

PLANNING AND ZONING BOARD REPORT

PZB Project Number 24-00500009: A conditional use permit request for the establishment of an ±11,417 square-foot Design Center designated as a Contractor – Showroom at 1200 North Dixie Highway. The subject site is zoned Mixed Use - Dixie Highway (MU-DH) and has a future land use designation of Mixed Use - East (MU-E).

Meeting Date: October 2, 2024

Property Owner: Scott M. Diament – 1200 Dixie Investment LLC

Applicant: Benjamin Peterson – BuiltToSuit USA, LLC

Address: 1200 North Dixie Highway

PCN: 38-43-44-21-15-376-0010

Size: 1.0663 Acre Lot / ±11,417 square foot use area

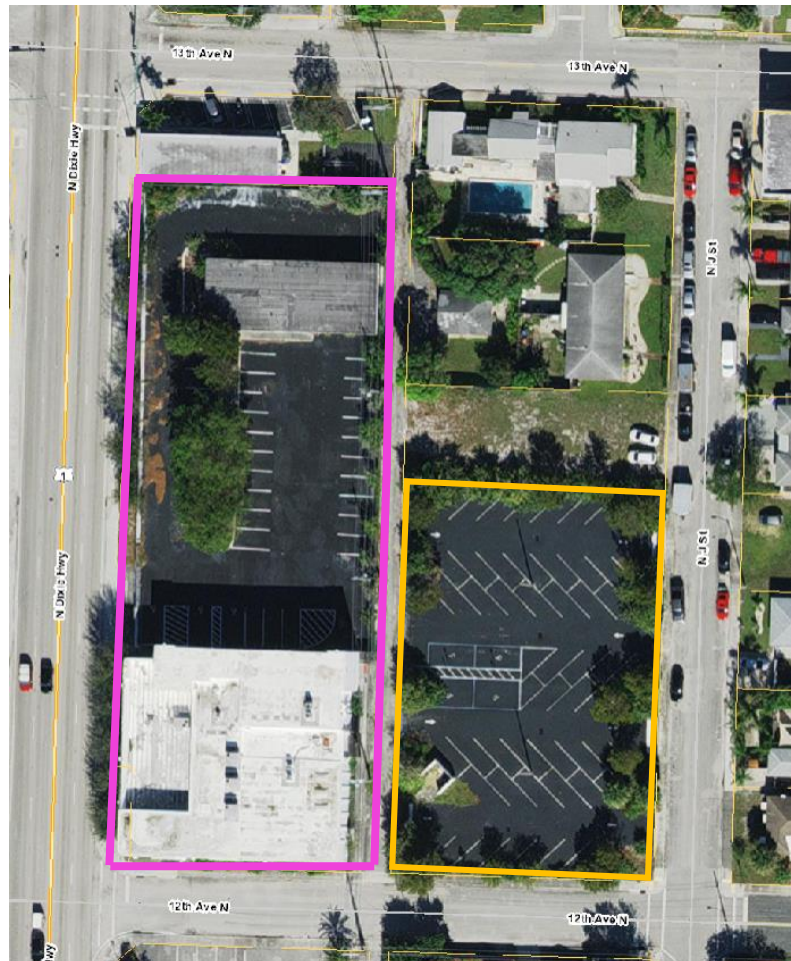
General Location: Northeast corner of North Dixie Highway & 12th Avenue North

Existing Land Use: Vacant

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

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

Location Map:



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 use is consistent with the Comprehensive Plan, Strategic Plan, and LDRs as conditioned. Therefore, a **recommendation of approval with conditions** is provided to the Planning and Zoning Board. The conditions are located on pages 5-6 of this report.

PROJECT DESCRIPTION

The applicant, Benjamin Peterson, is requesting a **Conditional Use Permit (CUP)** to establish a high-intensity (greater than 7,500 square feet of use area), ±11,417 square foot design center designated as a contractor showroom use in the Mixed-Use Dixie Highway (MU-DH) zoning district. According to the applicant's justification statement, the design center will focus on providing design services and materials to design professionals. The subject property is located on the northeast corner of North Dixie Highway & 12th Avenue North.

