



DATE: January 21, 2021
TO: Members of the Planning and Zoning Board
FROM: Andrew Meyer, Senior Community Planner
THRU: William Waters, AIA, NCARB, LEED, AP BD+C, ID, SEED, Director for Community Sustainability
MEETING: January 27, 2021

SUBJECT: **PZB Project Number 20-00500003**: Request by 1900 10th Ave, LLC, for consideration of a Major Site Plan and Conditional Use to construct a Vehicle Fueling/Charging Station, Single-Destination Retail, and Restaurant uses at 1900 10th Avenue North within the Mixed-Use West (MU-W) zoning district (7-Eleven). The subject project was heard on July 15, 2020, and appealed by an affected party to the City Commission which, after hearing, remanded the project back to the Planning and Zoning Board. The variance portion of the project was appealed directly to circuit court in accordance with the code.

PROJECT DESCRIPTION:

The Applicant, Joshua Long of Gunster, Yoakley & Stewart, P.A. on behalf of 1900 10th Ave, LLC, is requesting approval of the following:

- 1.) **Major Site Plan** for the development of a 4,730 square foot retail and restaurant building and 3,520 square foot canopy structure (page 5).
- 2.) **Conditional Use Permit** to establish Vehicle Fueling/Charging Station, Single-Destination Retail, and Restaurant Uses (page 9)
- 3.) **Variance** of 8 feet from the maximum building setback line to allow for a front setback of 40 feet from 10th Avenue North (page 12). The Variance is not part of this approval as it was previously approved at the July 15, 2020 Planning & Zoning Board Meeting.

The subject site is 1900 10th Avenue North, located at the northwest corner of 10th Avenue North and Barnett Drive, and has an area of 54,331 square feet. The PCN is 38-43-44-21-02-005-0030. The site previously operated as a vehicle rental lot for Wayne Akers Ford for at least the past 20 years.

The proposed development, 7-Eleven, consists of a 4,730 square foot retail and restaurant building and a 3,520 square foot canopy structure. The canopy structure will exist as covering for the fuel pumps associated with the Vehicle Fueling/Charging Station use, and will be located at the southeast corner of the site. The retail and restaurant building will house 7-Eleven's 4,496 square foot retail store as well as their 234 square foot dine-in and take-out Laredo Taco restaurant, and will be located at the northeast corner of the site.

PROJECT HISTORY:

This project was originally heard at the July 15, 2020 Planning & Zoning Board Meeting, where it was approved 4 to 2 with staff recommended conditions, and a condition added by the Planning & Zoning Board requiring the applicant to work with staff and PBC for additional school signage and safety. The additional condition is included in the conditions of approval for this hearing as part of the staff recommended conditions of approval. Subsequent to the approval of the project, the project was appealed to the City Commission as follows:

- The approval was appealed by Thomas J. Baird, Esq. on behalf of Mr. Francisco Gil, manager of 1920 10th Avenue LLC, an affected party, on September 3, 2020.
- As per City Code, the City Commission heard the appeal of the Major Site Plan and Conditional Use at the December 15, 2020 City Commission hearing, and voted unanimously (3-0) (the Mayor had a conflict and did not participate in the discussion) to send the project back to the Planning & Zoning Board.
- The variance was approved on July 15, 2020 as part of the original approval, and is not under consideration as part of this request. As per City Code, the variance was appealed to the 15th Judicial Court after the affected party, 1920 10th Avenue LLC, filed a writ of certiorari. The appeal is outstanding.

