

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

**Application No.:** W-2020-00790  
**Application Name:** Polo Legacy MXP  
**Control No./Name:** 2007-00096 (Polo Legacy MXP)  
**Applicant:** Mattamy Palm Beach, LLC  
**Owners:** Mattamy Palm Beach, LLC  
**Agent:** AJ Entitlements & Planning, LLC - Autumn Sorrow  
**Telephone No.:** (561) 284-2472  
**Project Manager:** Meredith Leigh, Senior Site Planner

**TITLE:** a Type 2 Waiver **REQUEST:** to allow 24 Hour Operations for a Non-Residential Use located within 250 feet of a parcel of land with a Residential Future Land Use designation or Use.

**APPLICATION SUMMARY:** Proposed is a Type 2 Waiver for the Polo Legacy Mixed Use Planned Development (MXP). The 38.54-acre development, was originally approved by the Board of County Commissioners (BCC) on April 25, 2019 for a rezoning from the Agricultural Residential (AR) Zoning District to the MXP Zoning District, with three Class A (CA) Conditional Uses to allow two Type 1 Restaurants with Drive-throughs, and Retail Gas and Fuel Sales with a Convenience Store. It was last approved by the Board of County Commissioners on March 26, 2020, for a Development Order Amendment Expedited Application Consideration (EAC) to amend Conditions of Approval.

The Applicant is requesting approval of a Type 2 Waiver to allow 24-hour operations for a Commercial use within 250 feet of a Residential Future Land Use (FLU) or use, for the Retail Gas and Fuel Sales with a Convenience Store (Building F). The Waiver has been requested because although the parcel to the east, across Polo Road, supports an Agricultural (Equestrian) use in the Residential Transitional (RT) Zoning District, and a Commercial High with an underlying Low Residential, 2 units per acre (CH/2) FLU designation, the use is considered transitional, and the zoning and FLU are inconsistent. A determination was made that the most restrictive residential component of the land use prevailed.

No modifications to the previously approved Preliminary Site Plan are proposed with this request, which indicates 152 Townhouse units, a 3-story 32-unit Multifamily building, and 51,000 square feet (sq. ft.) of Commercial uses, including: two Type 1 Restaurants with Drive-throughs (4,500 sq. ft. total); Retail Gas and Fuel Sales with eight pumps/16 fueling positions, with a 6,300 sq. ft. building that includes a Convenience Store and a Type 1 Restaurant; and, 32,200 sq. ft. of Retail Sales. Seven-hundred forty-nine parking spaces are proposed with previously approved access to the site provided from Lake Worth Road (2) and Polo Road (2).

This application was reviewed for compliance with Unified Land Development Code, Ordinance 2003-067, Supplement 27.

**SITE DATA:**

Location:	Southwest corner of Lake Worth Road and Polo Road.
Property Control Number(s)	00-42-44-29-13-001-0000
Existing Future Land Use Designation:	Commercial High, with an underlying MR-5 (CH/5)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	Mixed Use Planned Development (MXP)
Proposed Zoning District:	No Change
Total Acreage:	38.54 acres
Affected Acreage:	2.89 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	West Lake Worth Road Neighborhood Plan
CCRT Area:	N/A
Municipalities within 1 Mile:	N/A
Future Annexation Area:	Greenacres

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

**ACTION BY ZONING COMMISSION (ZC):** At the November 5, 2020 ZC Hearing, this item was on the Consent Agenda. There was no one from the public to speak on the item and no discussion among the Commissioners. Commissioner Beatty made a motion to approve the Consent Agenda, which was seconded by Commissioner Kern. The motion carried by a vote of 6-0-0.

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received 1 contact from the public regarding this project. Gerald Banks, President of the West Lake Worth Road Neighborhood Coalition sent a letter of support, see Exhibit E, emphasizing the importance of adhering to ULDC lighting requirements per Article 5.E.4.E, Outdoor Lighting.

**PROJECT HISTORY:** At the April 4, 2019 Zoning Commission (ZC) Hearing, the ZC approved Type 2 Variances to reduce the rear setback for Townhouses; and, to modify the MXPD Land Use Mix, to reduce the minimum percentage of commercial land use to 9.9 percent, and increase the maximum percentage of residential land use to 90.1 percent. On April 25, 2019, the BCC approved a rezoning from the AR to the MXPD Zoning District, with three Class A Conditional Uses to allow two Type 1 Restaurants with Drive-throughs, and a Retail Gas and Fuel Sales with a Convenience Store. The MXPD was approved for 51,000 sq. ft. of commercial uses, 152 Townhouses and 32 Multifamily units. At the March 26, 2020 BCC Hearing, the BCC approved a DOA-EAC to amend Conditions of Approval.

