

**TOWN OF JUPITER STAFF REPORT FOR PENNOCK SQUARE
TOWN MANAGER'S OFFICE**



DATE: September 6, 2022
TO: Honorable Mayor and Members of Town Council
THRU: Frank J. Kitzerow, Town Manager
FROM: John Sickler, Director of Planning and Zoning **JS**
SUBJECT: **Pennock Square** – Special Exception and Site Plan amendment applications to change the use designation of two bays: a 2,474 square foot bay from retail to restaurant and a 3,658 square foot bay from indoor recreation to exercise studio; and modify the approved shared parking agreement for the 43,597 square foot shopping center, on a 4.2± acre property located at 901 West Indiantown Road.

Resolution #81-22
PZ 22-5181 & 5182
P. Begovich

P&Z Commission: 09/13/22
Town Council: 10/20/22 (quasi-judicial)

Project Information

Project Name: Pennock Square
Property Owner/Applicant: NRF Pennock LLC (see Attachment A)
Agent: 2GHO, Inc.
Location: 901 West Indiantown Road
Acreage: 4.2± acres
Present land use designation: Commercial
Present zoning: Indiantown Road Overlay (IOZ) Parkway district with underlying C-2 (Commercial, General) zoning
Existing uses: 42,594 square foot Shopping Center with Retail, Medical and Dental Clinics, Restaurant, and Indoor Recreation uses.
Request: Special Exception and Site Plan Amendment to allow:

- A restaurant (a special exception use) in a 2,474 square foot bay currently designated retail;
- An exercise studio in a 3,658 square foot bay currently designated indoor recreation;
- Modify the approved shared parking agreement to increase the restaurant and exercise studio uses and reduce the retail and indoor recreation uses (see Attachment B).

The Department of Planning and Zoning recommends **approval** of the applicant’s request subject to the conditions of approval shown in Exhibit 1.

Project Data

Pertinent site plan data and information in reference to the application is listed below:

Table 1: Adjacent Properties

Direction	Existing Land Uses	Future Land Use Zoning Districts
North	Residential Duplexes	High Density Residential/ R-2 Residential, Single-Family, Duplex zoning
South	Commercial (Bank, Medical, Office, Retail); Conservation (Jones Creek Preserve)	Commercial IOZ Parkway district with underlying C-2, Commercial, General zoning.
East	Commercial (Allure medical office; Pennock Professional Plaza); Residential Duplexes	Commercial/ IOZ Parkway district with underlying C-2, Commercial, General zoning and High Density Residential/ R-2 Residential, Single-Family, Duplex zoning
West	Commercial (River Place office uses)	Commercial/ IOZ Parkway district with underlying C-2, Commercial, General zoning

Table 2: Site Plan Information

	Zoning district requirements	Existing conditions
Minimum lot area	15,000 square feet	181,254 square feet
Minimum lot width	75 feet	495 feet
Minimum lot depth	150 feet	364 feet
Maximum lot coverage	35.0 percent	27.9 percent

Table 3: Greenspace Information

	Zoning district requirements	Existing conditions	Owner’s proposal
Greenspace area	30.0 percent	10.1 percent	10.2 percent

Table 4: Building Data

Uses	Existing Uses (square feet)	Proposed Uses (square feet)	Change
Retail	22,258 square feet	19,784 square feet	-2,474 SF
Medical or Dental	9,166 square feet	9,166 square feet	0 SF
Restaurant	8,515 square feet	10,989 square feet	+2,474 SF
Exercise Studio	0 square feet	3,658 square feet	+3,658 SF
Indoor Recreation	3,658 square feet	0 square feet	-3,658 SF
Total	43,597 square feet	43,597 square feet	0 SF

Table 5: Traffic

	Data
Satisfies PBC/Town of Jupiter TPS	Yes
Average daily trips	0 ADT increase (from 1,905 to 1,905 trips)
Peak hour trips - Roadway link of Indiantown Road from Center Street to Military Trail	2-way Peak Hour at LOS D: 4,880 Peak Hour
Peak hour trips – Weekday	3 AM net peak hour trips increase 1 PM net peak hour trips increase

