



STAFF REPORT

LAND DEVELOPMENT DIVISION

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Prepared by

Kimberly Haigler, GIS Planner

CASE NUMBER

CU23-00016

PLANNING & ZONING BOARD HEARING DATE

November 1, 2023

PROPERTY OWNER & APPLICANT

Azror Ashrapov, AZAD Business Corp.
(Kevin Arbour, Rep)

PROPERTY LOCATION/ADDRESS

A portion of Lot 10, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 0.3 acres. Located east of and adjacent to Dixie Highway NE, in the vicinity south of the intersection of Dixie Highway NE and Anglers Drive NE, specifically 4391 Dixie Highway NE. Tax Account 2832838

SUMMARY OF REQUEST

A Conditional Use to allow outdoor dining at a dining establishment within the Bayfront Mixed Use Village District, in accordance with Section 185.053(D)(3) of the Palm Bay Code of Ordinances.

Current Zoning

BMUV, Bayfront Mixed Use Village District

Current Land Use

COM, Commercial

Site Improvements

Two Existing, Two-Story Structures

Site Acreage

Approximately 0.3 acres

SURROUNDING ZONING & USE OF LAND

North

HC, Highway Commercial District; Gas Station

East

RS-1, Single-Family Residential District, Single-Family Home

South

HC, Highway Commercial District, VFW Post

West

BMU, Bayfront Mixed Use District, Vacant Two-Story Structure

COMPREHENSIVE PLAN

COMPATIBILITY

Yes, Commercial Use

BACKGROUND:

The subject property is approximately 0.3 acres and located east of and adjacent to Dixie Highway NE, in the vicinity south of the intersection of Dixie Highway NE and Anglers Drive NE. The property is identified as a portion of Lot 10, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, specifically addressed 4391 Dixie Highway NE with tax account 2832838.

The applicant has remodeled the site's existing two-story buildings and seeks to re-open a restaurant at this currently unoccupied location. The conditional use request is to allow outdoor dining as an accessory to an eating establishment.

The site is a pre-existing, non-conforming, lot of record with a pre-existing, non-conforming structure. In 2009, all site plan, landscaping, and parking requirements for an eating establishment with outdoor dining were met and site plan #1247 received administrative approval. The parking requirements for 102 seats and 12 staff are met through a perpetual grant of easement with the VFW site to the south and by a parking variance with the city (V-02-2009).

ANALYSIS:

Section 185.053(D)(3) of the Code of Ordinances establishes outdoor dining as conditional use in the Bayfront Mixed Use District. The previously approved restaurant site plan has been provided.

The proposed Conditional Use will be an Accessory Use to the Principal Use of a dining establishment. The applicant is re-using a vacant structure to open a family-friendly, full-service seafood restaurant with operating hours of 11am-9pm on weekdays and 11am-10pm on weekends. There will be no extended hours for the bar. This will ensure the site's compliance with the noise ordinance standards.

The applicant has demonstrated compliance with the Citizen Participation Plan as outlined in Section 169.005 of the Land Development Code and the community meeting was held on September 5, 2023.

CODE REQUIREMENTS:

To be granted conditional use approval, requests are evaluated upon items (A) through (H) 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 fire or other emergencies.

An ingress is provided at the front of the building off Dixie Highway NE and the egress is at the rear of the building off Ridge Road NE. The drive aisle meets the minimum of twenty-five (25) feet width for one way traffic. There is an existing sidewalk along Dixie Highway NE. It shall be noted that any future modifications will require FDOT review, and that driveway conditions be met.

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.

The general off-street parking area is located at the front of the buildings facing Dixie Highway NE and provides 24 parking spaces. An additional 20 spaces are provided through perpetual grant of easement with the VFW property directly to the south and by a parking variance with the City (V-02-2009). Staff is requiring that total guest seating be limited to 102 and that wheel stops be in place at every parking space as delineated on site plan #1247.

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

All utilities connections are pre-existing on this site. No upgrades will be required.

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

There is a pre-existing 6 ft cement wall that runs 350ft along the east side of Ridge Road NE, effectively providing a visual and sound screen for the residential area. The general parking area, main entrance, and outdoor dining area is located along the front of the buildings, along Dixie Highway NE. The dumpster enclosure is at the front of the buildings, opening south, towards the VFW parking lot as part of their pre-existing shared parking agreement.

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.

Applicant will be utilizing the pre-existing permitted signage and lighting on the site which conforms to current standards. Any modification to either will require a new permit application and administrative review. It shall also be noted that City codes require any lighting to be shielded and/or directed downward to avoid creating a nuisance to adjacent properties.

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

Open space is limited on the non-conforming lot; however, narrow landscaped areas provide a visual buffer and prevent the flow of traffic onto the commercial properties to the north and south. The existing approved site plan was previously determined to conform to compatibility standards.

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. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

The proposed restaurant will have operating hours of 11am-9pm on weekdays and 11am-10pm on weekends and the bar will not offer extended hours. These hours will ensure compliance with the noise ordinance standards. The one-way flow of traffic through the site, with ingress off Dixie Highway NE and egress onto Ridge Road NE provides safe movement and maneuverability of vehicles.

