

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

**Application No.:** ZV/ABN/DOA/R-2016-01229  
**Application Name.:** 7-Eleven Inc. at Boynton West Shopping Center  
**Control No.:** 1972-00051  
**Applicant:** Boynton Kir  
**Owners:** Boynton Kir  
**Agent:** Gunster, Yoakley & Stewart, PA - Brian Seymour  
 Gunster, Yoakley & Stewart, PA - Josh Long  
**Telephone No.:** (561) 650-0621, (561) 650-0719  
**Project Manager:** Carolina Valera, Senior Site Planner

TITLE: a Type II Variance REQUEST: to allow a reduction in the Right of Way Buffer width; reduce the divider median width; eliminate the trees within a divider median; and, reduce the number and dimensions for point of service/queuing spaces. TITLE: Development Order Abandonment REQUEST: to abandon a Special Exception for an Auto Service Station. TITLE: a Development Order Amendment REQUEST: to reconfigure the Site Plan; delete square footage; modify uses; and, add parking spaces. TITLE: a Requested Use. REQUEST: to allow Retail Gas and Fuel.

**APPLICATION SUMMARY:** Proposed are Type II Variances, a Development Order Abandonment (ABN), a Development Order Amendment (DOA), and a Requested Use for the Boynton West Shopping Center. The 17.84-acre site is a Commercial Pod of the Country Club Trails Planned Unit Development (PUD). The site was last approved by the Board of County Commissioners (BCC) for a Special Exception (SE) to allow an Auto Service Station through Resolution R-83-130. The existing Shopping Center has a mix of Commercial uses including retail, restaurant and financial institution.

The Applicant is proposing to abandon the previous SE for an Auto Service Station, and demolish an existing building previously approved for a Restaurant/Lounge in order to redevelop the outparcels with Retail Gas and Fuel use with 6 pump/12 fueling stations and a 3,000 square foot (sq. ft.) Convenience Store. The Applicant is also requesting variances to allow a reduction of the Right-of-Way (R-O-W) landscape buffer width along Military Trail from 20 ft. to 10 ft.; reduce the divider median width from 8 ft. to 2 ft.; eliminate the trees within the divider median; and, reduce the number and dimensions for point of service/queuing spaces from 80 ft. to a total of 56 ft. The Preliminary Site Plan (PSP) indicates a total of 183,282 sq. ft. (-1,565) for the Shopping Center is proposed within 4 buildings. A total of 828 spaces (+5) are provided and six access points will remain from Military Trail (4) and Boynton Beach Boulevard (2).

**SITE DATA:**

<b>Location:</b>	Northwest corner of Military Trail and Boynton Beach Boulevard.
Property Control Number(s)	00-42-45-23-05-000-0050; 00-42-45-23-05-000-0060
Existing Future Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)
Proposed Future Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)
Existing Zoning District:	Planned Unit Development (PUD)
Proposed Zoning District:	No proposed change
Total Acreage:	17.84 acres
Affected Acreage:	1.24 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	West Boynton Community Plan
CCRT Area:	N/A
Municipalities within 1 Mile	Boynton Beach
Future Annexation Area	Boynton Beach

**RECOMMENDATION:** Staff recommends approval of the requests subject to 10 Conditions of Approval as indicated in Exhibit C-3 and 6 Conditions of Approval as indicated in Exhibit C-4.

**ACTION BY THE ZONING COMMISSION:** At the June 1, 2017 hearing, this application was on the Regular Agenda. The ZC had concerns regarding the proposed layout's circulation, access, area of turning movements and location of the loading space. The Agent requested postponement of the application in order to redesign the site. The ZC postponed this application to the July 6, 2017 hearing with a vote of 7-0.

At the July 6, 2017 hearing, the residents in the vicinity came and spoke on the application expressing their concerns related to noise, traffic, fumes, close proximity to other gas stations and loss in property value. The ZC reviewed the revised layout presented by the Applicant, and debated the merits of the redesign. A motion was made by Commissioner Priore to adopt a Resolution approving a Type II Variance to allow a reduction in the Right-of-Way buffer width; reduce the divider median width; and eliminate the trees within the divider median was approved with a vote of 5-2, with Commissioners Beatty and Currie opposing the request making an argument that the site has too many constraints for the redevelopment of a facility of such intensity. A motion to deny the reduction in the dimensions for Point of service/queuing spaces was made by Commissioner Kanel, but failed with a vote of 2-5, with Commissioners Currie, and Kanel supporting the motion. A second motion was made by Commissioner Priore to approve the queuing and passed with a vote of 4-3 (Commissioners Beatty, Currie, and Kanel dissented the majority). Finally, the ZC made a recommendation of approval of the DOA and Requested Use for a Retail Gas and Fuel with a vote of 5-2, again with Commissioners Beatty and Currie opposed.

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received 253 contacts from the public in opposition of this project and 10 in support. Reasons for opposing the project include increased traffic, noise and fumes. Staff received a letter of support from the Coalition of Boynton West Residential Associations (COBWRA), which included a Condition of Approval to limit alcohol sales between the hours of 11 p.m. and 5 a.m. (Exhibit G). Staff did not incorporate that proposed Condition of Approval as enforcement would not be possible since the business is allowed to open 24 hours a day. Staff spoke with the representative of COBWRA, Stephen Oseroff, and he stated that the Coalition remains supportive of the request without such condition.

**PROJECT HISTORY:**

Application No.	Resolution and Request	Resolution	Approval Date
CA-1972-00051	A Conditional Use to allow a Planned Unit Development (Applied to the Overall Development)	Approved by Letter, following hearing, with Conditions	3/16/1972
SE-1982-00109	A Special Exception to amend the previously approved site plan for Boynton West Shopping Center within Country Club Trails Planned Unit Development to include an Auto Service Station (Applied to the Commercial Pod)	R-1983-130	9/23/1982
SE-1972-00051(A)	A Special Exception to amend the Master Plan for Country Club Trails Planned Unit Development (Applied to the Overall Development)	R-1983-1057	2/24/1983
SE-1972-00051 (B)	A Special Exception to amend the Master Plan for Country Club Trails Planned Unit Development to change the housing category on the eastern portion of bent trees from Category B to Category C. (Applied to Residential Pod – Bent Tree, Tracts R-2 and B)	R-1989-0447	04/28/1988
SE-1972-00051 (C)	A Development Order Amendment for a modification of Commission requirements (Applied to Residential Pod – Bent Tree-1E through 14E, Tracts R-2 and B)	R-1989-1231	1/27/1989
SE-1972-00051 (D)	A Special Exception to amend the Master Plan for Country Club Trails PUD to	R-1991-1174	6/27/1991

	change the unit type in Village II. (Applies to Residential Pod (Village II))		
BA-1994-00008	Administrative Variance (BA) to allow the Commercial Pod to exceed the maximum Building Coverage and Floor Area Ratio; and, to allow 24-hour operation	Approved by Letter, following hearing, with Conditions	02/17/1994
BA-1995-00049	A request for a 6-month time extension of Variances granted through BA-1994-00008	Approved by Letter, following hearing, with Conditions	10/11/1996
BATE-1996-00008	Administrative request for a 12-month time extension (BATE) of Variances granted through BA-1994-00008	Approved by Letter, following hearing, with Conditions	02/15/1996

The Boynton West Shopping Center was approved as part of the Overall Master Plan. It was originally submitted under seven different applications. Through two postponements, the BCC approved the development as a Planned Unit Development with conditions of approval on March 16, 1972. The site plan for the Commercial development was approved administratively. In 1982, a SE was brought before the Board, stating the request was to amend the previously approved site plan for the shopping center to include an Auto Service Station. The majority of the amendments above relate to modifications to the residential portions of the development.

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: High Residential (HR-8)  
 Zoning District: Agricultural Residential/Special Exception (AR/SE)  
 Supporting: Residential (Country Club Trails PUD, Control No 1972-00051)

**SOUTH:**

FLU Designation: High Residential (HR-8)  
 Zoning District: Agricultural Residential/Special Exception (AR/SE)  
 Supporting: Residential (Country Club Trails PUD, Control No 1972-00051)

**EAST:**

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)  
 Zoning District: Multiple Use Planned Development District (MUPD)  
 Supporting: Commercial (Boynton Trail Centre, Control No 1981-00152)

**WEST:**

FLU Designation: High Residential (HR-8)  
 Zoning District: Agricultural Residential/Special Exception (AR/SE)  
 Supporting: Residential (Country Club Trails PUD, Control No 1972-00051)

**TYPE II VARIANCE SUMMARY:** At the July 6, 2017 ZC hearing, the ZC approved the following variances:

ULDC Article	Required	Proposed	Variance
V1 – Table 7.F.7.A-5 Right-of-Way buffer width	20-foot (ft.) buffer width along Military Trail	10 ft.wide	10-ft. reduction
V2 – 7.G.2.C. Divider Median width	8-ft. wide	2-ft. wide	6-ft. reduction
V3. – 7.G.2.C. Divider Median planting	1 canopy tree per 30 linear ft.	0 trees	3 trees
V4. – 6.A.1.D. Queuing Standards - Gasoline Pump	total of 80 ft. required for this project (four 20-ft. spaces)	total of 56 ft.	24 ft.