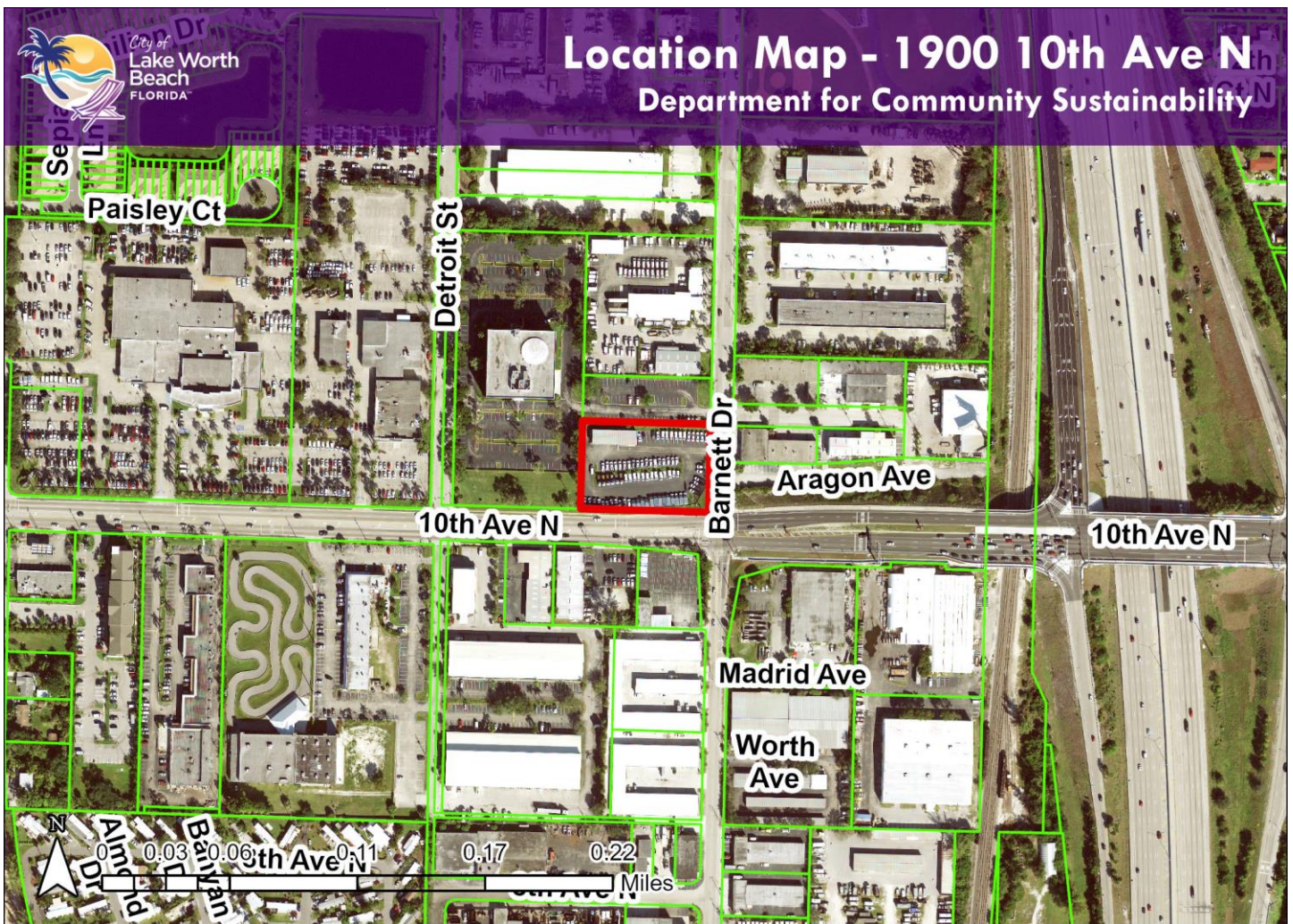
Staff Recommendation:

Staff has reviewed the documentation and materials provided. In applying the applicable guidelines and standards found in the City of Lake Worth Beach Land Development Regulations and Comprehensive Plan as well as the Major Thoroughfare Design Guidelines, the proposed development meets the criteria and intent of the LDRs, Comprehensive Plan, and Guidelines. Staff recommends that the Board approve the Major Site Plan and Conditional Use Permit as conditioned starting on page 13.

PROPERTY DESCRIPTION:

Applicant	Anne-Christine Carrie of KEITH/Joshua Long, Gunster, Yoakley & Stewart, P.A. on behalf of 1900 10th Ave, LLC
Owner	1900 10 th Ave, LLC
General Location	Northwest corner of 10 th Avenue North and Barnett Drive
PCN Number	38-43-44-21-02-005-0030
Existing Land Use	Vehicle Rental
Zoning	Mixed-Use West (MU-W)
Future Land Use Designation	Mixed-Use West (MU-W)

LOCATION MAP:



BACKGROUND:

The project site is located at 1900 10th Avenue North. Below is a timeline summary of the properties' histories based on Palm Beach Property Appraiser's records and City records:

- March 25, 1980 to April 16, 1991 – Property owned by Mark, Jane, and Steven Armstrong
- April 17, 1991 to June 16, 1991 – Property owned solely by Mark and Jane Armstrong
- June 17, 1991 to April 22, 1996 – Property owned by Home Life Insurance Company
- April 23, 1996 to December 18, 2019 – Property owned by Matus Akers Corporation
- Prior to December 21, 1999 (prior city records not available) to Today – Active business license for Wayne Akers Ford Rent-a-Car
- December 19, 2019 to Today – Property owned by 1900 10th Ave LLC
- June 15, 2020 – there is one active code case for Use & Occupancy inspection (Case 19-00003811). The building and site are currently vacant.

ANALYSIS:**Consistency with the Comprehensive Plan and Strategic Plan**

The subject application is located within the Mixed-Use West (MU-W) Future Land Use (FLU) designation (Policy 1.1.1.6), which provides for a mixture of residential, office, service and commercial retail uses within specific areas west of I-95. The project is located west of I-95, and the proposed vehicle fueling/charging station, single destination retail, and restaurant uses are commercial and retail uses appropriate in areas located west of I-95.

This project will replace an unused parking lot and activate a corner of the city which currently is inactive, increasing the taxable value of the lot. In addition, as this is a multi-use project, this project has the potential to provide multiple jobs of diverse skill sets. The project's location also is located in an area adjacent to the Lake Worth Park of Commerce and state transportation network facilities. The proposed project provides services which can help support the development and enhancement of the area. Therefore, the proposed vehicle fueling/charging station, single-destination retail, and restaurant uses are consistent with the following portions of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan:

- **Policy 1.1.1.6 of the City's Comprehensive Plan, Future Land Use Element:** Mixed-Use West
- **Pillar IV.A of the City's Strategic Plan:** Achieve economic and financial stability through a versatile and stable tax base.
- **Pillar IV.D of the City's Strategic Plan:** Influence the supply and expansion of jobs.
- **Pillar IV.E of the City's Strategic Plan:** Ensure development that anticipates and embraces the future.

