a Use Variance to allow a pawnbroker use in a more restrictive zoning district and ancillary non-use variances of street trees, lot coverage, setback and parking spaces requirements.
Location	7295 Coral Way, Miami-Dade County, Florida.
Property Size	22,500 sq. ft.
Existing Zoning	BU-1A, Limited Business District
Existing Land Use	Retail
2020-2030 CDMP Land Use Designation	Business and Office (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with interpretative text, goals, objectives and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311(A)(4)(a), Use Variance standards, Section 33-311(A)(4)(b), Non-Use Variance Standards (see attached Zoning Recommendation Addendum)
Recommendation	Denial without prejudice of requests #1 and #2, withdrawal without prejudice of request #4; modified approval with conditions of request #3, and approval with conditions of request #5.

On February 12, 2014, the Community Zoning Appeals Board (CZAB) #10, approved the application for a use variance to permit a pawn shop use in the BU-1A zone as would be permitted in the BU-3 zone with conditions, contrary to staff's recommendation. Additionally, the Board approved the remainder of the application in part based on staff's recommendation, with additional conditions.

On February 20, 2014, the appellant, the Department of Regulatory and Economic Resources appealed the CZAB-10 decision to the BCC.

For the reasons outlined below in the CDMP and Zoning analysis of the requests, staff opines that the BCC should reverse the CZAB 10 decision, thus denying the use variance as recommended by the Department.

REQUESTS:

- (1) USE VARIANCE to permit a pawn shop use in the BU-1A zone, as would be permitted in the BU-3 zone, only upon approval after public hearing.
- (2) NON-USE VARIANCE to permit (0) street trees (5 street trees required).
- (3) NON-USE VARIANCE to permit a lot coverage of 44.3% (40% maximum permitted).
- (4) NON-USE VARIANCE to permit an open sided metal roof structure setback 3.25' (20' required) from the rear (north) property line.
- (5) NON-USE VARIANCE to permit 25 parking spaces (33 spaces required).

Plans are on file and may be examined in the Department of Regulatory and Economic resources entitled "Site Plan" as prepared by Freedom of Land Corp., consisting of 1 sheet dated stamped received 5/14/13 and a floor plan prepared by unknown dated stamped received 1/22/13, for a total of 2 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION: The site plan submitted by the applicant depicts an existing 865 sq. ft. jewelry store within an 8,169 sq. ft. shopping center.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	BU-1A; shopping center	Business and Office
North	RU-2; duplex residences	Business and Office
South	BU-2; vacant lot	Business and Office
East	BU-1A; offices	Business and Office
West	BU-1A; shopping center	Business and Office

NEIGHBORHOOD COMPATIBILITY:

The subject property is an interior lot, located at 7295 Coral Way. The area surrounding the subject property is primarily characterized by commercial shopping centers, offices, duplex residences and a vacant parcel.

SUMMARY OF THE IMPACTS:

The approval of this application will provide an additional service for the surrounding community. However, approval of the request to allow a pawnbroker use which is typically located in a zoning district that allows more intensive commercial uses, could have a negative impact on the abutting residential properties. Furthermore, approval of the same could result in an increase in the intensity and types of uses that would be allowed in this area.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the subject property for **Business and Office** use. *This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas.* As such, the existing retail use is compatible with the area and **consistent** with the CDMP Land Use Element interpretative text for the Business and Office designation.

The CDMP Land Use Element **Objective LU-4** states that *Miami-Dade County shall, continue to reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.* The **Land Use Element Policy LU-4A** of said interpretive text provides that *when evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.* Staff notes that the existing jewelry store is located within a shopping center that consists of various commercial uses such as a clothing store, dance studio, auto accessories and cell phone store. In staff's opinion, the requested pawnbroker use for jewelry only is an accessory use to the existing

jewelry store and therefore, would be **consistent** with the Business and Office designation on the CDMP Land Use Plan map and **consistent** with **Objective LU-4** based on the criteria outlined in **Land Use Element Policy LU-4A**.