Island			
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**FINDINGS:**

**Conditional Uses, Requested Uses and Development Order Amendments:**

When considering a Development Order application for a Conditional or Requested Use, or a Development Order Amendment, the BCC and ZC shall consider Standards 1 – 8 listed in Article 2.B.2.B. of the ULDC. The Standards and Staff Analyses are indicated below. A Conditional or Requested Use or Development Order Amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

**1. Consistency with the Plan – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.***

- Consistency with the Comprehensive Plan: The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.
- Prior Land Use Amendments: The site has been the subject of a previous County Initiated Land Use amendment, 92-90 COM 1, was adopted with no conditions via ORD. 1993-32 which amended the land use from High Residential 8 units per acre HR-8) to Commercial High, with an underlying 8 units per acre (CH/8).
- Intensity: The maximum Floor Area Ratio (FAR) of 0.35 (w/out PDD) is allowed for a non-residential project with a CH FLU designation in the Urban Suburban Tier (17.84 acres x 43,560 x 0.35 maximum FAR = 271,988.64 sq. ft. maximum). The request for a total of 183,282 sq. ft. equates to a FAR of approximately 0.24 (183,282 / 777,110 sq. ft. or 17.84 acres = 0.235).
- Special Overlay District/ Neighborhood Plan/Planning Study Area: The property is located within the West Boynton Area Community Planning Area Neighborhood Planning Area. The request is not inconsistent with the Neighborhood Planning Area recommendations. The applicant met with the group and received a letter of approval dated March 29, 2017 with one requested condition to prohibit the sale of beer and wine between the hours of 11pm and 5am.

**2. Consistency with the Code - *The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, SUPPLEMENTARY USE STANDARDS.***

**Development Order Amendment- Overall Commercial Pod Site –**

- Parking and Loading: Nonresidential uses of within a PUD may utilize the parking standards indicated in Table 6.A.1.B Minimum Off-Street Parking and Loading Requirements of the ULDC, or the minimum/maximum range (4/1000 to 6/1000 parking spaces) indicated in ULDC Article 3. E.1.C.2.h.2. The applicant is proposing parking spaces per Table 6.A.1.B. A total of of 823 spaces are required for the 183,282 sq. ft. Commercial pod, and 828 are provided (+5), including existing and proposed spaces for the entire Shopping Center.
- Landscaping: The affected area of the proposed request is within the 1.24-acre outparcel. The perimeter buffers along a portion of the north property line, west of the outparcel, the south property line, the east property line south of the outparcel, and the west property line of the Commercial Pod remain unchanged.

Within the affected area of the request, the Preliminary Site Plans indicates a 15-foot Right of Way buffer along the north property line. A 20-foot Right of Way buffer along the east property line abutting Military Trail, was reduced by 50%-10 feet provided, subject to a Variance approved by the ZC, and included a 5-foot easement overlap. The south and west property lines of the outparcel include divider medians that separate the vehicular circulation. A portion of a divider median along the west boundary was reduced in width and plant material with the approval of a variance by the ZC. A Type I Waiver will be applied for during DRO to allow relocation of building foundation planting from

the front and west side of the Convenience Store to the east side of the building. Staff has evaluated the request and has no issues with the relocation.

- Architecture: The Preliminary Architectural Elevations have been reviewed by Staff and found to be in compliance with Article 5.C Design Standards.
- Signage: The Applicant is proposing a freestanding sign for the project site, and a maximum of three freestanding sign are permitted by Code for a project with 301 feet or more of frontage within the U/S Tier. The project frontage on Military Trail is approximately 1,297 ft. and there are two existing signs for the shopping center. Therefore, the additional sign is allowed by Code. The proposed sign is a 15-foot high freestanding sign with 150 Sq. Ft. of sign area per sign, as allowed by Code. The Code allows an additional 6-ft., 20 sq. ft. outparcel identification sign 6-ft. height additional with 20 sq. ft. of sign area, and the Applicant is proposing a 4.3 ft. height with 16 sq. ft. of sign area, as allowed by Code. Also proposed are single-faced, framed wall signs. Computations of maximum wall sign sq. ft. will be determined to be in compliance with Article 8 at time of Final DRO.

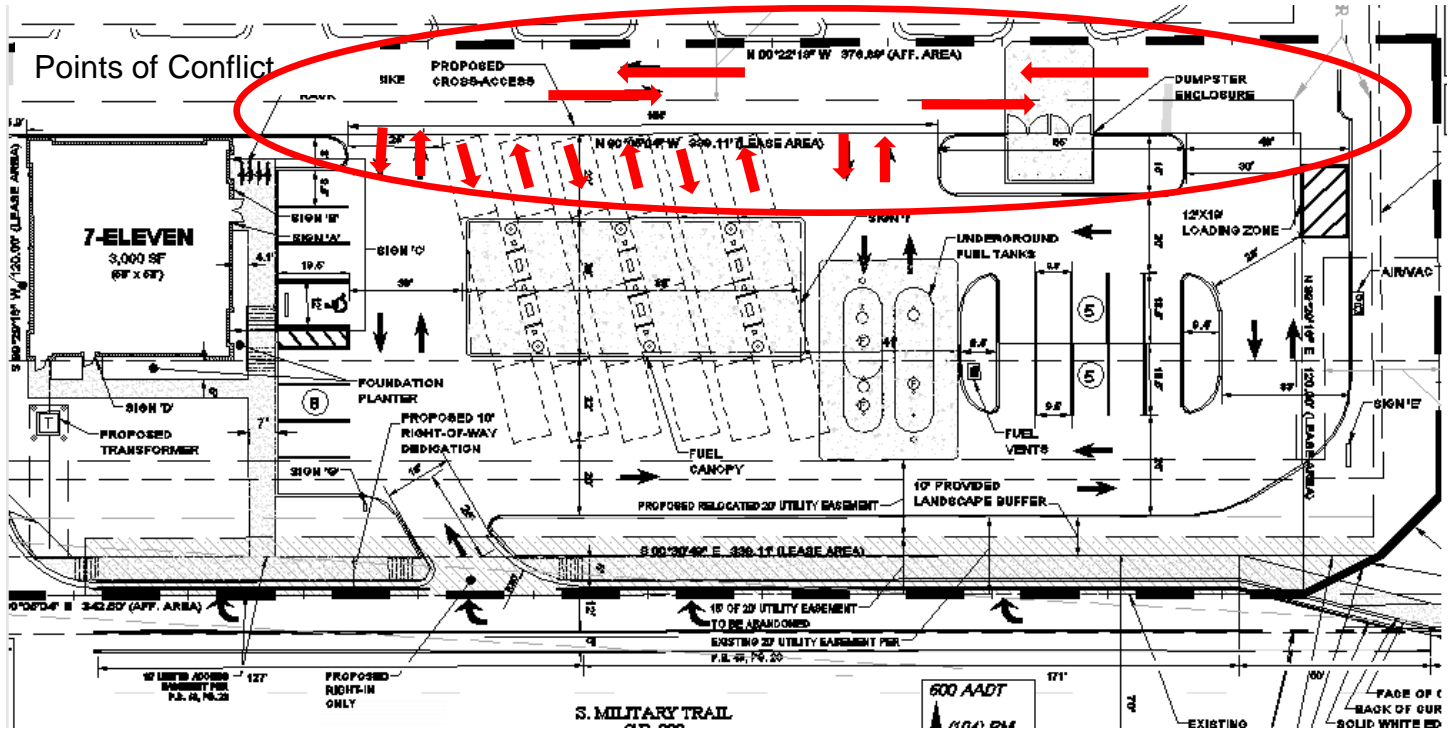
### **Retail Gas and Fuel**

- Location Criteria: A maximum of two Convenience Stores with gas sales and/or Retail Gas and Fuel stores are allowed at an intersection. The proposed Retail Gas and Fuel will replace the previous gas station at this intersection and no other station exist within 1,000 ft. of the intersection of Military Trail and Boynton Beach Boulevard.
- Separation Criteria: The Code exempts uses located within 1,000 ft. of an intersection from this criterion.
- Parking and Loading: One half of the required 12 parking spaces are required to be directly adjacent to the building. The Applicant has provided 7 parking spaces adjacent to the building. The requested Retail Gas and Fuel use requires a minimum of 1 parking space for each 250 sq. ft. A total of 12 spaces are required and 15 are proposed (+3). The Applicant requested to reduce the dimensions of the loading space from 55 ft. by 15 ft. to 19 ft. by 12 ft. through the administrative Type I Waiver. Staff has reviewed this request and supports the request.
- Approval Criteria – Prior to approving a Conditional or Requested Use for Retail Gas and Fuel, the BCC shall make a finding that the use is appropriately located. In making the determination that the use is appropriately located, the BCC shall consider whether or not:

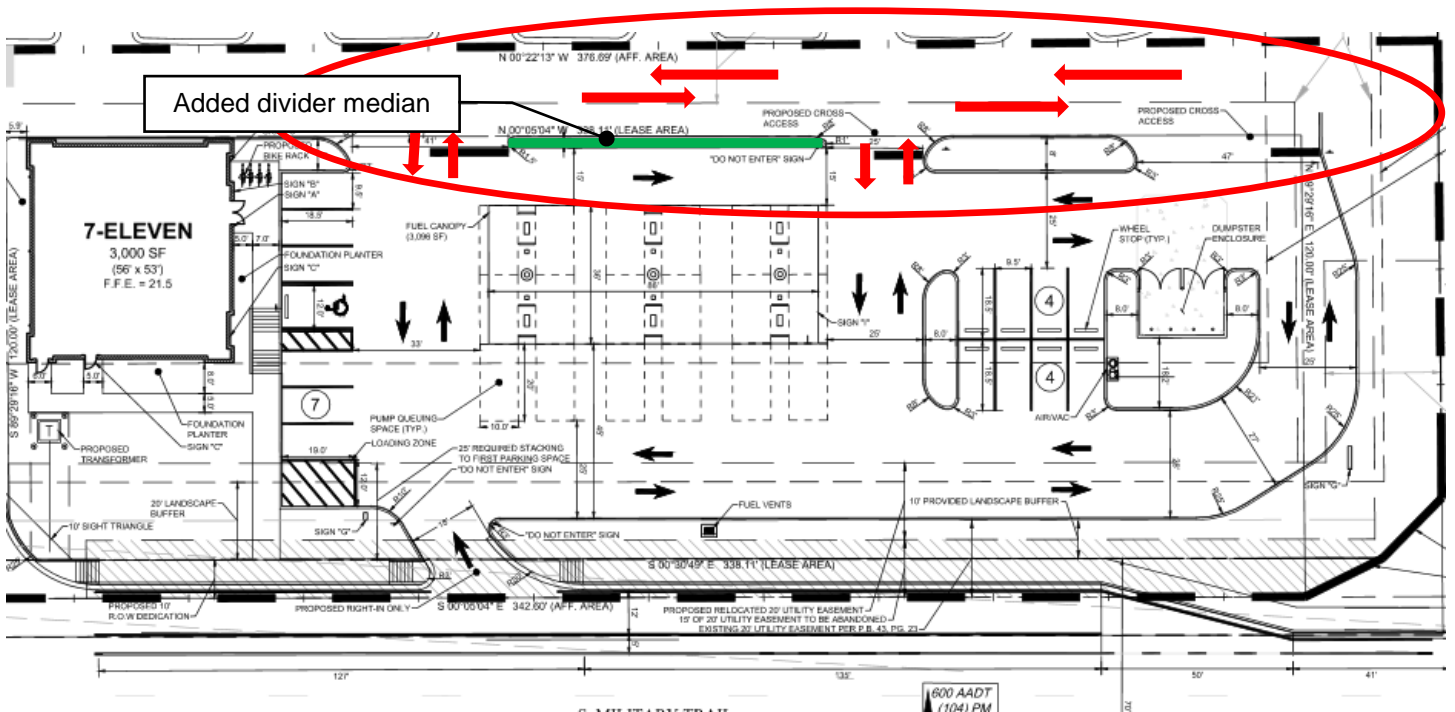
#### **1. Adequate ingress and egress have been provided.**

**YES.** As stated earlier in the report the overall PUD was approved in 1972, with an amendment to the Development Order allowing an Auto Service Station in 1983. The Preliminary Site Plan indicates that the shopping center has four access points along Military Trail and two access points along Boynton Beach Boulevard. One of the access point along Military Trail provides direct ingress into the Retail Gas and Fuel and Convenience Store outparcel. Staff believes points of ingress and egress from Military and Boynton Beach Boulevard are compliant with this criterion. With the incorporation of the divider median, Staff finds that there is adequate ingress and egress internal to the development and the project is designed to provide safe circulation pattern between the uses.

Preliminary Site Plan presented at the June 6, 2017 ZC meeting.



Revised Preliminary Site Plan showing divider median.



**2. Adequate buffering and setbacks from residential areas have been provided.**

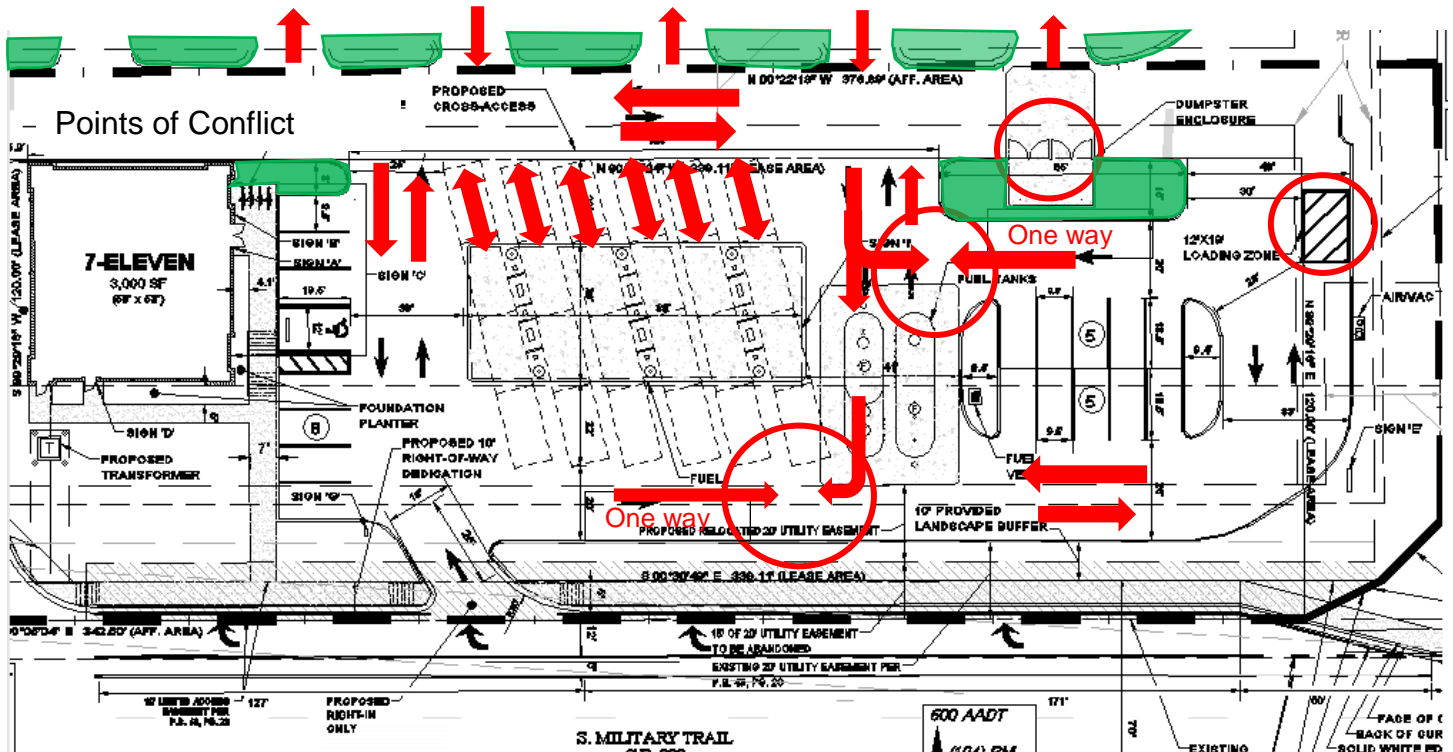
**YES.** The Commercial Pod is surrounded by Residential uses to the north and to the east. The proposed Retail Gas and Fuel use is buffered from the residences to the west by not only distance but the other Retail Buildings within the shopping center and then a 25-foot Landscape buffer beyond that. The residences to the north are a little over 300 feet away and are separate from the proposed use by their landscape buffer, a Right-of-Way, and a 15-foot Right of Way buffer on the subject site. Additionally, the proposed building is more than 300 ft. from the nearest residential structure. Staff has included conditions of approval to include additional palms within the affected area of the buffer. Staff finds that there is adequate buffering from the residents with the inclusion of additional landscaping on the north property line.

