

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.:
Application Name:
Control No.:
Applicant:
Owners:
Agent:

Telephone No.:
Project Manager:

W-2018-01718
Fountains of Boynton - LA Fitness Waiver
1990-00030
G&I IX Fountains Center, LLC
G&I IX Fountains Center, LLC
JMorton Planning & Landscape Architecture - Jennifer Morton and Lauren McClellan
(561) 721-4463, (561) 371-9384
Carlos Torres, Senior Site Planner

TITLE: a Type 2 Waiver **REQUEST:** to extend hours of operation for a non-Residential use located within 250 feet of a Residential Future Land Use designation or use.

APPLICATION SUMMARY: Proposed is a Type 2 Waiver for the Fountains of Boynton (Fitness Center) development. The 2.26-acre site is currently developed. The subject site was last reviewed by the Board of County Commissioners (BCC) on March 12, 2002, for a Development Order Amendment/Expedited Application Consideration to reconfigure the Site Plan, add a parking garage, and increase building height (R-2002-0299).

The Applicant is requesting a Type 2 Waiver to allow a Fitness Center (subject to Administrative Approval) to modify the hours of operation from the 6:00 a.m. to 11:00 p.m. allowed for non-residential development within 250-feet of a parcel of land with a Residential Future Land Use designation, to 5:00 a.m. to 12:00 a.m. (midnight) .

This application was reviewed for compliance with Unified Land Development Code (ULDC) Ordinance 2003-067, Supplement 23.

SITE DATA:

Location:	Northeast corner of Boynton Beach Boulevard and Jog Road.
Property Control Number(s)	00-42-45-22-12-001-0000, 002-0000, 003-0000, 004-0000, 005-0000, 006-0000, 007-0000, 008-0000
Existing Future Land Use Designation:	Commercial High (CH), with an underlying Medium Residetial 5 units per acre (MR-5) (CH/5)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	Multiple Unit Planned Development (MUPD)
Proposed Zoning District:	No Change
Total Acreage:	24.13-acres
Affected Acreage:	2.26-acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	West Boynton Community Plan
CCRT Area:	N/A
Municipalities within 1 Mile	N/A
Future Annexation Area	N/A

RECOMMENDATION: Staff recommends approval of the request subject to 5 Conditions of Approval as indicated in Exhibit C.

ACTION BY THE ZONING COMMISSION: At the January 4, 2019 Zoning Commission (ZC) Hearing, this item was on the Consent Agenda. No one from the public was present to speak on the application. The Agent agreed to the Conditions of Approval, acknowledging minor revisions to a

Condition pertaining to fenestration that Staff had mentioned, and the ZC recommended approval of the request subject to conditions, by a vote of 5-0-1.

PUBLIC COMMENT SUMMARY: At the time of publication, staff had received 0 contacts from the public regarding this project.

PROJECT HISTORY:

Application No.	Request	Resolution	Approval Date
1990-30	Rezoning from RE to Commercial General (CG) Zoning District.	R-1991-373	March 26, 1991
	Special Exception for a Planned Commercial Center in excess of 50,000 square feet.	R-1991-374	
1990-30 (A)	Special Exception to amend the Site Plan for a PCD to permit a Day Care Center (Maximum 130 children), a Convenience Store with Gasoline Sales and a Car Wash and modifications of Commission requirements relating to Engineering, Fair Share fee, Permit and Tenant restrictions.	R-1992-1813	December 1, 1992
DOA-1990-30 (B)	Development Order Amendment (DOA) to allow General Repair and amend Condition F.1, Resolution R-1992-1813 (limit children in Day Care).	R-1994-106	January 27, 1994
DOA-1990-30 (C)	DOA to amend Conditions R1, R2 and R3 (Signs) of Resolution R-1994-106.	R-1996-0011	January 5, 1996
DOA-1990-30 (D)	DOA to modify Condition S.1 of Resolution R-1994-106.	R-1996-1000	July 25, 1996
EAC-1990-30 (E)	DOA/Expedited Application Consideration (EAC) to modify Condition P.2 of Resolution R-1994-106 (Security Lighting).	R-1997-0014	January 6, 1997
EAC-1990-030 (F)	EAC to reconfigure Site Plan to add parking and increase building height.	R-2002-0299	March 12, 2002

In addition to the above Project History, a Zoning Administrative Amendment (ZAR 2018-1194) was recently approved on August 2, 2018, to reconfigure and relocate building square footage to allow for the 34,176 sq. ft. Fitness Center (indicated as Anchor 2 on the approved Final Site Plan dated September 10, 2018 on Exhibit 4 of this report), which is the subject of the Type 2 Waiver request. This includes the demolition of a three-story office building (25,455 sq. ft. excluding 1st floor parking garage) and retail bays 33 through 41, to allow for the construction of the new Fitness Center facility.

