

PLANNING AND ZONING BOARD REPORT

PZB Project Number 24-00500002: Consideration of a Conditional Use Permit for the establishment of a ±9,000 square foot laser adapted dry shooting range designated as indoor commercial recreation and accessory training facility uses located at 2141 10th Avenue North, Suite 1. The property is zoned Mixed Use - West (MU-W).

Meeting Date: May 1, 2024

Property Owner: Finski, LLC. & Neptune Docks, LLC.; CCB Investors Assets Management, LLC.

Applicant: Scott J. Weiner, The Ainsworth Group

Address: 2141 10th Avenue North (Suite 1)

PCN: 38-43-44-20-01-032-0010

Size: 2.6395-acre site / 31,092 square-foot building (±9,000 square-foot use area)

General Location: South side of 2000 Block on 10th Ave N

Existing Land Use: Commercial/Retail/Personal Service

Current Future Land Use Designation: Mixed-Use - West (MU-W)

Zoning District: Mixed-Use - West (MU-W)

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 uses are 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 5 and 6 of this report.

PROJECT DESCRIPTION

The applicant, Scott J. Weiner on behalf of The Ainsworth Group, LLC., is requesting a Conditional Use Permit for a ±9,000 square-foot indoor commercial recreation and accessory training facility. Laser Defense is a Dry Fire Shooting Gallery which uses a combination of software with audio, video, and laser simulated guns that do not require live ammunition. The business model is a software entertainment and real world simulated practice laser adapted recreational shooting gallery. There will be 20-30 projector bays. The request would include the installation of two ADA bathrooms with a water fountain and construction of approximately 30 drywall separation bays within the space located at 2141 10th Avenue North, Suite 1.

The use will be located at the south side of the existing structure. The property is zoned Mixed-Use West (MU-W) and has a Future Land Use designation (FLU) designation of Mixed-Use West (MU-W). The proposed uses are a high-intensity commercial and personal service type uses that are anticipated in the MU-W zoning district. No site improvements to the structure or parking areas are proposed as part of the subject request. The proposed hours of operation may vary depending on the season and business operations but generally are from 8AM to 8PM, 6-7 days per week. The business will have 4-6 employees (one employee per projector bay with a general manager).

A high intensity indoor commercial recreation and accessory training facility is allowed in the MU-W zoning district with the approval of a Conditional Use Permit (CUP).

COMMUNITY OUTREACH

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

BACKGROUND

Existing Development: The existing building on the site was constructed in 1982. The 31,092 square-foot structure currently has a total of 14 tenant spaces ranging from 800 to 14,000 square feet with approximately 150 off-street parking spaces.

Addressing: The parcel historically has had several addresses. The site has a main address through the Palm Beach County (PBC) Property Appraiser's office and the city's internal business activity management software called Naviline [Enterprise Resource Planning (ERP) and Utility Billing (UB) system]. The main address is 2121 10th Avenue North.

Land Use: There are numerous active business licenses for uses located at the site. The site has a history of being occupied by different commercial, retail, and service uses. The current 9,000 square-foot bay does not have an active business license.

Active Business Licenses within 2107-2141 10th Ave N:

- Punto Rojo II, Inc. – Restaurant – 2107 10th Ave N
- Los Angeles Income Tax Services – Income Tax Service – 2111 10th Ave N
- Avon By Kaylani, Inc. – Retail Stock – 2113 10th Ave N
- Easy Reach Chiropractic, LLC. – Business Office – 2121 10th Ave N

