

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 23-00500010:** A conditional use permit request for a ±3,404 square foot Medical Office (outpatient clinic/medical office use) located at 1622 North Federal Highway. The subject property is zoned Mixed Use – Federal Highway and has a Mixed Use – East (MU-E) future land use designation.

**Meeting Date:** June 28, 2023

**Property Owner:** INDIAN CHASE PARTNERS LLC

**Applicant:** Fernando Capetillo – Amel Therapy Center

**Address:** 1622 North Federal Highway

**PCNs:** 38-43-44-15-16-008-0010

**Size:** 0.4362 – Acre Lot / ±3,404 square feet existing structure

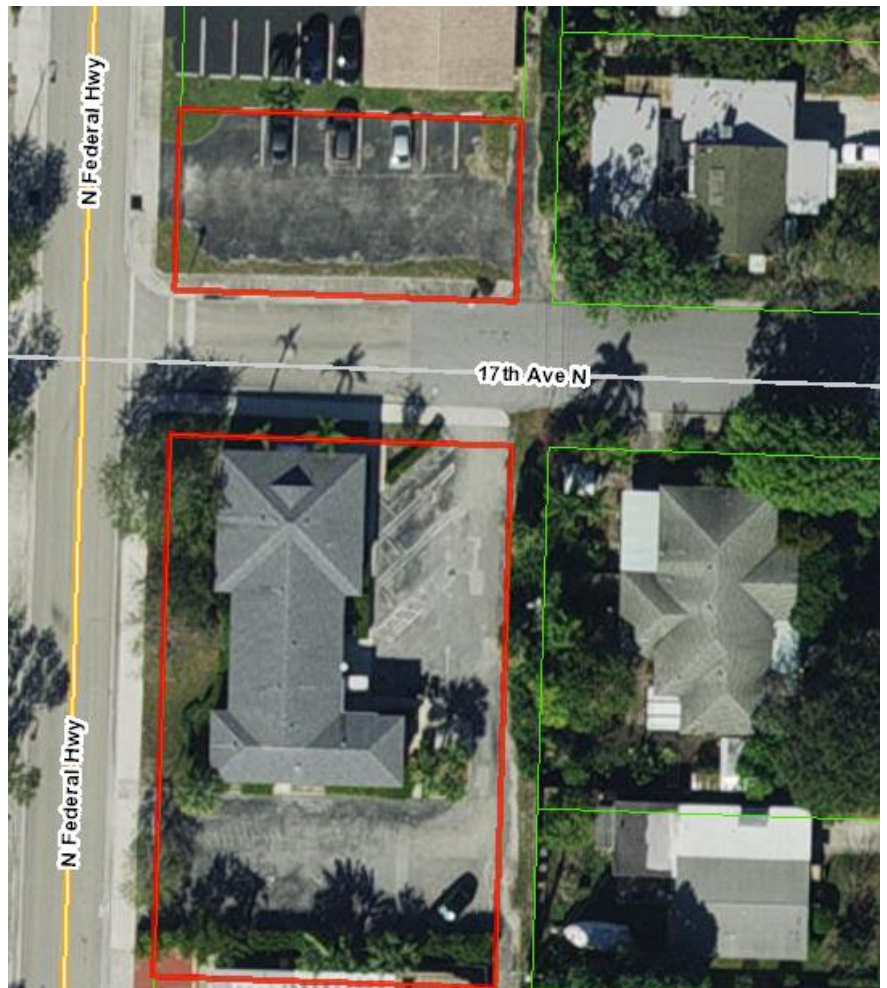
**General Location:** On the northeast and southeast corner of North Federal Highway and 17<sup>th</sup> Avenue North

**Existing Land Use:** Vacant Office Building

**Future Land Use Designation:** Mixed Use – East (MU-E)

**Zoning District:** Mixed Use – Federal Highway (MU-FH)

**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 use is consistent with the Comprehensive Plan, Strategic Plan, and LDRs as conditioned. Therefore, a **recommendation of approval with conditions** is provided to the Planning and Zoning Board. The conditions are located on page 5 of this report.