COMMUNITY OUTREACH

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

BACKGROUND

Below is a summary of the property based on Palm Beach Property Appraiser's records and City records:

Construction: City records and Palm Beach County Property Appraiser's records indicate the subject address currently houses a two-story, 19,089 square foot building constructed in 1956. The site also includes a ±2,930 square foot storage and canopy structure that was constructed in 1971.

The site at 1200 North Dixie Highway is 1.0663 acres. This request also includes the adjacent parking lot located at 1213 North J Street which is 0.6195 acres. The approval will be conditioned to require a cross-access agreement to formalize the use of the existing parking lot located at 1213 North J Street.

Use: The site has a history of being used as a medical office and school. The site has not had an active business license since 2020.

Code Compliance: There are no active code cases associated with this 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). 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 the central commercial core and major thoroughfares of the City. Zoning regulations implementing the Mixed Use – East category shall permit the establishment and expansion of residential (including single family, two-family and multi-family); office, service, and commercial retail uses either as uses permitted by right or through conditional use permit provisions. All buildings are required to provide transitional buffering and design features to mitigate impact of the MU-E sites adjacent to residential zoning districts. The existing structure is 19,089 square feet, the proposed request is seeking to allow a high-intensity contractor showroom within only the first floor (±11,417 square feet) of the commercial space at 1200 North Dixie Highway.

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 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. Because the proposed Conditional Use

permit will allow for the establishment of a high-intensity contractor showroom use that will contribute towards the City's tax base and sustain or increase jobs the proposal is consistent with Pillar IV.A and Pillar IV.D.

Based on the analysis above, the proposed Conditional Use Permit, as conditioned, is consistent with the goals, objectives, and polices of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

Consistency with the Land Development Regulations

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 commercial uses are not permitted in the district because they will be detrimental to the shopping or office functions of the area. The establishment of certain uses is subject to conditional use review to ensure they will not have a negative impact on nearby residential uses or on the commercial viability of their neighbors. The district implements in part the downtown mixed use land use category of the Lake Worth Comprehensive Plan.

Analysis: The applicant is requesting a Conditional Use Permit for high-intensity (use area greater than 7,500 square feet) contractor showroom. Based on the data and analysis provided by the applicant, the proposed conditional use is not anticipated to impact the surrounding area greater than multiple uses permitted by right. The building is already served by municipal services, including water, sewer, refuse, fire and police. The site is located on a major collector roadway. Therefore, no additional public expenditures are required to service the proposed use.

Per LDR Section 23.3-6, a high-intensity contractor showroom use in the MU-DH zoning district requires a Conditional Use Permit. Based on staff analysis, the use is consistent with the intent of the MU-DH zoning district as conditioned. The analysis for the conditional use permit is provided in the section below and is also consistent with the review criteria located in Attachment A.

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 of approval by the development review official is provided on page 2 of this report.

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: A ±19,089 square-foot structure was constructed in 1956, and an accessory ±2,930 square foot storage and canopy structure was constructed in 1971. The existing site conditions do not conform to the current LDRs, and Major Thoroughfare Design Guidelines related to the building, impermeable surfaces, parking, and landscaping. The south side of the existing building does not meet the minimum side street setback requirements, and the west side of

the building does not meet fenestration glazing requirements. The site also exceeds the maximum impermeable surface coverage and does not meet minimum landscape requirements. The site is also deficient in required parking spaces. Therefore, the nonconformities section (23.5-3) of the Land Development Regulations is applicable. The existing nonconformities are not proposed to be increased by the subject Conditional Use Permit request. Conditions of approval are proposed to address parking, landscaping and Major Thoroughfare Design Guidelines insofar as feasible. **The proposed Conditional Use Permit is consistent with the City's LDRs based on the following data and analysis:**

Section 12-7, Dumpster Requirements: *The location of all dumpsters shall be approved by the public services director or his designee and/or the building official or his designee. All dumpsters shall meet the requirements set forth in this section and all other ordinances, rules, regulations and policies adopted by the city.*

Analysis: The parcels at 1200 North Dixie Highway (parcel 1) and 1213 North J Street (parcel 2) are both owned by the same entity. Parcel 2 contains a dumpster that is used by both parcels. The approval will be conditioned to require a cross-access agreement, which would formally allow the dumpster to serve the two (2) sites. The approval will also be conditioned that the applicant must meet with a Public Works Division representative to determine dumpster placement and screening.

