

PLANNING AND ZONING BOARD REPORT

PZB Project Numbers 23-00500018, 23-00600004, & 23-00600005: A conditional use permit for the establishment of a cellar management company designated as specialty storage and specialty retail uses with accessory classes and tasting events by LDR Section 23.3-6 and two (2) alcohol beverage distance waivers to allow package sales and on-site consumption for the property located at 500 North Dixie Highway. The subject site is zoned Mixed Use – Dixie Highway (MU-DH) and has a future land use designation of Mixed Use – East (MU-E).

Meeting Date: December 6, 2023

Property Owner: Scott Diamante, PBC LAND DEVELOPMENT LLC

Applicant: Adam Volpe, BOTTLE HOLDINGS, LCC

Address: 500 North Dixie Highway

PCN: 38-43-44-21-15-150-0010

Size: 1.1928 Acre Lot/±23,707 square feet of existing building area/±6,300 square feet of proposed use area

General Location: Frontage on North Dixie Highway, 5th Avenue North, and 6th Avenue North

Existing Land Use: Antique Mall/Auctions

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.

- **Conditional Use Permit (CUP):** The proposed request is consistent with the Comprehensive Plan, Strategic Plan, and LDRs as conditioned. Therefore, a **recommendation of approval with conditions** is provided to the Planning and Zoning Board. The conditions are located on pages 6 and 7 of this report.
- **Alcohol Distance Waiver for Package Sales:** Staff recommends that the Planning and Zoning Board reviews this information to determine if the proposed alcohol beverage distance waiver meets the criteria of the Comprehensive Plan and LDRs. If the Planning and Zoning Board recommends approval to the City Commission of the request, conditions of approval have been provided on pages 6 and 7 of this report.
- **Alcohol Distance Waiver for On-Site Consumption:** Staff recommends that the Planning and Zoning Board reviews this information to determine if the proposed alcohol beverage distance waiver meets the criteria of the Comprehensive Plan and LDRs. If the Planning and Zoning Board approves the request, conditions of approval have been provided on pages 6 and 7 of this report.

PROJECT DESCRIPTION

The applicant, Adam Volpe on behalf of BOTTLE HOLDINGS, LLC, is requesting:

- A **Conditional Use Permit (CUP)** for the establishment of a cellar management company designated as specialty storage and specialty retail uses with accessory classes and tasting events.
- An **Alcohol Distance Waiver for Package Sales** to offer wine delivery services.
- An **Alcohol Distance Waiver for On-Site Consumption** to allow wine consumption at tastings and classes.

The proposed business (Bottle Holdings, LLC) is a wine concierge and cellar management company that will encompass ±6,300 square feet of the existing building. Services will include storage, organization, education, and transportation of the customer's wine collection. Hours of operation will be 10 AM to 6 PM, Monday through Friday. Although access to the specialty storage portion of the facility will be available to customers 6 AM to 10 PM, Monday through Sunday.

Deliveries will comprise a small fraction of the overall business. Bottle Holdings, LLC will own a small, temperature controlled, non-commercial size van (Mercedes-Benz Metris or similar) to offer delivery and pickup services for clients on an as needed basis. The applicant estimates five deliveries per week and there will be no secondary fulfillment by delivery services.

COMMUNITY OUTREACH

Staff has not received letters of support or opposition from adjacent or nearby neighbors.

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 1956.

Use: Antique Mall/Auctions.

Code Compliance: The property has an active code compliance case (#23-1876). The violations are related to a damaged ceiling, expired fire extinguishers, and cardboard boxes and debris.

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 cellar management company designated as specialty storage and specialty retail uses in the existing 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, IV.D, and V.E 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 proposal will allow the establishment of a business that will contribute towards the City's tax base and sustain or increase jobs, it is consistent with Pillar IV.A, Pillar IV.D, and Pillar V.E.

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

Consistency with the Land Development Regulations

The MU-DH mixed use – Dixie Highway 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.

