

PLANNING AND ZONING BOARD REPORT

PZB Project Number 22-00500002: Consideration of a **Conditional Use Permit** request to establish an *aquaculture/hydroponic farming* use in the Industrial Park of Commerce (I-POC) zoning district at 1909 7th Court North. The request is to establish the proposed use (+/-4,940 sf) within the current +/-10,284 square foot industrial building.

Meeting Date: June 1, 2022

Property Owner: David Collins, GHV Enterprises, LLC

Applicant: Erik R. Wong – The Hidden Culture, LLC

Address: 1909 7th Court North

PCN: 38-43-44-21-07-000-0010

Size: 0.6384 ac Lot / 10,284 sf. Existing Structures

General Location: West of Barnett Drive between 7th Court North and 7th Avenue North

Existing Land Use: Warehouse/ Distribution

Current Future Land Use Designation: Industrial (I)

Zoning District: Industrial Park of Commerce (I-POC)

Location Map



RECOMMENDATION

The documentation and materials provided with the application request were reviewed for compliance with the applicable guidelines and standards found in the City of Lake Worth Beach Land Development Regulations (LDRs) and for consistency with the Comprehensive Plan and Strategic Plan. The proposed Conditional Use Permit is consistent with the Comprehensive Plan, Strategic Plan, and LDRs, as conditioned, and, therefore, a **recommendation of approval with conditions** is provided to the Planning and Zoning Board. The conditions are outlined on page 5 of this report, and address minor site plan requirements.

PROJECT DESCRIPTION

The applicant, Erik R. Wong with The Hidden Culture, LLC, is requesting a **Conditional Use Permit (CUP)** to establish an *aquaculture/hydroponic farming* (hemp cultivation facility) use in the Industrial Park of Commerce (I-POC) zoning district located at 1909 7th Court North. The subject site is located West of Barnett Drive between 7th Court North and 7th Avenue North. According to the property appraiser, the subject site is included in an existing 10,284 square foot building. The building is currently configured as warehouse space. No additional site improvements are being proposed with this application.

According to the applicant, The Hidden Culture, LLC is a licensed Florida Department of Agriculture and Consumer Services (FDACS) Hemp/CBD cultivation facility. The Hidden Culture grows, stocks, and maintains FDACS required Association of Official Seed Certifying Agencies (AOSCA) certified hemp cultivator. The use is entirely enclosed and not open to the public. The Hidden Culture does not sell any product to the public. The use is not a retail-based business or operation and is not approved for the sale of the any product. The facility is under live surveillance 24 hours, seven (7) days a week with a security officer present during the hours of operation. The facility will operate Monday through Sunday from 10:00 A.M. to 4 P.M., with a maximum number of four employees.

An *aquaculture/hydroponic farming* use is allowed in the I-POC 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

Existing Development: The existing warehouse structure was constructed in 1962. Per the plans provided, the warehouse building is 10,284 square feet.

Land Use: The property's use is warehouse/ distribution. The applicant, The Hidden Culture, LLC., whom operates a licensed Florida Department of Agriculture and Consumer Services (FDACS) Hemp/CBD cultivation facility at the property at 1909 7th Ct. N., currently has no active business license for the site.

Landscaping: The site currently has existing perimeter landscaping consisting of Stoppers, Silver Buttonwood, Sea Grape shrubs, Oak Trees, and Adonida Palms. The site also has existing Interior landscaping consisting of Sabal Palms in the parking area islands. Staff is proposing a condition of approval to require that the landscaping be enhanced and brought up to code to the furthest extend possible.

Code Compliance: The site has an active case to require use approval for the business activity. The site requires a use approval prior to obtaining a business license with the city. The conditional use permit request will assist in the compliance of current LDRs and address outstanding code enforcement issues.

ANALYSIS

Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Industrial (I). Per Policy 1.1.1.10, The Industrial land use category is intended to provide for the establishment and enlargement of office, manufacturing and light to moderate industrial uses that would be incompatible in other areas of the city due to increased traffic generation. The implementing zoning district is I-POC. The proposed use of aquaculture/hydroponic farming use is allowed in the I-POC zoning district as a Conditional Use. The proposal is associated with an existing 10,284 square foot building. Therefore, the proposal can be deemed consistent with the intent and desired uses for the Industrial FLU.

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 industrial use (aquaculture/hydroponic farming – hemp cultivation facility) 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 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 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 1962. 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:**

Off-Street Parking

Per LDRs Section 23.4-10.f)2.A., Exceptions. *Parking is not required for changes in use or occupancy or remodeling of existing buildings which do not increase floor area or number of overall existing dwelling units, located outside of the single-family residential SF-R zoning district.*

Staff Analysis: The entire site area has a total of 38 parking spaces. The subject area, located at 1909 7th Court North, has six (6) dedicated parking spaces which will include a loading zone. Parking is located at the north end of the site with access to 7th Court North. As additional square footage is not proposed, and the request is an adaptive reuse of an existing structure, the exception standard for additional parking spaces is applied, and therefore, the proposal does not require additional parking spaces and meets the parking requirement. The conditional use requested is an industrial use. The required parking for the subject site complies with LDRs and has added a dedicated handicap parking space.