Sections 23.4-10, Off-street Parking and 23.4-9, Off-street Loading Regulations: *Per LDR Section 23.4-10(f)(2)(A), 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 for new uses without increasing the existing building floor area; therefore, additional parking spaces are not required. Parcel 1 has 36 parking spaces and parcel 2 has 42 parking spaces. The two (2) parcels include an overall total of seventy-eight (78) parking spaces, of which six (6) spaces are designated ADA parking spaces.

Current parking regulations require one (1) space per 250 gross square feet of space for a contractor showroom. Therefore, a minimum of forty-six (46) parking spaces are required for the proposed contractor showroom which parcel 1 does not meet. Staff will add a condition to require a cross-access agreement to allow the proposed use to utilize parking at the adjacent site (1213 North J Street).

Further, per LDR Section 23.4-9, off-street loading regulations, commercial sites in excess of ten thousand (10,000) square feet requiring the receipt or distribution by vehicle of materials and merchandise shall have at least one (1) permanently maintained off-street loading space for each ten thousand (10,000) square feet of gross floor area or fraction thereof. Staff has added a condition of approval that the applicant will create the required off-street loading spaces through a Minor Site Plan amendment application.

Signage: Signage is required to comply with the size and design requirements in the Land Development Regulations. Any proposed signage will be reviewed at building permit for consistency with these requirements.

Section 23.6-1. - Landscape regulations: *The objective of this section is to provide minimum standards for the installation and maintenance of landscaping within the city. Per Section 23.6-1(c)(2), "on the site of a building or open-lot use providing an off-street parking, storage or other vehicular use area, where such an area will not be screened visually by an intervening building or structure from an abutting right-of-way or dedicated alley, shall require landscaping" consistent with this section including a landscape strip ten (10) feet in depth.*

Analysis: The existing nonconforming property is lacking required landscaping and is not meeting the intent of LDR Section 23.6-1, *Landscape regulations* and LDR Section 23.2-31.j), *Design guidelines for major thoroughfares*. Staff is recommending bringing the two (2) sites (1200 North Dixie Highway and 1213 North J Street) into compliance with landscape regulations insofar as feasible as possible by adding and replacing shrubs along the perimeter, planting a native

shade tree at the southeast side of the dumpster enclosure, adding dumpster landscape screening, removing all invasive plant material from the perimeter shrubs, and adding mulch to the landscape beds. The site has also had a history of severe improper pruning of the existing mature Live Oak trees; staff has included a condition to hire an arborist to ensure proper maintenance of the trees.

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.

Staff Analysis: The proposed Conditional Use Permit is in general harmony with the surrounding area and consistent with development of the corridor. The requested use is an anticipated use in the MU-DH zoning district. The proposed use will not result in less public benefit, nor will it result in more intensive development than anticipated in the zoning district in the comprehensive plan.

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

Staff Analysis: The proposed Conditional Use Permit is not anticipated to impact the surrounding area greater than uses allowed on the property and within the zoning district. The building is already served by municipal services, including water, sewer, fire and police. As indicated earlier in this report, refuse service will need to be determined with the Public Works Division and the applicant. No additional public expenditures are required to service the proposed use. The site is located on a major collector road, and as such traffic flow and movements related to the proposed use is not anticipated to negatively impact the street greater than a use permitted by right. The proposed use will not change the existing on-site traffic circulation. A condition is being proposed to address the refuse collection.

Section 23.2-29.g) Additional requirements.

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

CONCLUSION AND CONDITIONS

The Mixed Use – Dixie Highway (MU-DH) zoning district is intended to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential use. Based on the data and analysis in this report and the supporting materials by the applicant, the requested contractor showroom use, as conditioned, is not anticipated to negatively impact adjacent properties. Further, the proposed Conditional Use Permit will be compatible with the neighboring uses in the Dixie Highway corridor. Therefore, a recommendation of approval is provided to the PZB with the following conditions:

Planning, Zoning, and Landscaping

1. This approval only applies to ±11,417 square feet of the address 1200 North Dixie Highway, any expansion of use area will require another use approval.
2. Prior to the issuance of a business license, a minor site plan amendment application must be submitted for the two (2) parcels (1200 North Dixie Highway and 1213 North J Street). Approval of the minor Site plan amendment and all improvements shall be permitted and completed within one (1) year of the issuance of this conditional use permit approval and shall address the following:
 - a. Add two (2) off-street loading spaces.
 - b. Replace missing and/or damaged shrubs south of the main entrance adjacent to North Dixie Highway.
 - c. Add native shrubs north of the main entrance adjacent to North Dixie Highway.

