

Meeting Date: September 13, 2011

Agenda Item

29

Memorandum No. 11-353

REQUESTED COMMISSION ACTION: QUASI-JUDICIAL

Consent

X

Ordinance

Resolution

Consideration/
Discussion

Presentation

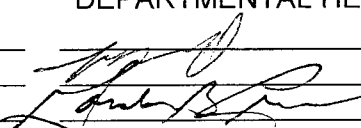
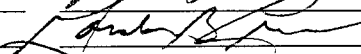
SHORT TITLE

AN ORDINANCE AMENDING SECTION 155.005 OF CHAPTER 155, OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY REZONING A PARCEL OF PROPERTY LYING EAST OF POWERLINE ROAD AND APPROXIMATELY 95 FEET SOUTH OF NORTHWEST 18TH STREET FROM I-1 (INDUSTRIAL) TO I-1 (INDUSTRIAL) WITH A PCD (PLANNED COMMERCIAL/INDUSTRIAL) OVERLAY.

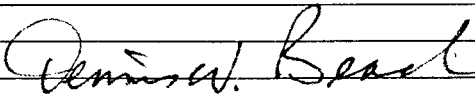
Summary of Purpose and Why:

The property owner is requesting to be rezoned from I-1 to I-1/PCD to allow a waste-to-energy business which converts fully treated wastewater effluent into two by-products: methane which is converted to electricity and an agricultural enhancement product (fertilizer) which is applied to the land as a natural fertilizer. This use was not anticipated by the City's Zoning Code and thus was a candidate for use of the PCD overlay which is intended to provide for innovation in planned commercial, office and industrial development. The Commission must waive the minimum parcel size of 7.5 acres for this 4.76 acre site to be rezoned to I-1/PCD. According to the P&Z conditions of approval, the applicant must submit their plat application prior to second reading of the rezoning ordinance, currently scheduled for September 27, 2011, and the plat must be recorded prior to the first building permit for phase 2 of the project. Contracts for the biosolids to operate the plant and with FPL to accept the electricity generated on-site must be in place prior to approval of the first building permit for the project. A letter from the Applicant dated August 30, 2011, regarding that requirement, is provided in the attachments following the P&Z Recommendation Memo #11-39.

- (1) Origin of request for this action: Annalou, Inc.
- (2) Primary staff contact: Robin M. Bird/Jean E. Dolan Ext. 5554
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	July 14, 2011	Approval	
City Attorney	Aug. 11, 2011	Prepared Ordinance	

Planning and Zoning Board Memorandum #11-39

City Manager 

ACTION TAKEN BY COMMISSION:

Ordinance Workshop	Resolution	Consideration
1 st Reading <u>9/13/2011</u>	1 st Reading _____	Results: _____
2 nd Reading <u>9/27/2011</u>	_____	Results: _____



City Attorney's Communication #2011-1544

August 11, 2011

TO: Jean E. Dolan, AICP, Principal Planner

FROM: Mark E. Berman, Assistant City Attorney

RE: Rezoning Ordinance for Annalou, Inc. – 1750 N. Powerline Road

As requested in your memorandum dated July 29, 2011 (received in our office on August 9, 2011), Zoning Department Memorandum No. 11-318, the following form of ordinance, relative to the above-referenced matter, has been prepared and is attached:

AN ORDINANCE AMENDING SECTION 155.005 OF CHAPTER 155 OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY REZONING A PARCEL OF PROPERTY LYING EAST OF POWERLINE ROAD AND APPROXIMATELY 95 FEET SOUTH OF NORTHWEST 18TH STREET FROM I-1 (INDUSTRIAL) TO I-1 (INDUSTRIAL) WITH A PCD (PLANNED COMMERCIAL/INDUSTRIAL) OVERLAY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Please feel free to contact me if I may be of further assistance.



MARK E. BERMAN

/jrm
l:cor/zoning/2011-1544

Attachment

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING SECTION 155.005 OF CHAPTER 155 OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY REZONING A PARCEL OF PROPERTY LYING EAST OF POWERLINE ROAD AND APPROXIMATELY 95 FEET SOUTH OF NORTHWEST 18TH STREET FROM I-1 (INDUSTRIAL) TO I-1 (INDUSTRIAL) WITH A PCD (PLANNED COMMERCIAL/INDUSTRIAL) OVERLAY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with Florida Statutes, Section 166.041(3)(c)1, notice has been provided by mail to each required property owner at least 30 days prior to the date set for public hearing in this matter; and

WHEREAS, pursuant to law, fourteen (14) days' notice has been given by publication in a newspaper of general circulation in the city, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers at the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had the opportunity to be and were, in fact, heard; now, therefore,

WHEREAS, the City Commission of the City of Pompano Beach finds that the rezoning of the property described herein is reasonably related to the public health, safety and welfare and is in conformance with the Land Use Element of the City's Comprehensive Plan; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. FINDINGS: Based upon the application materials, the information provided at the public hearing, and all other information available, the City Commission hereby finds as follows:

(a) The property subject to this Ordinance lies east of Powerline Road and approximately 95 feet south of Northwest 18th Street, and is more particularly described in Exhibit "A" attached hereto and made a part hereof ("Property"); and

(b) The proposed property is suited to the application of the flexible development controls envisioned by Section 155.210 of the Code of Ordinances of the City of Pompano Beach, Florida, relating to mixed commercial/industrial projects with limitations; and

(c) The rezoning of the property described herein is consistent with the Comprehensive Plan; the rezoning complies with all requirements of the Zoning Code; and the rezoning is reasonably related to the public health, safety and welfare.

(d) The property is owned by and under the control of Annalou, Inc., a Florida corporation.

(e) The Granting of the overlay district will be in harmony with the adjacent and surrounding properties, and in accordance with Section 155.210(B) of the Code of Ordinances, the minimum parcel size of 7.5 acres is waived.

SECTION 2. REZONING AND APPROVAL OF MASTER SITE PLAN: Section 155.005 of Chapter 155 of the Code of Ordinances of the City of Pompano Beach, Florida, is amended to include therein rezoning of the property more particularly described in Exhibit "A" from a present zoning classification of I-1 (Industrial) to I-1 (Industrial) with a PCD (Planned Commercial/Industrial) Overlay as such zoning classification is defined in Chapter 155 of the Code of Ordinances of the City of Pompano Beach, Florida.

