



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

landdevelopmentweb@palmabayflorida.org

Prepared by

Patrick J. Murphy, Assistant Growth Management Director

CASE NUMBER

CU-31-2020

PLANNING & ZONING BOARD HEARING DATE

November 4, 2020

PROPERTY OWNER & APPLICANT

WJJ Land Holdings, LLC
Jacob Bynum, Member

PROPERTY LOCATION/ADDRESS

2726 Kirby Circle NE 32905. Located at the SE corner
of Kirby Circle NE and Taylor Avenue NE

SUMMARY OF REQUEST

Conditional Use Approval for an Automotive Fuel Dispensary

Existing Zoning

LI, Light Industrial and Warehousing District

Existing Land Use

Industrial Use

Site Improvements

The site is presently under construction

Site Acreage

1.6 acres, more or less

SURROUNDING ZONING & USE OF LAND

North

LI, Light Industrial District; (across Taylor) UPS Distribution Center

East

LI, Light Industrial District; Undeveloped Land

South

LI, Light Industrial District; Undeveloped Land

West

LI, Light Industrial District; (across Kirby) Warehouse

COMPREHENSIVE PLAN COMPATIBILITY

Yes

BACKGROUND:

The subject property is located at 2726 Kirby Circle NE 32905, which is at the SE corner of Kirby Circle NE and Taylor Avenue NE. Specifically, the property is Parcel 3.0 of the Falls Commerce Park subdivision; located in Section 23, Township 28 south, Range 37 east, Brevard County, Florida. The size of the property is approximately 1.6 acres.

The property is presently under construction. Falls Commerce Park, which was recorded in the Brevard County Public Records on December 19, 2018, will consist of three (3) parcels for future industrial uses. Parcel 2 is being developed for the Lanta Industrial Park and Parcel 1 is currently for sale. The east 0.91 acres of the subject property (Parcel 3) contains a wetland area with a conservation easement recorded atop.

The applicant, WJJ Land Holdings, LLC. is requesting conditional use approval for an automotive fuel dispensary, as required by Section 185.045(D)(1) of the Palm Bay Code of Ordinances. The applicant is represented by a member of the LLC., Mr. Jacob Bynum.

ANALYSIS:

WJJ Land Holdings owns the property and has established a land lease with the Big Johnson Concrete Placement, LLC. Big Johnson is a family owned and operated provider of concrete pumps, laser screeds, and finishing services based in Stuart, Florida. The Kirby Circle facility is being developed to provide concrete pumping services to Brevard County, and beyond. They are seeking approval to install a 10,000 gallon above ground fuel tank that will provide fuel to their fleet of vehicles. This is not a retail automotive fuel facility that will be open to the public, the on-site fueling apparatus is solely for Big Johnson operations.

CODE REQUIREMENTS:

To be granted conditional use approval, requests are evaluated upon items (A) through (I) of the General Requirements and Conditions of Section 185.087 of the Code of Ordinances. A review of these items is as follows:

Item (A): Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of emergency.

Sole access to the site is via the existing driveway onto Kirby Circle. There are no other driveways proposed or anticipated at this time.

Item (B): Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor or other detrimental effects upon adjoining properties.

Based upon the uses of the property, which are considered as Industrial Activities in the City's Parking Code, one (1) parking space shall be provided for every employee, or one (1) space for each 1,000 square feet of gross floor area, whichever is greater, plus one (1) space for each company vehicle operating from the premises. Site plan approval for Big Johnson was granted on November 20, 2019 (Sp #1354). Proposed site improvements indicate a 3,600 square foot operations building with four (4) paved parking spaces. In addition, a 36,000 square foot stabilized area will be provided for vehicle and equipment storage.

Item (C): Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

The proposed building will be connected to the City's water distribution and sewer collection systems. The property has both electric and phone services.

Item (D): Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.

The proposed use is considered an allowable business service use in the LI zoning district. Per discussions with staff a 6' tall security fence will enclose the storage yard. As this site is located in the Kirby Industrial area, additional screening does not appear warranted.

Item (E): Signs, if any, and proposed exterior lighting will be so designed and arranged to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.

Lighting and signage were not indicated on the approved site plans. It shall be noted that City codes require all lighting to be shielded and/or directed downward to avoid creating a nuisance to adjacent properties. Only one (1) detached sign would be allowed and it must meet all applicable location and dimension criteria.

Item (F): Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

The yards and open space requirements of the Zoning Code have been met.

Item (G): The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity.

Per City Code Section 185.045(D)(1)(a): All pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest residentially owned land. No pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from

any municipal or public supply well. Upon review of the conceptual site plan, the proposed above ground tank location is approximately 660' west of the nearest residentially-owned land, 31' west of the nearest building, 27' north of the nearest property line, and almost 2 miles due north from the nearest municipal or public supply well.

Item (H): The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

As stated above, the facility is an allowable use in the LI zoning district. To ensure compatibility with adjacent properties, staff recommends that the project is supplied with the latest safety protocols, to include: protection bollards on all sides of the tank that are adjacent to vehicular areas, employment of a leak detection system, and that a double-walled steel tank is used.

Item (I): Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, a reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

The Board and Council have the authority and right to impose any additional and justifiable safeguards, and/or conditions, to ensure that the facility operates safely and harmoniously with its surroundings.

Additional Staff Comments:

The Public Works Department (PWD) has identified the Brevard County Natural Resources Management Department as the responsible party for ensuring compliance with Chapter 62-761 and 62-762, of the Florida Administrative Code, which regulates petroleum storage facilities. Big Johnson must submit the above-ground storage tank specifications to the County for review and inspection of the facility. The PWD has requested copies of the compliance documentation, once provided by the County, and that all inspection records be kept on-site.

STAFF CONCLUSION:

The Planning and Zoning Board and City Council must determine if the request meets the criteria of Section 185.087 of the Palm Bay Code of Ordinances.