

PLANNING AND ZONING BOARD REPORT

PZB Project Number 21-00500005: Consideration of a Conditional Use Permit request to establish a Special Interest Dealership use in the Mixed-Use Dixie Highway (MU-Dixie) District at 701 North Dixie Highway with an accessory museum/gallery use. The request is to establish the proposed use within the current 8,425 square feet commercial building.

Transmittal Date: August 25, 2021

Meeting Date: September 1, 2021

Property Owner: Mc Mow Art Glass Inc.

Applicant: Ragtops Motorcars

Address: 701 N Dixie Highway

PCN: 38-43-44-21-15-212-0141

Size: 0.37-acre site / 8,425 sf. building

General Location: North side of 700 Block on N. Dixie Highway

Existing Land Use: Factory and Retail (McMow Art Glass)

Current Future Land Use Designation: Transit Oriented Development (TOD)

Zoning District: Mixed-Use Dixie Highway (MU-Dixie)



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, and, therefore, a **recommendation of approval with conditions** is provided to the Planning and Zoning Board. The conditions are outlined on page 8 of this report.

PROJECT DESCRIPTION

The applicant, Ragtops Motorcars, is requesting a **Conditional Use Permit** to establish a Special Interest Dealership use with an accessory museum/gallery in the Mixed-Use Dixie Highway (MU-Dixie) District at 701 North Dixie Highway. The site is located on the northwest corner of North Dixie Highway and 7th Avenue North. According to LDRs Section 23.1-12. Definitions, a Special Interest Dealership is *an establishment for the display and sale of antique, classic and collectible vehicles. Antique vehicles are manufactured more than twenty-five (25) years prior to the current year and classic vehicles are manufactured more than fifteen (15) years prior to the current year. Collectible vehicles are limited production vehicles, and do not include vehicles that have been altered in appearance or from manufacturers' specifications.*

The proposed use is described as an establishment to sell and display antique and special interest vehicles. It is the intent of the business to operate as a gallery/museum that displays and sells its displayed items (vehicles) where visitors can also attend private events or visit the establishment during its regular business hours. The proposed hours of operations are four to six days a week from 10am to 6pm, with alternative hours for private events. The applicant stated that very small, manageable events and gatherings, such as a Board of Directors meeting, a milestone birthday, and artists private showings, with a range of 40 to 60 guests per event, would be hosted.

The existing improvements on the property include a one-story commercial building measures 8,425 square feet, and a parking lot with 18 parking spaces located on the rear of the property with access from 7th Avenue North and from the alley located on the rear. Vehicle service and outdoor storage of vehicles are not proposed nor are allowed as part of the request.

COMMUNITY OUTREACH

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

BACKGROUND

Existing Development: The existing improvements on the property include an 8,425 sf, one-story commercial building built in 1961. A parking lot with 18 parking spaces is located on the rear of the property with access from 7th Avenue North and from the alley located on the rear. No modifications to the structure or parking are proposed in the subject request.

Land Use: The building has an active business license for a retail and factory use (fabrication, display and sell of stained glass by McMow Art Glass). For zoning purposes, the existing single-destination retail use is allowed as a Conditional Use in the Mixed-Use Dixie Highway (MU-Dixie). There is no record of a conditional use granted for the subject site. The existing use is allowed to continue as is as long as it remains lawful and complies with the regulations in LDRs Section 23.5-3.e) Nonconformities, or if a conditional use permit is submitted and approved for modifications or expansions of the existing use.

Landscaping: The site currently features three shade trees on the south area of the parking lot. A strip of land without any landscape material is existing between each parking row. It is listed as a condition of approval that the landscaping, where possible, shall be enhanced and brought up to code to the furthest extent possible.

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

ANALYSIS

Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Transit Oriented Development (TOD). Per Policy 1.1.1.8, the TOD land use category is established to promote compact, mixed-use development near proposed or existing transportation infrastructure to encourage diversity in the way people live, work and commute. The preferred mix of uses area-wide is 75% residential and 25% non-residential. All buildings are required to provide transitional buffering and design features to mitigate impact of the TOD sites adjacent to residential zoning districts. The MU-Dixie zoning district is listed as an implementing zoning district for the TOD Future Land Use designation.