Pursuant to the requirements of Section 155.210 of the Code of Ordinances of the City of Pompano Beach, Florida, the Master Site Plan submitted for the subject property, attached hereto and made a part hereof as Exhibit "B," is hereby adopted. All development of the property shall proceed in accordance with the Master Site Plan, as approved, and in accordance with the restrictions herein below.

SECTION 3. DEVELOPMENT RESTRICTIONS: Pursuant to the provisions of Section 155.210 of the Code of Ordinances of the City of Pompano Beach, Florida, development of the subject property shall proceed in accordance with:

- (i) the requirements of such section;
- (ii) the Master Site Plan hereby adopted;
- (iii) the underlying zoning designation for the property; and

SECTION 4. That the Planning Director is hereby directed to mark the zoning provided for in this Ordinance on the Official Zoning Map of the City of Pompano Beach.

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2011.

PASSED SECOND READING this _____ day of _____, 2011.

LAMAR FISHER, MAYOR

ATTEST:

MARY L. CHAMBERS, CITY CLERK

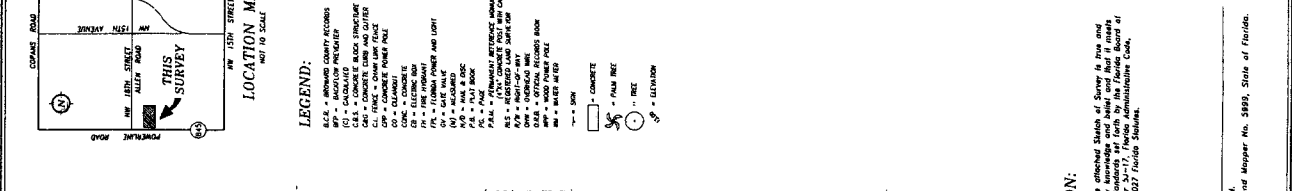
MEB/jrm
8/11/11
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IBI GROUP
 ENGINEERS SURVEYORS
 LANDSCAPE ARCHITECTS EMPOWERMENT CONSULTANTS
 PLANNERS

POWER GREEN ENERGY, INC.
 TOWNSHIP OF THE SOUTH, RANGE 42 EAST
 PORTION OF THE S.W. 1/4 OF SECTION 27
 POMPANO BEACH, FLORIDA

BOUNDARY & TOPOGRAPHIC SURVEY

ADJUST DATUM TO N.A.S.D. 1988



LEGEND:

- BLK. = BOUNDARY
- SPR. = SPRING
- CON. = CONCRETE
- PAV. = PAVEMENT
- TR. = TRAIL
- W. = WATER
- ... = ...

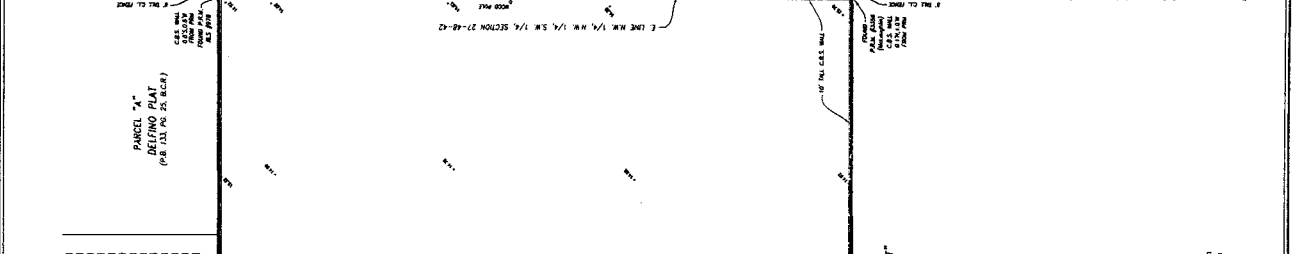


EXHIBIT 'A' - LEGAL DESCRIPTION:

The Southwest 1/4 of the Northwest 1/4 of the Southeast 1/4 of Section 27, Township 42 South, Range 42 East, East 1/2 of the 1/2, being and being in Broward County, Florida, and being more particularly described as follows:

NOTES:

1. Unless it bears the signature and the original seal of a Florida Licensed Professional Surveyor, this plat is not valid. Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent and/or right of way of record.
2. Easements shown hereon were not intended to be intended in any unimproved party.
3. Legal description taken from Warranty deed recorded in O.R.B. 24516, Page 800, Public Records of Broward County, Florida.
4. All measurements are the same as an record unless otherwise noted.
5. All measurements are the same as an record unless otherwise noted.
6. This plat has been prepared for the exclusive use of the utilities named hereon. The certification shown hereon does not intend in any unimproved party.
7. Bearings are based on an assumed meridian, the West Line of the S.W. 1/4 of Section 27-42-42 bearing North 09°00'33" West.
8. This is an unimproved survey and locations are shown to locate utility lines. It is not intended to be used for any other purpose. The utility companies and their locations may vary and are not shown on this drawing. No easements were made to locate buried utilities. The building foundation has not been located.

CERTIFICATION:

I, **WILLIAM N. FIELD, P.E.S.M.**, Professional Surveyor and Mapper No. 5899, State of Florida, do hereby certify that the attached Exhibit of Survey is true and correct to the best of my knowledge and belief and that it was prepared by me or under my direct supervision and that I am a duly Licensed Professional Surveyor in the State of Florida pursuant to Chapter 472.027 Florida Statutes.

WILLIAM N. FIELD, P.E.S.M.
 Professional Surveyor and Mapper No. 5899, State of Florida.

9. The property has access to a public right of way (Pavement Road).

10. The property is zoned I-1 (General Industrial) Pompano Beach, Florida.

11. This survey does not reflect nor determine easements.

12. Area: 4.76 acres more or less.

13. No abstract of title, file, commitment, nor results of title searches were conducted to determine the status of the property. Subsurface and environmental conditions were not examined or considered as part of this survey.