ZONING ANALYSIS:

In October 1955, pursuant to Resolution #8894, the subject property was granted approval to rezone the subject property from RU-2 to BU-1A. The current application seeks approval of a use variance, under Section 33-311(A)(4)(a) to permit a pawnbroker use in the BU-1A zoning district as would be permitted in the BU-3 district (request #1), and ancillary non-use variances of street tress, lot coverage, setback and parking spaces requirements to allow a pawnbroker use on the subject property (requests #2 - #5).

When request #1, Use Variance to permit a pawnbroker use in the BU-1A zone, as would be permitted in the BU-3 zone only upon approval after public hearing, is analyzed under the Use Variance Section 33-311(A)(4)(a), staff opines that the request is not consistent with the general purpose and intent of the zoning regulations. Section 33-311(A)(4)(a) provides that a **use variance** permits a use of land other than that which is prescribed by the zoning regulations. The standard stipulates that *the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions thereof will result in **unnecessary hardship**, and so the spirit of the regulations shall be observed and substantial justice done; and further provided that the use variance will be in harmony with the general purpose and intent of the regulations. To prove an unnecessary hardship, the applicant must demonstrate that under applicable zoning regulations, the applicant is deprived of all reasonable use or benefit from the property in question.*

Based on the information provided by the applicant, staff opines that the applicant has not demonstrated any special conditions related to the subject site where the literal enforcement of applicable zoning district provisions would result in an unnecessary hardship. As previously discussed, the subject property is currently in use and operating as a jewelry store; as such, the current use provides the applicant with reasonable use and benefit. Furthermore, Section 33-247 provides eighty-four (84) permitted uses in the BU-1A zoning district, which allow for the reasonable use and benefit of the subject property. Moreover, Section 33-246 provides that *the purpose of the BU-1A, General Business District, is to provide for retail and service convenience facilities which satisfy the essential and frequent needs of the adjacent residential neighborhood as well as the more specialized commercial facilities which may serve several neighborhoods.*

Staff is of the opinion that the approval of the use variance request will not be in harmony with the general purpose and intent of the regulation, and that the applicant has not demonstrated a loss of all reasonable use of the property under the existing zoning. **As such, staff recommends denial without prejudice of request #1 for the proposed pawnbroker use under the Use Variance Section 33-311(A)(4)(a).**

The applicant also seeks non-use variances of the landscape, setback and lot coverage requirements of the Code for the existing shopping center facility. The applicant seeks to permit the existing shopping center with zero street trees, where 5 trees are required for the 150' street frontage (request #2). When request #2 is analyzed under the Non-Use Variances From Other Than Airport Regulations, Section 33-311(A)(4)(b), staff opines that approval would not maintain the basic intent and purpose of the zoning, subdivision and other land use regulations as it pertains to the stability and appearance of the community and would be **incompatible** with same. Approval of request #2 would allow the applicant to maintain the shopping center with

zero street trees. Staff opines that the applicant has sufficient room to provide the required street trees on the site. The BU-1A zoning district regulations requires the applicant to among other things provide *buffering elements in the form of architectural design and landscape design that provide a logical transition to adjoining existing or permitted uses*. Staff opines that apart from acting as a visual buffer for the less intensive recreational use to the south, the additional landscaping would provide the logical transition referred to in the zoning district regulations. **Therefore, staff recommends denial without prejudice of request #2 under Section 33-311(A)(4)(b), Non-Use Variance Standards.**

However, when requests number #3 through #5 are similarly analyzed under the Non-Use Variances From Other Than Airport Regulations, Section 33-311(A)(4)(b), staff opines that approval with conditions would maintain the basic intent and purpose of the zoning, subdivision and other land use regulations as it pertains to the stability and appearance of the community and would be **compatible** with same. Request #3, would permit the existing shopping center with a lot coverage of 44.3% (40% maximum permitted), and request #4 would permit an existing open sided roof structure setback 3.25' (20' required) from the rear (north) property line. Further, staff's research indicates that the shed that is the subject of request #4 was approved for demolition pursuant to Permit #2013048431. Staff opines that although minimal, the demolition of the roof structure contributes to an approximately 2.7% reduction of the total lot coverage for the existing shopping center. Therefore, staff opines that the withdrawal of request #4 without prejudice and a modified approval with conditions of request #3 to permit the shopping center with 41.66% lot coverage would not have a negative visual impact on the surrounding area and would be **compatible** with same.

