

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 22-00500006:** Consideration of a **Conditional Use Permit** request to establish *wholesale/distribution facility* use in the Industrial Park of Commerce (I-POC) zoning district located at 1807 6<sup>th</sup> Avenue North. The request is to establish the proposed use (±8,000 square feet) within the current ±34,657 square foot industrial building.

**Meeting Date:** August 3, 2022

**Property Owner:** Maria Romanelli - Lake Worth Industrial Properties, Inc.

**Applicant:** Rezaul Khan – American Access, LLC.

**Address:** 1807 6<sup>th</sup> Avenue North

**PCN:** 38-43-44-21-02-023-0030

**Size:** 2.24-Acre Lot / 34,657 square feet of Existing Structures (8,000 square feet use area)

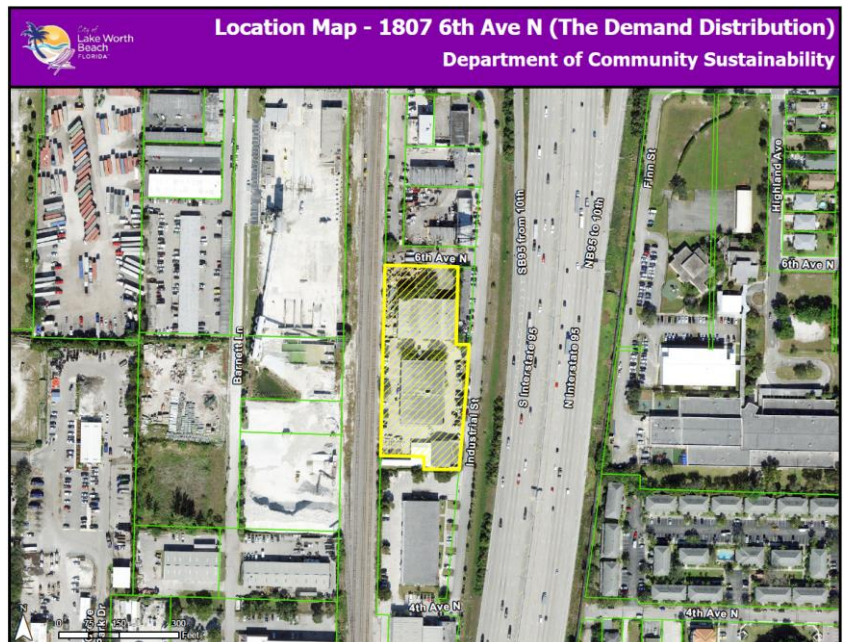
**General Location:** West of Industrial Street and south of 6<sup>th</sup> Avenue North

**Existing Land Use:** Warehouse

**Current Future Land Use Designation:** Industrial (I)

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

Location Map



## RECOMMENDATION

The documentation and materials provided with the application request were reviewed for compliance with the applicable guidelines and standards found in the City of Lake Worth Beach Land Development Regulations (LDRs) and for consistency with the Comprehensive Plan and Strategic Plan. The proposed Conditional Use Permit is consistent with the Comprehensive Plan, Strategic Plan, and LDRs, as conditioned. A recommendation of approval with conditions is provided to the Planning and Zoning Board. The conditions are outlined on page 5-6 of this report, and also address minor site plan requirements that were not previously installed per the 1993 site plan approval.

## PROJECT DESCRIPTION

The applicant, Rezaul Khan with American Access, LLC., is requesting a **Conditional Use Permit (CUP)** to establish a wholesale/distribution facility use ( $\pm 8,000$  square feet) in the Industrial Park of Commerce (I-POC) zoning district located at 1807 6<sup>th</sup> Avenue North. The subject site is located West of Industrial Street and south of 6th Avenue North. According to the property appraiser, the subject site is included in an existing  $\pm 34,657$  square foot industrial building. The building is currently configured as warehouse space. No additional site improvements are being proposed with this application.

According to the applicant, American Access, LLC., is a wholesale distribution facility for convenience store and gas station products. The business activities will include sorting and repacking of merchandise to be shipped to multiple locations. The use is entirely enclosed and not open to the public. American Access does not sell any product to the public. The use is not a retail-based business or operation and is not approved for the sale of the any product. The facility will operate Monday through Saturday from 7:00 A.M. to 5 P.M., with a maximum number of three (3) employees.