14. This survey was made in accordance with the requirements for Suburban property.

15. Benchmark of origin: Broward County Benchmark #1259, having an elevation of 10.76 feet above Mean Sea Level (M.S.L.) (C.L.S. 2) at 825 feet above the datum of the National Vertical Datum (N.A.S.D.) of 1988.

16. A 10' wide utility easement may exist along the west line of the subject property. The utility easement was not shown on this drawing. The utility easement was provided in the City Administration Report No. 11-288.

17. The survey was made in accordance with the requirements for Suburban property.

18. The survey was made in accordance with the requirements for Suburban property.

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PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

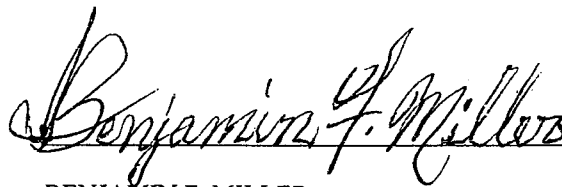
MEMORANDUM #11-39

DATE: July 28, 2011
TO: City Commission
FROM: Planning and Zoning Board/Local Planning Agency
SUBJECT: REZONING REQUEST - ANNALOU, INC.

At the meeting of the Planning and Zoning Board/Local Planning Agency held on July 27, 2011, the Board considered the request by ANNALOU, INC. to rezone the property known as 1750 North Powerline Road from I-1 (General Industrial) to I-1/PCD (General Industrial-Planned Commercial/Industrial District).

It is the recommendation of the Board that the subject property be rezoned, as requested based on the development plan shown on the PCD Master Plan, with the waiver from the minimum lot size of 7.5 acres, and the following conditions:

- (1) Prior to second reading of the Ordinance to approve this PCD, submit the application for plat approval required by Section 155.210 (D) (1) (a) of Chapter 155 of the Code of Ordinances and provide a copy of the recorded plat prior to issuance of building permits for any part of Phase 2, as shown on the PCD Master Plan.
- (2) The PCD buffer requirement along the Powerline Road frontage is approved as shown on the PCD Master Plan and the setbacks will be no less than those shown on the PCD Master Plan.
- (3) During the platting process, the Applicant shall dedicate the required right-of-way for Powerline Road and execute any required agreements with the appropriate agencies to address the existing building encroachment on the dedicated right-of-way.
- (4) Prior to issuance of the first building permit, provide evidence of a contract with Broward County for use of biosolids, and a contract with FPL for accepting electricity generated on site.

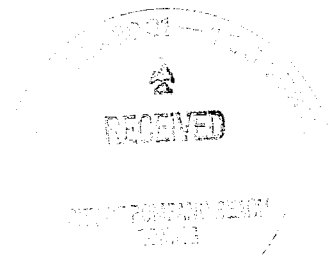


BENJAMIN F. MILLER
Vice Chairman
Planning and Zoning Board/Local Planning Agency

lrh



IBI Group
12500 West Atlantic Boulevard
Coral Springs FL 33071 USA
tel 954 344 9855
fax 954 341 5961



August 30th, 2011

**City of Pompano Beach
Development Services
100 West Atlantic Blvd
Pompano Beach, FL 33060**

Attn: Robin Bird - Director of Development Services

**Re: Power Green Energy
PCD Rezoning Application
Parcel ID 484227000390**

Dear Mr. Bird:

I am in receipt of your recent correspondence regarding the proposed Power Green Energy project in Pompano Beach, Florida.

Please be advised that the surplus energy generated as a by-product of the operation of our proposed facility will be purchased by Florida Power & Light (FPL) as is required by Chapter 366.918 & 8195 F.S.; Renewable Energy. Please also see attached a copy of the applicable State Statute.

Regarding the adequate supply of waste stream to supply the bio-solids portion of the system, please be further advised that contract discussions are presently underway for both the input and output. These discussions are confidential and proprietary.

Please do not hesitate to contact me if you have any further questions.

Sincerely,

Roy Rogers
IBI Group Affiliate

Roy Rogers

From: fsegal@juno.com
Sent: Thursday, August 25, 2011 10:22 PM
To: Roy Rogers
Subject: state statute

366.051 Cogeneration; small power production; commission jurisdiction.—Electricity produced by cogeneration and small power production is of benefit to the public when included as part of the total energy supply of the entire electric grid of the state or consumed by a cogenerator or small power producer. The electric utility in whose service area a cogenerator or small power producer is located shall purchase, in accordance with applicable law, all electricity offered for sale by such cogenerator or small power producer; or the cogenerator or small power producer may sell such electricity to any other electric utility in the state. The commission shall establish guidelines relating to the purchase of power or energy by public utilities from cogenerators or small power producers and may set rates at which a public utility must purchase power or energy from a cogenerator or small power producer. In fixing rates for power purchased by public utilities from cogenerators or small power producers, the commission shall authorize a rate equal to the purchasing utility's full avoided costs. A utility's "full avoided costs" are the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source. The commission may use a statewide avoided unit when setting full avoided capacity costs. If the cogenerator or small power producer provides adequate security, based on its financial stability, and no costs in excess of full avoided costs are likely to be incurred by the electric utility over the term during which electricity is to be provided, the commission shall authorize the levelization of payments and the elimination of discounts due to risk factors in determining the rates. Public utilities shall provide transmission or distribution service to enable a retail customer to transmit electrical power generated by the customer at one location to the customer's facilities at another location, if the commission finds that the provision of this service, and the charges, terms, and other conditions associated with the provision of this service, are not likely to result in higher cost electric service to the utility's general body of retail and wholesale customers or adversely affect the adequacy or reliability of electric service to all customers. Notwithstanding any other provision of law, power generated by the customer and provided by the utility to the customers' facility at another location is subject to the gross receipts tax imposed under s. 203.01 and the use tax imposed under s. 212.06. Such taxes shall apply at the time the power is provided at such other location and shall be based upon the cost price of such power as provided in s. 212.06(1)(b).

History.—ss. 5, 22, ch. 89-292; s. 4, ch. 91-429.

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<http://thirdpartyoffers.juno.com/TGL3141/4e5703598bd672f43bst02vuc>

Roy Rogers

From: fsegal@juno.com
Sent: Thursday, August 25, 2011 10:27 PM
To: Roy Rogers
Subject: more statutes

366.91 Renewable energy.-

(1) The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

(2) As used in this section, the term:

(a) "Biomass" means a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.

