



PLANNING AND ZONING BOARD REPORT

PZB Project Number 21-00500006: Consideration of a Conditional Use Permit request to allow a 1,040 square feet Medical Office at the property located at 220 South Dixie Highway in Unit 4.

Transmittal Date: September 30, 2021

Meeting Date: October 6, 2021

Property Owner: Osborners Inc.

Applicant: John Gruber, Osborne's C. Inc.

Address: 220 South Dixie Highway

PCN: 38-43-44-21-15-085-0060

Size: 0.37-acre site / 5,732 sf. building

General Location: East side of 300 Block on South Dixie Highway

Existing Land Use: Commercial Office/Retail Spaces`

Current Future Land Use Designation: Mixed-Use – East (MU-E)

Zoning District: Mixed-Use Dixie Highway (MU-DH)



RECOMMENDATION

The documentation and materials provided with the application request were reviewed for compliance with the applicable guidelines and standards found in the City of Lake Worth Beach Land Development Regulations (LDRs) and for consistency with the Comprehensive Plan and Strategic Plan. The proposed Conditional Use Permit is consistent with the Comprehensive Plan, Strategic Plan, and LDRs, as conditioned, and, therefore, a **recommendation of approval with conditions** is provided to the Planning and Zoning Board. The conditions are outlined on page 8 of this report.

A recommendation is also made that the Board discuss the appropriateness of granting a Blanket Conditional Use Permit to allow medical offices in any tenant space within the existing 5,732 square feet building.

PROJECT DESCRIPTION

The applicant and property owner, Osborner's Inc., is requesting a **Conditional Use Permit** to allow a 1,040 square feet Medical Office at the property located at 220 South Dixie Highway, Unit 4. The property is zoned Mixed-Use Dixie Highway (MU-DH) and has a Future Land Use Map (FLUM) designation of Mixed-Use East (MU-E) Future Land Use Designation. The proposed uses are comprised of commercial, retail, office, and services type uses that are all anticipated uses in the MU-DH zoning district. No modifications to the structure or parking are proposed as part of the subject request.

According to the project narrative provided as part of the request, the proposed podiatry medical office is to be occupied by DBA South Florida Podiatry. The subject location is desired as the current office, at 31 South Federal Highway in Lake Worth Beach, is located less than a mile away from the proposed location. DBA South Florida Podiatry has been established in Lake Worth Beach for over 25 years providing medical podiatry services for the local community. The practice at its proposed location is expected to serve an average of 10 patients daily. Services offered include comprehensive medical care for the lower extremity, and surgical care in collaboration with hospital operating rooms and surgery centers. The proposed hours of operation are from 9am to 4pm during weekdays.

LDRs Section 23-1-12, Definitions, Medical Office: *A facility operated by one or more licensed practitioners that provides a single category of services including but not limited to general and specialty medical care, dental care, chiropractic care, vision care, psychotherapy or related care, and medical care related to the treatment of disabilities under the Americans with Disabilities Act (ADA), and shall not include bed patient care or overnight accommodations.*

A medical office is listed as a Conditional Use as the use can be a high-intensity use. High-intensity commercial office uses typically generate high volumes of customer traffic than an office that does not serve the public. The establishment of certain uses in the MU-DH zoning district, including Medical Offices, requires special considerations, via a Conditional Use Permit, to allow for the review and mitigation of potential negative impacts.

COMMUNITY OUTREACH

Staff has not received any letters of support or opposition for this application.

BACKGROUND

Existing Development: The commercial plaza currently has a total of four leasable commercial spaces, totaling 5,732 square feet and has 20 parking spaces on site and an additional 10 spaces between the subject property and the property to the east. The existing building was constructed in 1962.

Land Use: The building has an active business license for a retail use in one of the tenant spaces; the remaining three spaces do not have active business licenses. The site has a history of being occupied by different commercial, retail,

office, and services type uses, including other medical offices. Unit 4 previously had a business license for a medical office in 2014, but has had business licenses for office use since that time.

Landscaping: The site is mainly paved for vehicular use areas. A landscape island with a shade tree is located between a parking bay and the right of way. It is listed as a condition of approval that the landscaping, where possible, shall be enhanced with shrubs and potted plants.

Code Compliance - There are no open code compliance cases on the property.

ANALYSIS

Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Mixed Use – East (MU-E). Per Policy 1.1.1.5, the MU-E FLU is intended to provide for a mixture of residential, office, service, and commercial retail uses within specific areas east of I-95, near or adjacent to central commercial core and major thoroughfares of the City. The preferred mix of uses area-wide are 75% residential and 25% non-residential. The proposal would allow for the establishment of an office within a commercial building along one of the City's Major Thoroughfares, South Dixie Highway. Therefore, the proposal can be deemed consistent with the intent and desired uses for the MU-E FLU.