## PROJECT DESCRIPTION

The applicant, Fernando Capetillo on behalf of Amel Therapy Center, is requesting a **Conditional Use Permit (CUP)** to establish a medium-intensity (up to 7,500 square feet of use area) medical office use (outpatient clinic/medical office) in the Mixed Use – Federal Highway (MU-FH) zoning district. According to the applicant’s justification statement, the medical office will provide counseling sessions and group therapy. The subject property is located on the northeast and southeast corner of North Federal Highway and 17th Avenue North.

## COMMUNITY OUTREACH

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

## BACKGROUND

Below is a summary of the property based on Palm Beach Property Appraiser’s records and City records:

**Construction:** The existing structure was constructed in 1961.

**Use:** The property’s use is vacant office building.

**Code Compliance:** There are no active code cases associated with this property.

## ANALYSIS

### *Consistency with the Comprehensive Plan and Strategic Plan*

The subject site has a Future Land Use (FLU) designation of Mixed Use – East (MU-E). The MU-E FLU 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. The maximum density of permitted residential development is 30 dwelling units per acre. The preferred mix of uses area-wide is 75% residential and 25% non-residential. While mixed-use projects are allowed on a single site, it is not a requirement that each site within the category incorporate multiple uses. 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. The proposed request is seeking to add a medium-intensity medical office to be allowed in the existing ±3,404 square foot vacant office building.

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, IV.D, and V.E of the Strategic Plan state that the City shall achieve economic and financial sustainability through a versatile and stable tax base, influence the supply and expansion of jobs, and support and foster an environment of inclusion and social consciousness. Because the proposed Conditional Use permit will allow for the establishment of a medium-intensity medical office use that will contribute towards the City’s tax base, sustain or increase jobs, and foster inclusion the proposal is consistent with Pillar IV.A, Pillar IV.D, and Pillar V.E.

Based on the analysis above, the proposed Conditional Use Permit, as conditioned, are consistent with the goals, objectives, and polices of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

#### Consistency with the Land Development Regulations

The **Mixed Use – Federal Highway (MU-FH)** zoning district is intended to provide for limited retail, office, hotel/motel and low-density multiple-family residential development. Provision is made for the establishment of the following nonresidential uses: (1) Low intensity office uses; (2) Low intensity personal service uses; (3) Residential apartments as secondary uses in structures with office uses as primary uses; and, (4) Hotels and motels.

**Analysis:** The applicant is requesting a Conditional Use Permit for medium-intensity (use area less than 7,500 square feet) medical office. Based on the data and analysis provided by the applicant, the proposed conditional use is not anticipated to impact the surrounding area greater than multiple uses permitted by right. The building will be served by municipal services, including water, sewer, refuse, fire and police. The site is located on a major collector roadway. Therefore, no additional public expenditures are required to service the proposed use.

The medical office is subject to LDR Section 23.3-6. A medical office use requires a Conditional Use Permit and is also subject to additional supplemental regulations per LDR Section 23.4-13(c)15, *Medical related uses*. The use is consistent with the intent of the MU-FH zoning district as conditioned. The analysis for the conditional use permit is provided in the section below and is consistent with the review criteria located in Attachment A. The proposed medical office use is also consistent with the additional supplemental regulations located in Attachment A.

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 of approval by the development review official is provided on page 2 of this report.