**SURROUNDING LAND USES:**

**NORTH (across Lake Worth Road):**

FLU Designation: Institutional and Public Facilities, with an underlying MR-5 (INST/5)  
Zoning District: Residential Planned Unit Development (PUD)  
Supporting: Residential (Harbor Chase at Wellington Crossing PUD, Control No 2004-00009)

**SOUTH:**

FLU Designation: Medium Residential (MR-5)  
Zoning District: Residential Planned Unit Development (PUD)  
Supporting: Residential (Gulfstream PUD, Control No 2008-00297)

**EAST (across Polo Road):**

FLU Designation: Medium Residential (MR-5)  
Zoning District: Residential Planned Unit Development (PUD)  
Supporting: Residential (Fields at Gulfstream Polo PUD, Control No 2005-00594)

FLU Designation: Low Residential (LR-2)  
Zoning District: Residential Transitional (RT)  
Supporting: Utilities (Southern Bell, Control No 1983-10009)

FLU Designation: Commercial High, with an underlying LR-2 (CH/2)  
Zoning District: Residential Transitional (RT)  
Supporting: Agricultural (Palm Beach Farms, Control No 2013-00296)

**WEST:**

FLU Designation: Low Residential (LR-2)  
Zoning District: Residential Planned Unit Development (PUD)  
Supporting: Residential (Cedar Creek PUD, Control No 2001-00016)

**TYPE 2 WAIVER SUMMARY**

ULDC Article	Required	Proposed	Waiver
Art. 5.E.5.A, Hours of Operation	Hours of Operation between 6:00 a.m. to 11:00 p.m. for commercial uses within 250 feet of a Residential Use or FLU designation.	Hours of operation to be 24 hours / 7 days a week for Retail Gas and Fuel Sales with Convenience Store only	+ 7 hours ( 11:00 p.m. - 6:00 a.m.)

## FINDINGS

Type 2 Waivers: When considering a Development Order application for a Type 2 Waiver, the BCC shall utilize the Standards in ULDC Article 2.B.7.D.3, Standards for a 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 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. Any non-residential use is subject to the hours of operation when located within 250 feet of a parcel of land with a residential FLU designation or use. Measurement shall be taken by drawing a straight line from the parcel of land with a Residential Future Land Use designation or Use to the closest point of the loading area, the exterior wall, or structure of the non-residential use. The Retail Gas and Fuel with Convenience Store is within 250 feet from the property to the east. The use of the property is Agricultural, the Zoning and Land use are Residential, and therefore the Waiver is needed because of the Future Land Use.

The request to allow 24-hour operations of the approved Retail Gas and Fuel Sales with Convenience Store will not create any additional conflicts with the ULDC, and is consistent with the stated purpose, intent and standards of the MXPB Zoning District. It is also consistent with the stated purpose and intent of Planned Development Districts (PDDs), as outlined in Art. 3.E.1.A.1, as it provides continuing services to the surrounding community.

- 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:** The request to allow 24-hour of operations will not cause a detrimental effect on the overall design and development standards of the project. In fact, it has no impact on the physical design and development standards of the project. By Code, MXPBs are intended have a mix of uses and they can be vertically or horizontally integrated. Perimeter buffers to the west were required to be enhanced via Landscaping Conditions of Approval approved by the BCC (Resolution R-2020-339) and the Right-of-Way Buffers were designed to exceed Code requirements and be in character with the Neighborhood Plan. The request does not alter Staff's prior determination that the design, with the provided buffering and access design, will mitigate any adverse impact to the residential uses within, or surrounding the development. Furthermore, the Code excludes mixed uses within the same MXPBs from hours of operation limitation. The site plan remains the same as it was last approved. A Condition of Approval is recommended to require the Final Site Plan (Exhibit No. 6) be updated with a Waiver Table in accordance with the Technical Manual.

