

TO: Mike Stamm, Director of Planning and Economic Development

FROM: Commissioner Tom Good

DATE: September 7, 2020

RE: Appeal of SP 2020-08 / LaDiM Aviation

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This memorandum is filed pursuant to Section 32.083(c) of the City's Code of Ordinance in support of an appeal of the Planning and Zoning Board's ("P&Z") approval of SP 2020-08, submitted on behalf of the applicant, LaDim Aviation (the "Applicant"). The matter was considered by P&Z on August 13, 2020 and approved 3-2. At least one member of the public spoke in opposition to the application.

In accordance with Section 32.083 of the City Code, P&Z's decision must be based on "competent and substantial evidence," and the burden is on the individual filing an appeal to demonstrate that P&Z's decision was not based on such evidence. This section defines "competent and substantial evidence," as follows:

...evidence shall be deemed competent to the extent that it should be sufficiently relevant and material so that a reasonable person would accept it as adequate to support the conclusion reached. Evidence shall be deemed substantial if it will establish a substantial basis of fact from which the fact at issue can be reasonably inferred, or such relevant evidence as a reasonable mind would accept as adequate to support the conclusion.

P&Z failed to consider critical information related to the health, safety and welfare of the community. Any reasonable review of a site plan petition that fails to address public safety and welfare issues is an inadequate evaluation of the merits of the petition. P&Z's approval of SP 2020-08 without competent and substantial evidence related to public safety and welfare does not meet the legal standard for approval. Therefore, the decision of P&Z to approve the application should be overturned and the application should be denied, or in the alternative, deferred until such time public safety and welfare issues can be adequately addressed

In review of the Applicant's petition for site plan approval, P&Z considered a number of factors including the height and color of buildings, access, parking, signage, landscaping and certain other site features. However, in their approval of the Applicant's site plan petition, P&Z failed to receive competent information to consider a critical issue, the safety and welfare of the community, specifically as it relates to fire rescue services and requisite airport reviews/approvals.

The subject property is generally located south of Pines Boulevard and east of University Drive within the North Perry Airport property (the "Property"). This parcel is served by the fire station located at 600 SW 72 Avenue in Pembroke Pines. The Fire Station parcel is owned by Broward County. P&Z did not consider the capacity of the City's fire rescue service or its ability to serve the Property. The application contemplates a significant development, including the construction

of 3 hangars and airplane tie-down areas, a potential increase for a gross total of 58 additional Aircraft on a +/- 6-acre parcel of property without any testimony or evidence from the City's fire rescue department confirming that the City has the ability serve the Property and protect the community. Additional critical safety and welfare issues arise by virtue of the fact that there is no formalized long term lease agreement with Broward County for the continued use of the Fire Station parcel.

In addition to the foregoing, prior to P & Z, the applicant has not received approval from all other regulatory agencies or the necessary review by the North Perry Airport Community Advisory Committee (Advisory Committee). Broward County enacted the Advisory Committee on December 10, 2019. Pursuant to Resolution 2019-687, the Advisory Committee shall advise the Aviation Department about issues concerning, but not limited to, development and improvement of the airport.

For the reasons set forth herein, P&Z's decision to approve SP 2020-08 was not based on sufficient competent and substantial evidence and; therefore, the decision should be overturned and SP 2020-08 should be denied or in the alternative, deferred until such time public safety and welfare issues can be adequately addressed.