The proposed use of a Special Interest Dealership is allowed in the MU-Dixie zoning district as a Conditional Use. The proposal is associated with an existing 8,425 square feet commercial use.

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 commercial business (Special Interest Dealership) 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 is consistent with the goals, objectives, and polices of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

Consistency with the City's Land Development Regulations

The Department of Community Sustainability is tasked in the LDRs to review conditional use applications for consistency with the City's LDRs (Section 23.2-29(i)), for compliance with the following findings for granting conditional uses and to provide a recommendation on the proposed project.

Section 23.2-29.a), Conditional Use Permits: *Conditional uses are defined as generally compatible with the other uses permitted in a district, but that require individual review of their location, design, structure, configuration, density and intensity of use, and may require the imposition of pertinent conditions to ensure the appropriateness and compatibility of the use at a particular location and to prevent or minimize potential adverse impacts to the surrounding area.*

Section 23.2-29.b), Approval Authority: *The planning and zoning board, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions, or deny an application for a development permit for a conditional use permit after review and recommendation by the development review official.*

Analysis: A recommendation by the development review official is provided on page 2 of this report, under Recommendation.

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

below and provide a recommendation for whether the application should be approved, approved with conditions, or denied.

Staff Analysis: The structure on the property was constructed in the early to mid- 1956s. The building 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. If the Conditional Use Permit for Special Interest Dealership is approved as conditioned, a site plan application will be required to address the conditions. **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: A parking lot with 18 parking spaces is located on the rear of the property with access from 7th Avenue North and from the alley located on the rear. The existing use is classified as a Vehicular use. 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. However, the Board may consider requiring the introduction of bicycle rack along the rear of the property (adjacent to the west elevation or where possible in the parking lot without impacting vehicular visibility) to provide and encourage different transportation options to the site, especially as the site is within the TOD Land Use Designation.**

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.

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 principal uses allowed in the MU-Dixie zoning district include residential and commercial uses, such as multiple-family, restaurants and retail. The daily activity of the proposed Special Interest Dealership is similar to a retail establishment, where visitors enter the establishment to browse the items displayed. However, the existing 18 parking spaces on site may not be sufficient to accommodate private gatherings within the 8,400 square feet facility. To ensure that the proposed business continues to be harmonious with the surrounding uses during private events, as proposed, **it is recommended that the board require a parking plan or valet agreement to be submitted to allow the private events as part of the conditional use approval.** In addition, it is listed as a condition of approval that all activities associated with the use must be conducted inside, including activities associated with private events.

With regards to alcoholic beverages, the sale of alcoholic beverages is not allowed as part of the use; however, the serving of alcoholic beverages during private events is requested with this proposal. The serving of alcoholic beverage is consistent with customary operations of a hybrid retail/museum use or museum use, where special events are ancillary to the use's function. The applicant stated that very small, manageable events and gatherings, such as a Board of Directors meeting, a milestone birthday, and artists private showings, with a range of 40 to 60 guests per event would be hosted. The board may

consider limitations on the number of events, hours of operations and occupancy to ensure the use remains ancillary in nature and is consistent with its definition, for zoning purposes, and that it does not negatively impact the neighborhood. **Further, it is listed as a condition of approval that the direct sale of alcoholic beverages to customers of the business is not allowed and that an alcohol license shall not be approved under this Conditional Use Permit.** A subsequent conditional use approval and alcohol distance waiver for a bar would be required to allow the direct sales of alcoholic beverages to customers outside of a special event. **Meets Criterion as Conditioned.**

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: Per LDR Section 23.3-17, the MU-DH district was designed for Dixie Highway, Lake Worth Beach's commercial spine. The MU-DH district is intended to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential use. Certain uses are not permitted by right in this district as some activities may be detrimental to the shopping, office, or residential functions of the area. The subject property is surrounded by commercial uses on three sides, which include a financial office on the north, a gas station with a vehicle service establishment on the east, and a gas station to the south. Nonconforming single-family dwellings, and a multiple-family structure are located on the west (an improved alley separates these properties from the subject site). The use is in harmony with the commercial establishments surrounding it and is complementary to other uses allowed in the zoning district. **Upon submittal of a parking plan for private events, as conditioned in the criteria listed above, the requested conditional use will not be more impactful to the adjacent residential properties than a retail use that is allowed by right. Meets Criterion as Conditioned.**

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

Staff Analysis: The Conditional Use request will not negatively affect the public benefit or cause greater harm than that of a use permitted by right in the MU-DH zoning district. The requested uses are similar in nature and function to permitted uses as conditioned.