History and Background

The subject property was developed as a shopping center called Woods Plaza in the late 1970's. It would later be known as Jupiter Reserve and is now called Pennock Square. The Town Council has approved multiple restaurant special exceptions over the years and also added shared parking in 2011, which has been updated as changes in use have occurred. The most recent change in use was approved administratively on August 24, 2022, to convert a 1,018 square foot of restaurant in Bay 12 and 13 to medical or dental clinic to allow a med spa.

The subject request is to change the use of a vacant 2,474 square foot bay from retail food establishment to a restaurant (a special exception use) to construct a La Granja Peruvian restaurant and to change the use of a 3,658 square foot indoor recreation bay to allow an 'exercise' studio use.

- On June 19, 2018, the Town Council approved a special exception to allow up to 10,633 square feet of restaurant at the shopping center.
- Currently, 8,515 square feet are designated for a restaurant and the subject application would increase the area designated as restaurant to 10,989 square feet, 356 more than may currently be approved by staff under the current special exception.
- As a part of the review, the applicant has requested that Madabolic Gym, currently operating in a 3,658 square feet bay designated for indoor recreation, be re-classified as an 'Exercise Studio' based on their limited hours of operation (closes at 6:30 p.m.) and that the business operates with a limited number of students in each class, similar to an art, dance, or music studio. This request will allow the use to be parked under the "Studio - Art, dance or music" ratio of 1 per 300 square feet of gross floor area (GFA), provided in Section 27-2828 Table 1. The proposal will reduce the existing parking requirement of 1 per 200 square feet of GFA for the bay. The entire property currently operates under an approved shared parking agreement and both requests modify the parking demand under the agreement.
- During their June 19, 2018 meeting to consider increasing the restaurant special exception use at the subject property, Town Council expressed concerns with the adequacy for restaurant parking, unscreened dumpsters, lighting, and safety in the rear of the plaza (see Attachment C). As a part of the development review of subject request, staff requested the applicant to address site specific concerns previously raised by the Town Council.

Analysis

This section analyzes the land development regulations and notes the application's inability or ability to satisfy all applicable development provisions of the Town Code and Comprehensive Land Use Plan (CLUP). The analysis is as follows:

Comprehensive Land Use Plan (CLUP) Consistency. The proposed development is in conformance with Commercial land use designation of the Future Land Use element of the CLUP.

Indiantown Road Overlay Zoning District, (IOZ). Pursuant to Section 27-1524, entitled "Use regulations", a restaurant is a special exception use within the Indiantown Road Overlay Zone (IOZ) Parkway district with underlying C-2, Zoning District. Special exception uses typically have unique characteristics that could affect the character and use of the surrounding properties and undergo an additional review process. While minor amendments to special exceptions can be approved administratively, the proposal is to add another separate restaurant not to increase an

existing restaurant size. Further, the Town Council expressed the concerns noted above, which Staff determined warranted a public hearing review.

Site Plan. The proposed development's site plan is in conformance with the requirements of Chapter 27, entitled "Zoning" with the staff recommended conditions of approval.

