



DEPARTMENT FOR COMMUNITY SUSTAINABILITY
Planning Zoning Historic Preservation Division
1900 2ND Avenue North
Lake Worth Beach, FL 33461
561-586-1687

DATE: February 26, 2020
TO: Members of the Planning and Zoning Board
FROM: Alexis Rosenberg, Senior Community Planner
THRU: William Waters, AIA, NCARB, LEED, AP BD+C, ID SEED, Director for Community Sustainability
MEETING: March 4, 2020

SUBJECT: **PZB Project Number 20-00500002**: Request by Christopher Fleming of Strategic Realty Services, LLC on behalf of Dr. Andrew Cooper of Cooper RE, LLC for consideration of a Conditional Use Permit for a medium-intensity medical office use at 1718 North Federal Highway. The project is located within the Mixed Use – Federal Highway (MU-FH) zoning district. The subject property’s PCN is 38-43-44-15-16-008-0031.

SYNOPSIS:

Applicant	Christopher Fleming of Strategic Realty Services, LLC
Owner	1718 N Federal Highway, LLC
General Location	East 1700 block of North Federal Highway
Existing PCN Numbers	38-43-44-15-16-008-0031
Existing Land Use	Office
Zoning	Mixed Use – Federal Highway (MU-FH)
Future Land Use Designation	Mixed Use – East (MU-E)

HISTORY

Per the Palm Beach Property Appraiser’s records, the original building was constructed in 1964. City records show that from 1965 to 2001, “The Children’s Clinic” was licensed to operate as a medical office in the building. From 2002 to 2011, a business named “Active Internet Corporation” was licensed to operate as a general office at the property. From 2007 to 2008, there was a license for “Anderson House Auctioneers”, as well as a license in 2008

for “Active Lending Corporation”, a mortgage broker office. From 2011 to 2017, a therapist office was licensed to operate at the property, and in 2019, there was a license for a law office called “The Dental Law Firm”, which was declared “out of business” in 2020 per the City’s licensing records.

On January 25, 2001, the subject property entered into a Parking and Cross-Access Agreement with the property to the south, 1708 North Federal Highway. In summary, the Agreement grants 1708 North Federal Highway easements for the following:

- Pedestrian right-of-way
- Vehicular ingress and egress over, on, and across areas presently owned by 1718 North Federal Highway
- Parking of vehicles over, on, and across areas within the property owned by 1718 North Federal Highway
- Installation, operation, and maintenance of sprinkler systems as necessary to serve all parties of 1708 North Federal Highway
- Ingress and egress to the refuse and waste dumpster currently existing and located in the alley adjacent to 1718 North Federal Highway.

A copy of the full Agreement can be found in Attachment D.

BACKGROUND/PROPOSAL:

The subject property is an 11, 500 square-foot lot and is located in the 1700 block of North Federal Highway. The proposed use, Cooper Orthodontics, is an orthodontic office specializing in orthodontic treatment, including, but not limited to braces, early orthodontic treatment, surgical orthodontics, and orthodontic retention. The business, Cooper Orthodontics, currently occupies the second floor of 1708 North Federal Highway (the property to the south of the subject site), and has been licensed at that location since 2013. Cooper Orthodontics is proposing to occupy the entire +/-3,632 square-foot building at 1718 North Federal Highway. If approved, Cooper Orthodontics would relocate their business to 1718 North Federal Highway and cease operations at 1708 North Federal Highway.

ANALYSIS:

Public Support/Opposition

Staff has not received any letters of support or opposition.

Consistency with the Comprehensive Plan

The proposed medical office is compatible with the following portions of the City of Lake Worth’s Comprehensive Plan:

Policy 1.1.1.5: Mixed Use – East (MU-E)

The Mixed Use East category is intended to provide for a mixture of residential, office, service and commercial retail uses within specific areas east of I-95, near or adjacent to the central commercial core and major thoroughfares of the City. [...] Zoning regulations implementing the Mixed Use East category shall permit the establishment and expansion of residential (including single family, two-family and multi-family), office, service and commercial retail uses either as uses permitted by right or through conditional use permit provisions. All buildings

are required to provide transitional buffering and design features to mitigate impact of the MU-E sites adjacent to residential zoning districts.