The City's Strategic Plan focuses on fostering safer neighborhoods, encouraging community pride, building a vibrant and diverse economy, planning for the future, and enhancing the natural, historic, and cultural environment of the City. Pillar IV.A and Pillar IV.D of the Strategic Plan state that the City shall achieve economic and financial sustainability through a versatile and stable tax base, and influence the supply and expansion of jobs. The proposed medical office is a needed service and use for the community; the proposed use will activate a tenant space which is currently vacant, and therefore it will help stimulate the economy without negatively impacting the community and will contribute towards the City's tax base and sustain or increase jobs as recommended under Pillar IV.A and Pillar IV.D. Similar uses are not located within the subject site; however, given the size of the building (5,732 sf.) it would be appropriate to have different medical office establishments within the same building.

Based on the analysis above, the proposed Conditional Use Permit to establish a medical office at the subject location is consistent with the goals, objectives, and policies of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

Consistency with the Land Development Regulations

The Department of Community Sustainability is tasked in the LDRs to review conditional use applications for consistency with the City's LDRs (Section 23.2-29(i)), for compliance with the following findings for granting conditional uses and to provide a recommendation on the proposed project.

Section 23.2-29.a), Conditional Use Permits: *Conditional uses are defined as generally compatible with the other uses permitted in a district, but that require individual review of their location, design, structure, configuration, density and intensity of use, and may require the imposition of pertinent conditions to ensure the appropriateness and compatibility of the use at a particular location and to prevent or minimize potential adverse impacts to the surrounding area.*

Section 23.2-29.b), Approval Authority: *The planning and zoning board, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions, or deny an application for a development permit for a conditional use permit after review and recommendation by the development review official.*

Analysis: A recommendation by the development review official is provided on page 2 of this report, under Recommendation.

Section 23.2-29.c), General Procedures: *The department for community sustainability shall review the application in accordance with these LDRs and prepare a report that summarizes the application and the effect of the proposed conditional use, including whether the application complies with each of the findings for granting conditional uses stated below and provide a recommendation for whether the application should be approved, approved with conditions, or denied.*

Staff Analysis: The structure on the property was constructed in the 1960's. The existing site conditions do not conform to the current LDRs; therefore, the nonconformities section of the land development regulations, LDR Section 23.5-3 is applicable. The existing nonconformities are not proposed to be increased or negatively impacted by the subject Conditional Use request. **The proposed Conditional Use is consistent with the City's LDRs as conditioned based on the following data and analysis:**

Off-Street Parking

Per LDRs Section 23.4-10.f)2.A., Exceptions. *Parking is not required for changes in use or occupancy or remodeling of existing buildings which do not increase floor area or number of overall existing dwelling units, located outside of the single-family residential SF-R zoning district.*

Staff Analysis: The request is a change in occupancy without increasing the existing building floor area; therefore, additional parking spaces are not required. The existing site has a 5,732 square feet commercial building, with four different tenant spaces. A total of 20 parking spaces are located on site and an additional 10 spaces are located between the subject property and the property to the east. The site has approximately 191 square feet of use area per parking space, which exceeds the minimum parking requirement of 1 space per 250 square feet of use area for personal services/medical related office. The existing conditions are appropriate to accommodate the parking demand of a small-scale commercial building, including medical office uses.

Major Thoroughfare Design Guidelines

No modifications to the building or site are proposed as part of this conditional use. However, Page 24 of the Major Thoroughfare Design Guidelines states *that commercial/retail spaces on the lower floor shall be appropriately designed to promote uses that serve the community living in a mixed-use development. Protect the pedestrian and enhance the pedestrian environment and scale.* Therefore, a condition of approval that landscaping in commercial grade planter boxes along the blank walls adjacent to Dixie Highway shall be provided to enhance the pedestrian environment along the major thoroughfare.

Findings for Granting Conditional Uses

Prior to approving any conditional use permit, the decision-making authority shall find based on competent and substantial evidence that the following criteria related to conditional uses are met:

Section 23.2-29.d) General findings relating to harmony with LDRs and protection of public interest.

1. *The conditional use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the future land use element, are most likely to occur in the immediate area where located.*

Staff Analysis: The principal uses allowed in the MU-DH zoning district include residential and commercial uses, such as multiple-family, restaurants, retail, and offices, including medical offices. The daily activity of the proposed medical office is similar to other commercial and office establishments. Services offered include comprehensive medical care for the lower extremity, and surgical care in collaboration with hospital operating rooms and surgery centers. The proposed hours of operation are from 9am to 4pm during weekday; these operations are similar and in harmony with other uses allowed in the district; in addition, similar medical offices have been established in the plaza. **Meets Criterion.**

2. *The conditional use exactly as proposed at the location where proposed will be in harmony with existing uses in the immediate area where located.*

