

Moved To: Approve, finding that it is consistent with the Land Development Code and the Comprehensive Plan	Upon Vote: 7 - 0.
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X

5. **Petition PB-09-120 ZON.** Brown & Cullen Inc, agent for William & Jo Beaty. **Rezone property from BUS (General business district) to BA (Automotive- oriented business district) Located at 4306 & 4322 Northwest 13th Street.**

Jason Simmons, Planner made the staff presentation. Mr. Oscar Etemadi, who lives in the neighborhood behind the property, described problems past and present due to the property. He mentioned a sewage spill by the barber shop several years ago, and expressed concern as to runoff from automotive uses that will be allowed by the proposed BA zoning. He said that very noisy 4-wheel drive vehicles from the business on the subject property are test driven on their unpaved neighborhood roads, and added that the business was only approved for electric vehicles, not gas. He added that approximately three months ago, Ms Beaty brought 10-12 trailers to his neighborhood, and indicated that she did not seem to care about zoning.

Stuart Cullen made the presentation for the petitioner. He explained that except for these two BUS-zoned properties, the nearby properties along NW 13th ST have BA zoning. Plan Board member Chris Dawson asked staff to comment on the appropriateness of BA rezoning considering that Policy 4.2.5 of the [Future Land Use Element] Comprehensive Plan that calls for the City to continue to restrict auto sales and relatively intense auto service to N Main Street north of 16th Avenue. Mr. Simmons replied that BA also allows for the sale of motorized scooters, and that this area is appropriate for automotive sales and sales of scooters, boats, trailers and mobile homes. The BA zoning would make the existing scooter sales a conforming use. Stuart Cullen, agent for the applicant, commented on what is allowed by BA versus what is allowed by BUS.

Board member Randy Wells asked about the non-conforming use. Stuart Cullen said that this is an existing, permitted use that expanded into more of an automotive use. Mr. Wells asked staff about the comprehensive plan policy re: automotive sales limitation to N Main Street. Planning Manager Ralph Hilliard explained that BA zoning allows a lot of uses other than automotive uses, that there are not a lot of places where BA can be allowed, and that this non-Gateway Street section of NW 13th Street is one of them.

Chair Cohen suggested that the Police Department offers dispute resolution services (not by sworn officers) that Mr. Etemadi and the applicant could use. Board member Taylor expressed concern about intensification of use for this property. Board member Ackerman asked about the use expansion. Planning Manager Ralph Hilliard explained that the business has gone beyond its use approval for electric scooters, and into gas powered vehicles, and added that Codes Enforcement action may be pending. Laurel Nesbit and Randy Wells expressed concerns about the compatibility of BA zoning with adjacent residential zoning. Chris Dawson asked what sort of review is made when there is a use change for an existing developed property. Mr. Hilliard replied that some conditions can be put on zoning compliance permits for proposed business.

The below-described motion was made and seconded. Mr. Dawson commented that during the evaluation of the Land Development Code, we need to look at what uses are allowed in BA, particularly when BA is adjacent to residential. He also indicated that this section of NW 13th Street should also be designated as a Gateway Street. The Board then voted.