**3. Sufficient vehicle stacking, circulation, access, and area for turning movements have been provided.**

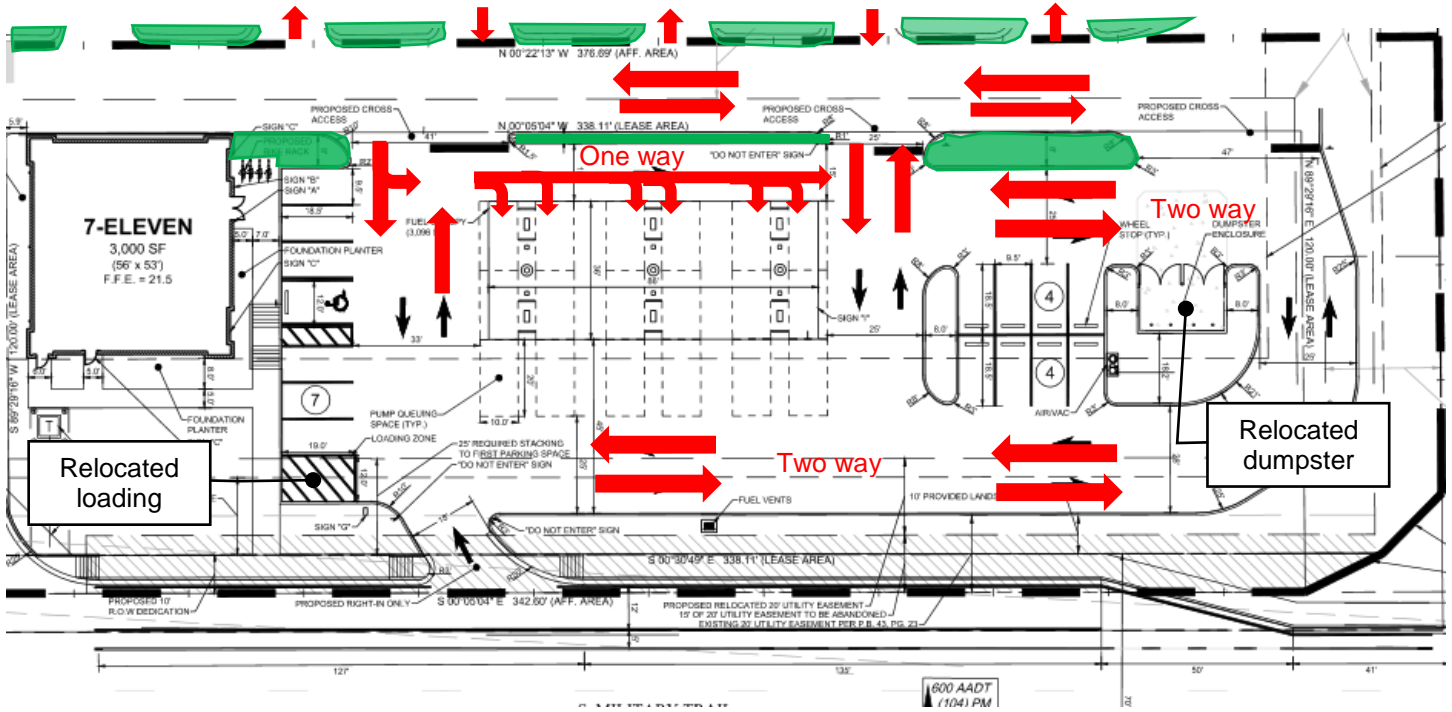
**YES.** The site is an existing commercial development with existing drive aisle and uses. The subject site is an existing out-parcel that is proposed for redevelopment. The Applicant identified a limited affected area, not changing any of the existing circulation drive aisles directly adjacent to the subject outparcel. The drive aisle directs cars north and south through the development, with existing drive aisles that connect from the west. The terminal islands provide surrounding each of these points indicate to drivers that there will be traffic approaching from the west. The revised design of the site adds a divider median along this drive aisle and limits access to 4 points of ingress and egress, improving on-site circulation.

The ZC approved a reduction in the dimensions for point of service/queuing spaces. Additionally, the revised site design improves site circulation by limiting the flow of traffic to one way behind the point of service, and by adding a “do not enter” sign at the north end of the divider median, forcing vehicles entering the site from the northernmost access point of the divider median to drive east avoiding conflict with vehicles accessing the first set of pumps from the southernmost access point. The added two-way circulation in front of the canopy and behind the parking spaces located north of the canopy, further reduce points of conflict within the site, improving the circulation pattern. Additionally, the dumpster enclosure was relocated to eliminate previous conflict with traffic flow of the main drive aisle along the west of the property; and the loading space at the north of the site was relocated and is now proposed adjacent to the building, eliminating the need for the previous request for a variance to have the loading space not adjacent to the building.

**Preliminary Site Plan presented at the June 6, 2017 ZC meeting.**



**Revised Preliminary Site Plan showing divider median, improved circulation, relocated dumpster and relocated loading space.**



**4. The number of fueling positions proposed is excessive.**

**NO.** The proposed project design for the Retail Gas and Fuel use will triple the amount of pumps/fueling stations from 2 pump/4 fueling stations to 6 pumps/12 fueling stations, and will increase the size of the canopy area. However, the number of pumps/fueling stations is commonly found in dense urban locations such as the subject site. Therefore, number of fueling positions as they are designed is not excessive.

**5. There are an excessive number of similar stations in the vicinity.**

**NO** The Applicant states in the Justification Statement that there are no other Retail Gas and Fuel within a 1000-ft. radius of the Property (Exhibit G) and that the closest gas service station is on the east side of Military Trail approximately 0.88-mile north of the intersection. Therefore, there is not an excessive number of similar stations in the vicinity of the proposed project.

**3. Compatibility with Surrounding Uses – The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.**

The approval of the existing commercial pod addressed compatibility and general consistency of the shopping center with surrounding uses. The proposed DOA is internal to the Shopping Center and therefore will not impact the uses and character of the land surrounding and in the vicinity of the development, as indicated on the Preliminary Site Plans.

**4. Design Minimizes Adverse Impact – The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.**

The proposed use is being located within an existing out-parcel of the Commercial Pod of a PUD. The site was previously approved with an Auto Service Station and a Restaurant/Lounge. These buildings will be demolished and a new Retail Gas and Fuel facility will be constructed that includes a 3,096 sq. ft. canopy and 6 pumps/12 fueling stations, along with a 3,000 sq. ft. Convenience Store (Administrative Review use approval). Architectural Elevations, indicated in Figure 10, describe how the Convenience Store building complies with the standards indicated in Article 5.C of the ULDC. Though the number of pumps and fueling positions have increased, an additional turn lane has been provided from Military Trail to reduce traffic movements into the project site as well as the Shopping Center. Conditions of Approval have been included to add additional plant material along the northern property line adjacent to the residential pod. The plan was revised on June 16, 2017 to improve the circulation pattern for the proposed use.



**5. Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The site has been previously cleared and developed.

WELLFIELD PROTECTION ZONE: The property is located with a Wellfield Protection Zone #4.

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

**6. Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The shopping center exists and had a previous approval that was built, and subsequently demolished for an Auto Service Station (including gas sales) the patter of the development is still commercial and modification does not impact this established development. The Applicant proposed to develop the outparcel in one phase.

**7. Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2. F, Concurrency.*

ENGINEERING COMMENTS:

TRAFFIC IMPACTS

Build-out of the project is expected to be December 31, 2018. The proposed site is expected to generate 1,545 net daily and 120 net PM peak hour trips.

There are no improvements to the roadway system required for compliance with the Traffic Performance Standards. A right turn lane, north approach on Military Trail at the northern project driveway will need to be constructed by the Property Owner as site related improvement.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Traffic volumes are in vehicles per hour

Segment: Military Trail from Old Boynton Rd to Boynton Beach Blvd

Existing count: Northbound=2012, Southbound=1285

Background growth: Northbound=145, Southbound=92

Project Trips: Northbound=33, Southbound=33

Total Traffic: Northbound=2190, Southbound=1410

Present laneage: 3 in each direction

Assured laneage: 3 in each direction

LOS "D" capacity: 2,680 per direction

Projected level of service: LOS D or better in each direction

The Property Owner shall dedicate ROW for a right turn lane, obtain an onsite Drainage Permit and Right of Way permit from the Palm Beach County Engineering Department, Permit Section, prior to the application of a Building Permit.

The Property Owner shall install landscaping within the median of Military Trail along the project frontage in accordance with OTIS.

FIRE PROTECTION: The proposed request has been reviewed by the Fire Department and there are no issues at this time.

SCHOOL IMPACTS: No Staff Review Analysis

PARKS AND RECREATION: This is a nonresidential project, therefore Park and Recreation Department ULDC standards do not apply.

PALM BEACH COUNTY HEALTH DEPARTMENT: This project meets all Department of Health requirements.

CONCURRECY: The Commercial Pod has been approved for 184,282 sq. ft. of Commercial uses, including Retail, Restaurant, Bank, Convenience Store, and Fueling Station.

**8. Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances that necessitate a modification.*

This application proposes to redevelop two vacant outparcels. The proposed Retail Gas and Fuel will replace the demolished Auto Service Station that previously exist in the shopping center. Although the overall building coverage for the overall shopping center will be reduced, the proposed number of pumps/fueling stations does not allow for the provision of the 20-foot stacking required for each point of service.

**CONCLUSION:**

Staff has evaluated the standards listed under Article 2.B.2.B, specifically Standard 2 Consistency with the Code and Standard 4 Design Minimizes Adverse Impact and determined that there is a balance between the need for change and the potential impacts generated by the request for the request for a Development Order Amendment and a Requested Use for Retail Gas and Fuel. Therefore, Staff is recommending approval of the requests. Staff has also determined that any of the potential impacts and incompatibility issues will be adequately addressed subject to the recommended Conditions of Approval as indicated in Exhibits C-3 and C-4.

## CONDITIONS OF APPROVAL

Exhibit C-3

### Development Order Amendment- Overall Commercial Pod

#### ALL PETITIONS

1. The approved Overall Preliminary Site Plan and Preliminary Site Plan are dated June, 16 2017. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

2. Previous Conditions of Approval contained in the BCC Approval Letter dated March 21, 1972, Resolutions R-1983-1057, R-1989-0447, R-1989-1231, R-01991-1174 remain in full force and effect.

#### ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-1983-130, Control No.1972-00051, which currently states:

If Old Boynton West Road is extended west of Military Trail this project's access onto Military Trail will be discontinued and access onto Old Boynton Road will be provided. (ONGOING: ENGINEERING - Engineering)

**Is hereby deleted.** [REASON: Old Boynton Road west of Military Trail was constructed as a private roadway.]

2. Developer shall contribute the sum of Nine Thousand Three Hundred and Thirteen Dollars (\$9,313.00) toward the cost of meeting this project's direct and identifiable traffic impact, to be paid at the time of issuance of the Building Permit(s). [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-1983-130, Control No.1972-00051)

3. Previous ENGINEERING Condition 3 of Resolution R-1983-130, Control No.1972-00051, which currently states:

Developer shall retain onsite 85% of the stormwater runoff generated by a three (3) year storm per requirements of the Permit Section, Land Development Division.

**Is hereby deleted.** [REASON: Code requirement]

4. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2018. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

5. Developer shall install pavement markings and signage within the existing shopping center, as determined by the County Engineer, prior to the issuance of the building permit(s). (BLDGPMPT: LAND DEVELOPMENT - Land Development) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-1983-130, Control No.1972-00051)

6. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Right of Way Acquisition Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Military Trail at the north project entrance. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet, or as approved by the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner

Clips where appropriate, as determined by the County Engineer. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering)

7. The Property Owner shall construct right turn lane north approach on Military Trail at northern Plaza entrance, approximately 365 ft south of Old Boynton Road.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

8. The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Military Trail. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioner's approval. Median landscaping installed by the Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMT/CO: MONITORING - Engineering)

c. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: MONITORING - Engineering)

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, (OTIS) program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Military Trail. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMT: MONITORING - Engineering)

## **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.

## CONDITIONS OF APPROVAL

Exhibit C-4

### Requested Use – Retail Gas and Fuel

#### ALL PETITIONS

1. The approved Preliminary Site Plans and Regulating Plans are dated June, 16 2017. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC). Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (BLDGPM: ZONING - Zoning)

#### USE LIMITATIONS

1. Stocking and deliveries shall only be permitted between the hours 6 a.m. to 11 p.m. daily. (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

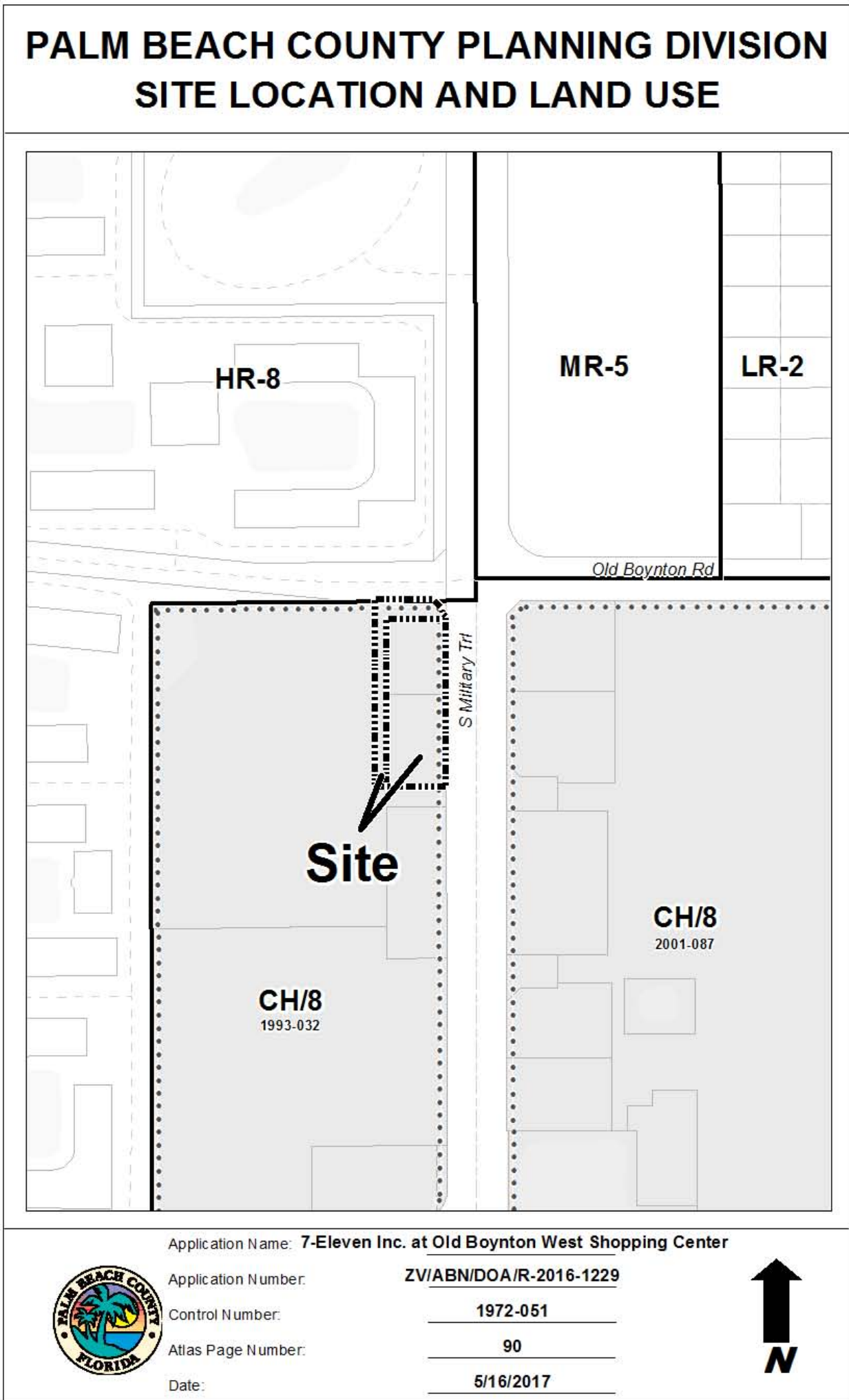


Figure 2 – Zoning Map

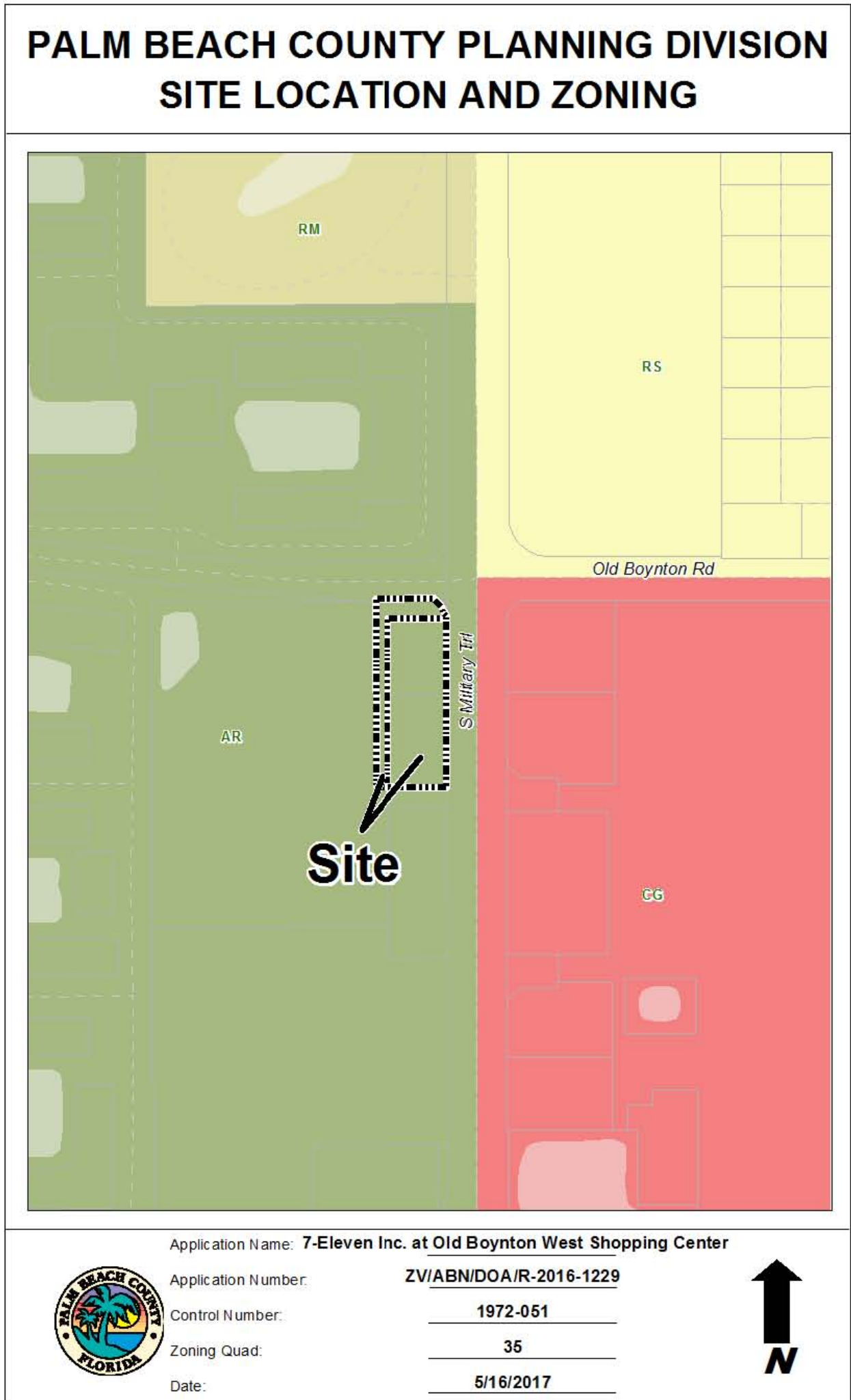




Figure 3 – Aerial

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name: **7-Eleven Inc. at Old Boynton West Shopping Center**