Consistency with the City's Land Development Regulations

Per Section 23.2-29, 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. The Department of Community Sustainability is tasked in the code to review condition applications in accordance with the City's LDRs, for compliance with the findings for granting conditional uses (analyzed in the next section) and to provide a recommendation for whether the application should be approved, approved with conditions, or denied.

Mixed-Use West (MU-W): Per LDR Section 23.3-18(a), The Mixed-Use West 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 proposed project provides a mixture of higher intensity yet compatible commercial uses and is located on 10th Avenue North west of I-95. As such, the proposal is consistent with the intent of the MU-W district.

The table below shows the proposed site features and its compliance with the development regulation of the Mixed-Use West section of the Code:

Development Standard		Codified Regulation	Provided
Lot Size (min) In square feet (sf)		13,000 sf	54,331 sf
Lot Width (min)		100'	265.64''
Setbacks	Front (min)	Min 20', Max 32'	40'
	Rear (min)	10'	10'
	Street Side (min)	20'	30.21'
	Interior Side (min)	20'	91.7'
Impermeable Surface Coverage (maximum)		65%	64.6%
Structure Coverage (max)		50%	14.4%
Parking		24	32
Building Height (max)		30'	24'
Floor Area Ratio (FAR) (max)		1.3	0.09

The MU-W zoning district allows for a development in size and scale much larger than that being proposed. The site could accommodate a Mixed-Use Urban Planned Development, which would allow for a development up to 6 stories, up to 50 dwelling units (du) (at 37.5 du/acre), and/or up to 203,700 square feet of gross floor area. At 8,250 square feet, the proposal is much smaller than what could be developed at the site.

Parking: The proposed development meets the minimum parking requirements in the City's LDRs. The required parking for the following uses are as follows:

- Retail: 22.48 (1 per 200 square feet)
- Restaurant: 3.12 (1 per 75 square feet)
- Filling Station: 6 (Flat number)

Additionally, per LDR Section 23.4-10(h), any land or building used for two or more uses receives a 25% parking reduction to the total number of spaces required. As the proposed project is considered mixed-use, the project receives a parking credit of 7.9 spaces, resulting in a total number of 24 (23.7 rounded up) spaces. The proposed project provides a total of 32 parking spaces (30 standard, 2 ADA), or 8 spaces more than what is required, which complies with the minimum parking requirement.

Landscaping: Overall, the development proposal complies with the City's landscape regulations. The project proposes Japanese Blueberry and Gumbo Limbo along 10th Avenue North, and Green Buttonwood and Queen Crepe Myrtle along Barnett Drive. A proposed air pump/vacuum system along 10th Avenue North will be visually screened by a row of Cocoplum located along 10th Avenue North. A condition has been added which will require the Cocoplum to be allowed to grow to and maintained at a height of at least $\frac{3}{4}$ of the height of the equipment as required by Code.

Impermeable Surface Coverage: The project as proposed has a total impermeable surface coverage of 64.6% and meets the allowed impermeable surface coverage of 65% outlined in the MU-W development regulations. The project is meeting this regulation by providing a portion of the parking at the northwest corner of the site to be paved with pervious pavement, which for lot coverage purposes is calculated at 50% of the actual area.

Structure Coverage: The project as proposed has a total building coverage of 14.4%, which meets the allowed maximum building coverage of 50%

Setbacks: The project as proposed provides a front setback of 40 feet, which does not meet the required maximum setback of 32 feet of the base zoning district, Mixed-Use West. As such, the applicant has applied for a variance from the maximum front setback, and has provided justification for the variance in Attachment C. The Applicant states that due to the tapered nature of the lot lines, and the requirement that gas station canopies require traffic circulation on all four sides while simultaneously providing for the city's required Landscape Buffer, the fuel canopy structure must be set back 40 feet from the front property line. The proposed setback variance request is consistent with variance criteria. The full analysis of the variance criteria begins on page 12 of this staff report.

Signage: This application includes a master sign program. The size and location of the building's signs are detailed on the architectural elevations (Sheets A200 and A202), while examples of the color palette and style of signage proposed as detailed on the signage plan documents. The signage submitted through the building permit will be reviewed against the location and size on sheets A200 and A202, as well as in conformance with the Code. Should the type of signage submitted as part of the building permit be significantly different in size, scale, scope, or style from what was indicated in the Site Plan package, the project will be required to go through a Site Plan amendment process prior to the approval of the building permit. This has been added as a condition of approval.

Major Thoroughfare Design Guidelines: The project has been reviewed and found to be compliant with the City's Major Thoroughfare Design Guidelines. Staff has included a condition of approval for a brighter paint color and more local design elements, which was a condition of the original staff report. Since the initial hearing, the applicant has presented updated designs which are closer in alignment with the architectural vernacular of Lake Worth Beach.

Major Site Plan:

The review criteria below is intended to promote safety and minimize negative impacts of development on its neighbors by establishing qualitative requirements for the arrangements of buildings, structures, parking areas, landscaping and other site improvements.

Section 23.2-31(c): Qualitative Development Standards

1. *Harmonious and efficient organization.* All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as to not impede the normal and orderly development or improvement of surrounding property for uses permitted in these LDRs.