SURROUNDING LAND USES:

NORTH:
FLU Designation: Medium Residential (MR-5)
Zoning District: Planned Unit Development (PUD)
Supporting: Residential (Lakes of Boynton Beach, Control No 1983-058)

SOUTH:
FLU Designation: High Residential (HR-8)
Zoning District: Planned Unit Development District (PUD)
Supporting: Residential (Stonybrook, Control No 1997-084)

FLU Designation: Commercial High, with an underlying MR-5 (CH/5)
Zoning District: General Commercial District (CG)
Supporting: Commercial (Maspons-Goicouria-Estevez, Control No 1993-006)

EAST:
FLU Designation: Commercial High, with an underlying MR-5 (CH/5)
Zoning District: Multiple Use Planned Development District (MUPD)
Supporting: Commercial (Fountains East, Control No 1997-004)

WEST:
FLU Designation: Medium Residential (MR-5)
Zoning District: Planned Unit Development (PUD)
Supporting: Residential (Lakes of Boynton Beach, Control No 1983-058)

TYPE 2 WAIVER SUMMARY

Per Unified Land Development Code (ULDC) Table 5.E.5.A, Hours of Operation, for non-residential uses (Commercial) are limited between the hours of 6:00 a.m. to 11:00 p.m.. The Applicant is requesting a Type 2 Waiver to extend the hours of operation for the approved (Fitness Center) LA Fitness) from 6:00 a.m. to 11:00 p.m. to 5:00 a.m.-12:00 a.m. (midnight), or plus two hours. The Fitness Center in the Fountains of Boynton Beach Shopping Plaza is located within 250 feet of a residential Future Land Use designation and residential use.

ULDC Article	Required	Proposed	Waiver
Art. 5.E.5.A Hours of Operation - Proximity to Residential	Hours of Operation limited from 6:00 a.m. to 11:00 p.m.	To allow extended hours of operation from 5:00 a.m. to 12:00 a.m. (midnight) for a 34,176 sq. ft. Fitness Center.	+ one hour (from 5:00 a.m. to 6:00 a.m.)
			+ one hour (from 11:00 p.m. to 12:00 a.m. midnight))

FINDINGS:

Type 2 Waivers:

When considering a Development Order application for a Type 2 Waiver, the BCC shall consider the Standards in ULDC Article 2.B.7.D, Type 2 Waiver. The Standards and Staff Analyses are indicated below. A Type 2 Waiver, which fails to meet any of the standards, shall be deemed adverse to the public interest and shall not be approved.

- a. **The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the Zoning District or Overlay;**

YES: The Fitness Center is located 80 feet from the Boundary line of the overall residential development to the north, but is actually further separated by a lake from the nearest Single Family Lot, which is approximately 230 feet away. Two landscape buffers (one 15 foot wide landscape buffer for the Fountains of Boynton development and one 15 foot wide landscape buffer for Lakes of Boynton Beach PUD on the north) and a Lake separate the rear of the Fitness Center from the residential use.

The objective of limiting the hours of operation is to protect residential areas from the potential nuisances or adverse effects from non-residential uses that can interfere with the peaceful enjoyment of the land between the hours of 11:00 p.m. and 6:00 a.m. The proposed activities for the Fitness Center will be internal to the building and operations will not impact the adjacent residential project.

The Applicant indicates that other similar Fitness Centers throughout the County operate with extended hours and prior to the code changes, Variances were granted for such activities. In this case according to the Applicant the type 2 Waiver for the extended hours of operation will be to accommodate industry trends or how Fitness Centers are operated.