- As a part of the review this application, the Jupiter Police Department was asked to provide recommendations to increase the nighttime safety of the shopping center. District One Commander, Captain Michael Barry identified concerns including insufficient site lighting, tree limbs blocking light fixtures, Australian pines creating hiding spaces and blocking visibility, and the condition of the pavement and striping in drive aisle behind the plaza.
- To address concerns related to site lighting, the applicant has produced a lighting study that recommends a new photometric plan, new LED lighting fixtures, re-lamping the wall mounted fixtures, addressing the lighting on the north side (rear) of the plaza, tree trimming, and repairing the sign lighting (see Attachment D). Staff is **recommending a condition of approval requiring the applicant provide an updated photometric plan that meets current Town Code prior to the issuance of development permits and to bring the site into conformance with the photometric plan prior to receiving a certificate of occupancy for the restaurant.**
- To address concerns related to the Australian Pines, the Owner removed all of the Australian Pines, which were located on the northwest corner of the property, and has proposed new landscaping as a replacement. Additionally, in response to the safety concern, the Town's Engineering Department removed a large stand of Australian Pines and other exotic vegetation from the Town's unbuilt Todd Street right of way, which abuts Pennock Square's west property line and continues north to Seneca Street.
- To address the condition of the drive aisle behind the plaza, the applicant has represented to staff that they have budgeted to repave and restripe the parking lot, including the drive aisle in the rear of the plaza in the next two to three years to rectify the issues. The Town Engineer has inspected the current condition of the pavement and striping in the rear of the plaza and found that the service alley pavement is in poor condition and the striping is effectively non-existent. To ensure the alley remains in a serviceable condition until the repaving is completed, and to ensure that the repaving project is completed in a timely manner staff is **recommending a condition of approval requiring the pavement on the north and west side of the shopping center be seal coated and restriped within 3 months of approval and repaved within 24 months of approval.**
- During a site visit on May 23, 2022, staff noted unscreened dumpsters and an unscreened external waste oil recycling tank that was not included on the site plan. The applicant responded by removing the extra dumpsters and increasing their garbage pick-up. The location and screening of the used waste oil container was provided on the site plan. To ensure dumpsters and waste oil containers without enclosures do not reappear, staff is **recommending a condition of approval prohibiting unscreened dumpsters and waste oil containers.**

Landscape Plan. The proposed development is in conformance with Chapter 23, entitled, "Landscaping" with the staff recommended conditions of approval.

- The current minimum greenspace for properties in the Indiantown Road Overlay (IOZ) district with underlying C-2 zoning is 30 percent, which was not required at the time the plaza was approved. The proposed landscape plan increases greenspace on the site from 10.1 percent to 10.2 percent by reducing pavement and providing new landscape screening around the existing dumpster enclosures on the north and west sides of the property.

- The applicant has proposed to provide a new cocoplum perimeter hedge along the north property line abutting residential and along the west property line, north of the cross access drive connecting the property to River Place.
- The applicant has proposed to replace the eight (8) struggling fox tail palms with Green Buttonwood Trees and add a note saying that “All Dead or Damaged Oak Trees On Site Shall Be Replaced / Substituted in the Future with Gumbo Limbo Trees 12’ O.A.” Green Buttonwood and Gumbo Limbo trees thrive in the alkaline soils and challenging environment of a south Florida parking lot with constrained planting areas. By incorporating new Green Buttonwood trees into the site now, and more Gumbo Limbo trees over time, a more robust tree canopy will ultimately be achieved at the project.
- The Plant List on the Landscape Plan only lists some of the new plants being added, a condition is recommended to update the Plant List to provide all species of trees and palms on the property.
- Landscape maintenance issues have been noted by Natural Resources staff at the project. To ensure that the landscaping is brought into compliance, staff is **recommending conditions of approval that requires all of existing landscape to be brought into conformance with the landscape plan prior to the completion of the new restaurant.**

Parking. The proposed development is in conformance with Section 27-2828 entitled, “Standards for required off-street parking and loading spaces” and Section 27-2830 entitled “Shared parking”.

- In 2011, the subject property obtained Town Council approval for shared parking; however, it was not executed until 2014 (see Attachment E).
- As part of the proposal, the applicant has updated the shared parking table on the site plan including the total of 10,989 square feet of restaurant use and 3,658 square feet of Exercise Studio as shown in Table 6 below.