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

**W1 YES.** No alternative design was presented or recommended. The site design last approved by the BCC was previously assessed to minimize adverse impact to the adjacent properties. The Convenience Store is approximately 960 ft. from the southern property line, and 990 ft. from the nearest home to the south. The use is approximately 1,040 ft. from the residential development to the west, and separated by a 3-story Multi-family building and three other commercial buildings. The fuel canopy is approximately 300 ft. from the Type 3 Congregate Living Facility across Lake Worth Road. Finally, the property to the east currently supports an Agricultural (equestrian) use. As discussed above, the existing underlying FLU designation of Low Residential, 2 units per acre, is the reason for the request. Otherwise, the extended hours of operation would be permitted by right.

- d. *For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.35.i, the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety, and welfare of the community.***

This standard is not applicable to this site.

**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. Staff is recommending approval of the request, subject to the recommended Conditions of Approval as indicated in Exhibit C.

## CONDITIONS OF APPROVAL

### Exhibit C - Type 2 Waiver

#### ALL PETITIONS

1. The Development Order for this Type 2 Waiver shall be tied to the Time Limitations of the Development Order for EAC-2019-02324 (Control No. 2007-00096). The Property Owner shall secure a Building Permit for the Retail Gas and Fuel Sale with a Convenience Store to vest this Variance. (ONGOING: MONITORING - Zoning)

#### USE LIMITATIONS

1. The granting of this request is limited to Retail Gas and Fuel Sales with a Convenience Store (Building F and Fuel Canopy) only. (ONGOING: ZONING - 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.

