

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 22-00500010:** A Conditional Use Permit (CUP) Peter’s Appliances & More at 1321 North Dixie Highway for the establishment of an ±7,000 square foot appliance retail facility designated as Single Destination Commercial use by LDR Section 23.3-6 (Medium Intensity Commercial Uses—Use area less than 7,500 square feet and/or medium intensity impact uses). 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:** September 7, 2022

**Property Owner:** Loretta Lutfy – LMW Realty Corporation

**Applicant:** Plinio Ventura – Peter’s Appliances

**Bay Address:** 1321 North Dixie Highway

**Parcel Address:** 1337 North Dixie Highway

**PCNs:** 38-43-44-16-07-000-0050

**Size:** 2.43-acre lot / ±26,400 square feet existing structures (±7,000 square feet use area)

**General Location:** East of North Dixie Highway between 14<sup>th</sup> Avenue North and Crestwood Boulevard

**Existing Land Use:** Commercial

**Current 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 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 6-7 of this report.

## PROJECT DESCRIPTION

The applicant, Plinio Ventura of Peter's appliances & More LLC., is requesting a **Conditional Use Permit (CUP)** to establish a single destination commercial use ( $\pm 7,000$  square feet of use area) in the Mixed Use-Dixie Highway (MU-DH) zoning district located at 1321 North Dixie Highway. According to the property appraiser, the subject area is included in an existing  $\pm 26,400$  square foot commercial building. The building is currently configured as commercial space. No additional site improvements are being proposed with this application.

According to the applicant, Peter's appliances & More is a family owned retail store that sells affordable new open or closed box appliances. The entire use area will be utilized as retail appliance showroom for retail with the potential for future accessory supporting uses (e.g. office and installation coordination). No repair services or the storage of appliances are proposed at the subject site as part of this request. Peter's Appliances & More leases a warehouse located at Lauderdale Lakes, Florida that will receive and distribute appliances, therefore no delivery of merchandise is expected at 1321 North Dixie Highway. The company owns two vehicles that will be used for deliveries and will be stored/ parked at the warehouse location. The hours of operation are Monday through Saturday 9:30 a.m.-7:00 p.m. and Sunday from 10:00 a.m.-6:00 p.m., with a maximum number of two (2) employees. The applicant is requesting a single destination commercial use to be located within the building which will require a conditional use permit.

The single-destination commercial use designation would allow the business to provide a wide array of commercial activity and services open to the general public that typically also contains a combination of uses, including but not limited to retail, service, or business office.

A *single destination commercial* 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:** The existing commercial structure was constructed in 1968. Per the original plans, the  $\pm 15,400$  structure (supermarket) was approved in 1962. An addition of  $\pm 10,867$  square feet was approved in 1967.

**Use:** The property's use is commercial. The previous use within this suite was a Family Dollar whose business license expired in 2018. In addition to the current use request, there are two active business licenses on premises in the other commercial bays: Bravo Supermarket since 2015 and Brother's Washing Laundromat since 2011. There does appear to be another suite located in the structure but does not have an active business license.

**Landscaping:** The existing development, constructed in the 1960's prior to the current landscape code, provides perimeter landscaping adjacent to the building and parking area. The original landscape plan was proposed and submitted in 1986. The entire perimeter landscaping is within the ROW and not within the property boundaries. Per a

1986 developer's agreement with the City of Lake Worth, the developer agreed to maintain the perimeter landscaping. In 2001 and 2010, landscape plans were submitted to the city to address landscape deficiencies at the subject site and had proposed to keep the existing Queen Palm Trees and add Ficus Hedge around the perimeter of the site. The existing perimeter landscaping is not in compliance with today's land development regulations. The site also fronts on Dixie Highway. Dixie Highway is a designated ROW and subject to the Major Thoroughfare Design Guidelines. Staff is proposing conditions of approval requiring the landscaping to be enhanced and brought up to code to the furthest extent possible as consistent with the landscape code and Major Thoroughfare Design Guidelines requirements.

**Code Compliance:** There are no active code case 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. While mixed-use projects are allowed on a single site, it is not a requirement that each site within the category incorporate multiple uses. 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.

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 medium intensity commercial use (single destination commercial) that will contribute towards the City's tax base and sustain or increase jobs in a currently vacant commercial bay, 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 polices 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 (MH-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 district implements in part the downtown mixed-use land use category of the Lake Worth Comprehensive Plan.*

**Analysis:** The proposed single destination commercial use requested is consistent with the intent of the MH-DH zoning district as conditioned. The analysis for the conditional use permit is provided in this section below and as consistent with the review criteria located in Attachments A & B.

**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".*

**Analysis:** The existing perimeter and interior landscaping do not meet current LDRs. Staff has provided landscape conditions requiring that invasive shrubs to be removed and replaced with native shrubs, and the replacement of any dead or missing shrubs along the perimeter of the parking lot. Staff has also proposed a condition to require that shade trees are planted along the perimeter per the landscape regulations and coordinate with the public works department to screen the refuse area. The increased vegetation along the east property line will bring the landscaping further into compliance with the Major Thoroughfare Design Guideline. Landscape conditions will be applied at time of landscape permit application related to perimeter, ROW, and refuse area landscaping. Traditionally, staff has proposed landscape conditions to comply prior to business license issuance. However, balancing the current supply chain issues with the need of the applicant to open in a timely manner, staff has recommended a timing condition related to the installation of the landscaping. Should the improvements related to the perimeter landscaping, refuse area, and compliance with the Major Thoroughfare Design Guidelines not be completed within the nine (9) month timeframe of the development order, the property will be issued a code violation for non-compliance with the development order.