Item (H): 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.

STAFF FINDINGS:

Staff recommends Case CU23-00016 for approval, subject to the staff comments contained in this report.



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



SITE LOCATION MAP

CASE: CU23-00014 &
CU23-00016

Subject Property

East of and adjacent to Dixie Highway NE, in the vicinity south of the intersection of Dixie Highway NE and Anglers Drive NE



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AERIAL LOCATION MAP

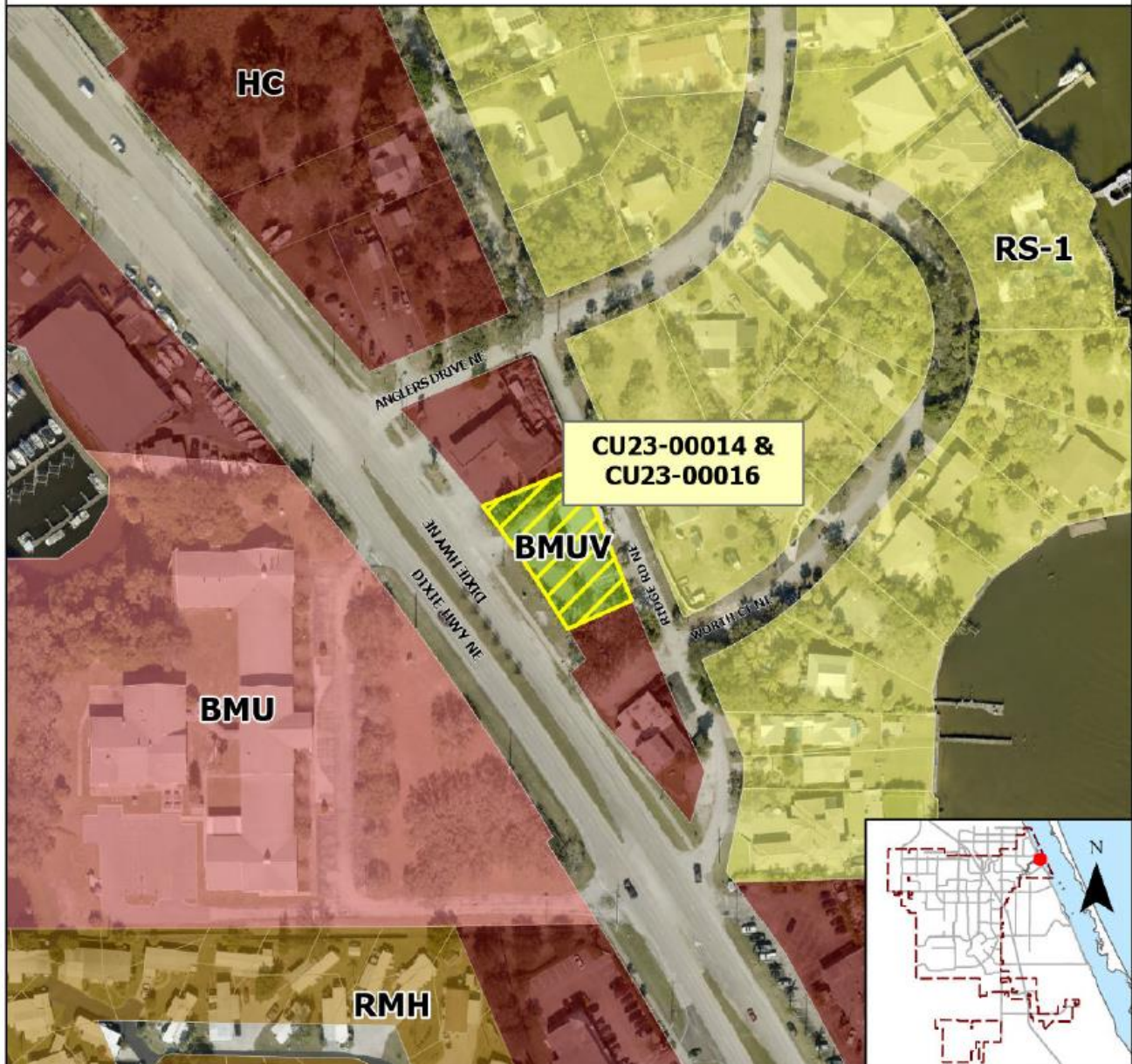
CASE: CU23-00014 &
CU23-00016

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ZONING MAP

CASE: CU23-00014 &
CU23-00016

Subject Property

East of and adjacent to Dixie Highway NE, in the vicinity south of the intersection of Dixie Highway NE and Anglers Drive NE

Current Zoning Classification

BMUV - Bayfront Mixed Use Village



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FUTURE LAND USE MAP

CASE: CU23-00014 &
CU23-00016

Subject Property

East of and adjacent to Dixie Highway NE, in the vicinity south of the intersection of Dixie Highway NE and Anglers Drive NE

Future Land Use Classification

COM - Commercial