

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

PH: Z13-053 (13-11-CZ11-1)

May 22, 2014

Item No. C

Recommendation Summary	
Commission District	11
Applicant	Five Star Jewelers, Inc.
Summary of Requests	The applicant is seeking a Use Variance to allow a pawnbroker use for secondhand jewelry only in a more restrictive zoning district.
Location	16205 SW 88 th Street, Miami-Dade County, Florida.
Property Size	7.53 acres
Existing Zoning	BU-1A
Existing Land Use	Retail
2015-2025 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 (see attached Zoning Recommendation Addendum)
Recommendation	Denial without prejudice.

This item was deferred from the April 24, 2014 meeting of the Board of County Commissioners (BCC) to allow the applicant to submit a Declaration of Restrictions to staff.

On December 10, 2013, the Community Zoning Appeals Board (CZAB) #11, 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.

On December 16, 2013, the appellant, the Department of Regulatory and Economic Resources appealed the CZAB-11 decision to the Board of County Commissioners (BCC).

For the reasons outlined below in the CDMP and Zoning analysis of the requests, staff opines that the BCC should reverse the CZAB 11 decision, thus denying the use variance as recommended by the Department.

This item was deferred from the April 24, 2014 meeting of the BCC to allow the applicant to proffer a properly executed declaration of restrictions.

REQUEST:

USE-VARIANCE to permit a pawn broker use in the BU-1A zone, as would be permitted in the BU-3 zone, only upon approval after public hearing.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "New Shopping Center Plaza", as prepared by Octavio A. Santurio A.I.A. dated stamped received 5/22/13 and consisting of 2 sheets and a plan entitled "Five Star Jewelers" as prepared by Roger Perez, dated stamped received 6/25/13, consisting of 1 sheet for a total of 3 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION AND PROJECT HISTORY:

05/07/2014

The site has been the subject of several zoning actions from 1988 to 1993, for district boundary changes, modifications to prior declarations of restrictions and plans, and variances from the zoning regulations. The current application seeks a pawn broker use in the BU-1A zone, as would be permitted in the BU-3 zone, only upon approval after public hearing, for the pawning of jewelry only. The site plan submitted by the applicant depicts an existing 1,204 sq. ft. jewelry store within an 87,939 sq. ft. shopping center.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	BU-1A; shopping center	Business and Office
North	RU-3M; lake	Water
South	BU-1A; restaurants BU-2; vacant land & bodies of water	Business and Office
East	RU-TH; townhouse residences RU-4L; single-family residences BU-1A; restaurant	Low Density Residential, (2.5 to 6 dua) Business and Office
West	BU-1A; shopping center	Business and Office

NEIGHBORHOOD COMPATIBILITY:

The subject property is located within a shopping center located at 16205 SW 88 Street. The area surrounding the subject property is characterized by commercial uses to the west, residential uses to the east, a lake to the north and vacant land to the south.

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 only upon approval after public hearing, could have a negative impact on the surrounding area. 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 jewelry store use and requested pawnbroker use are **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 grocery store, restaurants, a karate studio, beauty salon, a mail store, and office uses, among other uses. 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:

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. The pawnbroker use is not permitted in the BU-1A district and is permitted in the BU-3 district only upon approval after public hearing. The letter of intent indicates that the applicant intends to limit the pawnbroker use solely for jewelry and will not permit the pawning of other merchandise.

The existing jewelry store is located within a shopping center that is within the BU-1A zoning district, surrounded by commercially and residentially zoned properties and provides the residential properties with access to neighborhood services for the residents. However, the proposed pawnbroker use is only permitted in the BU-3 zoning district upon approval after public hearing. Staff notes that the applicant is requesting this use variance in order to establish a pawnbroker, which is not permitted in the existing BU-1A zoning district. Although the BU-3 district provides for a host of uses that are significantly more intense than those allowed in the BU-1A district, such as gun shops; secondhand stores for the disposal of furniture, fixtures and tools; locksmith shops, sharpening and grinding shops; garage and mechanical services; commercial chicken hatcheries; and pawnbrokers; the applicant has indicated that the pawn broker use would be limited to the pawning of secondhand jewelry only in conjunction with the existing jewelry store.

When the subject request, 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 Section 33-311(A)(4)(a), Use Variance Standards, 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 without the requested use variance, the applicant, under the existing zoning, has lost all reasonable use of the property.*

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, provides the applicant with economic use and benefit. Furthermore, Section 33-247 of the Code provides eighty-four (84) permitted uses in the BU-1A zoning district, which allow for the reasonable use and benefit of the subject property. 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 the request for the proposed pawnbroker use under the Use Variance Section 33-311(A)(4)(a).**

CIRCULATION AND PARKING:

The subject property has ingress and egress points along SW 88 Street and SW 162 Avenue.

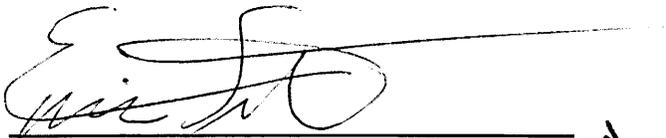
ENVIRONMENTAL REVIEW: Not applicable.

OTHER: Not applicable.

RECOMMENDATION: Denial without prejudice.

CONDITIONS FOR APPROVAL: None.

ES:MW:NN:CH:JC



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

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ZONING RECOMMENDATION ADDENDUM

Five Star Jewelers, Inc.
Z13-053

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Regulatory and Economic Resources (Environmental Division)	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 objection
*Subject to conditions in their memorandum.	

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

<i>Business and Office</i> <i>(Pg. I-41)</i>	<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.</i>
<i>Land Use Objective 4</i> <i>(Pg. I-11)</i>	<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>
<i>Policy LU-4A</i> <i>(Page I-11)</i>	<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>

PERTINENT ZONING REQUIREMENTS/STANDARDS

<i>Section 33-311(A)(4)(a) Use Variances From Other Than Airport Regulations.</i>	<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>
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