Consistency with the Strategic Plan

The proposed medical office is compatible with the following Pillar:

Pillar IV: Navigating Towards a Sustainable Community

- A: Achieve economic and financial sustainability through a versatile and stable tax base.
- D: Influence the supply and expansion of jobs.
- E: Ensure facility placement, construction and development that anticipates and embraces the future.

Conditional Use Criteria

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

The project is in compliance 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 Response: The site contains a zoning designation of MU-FH. The proposed medical office use is consistent with other types of office, commercial, residential, and personal service uses that are anticipated to occur within the MU-FH district. The conditional use is required to ensure that specific criteria, outlined in [LDR Section 23.4-13](#), are met for all medical offices. Therefore, after staff review, the proposed medical office is determined to be a use that will be compatible and harmonious with the surrounding existing and potential uses. **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 Response: The following outlines the existing uses in the surrounding area:

Direction	Future Land Use	Zoning District	Current Use
North (across the alley)	MU-E	MU-FH	Multi-Family residences (4)
South (adjacent)	MU-E	MU-FH	Office (Dental Office) (“Little Smiles Dental” and “Cooper Orthodontics”)
East (across the alley)	Single-Family Residential (SFR)	SFR	Single-Family Residences
West (across from N Federal)	MU-E	MU-FH	Residential and Office

Hwy)			
------	--	--	--

Per the Palm Beach County Property Appraiser, the site is surrounded by a mixture of office and residential uses. To the north, across from the alley, are two, two-family residences, currently licensed for four units. South of and adjacent to the subject site is an office building which contains two businesses; Little Smiles Dental and Cooper Orthodontics. East of the subject site, across the alley, are single-family residences with a future land use designation of SFR, and to the west, across North Federal Highway, are a mixture of residential and medical office uses. Due to the mix of uses in the surrounding area, and the anticipation of this use in the MU-FH zoning district (per the City’s Use Table in LDR Section 23.3-6), the proposed Conditional Use Permit for a medical office appears to be in harmony with the existing uses in the surrounding 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 Response: Per the City’s Use Table, there are no non-residential medium-intensity uses permitted by right in the MU-FH zoning district. Many medium intensity uses require an Administrative Use Permit, which is a staff-level review and approval process. Uses that require an Administrative Use Permit in the MU-FH zoning district include but are not limited to a contractor office, administrative office, holistic health care facility, day care facility, salon, and a motel. The nature of this business is closely related to the aforementioned uses in terms of intensity, and therefore, staff believes that the use of a medical office at this location will not negatively affect the public benefit, or cause greater harm than that of another use allowed in the MU-FH zoning district.