Figure 1 - Land Use Map

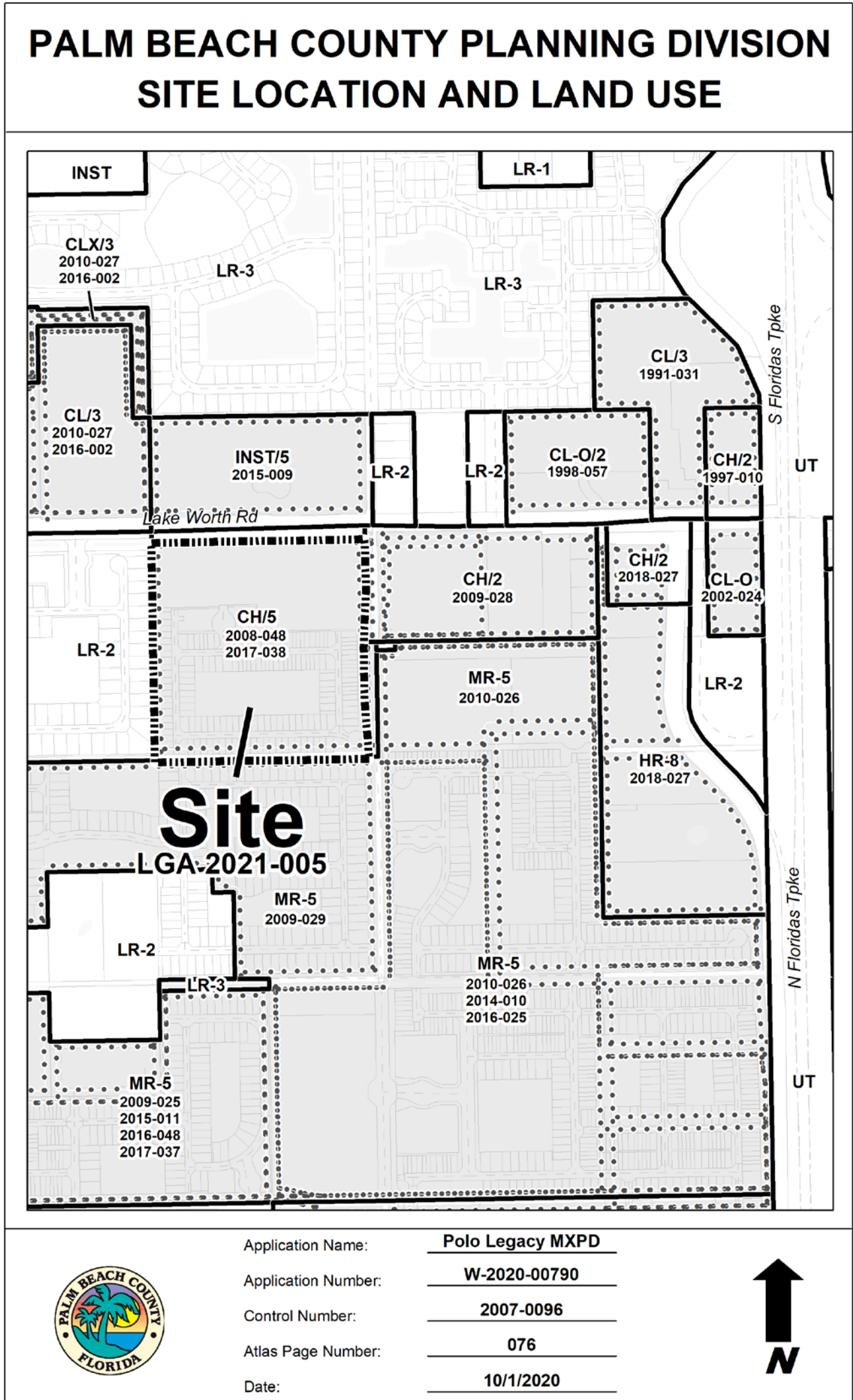
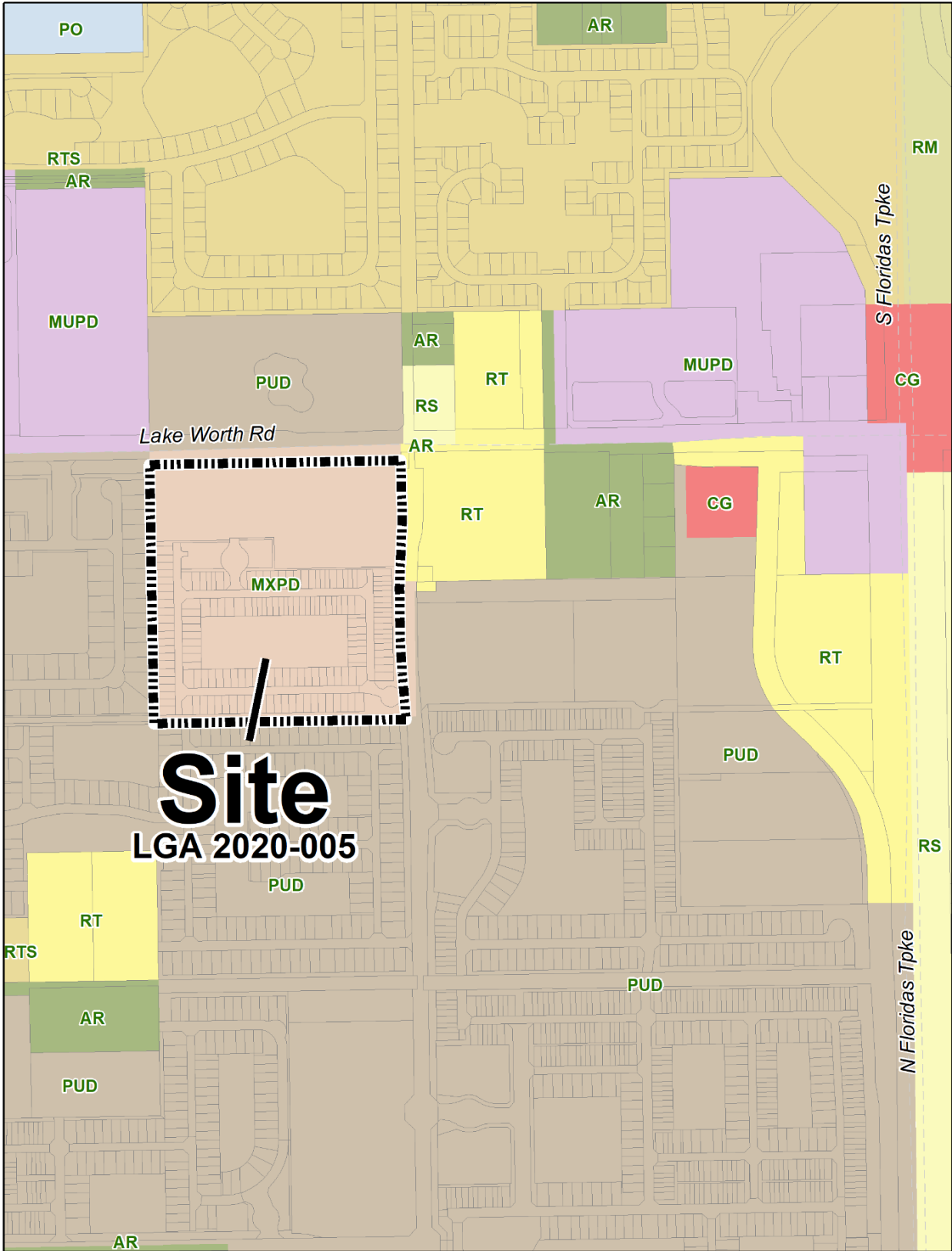