- d. Plant one native shade tree and perimeter hedging around the existing dumpster enclosure.
 - e. Removal of all invasive plant material from the perimeter shrubs.
 - f. Add wood mulch to all landscape beds.
 - g. Provide a landscape maintenance plan by a certified arborist to restore the existing Live Oak Trees.
3. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the required Business License for 1200 North Dixie Highway.
 4. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the required Business License for 1213 North J Street.
 5. Prior to the issuance of the business license, a cross-access agreement must be submitted to the Department of Community Sustainability for the use of the parking lot and dumpster located at 1213 North J Street.
 6. Prior to the issuance of a business license, the applicant shall provide a floor plan of the use area.
 7. No outdoor storage, outdoor activities, or outdoor patient areas, including smoking areas, are permitted.
 8. The applicant/property owner shall coordinate with Public Works on the location and screening of the refuse area. The location of the screened refuse area shall comply LDR requirements and be approved by the Public Works Department.
 9. All uses shall meet all the requirements and stipulations set forth in City Code Section 15-24, Noise control.
 10. The City shall revoke the business license and the approval of the conditional use permit if the property is declared a chronic nuisance as result of or related to the operations of the requested use.
 11. The proposed use may require a change of occupancy for the tenant space to comply with the Florida Building Code. Contact the Building Division directly regarding the change of use. Please note, their review may require improvements to the building (e. g. ADA bathroom). If required, these improvements must be permitted and completed prior to the issuance of business license(s).
 - Barry Schultz (City of Lake Worth Beach - Building Official): Office Phone: 561-227-6976| Email: bschultz@lakeworthbeachfl.gov
 12. Signage shall be reviewed through the building permit process for consistency with the requirements in the Land Development Regulations.

Electric Utility

1. If any changes will be required to the electric service at this location:
 - a. The electric utility will require voltage and load calculations along with a riser diagram before or at the time of application for a building permit.
 - b. Any meter over 320 amps for single phase, or over 200 amps for 3-phase, a CT cabinet and CT meter will need to be installed. All meters and CT cabinets will require a minimum of 36-inch clearance in front for installation of meter.

Public Works

1. Show location of dumpsters and gated dumpster enclosure. Contact Public Works Solid Waste and Recycling Division and meet with a representative to agree on garbage bin storage location and screening, garbage bin pickup location, and number of bins required. Solid Waste and Recycling can be contacted by email at solidwasteinfo@lakeworthbeachfl.gov. The agreed upon refuse location and enclosure (if applicable) shall be depicted on the site plan.

BOARD POTENTIAL MOTION:

I move to **approve with conditions** the request for PZB Project Number 24-00500009 Conditional Use Permit for a Design Center designated as a Contractor – Showroom 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** the request for PZB Project Number 24-00500009 Conditional Use Permit for a Design Center designated as a Contractor – Showroom. 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. Conditional Use Findings
- B. Application Package (survey, floor plan, and supporting documents)

ATTACHMENT A - Findings for Granting Conditional Uses

Section 23.2-29(d) General findings relating to harmony with LDRs and protection of public interest.	Analysis
1. <i>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.</i>	In compliance
2. <i>The conditional use exactly as proposed at the location where proposed will be in harmony with existing uses in the immediate area where located.</i>	In compliance
3. <i>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.</i>	In compliance
4. <i>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.</i>	In compliance
Section 23.2-29(e) Specific findings for all conditional uses.	Analysis
1. <i>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.</i>	In compliance
2. <i>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</i>	In compliance
3. <i>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.</i>	In compliance
4. <i>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.</i>	In compliance
5. <i>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.</i>	In compliance
6. <i>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.</i>	In compliance