Analysis: The applicant is requesting a Conditional Use Permit for medium-intensity (use area less than 7,500 square feet) as specialty storage and specialty retail uses with accessory classes and tasting events by LDR Section 23.3-6. The proposed business (Bottle Holdings, LLC) is a wine concierge and cellar management company that will encompass ±6,300 square feet of the existing building. Services will include storage, organization, education, and transportation of the customer's wine collection. Hours of operation will be 10 AM to 6 PM, Monday through Friday. Although access to the specialty storage portion of the facility will be available to customers 6 AM to 10 PM, Monday through Sunday. The applicant estimates five deliveries per week.

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 a major road (North Dixie Highway). Therefore, no additional public expenditures are required to service the proposed use.

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

The Department of Community Sustainability is tasked in the LDRs to review conditional use applications for consistency with the City's LDRs (Section 23.2-29(i)), for compliance with the following findings for granting conditional uses and to provide a recommendation on the proposed project.

Section 23.2-29.a), Conditional Use Permits: *Conditional uses are defined as generally compatible with the other uses permitted in a district, but that require individual review of their location, design, structure, configuration, density and intensity of use, and may require the imposition of pertinent conditions to ensure the appropriateness and compatibility of the use at a particular location and to prevent or minimize potential adverse impacts to the surrounding area.*

Section 23.2-29.b), Approval Authority: *The planning and zoning board, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions, or deny an application for a development permit for a conditional use permit after review and recommendation by the development review official.*

Analysis: A recommendation of approval by the development review official is provided on page 2 of this report.

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

Analysis: The structure on the property was constructed in 1956. 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 or negatively impacted by the subject Conditional Use request. **The proposed Conditional Use is consistent with the City's LDRs based 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.*

Analysis: LDR Section 23.4-10 states that additional parking is not required for changes in use or occupancy or the remodeling of existing buildings which does not increase floor area or the number of existing dwelling units. Therefore, no additional parking is required. The existing site has ±23,707 square feet of existing building area. There are approximately 41 parking spaces on the surface parking lot.

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: It is staff's analysis that the site has missing trees and shrubs in the perimeter landscape and parking lot islands. In addition, there is unpermitted on the south side of the parking lot that must be replaced with shrubs and ground cover. Staff has added a condition of approval to submit a landscape plan to address these nonconformities.

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 Permit is in general harmony with the surrounding area and consistent with development of the corridor. The requested use is an anticipated use in the MU-DH zoning district. The proposed use will not result in less public benefit nor will it result in more intensive development than anticipated in the zoning district in the comprehensive plan. However, it was noted in the review that additional landscaping will be required. Therefore, staff has proposed conditions of approval addressing these concerns.

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

Analysis: The proposed Conditional Use Permit is not anticipated to impact the surrounding area greater than uses allowed on the property and within the zoning district. The building is already served by municipal services, including water, sewer, refuse, fire and police. No additional public expenditures are required to service the proposed use. The site is located on a major road (North Dixie Highway), and as such traffic flow and movements related to the proposed use is not anticipated to negatively impact the street greater than a use permitted by right. The proposed use will not change the existing on-site traffic circulation. Staff has proposed landscaping conditions of approval to ensure compliance with the LDRs.

Section 23.2-29.g) Additional requirements.

Staff Analysis: The property has an active code compliance case (#23-1876). The violations are related to a damaged ceiling, expired fire extinguishers, and cardboard boxes and debris.

Section 5.5(d) – Standards for Review/Decision

A decision on a request for the waivers shall be guided by the following factors:

- 1) Whether approval of the waiver will result in two (2) or more alcoholic beverage establishments having a license within five hundred (500) feet of a protected land use or each other, or within five hundred (500) feet of a property zoned for residential use;

Analysis: Per LDR Section 5.5(a)(2), protected land uses are identified as churches, public or private schools, parks, and libraries. A church located at 630 North H Street is within five hundred (500) of the subject parcel. Additionally, residential uses in the Mango Groves and Tropical Ridge neighborhoods are located five (500) feet from the parcel. There is also at least one restaurant within five hundred (500) feet of the proposed packaged alcoholic beverage sales and on-site consumption. Therefore, the alcohol distance waiver is required since the proposed business will be located within a 500ft radius of other alcoholic beverage establishments, protected land uses, and residential properties.