Application Number: **ZV/ABN/DOA/R-2016-1229**

Control Number: **1972-051**

Atlas Page Number: **90**

Date: **5/16/2017**

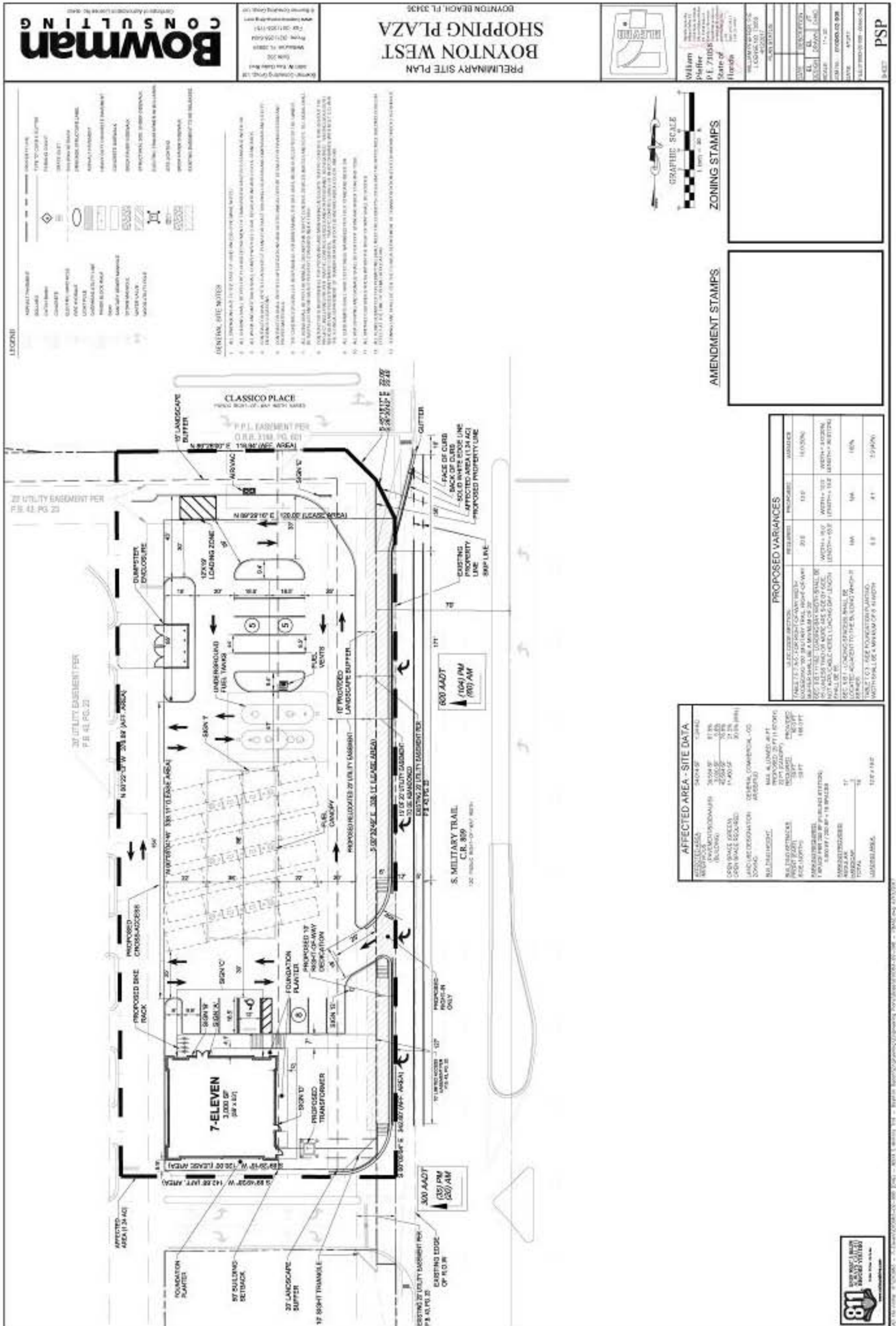


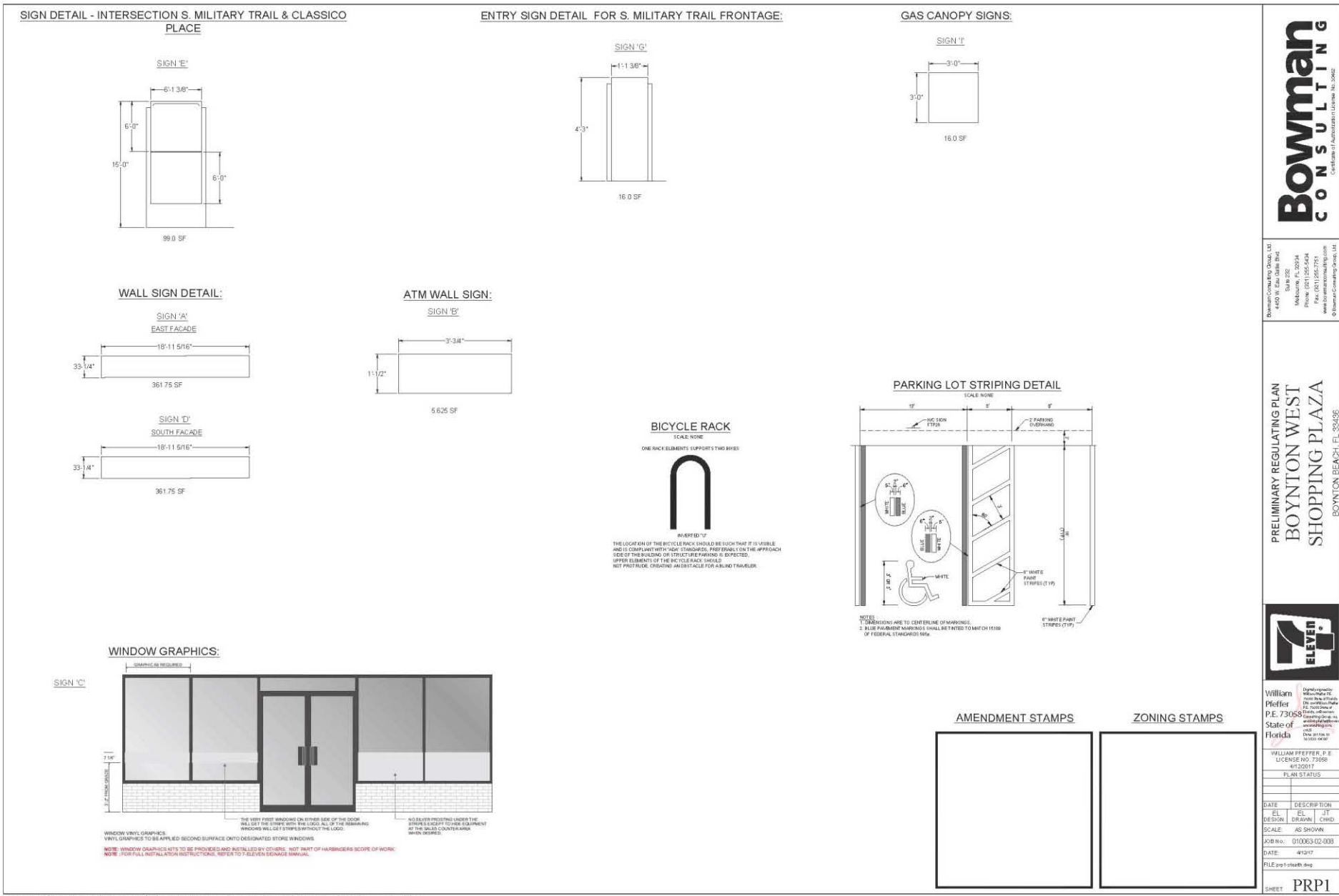






Figure 7 – Preliminary Site Plan dated April 13, 2017















FURTHER AFFIANT SAYETH NAUGHT.

Paul Gaskaway  
Rankin Gaskaway, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 20 day of September, 2016, by Rankin Gaskaway, SVP/CC/SEC, [X] who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.