Staff Analysis: Per LDR Section 23.3-17, the MU-DH district was designed for Dixie Highway, Lake Worth Beach's commercial spine. The MU-DH district is intended to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential use. Certain uses are not permitted by right in this district as some activities may be detrimental to the shopping, office, or residential functions of the area. The subject property is surrounded by commercial uses on three sides, which include commercial retail establishments to north and west, a psychology medical office to the south the north approved in 2011, and a mix of single family and multi-family on the east side along the rear side of the property. The use is in harmony with the commercial establishments surrounding it and is complementary to other uses allowed in the zoning district; the proposed activities are not intended to be more intense than other commercial uses allowed by right. **Meets Criterion.**

3. *The conditional use exactly as proposed will not result in substantially less public benefit or greater harm than would result from use of the site for some use permitted by right or some other conditional use permitted on the site.*

Staff Analysis: The Conditional Use request will not negatively affect the public benefit or cause greater harm than that of a use permitted by right in the MU-DH zoning district. The requested uses are similar in nature and function to permitted uses allowed by right.

4. *The conditional use exactly as proposed will not result in more intensive development in advance of when such development is approved by the future land use element of the comprehensive plan.*

Staff Analysis: The Conditional Use request to will not result in a more intensive development in advance of the Future Land Use Element of the City's Comprehensive Plan, when its approval is subject to the conditions listed. The Dixie Highway corridor currently functions as major commercial corridor within the City. Further, the proposed use allows for the adaptive reuse of an existing structure built in the 1960's. **Meets Criterion.**

Section 23.2-29.e) Specific findings for all conditional uses.

1. *The proposed conditional use will not generate traffic volumes or movements which will result in a significant adverse impact or reduce the level of service provided on any street to a level lower than would result from a development permitted by right.*

Staff Analysis: Historically, the subject building has been occupied by different commercial retail, and office establishments, including other medical practices. The size of the tenant space limits the number of patients that can be seen daily. According to the narrative provided, an average of 10 patients are anticipated to be seen daily. The anticipated traffic volume generated by the proposed business should not be higher than other commercial retail establishments that provide services to the community. Moreover, the anticipated traffic generation would be through Dixie Highway, which is a high-volume highway, with direct access to several commercial establishments. Therefore, the level of service provided on the adjacent streets should not be any more adverse than the existing use or other uses allowed by right. Further, the subject plaza is not proposed to be expanded as part of this request. **Meets Criterion.**

2. *The proposed conditional use will not result in a significantly greater amount of through traffic on local streets than would result from a development permitted by right and is appropriately located with respect to collector and arterial streets.*

Staff Analysis: The subject location cannot be accessed from a local road. The property can only be accessed from Dixie Highway, which is an arterial road that provides direct access to many commercial properties within the City and County. **Meets Criterion.**

3. *The proposed conditional use will not produce significant air pollution emissions, or will appropriately mitigate anticipated emissions to a level compatible with that which would result from a development permitted by right.*

Staff Analysis: The air pollution emissions anticipated to be produced by the proposed use are compatible with the emissions produced by commercial uses allowed by right. **Meets Criterion.**

4. *The proposed conditional use will be so located in relation to the thoroughfare system that neither extension nor enlargement nor any other alteration of that system in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.*

Staff Analysis: The anticipated traffic volume generated by the proposed business should not be higher than other commercial retail establishments that provide services to the community. The subject 1,040 square feet medical practice will not require the extension nor enlargement nor any other alteration of that system. The subject use has similar impacts to the thoroughfare system as any other use allowed by right. **Meets Criterion.**

5. *The proposed conditional use will be so located in relation to water lines, sanitary sewers, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement nor any other alteration of such systems in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.*

Staff Analysis: All the business on site will be utilizing the existing infrastructure at the subject site. No adverse impact to infrastructure or public utilities is anticipated to occur as a result of this request. **Meets Criterion.**

6. *The proposed conditional use will not place a demand on municipal police or fire protection service beyond the capacity of those services, except that the proposed facility may place a demand on municipal police or fire protection services which does not exceed that likely to result from a development permitted by right.*

Staff Analysis: The proposed Conditional Use, and its operational activities is not anticipated to place a demand on municipal police or fire protection service beyond the capacity of those services. **Meets Criterion.**

7. *The proposed conditional use will not generate significant noise, or will appropriately mitigate anticipated noise to a level compatible with that which would result from a development permitted by right. Any proposed use must meet all the requirements and stipulations set forth in section 15.24, Noise control.*

Staff Analysis: Unreasonable noise, which is defined in Section 15.24-1, is prohibited in the City when:

- Equal to or greater than 65 dba between 11:00 p.m. and 8:00 a.m., Sunday through Thursday
- Greater than 85 dba between 8:00 a.m. and 11:00 p.m., Sunday through Thursday
- Equal to or greater than 65 dba between 12:00 a.m. and 8:00 a.m., Friday through Saturday
- Equal to or greater than 85 dba between 8:00 a.m. and 12:00 a.m., Friday through Saturday