Staff had analyzed the requested Waiver and have determined that the approval of Waiver does not create additional conflicts within the specified sections of the ULDC and is consistent with the stated purpose and intent for the Zoning District.

- b. **The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be *in harmony with the general site layout and design***

details of the development; and,

YES: All the activities related to the Fitness Center will be internal to the structure. In addition, entrance to the center will be oriented towards the south of the main structure facing away from the Residential development to the north and separated 250 feet from the Boundary line of the overall residential development to the north. No windows or openings are proposed on the North side of the structure that faces the Residential development.

Staff has determined that the Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development.

c. The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties.

YES: As previously mentioned, the fitness center, although located 80 feet from a residential development to the north, is actually located approximately 230 feet away from the closest single-family lot. Two landscape buffers (one for the Fountains of Boynton development and one for Lakes of Boynton Beach PUD) and a Lake separate the rear of the fitness center from the residential use. In addition the fitness center does not have any windows on the north façade of the building and no loading or delivery activities will occur within the proposed extended hours of operation. The activities that will occur during the extended hours will be indoor cleaning and facility maintenance as well as any customers seeking fitness activities outside peak operating hours.

Staff has determined that the alternative design option recommended as part of the Waiver approval will not adversely impact adjacent properties.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B. and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff is recommending approval of the request. Staff has also determined that any of the potential impact and incompatibility issues will be adequately addressed subject to the recommended Conditions of Approval as indicated in Exhibit C.

CONDITIONS OF APPROVAL

Exhibit C - Type 2 Waiver

ARCHITECTURAL

1. Windows or other equivalent transparent openings shall be prohibited on the north elevation of the Fitness Center (Anchor Tenant No. 2 Bays 33 - 41) as indicated on the Final Site Plan dated August 2, 2018 with the exception of two clerestory windows approximately 2' x 8' for purpose of allowing in natural light. (ONGOING: ZONING - Zoning)

USE LIMITATIONS

1. Hours of business operation for the Fitness Center (Anchor Tenant No. 2 Bays 33 - 41) located on the North side of the Shopping Plaza between retail space number 32 and retail space number 42, may be permitted from 5:00 a.m. to 6:00 a.m. and 11:00 p.m. to 12:00 a.m. (midnight) daily, to allow for use by employees and customers. Access shall be limited to the entrances in the south façade, and no outdoor activities, loading or deliveries shall be permitted during the specified times. (ONGOING: CODE ENF - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