In reviewing the property for any existing nonconformities, it appears that the building does not meet the current required rear setback of 10 feet, and the lot’s impermeable surface total exceeds the maximum allowed total impermeable lot coverage of 55%. In an attempt to decrease the nonconformity, the applicant states that they are willing to work with City Staff and the Board to make any and all landscape improvements possible without eliminating existing parking. **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 Response: The Conditional Use request to allow a medical office on this site will not result in a more intensive development in advance of the Future Land Use Element of the City’s Comprehensive Plan. As mentioned, the MU-E land use designation is intended to provide for a mixture of residential, office, service and commercial retail uses within specific areas east of I-95, near or adjacent to the central commercial core and major thoroughfares of the City. Being that a medical office is a type of office use, and is an anticipated use in the MU-FH zoning district, it is not expected to be a more intensive development than what the future land use element calls for in the Comprehensive Plan. **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 Response: Per Florida Department of Transportation's (FDOT) Trip Generation Rates Table (8th Edition), a 3,632 square foot medical office is estimated to generate 131 daily trips, while a 2,499 square foot restaurant, which is a permitted use in the MU-FH zoning district, is estimated to generate 224 daily trips. Therefore, the proposed Conditional Use is not projected to generate traffic volumes that would result in significant adverse impacts or reduce the level of service on any street more than that of a use permitted by right. **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 Response: As mentioned, this use is not projected to significantly affect traffic volumes on the City's roadway network. There are other uses (e.g. restaurant) that are permitted by right in the MU-FH zoning district, and if established at this location, has a greater potential to create a level of traffic higher than that of a medical office. Additionally, the applicant states that the business does not anticipate higher traffic levels than what has previously existed at the site. **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 Response: Per the City's Use Table, low-intensity uses permitted by right include a contractor office, administrative office, gym, barber/beauty parlor, tanning salon, and pet grooming service. Based on the Applicant's justification statement, no additional air pollution will be associated with the proposed medical use. Additionally, staff does not expect the proposed use to produce a significant amount of air pollution greater than a permitted use. **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 Response: Being an anticipated use in the MU-FH zoning district, the proposed medical office at the subject site is not anticipated to require the widening of North Federal Highway, nor is it anticipated to cause a 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 Response: Per the Applicant's justification statement, Cooper Orthodontics is not planning to expand or alter the existing infrastructure. Therefore, 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 Response: As mentioned earlier, a Medical Office is an anticipated use in the MU-FH zoning district; therefore, this use should not place a demand on municipal police or fire protection services beyond capacity. **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 Response: Per Section 15-24.2, no person shall make, continue or cause to be made any unreasonable noise or disturbing noise. Unreasonable noise is defined as “any noise in or emanating from any property located within the corporate limits of the City of Lake Worth which equals or exceeds a measured sound level of sixty-five (65) dBA or dBC (whichever frequency is higher) between the hours of 11:00 p.m. and 8:00 a.m. Sunday through Thursday, a measured sound level in excess of eighty-five (85) dBA or dBC (whichever frequency is higher) between the hours of 8:00 a.m. and 11:00 p.m. Sunday through Thursday; and a measures sound level which equals or exceeds sixty-five (65) dBA or dBC between the hours of 12:00 a.m. and 8:00 a.m. Friday through Saturday and a measured sound level meeting or exceeding eighty-five (85) dBA or dBC (whichever frequency is higher) between the hours of 8:00 a.m. and 12:00 a.m. Friday through Saturday.”

The Applicant states that the medical office will not cause noise in excess of what is permitted by Code. Additionally, a condition has been added to ensure the property remains in compliance with Section 15-24.2. **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 Response: The Applicant has not proposed additional lighting on the site, and states that the proposed use of a medical office will not generate light or glare that would negatively impact the surrounding properties. A condition has been added to ensure that the property continues to comply with LDR Section 23.4-3 in regards to exterior lighting. **Meets Criterion.**

Section 23.4-13(c)(15): Medium and high intensity conditional uses – Medical related uses

The project is in compliance with the medium and high intensity conditional use criteria for medical-related uses as follows:

1. All such uses shall front a major thoroughfare

Staff Response: The subject property fronts North Federal Highway, which is a major thoroughfare. **Meets Criterion.**

2. Hours of operation shall be weekdays anytime between 8:00 a.m. to 8:00 p.m., unless an operational waiver allowing expanded hours is granted by the appropriate Board.

Staff Response: The Applicant has proposed the following hours of operation within the justification statement:

- Monday-Thursday: 8 a.m. – 5 p.m.
- Friday: 8 a.m. – 2 p.m.
- Saturday and Sunday: Closed

The above hours are in compliance with the limits established by the City's Land Development Regulations. **Meets Criterion.**

3. Sufficient/adequate parking shall be documented to serve the needs of the doctors, staff, clients, and patients of said use.

Staff Response: Per LDR Section 23.4-10(i)(3), "changes in the use or occupancy of an existing buildings located in the DT, MU-FH, MU-DH, MU-E, TOD-E and AI zoning districts, or that have been designated as a contributing structure in one of Lake Worth's historic districts (as determined by section 23.5-4), shall follow the requirements set forth in section 23.4-10 g), Core Area Parking Requirements."

According to LDR Section 23.4-10(g), Core area parking requirements, a professional office shall provide one parking space per 400 net square feet of space. As such, the existing building at 1718 North Federal Highway is required to provide a minimum of nine parking spaces for a medical office use. Currently, there are 21 parking spaces at 1718 North Federal Highway.