**Section 23.2-29.c), General Procedures:** *The department for community sustainability shall review the application in accordance with these LDRs and prepare a report that summarizes the application and the effect of the proposed conditional use, including whether the application complies with each of the findings for granting conditional uses stated below and provide a recommendation for whether the application should be approved, approved with conditions, or denied.*

**Staff Analysis:** The structure on the property was constructed in 1961. The existing site conditions do not conform to the current LDRs. Therefore, the nonconformities section (23.5-3) of the Land Development Regulations is applicable. The property includes a parcel on the north side of 17<sup>th</sup> Avenue North that accommodates surplus parking. There is no landscaping other than existing turf. As a result, there is no screening of the vehicular use area. This is nonconforming with the LDRs which require parking areas to fully screened from the right-of-way and neighboring properties. The existing nonconformities are not proposed to be increased by the subject Conditional Use Permit request. Further, staff has proposed landscape conditions of approval that will reduce the nonconformities with the City's landscape code. **The proposed Conditional Use Permit is consistent with the City's LDRs based on the following data and analysis:**

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

**Staff Analysis:** The request is for a conditional use without increasing the existing building floor area, and as such additional parking is not required. The site currently has 19 total parking spaces including one (1) handicap space. Per LDR Section 23.4-10(f)(B), 1 space per 250 gross square feet of space is required for medical offices. Therefore, a minimum of 14 spaces is required which the site exceeds.

**Signage:** Signage is required to comply with the size and design requirements in the Land Development Regulations. Any proposed signage will be reviewed at building permit for consistency with these requirements. Any changes to the existing monument/freestanding sign shall bring it into conformance.

**Section 23.6-1. - Landscape regulations:** *The objective of this section is to provide minimum standards for the installation and maintenance of landscaping within the city. Per Section 23.6-1(c)(2), "on the site of a building or open-lot use providing an off-street parking, storage or other vehicular use area, where such an area will not be screened visually by an intervening building or structure from an abutting right-of-way or dedicated alley, shall require landscaping" consistent with this section including a landscape strip ten (10) feet in depth.*

**Analysis:** A landscape plan was found in the City's property records. The existing nonconforming property is lacking required landscaping and is not meeting the intent of LDR Section 23.6-1, *Landscape regulations* and LDR Section 23.2-31.j), *Design guidelines for major thoroughfares*. Staff is proposing conditions to ensure that the site is brought into conformity to the greatest extent feasible and reduce the nonconformity with both the LDRs and Major Thoroughfare Design Guidelines. This will include extending the landscaping along North federal Highway to adequately screen the parking areas and installing a new screened refuse area. In addition, the landscape areas on the perimeter of the northern parking lot shall include shrubs and shade trees in accordance with current landscape requirements.

#### **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 Permit is in general harmony with the surrounding area and consistent with development of the corridor. The requested use is an anticipated use in the MU-FH zoning district. The proposed use will not result in less public benefit nor will it result in more intensive development than anticipated in the zoning district in the comprehensive plan. However, it was noted in the review that there is no existing screened refuse area on the property and additional landscaping will be required. Therefore, staff has proposed conditions of approval addressing these concerns.

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

**Staff Analysis:** The proposed Conditional Use Permit is not anticipated to impact the surrounding area greater than uses allowed on the property and within the zoning district. The building is already served by municipal services, including water, sewer, refuse, fire and police. No additional public expenditures are required to service the proposed use. The site is located on a major collector, and as such traffic flow and movements related to the proposed use is not anticipated to negatively impact the street greater than a use permitted by right. The proposed use will not change the

existing on-site traffic circulation. Staff has proposed landscaping conditions of approval to ensure adequate screening is provided of the vehicular use area and compliance with the LDRs and Major Thoroughfare Design Guidelines.

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

**Staff Analysis:** As of the date of this report transmittal, there is no active code compliance case for the subject property.