Suzanne Harrison  
Notary Public

Suzanne Harrison  
(Print Notary Name)

NOTARY PUBLIC  
State of Texas Florida at Large  
My Commission Expires: 9/23/17



EXHIBIT "A"  
PROPERTY

Parcel 1: 00-42-45-23-05-000-0050  
BOYNTON WEST SHOPPING CENTER E 130 FT OF N 153.11 FT OF S  
1347.32 FT (LESS E 10 FT ADDL MILITARY TRAIL R/W)

Parcel 2: 00-42-45-23-05-000-0050  
BOYNTON WEST SHOPPING CENTER E 130 FT OF N 105 FT OF S  
1194.21 FT (LESS E 10 FT ADDL MILITARY TRAIL R/W)





7-Eleven, Inc.

### Disclosure of Interest

February 24, 2016

TO WHOM IT MAY CONCERN:

7-Eleven, Inc. (the "Company") is a Texas corporation, incorporated in 1961. The Company does business under the names "7-Eleven, Inc." and "7-Eleven", and maintains its principal place of business at 3200 Hackberry Road, Irving, Texas 75063. The Company was formerly known as The Southland Corporation and changed its name to 7-Eleven, Inc. on April 28, 1999.

The Company's direct parent is SEJ Asset Management & Investment Company ("SAM"), a Delaware corporation formed in 2012, with its principal place of business at 1209 Orange St., Wilmington, DE 19801. SAM is wholly controlled by Seven-Eleven Japan Co., Ltd. ("Seven-Eleven Japan"). Seven-Eleven Japan is a Japanese corporation formed in 1973, with its principal place of business at 8-8, Nibancho, Chiyoda-ku, Tokyo 102-8452, Japan. Seven-Eleven Japan is a wholly owned subsidiary of Seven and I Holdings Co. Ltd., whose stock is publicly traded on the Tokyo Stock Exchange.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Donald Stevenson, Jr.', written over a horizontal line.

J. Donald Stevenson, Jr.  
Assistant Secretary  
7-Eleven, Inc.

3200 Hackberry Road | Irving, TX 75063 • Mailing Address: P. O. Box 711 | Dallas, TX 75221-0711  
Main Phone Number: (214) 828-7011

**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 Gary J. Bazydlo \_\_\_\_\_, 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 \*See below \_\_\_\_\_ [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.  
\*of Kimco Income REIT, as general partner of Kimco Income Operating Partnership, L.P., as managing member of KIR Boynton 005, LLC, as general partner of KIR Boynton, L.P.
2. Affiant's address is: c/o Kimco Realty Corporation  
3333 New Hyde Park Road, Suite 100  
New Hyde Park, NY 11042
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.

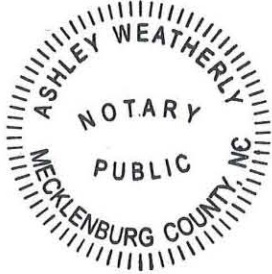
FURTHER AFFIANT SAYETH NAUGHT.

*of*  
  
\_\_\_\_\_  
Gary J. Bazydlo, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 7th day of July, 2016, by Gary J. Bazydlo, [  ] who is personally known to me or [  ] who has produced N/A as identification and who did take an oath.  
*not*

  
\_\_\_\_\_  
Notary Public

Ashley Weatherly  
\_\_\_\_\_  
(Print Notary Name)



NOTARY PUBLIC  
State of North Carolina  
My Commission Expires: 02/16/2020



**EXHIBIT "A"**

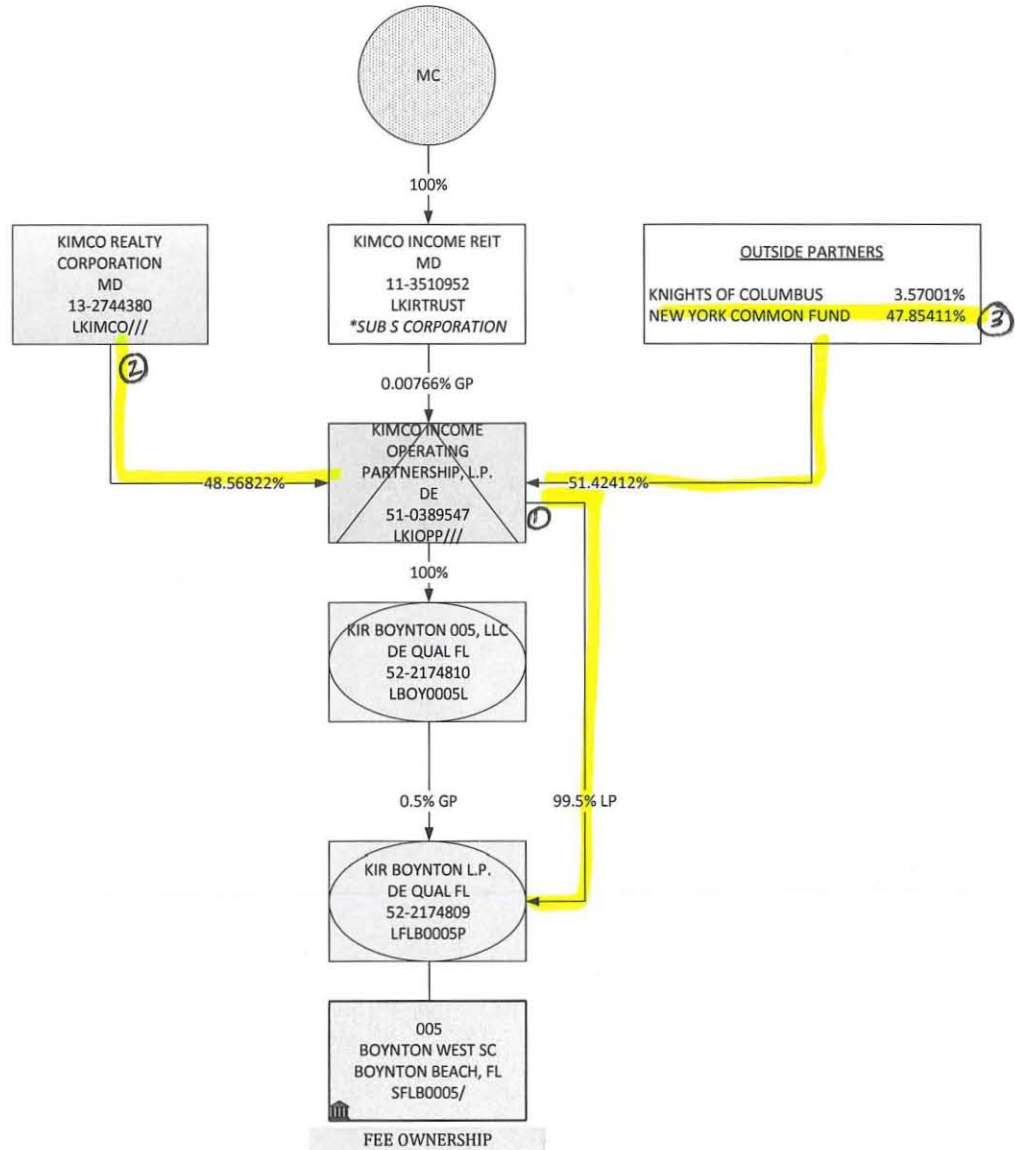
**PROPERTY**

PARCEL 1: (PARCEL NO.: 00-42-45-23-05-000-0060)  
BOYNTON WEST SHOPPING CENTER, THE EAST 130 FEET OF THE NORTH 153.11 FEET OF THE SOUTH 1347.32 FEET (LESS THE EAST 10 FEET FOR ADDITIONAL MILITARY TRAIL RIGHT OF WAY)

PARCEL 2: (PARCEL NO.: 00-42-45-23-05-000-0050)  
BOYNTON WEST SHOPPING CENTER, THE EAST 130 FEET OF THE NORTH 185 FEET OF THE SOUTH 1194.21 FEET (LESS THE EAST 10 FEET FOR ADDITIONAL MILITARY TRAIL RIGHT OF WAY)



KIR BOYNTON L.P.