(b) "Customer-owned renewable generation" means an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy.

(c) "Net metering" means a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.

(d) "Renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

(3) On or before January 1, 2006, each public utility must continuously offer a purchase contract to producers of renewable energy. The commission shall establish requirements relating to the purchase of capacity and energy by public utilities from renewable energy producers and may adopt rules to administer this section. The contract shall contain payment provisions for energy and capacity which are based upon the utility's full avoided costs, as defined in s. 366.051; however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years. Prudent and reasonable costs associated with a renewable energy contract shall be recovered from the ratepayers of the contracting utility, without differentiation among customer classes, through the appropriate cost-recovery clause mechanism administered by the commission.

(4) On or before January 1, 2006, each municipal electric utility and rural electric cooperative whose annual sales, as of July 1, 1993, to retail customers were greater than 2,000 gigawatt hours must continuously offer a purchase contract to producers of renewable energy containing payment provisions for energy and capacity which are based upon the utility's or cooperative's full avoided costs, as determined by the governing body of the municipal utility or cooperative; however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years.

(5) On or before January 1, 2009, each public utility shall develop a standardized interconnection agreement and net metering program for customer-owned renewable generation.

The commission shall establish requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities and may adopt rules to administer this section.

(6) On or before July 1, 2009, each municipal electric utility and each rural electric cooperative that sells electricity at retail shall develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. Each governing authority shall establish requirements relating to the expedited interconnection and net metering of customer-owned generation. By April 1 of each year, each municipal electric utility and rural electric cooperative utility serving retail customers shall file a report with the commission detailing customer participation in the interconnection and net metering program, including, but not limited to, the number and total capacity of interconnected generating systems and the total energy net metered in the previous year.

(7) Under the provisions of subsections (5) and (6), when a utility purchases power generated from biogas produced by the anaerobic digestion of agricultural waste, including food waste or other agricultural byproducts, net metering shall be available at a single metering point or as a part of conjunctive billing of multiple points for a customer at a single location, so long as the provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers, as determined by the commission for public utilities, or as determined by the governing authority of the municipal electric utility or rural electric cooperative that serves at retail.

(8) A contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.

History.—s. 1, ch. 2005-259; s. 41, ch. 2008-227; s. 16, ch. 2010-139.

366.92 Florida renewable energy policy.— (1) It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.

(2) As used in this section, the term:

(a) "Florida renewable energy resources" means renewable energy, as defined in s. 377.803, that is produced in Florida.

(b) "Provider" means a "utility" as defined in s. 366.8255(1)(a).

(c) "Renewable energy" means renewable energy as defined in s. 366.91(2)(d).

(d) "Renewable energy credit" or "REC" means a product that represents the unbundled, separable, renewable attribute of renewable energy produced in Florida and is equivalent to 1 megawatt-hour of electricity generated by a source of renewable energy located in Florida.

(e) "Renewable portfolio standard" or "RPS" means the minimum percentage of total annual retail electricity sales by a provider to consumers in Florida that shall be supplied by renewable energy produced in Florida.

(3) The commission shall adopt rules for a renewable portfolio standard requiring each provider to supply renewable energy to its customers directly, by procuring, or through renewable energy credits. In developing the RPS rule, the commission shall consult the Department of Environmental Protection and the Department of Agriculture and Consumer Services. The rule shall not be implemented until ratified by the Legislature. The commission shall present a draft rule for legislative consideration by February 1, 2009.

(a) In developing the rule, the commission shall evaluate the current and forecasted levelized cost in cents per kilowatt hour through 2020 and current and forecasted installed capacity in kilowatts for each renewable energy generation method through 2020.

(b) The commission's rule:

1. Shall include methods of managing the cost of compliance with the renewable portfolio standard, whether through direct supply or procurement of renewable power or

through the purchase of renewable energy credits. The commission shall have rulemaking authority for providing annual cost recovery and incentive-based adjustments to authorized rates of return on common equity to providers to incentivize renewable energy. Notwithstanding s. 366.91(3) and (4), upon the ratification of the rules developed pursuant to this subsection, the commission may approve projects and power sales agreements with renewable power producers and the sale of renewable energy credits needed to comply with the renewable portfolio standard. In the event of any conflict, this subparagraph shall supersede s. 366.91(3) and (4). However, nothing in this section shall alter the obligation of each public utility to continuously offer a purchase contract to producers of renewable energy.

2. Shall provide for appropriate compliance measures and the conditions under which noncompliance shall be excused due to a determination by the commission that the supply of renewable energy or renewable energy credits was not adequate to satisfy the demand for such energy or that the cost of securing renewable energy or renewable energy credits was cost prohibitive.

3. May provide added weight to energy provided by wind and solar photovoltaic over other forms of renewable energy, whether directly supplied or procured or indirectly obtained through the purchase of renewable energy credits.

4. Shall determine an appropriate period of time for which renewable energy credits may be used for purposes of compliance with the renewable portfolio standard.

5. Shall provide for monitoring of compliance with and enforcement of the requirements of this section.

6. Shall ensure that energy credited toward compliance with the requirements of this section is not credited toward any other purpose.

7. Shall include procedures to track and account for renewable energy credits, including ownership of renewable energy credits that are derived from a customer-owned renewable energy facility as a result of any action by a customer of an electric power supplier that is independent of a program sponsored by the electric power supplier.

8. Shall provide for the conditions and options for the repeal or alteration of the rule in the event that new provisions of federal law supplant or conflict with the rule.

(c) Beginning on April 1 of the year following final adoption of the commission's renewable portfolio standard rule, each provider shall submit a report to the commission describing the steps that have been taken in the previous year and the steps that will be taken in the future to add renewable energy to the provider's energy supply portfolio. The report shall state whether the provider was in compliance with the renewable portfolio standard during the previous year and how it will comply with the renewable portfolio standard in the upcoming year.