## CONCLUSION AND CONDITIONS

The Mixed Use – Federal Highway (MU-FH) zoning district is intended to provide for limited retail, office, hotel/motel and low-density multiple-family residential development. Based on the data and analysis in this report and the supporting materials by the applicant, the requested medical office use is not anticipated to negatively impact adjacent properties as conditioned. Further, the proposed Conditional Use Permit will be compatible with the neighboring uses in the Federal Highway corridor. Therefore, a recommendation of approval is provided to the PZB with the following conditions:

### Planning & Zoning, and Landscaping

1. The medical office shall comply with the following supplemental regulations per LDR Section 23.4-13(c)15., *Medical related uses*:
  - a. Hours of operation shall be weekdays anytime between 8:00 a.m. to 8:00 p.m.
  - b. 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.
  - c. No outdoor storage, outdoor activities, or patient areas, including smoking areas, are permitted.
2. An issued building permit and concurrent minor site plan shall be required prior to the issuance of a business license to install a new refuse enclosure and to install new landscaping to reduce nonconformities with the landscape code in so far as feasible per LDR Section 23.6-1 as follows:
  - a. Extend landscaping along the southwest corner of the property to adequately screen the parking area.
  - b. Supplement the landscaping to match the approved landscape plan on file. Plant substitutions may be reviewed by the City's Horticulturalist.
  - c. Add shrubs and shade trees to the perimeter of the northern parking lot.
  - d. Remove existing non-native invasive Queen Plants from the north side of the property adjacent to 17th Avenue North and replace with native shade trees.
  - e. Remove and replace the existing low-quality Live Oak tree located on the north side of the property adjacent to the parking area entrance.
  - f. Add one live Oak tree in the southern portion of the landscape bed that is adjacent to North Federal Highway.
  - g. Restore/replace all dead turf areas.
  - h. Provide a new screened refuse enclosure.
  - i. Resurface, replace, and/or repair the parking areas based on staff's assessment from a site visit.
  - j. A minimum of 75% of the new plant material must be native to South Florida.

The improvements shall be completed within one (1) year of the subject CUP's approval.

3. Coordinate with Public Works on the location and screening of the refuse area. The location of the screened refuse area shall comply LDR requirements and be approved by the Public Works Department.
4. A new unity of title or evidence of an existing unity of title to combine the parcels shall be required prior to the issuance of a business license.
5. All uses shall meet all the requirements and stipulations set forth in City Code 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 required Business License.

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 either the requested uses.
8. All uses shall comply with the use occupancy requirements for each tenant space as required by the Florida Building Code.
9. Signage shall be reviewed through the building permit process for consistency with the requirements of the Land Development Regulations. Any changes to the existing monument/freestanding sign shall bring it into conformance.

#### **Electric Utility**

1. If any changes will be required to the electric service at this location, the electric utility will require voltage and load calculations along with a riser diagram before or at the time of application for a building permit.

#### **BOARD POTENTIAL MOTION:**

I move to **approve with conditions** the request for PZB Project Number 23-00500010 Conditional Use Permit for a medical office 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** the request for PZB Project Number 23-00500010 Conditional Use Permit for a medical office. 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. Conditional Use Findings
- B. Application Package (survey/site plan, floor plan, and supporting documents)

### ATTACHMENT A - Findings for Granting Conditional Uses

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 as conditioned</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**

Sec. 23.4-13.(c)15. - Administrative uses and conditional uses/Standards/Medical related uses	Analysis
1. <i>All such uses shall front a major thoroughfare;</i>	<b>In compliance</b>
2. <i>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. A waiver may be granted if it can be established that operating hours beyond the specified times will not constitute a nuisance or negatively affect surrounding properties. Under no circumstances shall a waiver be granted if the property is located next to a residential zoning district;</i>	<b>In compliance as conditioned</b>
3. <i>Sufficient/adequate parking shall be documented to serve the needs of the doctors, staff, clients and patients of said use;</i>	<b>In compliance</b>
4. <i>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;</i>	<b>Not applicable</b>
5. <i>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;</i>	<b>Not applicable</b>
6. <i>Once established, said use may not be expanded without conditional use approval regardless of increased size of use;</i>	<b>In compliance as conditioned</b>
7. <i>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.</i>	<b>In compliance as conditioned</b>