As previously noted, the subject property (1718 North Federal Highway) entered into a Parking and Cross-Access Agreement with 1708 North Federal Highway on January 25, 2001. Within the agreement, 1718 North Federal Highway grants 1708 North Federal Highway a non-exclusive easement to allow for the parking of vehicles over, on, and across the southern portion of 1718 North Federal Highway. This portion of the parking lot at 1718 North Federal Highway includes seven parking spaces. Therefore, of the 21 parking spaces on 1718 North Federal Highway, seven parking spaces can be utilized by the customers, clients, patients, and employees of 1708 North Federal Highway. In the event that all seven spaces are being used by 1708 North Federal Highway, 1718 North Federal Highway is left with 14 parking spaces, which exceeds the minimum required nine parking spaces. A copy of the Agreement can be found in Attachment D.

The building at 1708 North Federal Highway is currently licensed for two businesses – Cooper Orthodontics, and Little Smiles. Based on the Core Area Parking Requirements, 1708 North Federal Highway is required to provide a minimum of seven off-street parking spaces (one space per 400 net square feet of space). Per the applicant, the property currently has 13 parking spaces, which was confirmed by a site visit performed on February 21, 2020.

Taking the Parking and Cross-Access Agreement into account, it appears that the level of parking available between both properties exceeds the amount required by Code. Additionally, the Applicant claims that no parking issue currently exists at either site. **Meets Criterion.**

4. In the DT zoning district, said uses may be established only if fronting Dixie Highway. No waiver or variance shall be granted for this requirement.

Staff Response: The subject site, 1718 North Federal Highway, is located within the MU-FH zoning district. Therefore, this condition does not apply. **Meets Criterion.**

5. Said uses may not be established on properties that have frontages on either Lake Avenue or Lucerne Avenue. No waiver or variance shall be granted for this requirement.

Staff Response: The subject site does not front Lake or Lucerne Avenue. The site fronts North Federal Highway. **Meets Criterion.**

6. Once established, said use may not be expanded without conditional use approval regardless of increased size of use.

Staff Response: The proposed use will encompass the entire building at 1718 North Federal Highway. The Applicant has not proposed to expand the footprint of the building. However, this criterion has been added as a condition of approval in the event of future expansion. **Meets Criterion.**

7. All medical services to be provided at said location must be included on the business license application and updated annually should the array of services change or expand. Changes in services and/or expansion of types of services will be evaluated to determine whether the additional services would constitute an expansion of use requiring an updated conditional use approval.

Staff Response: The Applicant has included a detailed description of the business within the justification statement. Additionally, this criterion has been included as a condition of approval. **Meets Criterion.**

Conclusion:

The analysis has shown that the justification criteria regarding the Conditional Use Permit request has been generally met. The proposed use is in harmony with the underlying zoning district and surrounding areas, subject to compliance with staff's proposed conditions of approval.

CONSEQUENT ACTION:

The Planning & Zoning Board's decision will be final for the Conditional Use Permit. The Applicant may appeal the Board's decision to the City Commission.

STAFF RECOMMENDATION:

Staff has reviewed the documentation and materials provided, applying the applicable guidelines and standards found in the City of Lake Worth Zoning Code. The proposed use meets the criteria of the Comprehensive Plan and LDRs. Staff recommends that the Board approve the application to allow a medium-intensity medical office use at 1718 North Federal Highway with the conditions recommended by staff included in Attachment B.

POTENTIAL MOTIONS:

Based upon the testimony and evidence presented, I MOVE TO APPROVE PZB PROJECT NUMBER 20-00500002: Request for a **Conditional Use Permit** to allow for a medium-intensity medical office use at 1718 North Federal Highway, with the conditions recommended by staff included in Attachment B

I MOVE TO DENY PZB PROJECT NUMBER 20-00500002: Request for a **Conditional Use Permit** to allow for a medium-intensity medical office use at 1718 North Federal Highway, as the Applicant has failed to establish by competent substantial evidence that it meets the criteria for a conditional use permit.

Attachments:

- A. Zoning Map
- B. Conditions of Approval
- C. Application Package
- D. Parking and Cross Access Agreement