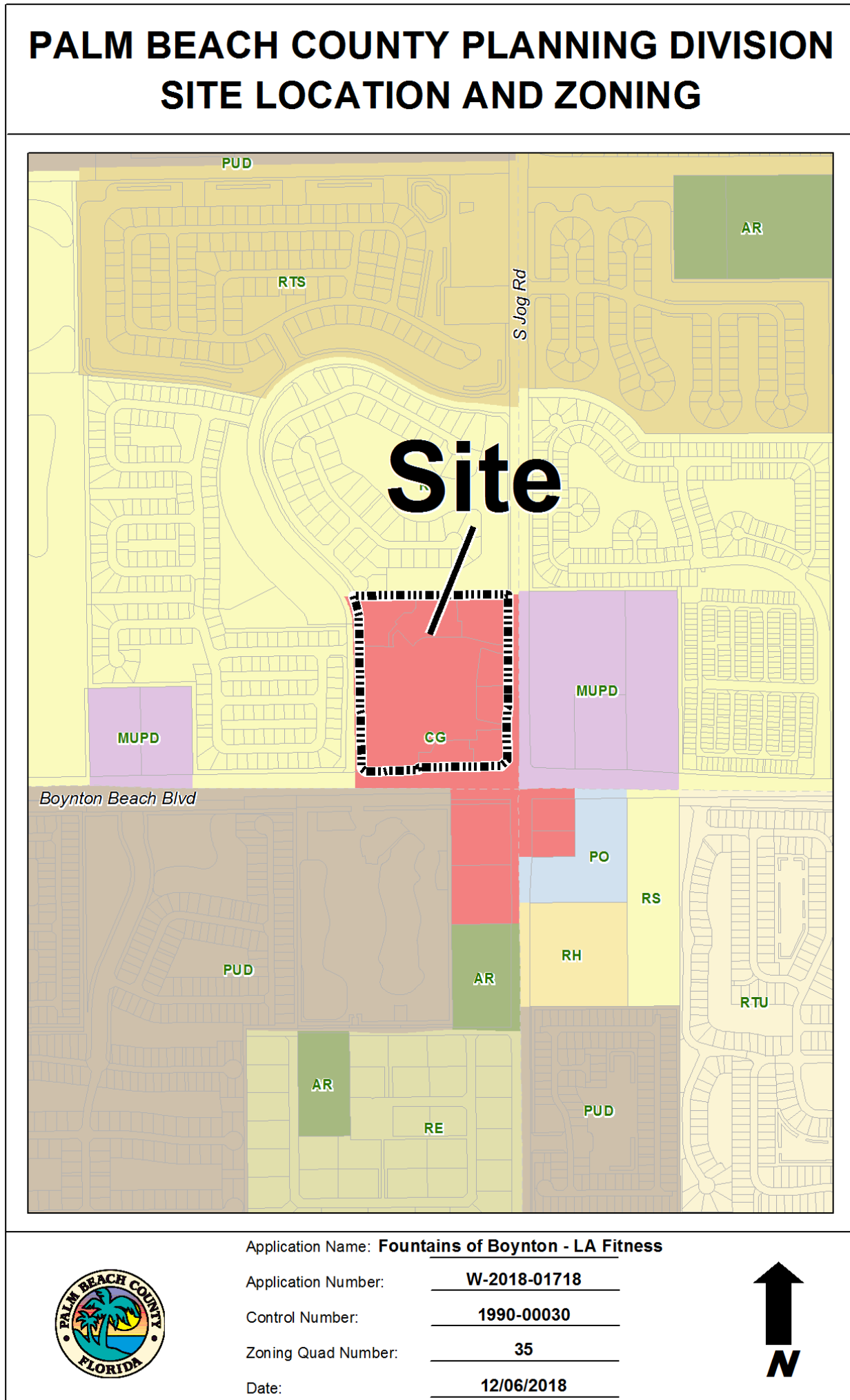
DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

BCC
Application No. W-2018-01718
Control No. 1990-00030
Project No. 00601-002



Figure 2 - Zoning Map



BCC
Application No. W-2018-01718
Control No. 1990-00030
Project No. 00601-002

Site

S Jog Rd

Boynton Beach Blvd

Palm Beach County



Application Number:	<u>W-2018-01718</u>
Control Number:	<u>1990-00030</u>
Atlas Page Number:	<u>90</u>
Date:	<u>12/06/2018</u>