(4) In order to demonstrate the feasibility and viability of clean energy systems, the commission shall provide for full cost recovery under the environmental cost-recovery clause of all reasonable and prudent costs incurred by a provider for renewable energy projects that are zero greenhouse gas emitting at the point of generation, up to a total of 110 megawatts statewide, and for which the provider has secured necessary land, zoning permits, and transmission rights within the state. Such costs shall be deemed reasonable and prudent for purposes of cost recovery so long as the provider has used reasonable and customary industry practices in the design, procurement, and construction of the project in a cost-effective manner appropriate to the location of the facility. The provider shall report to the commission as part of the cost-recovery proceedings the construction costs, in-service costs, operating and maintenance costs, hourly energy production of the renewable energy project, and any other information deemed relevant by the commission. Any provider constructing a clean energy facility pursuant to this section shall file for cost recovery no later than July 1, 2009.

(5) Each municipal electric utility and rural electric cooperative shall develop standards for the promotion, encouragement, and expansion of the use of renewable energy resources and energy conservation and efficiency measures. On or before April 1, 2009, and annually thereafter, each municipal electric utility and electric cooperative shall submit to the commission a report that identifies such standards.

(6) Nothing in this section shall be construed to impede or impair terms and conditions of existing contracts.

(7) The commission may adopt rules to administer and implement the provisions of this section.

History.—s. 18, ch. 2006-230; s. 42, ch. 2008-227; s. 504, ch. 2011-142.

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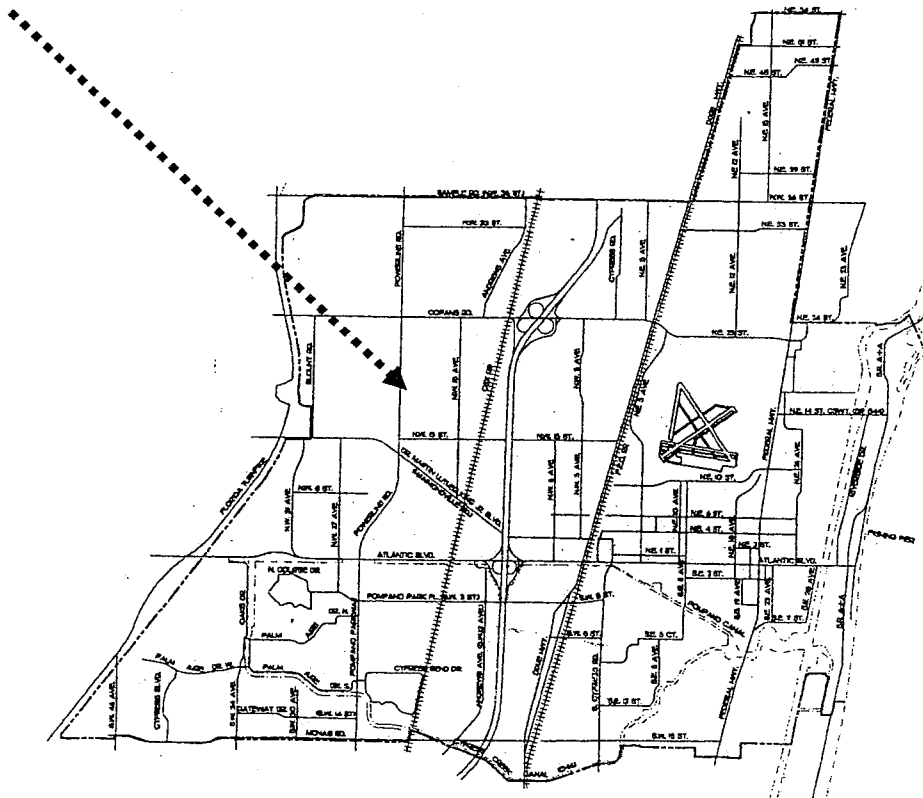
DEPARTMENT OF DEVELOPMENT SERVICES
CITY OF POMPANO BEACH
100 West Atlantic Boulevard - Room 316
Pompano Beach, FL 33060

ADMINISTRATIVE REPORT NO. 11-299

DATE: July 14, 2011
TO: Planning & Zoning Board
VIA: Robin M. Bird, Development Services Director [Handwritten signature]
FROM: Jean E. Dolan, AICP, Principal Planner [Handwritten signature]
RE: Rezoning - Power Green Energy, Inc. (1750 North Powerline Road)
July 27, 2011 Meeting P & Z #11-13000006

This 4.76 acre property is located at 1750 N. Powerline Road, south of Copans Road and north of Dr. Martin Luther King, Jr. Boulevard within the Northwest CRA. The property owner is requesting to be rezoned from I-1 to I-1/PCD to allow a waste-to-energy business which converts fully treated wastewater effluent into two by-products: methane which is converted to electricity and an agricultural enhancement product (fertilizer) which is applied to the land as a natural fertilizer. This use was not anticipated by the City's Zoning Code and thus was a candidate for use of the PCD overlay which is intended to provide for innovation in planned commercial, office and industrial development.

1750 N. Powerline Road



LEGEND

FOR LAND USE PLAN

Symbol Classification Units/ Acre

Gross Residential Density

Residential

E Estate

L Low

LM Low- Medium

M Medium

MH Medium-High

H High

C Commercial

CR Commercial Recreation



I Industrial

T Transportation

U Utilities

CF Community Facilities

OR Recreation & Open Space

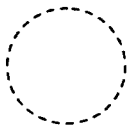
W Water

LAC Local Activity Center

RAC Regional Activity Center

Boundaries
City of Pompano Beach

Number



Reflects the maximum total number of units permitted within the dashed line of Palm Aire & Cypress Bend being 9,724 and 1,998

*	Existing
>	Proposed

FOR ZONING MAP

Symbol District

RS-1 One-Family Residence

RS-2 One-Family Residence

RS-3 One-Family Residence

RS-4 One-Family Residence

RD-1 Two- Family Residence

RM-12 Multi-Family Residence

RM-20 Multi-Family Residence

RM-30 Multi-Family Residence

RM-45 Multi-Family Residence

RM-45/HR Overlay

RPUD Residential Planned Unit Dev.