Staff Analysis: The applicant has stated that the site plan has been organized in relation to the site and surrounding lots. The applicant also states that the retail and restaurant building is situated toward the rear of the property, and the fuel canopy toward the center. The site is oriented toward 10th Avenue North, and the applicant states that parking is provided toward the rear of the site in order to keep separate pedestrian and vehicle circulation routes for safety purposes. **Meets Criterion.**

2. *Preservation of natural conditions.* The natural (refer to landscape code, Article 6 of these LDRs) landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and by such other site planning approaches as are appropriate. Terrain and vegetation shall not be disturbed in a manner likely to significantly increase either wind or water erosion within or adjacent to a development site. Natural detention areas and other means of natural vegetative filtration of stormwater runoff shall be used to minimize ground and surface water pollution, particularly adjacent to major waterbodies as specified in Part II, Chapter 12, Health and Sanitation, Article VIII, Fertilizer Friendly Use Regulations. Fertilizer/pesticide conditions may be attached to development adjacent to waterbodies. Marinas shall be permitted only in water with a mean low tide depth of four (4) feet or more.

Staff Analysis: This section is not applicable. The lots as they exist today are nearly completely paved, with no natural landscape and little vegetation. The applicant states that enhanced landscaping will be provided to improve the aesthetic appearance of the property and will comply with all landscaping requirements. **Meets Criterion.**

3. *Screening and buffering.* Fences, walls or vegetative screening shall be provided where needed and practical to protect residents and users from undesirable views, lighting, noise, odors or other adverse off-site effects, and to protect residents and users of off-site development from on-site adverse effects. This section may be interpreted to require screening and buffering in addition to that specifically required by other sections of these LDRs, but not less.

Staff Analysis: The property is surrounded by other vehicular uses and is not located adjacent to any residential uses. A wall currently exists along the west edge of the property, and is proposed to remain as part of the proposed site plan. In addition, Florida Privet shrubs will be planted along the north and west property lines to buffer the site from adjacent property. The applicant states that screening will be provided in compliance with Section 23.2-31. **Meets Criterion**

4. *Enhancement of residential privacy.* The site plan shall provide reasonable, visual and acoustical privacy for all dwelling units located therein and adjacent thereto. Fences, walls, barriers and vegetation shall be arranged for the protection and enhancement of property and to enhance the privacy of the occupants.

Staff Analysis: This section is not applicable. The property is neither located in, nor adjacent to any residential properties. **Meets Criterion.**

5. *Emergency access.* Structures and other site features shall be so arranged as to permit emergency vehicle access by some practical means to all sides of all buildings.

Staff Analysis: The applicant states that the site is designed to ensure a safe and efficient circulation pattern for pedestrians, and personal, emergency access, and service vehicles. The fueling canopy is accessible from all sides, which allows both customer and emergency vehicles access to all sides of the structure in case of an emergency. **Meets Criterion.**

6. *Access to public ways.* All buildings, dwelling units and other facilities shall have safe and convenient access to a public street, walkway or other area dedicated to common use; curb cuts close to railroad crossings shall be avoided.

Staff Analysis: The applicant states that safe and convenient access is provided to the subject property along both Barnett Drive and 10th Avenue North, and that pedestrian access from the building to the public right-of-way is provided with sidewalks and clearly defined paths. **Meets Criterion.**

7. *Pedestrian circulation.* There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.

Staff Analysis: Paved sidewalks and pathways exist which provide a pedestrian circulation path between the retail and restaurant building and both 10th Avenue North and Barnett Drive. These pathways are designed in a way to bring the pedestrian circulation as separated as possible from the vehicular circulation. The applicant states that a continuous walking surface is provided leading to the building entrance without interacting with the drive aisles to highest extent possible. **Meets Criterion.**

8. *Design of ingress and egress drives.* The location, size and numbers of ingress and egress drives to the site will be arranged to minimize the negative impacts on public and private ways and on adjacent private property. Merging and turnout lanes traffic dividers shall be provided where they would significantly improve safety for vehicles and pedestrians.

Staff Analysis: Ingress and egress access points will be provided on 10th Avenue North as well as Barnett Drive. These ingress and egress access points are located as far as possible from the 10th Avenue North/Barnett Drive intersection so as to minimize any negative impact on the intersection. **Meets Criterion.**

9. *Coordination of on-site circulation with off-site circulation.* The arrangement of public or common ways for vehicular and pedestrian circulation shall be coordinated with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Minor streets shall not be connected to major streets in such a way as to facilitate improper utilization.

Staff Analysis: The applicant states that all circulation is designed in conjunction with existing vehicular patterns, and that the site is configured such that improper use, including as a byway between public rights-of-way is discouraged. Due to the fact that 10th Avenue North is a major thoroughfare, movements to and from 10th Avenue North are restricted to right-in/right-out only. **Meets Criterion.**

10. *Design of on-site public right-of-way.* On-site public street and rights-of-way shall be designed for maximum efficiency. They shall occupy no more land than is required to provide access, nor shall they unnecessarily fragment development into small blocks. Large developments containing extensive public rights-of-way shall have said rights-of-way arranged in a hierarchy with local streets providing direct access to parcels and other streets providing no or limited direct access to parcels.