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 Conditional Use request to will not result in a more intensive development in advance of the Future Land Use Element of the City's Comprehensive Plan, when its approval is subject to the conditions listed. The Dixie Highway corridor currently functions as major commercial corridor within the City. Further, the proposed use allows for the adaptive reuse of an existing structure built in the 1960's. **Meets Criterion.**

Section 23.2-29.e) Specific findings 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: Historically, the subject building has been occupied by an existing commercial retail and art glass fabrication establishment. The anticipated traffic volume generated by the proposed business should not be higher than the current use, or multiple retail and restaurant uses less than 2,500 sf as

permitted by right as these uses are similar in function and traffic patterns. Therefore, the level of service provided on the adjacent streets should not be any adverse than the existing use or other uses allowed 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 Analysis: The proposed use is not anticipated to significantly affect the volumes of traffic expected on the City's roadway network. The majority of the trips are anticipated to be through the Dixie Highway corridor. The proposed use should not increase traffic through 7th Avenue North as, mentioned previously, the existing use and the proposed use are similar in nature and the similar trip generations and impacts are anticipated, which should not negatively impact the City. **Meets Criterion.**

3. *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.*

Staff Analysis: The proposed Special Interest Dealership will display and sell antique, classic and collectible vehicles; vehicles that are sold to customers will be towed away and shipped to its final destination. No auto repair will be occurring on site. The air pollution emissions anticipated to be produced by the proposed use are compatible with the emissions produced by commercial uses allowed by right. **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 MU-DH zoning district is intended to provide the establishment and expansion of a broad range of office and commercial uses. The applicant is proposing a change of use from a commercial (retail store with ancillary fabrication of stained glass) to another similar commercial/vehicular use (display of vehicles similar to a museum/gallery with occasional private parties). Increase in the traffic volume is not expected to be generated by this change of use, except for the proposed private events. The applicant stated that very small, manageable events and gatherings, such as a Board of Directors meeting, a milestone birthday, and artists private showings, with a range of 40 to 60 guests per event would be hosted. As mentioned previously, the board may consider limitations on the number of events, hours of operations and occupancy to ensure the use does not to significantly affect the volumes of traffic expected on the City's roadway network. **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 businesses will be utilizing the existing infrastructure at the subject site. 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, 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.

Staff Analysis: The proposed Conditional Use is not anticipated to place a demand on municipal police or fire protection service beyond the capacity of those 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 intended hours of operations are from 10 a.m to 6 p.m. and extended hours for private events until 10 p.m. The applicant was made aware of the noise limitation requirements. Given the intended operations and business hours, the proposed conditional use is not anticipated to generate more noise than a use permitted by right. As stated previously, the board may consider limitations on the number of events, hours of operations and occupancy to ensure the use does not to generates unreadable noise.

Meets Criterion.

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.*

Staff Analysis: No change in lighting has been proposed. However, staff has conditioned the request to require the approval of a site plan application, which shall include upgrades to the existing exterior lighting. **Meets Criterion.**

Section 23.2-29.g) Additional requirements.

1. *Any and all outstanding code enforcement fees and fines related to the project site have been paid to the city.*

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

2. *Any previously imposed conditions of approval for the use at the site have been met, if applicable, unless request for amendment of conditions is part of the current conditional use permit application.*

Staff Analysis: This criterion is not applicable as there is no record of an approved site plan for the site.

CONCLUSION AND CONDITIONS

Per LDR Section 23.3-17, the MU-DH district was designed for Dixie Highway, Lake Worth Beach's commercial spine. The MU-DH district is intended to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential uses. Certain uses are not permitted by right in this district as some activities may be detrimental to the shopping, office, or residential functions of the area. Therefore, the establishment of certain uses in the MU-DH zoning district, such as the proposed Special Interest Dealership, are allowed as a Conditional Use Permit to allow for the review and mitigation of potential negative impacts.