The structure, when approved in 1993, was permitted to have warehouse-type uses. The applicant is requesting a wholesale/distribution facility use to be located within the building which will require a conditional use permit. The applicant has informed staff that deliveries of product is generally three (3) to four (4) times per week, typically one delivery per day. Deliveries are made by semi-trailer or box trucks between the hours of 11:00 A.M. and 3:00 P.M. The loading and delivery areas for the business are located on the south side of the building.

*A wholesale/distribution facility use is allowed in the I-POC zoning district subject to a Conditional Use Permit approval.*

## COMMUNITY OUTREACH

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

## BACKGROUND

**Construction:** The existing structures were constructed in the 1980's and 1990's. Per the plans provided, existing building footprint totals  $\pm 34,657$  square feet.

In 1993, the City Commission conditionally approved the development of the Romanelli Rental Warehouses project to add two additional warehouse structures (Building A and Building B) consisting of a total of  $\pm 36,000$  square feet including a landscape plan, drainage plan, and additional site improvements.

Further review of the staff records and property appraiser records found that, in 1995, a 1,344 square foot rental warehouse structure was added to Building A. It appears that the new rental warehouse structure modified the landscaping and stormwater retention area.

**Use:** The property's use is Warehouse. Rezaul Khan, representing Demand Distribution, will be operating a wholesale/distribution facility at the site and does not have an active business license.

**Code Compliance:** There are no open code violations on the subject site

## ANALYSIS

### Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Industrial (I). Per Policy 1.1.1.10, The Industrial land use category is intended to provide for the establishment and enlargement of office, manufacturing and light to moderate industrial uses that would be incompatible in other areas of the city due to increased traffic generation. The implementing zoning district is I-POC. The proposed use of aquaculture/hydroponic farming use is allowed in the I-POC zoning district as a Conditional Use. The proposal is associated with an existing ±34,657 square foot building. Therefore, the proposal can be deemed consistent with the intent and desired uses for the Industrial FLU.

The City's Strategic Plan focuses on fostering safer neighborhoods, encouraging community pride, building a vibrant and diverse economy, planning for the future, and enhancing the natural, historic, and cultural environment of the City. Pillar IV.A and Pillar IV.D of the Strategic Plan state that the City shall achieve economic and financial sustainability through a versatile and stable tax base, and influence the supply and expansion of jobs. Because the proposed Conditional Use will allow for the establishment of a heavy intensity industrial use (wholesale/distribution facility) that will contribute towards the City's tax base and sustain or increase jobs, the proposal is consistent with Pillar IV.A and Pillar IV.D.

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

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

**The Industrial Park of Commerce (I-POC) zoning district** *is intended to provide for the establishment and enlargement of office, manufacturing and light industrial uses without restriction on traffic generating characteristics. The industrial park of commerce district is also intended to permit establishment of certain other uses which are compatible with industrial operations. Development in the industrial land use category should be guided to minimize negative impacts on nearby residential areas.*

**Analysis:** The proposed wholesale/distribution facility use requested is consistent with the intent of the I-POC zoning district as conditioned. However, during the conditional use review, staff discovered that the stormwater/retention area located at the northwest corner of the 1993 proposal (two new rental warehouse structures) and the 1995 proposal (an addition to one of the new rental warehouse structures) was never developed as conditioned. Therefore, a condition of approval has been added to require the on-site stormwater improvements within one (1) year, or alternate improvements that meet current stormwater requirements as approved by the City Engineer. Should the improvements not be completed within the one (1) year timeframe, the property will be issued a code violation for non-compliance with the development order.

The analysis for both the blanket conditional use permit and the major site plan is provided in this section below and as consistent with the review criteria located in Attachments A & B.

**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".*

**Analysis:** The “Rental Warehouse” was constructed 1993 and the original Landscape Plan provided perimeter landscaping and shade trees consisting of a mixture of Native and Non-Native trees and shrubs. Although the original landscape plan may have complied with the landscape code that was in place at the time, the current landscape has the deficiencies. Staff will propose conditions for the replacement of perimeter landscaping, screening of mechanical equipment, and preventing encroachment of vehicles into landscaped areas.