Staff Analysis: No public right-of-way is being proposed as part of this project, the site will be accessed from existing rights-of-way. The applicant states that on-site public rights-of-way are maintained where applicable and are not configured to encourage fragmentation. **Meets Criterion.**

11. *Off-street parking, loading and vehicular circulation areas.* Off-street parking, loading and vehicular circulation areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.

Staff Analysis: The fueling pumps are located on the site in a location that is farthest from adjacent properties. The applicant states that off-street parking and circulation are placed so that the impact on adjacent properties is minimized and that the safety of visitors to the site is maximized. **Meets Criterion.**

12. *Refuse and service areas.* Refuse and service areas shall be located, designed and screened to minimize the impact of noise, glare and odor on adjacent property.

Staff Analysis: The dumpster is located on the northeast corner of the property. The applicant states that the dumper area is screened and located in an area which minimizes disruption to adjacent property and expedites servicing. **Meets Criterion.**

13. *Protection of property values.* The elements of the site plan shall be arranged so as to have minimum negative impact on the property values of adjoining property.

Staff Analysis: The applicant states that proposed design of the site plan meet or exceed the current standard of adjacent properties. The project is replacing an unused parking lot, and will provide a greater level of landscaping than what is currently being provided. **Meets Criterion.**

14. *Transitional development.* Where the property being developed is located on the edge of the zoning district, the site plan shall be designed to provide for a harmonious transition between districts. Building exteriors shall complement other buildings in the vicinity in size, scale, mass, bulk, rhythm of openings and character. Consideration shall be given to a harmonious transition in height and design style so that the change in zoning districts is not accentuated. Additional consideration shall be given to complementary setbacks between the existing and proposed development.

Staff Analysis: The applicant states that the configuration of the subject property is designed to meet with the existing standards of adjacent zoning districts, and states that the architectural design consists of stucco, glazing, and architectural canopies, and states these materials are common throughout both zoning districts. **Meets Criterion.**

15. *Consideration of future development.* In finding whether or not the above standards are met, the review authority shall consider likely future development as well as existing development.

Staff Analysis: No additional development beyond the scope of this application has been proposed at this time. Should any modification or future development of the site plan occur, they would be required to go through the appropriate site plan review process and meet all requirements of the Comprehensive Plan, Strategic Plan, Land Development Regulations, and Major Thoroughfare Design Guidelines. **Meets Criterion.**

Section 23.2-31(l): Community Appearance Criteria

1. The plan for the proposed structure or project is in conformity with good taste, good design, and in general contributes to the image of the city as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.

Staff Analysis: The applicant states that the combination of natural tones and shifts in architectural planes ensures that the proposed project is in conformity with good taste, good design, and contributes to the image of the city. The retail and restaurant building has a canopy and architectural tower feature which breaks up the form and creates visual interest. **Meets Criterion.**

2. The proposed structure or project is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.

Staff Analysis: The property currently exists as an unused parking lot with minimal amount of vegetation. The proposed project improves the vegetation and landscaping of the site. The applicant states that the project will provide wide buffers and exceed the landscape requirements of the code, large trees will provide shade on site, and that the vehicular use areas will be screened by landscaping and perimeter hedging. **Meets Criterion.**

3. The proposed structure or project is in harmony with the proposed developments in the general area, with code requirements pertaining to site plan, signage and landscaping, and the comprehensive plan for the city, and with the criteria set forth herein.

Staff Analysis: The applicant states that the proposed project satisfies the code requirements, and will be developed within the context of the 10th Avenue North corridor and adjacent commercial developments. The project proposed matches the scale and intensity of the surrounding area, and is in conformance with the land development regulations and comprehensive plan as mentioned earlier in this report. **Meets Criterion.**

4. The proposed structure or project is in compliance with this section and 23.2-29, as applicable.

Staff Analysis: The applicant states that they have provided the documents and plans for Site Plan and Conditional Use approval. **Meets Criterion.**

Conditional Use Permit:

Conditional uses are those uses that are 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 conditions pertinent thereto in order 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. The project proposal includes a conditional use request to establish Vehicle Fueling/Charging Station, Single-Destination Retail, and Restaurant uses.

Section 23.2-29(d): General findings relating to harmony with LDRs and protection of public interest

The proposed project is consistent with the general findings relating to harmony with the LDRs and protection of public interest, as follows:

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.

Staff Analysis: The site contains a zoning designation of Mixed-Use West (MU-W). The applicant states that the Comprehensive Plan puts forth that the MU-W zoning designation allows for a mixture of activities, such as residential, office, service and commercial retail uses, but of a higher intensity west of I-95. The proposed Vehicle fueling/charging station, Single-Destination Retail, and Restaurant uses are of higher intensity uses appropriate in the MU-W zoning district.

Meets Criterion.

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.

Staff Analysis: The existing uses in the surrounding area are as follows:

Direction	Future Land Use	Zoning District	Current Use
North (adjacent)	I (Industrial)	I-POC	Parking Lot
South (across 10 th Ave N)	MU-W	MU-W	Mobility Device and Turf Sales
East (across Barnett Dr)	I	I-POC	Office and Warehouse
West (adjacent)	MU-W	MU-W	Warehouse/Contractor Office

Per the Palm Beach County Property Appraiser and City Business License records, the site is surrounded by a mixture of commercial, office, and light warehouse uses. The proposed project is in harmony with the existing mixture of uses in the immediate area. **Meets Criterion.**

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 Property for some use permitted by right or some other conditional use permitted on the Property.

