



DEPARTMENT FOR COMMUNITY SUSTAINABILITY
Planning Zoning Historic Preservation Division
1900 2ND Avenue North
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DATE: July 28, 2021
TO: Members of the Planning & Zoning Board
FROM: Erin Sita, Assistant Community Sustainability Director
THRU: William Waters, AIA, NCARB, LEED, AP BD+C, ID SEED, Director for Community Sustainability
MEETING: August 4, 2021

SUBJECT: **PZB Project Number 20-00500004**: Request by Rico Baca of 5908 Georgia, LLC for consideration of a Conditional Use Permit to allow an auction house less than 7,500 sf at 1209, 1215, and 1217 North Dixie Highway within the Mixed Use – Dixie Highway (MU-DH) zoning district (PCNs: 38-43-44-21-15-378-0140; 38-43-44-21-15-378-0130; and 38-43-44-21-15-378-0110).

PROJECT DESCRIPTION:

The applicant, Rico Baca of 5908 Georgia, LLC is requesting a **Conditional Use Permit** to allow an auction house less than 7,500 sf at 1209, 1215, and 1217 North Dixie Highway. The existing properties contain a single-family home, a commercial building (formerly Abrams Flooring) and a parking lot. The applicant is planning to submit a subsequent major site plan application to renovate the subject properties. Per the applicant’s justification statement, the proposed business would operate as a boutique auction house specializing in modern and contemporary art, furniture, and decorative objects. The business is proposing to hold four to six auction events per season, generally from November through May. Auctions will operate with a mix of live (in person), and remote (by phone, or online) participation. Attendance at the large format auctions is approximately 50-75 people, with most bidding occurring online or by phone. The business is planning to offer valet service for customers as well.

Staff Recommendation:

Staff has reviewed the documentation and materials provided for compliance with the applicable guidelines and standards found in the City of Lake Worth Beach’s Land Development Regulations (LDRs). The proposed Conditional Use Permit meets the criteria of the Comprehensive Plan and LDRs as conditioned by staff. Therefore, staff recommends that the Board approve the Conditional Use Permit request with the conditions outlined on page 8.

PROPERTY DESCRIPTION:

Applicant	Rico Baca of 5908 Georgia, LLC
Owner	TMN Investment Holdings, LLC
General Location	West 1200 block of North Dixie Highway
Existing PCN Numbers	38-43-44-21-15-378-0140; 38-43-44-21-15-378-0130; and 38-43-44-21-15-378-0110
Existing Land Use	Retail/Office/Residential
Existing Zoning	Mixed Use – Dixie Highway (MU-DH)
Existing Future Land Use Designation	Mixed Use – East (MU-E)

LOCATION MAP:



BACKGROUND:

The subject site is comprised of three parcels with a total combined area of 0.63 acres in the west 1200 block of North Dixie Highway. Below is a summary of the property based on Palm Beach Property Appraiser's records and City records:

- **Construction** - Commercial structures and the single-family home on the properties were constructed between 1950 and 1956. Per the PBC Property Appraiser, the commercial building currently has a combined area of (1,920 sf Warehouse / 3,552 sf Retail) and the single-family structure is 2,145 sf for a total of 7,617 sf.
- **Use** - The properties are currently vacant. The last business license for the single-family structure was a residential rental in 2019. The commercial structure was previously home to the Abrams Flooring Company, which maintained an active business license until 2011. Since 2011, the property has been predominantly vacant.
- **Code Compliance** - There are no open code compliance cases on the property. However, the property has had at least one code case per year for graffiti, paint and general maintenance items like weeds and garbage since 2015.



ANALYSIS:**Public Support/Opposition**

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

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 future land use area 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 proposed auction house of 7,500 sf or less is a medium intensity use that is consistent with the intent of the MU-E land use designation.

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 an auction house business 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 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

Per Section 23.2-29, 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. The Department of Community Sustainability is tasked to review conditional use applications for consistency with the City's LDRs, for compliance with the findings for granting conditional uses (analyzed in the next section) and to provide a recommendation for whether the application should be approved, approved with conditions, or denied.

Staff Analysis: The structures on the property were constructed in the early to mid- 1950s. The buildings 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. If the Conditional Use Permit for an auction house less than 7,500 sf is approved as conditioned, a site plan application will be required to bring the site into compliance with the LDRs in so far as feasible. Based on the scope of the improvements identified in the pre-application meetings for the proposed project, a Major Site Plan Amendment will be required with approval by the Planning & Zoning Board. **The proposed conditional use is consistent with the City's LDRs as conditioned based on the following data and analysis:**

Mixed Use - Dixie Highway: 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 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 use is anticipated in the MU-DH zoning district as a conditional use. Based on the information provided in the application and staff's analysis, the proposal seeks to minimize negative impacts on surrounding properties and complies with the conditional use criteria outlined in LDR Section 23.2.29.

