

PLANNING AND ZONING BOARD REPORT

PZB Project Number 23-00500001: A Conditional Use Permit (CUP) request for Scooter Ave at 1914 North Dixie Highway for the establishment of a scooter sales facility designated as a motorcycle/mopeds/motorscooter/golfcarts rentals and sales, indoor only (Medium Intensity Vehicular Uses—Use area less than 7,500 sq. ft.) by LDR Section 23.3-6. 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: March 1, 2023

Property Owner: MG RAMIREZ DYNASTY LLC

Applicant: Marcio Andreoli, Scooter Ave

Address: 1914 North Dixie Highway

PCNs: 38-43-44-15-07-000-8230

Size: .1136-acre lot /±2,700 square feet of existing structure

General Location: On the southeast corner of North Dixie Highway and Vanderbilt Drive

Existing Land Use: Store/Office/Residential

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. A recommendation of approval with conditions is provided to the Planning and Zoning Board. The conditions are outlined on page 5 of this report.

PROJECT DESCRIPTION

The applicant, Marcio Andreoli with Scooter Ave is requesting a **Conditional Use Permit (CUP)** to establish a scooter sales use ($\pm 2,700$ square feet of use area) in the Mixed Use-Dixie Highway (MU-DH) zoning district located at 1914 North Dixie Highway. The subject site is located on the southeast corner of North Dixie Highway and Vanderbilt Drive. The building is currently configured as a retail space on the ground floor and an apartment on the second floor.

The applicant is proposing to utilize $\pm 2,700$ square feet of the existing structure for the purpose of opening a scooter sales facility. The use will support a showroom with 98% brand new scooters, parts, and accessories. All uses related to the business will take place indoors. The facility will operate Monday through Friday from 9:00 A.M. to 6 P.M. and Saturday from 10:00 A.M. to 4 P.M., with a maximum number of two (2) employees. The applicant has informed staff that deliveries of the product is generally once a week. A pickup truck delivers no more than three (3) scooters at a time.

A medium intensity motorcycle/mopeds/motorscooter/golfcarts rentals and sales, indoor only use is allowed in the MU-DH zoning district subject to a Conditional Use Permit approval.

COMMUNITY OUTREACH

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

BACKGROUND

Construction: According to the Palm Beach County Property Appraiser's Office, the $\pm 4,612$ square foot structure was built circa 1952.

Use: The zoning district allows mixed uses that may include retail, office, and residential. The property's existing use includes a residential business license only since 2018. Scooter Ave, will be operating a scooter sales use at the site and does not have an active business license.

Code Compliance: There are no open code violations on the subject site.

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 Mixed Use – East land use category 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. The implementing zoning districts are MU-DH, MU-FH, and MU-E. The proposed scooter sales use is allowed in the MU-DH zoning district as a Conditional Use. The proposal is associated with an existing $\pm 4,612$ square foot building. Therefore, the proposal can be deemed consistent with the intent and desired uses for the MU-E FLU as it maintains a commercial space in a mixed-use building.

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. Because the proposed Conditional Use will allow for the establishment of a scooter sales facility 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 request is consistent with the goals, objectives, and policies of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

Consistency with the City's Land Development Regulations

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. 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.*

Analysis: The proposed scooter sales use requested is consistent with the intent of the MU-DH zoning district as conditioned to ensure there is no negative impact on the nearby residential uses.

The analysis for the conditional use permit is provided in this section below and as consistent with the review criteria located in Attachment A.

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, landscaping shall be provided" consistent with this section.*

Analysis: The existing condition of the landscaping does not comply with Section 23.6-1. The building is constructed without setbacks which prevents the installation of landscape strips as required by the current landscape regulations. The rear of the property accommodates a refuse area, mechanical equipment, and off-street parking which does not comply with screening requirements. Staff has added conditions of approval to create a screened refuse area and improve the existing screening of the mechanical equipment at the rear of the property. These improvements will bring the property closer to compliance, in so far as possible.