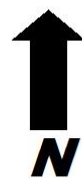
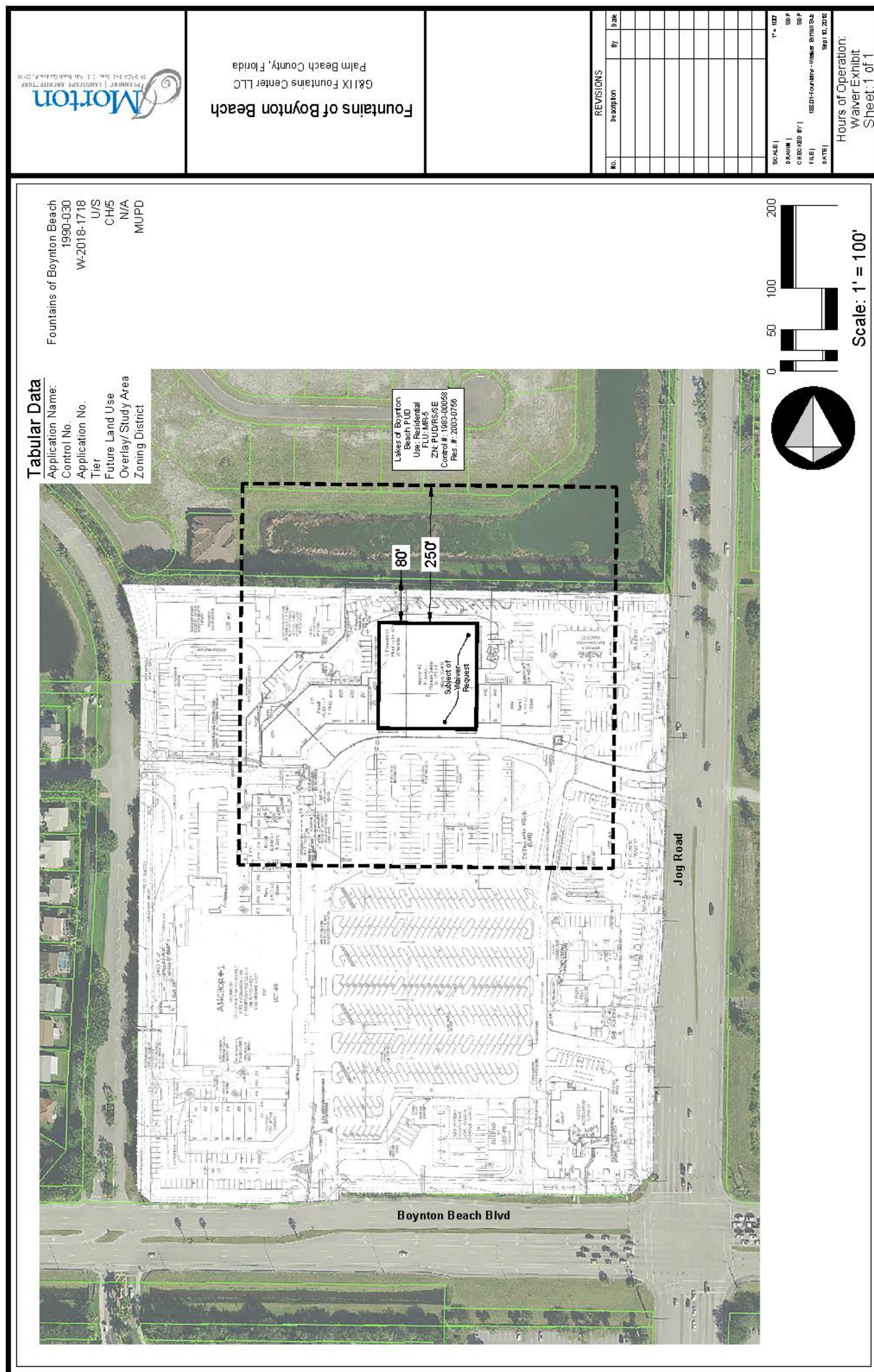


Figure 4 – Waiver Exhibit dated September 10, 2018



BCC
Application No. W-2018-01718
Control No. 1990-00030
Project No. 00601-002



BCC
Application No. W-2018-01718
Control No. 1990-00030
Project No. 00601-002

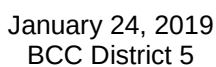


Exhibit D – Disclosure of Ownership

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Jorge Mirell, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the ☐ individual or ☒ Vice President [position - e.g., president, partner, trustee] of Woodlight Development, Inc. [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.

2. Affiant's address is: 3800 N Military Trail, 4th Floor
Boca Raton, FL 33431

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

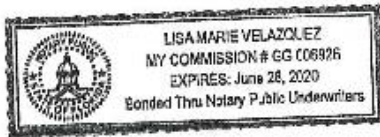
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Jorge Maxwell, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 6 day of September, 2018, by Jorge Maxwell, he who is personally known to me or who has produced as identification and who did take an oath.



Lisa Marie Velazquez
Notary Public

Lisa Marie Velazquez
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: June 28, 2020

EXHIBIT "A"
PROPERTY

Tracts A, B, C, D, F, G and H, FOUNTAINS OF BOYNTON, according to the map or plat thereof, as recorded in Plat Book 74, Page 57, of the Public Records of Palm Beach County, Florida.

Together with a Non-Exclusive Drainage and Flow Easement over and across the legal description described as Exhibit "A" in the Drainage and Flow Easement Agreement by and between John B. Kennelly and Fountains of Boynton Associates, Ltd., a Florida limited partnership and recorded in Official Records Book 7785, Page 697, and re-recorded in Official Records Book 11519, Page 119, both of the Public records of Palm Beach County, Florida.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name

Address

Woodmont Development, Inc 3860 N Military Trail
4th Floor Boca Raton, FL 33431 100%

Exhibit E – Justification Statement



JUSTIFICATION STATEMENT
Fountains of Boynton Beach (Control No. 1990-030)
Type 2 Waiver – Art. 5.E.5. Hours of Operation
Initial Submittal: September 10, 2018

REQUEST

On behalf of the Applicant, JMorton Planning & Landscape Architecture is requesting the following Type 2 Waiver for the property located at the northwest corner of Boynton Beach Boulevard and Jog Road known as Fountains of Boynton Beach; (“Property”).