Table 6: Parking

Shared parking calculations.						
		Weekday			Weekend	
Uses (square footage)	Minimum code requirements	12:00 am - 6:00 am	9:00 am - 4:00 pm	6:00 pm - 12:00 am	9:00 am - 4:00 pm	6:00 pm - 12:00 am
Retail (19,784 SF)	79.14 (1 per 250)	3.96 (5%)	55.40 (70%)	71.22 (90%)	79.14 (100%)	55.40 (70%)
Medical (9,166 SF)	45.83 (1 per 200)	2.29 (5%)	45.83 (100%)	4.58 (10%)	4.58 (10%)	2.29 (5%)
Restaurant (9,281 SF)	109.19 (1 per 85)	10.92 (10%)	54.59 (50%)	109.19 (100%)	54.59 (50%)	109.19 (100%)
In-line Restaurant (1,708 SF)*	6.83 (1 per 250)*	0.68 (10%)	3.42 (50%)	6.83 (100%)	3.42 (50%)	6.83 (100%)
Exercise Studio (3,658 SF)	12.19 (1 per 300)	1.22 (10%)	4.88 (40%)	12.19 (100%)	8.54 (70%)	12.19 (100%)
Indoor Recreation (0 SF)	0 (1 per 200)	0.00 (10%)	0.00 (40%)	0.00 (100%)	0.00 (70%)	0.00 (100%)
Total Req. (43,597 SF)	253	19	164	204	150	186
Minimum required parking with shared parking	204 19.4% reduction (204/253), 25% is maximum allowed					
Provided Parking	216					
Reduction based on provided parking	14.6% reduction (216/253), 25% is maximum allowed					

*Per Section 27-2828, shopping centers receive a five (5) percent credit for in-line restaurant square footage that can be parked at 1 per 250 square feet; however, the peak usage percentages were based on the restaurant use.

- The property currently has a ten (10) percent reduction in required parking through a shared parking agreement. The current approved site plan requires 240 parking spaces at 100% parking demand and 216 shared parking spaces are provided.
- The proposed special exception increases restaurant use which peaks at different times from the existing medical and retail uses on site.
- The proposed special exception for a total of 10,989 square feet of restaurant is 351 more square feet of restaurant than Town Council approved in 2018. However, since more medical offices have been added since then, the shared parking demand is lower than the 2018 application (204 spaces rather than 216).
- The applicant request also includes for Madabolic Gym to be parked at the “Studio - Art, dance or music” ratio of 1 per 300 square feet of gross floor area (GFA), The proposal will reduce the existing parking Indoor Recreation requirement of 1 per 200 square feet of GFA for the bay.
- The justification for the lower parking ratio is based on the hours of operation (close at 6:30 p.m., when typical indoor recreation parking demand is peaking) and that the business operates with a limited number of students in each class, similar to an art, dance, or music studio.
- Staff notes that if the Madabolic Gym were to revert to Retail in the future, the peak shared parking demand would increase by one (1) to 205 parking spaces.
- At the request of staff, the applicant provided a parking demand study that occurred on June 30, 2022. The parking study found that a maximum of 40 percent of the total parking spaces were utilized, including 42 percent of the spaces behind the building and 41 percent in the main parking lot. Staff notes that when the parking study occurred,

8,515 square feet of restaurant space and Madabolic Gym were operational (see Attachment F).

- Staff also analyzed the proximity of parking to the existing and proposed uses. Pursuant to Section 27-2833 on-site parking spaces shall be located within 400 feet from the use they are intended to serve. All of the parking provided on site is within 400 feet of the shopping plaza. The plaza meets the code with regards to shared parking and parking proximity.

Traffic. The proposed application is in conformance with Palm Beach County and the Town's traffic performance standards.

- The applicant submitted a traffic study, dated August 2, 2022, which demonstrates the anticipated traffic generation (see Attachment G).
- It should be noted that the traffic study indicates a slightly lower 'approved' square footage amount for medical office than shown on the site plan. This is because the same traffic study was provided for a minor site plan amendment to convert 1,018 square foot of restaurant space to medical office that was approved by staff on August 24, 2022. Staff notes that the 'proposed' square footages listed on the traffic statement match the proposed use square footages within the plaza.