The proposed Conditional Use Permit for a Special Interest Dealership is described as an establishment to sell and display antique and special interest vehicles with an accessory gallery/museum use that displays and sells its displayed items (vehicles). Visitors can attend private events or visit the establishment during its regular business hours. The proposed hours of operations are four to six days a week from 10am to 6pm, with alternative hours for private events. The applicant stated that very small, manageable events and gatherings, such as a Board of Directors meeting, a milestone birthday, and artists private showings, with a range of 40 to 60 guests per event, would be hosted.

Based on the information provided in the application and analysis section of this report, the proposal seeks to minimize negative impacts on surrounding properties and complies with the conditional use criteria outlined in LDR Section 23.2.29. Besides the recommended conditions of approval listed below in the 'Conditions' section of the report, the board may consider limitations on the number of events, hours of operations and occupancy to ensure the use is consistent with its definition, for zoning purposes, and that it does not negatively impact the neighborhood.

Section 23.2-29.h) Conditions.

The decision-making authority may impose such conditions in a development order for a conditional use that are necessary to accomplish the purposes of the comprehensive plan and these LDRs to prevent or minimize adverse impacts upon the public, the environment and neighborhoods, and to ensure compatibility, including but not limited to function, size, bulk and location of improvements and buildings, standards for landscaping, buffering, lighting, adequate ingress and egress, site circulation, and hours of operation. Conditions shall be included if conventional standards are inadequate to protect the public interest, surrounding land uses or if additional improvements are needed to facilitate a more thoughtful transition between different uses. The placement of conditions on the approval of a development order shall be the minimum conditions necessary in order for the proposed use to meet all necessary findings, as set forth in this section.

The board may consider limitations on the number of events, hours of operations and occupancy to ensure the use is consistent with its definition, for zoning purposes, and that it does not negatively impact the neighborhood.

The following conditions are recommended:

1. Prior to issuance of a business license, a parking plan or valet agreement shall be provided to detail the parking management for private events and gatherings, which may include a shared parking agreement for valet parked cars. Events greater than 40 people shall be limited to no more than 2 events per month or 24 per year.
 2. The serving of alcohol shall be limited to private events and gathering only as limited by the Board. The sale of alcoholic beverages is not allowed as part of this approval. An alcohol license shall not be approved under this Conditional Use Permit.
-

3. A minor site plan approval is required prior to the issuance of a business license to improve the site appearance and to bring the property to the furthest extent possible into compliance with the City's Land Development Regulations and the Major Thoroughfare Design Guidelines. The following is required:
 - a. Architecture & Design – Changes to the building design and new signage require that the selected design and material comply with the Major Thoroughfare Design Guidelines.
 - b. Landscaping – Shade trees, potted plants and other landscaping where possible shall be provided along the Dixie Highway corridor and 7th Avenue. The location and appropriate landscape materials shall be determined in consultation with the Community Sustainability Department and a landscape permit shall be required.
 - c. Refuse – A refuse/recycling enclosure shall be provided. The location shall be determined in consultation with the City's Public Works Department.
 - d. Lighting – The location of new lighting fixtures shall be provided on the site plan or photometric plan for safety. If LED lighting is utilized than fixture shall have warm tone of 2700 K or less. All lighting fixture shall be shielded in compliance with Dark Skies guidelines.
4. Prior to the issuance of a Certificate of Completion for the interior renovations, improvements required for changes of use and occupancy under the Florida Building Code shall be completed.
5. All activities associated with the use must be conducted inside, including activities associated with private events. No outdoor storage is allowed as part of this approval.
6. Loading and unloading of merchandise/vehicles shall be on-site only.
7. The direct sale of alcoholic beverages to customers is not allowed as part of this approval. An alcohol license shall not be approved under this Conditional Use Permit. Alcoholic beverages served during a special event/private event are exempt from this requirement.

BOARD POTENTIAL MOTION:

I move to **approve** PZB Project Number 21-00500005 with staff recommended conditions for a **Conditional Use Permit** request to establish a Special Interest Dealership use in the Mixed-Use Dixie Highway (MU-Dixie) at 701 North Dixie Highway based on upon the competent and substantial evidence provided in the staff report and in the testimony at the public hearing.

I move to **disapprove** PZB Project Number 21-00500005 for a **Conditional Use Permit** request to establish a Special Interest Dealership use in the Mixed-Use Dixie Highway (MU-Dixie) at 701 North Dixie Highway. 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. Application Package (survey, request letter)