Figure 2 - Zoning Map

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION AND ZONING



**Site**  
LGA 2020-005



Application Name:	<u>Polo Legacy MXPD</u>
Application Number:	<u>W-2020-00790</u>
Control Number:	<u>2007-0096</u>
Zoning Quad Number:	<u>076</u>
Date:	<u>10/1/2020</u>





Figure 3 - Aerial

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name:	<u>Polo Legacy MXP</u>
Application Number:	<u>W-2020-00790</u>
Control Number:	<u>2007-0096</u>
Atlas Page Number:	<u>076</u>
Date:	<u>10/1/2020</u>









**Exhibit D – Disclosure**

DocuSign Envelope ID: 38CDFA07-C15F-4DCD-A3C4-812658592E80

PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

**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 Anthony J. Polumbo III, 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  Assistant Vice President [position - e.g., president, partner, trustee] of Mattamy Palm Beach, LLC [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: 4901 Vineland Road  
Suite 450  
Orlando, FL 32811

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.

DocuSigned by:  
Tony Palumbo  
13B852D9D8A7469...  
Tony Palumbo, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 27th day of April, 2020 by Tony Palumbo (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

Tania Contreras  
(Name - type, stamp or print clearly)

DocuSigned by:  
Tania Contreras  
20F4FF2B87DB4A0...  
(Signature)

My Commission Expires on: 01/08/2024

TANIA CONTRERAS  
Notary Public-State of Florida  
Commission # GG945497  
Commission Expires 1/8/2024



**EXHIBIT "A"**

**PROPERTY**

LEGAL DESCRIPTION

POLO LEGACY MXP, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 130, PAGES 138 THROUGH 144 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, LESS TRACTS RW1 AND RW2.



**Exhibit E – Justification Statement dated September 28, 2020**



**JUSTIFICATION STATEMENT  
Type 2 Waiver  
Polo Legacy MXP**

Control No. 2007-00096

*Initial Submittal: May 4, 2020; re-submittal September 28, 2020*

**REQUEST**

On behalf of the Applicant, AJ Entitlements & Planning is requesting approval of the following: from Article 5.E.5.A to allow 24-hour operation of a non-residential use (Retail Gas & Fuel Sales) located within 250 feet of a residential Future Land Use (FLU) designation or residential use. Note: The original agent was WGI, however they have requested to be removed as agent for this project as the Contract Purchasers (2020 Polo Lake Worth LLC and HIC Land, Inc.) no longer have an interest in moving forward; however the owner, Mattamy Palm Beach LLC is still desirous of moving forward. The owner has authorized Autumn Sorrow/AJ Entitlements & Planning as the agent.

**SITE CHARACTERISTICS**

The 38.54 acre subject site, known as “Polo Legacy Mixed Use Planned Development (MXP)”, is located at the southwest corner of the Lake Worth Road and Polo Road intersection. The subject site is located within the West Lake Worth Road Neighborhood Plan (WLWRNP) and is currently vacant but retains recent approval to allow 51,000 square feet (SF) of non-residential uses and 459,000 SF of residential uses. The subject site retains a FLU designation of Commercial High, with an underlying MR-5 land use (CH/5) and a zoning district designation of MXP.

A location map of the subject site can be to the right.