- Type 2 Waiver to expend the hours of operation for a non-residential use (fitness center) located within 250 feet of a residential Future Land Use designation and residential use from 6:00 a.m.-11:00 p.m. to 5:00 a.m.-12:00 a.m.

SITE CHARACTERISTICS

The Fountains of Boynton Beach is a 181,478 square foot Publix anchored shopping center composed of eight parcels totaling 24.13 acres. Other prominent tenants within this commercial project include: Duffy’s Sports Grill, MD Now Urgent Care, UPS Store, Tropical Smoothie and a child daycare facility. The graphic below shows the project as well as the adjacent roadways of Jog Road and Boynton Beach Boulevard.



The recently approved fitness center is located on the 13.28 acre parcel identified by Parcel Control Number 00-42-45-22-12-001-0000 (“Property”). The new fitness center is expected to open in late 2019 following the demolition of the existing office/retail space and the construction of a new building for an LA Fitness.

The Property currently has a zoning designation of Multiple Use Planned Development (MUPD) and a Future Land Use designation of Commercial High, with an underlying Medium Residential, 5 unit per acre (CH/5). Access to the Property is from the adjacent rights-of-way of Jog Road and Boynton Beach

Boulevard. The shopping center can also be accessed from Lakeside Boulevard, a residential collector right-of-way serving Alden Ridge.

DEVELOPMENT HISTORY

The Fountains of Boynton Beach was originally approved in 1991 and has been the subject of several amendments over 27 years. These amendments include reconfiguring square footage as well as modifying proposed uses. The Property was recently acquired by one of the largest and most successful commercial developers in South Florida, Woolbright Development. The new owner has been carrying out needed maintenance throughout the property which has significantly improved the aesthetics. The following is the development approval history for the Property:

Control No.	Request	Action	Date	Resolution No.
1990-030	Rezoning from RE to CG & Special Exception Approval for PCD.	Approved	March 26, 1991	R-1991-373 & R-1991-374
1990-030	DOA to reconfigure Site Plan to allow day care, convenience store with gas sales, and car wash.	Approved	December 1, 1992	R-1991-1813
1990-030	DOA to reconfigure Site Plan and allow for general repair use.	Approved	January 27, 1994	R-1994-106
1990-030	DOA to amend previous conditions of approval related to signage.	Approved	January 5, 1996	R-1996-011
1990-030	DOA to reconfigure Site Plan and allow for financial institution use.	Approved	July 25, 1996	R-1996-1000
1990-030	DOA to amend previous condition of approval related to lighting.	Approved	January 6, 1997	R-1197-014
1990-030	DOA to reconfigure Site Plan and allow for construction of office building.	Approved	March 21, 2002	R-2002-299
1990-030	ZAR Approval of Fitness Center	Approved	August 2, 2018	N/A

Surrounding Properties

The Property is surrounded by residential uses to the north and west, a vacant commercial parcel to the east across Jog Road, and office and multi-family residential to the south across Boynton Beach Boulevard. A breakdown of the surrounding uses is provided below.

Adjacent Property	Land Use Designation	Zoning Designation	Existing Use	Control Number	Resolution Number
North	MR-5	PUD	Lakes of Boynton Beach - SF Residential	1983-058	R-2003-756
South	HR-8 & CH/5	PUD & CG	Siesta Key PUD Multi-Family & West Boynton Medical Office	1997-084 & 1993-006	R-2001-824 & R-2007-1045

East	CH/5	MUPD	Fountains East MUPD - Vacant Commercial	1997-004	R-2008-1378
West	MR-5	PUD	Lakes of Boynton Beach - SF Residential	1983-058	R-2003-756

TYPE 2 WAIVER STANDARDS:

The Applicant is requesting a Type 2 Waiver to extend the hours of operation for the approved fitness center from 6:00 a.m.-11:00 p.m. to 5:00 a.m.-12:00 a.m. within 250 feet of a residential Future Land Use designation and residential use. The Applicant's request meets the standards set forth in Art. 2.B.7.D.3 as further described below.