AOD Atlantic Boulevard Overlay District

MH-12 Mobile Home Park

B-1 Limited Business

B-2 Neighborhood Business

B-3 General Business

B-4 Heavy Business

M-1 Marina Business

M-2 Marina Industrial

LAC Local Activity Center



I-1 General Industrial

I-1X Special Industrial

O-IP Office Industrial Park

BP Business Parking

BSC Planned Shopping Center



PCI Planned Commercial / Industrial Overlay

PR Parks & Recreation

CR Commercial Recreation

CF Community Facilities

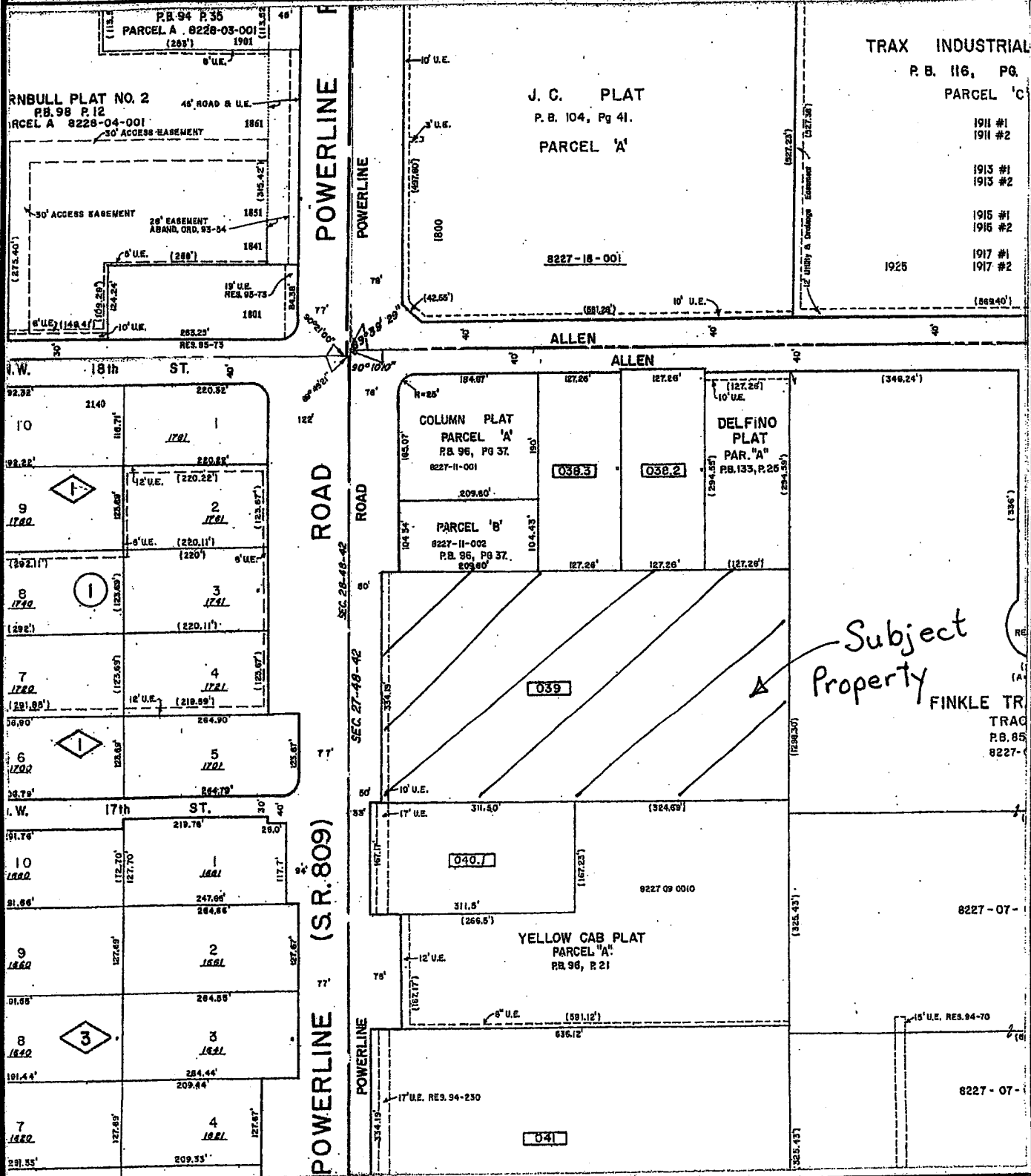
T Transportation

PU Public Utility

EXCERPT FROM THE BROWARD COUNTY PROPERTY APPRAISER
AERIAL MAP



EXCERPT FROM THE CITY OF POMPANO BEACH PLAT MAP



SCALE: 1" = 200'

↑
NORTH

REVIEW & SUMMARY

- A. Pursuant to Section 157.31(A) [Major Review: Development Review Committee Report and Notice to Applicant], the Development Services Director has compiled the department comments from the May 18, 2011 Development Review (DRC) meeting which are summarized below:**

Planning Division: Compliance with the Regional Roadway Network will be determined by the Broward County Commission at the time of final plat approval. Approved to proceed to the Planning & Zoning Board.

Engineering Department: Approved - No comments.

Fire Department: This P&Z application is able to meet all of the Fire Department requirements at this time for Rezoning Only. However, the petitioner shall maintain all proper fire department access and water supply requirements as per chapter 18 of NFPA 1 as amended from time to time. *Additional comments may follow throughout the remainder of the permitting process. The buildings shall be in compliance with All NFPA Standards prior to receiving Fire Department approval.

Solid Waste: The Public Works Department has reviewed the project and has no questions, comments or concerns with the application. Specifically pertaining to solid waste, this application has satisfactorily met all requirements. *Additional comments may follow throughout the remainder of the permitting process.

Urban Forestry: Although this is for a PCD, it appears that there are deficiencies in the amount of pervious area. Review code section 155.131 to be sure the minimum requirements have been met. As per 155.205K, there must not be a chain link fence of the west perimeter. Site plan review is required.

