

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 23-00500006:** A conditional use permit request for a ±2,622 square foot Minor Vehicular Service and Repair use located at 326 South H Street. The subject property is zoned Artisanal Industrial (AI) and has an Artisanal Mixed Use (AMU) future land use designation.

**Meeting Date:** July 19, 2023

**Property Owner:** Barry Johnson

**Applicant:** Sergio Molina – Molina Auto Repair Corp.

**Address:** 326 South H Street

**PCNs:** 38-43-44-21-15-119-0030 and 38-43-44-21-15-119-0040

**Size:** 0.3243-Acre Lot / 2,622 square foot existing structure

**General Location:** East side of South H Street, between 3<sup>rd</sup> Avenue South and 4<sup>th</sup> Avenue South

**Existing Land Use:** Warehouse

**Current Future Land Use Designation:** Artisanal Mixed Use (AMU)

**Zoning District:** Artisanal Industrial (AI)

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. Staff recommends that the Planning and Zoning Board reviews this information to determine if the proposed Conditional Use Permit (CUP) 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 5 and 6 of this report.

## PROJECT DESCRIPTION

The applicant, Sergio Molina on behalf of Molina Auto Service Corp., is requesting a **Conditional Use Permit (CUP)** to establish a Minor Vehicular Service and Repair use ( $\pm 2,622$  square feet) in the Artisanal Industrial (AI) zoning district located at 326 South H Street. According to the applicant's justification statement, the services provided will include oil changes, tire rotation, diagnosing, and maintenance in all types of cars. All repairs will be performed inside the building. The hours of operation will be 8 AM to 6 PM. The subject site is located on the east side of South H Street, between 3<sup>rd</sup> Avenue South and 4<sup>th</sup> Avenue South.

## 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 1955.

**Use:** The property's use is warehouse

**Code Compliance:** There are no active code cases associated with this property.

## ANALYSIS

### Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Artisanal Mixed Use (AMU). Per Policy 1.1.1.9, The AMU FLU is intended provide for the establishment and enlargement of office, retail and industrial uses related to the arts, other low intensity industrial uses, and medium density residential opportunities. The maximum density of permitted residential development is 30 dwelling units per acre. The preferred mix of uses area-wide is 50% non-residential and 50% residential. The implementing zoning district is AI. Zoning regulations implementing the Artisanal Mixed Use land use category shall permit arts-related industrial uses of low to moderate external impacts. Development in the Artisanal Mixed Use land use category should be guided to minimize negative impacts on nearby residential areas. The proposed request is seeking to add a Minor Vehicular Service and Repair use within the existing  $\pm 2,622$  square foot 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, influence the supply and expansion of jobs, and support and foster an environment of inclusion and social consciousness. Because the proposed Conditional Use permit will allow for the establishment of a Minor Vehicular Service and Repair use that will sustain or increase jobs, and foster inclusion the proposal is consistent with Pillar IV.A, Pillar IV.D, and Pillar V.E.

Based on the analysis above, the proposed Conditional Use Permit request is consistent with the goals, objectives, and policies of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

### Consistency with the City's Land Development Regulations

**The Artisanal Industrial (AI) zoning district** is intended to provide for the establishment and enlargement of office and industrial uses related to the arts without restriction on traffic generating characteristics. The artisanal industrial district is also intended to permit establishment of certain other uses which are compatible with artisanal industrial operations. Development in the industrial land use category should be guided to minimize negative impacts on nearby residential areas. The industrial district implements the industrial land use category of the Lake Worth Comprehensive Plan.

**Analysis:** The applicant is requesting a Conditional Use Permit for a Minor Vehicular Service and Repair 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 a local roadway. Therefore, no additional public expenditures are required to service the proposed use. However, there is no screened refuse area on the property. Additionally, a unity of title is required so that the parcel meets the minimum lot width and minimum area requirements for the use. A condition of approval has been added to require the unity of title prior to the issuance of a business license.

The vehicular use is subject to LDR Section 23.3-6. A Minor Vehicular Service and Repair use requires a Conditional Use Permit and is also subject to additional supplemental regulations per LDR Section 23.4-13(c)4, *Vehicular services and repair facilities – Major or minor, or repair and maintenance services – Major*. The use is consistent with the intent of the AI zoning district as conditioned. 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 Minor Vehicular Service and Repair 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 completed construction in the 1950'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. **The proposed conditional use is consistent with the City's LDRs as conditioned 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.*

**Staff Analysis:** There is a deficit of on-street parking in the area due to the illegal usage of the right-of-way for outdoor storage of vehicles by other businesses, which impacts customer parking for all businesses in the area. Therefore, it is important that the subject Minor Vehicular Service and Repair use provides sufficient off-street parking to ensure that the proposed new business does not further contribute to the on-street parking issues. Further, outdoor storage is not permitted in this zoning district. The site currently has a large parking area; however, the surface is shellrock and there is no striping of spaces. Staff has added conditions of approval that will require improvement of the parking area to provide a minimum of three (3) parking spaces for each service bay plus one parking space for each three hundred (300) square feet of non-service enclosed area per LDR Section 23.4-13(c)4. In addition, the shellrock shall be replaced by a code-compliant impervious or semi-pervious material. The parking lot shall also be required to comply with the landscape requirements for parking areas.