1. The Waiver does not create additional conflicts with the specified Section(s) of the ULDC, and is consistent with the stated purpose and intent and standards.

The granting of this Waiver will not create any additional conflicts with the ULDC and is consistent with the stated purpose, intent and standards. Throughout the County, extended hours of operation have been granted for many commercial uses when adjacent to residential uses, for example fitness centers, gas stations and convenience stores. The fitness center is located 80 feet from the residential development to the north known as Lakes of Boynton Beach PUD. Although the building is located 80 feet from the residential Future Land Use boundary, the closest single-family lot is located approximately 230 feet away, within which includes planned development buffers and a lake. It is important to note that although this residential project was approved in 2003, only two houses within the development are owned by individuals. Those two lots are located well outside of the 250 foot distance. The remaining four structures and undeveloped lots are owned by residential developer Mattamy.

Per article 3.D.3.A.2.a of the Unified Land Development Code, the objective is to protect residential areas from the potential adverse effects of local commercial activity between the hours of 11:00 p.m. and 6:00 a.m. This particular section references activities such as deliveries and stocking as potential disruptive activities. However, in the case of the proposed fitness center use, these specific activities are not common and would occur during typical business hours.

The additional hours of operation are being requested to accommodate the market. Many companies offer flexible work hours while encouraging their workforce to stay physically fit. Additionally, customers are now seeking extended hours in which to utilize fitness equipment in order to accommodate their busy lives. Other similar fitness centers throughout the County operate with extended hours and prior to the code change, variances were granted for such activities. The new LA Fitness that recently opened at the Del Mar Plaza was granted a variance for extended operating hours. Additionally, the County has granted hours of operation variances for gas stations located immediately adjacent to single family homes such as the gas station located at the southwest corner of Haverhill Road & Wallis Road as well as the northeast corner of Boynton Beach and Lyons Road.

The proposed activities for the fitness center will be internal to the building and will not impact the adjacent residential project. It is anticipated that employees for the fitness center will arrive and begin preparing for daily activities and setting up for classes at 4:30 a.m. and the fitness center will open to the public at 5:00 a.m.

2. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development.

The proposed Waiver, if granted, will not cause a detrimental effect on the overall design of the project and will be in harmony with the general site design. The fitness center building is located approximately 230 feet away from the closest single-family lot. Furthermore, the retention pond for the Lakes of Boynton Beach PUD provides an additional buffer between the subject fitness center and the residential units. The Fountains of Boynton Beach commercial plaza is located at an important commercial intersection within the western Boynton Beach area and has recently been the subject of many significant upgrades including upgraded landscaping within the project as well as improved façade treatments for all of the existing buildings. The Applicant has recently acquired the project and made these improvements for the benefit of the existing tenants as well as the customers and residents within the area.

The existing 2-story office building currently has windows facing the residential development to the north. This office building will be demolished and replaced with the one-story fitness center. The fitness center building does not have windows on the north façade of the building; therefore, the proposed waiver for extended hours of operation will not have a negative impact on the residential development located to the north of the MUPD. It is also important to note that all activities occurring within the extended hours of operation will be indoor and not visible from the exterior of the building or adjacent residential development.

3. The alternate design option recommended as part of the Waiver approval, if granted, will not adversely impact users of the project or adjacent properties.

The proposed Waiver will not adversely impact users of the project or adjacent properties. As previously mentioned, the fitness center, although located 80 feet from a residential Future Land Use designation, is actually located approximately 230 feet away from the closest single-family lot. Two landscape buffers and a retention pond separate the rear of the fitness center from the residential use. Furthermore, the fitness center does not have any windows on the north façade of the building and no loading or delivery activities will occur within the proposed extended hours of operation. The activities that will occur during the extended hours will be indoor cleaning and facility maintenance as well as any customers seeking fitness activities outside peak operating hours.

Based on the above justification and attached information, the Applicant respectfully requests approval of this Type 2 Waiver for extended hours of operation for the Fitness Center.

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