- 2) Whether the license is being added to or is a license upgrade of an existing use or to an establishment which is relocating to the subject location;

Analysis: The proposed alcohol package sales and on-site consumption of wine will be accessory to a wine concierge and cellar management company. If approved, staff has added a condition of approval that the Applicant shall apply for a City of Lake Worth Beach Business License to legally operate the sales of alcoholic beverages.

- 3) If the property contains a structure which is on the National Register of Historic Places or otherwise has been designated by the city as having historic architectural significance, whether the structure will be preserved or developed so as to retain its architectural and historic character; and

Analysis: The subject property is does not contain a designated historic property, therefore this criterion is not applicable.

- 4) Whether the waiver promotes the health, safety and welfare of the neighborhood and the public.

Analysis: The waiver is necessary to allow the packaged sales and on-site consumption of wine at the subject property. Staff has added several conditions of approval so that the business operates within the allowed hours of sale to ensure the proposed accessory use is not detrimental to the health, safety, and welfare and surrounding community.

CONCLUSION AND CONDITIONS

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

1. Prior to the issuance of a business license, a minor site plan shall be approved to address the following:
 - a. All existing landscape on the site.
 - b. The addition of one (1) Black Olive tree adjacent to North Dixie Highway north of the driveway.
 - c. The addition of native shrubs along the west and north property lines to provide the required continuous landscape screen.
 - d. The addition of (2) medium maturing native shade trees to the existing parking lot island in between the existing ligustrum trees.
 - e. The removal of the existing unpermitted rock from the planter beds on the south side of the parking lot and add shrubs and groundcovers. A minimum of 75% of the new plants must be native to south Florida.
 - f. All trees and landscape beds must have a minimum of 3 inches of wood mulch.
 - g. Coordinate with the Public Work Department regarding a refuse location and enclosure (if applicable).
2. All uses shall meet all the requirements and stipulations set forth in City Code Section 15-24, Noise control.
3. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the required Business License.
4. 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.
5. All uses shall comply with the use occupancy requirements for each tenant space as required by the Florida Building Code.
6. Signage shall be reviewed through the building permit process for consistency with the requirements of the Land Development Regulations.
7. The Applicant shall apply for a City of Lake Worth Beach Business License to legally operate the on-site consumption and packaged alcohol sales as an accessory use to the existing business.

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8. All code compliance violations not related to the subject business, shall be resolved prior to the issuance of a business license for the subject business. Any and all outstanding code enforcement fees and fines related to the project site have been paid to the city.

Alcohol Distance Waiver for Packaged Sales: The proposed accessory packaged alcoholic beverage sales through delivery services is not anticipated to have direct impact on protected land uses, and is not detrimental to the health safety and welfare of the neighborhood and public. Staff recommends that the Planning and Zoning Board reviews this information to determine whether to waive the prohibition of packaged alcoholic beverage sales within five hundred (500) feet of other place of business of other alcoholic beverage establishments, protected land uses, and residential properties. If the Planning and Zoning Board recommends approval to the City Commission of the request, conditions of approval have been provided below:

1. The Applicant shall apply for a City of Lake Worth Beach Business License to legally operate the packaged alcohol sales as an accessory use to the proposed business.
2. No person shall sell, deliver or permit the sale or delivery of alcoholic beverages for off-premises consumption except for the following hours where a business holds a legal alcohol license: The hours of sale of alcoholic beverages of more than one (1) percent of alcohol by weight shall be between the hours of 7:00 a.m. and 10:00 p.m., each day, unless otherwise permitted under Florida Statutes.

