

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 22-00500013:** A conditional use permit request for Mint Dentistry at 1114 North Dixie Highway for the establishment of a ±5,400 square foot dental office (outpatient clinic/medical office use). 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 19, 2022

**Property Owner:** Clint Rachal - Chrysos Wealth Management LLC

**Applicant:** Andrea Cortez – Mint Dentistry

**Address:** 1114 North Dixie Highway with additional parking located on 1109 N J Street

**PCNs:** 38-43-44-21-15-344-0030

**Size:** 0.3131 ac Lot / ±5,400 square feet of existing Structures

**General Location:** East side of Dixie Highway (US Highway 1) between 12<sup>th</sup> Avenue North and 11<sup>th</sup> Avenue North

**Existing Land Use:** Vacant Commercial Building

**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 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 page 6 and 7 of this report.

## PROJECT DESCRIPTION

The applicant, Andrea Cortez with Mint Dentistry, is requesting a **Conditional Use Permit (CUP)** to establish dental office, which is classified as an outpatient clinic/medical office use medium-intensity ( $\pm 5,400$  square feet of use area) in the Mixed Use – Dixie Highway (MU-DH) zoning district. The subject site is located east side of Dixie Highway (US Highway 1) between 12th Avenue North and 11th Avenue North. According to the property appraiser, the subject site has an existing  $\pm 5,400$  square foot commercial building. The applicant is proposing to reconfigure the building's interior as a dental office with fifteen (15) individual working spaces. No additional outdoor site improvements are being proposed with this application. However, staff has proposed conditions of approval requiring landscaping improvements and requiring a unity of title and shared parking agreement for staff parking.

The dental office for Mint Dentistry will operate Monday through Friday from 8:00 A.M. to 5:30 PM, and have up to 25 employees and 29 designated parking spaces. A dental office, which is classified as an Outpatient Clinic/Medical Office 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

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

**Construction:** The existing structure was constructed in 1940. Per the survey provided, the existing building is  $\pm 5,400$  square feet.

**Use:** The property's use is vacant commercial building.

**Code Compliance:** The property located at 1114 North Dixie Highway has an open lien for code enforcement violations. A summary of the violations are as follows:

*March 1<sup>st</sup> 2022:* code enforcement officer Lateasa Dale cited the property for the following reasons:

1. Parking lot not maintained (REMOVE WEEDS FROM PARKING LOT)
2. Boards on windows (REMOVE)
3. Outdoor storage (REMOVE)
4. Cracks in stucco on structure (REPAIR/REPAINT)
5. Dirt build up/ discolored areas on structure (PRESSURE WASH/REPAINT)
6. Rusted metal pole in rear of property (REMOVE)
7. Bugs on structure (REMOVE)
8. Damaged fascia/soffit (REPAIR/REPAINT)
9. Garbage/debris/trash around property (REMOVE)
10. Overgrown landscape around property (REMOVE)
11. Graffiti on property (REMOVE)
12. Property not registered as vacant (REGISTER THE PROPERTY AS VACANT THROUGH PROCHAMPS)
13. Discolored walkway/porch area (REPAINT)

*March 25, 2022:* Notice of violation/hearing to the property and City Hall were posted

*May 20, 2022:* Violations still stand after an inspection was completed.

June 30, 2022: Defendant was not present at magistrate hearing. Property owner was ordered compliance by 9.30.22 or pay fines of \$150 per day.

As the property is prepared for the proposed use, the property owner and applicant will address the violations indicated above. Staff has also proposed a condition that all code violations are met prior to the issuance of a business license.

## 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. The maximum density of permitted residential development is 30 dwelling units per acre. The preferred mix of uses area-wide is 75% residential and 25% non-residential. 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. 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 proposed request is seeking to add a medium intensity medical office use to be allowed in the existing 5,400 square foot commercial 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 medium-intensity 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 request 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 **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. 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 Mixed Use – East future land use category of the Lake Worth Comprehensive Plan.*

**Analysis:** The applicant is requesting a Conditional Use Permit for a medium-intensity (use area less than 7,500 square feet and/or medium intensity impact uses) use. 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 will be 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. Per LDR Section 23.3-6, a medical office use requires a conditional use permit and is also subject to additional supplemental regulations per LDR Section 23.4-13(c)15, *Medical related uses*. 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 this section below and is consistent with the review criteria located in Attachment A. The proposed outpatient clinic/medical office use is also consistent with the additional supplemental regulations 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 by the development review official is provided on page 2 of this report, under Recommendation.