Landscape median contribution. Pursuant to Section 23-76, entitled "Landscape median contributions" a landscape median contribution totaling \$40.04 per linear foot is required to be provided for the frontage along Indiantown Road. Based on the 494.7 feet of frontage, a total of \$19,807.79 will be required to be paid prior to the issuance of any development permits. Therefore, staff has **recommended a condition that the Owner submit a contribution of \$19,807.79 to be used for the landscaping the Indiantown Road median.**

Easement. Pursuant to Section 25-264, entitled "Utility easements," where possible, utility easements ten feet wide should be provided for underground utilities across that portion of the lot adjacent to a street. Additionally, Section 27-868(6) entitled "Underground utilities", requires all above ground utility services along Indiantown Road to be located underground. The survey of the subject property does not show a 10-foot wide utility easement along the frontage of Indiantown Road. Therefore, to provide for an easement that will allow the future undergrounding of overhead utilities, **staff recommends a condition of approval requiring a 10-foot wide utility easement along the frontage of Indiantown Road.** Staff notes that the shopping center has not yet been required to contribute to funding the undergrounding of utilities along Indiantown Road, as the changes to date have not trigger the requirement.

Site Plan Criteria.

Section 27-175, contains minimum criteria for review of all site plan applications processed. Upon review of the 12 criteria in Section 27-175, staff finds that the Applicant has 11 of the 12 criteria. The criterion that is not satisfied is:

3. Is the application consistent with all applicable land development regulations and all other portions of the Jupiter Town Code.

Staff has provided conditions of approval for the following code sections that will insure that the proposed development is in compliance.

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- 1) Section 23-67 entitled “Completion of landscape improvements”
- 2) Section 23-76, entitled “Landscape median contributions”
- 3) Section 25-264, entitled “Utility easements,”
- 4) Section 27-2244, entitled “Screening”
- 5) Section 27-2592, entitled “General regulations”

Special exception criteria.

Section 27-177, contains minimum criteria for review of special exception applications. Upon review of the criteria in Section 27-177, staff finds that the applicant has satisfied all of the minimum criteria.

Attachments:

Exhibit 1 - Conditions of approval

Attachment A – Disclosure of Ownership Interest

Attachment B – Statement of Use

Attachment C – Pages from 6/19/18 Town Council Minutes

Attachment D – Lighting Study

Attachment E – Recorded Shared Parking Agreement

Attachment F – Parking Study

Attachment G – Traffic Statement

* Please contact Peter J. Begovich at peterb@jupiter.fl.us or 561-741-2473 in order to obtain a copy of the proposed plans or any attachments.

File Path: \\Jupiter.fl.us\dept\PlanningZoning\Staff\WP51\PROJECTS\Jupiter Reserve (AKA Pennock Square and PKA see Woods Plaza)\PZ 22-5181 & 5182 SP-SE to Add Restaurant\Staff Report\2022.09.13 PZC STAFF REPORT.docx
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Conditions of Approval

The recommendation for approval is subject to the following conditions:

- 1) The Owner shall install and maintain all improvements in compliance with the following:
 - a) Site Plan, prepared by Gentile, Holloway, O'Mahoney & Associates, Inc., referenced as "SP-1.0", dated 08/01/22, received and dated by the Department of Planning and Zoning on 08/02/22.
 - b) Landscape Plan, prepared by Gentile, Holloway, O'Mahoney & Associates, Inc., referenced as Sheet LIP-1 and LIP-2, , dated 08/02/22, received and dated by the Department of Planning and Zoning on 08/02/22.
 - c) La Granja Restaurant Floor Plan, prepared by Arco Architects, referenced as Sheet A-201, dated 12/02/21, received and dated by the Department of Planning and Zoning on 05/12/22.
 - d) Madabolic Gym Floor Plan, prepared by Steve Siebert Architecture, Inc., referenced as Sheet A-1.1, dated 02/03/21, received and dated by the Department of Planning and Zoning on 08/02/22.
 - e) Traffic Statement, prepared by PTC Transportation Consultants, dated 08/02/22, received and dated by the department of Planning and Zoning on 08/02/22.
 - f) Statement of Use, prepared by Gentile, Holloway, O'Mahoney & Associates, Inc., dated 08/30/22, received and dated by the Department of Planning and Zoning on 08/30/22.
- 2) The uses conducted on the subject property shall be consistent with the Statement of Use, dated 08/30/22, received and received by the Department of Planning and Zoning on 08/30/22.
- 3) Any revisions to the site plan, statement of use, or other details submitted as part of this application, including but not limited to the location of the proposed improvements or additional, revised or deleted colors, materials, or structures, or changes to how the use operates, shall be submitted to the Department of Planning and Zoning and shall be subject to its review and approval.
- 4) **Photometric Plan.** Upon the submittal of the final plans and prior to the issuance of any development permits, revise the photometric plan for the review and approval of the Department.
- 5) **Restaurant Use.** Prior to the issuance of a Certificate of Occupancy or Completion for the restaurant use in Bay 21 and 22 the lighting shall meeting the Town Code standards..
- 6) **Exercise Studio Use.** The proposed exercise studio shall operate similar to a dance studio with scheduled class times and shall not provide open time to exercise like a standard fitness center or gym. The Exercise Studio Use in Bay 26 and 27 shall be subject to the following:
 - a) Classes shall be staggered in times with a minimum of 15 minutes provided between each class session.
 - b) Classes shall be limited to a maximum of 10 customers.

- c) Customers are not permitted to use the exercise studio space or equipment unless a class is scheduled.
- 7) Within three (3) months of approval by the Town Council (January 20, 2023), the owner shall sealcoat and restripe the vehicle use area north and west of the shopping center building.
- 8) Within 24 months of approval by the Town Council (October 20, 2024), the owner shall repave the vehicle use area north and west of the shopping center.
- 9) **Landscape Plan.** Upon the submittal of the final plans and prior to the issuance of a development permit for the medical or dental clinic interior alteration permit in Bays 12 and 13, the owner shall revise the landscape plan of record to update the Plant List (LIP-1) to include all the species of trees and palms shown on the landscape plan (LIP-2).
- 10) **Landscape Maintenance.** Prior to the issuance of a Certificate of Occupancy (CO) or Certificate of Completion (CC) for the interior alteration permit for the buildout of the restaurant in Bays 21 and 22, the owner shall:
 - a) Remove the Foxtail palms and amend the soil of the eight (8) existing landscape diamonds.
 - b) Bring all existing landscaping into conformance with the Landscape Plan and provide an "As built" plan that shows all additional material, specifically the Crape Myrtles in the east and south buffers;
 - c) Provide a landscape certification letter from the Landscape Architect of record.
- 11) **Landscape Median Contribution.** Prior to the issuance of development permits, the owner shall contribute \$19,807.79 (494.7 feet of frontage X \$40.04 per linear foot) to be used on the Indiantown Road median pursuant to Section 23-76, entitled "Landscape Median Contributions".
- 12) **Easements.** Upon submittal of the final plans and prior to the issuance of any development permits, the Owner shall submit to the Department a draft 10-foot wide utility easement with sketch and legal description across the full frontage of the site along Indiantown Road. The draft document with sketch shall be subject to the review and approval of the Town Engineer and Town Attorney. Prior to the issuance of a Certificate of Occupancy, the Owner shall submit to the Department a copy of the executed and recorded easement.
- 13) **Screening.** Unscreened dumpsters and unscreened waste oil containers are prohibited.
- 14) The placement of any type of vending machines or units which dispense food, beverages, candy, merchandise, products, goods, propane, handbills, or advertising magazines on the exterior portions of the subject property within public view, is prohibited.
- 15) The conditions of approval herein shall apply to the Owner, Applicant, and their successors and assigns.