**AJ ENTITLEMENTS & PLANNING, LLC**

6311 Riverwalk Lane, Unit 4 | Jupiter, FL 33458  
(561) 284-2472 | autumn@ajentitlements.com

**SURROUNDING PROPERTIES**

The subject site is situated along the Lake Worth Road corridor in unincorporated Palm Beach County. It is primarily surrounded by planned developments of a compatible nature. The following is a summary of the uses directly surrounding the subject site:

	FLU Designation	Zoning District	Existing Use
<b>North</b>	INST/5	PUD	Type 3 CLF
<b>South</b>	MR-5	PUD	Single-Family Residential
<b>East</b>	CH-2, MR-5	RT, PUD	Vacant
<b>West</b>	LR-2	PUD	Single-Family Residential

**North:** Immediately north of the subject site is the Lake Worth Road right-of-way. On the north side of Lake Worth Road is a Type 3 Congregate Living Facility (CLF) known as the Harbor Chase at Wellington Crossing Planned Unit Development (PUD). This PUD retains a Control Number of 2004-0009 and accommodates 156 residents. It retains a FLU designation of Institutional with an underlying MR-5 (INST/5) and a Zoning district designation of PUD.

**South:** South of the subject site is a planned residential development known as Gulfstream Reserve PUD. This PUD accommodates 211 zero-lot-line homes and 36 multi-family apartments, across 64.75 acres. It is identified by Control Number 2008-00297. The Gulfstream Reserve PUD retains a FLU designation of MR-5 and a zoning district designation of PUD.

**West:** Immediately west of the subject site is a single-family development known as Cedar Creek Ranch PUD. The Cedar Creek Ranch PUD accommodates 77 single-family homes across 38.82 acres. It is identified by Control Number 2001-00016. This development retains a FLU designation of LR-2 and a zoning district designation of PUD.

**East:** To the east of the subject site are multiple properties which retain separate Planning & Zoning records. The northernmost property to the east of the subject site retains a FLU designation of CH-2 and a zoning district designation of RT. It is primarily vacant and utilized for equestrian purposes.

There is a small 0.11 acre parcel just south of equestrian property which is owned by Bellsouth Telecommunications, Inc. and utilized for utility services. This property retains a FLU designation of LR-2 and a zoning district designation of RT.

The southernmost property to the east of the subject site is part of the overall larger Fields at Gulfstream PUD. This property retains a FLU designation of MR-5 and a zoning district designation of PUD. This 12.6 acre pod of the Fields at Gulfstream PUD was approved for 53 townhouse units.

**DEVELOPMENT HISTORY**

**AJ ENTITLEMENTS & PLANNING, LLC**  
6311 Riverwalk Lane, Unit 4 | Jupiter, FL 33458  
(561) 284-2472 | autumn@ajentitlements.com



The subject site has received various development approvals over the course of its brief history. A summary of the development approvals for the subject site has been provided below.

Application Number	Request	Date	Resolution/ Ordinance
LGA-2017-00013	Change a FLU designation from CH/2 to CH/5	10/30/2017	Ord. 2018
ZV/PDD/CA-2018-01515	Type 2 Variance to allow reduced setbacks for Townhouses; allow modified MXPDP land use mix percentages	04/25/2019	ZR-2019-13
	Allow rezoning from the AR zoning district to the MXPDP zoning district.		R-2019-0558
	Class A Conditional use approval to allow Retail Gas Fuel Sales with a Convenience Store		R-2019-0561
	Class A Conditional use approval to allow Type 1 Restaurant with Drive-through		R-2019-0560
	Class A Conditional use approval to allow Type 1 Restaurant with Drive-through		R-2019-0559
DRO-2019-00930	Finalize the plans approved by the Board of County Commissioners; to allow a Type 2 Excavation; a Type 1 Restaurant; and a Type 2 Restaurant	07/19/2019	2019-00930
EAC-2019-02324	To amend conditions of approval.	03/26/2020	R-2020-0339 R-2020-0340
DRO-2020-00668	To allow relocation of gas station and collocated uses; transfer of non-residential square footage from Buildings B and C to Building D; relocation of the approved Class A Conditional Use of the Type 1 Restaurant with Drive-through; relocation of the DRO approved Type 2 Restaurant.	7/24/2020	Approved

The subject site currently retains Final Site Plan (FSP) approval, the FSP is presently identified as Exhibit #6 in Palm Beach County Zoning's ePlan database. A copy of this approved plan has been included with this application request for reference purposes. The retail gas and fuel sales use is presently identified as Building 'F' on the FSP. It should be noted that the site has recently received Development Order Amendment (DOA) approval (EAC-2019-02324) to modify conditions of approval to allow the relocation of the fuel pumps from the rear of the convenience store to the front of the convenience store, closest to Lake Worth Road. The new site configuration, along with other modifications, is currently in process to be finalized with Palm Beach County Zoning as DRO application DRO-2020-00668. This Type 2 Waiver request is based on the new retail gas and fuel sales configuration with the fuel pumps located closest to Lake Worth Road.