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

**Staff Analysis:** The structure on the property was constructed in 1940. The existing site conditions do not conform to the current LDRs. Therefore, the nonconformities section of the land development regulations, LDR Section 23.5-3, is applicable. The existing nonconformities are not proposed to be increased by the subject Conditional Use request. Further, staff has proposed landscape condition of approval that will reduce the non-conformities with the City's landscape code. **The proposed Conditional Use is consistent with the City's LDRs on the following data and analysis:**

**Per LDRs 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 request is for the conditional use without increasing the existing building floor area, and as such additional parking is not required. The parking spaces for medical related office uses (Section 23.4-10.f)1.B.) is one (1) space per 250 gross square feet of space. The required parking for the proposed use is 22 spaces. The applicant is proposing 29 parking spaces including 17 parking spaces located at 1114 North Dixie and an additional 12 parking spaces east of the site located at 1109 North J Street. The site located at 1109 North J Street is an existing parking area. Both sites are under the same ownership. Staff is proposing a condition that will require a unity of title to be recorded prior to issuance of a business license.

Staff has concerns with the anticipated numbers of employees that parking may impact the adjacent residential to the east. Staff has proposed a condition of approval requiring a shared parking agreement and parking plan for staff parking. Additionally, per the building code, one (1) handicap parking space is required for every 25 parking spaces. The site will require two (2) handicap parking spaces. Staff is proposing a condition to coordinate with the building division on the addition of the handicap parking spaces.

**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 applicant did not submit a landscape plan and a landscape plan was not found within the City’s internal property records. The existing nonconforming property is devoid of any required landscaping and is not meeting the intent of LDR Section 23.6-1, *Environmental regulations* and LDR Section 23.2.31.j), *Design guidelines for major thoroughfares*. Staff is proposing conditions to ensure that the site is brought into conformity to the greatest extent feasible and reduce the nonconformity with both the LDRs and Major Thoroughfare Design Guidelines. This will include landscaping along the North Dixie ROW, screening for the refuse area, and additional screening of the vehicular use areas.

#### **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 uses are in general harmony with the surrounding area and consistent with development of the corridor. The requested uses are anticipated uses in the Mixed-Use Dixie Highway (MU-DH) zoning district. The proposed uses 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. However, it was noted in the review that there is no existing screened refuse area on the property and does not have adequate landscaping. Therefore, staff has proposed conditions of approval addressing these concerns.

#### **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. No additional public expenditures are required to service the proposed use. The site is located on an arterial roadway, and as such traffic flow and movements related to the proposed use are 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. Staff has proposed landscaping conditions of approval to ensure adequate screening is provided of the vehicular use area and compliance with the LDRs and Major Thoroughfare Design Guidelines.

#### **Section 23.2-29.g) Additional requirements.**

**Staff Analysis:** As of the date of this report transmittal, there is an active code compliance case for the subject property. The applicant is addressing the violations through the conditional use permit process and staff has proposed a condition ensuring compliance prior to the issuance of a business license.

### **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. 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. Based on the data and analysis in this report and the supporting materials by the applicant, the requested use is not anticipated to negatively impact adjacent properties as conditioned. Further, the proposed conditional use 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

1. The dental office shall comply with the following supplemental regulations per LDR Section 23.4-13(c)15., *Medical related uses*:
  - a. Hours of operation shall be weekdays anytime between 8:00 a.m. to 8:00 p.m., unless an operational waiver allowing expanded hours is granted by the appropriate board. A waiver may be granted if it can be established that operating hours beyond the specified times will not constitute a nuisance or negatively affect surrounding properties. Under no circumstances shall a waiver be granted if the property is located next to a residential zoning district.
  - b. Once established, said use may not be expanded without conditional use approval regardless of increased size of use.
  - c. All medical services to be provided at said location must be included on the business license application and updated annually should the array of services change or expand. Changes in services and/or expansion of types of services will be evaluated to determine whether the additional services would constitute an expansion of use requiring an updated conditional use approval.
2. All applicable code enforcement violations shall be addressed prior to issuance of a business license.
3. Prior to the issuance of a business license for the dental office:
  - a. A unity of title shall be recorded for 1114 North Dixie Highway and 1109 North J Street.
  - b. A staff parking plan and off-site shared parking agreement shall be provided to the Department of Community Sustainability.
4. Coordinate with the Building Division on ADA requirements related to parking.
5. 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.
6. All uses shall meet all the requirements and stipulations set forth in City Code Section 15-24, Noise control.
7. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the required Business License for the dental office business. This approval letter only applies to this address, 1114 North Dixie Highway, and does not constitute approval for any new location.
8. 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 either the requested uses.
9. All uses shall comply with the use occupancy requirements for each tenant space as required by the Florida Building Code.
10. Signage shall be reviewed through the building permit process for consistency with the requirements of the Land Development Regulations.