- Finski, LLC. & Neptune Docks, LLC. & CCB Investors – Commercial/Industrial – 2121 10th Ave N
- Rainbow of Life Behavior Health Center, LLC. – Business Office – 2121 10th Ave N
- Brighter Minds Behavioral Health Center – Business Office – 2121 10th Ave N
- Easy Reach Physical Therapy & Rehab, Inc. – Business Office – 2121 10th Ave N
- Mon Scorpion Group, LLC. – Business Office – 2121 10th Ave N
- Los Compadres, Corp. – Restaurant – 2123 10th Ave N
- Amazulu Transport, Inc. – Business Office – 2125 10th Ave N
- M & Y Nails and Beauty Salon, LLC. – Beauty Salon/Shop/Salon – 2127 10th Ave N
- Elim Temple Church of God, Inc. – Charitable Organization – 2129 10th Ave N
- Ministerio Evangelistico “La Gran Cosecha,” Inc. – Meeting Hall – 2133 10th Ave N
- Iglesia Pentecostes Restaurados Por El Espiritu – Meeting Hall – 2137 10th Ave N
- Zion Watchmen, Inc. – Meeting Hall – 2139 10th Ave N
- A.R. Williams Air Conditioning – Contractor – 2141 10th Ave N

Code Compliance: There are no open code compliance cases on the property.

ANALYSIS

Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Mixed Use – West (MU-W). Per Policy 1.1.1.6, the MU-W FLU is intended to provide for a mixture of residential, office, service and commercial retail uses within specific areas west of I-95. The distinguishing characteristic of the MU-W land use area is that it allows higher-intensity uses as well as higher height limits along the City’s western thoroughfares. The proposal would allow for the establishment of a high intensity indoor commercial recreation and accessory training facility use within a mixed-use building along one of the City’s Major Thoroughfares, 10th Avenue North. Therefore, the proposal can be deemed consistent with the intent and desired uses for the MU-W 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. The proposed indoor commercial recreation and accessory training facility uses will activate a tenant space which is currently vacant, and therefore it will help stimulate the economy and will contribute towards the City’s tax base and sustain or increase jobs as recommended under Pillar IV.A and Pillar IV.D.

Based on the analysis above, the proposed Conditional Use Permit to establish an indoor commercial recreation and accessory training facility use at the subject location is 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

Per LDR Section 23.3-18, the MU-W mixed use district is intended to provide for the establishment and expansion of a broad range of office and commercial uses, including moderate intensity and higher intensity commercial, hotel/motel and medium-density multiple-family residential development along the city’s western thoroughfares. The establishment of certain uses is subject to conditional use review to ensure they will not create excessive problems for through traffic or have a negative impact on nearby residential areas or the commercial viability of their neighbors. The district implements in part the mixed-use land use category of the Lake Worth Comprehensive Plan.

Analysis: The proposed indoor commercial recreation and accessory training facility uses are appropriate for this zoning district. These uses are located adjacent to compatible uses and along a major thoroughfare. These uses will not create excessive problems for through traffic, or have a negative impact on nearby residential areas or the commercial viability of their neighbors.

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 the 1980's. The existing site conditions do not conform to the current LDRs; therefore, the nonconformities section of the Land Development Regulations is applicable (LDR Section 23.5-3). The existing nonconformities related to impermeable surfaces and building setbacks 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 on the following data and analysis:**

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 new uses without increasing the existing building floor area; therefore, additional parking spaces are not required. The proposed use will accommodate approximately 20-30 projector bays with one vehicle per bay not including staff. The projector bays will be assigned by appointment in increments of 30 minutes to an hour in length of time. An additional seven (7) parking spaces may be needed for staff parking. Anticipated parking will be around 20-25 spaces per day. The existing site has 31,092 square feet of multiple-use tenants. The site currently has approximately 150 parking spaces (147 standard and three (3) ADA) and will be able to accommodate parking during operating hours.

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: In 2021 and 2022, the site had obtained approval for a conditional use permit (CUP) and an administrative use permit (AUP). As part of the development orders, landscape plans and permits were submitted and approved by the City. Staff is proposing a condition on the subject CUP to ensure minimum maintenance requirements of the approved landscape plan are met per LDR Section 23.6-1(d).