Zoning:

1. Code Section 155.210(B) requires 7.5 acres for rezoning to PCD, however, this requirement can be waived by the City Commission. The subject parcel is 4.76 acres so this waiver will be requested as part of the rezoning recommendation.
2. Code Section 155.210(D)(1)(a) requires a recorded plat or plat application be submitted with the PCD application and 155.210(E)(2) requires final plat approval prior to issuance of building permits. The Development Service Department has determined the first phase of the proposed use will be classified as a "utility" which does not require platting, however, a plat must be recorded for the property prior to issuance of building permits for any portion of Phase 2 of the proposed development as shown on the PCD Master Plan.
3. Code Section 155.210(E)(4)(a) requires an "average" 25 foot wide landscape buffer adjacent to a major arterial road, which, in this case, is Powerline. The right-of-way buffer shown is 25 feet along 90% of the frontage with the other 10%, which is adjacent to the existing building, shown as 21 feet. This averages to slightly less than 25 feet, however, Code Section 155.210(G) allows the City Commission to approve modifications to the

conditions in Code Section 155.210 and this slight deviation from the 25 foot buffer requirement will be requested.

4. Code Section 155.210(E)(4)(c) allows actual setbacks to be established through approval of the PCD Master Plan but suggests a standard 50 foot setback between principal buildings and major arterials and 25 foot setbacks on other property lines. The Plan shows a 21 foot setback between Powerline and the existing building to remain. Though a 15 foot landscape buffer and rear setback is shown on the east property line, the north and south property lines only show the 15 foot landscape buffer but the actual setback from the proposed structures is not specified. *Please label the minimum setback from structures to all property lines.*
5. 155.210(E)(4)(e) requires all utility lines to be constructed underground within the PCD. This will be a condition of building permit approval so please ensure the design for the project includes underground utilities (electric, phone, cable television and internet, etc).
6. Specific landscape plans were not included as part of the PCD Master Plan. Without approved deviations shown on the PCD Master Plan, the project will need to meet the requirements of the landscape code within the vehicular use areas and proposed buffer areas. Though the 15.14% pervious space shown on the Master Plan can set the requirement for pervious space for the site, it may be difficult to meet the landscape code requirements without at least 20% pervious areas as required by Code Section 155.129(C)(1).
7. Prior to building permit approval, the project should produce contracts to provide the biosolids to operate phase 1 of the project.
8. Prior to building permit approval, the project should produce a contract with FPL to accept the electricity generated by the project.
9. All environmental permitting, air quality monitoring, fire safety requirements, etc. must be in place prior to issuance of building permits and/or occupancy permits, whichever are most applicable.
10. Chain link fence will not be permitted in the frontage along Powerline Road. The outdoor storage area shown on the PCD Master Plan must be buffered from Powerline in accordance with Code Section 155.205(K). Please amend the Master Plan accordingly.

B. Zoning Department staff submits the following factual information which is relevant to this rezoning request:

1. The rezoning was reviewed by DRC on June 15, 2011.
2. The property is not platted and is located on the east side of North Powerline Road, north of Dr. Martin Luther King, Jr. Boulevard and south of Copans Road.
3. The overall total site is 4.76 acres.
4. The Zoning and uses of adjacent properties are:

North – (I-1) – Industrial/Warehouse
South – (I-1) – The Urban Farmer/Storage
East – (I-1) – Industrial/Warehouse
West – (I-1) – Industrial/Warehouse
5. Access to this property is from North Powerline Road.
6. The Land Use Designation is Industrial.

C. The following goals, objectives and policies of the City's Comprehensive Plan have been identified as pertinent to this rezoning:

Goal

01.00.00 The attainment of a living environment which provides the maximum physical, economic and social well being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

Policies

- 01.03.11 Consider the compatibility of adjacent land uses in all Land Use Plan amendments and rezonings.
- 01.03.12 The following criteria may be used in evaluating rezoning requests:
1. Density;
 2. Design;
 3. Distance to similar development;
 4. Existing adjoining uses;
 5. Proposed adjoining uses;
 6. Readiness for redevelopment of surrounding uses; and
 7. Proximity to mass transit.

Objective Community Redevelopment

01.08.00 Amend the Land Use Plan map and Zoning map to support new development and redevelopment in the Community Redevelopment Areas.

Policies

01.08.01 Follow the recommendation of the Community Redevelopment Plans in all Land Use Plan amendments and rezonings.

01.11.03 Redevelopment activities in the Community Redevelopment Areas shall be guided by their respective Community Redevelopment Plans, adopted pursuant to Chapter 163, Part III, Florida Statutes.

Objective Smart Growth Initiative

01.16.00 The City will promote “Smart Growth” type initiatives providing for energy efficient development and land use patterns which also account for existing and future electrical power generation and transmission systems in an effort to discourage urban sprawl and reduce greenhouse gasses.

E. Recommendation:

Given the information provided to the Board, as the finder of fact, staff provides the following recommendation and alternative motions, which may be revised or modified at the Board's discretion.

Alternative Motion I

Recommend approval of the rezoning request from I-1 to I-1/PCD based on the development plan shown on the PCD Master Plan with the waiver from the minimum lot size of 7.5 acres and the following conditions:

- (1) Prior to second reading of the Ordinance to approve this PCD, submit the application for plat approval required by Code Section 155.210 (D)(1)(a) and provide a copy of the recorded plat prior to issuance of building permits for any part of Phase 2, as shown on the PCD Master Plan.
- (2) The PCD buffer requirement along the Powerline Road frontage is approved as shown on the PCD Master Plan and the setbacks will be no less than those shown on the PCD Master Plan.
- (3) During the platting process, the Applicant shall dedicate the required right-of-way for Powerline Road and execute any required agreements with the appropriate agencies to address the existing building encroachment on the dedicated right-of-way.
- (4) Prior to issuance of the first building permit, provide evidence of a contract with Broward County for use of biosolids and a contract with FPL for accepting electricity generated on-site.

Alternative Motion II

Table this application for additional information as requested by the Board.

Alternative Motion III

Recommend denial as the Board finds that the request is not consistent with the following goals, objectives and policies of the Comprehensive Plan, specifically:

- 01.03.11 Consider the compatibility of adjacent land uses in all Land Use Plan amendments and rezonings.
- 01.03.12 The following criteria may be used in evaluating rezoning requests:
1. Density;
 2. Design;
 3. Distance to similar development;
 4. Existing adjoining uses;
 5. Proposed adjoining uses;
 6. Readiness for redevelopment of surrounding uses; and
 7. Proximity to mass transit.