**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. Any changes to the existing monument/freestanding sign shall bring it into conformance.

**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 existing nonconforming property is lacking required landscaping and is not meeting the intent of LDR Section 23.6-1, *Landscape regulations*. Staff is proposing conditions to ensure that the site is brought into conformity to the greatest extent feasible and reduce the nonconformity with the LDRs. This will include new landscape buffers [five-foot wide with shrubs and shade trees every twenty-five (25) linear feet on center per LDR Section 23.4-13(c)4] to adequately screen the parking area from the right-of-way and abutting properties and installing a new screened refuse area. In addition, the existing chain-link fencing with barbed wire, abutting South H Street, shall be removed and can be replaced with a code-compliant fence material. New shrubs and shade trees shall be installed in the front yard and in the parking area in accordance with current landscape requirements. The applicant shall be required to comply with the City's landscape requirements in so far as feasible on the subject nonconforming 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.**

**Staff Analysis:** The proposed conditional use, as conditioned, is in general harmony with the surrounding area as the proposed conditions would require improving the off-street parking area, limiting business activities to indoor only, and improving the landscaping of the property. The Minor Vehicular Service and Repair use is an anticipated use in the AI

zoning district. The proposed use will not result in less public benefit nor will it result in more intensive development than anticipated the zoning district in the comprehensive plan.

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

**Staff Analysis:** The proposed conditional use is not anticipated to impact the surrounding area greater than uses permitted by right. The services provided will include oil changes, tire rotation, diagnosing, and maintenance in all types of cars. All repairs will be performed inside the building. The hours of operation will be 8 AM to 6 PM. The building is already served by municipal services, including water, sewer, refuse, fire and police. The site is located on a local roadway. Therefore, no additional public expenditures are required to service the proposed use. However, there is no screened refuse area on the property. Additionally, a unity of title is required so that the parcel meets the minimum lot width requirements for the use. A condition of approval has been added to require the unity of title prior to the issuance of a business license.

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

**Staff Analysis:** As of the date of this report transmittal, there is no active code compliance case for the subject property.

## CONCLUSION AND CONDITIONS

The Artisanal Industrial (AI) zoning district is intended to provide for the establishment and enlargement of office and industrial uses related to the arts without restriction on traffic generating characteristics. The artisanal industrial district is also intended to permit establishment of certain other uses which are compatible with artisanal industrial operations. As the proposed use is not an industrial related use to the arts, staff recommends that the Planning and Zoning Board reviews this information to determine if the proposed Conditional Use Permit (CUP) meets the criteria of the Comprehensive Plan and LDRs. If the Planning and Zoning Board approves the request, conditions of approval have been provided below:

**Planning & Zoning, and Landscaping:**

1. The minor vehicular service and repair is to be (per LDR Section 23.1-12): A business providing brake repairs, tire repair and installation, muffler replacement, and oil changes not including repairs to the drive train or requiring the removal of the engine block, drive train or other major engine components. This includes establishments engaged in the installation, maintenance and repair of motor vehicle parts or systems that require basic standard maintenance and shall include but not be limited to: air conditioning systems, audio systems, brakes, oil and fluid changes, shock absorbers, tune-ups, window tinting, washing and detailing, and wheel alignment and balancing for automobiles, trucks, and motorcycles. Any minor vehicle service and repair use that requires outdoor storage or activities and overnight parking of vehicles being serviced will be considered a major vehicle service and repair use.
2. No on-street parking of vehicles being serviced is permitted.
3. Major vehicular service and repair is prohibited which includes repairs to transmissions.
4. The vehicular use shall comply with the following supplemental regulations per LDR Section 23.4-13(c)4:
  - a. No automobile service work shall be performed before 7:00 a.m. or after 8:00 p.m.
  - b. All pits and hydraulic hoists shall be located entirely within a building. Lubrication, washing, repairs and service shall be conducted within the building.
  - c. The site must be provided with a five-foot wide perimeter planting area with shade trees planted every twenty-five (25) linear feet on center. A hedge must also be maintained within the required planting area.
5. Outdoor storage is not permitted.
6. A unity of title to combine the parcels shall be required prior to the issuance of a business license.
7. Prior to the issuance of a business license, an issued building permit and concurrent minor site plan shall be required and the work shall be completed to install a new refuse enclosure and to install new landscaping to reduce nonconformities with the landscape code in so far as feasible per LDR Section 23.6-1 as follows:



- a. Installing a new five-foot wide landscape buffer with shrubs and shade trees planted every twenty-five (25) linear feet on center.
  - b. Providing a new screened refuse enclosure.
  - c. Removing the existing chain-link fencing with barbed wire, abutting South H Street. It may be replaced with new fencing that is code compliant.
  - d. Installing new shrubs and shade trees in the front yard of the property and landscaping in the parking lot area for consistency with the City's landscape requirements in so far as feasible.
  - e. A minimum of 75% of the new plant material must be native to South Florida.
  - f. Striping the parking lot area. A dustless material in lieu of the existing shellrock shall be provided within the impervious surface limitations of the zoning district.
  - g. Complying with all applicable landscape requirements for parking areas.
8. 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.
  9. The use, handling, production and storage of regulated substances in wellfield zones as defined in the PBC Unified Land Development Code shall be prohibited as provided for in the requirements of the PBC Wellfield Ordinance (ULDC, Article 14, Chapter B).
  10. Prior to the issuance of a business license, the business shall contact the City Engineer's office to confirm if additional pollution prevention or other utility requirements are required. A copy of the PBCERM Affidavit shall be provided.
  11. All uses shall meet all the requirements and stipulations set forth in City Code Section 15-24, Noise control.
  12. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the required Business License.
  13. 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.
  14. Signage shall be reviewed through the building permit process for consistency with the requirements of the Land Development Regulations. Any changes to the existing monument/freestanding sign shall bring it into conformance.

#### Electric Utility

1. If any changes will be required to the electric service at this location, the electric utility will require voltage and load calculations along with a riser diagram before or at the time of application for a building permit.

#### BOARD POTENTIAL MOTION:

I move to **approve** PZB Project Number 23-00500006 with staff recommended conditions for a **Conditional Use Permit** request to establish a Minor Vehicular Service and Repair use based on upon the competent and substantial evidence provided in the staff report and in the testimony at the public hearing.

I move to **disapprove** PZB Project Number 23-00500006 for a **Conditional Use Permit** request to establish a Minor Vehicular Service and Repair use. 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 & Justification Statement)

### 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 as conditioned</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**

<b>Sec. 23.4-13.(c)4. - Administrative uses and conditional uses/Standards/ Vehicle service and repair facilities—Major or minor, or repair and maintenance services—Major</b>	<b>Analysis</b>
1. <i>Minimum lot frontage. Seventy-five (75) feet.</i>	<b>In compliance as conditioned through Unity of Title</b>
2. <i>Minimum site.</i>  <b>Minor - Site: Ten thousand (10,000) square feet; minimum area per business/tenant on a multiple tenant/business site: One thousand (1,000) square feet.</b>	<b>In compliance combined area of 0.3243 acres</b>
3. <i>Location of equipment, facilities and services. All pits and hydraulic hoist shall be located entirely within a building. Lubrication, washing, repairs and service shall be conducted within the building.</i>	<b>In compliance</b>
4. <i>Landscape requirements. The site must be provided with a five-foot wide perimeter planting area with shade trees planted every twenty-five (25) linear feet on center. A hedge must also be maintained within the required planting area.</i>	<b>In compliance as conditioned</b>
5. <i>Buffering/screening. A masonry wall shall be erected to a height of not less than six (6) feet where the proposed site is within twenty-five (25) feet of a residential district, in addition to the landscaping requirements outlined above. Said wall shall be finished with a graffiti-resistant paint.</i>	<b>Not applicable</b>
6. <i>Minimum parking requirements. Three (3) parking spaces for each service bay (if applicable) plus one parking space for each three hundred (300) square feet of non-service enclosed area. Applicable parking requirements in section 23.4-10 apply to all other use areas. All vehicles shall be parked in designated storage areas, except for vehicles dropped off by customers or placed for temporary customer pick-up in parking spaces designated on an approved site plan not visible from the public right-of-way. These vehicles may be temporarily parked in these designated parking spaces, not to exceed a maximum of one twenty-four-hour period.</i>	<b>In compliance as conditioned</b>
7. <i>Hours. No automobile service work shall be performed before 7:00 a.m. or after 8:00 p.m.</i>	<b>In compliance as conditioned</b>
8. <i>Outdoor storage may be permitted as accessory to vehicle service and repair-major and repair and maintenance services-major in I-POC only, provided the outdoor storage area is fully screened from any public rights-of-way and adjacent properties as consistent with section 23.4-19, outdoor storage, and all equipment, parts and vehicles are stored on an impermeable paved surface.</i>	<b>In compliance as conditioned</b>