## Landscaping Services

1. Prior to issuance of a business license, a landscape permit application shall be submitted and approved to address the following:
  - a. A landscape plan shall be provided in accordance with LDR Section 23.6-1 (c) (2) (b) for the landscape areas that are adjacent to Dixie Highway and North J Street.
  - b. Remove existing concrete on the west side of the building adjacent to Dixie Highway and add shade trees and shrubs according to the City's Landscape regulations.
  - c. Provide landscape plan in accordance with code section 23.6-1 (c) (2) (b) for the landscape areas that are adjacent to Dixie Hwy and North J Street.
  - d. The landscape plan shall show the location and screening of the refuse area as approved by the Public Works Department.
  - e. A landscape screen of the vehicle use area shall be provided along the perimeter of 1109 N J Street.

## 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, the applicant 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 certificate of occupancy, alleyway improvements consisting of mill and overlay shall be constructed. The alleyway between Dixie Highway and North J Street shall be milled and paved from the northernmost property line south to 10th Avenue North.
5. 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 and demand on property and that it is compatible with the requirements of the Department of Public Works. Solid Waste and Recycling Division contact number is 561-533-7344.
6. Prior to the issuance of a Certificate of Occupancy, fine grade and sod all disturbed areas with bahia sod.
7. Prior to the issuance of a Certificate of Occupancy, broom sweep all areas of the affected right of way and remove of all silt and debris collected as a result of construction activity.
8. Prior to performing work in the right of way, apply for and receive issuance of a "Right of Way/Utility Permit" application.
9. Prior to the issuance of a Certificate of Occupancy, restore the right of way to a like or better condition. Any damages to pavement, curbing, striping, sidewalks or other areas shall be restored in kind.

#### **Community Redevelopment Agency (CRA)**

1. Any and all new modifications or additions to the exterior need to adhere to the major thoroughfare guidelines. Specifically: new signage, awnings, lighting, landscaping and/or architectural changes to the exterior of the building facing Dixie Highway. Parking lot should be improved to include security lighting, blacktop, patching and parking spot stops, where necessary.

#### **BOARD POTENTIAL MOTION:**

I move to **approve with conditions** the request for PZB Project Number 22-00500013 Conditional Use Permit for a dental office 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 22-00500013 Conditional Use Permit for a dental office. 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 and Major Site Plan. The Applicant may appeal the Board's decision to the City Commission.*

#### **ATTACHMENTS**

- A. Conditional Use Findings
- B. Application Package (survey/site plan, 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>	<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**

Sec. 23.4-13.(c)15. - Administrative uses and conditional uses/Standards/Medical related uses	Analysis
1. <i>All such uses shall front a major thoroughfare;</i>	<b>In compliance</b>
2. <i>Hours of operation shall be weekdays anytime between 8:00 a.m. to 8:00 p.m., unless an operational waiver allowing expanded hours is granted by the appropriate board. A waiver may be granted if it can be established that operating hours beyond the specified times will not constitute a nuisance or negatively affect surrounding properties. Under no circumstances shall a waiver be granted if the property is located next to a residential zoning district;</i>	<b>In compliance as conditioned</b>
3. <i>Sufficient/adequate parking shall be documented to serve the needs of the doctors, staff, clients and patients of said use;</i>	<b>In compliance</b>
4. <i>In the DT zoning district, said uses may be established only if fronting Dixie Highway. No waiver or variance shall be granted for this requirement;</i>	<b>Not applicable</b>
5. <i>Said uses may not be established on properties that have frontages on either Lake Avenue or Lucerne Avenue. No waiver or variance shall be granted for this requirement;</i>	<b>Not applicable</b>
6. <i>Once established, said use may not be expanded without conditional use approval regardless of increased size of use;</i>	<b>In compliance as conditioned</b>
7. <i>All medical services to be provided at said location must be included on the business license application and updated annually should the array of services change or expand. Changes in services and/or expansion of types of services will be evaluated to determine whether the additional services would constitute an expansion of use requiring an updated conditional use approval.</i>	<b>In compliance as conditioned</b>