Staff Analysis: The Applicant states that the proposed project will replace the existing site and structure with a modern building that conforms to the current Land Development Regulations, and will generate more public benefit as the vehicular use area will receive landscaping which will screen it from public rights-of-way. The project adds commercial business to an otherwise unused parking lot, and has the potential to generate jobs. Therefore, the public benefit is anticipated to increase from this development. **Meets Criterion.**

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.

Staff Analysis: The Land Development Regulations anticipate and approve the uses of Vehicle fueling/charging station, Single-Destination Retail, and Restaurant in this zoning district. The project is consistent with the goals, objectives, and polices of the City of Lake Worth Beach's Comprehensive Plan and will not result in a more intensive development than what the Plan anticipates. **Meets Criterion.**

Section 23.2-29(e): Specific standards for all conditional uses

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.

Staff Analysis: The applicant has stated that the traffic from the project will enter the site from 10th Avenue North, and a right turn lane into the point of egress will ensure that turning vehicles do not impede through traffic on 10th Avenue North. The proposed project, which requires a conditional use, would generate fewer trips than an office or residential project, which could be permitted by right or conditional use. The applicant has submitted a Traffic Performance Standards (TPS) Letter from Palm Beach County. The letter states that the proposed development will generate 1,376 new daily trips, with 94 trips during each peak hour. The letter further states that the proposed development meets the TPS of Palm Beach County with a condition to construct a right turn lane east approach at the project driveway on 10th Avenue North. The letter also states that the City should require the applicant to restrict the driveway on Barnett Drive to a right-in/right-out only configuration, and the driveway should have a mountable island to prohibit any left-in and left-out movements. The project has been conditioned to implement the comments of the TPS Letter on page 15 of this report. **Meets Criterion.**

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.

Staff Analysis: The proposed conditional use is located along an Urban Minor Arterial roadway with five lanes per the PBC Functional Classification of Road map. In the applicant's project justification, the segment of 10th Avenue North west of I-95 is identified as a predominantly commercial corridor with some industrial uses, and goes on to state that the proposed conditional uses are compatible with the transportation impacts generated by adjacent uses. **Meets Criterion.**

3. The proposed conditional use will not produce significant air pollution emissions, to a level compatible with that which would result from a development permitted by right.

Staff Analysis: The Applicant has stated that the project will comply with all DEP and EPA regulations and will not produce significant air pollution emissions. **Meets Criterion.**

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.

Staff Analysis: The Applicant states that the proposed conditional use is designed in such a way that neither the extension, enlargement, or other alteration of that system would in higher net public cost or earlier incursion of public cost than what would result from a development permitted by right. **Meets Criterion.**

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.

Staff Analysis: The Applicant states that the proposed conditional use is located adjacent to existing water, sanitary sewer, storm, and surface drainage systems, and states that they do not anticipate an alteration of such systems would result in a higher net public cost than a development permitted by right. No adverse impact to infrastructure or public utilities is anticipated to occur as a result of this request. **Meets Criterion.**

6. The proposed conditional use will not place a demand on municipal police or fire protection service beyond the capacity of those services.

Staff Analysis: The applicant states that the project is located along the 10th Avenue North corridor, which is characterized by Commercial development. As such, the proposed use will not generate demand beyond the capacity of municipal emergency services. **Meets Criterion.**

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.

Staff Analysis: Unreasonable noise, which is defined in Section 15.24-1, is prohibited in the City when:

- Equal to or greater than 65 dba between 11:00 p.m. and 8:00 a.m., Sunday through Thursday
- Greater than 85 dba between 8:00 a.m. and 11:00 p.m., Sunday through Thursday
- Equal to or greater than 65 dba between 12:00 a.m. and 8:00 a.m., Friday through Saturday
- Equal to or greater than 85 dba between 8:00 a.m. and 12:00 a.m., Friday through Saturday

The Applicant states that the proposed project is located along a corridor predominantly characterized by Commercial development, and states that the use will not generate significant noise beyond what is permitted by right. Based on the uses being proposed, the project is anticipated to generate noise levels that are compliant with Section 15.24. **Meets Criterion.**

8. The proposed conditional use will not generate light or glare which encroaches onto any adjacent property in excess of that allowed in Section 23.4-3, Exterior lighting.

Staff Analysis: This criterion is not applicable as the proposed project is not adjacent to any residential property. **Meets Criterion.**

Section 23.4-13(c)(1)(A)(2)(c): Design and Performance Standards for Vehicle Filling Stations

1. The minimum lot area shall be twenty-seven thousand (27,000) square feet.

Staff Analysis: The lot area for this project is 54,331 square feet, which exceeds the minimum lot area. **Meets Criterion.**

2. Pump island shall be set back a minimum of twenty (20) feet from the street property lines and fifteen (15) feet from side and rear property lines.

Staff Analysis: The pump islands are set back approximately 45 feet at its narrowest approach to the property lines, which is in excess of the required minimum setbacks for pump islands. **Meets Criterion.**

3. Overhead canopies shall be set back a minimum of ten (10) feet from street front property lines and from nonresidential property lines and a minimum of fifteen (15) feet from residential property lines.