Further, the applicant is proposing improvements to the property's architecture, parking, site circulation, landscaping and signage, but requested the conditional use permit be heard prior to site plan consideration and approval of those proposed improvements to secure financing. Staff has drafted conditions of approval that require said site plan approval and the

completion of exterior site improvements prior to the issuance of a business license to ensure that the proposed use will not impact nearby adjacent residential uses nor the commercial viability of adjacent commercial property owners.

Parking: There are currently 15 parking spaces on the three properties combined. The previous businesses utilized an additional off-site parking lot across the alley on N H Street. However, the lot was never combined with a unity of title and was not sold to the current property owner. The existing commercial building (warehouse and retail uses) has a current parking requirement of 9 spaces, and the single-family structure has a requirement of 1 parking space or 4 spaces if utilized as a retail building. Therefore, the property is currently consistent with the parking requirements in Section 23.4-10. The proposed auction house use would be located in the existing commercial building for a combined use/building area of just under 7,500 sf, which would include an addition to this building. The new parking requirement with the addition would be 8 spaces. Therefore, the maximum parking requirement for the proposed use with the conversion of the single-family home to a retail building would be 14 spaces. **Staff has proposed a condition of approval to require a minimum of 14 off-street parking spaces on the 3 combined properties.**

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

The land development regulations require all conditional uses to be analyzed for consistency with Section 23.2-29(d). Staff has reviewed the application against this section and was found to comply with the general findings relating to harmony with the LDRs and protection of public interest, as follows:

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 site contains a zoning designation of MU-DH. The proposed Conditional Use is consistent with the types of uses anticipated to occur within the zoning district. An auction house less than 7,500 sf is of such size and scale that the impacts and function of the use were determined to be consistent with the mixed-use nature of the zoning district if reviewed as a Conditional Use Permit (Section 23.3-6 Use Tables). Therefore, the proposed use is found to be compatible and harmonious with the existing and anticipated surrounding uses provided the conditions of approval are met. **Meets Criterion as Conditioned.**

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: The existing uses in the surrounding area are as follows:

Direction	Future Land Use	Zoning District	Existing Use
North (adjacent)	Mixed Use - East (MU-E)	MU-DH	Retail & Auto Repair
South (adjacent)	Mixed Use - East (MU-E)	MU-DH	Office
East (across Dixie Hwy)	Mixed Use - East (MU-E)	MU-DH	Vacant Building (Previously Private School)
West (across alley)	Mixed Use - East (MU-E)	MU-DH	Single family residences and a parking lot

The proposed use will function in similar manner to retail and office uses in the area with the exception of occasional large events hosted by the business. Staff has proposed a conditional approval to require a parking plan for large events that includes valet service to be submitted with the subsequent site plan application. Staff has also proposed a condition that

requires a site plan amendment and the completion of exterior improvements prior to the issuance of a business license. **Meets Criterion as Conditioned.**

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 Property for some use permitted by right or some other conditional use permitted on the property.

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 as conditioned. **Meets Criterion.**

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. The Dixie Highway corridor currently functions as major commercial corridor within the City. Further, the proposed use would allow for the reuse and update of existing vacant mid-century structures. **Meets Criterion.**

Section 23.2-29(e): Specific standards 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 buildings have been occupied by a mix of residential (single-family), retail and warehouse (furniture store) uses. Based on the Florida Department of Transportation's (FDOT) 8th Edition of the Trip Generation Table, a 5,472 sf furniture stores use generates about 28 daily trips. The proposed Conditional Use is not listed in the table to conduct a simple comparison, but the additional traffic impact of the proposed use and addition will require review by the PBC Traffic Division with detailed traffic analysis for the proposed use. A traffic concurrency approval letter by Palm Beach County Traffic Division is required with the site plan application for the additional non-residential use area and the conversion of the single-family home to retail. **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 proposed use is not anticipated to significantly affect the volumes of traffic expected on the City's roadway network. The MU-DH zoning district is intended to provide the establishment and expansion of a broad range of office and commercial uses. The applicant is proposing a reconfiguration and expansion of the existing commercial building to just under 7,500 sf under a separate Major Site Plan application, which is equivalent to three separate retail or office business by right. Per the application, the auction events will be a mix of in-person and remote participants. Therefore, the traffic generated from the proposed businesses will likely be consistent with by-right commercial uses as well as the anticipated uses in this area. Further, the proposed use may also produce less daily traffic movements than three separate retail establishments with individual driveways and parking areas. **Meets Criterion.**

3. The proposed Conditional Use will not produce significant air pollution emissions, to a level compatible with that which would result from a development permitted by right.