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 is in harmony with the surrounding area. An aquaculture/hydroponic farming use (hemp cultivation facility) use is an anticipated use in the Industrial Park of Commerce (I-POC) 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 building is already served by municipal services, including water, sewer, refuse, fire and police. The site is located on an arterial roadway. Therefore, no additional public expenditures are required to service the proposed use.

Section 23.2-29.g) Additional requirements.

Staff Analysis: As of the date of this report transmittal, there is an active code case for the use approval at 1909 7th Court North. The conditional use permit will assist in the compliance of current LDRs and address outstanding code enforcement issues.

CONCLUSION AND CONDITIONS

The Industrial Park of Commerce (I-POC) zoning district is intended to provide for the establishment and enlargement of office, manufacturing and light industrial uses. The industrial park of commerce district is also intended to permit establishment of certain other uses which are compatible with industrial operations. Development in the industrial land use category should be guided to minimize negative impacts on nearby residential areas. Uses identified as conditional uses are subject to additional review to ensure they will not have a negative impact on nearby residential uses or on the commercial viability of their neighbors.

The proposed *aquaculture/hydroponic farming use (hemp cultivation facility)* use is appropriate for this zoning district. The use is located adjacent to compatible uses and will not create excessive problems for through traffic. Based on the

data and analysis in this report and the supporting materials by the applicant, the use requested is not anticipated to negatively impact adjacent properties. Further, the proposed conditional use and improved landscaping will be compatible with the neighboring uses. The use has additional state licensing requirements and security measures in place to mitigate any potential adverse impacts. Based on the information provided in the application and analysis section of this report, the proposal complies with the conditional use criteria outlined in LDR Section 23.2.29. Therefore, a recommendation of approval is provided to the PZB with the following conditions:

1. Planning and Zoning:

- a. Retail sales is prohibited.
- b. Outdoor storage is prohibited.
- c. Documentation that PBC Wellfield Permit affidavit of notification was submitted to PBC Environmental Resources Management is required for all tenants prior to the issuance of a business license.
- d. 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).
- e. 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.
- f. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the applicable annual Use and Occupancy Certificates (U&O) and Business Tax Receipts (BTR) for the new use and will need to maintain the license with renewals. This occupant must also obtain a City of Lake Worth Beach business license. This approval letter only applies to this address, 1909 7th Court North, and will not constitute approval for any new location or unit.
- g. The City shall revoke the business license and the approval of the conditional use permit if the property is declared a chronic nuisance as result of or related to the operations of the business or accessory outdoor storage.

2. Landscaping:

- a. Prior to the issuance of a business license, a landscape permit to replace dead or missing perimeter vegetation and provide additional interior landscaping in the existing landscape islands at the east side of the subject site shall be required. The property owner shall have a maximum of three (3) after the approval of the landscape permit install the required landscaping.

3. Public Works:

- a. Prior to the issuance of a certificate of occupancy, the existing dumpster located on the north side of the subject property shall be enclosed within a dumpster enclosure. The dumpster shall be screened from public view and constructed in accordance with the standards and code requirements of the City. Should insufficient space be available to construct an enclosure, a variance shall be requested to review the other options to meet the intent of these requirements.
- b. Prior to the issuance of a Certificate of Occupancy, contact the Solid Waste and Recycling Division to determine required collection frequency and receptacle size. 561-533-7344.

BOARD POTENTIAL MOTION:

I move to **approve** PZB Project Number 22-00500002 with staff recommended conditions for a **Conditional Use Permit** request to establish an aquaculture/hydroponic farming use (hemp cultivation facility) use in the Industrial Park of Commerce (I-POC) zoning district located at 1909 7th Court North based on upon the competent and substantial evidence provided in the staff report and in the testimony at the public hearing.

I move to **disapprove** PZB Project Number 22-00500002 for a **Conditional Use Permit** request to establish an aquaculture/hydroponic farming use (hemp cultivation facility) use in the Industrial Park of Commerce (I-POC) zoning

district located at 1909 7th Court North. 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, request letter)

ATTACHMENT A - Findings for Granting Conditional Uses

Prior to approving any conditional use permit, the decision-making authority shall find based on competent and substantial evidence that the following criteria related to conditional uses are met:

Section 23.2-29.d) General findings relating to harmony with LDRs and protection of public interest.	Analysis
1. <i>The conditional use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the future land use element, are most likely to occur in the immediate area where located.</i>	In compliance
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>	In compliance
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>	In compliance
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>	In compliance
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>	In compliance
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>	In compliance
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>	In compliance
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>	In compliance
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>	In compliance
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>	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**

Section 23.2-29.g) Additional requirements.	Analysis
1. <i>The conditional use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the future land use element, are most likely to occur in the immediate area where located.</i>	In compliance
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>	In compliance