Staff Analysis: The overhead canopy is set back 40 feet from the front property line, which exceeds the minimum required setback of 10 feet. **Meets Criterion.**

4. Curb cuts shall not be located closer than fifteen (15) feet to the intersection of two (2) right-of-way lines. There shall be a maximum of two (2) curb cuts on any one (1) street frontage.

Staff Analysis: Measured from the intersection of 10th Avenue North and Barnett Drive, the ingress and egress from the site onto 10th Avenue North is located 225 feet away, and the ingress and egress from the site onto Barnett Drive is located 197 feet away. **Meets Criterion.**

5. There shall be no outdoor display of any kind of merchandises.

Staff Analysis: The proposed use does not include any kind of outdoor merchandise display. A condition of approval has been added to ensure that no outdoor merchandise display is a part of this project. **Meets Criterion.**

Variance

The variance was approved on July 15, 2020 as part of the original approval, and is not under consideration as part of this request. Nevertheless, the previous analysis is being submitted for background information.

The subject application includes a request for a variance of 8 feet from the maximum front setback. Currently, Section 23.3-18 has a minimum front setback of 20 feet, and a maximum front setback of 32 feet. The applicant is providing a front building setback of 40 feet, or 8 feet greater than the maximum front setback of 32 feet. The variance from the maximum front building setback is being requested as the proposed fuel canopy must have circulation on all four sides to allow vehicles to approach and leave the fueling pumps underneath the canopy in addition to supplying a landscape buffer as required by Section 23.6-1. Staff has analyzed the proposed variance request against the following variance review criteria found within Section 23.2-26:

1. Special circumstances or conditions exist which are peculiar to the land or building for which the variance is sought and do not apply generally to nearby lands and buildings, and that this is not the result of action of the applicant;

Staff Analysis: The applicant states that there are two existing conditions which are peculiar to the land and building. First, the front lot line is not straight and is curved to accommodate the transition of the westbound lanes of 10th Avenue North from a highway overpass to a Urban Minor Arterial roadway, and second, the proposed gas fueling canopy requires traffic circulation on all four sides, as well as the code requires the applicant to provide a landscape buffer along 10th Avenue North. Further, the applicant is required to provide a deceleration turn lane which has impacted the internal circulation of the site. **Meets Criterion.**

2. The strict application of the provision of these LDRs would deprive the applicant of any reasonable use of the land or building for which the variance is sought;

Staff Analysis: The applicant states that the strict enforcement of the setback would prevent the use of a vehicular fueling/charging service station, which is an appropriate use along 10th Avenue North west of I-95 and also within the Mixed-Use West zoning district, and goes on to state that the application of the setback would prevent the establishment of the most appropriate use for the site. **Meets Criterion.**

3. That the variance proposed is the minimum variance which makes possible the reasonable use of the land or building; and

Staff Analysis: The applicant states that the fuel canopy has been oriented as close to 10th Avenue North as possible while still providing for the required landscape buffer and allowing for traffic circulation. **Meets Criterion.**

4. That the granting of the variance will be in accordance with the spirit and purpose of this chapter, and will not be unduly injurious to contiguous property or the surrounding neighborhood nor otherwise detrimental to the public welfare. In deciding appeals from decisions of the development review official or in granting variances, the decision making board is authorized and required to impose any reasonable conditions and safeguards it deems to be necessary or desirable, and violation of such conditions or safeguards when made a part of the terms under which a variance is granted, shall be deemed to be a violation of these LDRs.

Staff Analysis: The applicant states that the site is currently a vacant parking lot, which adds little value and does not meet the purpose and intent of the Mixed-Use West zoning district, and states that the proposed uses will provide benefits to the city that the current parking lot currently does not. **Meets Criterion.**

Public Support/Opposition:

Mr. Daniel Hiatt, Mr. Frederick Schmidt and Mr. Francisco Gil have indicated their affected party status and are in opposition to the project. No additional public support or opposition has been received subsequent to the December 15, 2020 appeal before the City Commission.

CONCLUSION:

The proposed request for a Major Site Plan, Conditional Use to construct Vehicle fueling/charging station, Single-Destination Retail, and Restaurant uses at 1900 10th Avenue North is consistent with the purpose, intent and requirements of the Comprehensive Plan, underlying zoning district, and surrounding areas, subject to compliance with staff's proposed conditions of approval. Therefore, staff recommends that the Board recommend **approval of the proposed request with the conditions** below:

Electric Utilities:

1. Prior to the issuance of a Certificate of Occupancy, the following shall be completed:
 - a. Provide the load calculations and voltage requirements
2. Electric Utilities shall approve all easements and/or alternate transformer configurations prior to the issuance of a building permit.
3. Should no alternate transformer and/ or easements be approved by the Electric Utilities, then the following shall be provided and approved prior to the issuance of a building permit:
 - a. Show the service entrance location on the site plan
 - b. Provide a ten ft. clearance in front of the transformer and four ft. on the remaining sides
 - c. Relocate the proposed tree from the transformer location
 - d. Provide a ten foot easement from the transformer location to the power pole across the street on Barnett Drive. Please keep the utility easement free of landscaping or any other structures.