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 structures on the property completed construction in the 1990’s. The buildings and site currently do not conform to the current LDRs; therefore, the nonconformities section of the land development regulations, LDR Section 23.5-3 is applicable. The existing nonconformities are not proposed to be increased or negatively impacted by the subject Conditional Use request. **The proposed conditional use is consistent with the City’s LDRs as conditioned based on the following data and analysis:**

#### **Off-Street Parking**

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

**Staff Analysis:** The entire site area has a total of 49 parking spaces with two parking spaces designated as handicap spaces. The subject area, located at 1807 6<sup>th</sup> Avenue North, will utilize the existing parking spaces at the north end of the site. Parking is located at the north end of the site with access to 6<sup>th</sup> Avenue North. As additional square footage is not proposed, and the request is an adaptive reuse of an existing structure, the exception standard for additional parking spaces is applied, and therefore, the proposal does not require additional parking spaces and meets the parking requirement. The conditional use requested is an industrial use. The required parking for the subject site complies with LDRs.

#### **Findings for Granting Conditional Uses**

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

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

**Staff Analysis:** The proposed conditional use is in harmony with the surrounding area. A wholesale/distribution facility use is an anticipated use in the Industrial Park of Commerce (I-POC) zoning district. The proposed use will not result in less public benefit nor will it result in more intensive development than anticipated the zoning district in the comprehensive plan.

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

**Staff Analysis:** The proposed conditional use is not anticipated to impact the surrounding area greater than uses permitted by right. Delivery vehicles (semi/box trucks) distribute product to the business three (3) to four (4) times weekly between the hours of 11:00 A.M. and 3:00 P.M. The impacts of the infrequent amount of deliveries to the site would not adversely impact the adjacent industrial businesses. Additionally, the delivery vehicles would not adversely impact the off-site/on-site circulation of traffic flow. The building is already served by municipal services, including water, sewer, refuse, fire and police. The site is located on an arterial roadway. Therefore, no additional public expenditures are required to service the proposed use.

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

**Staff Analysis:** As of the date of this report transmittal, there is an active code case for the use approval at 1807 6<sup>th</sup> Avenue North.

**CONCLUSION AND CONDITIONS**

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

The proposed *wholesale/distribution facility* use is appropriate for this zoning district. The use is located adjacent to compatible uses. Further, the proposed conditional use and improved landscaping will be compatible with the neighboring uses. The use has additional state licensing requirements and security measures in place to mitigate any potential adverse impacts. The use will not create excessive problems for through traffic, or have a negative impact on nearby compatible uses or the commercial viability of their neighbors. 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. The conditions are outlined below, and also address minor site plan requirements that were not previously installed per the 1993 site plan approval.

**Planning and Zoning:**

1. Retail sales is prohibited.
2. Outdoor storage is prohibited.
3. Documentation that PBC Wellfield Permit affidavit of notification was submitted to PBC Environmental Resources Management is required for all tenants prior to the issuance of a business license.
4. The use, handling, production and storage of regulated substances in wellfield zones as defined in the PBC Unified Land Development Code shall be prohibited as provided for in the requirements of the PBC Wellfield Ordinance (ULDC, Article 14, Chapter B).

5. 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.
6. Per City Code Section 14-32 and LDR Section 23.2-23, the occupant must obtain and maintain the applicable annual Use and Occupancy Certificates (U&O) and Business Tax Receipts (BTR) for the new use and will need to maintain the license with renewals. This occupant must also obtain a City of Lake Worth Beach business license. This approval letter only applies to this address, 1807 6<sup>th</sup> Avenue North, and will not constitute approval for any new location or unit.
7. The City shall revoke the business license and the approval of the conditional use permit if the property is declared a chronic nuisance as result of or related to the operations of the business or accessory outdoor storage.