STAFF RECOMMENDS ALTERNATIVE MOTION I



City of Pompano Beach
 Department of Development Services
 Planning & Zoning Division

100 W. Atlantic Blvd Pompano Beach, FL 33060
 Phone: 954.786.4634 Fax: 954.786.4666



1113000006

Request for Rezoning

A mandatory meeting must be scheduled no less than 10 business days prior to a regularly scheduled DRC meeting with the Development Services Director. The DRC meets the 1st and 3rd Wednesday of each month.

To the City Commission and to the Planning and Zoning Board of the City of Pompano Beach, Florida. Please take notice that the undersigned requests a change of zoning classification for the following described property:

Subdivision: _____ Block: _____ Lot(s): _____ (See Attached Warranty Deed)
 or Acreage: Section: _____
 Street address of above: 1750 N Powerline Road
 Petitioner's interest in property (owner, lessee, etc.): Petitioner has a purchase agreement
 Does petitioner have any financial interest in properties near or adjacent to this property? If so, explain:
No

Improvements located on property: 5,696 SF Building

Present zoning: I-1 Rezone to: PCD

The reason the petitioner is requesting the rezoning is as follows:
 (see attached)

(A separate sheet may be attached for additional information.)

Dated this _____ day of _____, 20__.

ANNALOU Inc.	Power Green Energy, Inc.	Lois Lewend
Print Property Owner's Name	Print Petitioner's Name	CO-APPLICANT (PRINT)
Property Owner's Signature	Petitioner's Signature	*signature
1610 N. Powerline Road	1750 N. Powerline Rd.	
Mailing Address	Mailing Address	Mailing Address
Pompano Beach, FL 33069	Pompano Bch FL 33069	same
(Zip Code)	(Zip Code)	
Telephone Number	Telephone Number	Telephone
	954.972.7878	same
Email Address	Email Address	toates@pompanobeach.com
	cam1416@aol.com	EMAIL

Note: Three (3) copies of this application with original signatures (keep one for your records), three (3) sealed surveys and if any improvements are on this property, one (1) photograph must accompany this request.

\$1,125.00	Rezoning Fee	_____
50.00	First Rezoning Sign	_____
25.00	Additional Rezoning Sign	_____
25.00	Additional Rezoning Sign	_____
25.00	Additional Rezoning Sign	_____
	Total	_____

Receipt No. _____



Rhon Ernest-Jones / IBI
 12500 West Atlantic Boulevard
 Coral Springs FL 33071 USA

tel 954 344 9855
 fax 954 341 5961

May 25, 2011

**City of Pompano Beach
 Development Services
 Att. Robin Bird, Director of Development Services
 100 West Atlantic Blvd
 Pompano Beach, FL 33060**

**Re: Power Green Energy
PCD Rezoning Application
 Parcel ID 484227000390**

Dear Mr. Bird:

I am pleased to submitted for your consideration, this Request for Rezoning. The subject site is located at 1750 North Powerline Road, south of Copans Road.

This request seeks Rezoning to a designation of PCD- Planned Commercial/Industrial Overlay District, in accordance with Section 155.210 of the Pompano Beach Land Development Code. The Planned Commercial Development District is intended to provide for innovations in planned commercial, office and industrial development.

Approval of this rezoning is consistent with the underlining I-1 zoning district as follows:

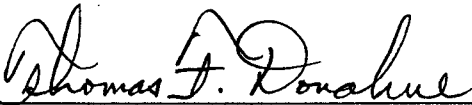
LAND USE ZONING	EXISTING INDUSTRIAL I-1/PCI	PROPOSED INDUSTRIAL PCD-PLANNED COMMERCIAL/ INDUSTRIAL OVERLAY
ADJACENT ZONING:		<i>including all I1 uses</i>
NORTH	I-1	I-1
SOUTH	I-1	I-1
EAST	I-1	I-1
WEST	I-1	I-1
BUILDING HEIGHT	45'	45'
GROSS SITE AREA	207,261 SF (4.76 AC.)	207,261 SF (4.76 AC.)
BUILDING AREA		
OFFICE	2,275 SF	2,275 SF
STORAGE	3,421 SF	3,421 SF
EQUIPMENT STRUCTURES	0 SF	77,232SF
TOTAL	5,696 SF	TOTAL 82,928 SF
PAVEMENT AREA (VUA)	5,128 SF	92,953 SF
TOTAL IMPERVIOUS AREA	206,143 SF (99.46%)	175,881 SF(84.86%)
TOTAL PERVIOUS AREA	1,118 SF (0.54%)	31.380 SF(15.14%)
LANDSCAPE BUFFERS	0 SF	19,012 SF
REMAINDER	1,118 SF	12,368 SF
15% VUA= 0.15 x 5,128 =	769 SF	0.15 x 92,953 =13,943 SF
PARKING SPACES	REQUIRED	PROVIDED
OFFICE 2,275 SF @ 1/250 SF	9 SPP	
STORAGE 3,421 SF @ 1/500 SF	7 SPP	
	TOTAL 16 SPP	16 SPP (INCLUDING 1 H/C SPACE)

The following items are enclosed, pursuant to the application requirements:

- City of Pompano Beach Rezoning Application (3 copies with original signature);
- 3 copies of survey;
- 3 copies of master site plan;
- Warranty Deed;
- Property photographs; and
- Checks for \$1,125 plus \$75 advertising fee
-

Please do not hesitate to contact me if you have any questions, or if I can provide additional information.

Sincerely,


Thomas J. Donahue
Thomas Donahue, P.E.

OWNERS CERTIFICATE

This is to certify that I am the owner of the subject lands described in this **PETITION FOR REZONING** and that I have authorized the filing of the aforesaid petition for rezoning.

Owner's Name: Anna - Lou, Inc.
(Print or Type)
Address: 1610 N. Powerline Rd.
Pompano Beach FL. 33069
(Zip Code)
Phone: 954 972 1111

Thomas Oates
(Signature of Owner)

SWORN AND SUBSCRIBED before me this 27 day of May, 20 11.

Thomas Oates

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Notary Public: Print, stamp, or Type as Commissioned.)

- Personally known to me, or
- Produced identification: _____

(Type of Identification Produced)

NOTARY PUBLIC-STATE OF FLORIDA
Thomas Oates
Commission #DD857890
Expires: **MAR. 07, 2013**
BONDED THRU ATLANTIC BONDING CO., INC.