Alcohol Distance Waiver for On-Site Consumption: The proposed accessory on-site consumption related to accessory classes and tastings is not anticipated to have direct impact on protected land uses, and is not detrimental to the health safety and welfare of the neighborhood and public. Staff recommends that the Planning and Zoning Board reviews this information to determine whether to waive the prohibition of packaged alcoholic beverage sales within five hundred (500) feet of other place of business of other alcoholic beverage establishments, protected land uses, and residential properties. If the Planning and Zoning Board approved the request, conditions of approval have been provided below:

1. The Applicant shall apply for a City of Lake Worth Beach Business License to legally operate the packaged alcohol sales as an accessory use to the proposed business.
2. No person shall sell, deliver, consume or permit the sale, delivery, service or consumption of alcoholic beverages on the premises except for the following hours where a business holds a legal alcohol license: The hours of sale of alcoholic beverages of more than one (1) percent of alcohol by weight shall be from 12:00 a.m. (midnight) to 2:00 a.m., and 7:00 a.m. to 11:59 p.m., each day.

BOARD POTENTIAL MOTION:

Conditional Use Permit:

I MOVE TO RECOMMEND APPROVAL WITH CONDITIONS OF PZB PROJECT NUMBER 23-00500018 for a Conditional Use Permit for the establishment of a cellar management company designated as specialty storage and specialty retail uses with accessory classes and tasting events by LDR Section 23.3-6 based on upon the competent and substantial evidence provided in the staff report and in the testimony at the public hearing.

I MOVE TO RECOMMEND APPROVAL WITH CONDITIONS OF PZB PROJECT NUMBER 23-00500018 for a Conditional Use Permit for the establishment of a cellar management company designated as specialty storage and specialty retail uses with accessory classes and tasting events by LDR Section 23.3-6. 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.*

Alcohol Distance Waiver for Packaged Sales:

I MOVE TO RECOMMEND APPROVAL WITH CONDITIONS OF PZB PROJECT NUMBER 23-00600004 for an alcohol distance waiver for the sale of packaged wine based on the data and analysis in the staff report and the testimony at the public hearing.

I MOVE TO NOT RECOMMEND APPROVAL WITH CONDITIONS OF PZB PROJECT NUMBER 23-00600004 for an alcohol distance waiver for the sale of packaged wine is not consistent with the waiver criteria for the following reasons [Board member please state reasons.]

Consequent Action: *The Planning and Zoning Board will be making a recommendation to the City Commission on the alcohol distance waiver request.*

Alcohol Distance Waiver for On-Site Consumption:

I MOVE TO APPROVE PZB PROJECT NUMBER 23-00600005 for an alcohol distance waiver for on-site consumption of wine based on the data and analysis in the staff report and the testimony at the public hearing.

I MOVE TO DISSAPROVE PZB PROJECT NUMBER 23-00600005 for an alcohol distance waiver for the sale of packaged wine is not consistent with the waiver criteria for the following reasons [Board member please state reasons.]

Consequent Action: *The Planning & Zoning Board's decision will be final decision for the alcohol distance waiver for on-site consumption of wine. The Applicant may appeal the Board's decision to the City Commission.*

ATTACHMENTS

- A. Findings for Granting Conditional Uses
- B. Application Package

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
<i>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.</i>	In compliance
<i>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.</i>	In compliance
<i>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 site for some use permitted by right or some other conditional use permitted on the site.</i>	In compliance
<i>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.</i>	In compliance

Section 23.2-29(e) Specific findings for all conditional uses.	Analysis
<i>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.</i>	In compliance
<i>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</i>	In compliance
<i>3. 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
<i>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.</i>	In compliance
<i>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.</i>	In compliance
<i>6. The proposed conditional use will not place a demand on municipal police or fire protection service beyond the capacity of those services, except that the proposed facility may place a demand on municipal police or fire protection services which does not exceed that likely to result from a development permitted by right.</i>	In compliance

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**