The intended hours of operations are from 9am to 4pm. The applicant was made aware of the noise limitation requirements. Given the intended operations and business hours, the proposed conditional use is not anticipated to generate more noise than a use permitted by right. **Meets Criterion.**

8. *The proposed conditional use will not generate light or glare which encroaches onto any residential property in excess of that allowed in section 23.4-3, Exterior lighting.*

Staff Analysis: No change in lighting has been proposed nor is required based on the proposed request. Existing conditions are not being affected by the establishment of a medical office; however, the Board may request upgrades or confirmation that the lighting is in conformance for the rear area (east side) of the property that abuts residential. **Meets Criterion.**

Section 23.2-29.g) Additional requirements.

1. *Any and all outstanding code enforcement fees and fines related to the project site have been paid to the city.*

Staff Analysis: As of the date of this report transmittal, there are no active code compliance cases for the subject property.

2. *Any previously imposed conditions of approval for the use at the site have been met, if applicable, unless request for amendment of conditions is part of the current conditional use permit application.*

Staff Analysis: This criterion is not applicable as there is no record of an approved site plan for the site.

CONCLUSION AND CONDITIONS

Per LDR Section 23.3-17, the MU-DH district was designed for Dixie Highway, Lake Worth Beach's commercial spine. The MU-DH district is intended to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential uses.

The proposed podiatry medical office is to be occupied by DBA South Florida Podiatry. The subject location is desired as the current office, at 31 South Federal Highway in Lake Worth Beach, is located less than a mile away from the proposed location. DBA South Florida Podiatry has been established in Lake Worth Beach for over 25 years providing medical podiatry services for the local community. The practice at its proposed location is expected to serve an average of 10 patients daily. Services offered include comprehensive medical care for the lower extremity, and surgical care in collaboration with hospital operating rooms and surgery centers. The proposed hours of operation are from 9 am to 4pm during weekdays.

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Based on the information provided in the application and analysis section of this report, the proposal complies with the conditional use criteria outlined in LDR Section 23.2.29. Besides the recommended conditions of approval listed below, the Board may consider and discuss the appropriateness of granting a Blank Conditional Use Permit to allow medical offices in any tenant space within the existing 5,732 square feet building. The impacts of allowing a medical office anywhere within the existing, 4 tenant spaces, 5,732 square feet building would not be more impactful than allowing a 1,040 square feet medical office as requested.

Section 23.2-29.h) Conditions.

The decision-making authority may impose such conditions in a development order for a conditional use that are necessary to accomplish the purposes of the comprehensive plan and these LDRs to prevent or minimize adverse impacts upon the public, the environment and neighborhoods, and to ensure compatibility, including but not limited to function, size, bulk and location of improvements and buildings, standards for landscaping, buffering, lighting, adequate ingress and egress, site circulation, and hours of operation. Conditions shall be included if conventional standards are inadequate to protect the public interest, surrounding land uses or if additional improvements are needed to facilitate a more thoughtful transition between different uses. The placement of conditions on the approval of a development order shall be the minimum conditions necessary in order for the proposed use to meet all necessary findings, as set forth in this section.

The following condition is recommended to improve the development streetscape appearance:

1. Landscaping, where possible, shall be planted throughout the site, including shrubs within the existing landscape islands in the parking lot area. Also, planters shall be placed where large expanses of blank walls exist along the front façade facing Dixie Highway and below the clerestory windows (windows above eye level) that face the parking lot, as feasible. The property owner shall work with staff to determine the most appropriate location and plating material based on the requirements in the Major Thoroughfare Design Guidelines. A permit to install landscaping shall be submitted and issued within 6 months of this approval date.
 - a. Such planters shall be maintained in good condition. If replacement is needed, the new planters and landscaping shall comply with the City's approved planters and landscaping guide.

BOARD POTENTIAL MOTION:

I move to **approve** PZB Project Number 21-005000056 with staff recommended conditions for a **Conditional Use Permit** request to establish a medical office in the Mixed-Use Dixie Highway (MU-DH) at 220 South Dixie Highway based on upon the competent and substantial evidence provided in the staff report and in the testimony at the public hearing.

I move to **disapprove** PZB Project Number 21-005000006 for a **Conditional Use Permit** request to establish Medical Office use in the Mixed-Use Dixie Highway (MU-DH) at 220 South Dixie Highway. The project does not meet the conditional use criteria for the following reasons [Board member please state reasons.].

Consequent Action: *The Planning & Zoning Board's decision will be final decision for the Conditional Use Permit. The Applicant may appeal the Board's decision to the City Commission.*

ATTACHMENTS

- A. Application Package (survey, request letter)