The site currently does not have interior landscaping for parking and vehicular use areas per LDR Section 23.6-19(c)(3), *Interior landscape requirements for parking and other vehicular use areas*. Staff is proposing conditions for the improvements to the parking and vehicular use area. The improvements will require a minor site plan amendment and required when the subject site improves the parking area.

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.*

**Analysis:** The summary analysis for consistency with the findings for conditional uses for the proposed CUP is located on page 5 of this report.

**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.*

**Analysis:** The structure on the property completed construction in 1960's. The building and site currently 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. However, staff has identified concerns with the current landscaping. **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.*

**Analysis:** The entire site area has a total of 400 parking spaces with two (2) parking spaces designated as handicap space. The subject area will utilize the existing parking spaces located at the east side of the site with access to 14<sup>th</sup> Avenue North and Crestwood Boulevard. 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 parking spaces and meets the parking requirement. The conditional use requested is a commercial use. The required parking for the subject site complies with LDRs.

#### **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 recommends *the pedestrian environment and scale shall be protected and enhanced, and compatibility between adjacent uses, especially residential.* Although the requested use is in the rear of the site (the west side), conditions of approval are being proposed to enhance the north, east, and west perimeter landscaping with required shade trees and native hedges. Landscape conditions will be applied at time of landscape permit application related to perimeter, ROW, and refuse area landscaping. The conditions will enhance the pedestrian environment along the major thoroughfare and promote compatibility of the entire site.

#### **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:** The proposed conditional use is in harmony with the surrounding area. A single destination commercial use is an anticipated use in the Mixed-Use Dixie Highway (MU-DH) 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. The proposed use is replacing a Family Dollar, which is also a retail use.

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

**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 an arterial roadway. 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.***

**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 designed for Dixie Highway, Lake Worth'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 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.

The proposed *single destination commercial* use is appropriate for this zoning district. The use is located adjacent to compatible uses. Further, the proposed conditional use and improved landscaping 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 and Zoning:**

1. No parking of delivery vehicles overnight.
2. No outdoor storage.
3. Coordinate with Public Works on the dumpster requirements per LDR Section 12-7, *Dumpster requirements*.
4. 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.
5. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the applicable annual Use and Occupancy Certificates (U&O) and Business Tax Receipts (BTR) for the new use and will need to maintain the license with renewals. This occupant must also obtain a City of Lake Worth Beach business license. This approval letter only applies to this address, 1321 North Dixie Highway, and will not constitute approval for any new location or unit.
6. 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.

**Landscaping:**

1. Prior to the issuance of a business license, a landscape permit application shall be submitted and approved to address the following within six (6) months with installation in nine (9) months:
  - a. A landscape plan shall be submitted. A landscape plan will be required to show all proposed perimeter and interior landscaping.
  - b. Medium, mature, native shade trees will be required along the north, west, and south perimeter.
  - c. Remove the existing low-quality White Fly infested Ficus hedge and invasive Queen Palms from the planting strip that is adjacent to Crestwood Boulevard and replace with cocoplum shrubs.
  - d. Remove the existing low-quality White Fly infested Ficus hedge and invasive Queen Palms from the planting strip that is adjacent to 14th Ave North and replace with cocoplum shrubs.
  - e. Remove and replace dead cocoplum shrubs in the entire landscape buffer around the parking lot.
  - f. Remove all invasive Queen Palms from the entire site.
  - g. Install mulch in all landscape beds.
  - h. Provide screening for the dumpster enclosure.
2. Landscaping shall provide in accordance with the location and planting material requirements in the Major Thoroughfare Design Guidelines.
3. A ROW permit will be required for the improvements to the perimeter landscaping.
4. Perimeter and refuse area landscaping shall be installed and inspected within nine (9) of issuance of the CUP development order.
5. At the time of any proposed parking lot improvements, a minor site plan will be required. The minor site plan will also require interior landscaping improvements per the submitted and approved landscape plan.

**Public Works:**

1. The issuance of any permits shall comply with all provisions of the Lake Worth Municipal Code and all other applicable standards including but not limited to the Florida Department of Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake Worth Public Works Construction Standards and Policy and Procedure Manual.
2. No Certificate of Occupancy shall be granted until all conditions of approval have been satisfied under jurisdiction of the Department of Public Works.
3. In the event of a legal challenge to this approval, shall be responsible for all costs to defend the action of the city in approving any and all permits related to this application. Should the applicant fail to enter into an agreement fund the costs of litigation, the city, at its discretion, may rescind this approval and revoke all permits issued.
4. Prior to the issuance of a building permit, contact and meet with a representative from the Public Works Solid Waste and Recycling Division to confirm dumpster enclosure location, accessibility, construction, and demand on property conforms to all design specifications and requirements of the Department of Public Works. Solid Waste and Recycling Division contact number is 561-533-7344.

#### BOARD POTENTIAL MOTION:

I move to **approve** PZB Project Number 22-00500009 with staff recommended conditions for a **Conditional Use Permit** request to establish a ±7,000 square foot appliance retail facility designated as Single Destination Commercial use in the Mixed-Use Dixie Highway (MU-DH) zoning district located at 1321 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 22-00500009 for a **Conditional Use Permit** request to establish a ±7,000 square foot appliance retail facility designated as Single Destination Commercial use in the Mixed-Use Dixie Highway (MU-DH) zoning district located at 1321 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 (survey, site plan, landscape plans, & supporting documentation)

### 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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>
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>	<b>In compliance</b>



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>	<b>In compliance</b>
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>	<b>In compliance</b>