Planning:

1. The landscape screen adjacent to the air/vac mechanical equipment along 10th Avenue North shall be maintained at a height of at least $\frac{3}{4}$ of the height of said equipment so that it is screened from the right-of-way.
2. All proposed signage will be reviewed against the location and size on sheets A200 and A202, as well as in conformance with the Code. Should the type of signage submitted as part of the building permit be significantly different in size, scale, scope, or style from what was indicated in the Site Plan package, the signage will be required to be approved administratively through a Minor Site Plan amendment process prior to the approval of the building permit.
3. There shall be no outdoor display of any kind of merchandise.

4. Prior to the issuance of a building permit, the following shall be completed:
 - a. Continue the fenestration toward the ground across the entire building on both sides of the entrance doors.
 - b. Paint the retail/restaurant building a color other than beige as described in the Major Thoroughfare Design Guidelines; alternative colors and/or materials shall be presented to the PZB for consideration and approval; and architectural plans shall be updated and approved by staff prior to the issuance of a building permit to reflect an alternate color or materials.
 - c. The comments from the Palm Beach County Traffic Performance Standards Letter dated July 22, 2020 shall be addressed and implemented into the site plan if applicable.

Public Works:

1. The issuance of any permits shall comply with all provisions of the Lake Worth Municipal Code and all other applicable standards including but not limited to the Florida Department of Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake Worth Public Services Construction Standards and Policy and Procedure Manual.
2. Prior to performing work in the right of way, the applicant shall apply for and receive issuance of a "Right of Way/Utility Permit" application.
3. Prior to the issuance of a certificate of occupancy, the following shall be completed:
 - a. the Applicant shall ensure the entire surrounding off-site infrastructure inclusive of the roadway, sidewalk, curbing, stormwater system piping and structures, valve boxes, manholes, landscaping, striping, signage, and other improvements are in the same condition as prior to construction.
 - b. all conditions of approval shall be satisfied under jurisdiction of the Department of Public Services.
 - c. the applicant shall fine grade and sod all disturbed areas with Bahia sod.
 - d. the applicant shall broom sweep all areas of the affected right of way and remove of all silt and debris collected as a result of construction activity.
 - e. the applicant shall restore the right of way to a like or better condition. Any damages to pavement, curbing, striping, sidewalks or other areas shall be restored in kind
4. Prior to the issuance of a building permit, the following shall be completed:
 - a. The applicant shall contact the Lake Worth Drainage (LWDD) District's Engineering Department and obtain any required permit(s), if necessary, and furnish to the City.
 - b. The applicant shall contact the South Florida Water Management District's (SFWMD) Engineering Department and obtain any required permit(s), if necessary.
 - c. The Applicant shall contact and meet with a representative from the Public Services Refuse and Recycling Division to confirm dumpster enclosure location, accessibility and demand on property and that it is compatible with the requirements of the Department of Public Services. Refuse Division contact number is 561-533-7344.
 - d. The applicant shall submit an Erosion Control plan and indicate the BMP's and NPDES compliance practices.

Utilities Water & Sewer:

1. System data shows the site uses an existing 1-inch meter, however the drawing reference utilizing the existing 2-inch service. No taps or fitting are allowed upstream of the City water meter on the City's water service. The potable water service also requires an RPZ.
2. Prior to the issuance of a building permit, the following shall be completed:
 - a. Ensure the plan conforms/integrates with the Palm Beach County (PBC) Roadway widening/improvement project, and provide an acknowledgement from PBC.
 - b. The vehicular access from Barnett Drive shall permit only right-in/right-out access to and from the site for customer and employee traffic, excluding fuel delivery which can use the driveway for ingress. The improvements limiting such movement shall be approved by the Lake Worth Beach City Engineer, including striping and signage, and should include a mountable curb if feasible.

- c. Provide a collection structure in the dumpster pad that is connected to an oil/grease inceptor. This will manage the runoff in this area and will be connected to the stormwater collection system. This shall not be connected to the sanitary sewer system. Minimum size of the oil/grease inceptor is 750 gallons.

July 15, 2020 Planning & Zoning Board Condition:

1. The applicant shall provide additional school area signage by working in conjunction with City Staff, the Palm Beach County School Board, and/or Palm Beach County. Any new signage shall be installed prior to the issuance of a Certificate of Occupancy.

Board Actions:

Based upon the competent substantial evidence presented in the staff report, including the data and analysis, and the testimony presented at the hearing, I MOVE TO APPROVE PZB PROJECT NUMBER 20-00500003 with staff recommended **conditions** for a Major Site Plan and Conditional Use to construct Vehicle fueling/charging station, Single-Destination Retail, and Restaurant uses at 1900 10th Avenue North.

I MOVE TO DENY PZB PROJECT NUMBER 20-00900001 for a Major Site Plan and Conditional Use to construct Vehicle fueling/charging station, Single-Destination Retail, and Restaurant uses at 1900 10th Avenue North as the Applicant has not proven by competent substantial evidence that the project meets the applicable criteria for the following reasons [Board member please state reasons.]

Consequent Action:

The Planning & Zoning Board's decision will be final for the Major Site Plan and Conditional Use Permit. The decision may be appealed to the City Commission.

ATTACHMENTS:

- A. Zoning Map
- B. Site Plan Package
- C. Supplemental Supporting Documents
- D. Site Photos
- E. Minutes – December 15, 2020 City Commission Meeting; July 15, 2020 Planning and Zoning Board Meeting