Similarly, staff opines that when request #5 to permit the existing shopping center with 25 parking spaces (33 spaces required) is analyzed under the Non-Use Variances From Other Than Airport Regulations, Section 33-311(A)(4)(b), that approval of same would also maintain the basic intent and purpose of the zoning, subdivision and other land use regulations and would not be detrimental to the community. Staff opines that eight (8) less parking spaces than required for the shopping center would not impact traffic on the abutting roadway, Coral Way. Further, staff notes that the memorandum from the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources does not object to this request.

Based on the aforementioned, staff recommends modified approval with conditions of request #3 to allow a 41.66% lot coverage, approval with conditions of request #5 and withdrawal without prejudice of request #4 under Section 33-311(A)(4)(b), Non-Use Variances From Other Than Airport Regulations.

CIRCULATION AND PARKING:

Access to the subject property is provided through an ingress/egress drive along Coral Way. The site plan provided indicates fewer parking spaces than required for the existing 8,169 sq. ft. retail facility, which has been addressed in the discussion pertaining to request #5.

ENVIRONMENTAL REVIEW: Not applicable.

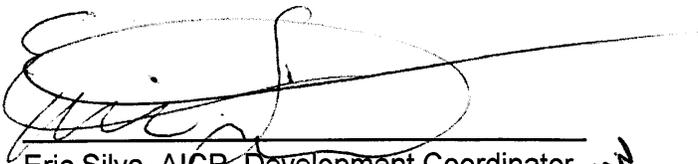
OTHER: Not applicable.

RECOMMENDATION: Denial without prejudice of requests #1 and #2, withdrawal without prejudice of request #4; modified approval with conditions of request #3, and approval with conditions of request #5.

CONDITIONS FOR APPROVAL: (For requests #3 and #5 only).

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled, "Site Plan" as prepared by Freedom of Land Corp., consisting of 1 sheet dated stamped received 5/14/13 and a floor plan prepared by unknown dated stamped received 1/22/13, for a total of 2 sheets, except as herein amended to show the removal of the open sided shed and to show the required street trees.
3. That the applicant submits to the Department of Regulatory and Economic Resources for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.
4. That the use be established and maintained in accordance with the approved plan.
5. That no off-site parking be allowed along Coral way.

ES:MW:NN:EJ:CH



Eric Silva, AICP, Development Coordinator
Development Services Division
Miami-Dade County
Department of Regulatory and Economic Resources

NON

ZONING RECOMMENDATION ADDENDUM

Applicant: Carol Jewelers
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NEIGHBORHOOD SERVICES PROVIDER COMMENTS	
Division of Environmental Resources Management (RER)	No objection
Platting and Traffic Review Section (RER)	No objection
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment
*Subject to conditions in their memorandum.	

COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

<p>Business and Office (Page I-41)</p>	<p><i>This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas. Also allowed are telecommunication facilities (earth stations for satellite communication carriers, satellite terminal stations, communications telemetry facilities and satellite tracking stations). These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be limited when necessary to protect both adjacent and adjoining residential use from such impacts as noise or traffic, and in most wellfield protection areas uses are prohibited that involved the use, handling, storage, generation or disposal of hazardous material or waste, and may have limitations as to the maximum buildable area, as defined in Chapter 24 of the County Code. When the land development regulations are amended pursuant to Land Use Element Policies LU-9P and LU-9Q, live-work and work-live developments shall be permitted on land designated as Business and Office, as transitional uses between commercial and residential areas.</i></p>
<p>Objective LU-4 (Pg. I-11)</p>	<p><i>Miami-Dade County shall continue to reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.</i></p>
<p>Policy LU-4A (Pg. I-11)</p>	<p><i>When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.</i></p>

PERTINENT ZONING REQUIREMENTS/STANDARDS

<p>Section 33-311(A)(4)(a) Use Variances From Other Than Airport Regulations</p>	<p><i>The Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.</i></p>
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ZONING RECOMMENDATION ADDENDUM

Applicant: Carol Jewelers
PH: Z13-006

Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.	<i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.</i>
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