Staff Analysis: The proposed use is not projected to produce significant levels of air pollution emissions beyond the existing retail uses in the area as the auction house will function in similar manner per the applicant's justification statement. Further, the application indicates that participation in events will rely on a mix of in-person and remote access. Therefore, the proposed uses are not anticipated to produce air pollution emissions greater than that of a use permitted 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 establishment of an auction house less than 7,500 sf is an anticipated use in the district and the use is proposed to rely more heavily on remote participation in events than traditional retail; therefore, a higher net public cost or earlier incursion of public cost than what would result from a development permitted by right is not anticipated. **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: The businesses 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.

Staff Analysis: The structures are predominantly existing with an addition planned to increase the size of the commercial building to just under 7,500 sf. Therefore, the use is not anticipated to place a demand on municipal police or fire protection services beyond capacity. **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 applicant states that the requested uses will meet all noise requirements with the requirements in Section 15.24. Further, all use activities will occur. **Meets Criterion.**

8. The proposed Conditional Use will not generate light or glare which encroaches onto any adjacent property in excess of that allowed in Section 23.4-3, Exterior lighting.

Staff Analysis: No change in lighting has been proposed. However, staff has conditioned the request to require the approval of a site plan amendment application, which would include any changes to the existing exterior lighting. **Meets Criterion.**

CONCLUSION:

The proposed request for a Conditional Use Permit for an auction house use less than 7,500 sf is consistent with the purpose, intent, and requirements of the Comprehensive Plan and LDRs subject to compliance with staff's proposed conditions of approval. Therefore, staff is recommending approval of the Conditional Use Permit with the conditions below:

1. Site plan approval and the installation of exterior site improvements as required by said site plan approval shall be required to be installed prior to the issuance of a business license. Further, site improvements shall bring the property to the furthest extent possible into compliance with the City's Land Development Regulations and the Major Thoroughfare Design Guidelines:
 - a. Architecture & Design – Fenestration, signage and truth in architecture, including clearly delineated massing elements, shall be required. Material selection will be critically important on this project as well as a public entrance facing Dixie Highway.
 - b. Landscaping – Shade trees and landscaping shall be provided along the Dixie Highway corridor. Additional landscape area shall be added in both parking lot areas.
 - c. Impervious surface – Impervious surfaces such as concrete and asphalt shall be removed to allow for additional landscaping and increased pervious area.
 - d. Refuse – A refuse/recycling enclosure shall be provided. The location shall be determined in consultation with the City's Public Works Department.
 - e. Parking and Site Circulation – Parking shall be added is feasible and the site circulation shall accommodate trash and recycling pick-up as well as the loading and unloading of large items like furniture. A minimum of 14 parking spaces shall be provided.
 - f. Lighting – The location of new lighting fixtures shall be provided on the site plan. If LED lighting is utilized than fixture shall have warm tone of 2700 K or less. All lighting fixture shall be shielded in compliance Dark Skies guidelines.
 - g. Traffic – non-residential uses conversions or additions require traffic concurrency review by the PBC Traffic Division. A traffic approval letter is required prior to the issuance of a building permit for new non-residential construction.
2. The auction house use of less than 7,500 sf shall be limited to the principal commercial building at 1215 & 1217 N Dixie Highway and any additions provided the total use area is less than 7,500 sf.
3. The three parcels (PCN:38434421153780140, 38434421153780130, & 38434421153780110) shall be combined through a unity of title under prior to the issuance of Certificate of Completion for the interior.
4. Prior to the issuance of a Certificate of Completion for the interior renovations, improvements required for changes of use under the Florida Building Code shall be completed, including but not limited to the single-family structure.

Board Actions:

I MOVE TO APPROVE PZB PROJECT NUMBER 21-00500004 with staff recommended conditions for a **Conditional Use Permit** to allow an auction house use less than 7,500 sf at 1209, 1215, and 1217 North Dixie Highway. The application meets the conditional use criteria based on the data and analysis in the staff report.

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 21-00500004 for a **Conditional Use Permit** to allow an auction house use less than 7,500 sf at 1209, 1215, and 1217 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. Zoning Map
- B. Application Package