**TYPE 2 WAIVER STANDARDS**

Pursuant to Unified Land Development Code (ULDC) Article 5.E.5.A, the request to allow 24-hour operations of the Retail Gas & Fuel Sales use when located within 250 feet of a residential FLU or use must demonstrate consistency with the adopted Standards for a Type 2 Waiver within Art. 2.B.7.D.3, to ensure no adverse impacts are created. The request is not in conflict with these adopted standards as identified below.

**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.**

The request to allow 24-hour operation of the approved retail gas and fuel sales use will not create any additional conflicts with the ULDC, and is consistent with the stated purpose, intent and standards of the MXPDP zoning district.

The subject gas station represents an ideal location to allow 24-hour operation of retail gas and fuel sales as it is conveniently located in a well-travelled area of the County. Located within a half-mile distance to one of the few Florida Turnpike interchanges within Palm Beach County, its location helps support the safety and welfare of county travelers. It should be noted that the approval of 24-hour operation of retail gas and fuel sales is common throughout Palm Beach County given the nature of the use. Coupled with its proximity to Lake Worth Road and the Florida Turnpike, this request, and potential approval, is not out of the ordinary as there are other gas stations along the Lake Worth Road corridor which allow 24-hour operations.

Furthermore, it is consistent with the purpose and intent of Planned Development Districts (PDDs), as outlined in Art. 3.E.A.1, as it provides services to the surrounding community. By allowing the 24-hour operation of the approved retail gas and fuel sales use, it will help provide extended hours of essential services to the surrounding residential communities.

It should be noted that this request to allow 24-hour operation of the retail gas and fuel sales use will not increase the intensity of the site or use, therefore no additional traffic trips will be associated.

**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 request to allow a Waiver from the hour of operation requirements of Art. 5.E.5.A will not cause a detrimental effect on the overall design and development standards of the project. A change in hour of operations will not impact site layout or design as it is strictly related to the operations of the business.

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

It is not anticipated that there will be alternative design options recommended as part of the Waiver approval, as the approved gas station was thoroughly planned to create as minimal of an impact as possible on any nearby residential uses. It should be noted that the nearest residential structure is located outside of the 250 foot hours of operation radius restrictions, but due to the fact there is an adjacent underlying residential land use located approximately 250 feet to east from the use, the Applicant must apply for a Type 2 Waiver.

**For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.35.i, the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety, and welfare of the community.**

This standard is not applicable to the request as the Waiver requested relates to hours of operation for a retail gas and fuel sales use.

**CONCLUSION**

***Based on the above justification and attached information, the petitioner respectfully requests approval of the Type 2 Waiver application.***

**Exhibit E – Letter of support from Lake Worth Road Neighborhood Coalition**

**LAKE WORTH ROAD COALITION, INC.  
8335 Lake Cypress Road  
Lake Worth, Florida 33467**

October 6, 2020

Meredith Leigh, PhD  
Senior Site Planner  
Palm Beach County Zoning Division  
2300 North Jog Road  
West Palm Beach, Florida 3411

**RE: POLO LEGACY MXP**

Dear Meredith,

As the president of the Lake Worth Road Coalition, I would like to confirm on September 30, 2020, we met with Tony Palumbo representing the applicant, Mattamy, LLC, concerning the Type 2 Waiver application to allow 24-hour operation of the gas station use in the northeast corner of approved Polo Legacy Commercial site.

As a result of this meeting, the Lake Worth Road Coalition is in support of Mattamy's waiver request, as long as the site adheres to all Palm Beach County ULDC site lighting requirements as outlined in Article 5.E.4.E.

The applicant continues to be very cooperative in working with our coalition to resolve our concerns regarding the development and based on this meeting, the Lake Worth Road Coalition is confident that our concerns as it relates to light pollution of the gas station use will be addressed.

As a result, the Lake Worth Road Coalition, Inc. supports the approval of Type 2 Waiver application request to allow 24-hour operation.

Sincerely,

*Gerald Bank*

Gerald Bank, President  
Lake Worth Road Coalition, Inc

CC: Tony Palumbo