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, 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 built around 1952. The building and site presently 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:**

Section 23.4-10.f)2.A., Exceptions (Off-Street Parking). *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 entire site area has a total of 2 off-street parking spaces. In addition, there are 2 on-street parking spaces along the Vanderbilt Drive frontage. As additional square footage is not proposed, and the request is an adaptive reuse of an existing structure, the exception standard for additional parking spaces is applied, and therefore, the proposal does not require additional spaces and meets the parking requirement.

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. A summary of the findings are provided below with a review of the individual finding in the tables in Attachment A:

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

Staff Analysis: The proposed conditional use is in harmony with the surrounding area. A scooter sales use is an anticipated use in the Mixed Use – Dixie Highway zoning district. The proposed use will not result in less public benefit nor will it result in more intensive development than anticipated the zoning district in the comprehensive plan.

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

Staff Analysis: The proposed conditional use 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, refuse, fire and police. The site is located on a major thoroughfare. Therefore, no additional public expenditures are required to service the proposed use. The proposed use will not impact traffic circulation on the site and staff will condition additional landscaping provisions to ensure adequate screening is continuously provided.

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. 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 proposed *motorcycle/mopeds/motorscooter/golfcarts rentals and sales, indoor only* use is appropriate for this zoning district. The use is located adjacent to compatible uses. Further, the proposed conditional use (as conditioned) will be compatible with the neighboring uses. The use will not create excessive problems for through traffic, or have a negative impact on nearby compatible uses or the commercial viability of their neighbors. 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. The conditions are outlined below:

Planning, Zoning, and Landscape:

1. This approval only applies to $\pm 2,700$ square feet within the existing building at the subject property.
2. Within six (6) months of the issuance of the Development Order, the existing mechanical equipment screening shall be replenished or replaced with plant materials as approved by the City's Horticulturalist.
3. The existing black solid waste carts are required to be screened from public view on non-collection days. The carts shall be screened in a manner consistent with the previous site plan approval, or a minor site plan modification concurrent with a building permit shall be required for the revised refuse area screening. If applicable, the applicable permit and concurrent minor site plan modification applications shall be submitted prior to the issuance of a business license. The improvements shall be completed within six (6) months of the issuance of the Development Order.
4. To discourage the test driving of scooters, the curb cut on Vanderbilt drive shall be replaced with a new curb and the existing landscape strip shall be extended with appropriate plant materials as determined by the City's Horticulturalist. These improvements shall be reflected in a minor site plan modification and concurrent right-of-way permit prior to issuance of a certificate of occupancy. The right-of-way permit and concurrent minor site plan modification applications shall be submitted prior to the issuance of a business license. The improvements shall be completed within twelve (12) months of the issuance of the Development Order.
5. **The use shall be completely indoors. Outdoor parking, storage, charging, or maintenance of the scooters is prohibited. Test driving of the scooters is not permitted.**
6. All signage shall be submitted separately through a building permit subject to the City's Land Development Regulations.
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.
8. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the required Business License for the business.
9. 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 business or accessory outdoor storage.

Public Works:

1. Within six (6) months of the issuance of the Development Order, the existing driveway apron located on the north side of the property within the City ROW shall be removed and replaced with new F curb and bahia sod in compliance with the Public Works Department's specifications.

I move to **approve** PZB Project Number 23-00500001 with staff recommended conditions for a Conditional Use Permit request to establish a scooter sales use in the Mixed Use – Dixie Highway zoning district located at 1914 North 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 23-00500001 for a Conditional Use Permit request to establish a scooter sales use in the Mixed Use – Dixie Highway zoning district located at 1914 North 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. Findings for Conditional Uses
- B. Application Package (Project Narrative, Survey, Floor Plan and Supporting Documents)

ATTACHMENT A - 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. | 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</i> | In compliance |

demand on municipal police or fire protection services which does not exceed that likely to result from a development permitted by right.

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.* **In compliance**
8. *The proposed conditional use will not generate light or glare which encroaches onto any residential property in excess of that allowed in section 23.4-10, Exterior lighting.* **In compliance**

| Section 23.2-29.g) Additional requirements. | 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 |