#### Landscaping:

1. Prior to the issuance of a business license, a landscape permit will be required to address the following:
  - a. Remove the existing Non-Native invasive Surinam Cherry shrubs that are along perimeter of the property in front of building "B" and replace them with native shrubs such as Cocoplum in order to provide the required continuous landscape screen.
  - b. Screen all ground level mechanical equipment with vision obscuring fencing and/or shrubs. If fencing is used a separate permit is required.
  - c. Restore the missing required groundcover (sod) in front of building "B" adjacent to Industrial Street with Bahia sod and install signage and/ or bollards in order to prevent the illegal parking of vehicles in this location.
2. Landscaping shall be installed and inspected prior to issuance of a business license.

#### Utilities Water, Sewer & Stormwater:

1. The subject site is out of compliance with the conditions of the of 1993 site plan approval, which required a stormwater management area/retention pond in the NW corner of the property. The stormwater management area is required to be approx. 3 feet deep. The previous approved stormwater management area shall be restored with one (1) year, or alternate improvements that meet current stormwater requirements, as approved by the City Engineer, shall be installed.

#### BOARD POTENTIAL MOTION:

I move to **approve** PZB Project Number 22-00500006 with staff recommended conditions for a **Conditional Use Permit** request to establish a wholesale/distribution facility use in the Industrial Park of Commerce (I-POC) zoning district located at 1807 6<sup>th</sup> Avenue North based on upon the competent and substantial evidence provided in the staff report and in the testimony at the public hearing.

I move to **disapprove** PZB Project Number 22-00500006 for a **Conditional Use Permit** request to establish a wholesale/distribution facility use in the Industrial Park of Commerce (I-POC) zoning district located at 1807 6<sup>th</sup> Avenue North. The project does not meet the conditional use criteria for the following reasons [Board member please state reasons.].

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

#### ATTACHMENTS

- A. Findings for Conditional Uses
- B. Application Package (survey, request letter)

### ATTACHMENT A - Findings for Granting Conditional Uses

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

Section 23.2-29.d) General findings relating to harmony with LDRs and protection of public interest.	Analysis
1. <i>The conditional use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the future land use element, are most likely to occur in the immediate area where located.</i>	<b>In compliance</b>
2. <i>The conditional use exactly as proposed at the location where proposed will be in harmony with existing uses in the immediate area where located.</i>	<b>In compliance</b>
3. <i>The conditional use exactly as proposed will not result in substantially less public benefit or greater harm than would result from use of the site for some use permitted by right or some other conditional use permitted on the site.</i>	<b>In compliance</b>
4. <i>The conditional use exactly as proposed will not result in more intensive development in advance of when such development is approved by the future land use element of the comprehensive plan.</i>	<b>In compliance</b>
Section 23.2-29.e) Specific findings for all conditional uses.	Analysis
1. <i>The proposed conditional use will not generate traffic volumes or movements which will result in a significant adverse impact or reduce the level of service provided on any street to a level lower than would result from a development permitted by right.</i>	<b>In compliance</b>
2. <i>The proposed conditional use will not result in a significantly greater amount of through traffic on local streets than would result from a development permitted by right and is appropriately located with respect to collector and arterial streets</i>	<b>In compliance</b>
3. <i>The proposed conditional use will not produce significant air pollution emissions, or will appropriately mitigate anticipated emissions to a level compatible with that which would result from a development permitted by right.</i>	<b>In compliance</b>
4. <i>The proposed conditional use will be so located in relation to the thoroughfare system that neither extension nor enlargement nor any other alteration of that system in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.</i>	<b>In compliance</b>
5. <i>The proposed conditional use will be so located in relation to water lines, sanitary sewers, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement nor any other alteration of such systems in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.</i>	<b>In compliance</b>
6. <i>The proposed conditional use will not place a demand on municipal police or fire protection service beyond the capacity of those services, except that the proposed facility may place a demand on municipal police or fire protection services which does not exceed that likely to result from a development permitted by right.</i>	<b>In compliance</b>

7. *The proposed conditional use will not generate significant noise, or will appropriately mitigate anticipated noise to a level compatible with that which would result from a development permitted by right. Any proposed use must meet all the requirements and stipulations set forth in section 15.24, Noise control.* **In compliance**
8. *The proposed conditional use will not generate light or glare which encroaches onto any residential property in excess of that allowed in section 23.4-10, Exterior lighting.* **In compliance**

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