No modifications to the building or site are proposed as part of this conditional use. However, the Major Thoroughfare Design Guidelines state that mixed-use development should “protect the pedestrian and enhance the pedestrian environment and scale” and “ensure compatibility between adjacent uses, especially residential.” Although the requested use is at the rear of the site, conditions of approval are being proposed to maintain the right-of-way landscape buffer on the north property line and the south property line adjacent to the existing mobile home park. The conditions will ensure that the pedestrian environment along the major thoroughfare promotes compatibility of the entire 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 uses are in general harmony with the surrounding area and consistent with development of the corridor. An indoor commercial recreation and accessory training facility uses are anticipated uses in the Mixed-Use - West (MU-W) zoning district. The proposed uses will not result in less public benefit, nor will they result in more intensive development than anticipated in the zoning district in the comprehensive plan.

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

Staff Analysis: The proposed conditional uses are 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. The site is located on an arterial roadway. Therefore, no additional public expenditures are required to service the proposed use. The proposed use will not impact traffic circulation on the site and staff has added a condition for additional landscaping provisions to ensure adequate screening is continuously provided.

Section 23.2-29.g) Additional requirements.

Staff Analysis: As of the date of this report, there are no active code compliance cases for the subject property.

CONCLUSION AND CONDITIONS

The MU-W district is intended to provide for the establishment and expansion of a broad range of office and commercial uses, including moderate intensity and higher intensity commercial, hotel/motel and medium-density multiple-family residential development along the city's western thoroughfares. 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:

Planning & Zoning, and Landscaping

1. Landscaping shall be subject to minimum maintenance requirements per LDR Section 23.6-1(d).
2. This Conditional Use Permit (CUP) shall require the owner to apply for a business license within twelve (12) months from the date of the approval. Failure to apply within that timeframe shall render the approval null and void in accordance with Section 23.1-11.

3. All activities at 2141 10th Avenue North, Suite 1, shall occur indoors and shall not occur in the parking lot or any exterior areas.
4. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the required Business License for the business. This approval only applies to this address, 2141 10th Avenue North, Suite 1, and will not constitute approval for any new location or unit.
5. The proposed use may require a change of occupancy for the tenant space to comply with the Florida Building Code. Contact the Building Division and Fire Reviewer directly regarding the change of use. Please note, their review may require improvements to the building (e.g. ADA bathroom). If required, these improvements must be permitted and completed prior to the issuance of business license(s).
 - Peter Ringle (City of Lake Worth Beach - Building Official): Office Phone: 561-586-1786 | Email: pringle@lakeworthbeachfl.gov
 - Pamela Summers (PBC Fire Rescue): Office Phone: 561-616-7023 | Email: psummers@pbcgov.org
6. All new business signage requires a building permit and shall conform to LDR Section 23.5-1 requirements.
7. All noise shall be reasonably confined to the interior of the space and excessive noise shall not be permitted outside of the premises.

Electric Utilities

1. If any changes are proposed to the electric services, the electric utility will request all voltage and load calculations. A riser diagram must be included in the electric plans for the permit to be approved.
2. For a 3-phase service, a CT cabinet is needed for the meter if the services are over 200 amps.

BOARD POTENTIAL MOTION:

I move to **approve** PZB Project Number 24-005000002 with staff recommended conditions for a **Conditional Use Permit** request to establish an *indoor commercial recreation and accessory training facility* at 2141 10th Avenue North, Suite 1, 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 21-005000009 for a **Conditional Use Permit** request to establish an *indoor commercial recreation and accessory training facility* at 2141 10th Avenue North, Suite 1. 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/site plan, floor plan, and supporting documents)

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</i>	In compliance

demand on municipal police or fire protection services which does not exceed that likely to result from a development permitted by right.

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>Any and all outstanding code enforcement fees and fines related to the project site have been paid to the city.</i>	In compliance
2. <i>Any previously imposed conditions of approval for the use at the site have been met, if applicable, unless request for amendment of conditions is part of the current conditional use permit application.</i>	In compliance as conditioned