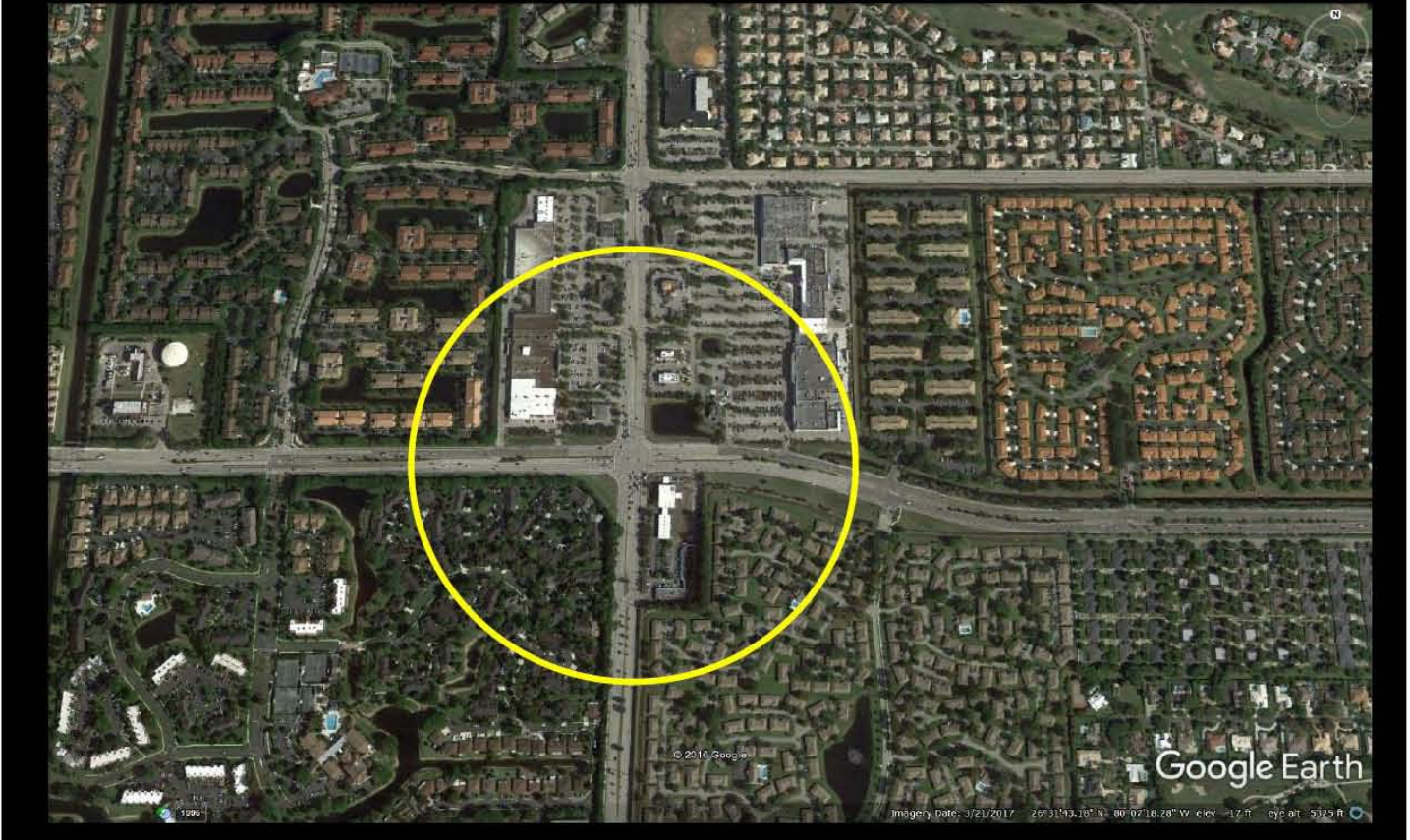


Addresses of entities owning 5% or more of the ownership interest in the property:

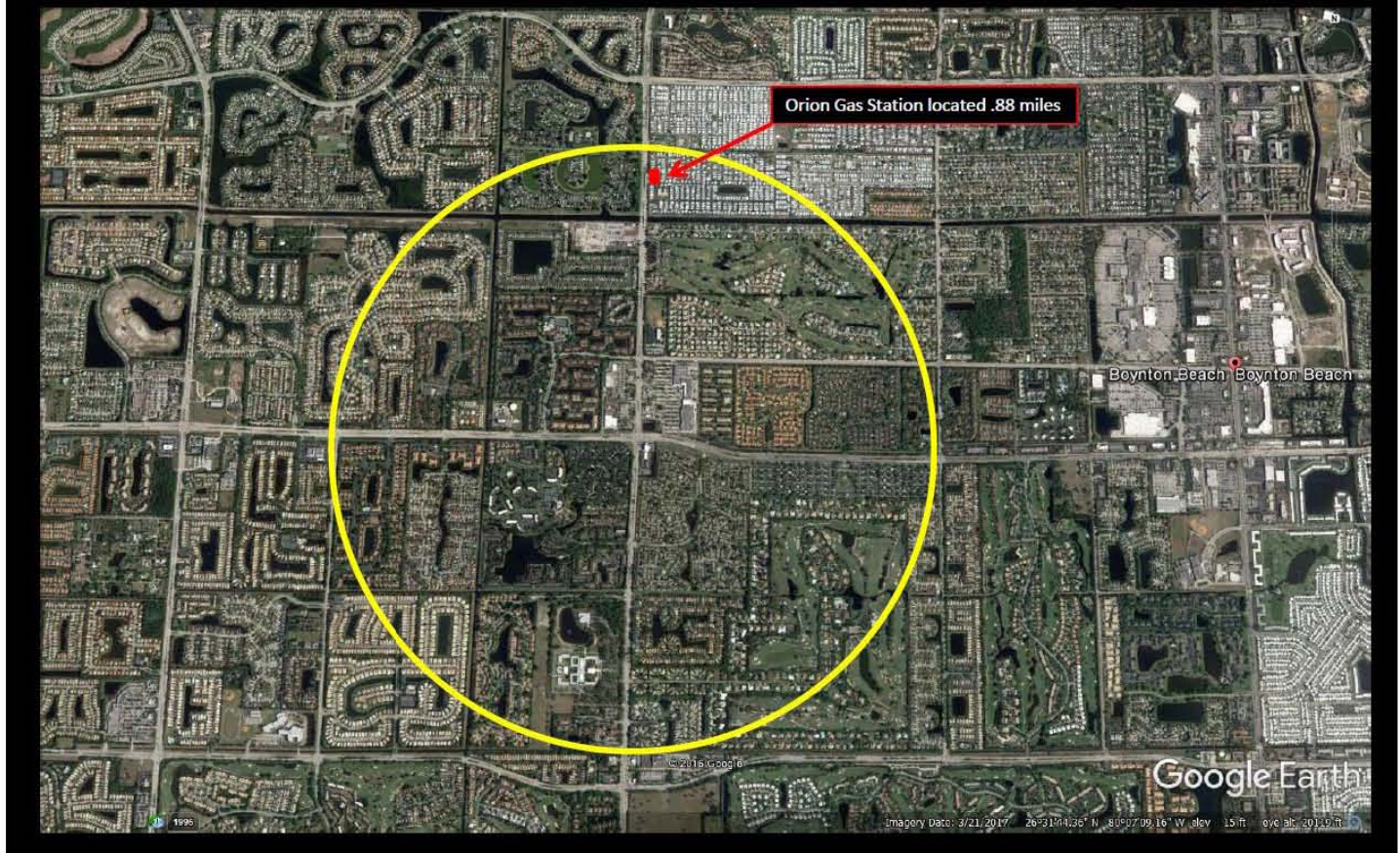
- ① Kimeo Realty Corporation  
3333 New Hyde Park Road  
Suite 100  
New Hyde Park, NY 11042
- ② Kimeo Income Operating Partnership, L.P.  
c/o Kimeo Realty Corporation  
3333 New Hyde Park Road  
Suite 100  
New Hyde Park, NY 11042
- ③ New York State Comm Retirement Fund  
59 Maiden Lane, 30th Floor  
NY, NY 10038

SECTION 3B TAB 33

# 1,000' Radius Map (ULDC 5.E.2)



# 1 Mile Radius Map





**Exhibit G – Letter from the Coalition of Boynton West Residential Associations (COBWRA)**

**COBWRA**  
COALITION OF BOYNTON WEST  
RESIDENTIAL ASSOCIATIONS

*MANAGING GROWTH AND QUALITY OF LIFE*  
*SERVING WEST BOYNTON SINCE 1981*  
*112 Member Communities*

**OFFICERS**

GLEN HARVIE  
President

PHILIP BARLAGE  
1<sup>st</sup> Vice President

WARREN DANZ  
2<sup>nd</sup> Vice President

DEBORAH MURPHY  
Secretary

BETH MILLER  
Treasurer

**DIRECTORS**

JOAN BRUNSWICK

STEPHEN OSEROFF

SHARON REUBEN

BARBARA ROTH

GERRI SEINBERG

STAN SHERMAN

CHRISTINE SONIA

*Honorary Director*

**PAST PRESIDENTS**

MYRNA ROSOFF

STUART CAINE

KENNETH LASSITER

BARBARA KATZ

SANDRA GREENBERG

LEWIS DOCTOR

DAGMAR BRAHS

EUGENE SOKOLOFF

PAUL GELLIS

AL MILLER

PHILIP LESLIE

KENNETH SANDEN

DR. R. CARRINGTON

March 29, 2017

Joshua I. Long AICP/Planner  
777 South Flagler Drive Suite 500 East  
West Palm Beach, FL 33401

Via e mail: [JLong@gunster.com](mailto:JLong@gunster.com)

Subject: Seven/Eleven at Boynton West Shopping Center ZV/ABN/DOA/R-2016-1229

Dear Mr. Long

The above proposal was presented to the Delegates meeting on March 15, 2017. We are pleased to inform you that the vote was to recommend to the County approval of the project as submitted with one condition. Sale of Beer & Wine. No sales between 11:00 PM and 5 AM.

Sincerely,

COBWRA



Glen B Harvie, President

CC: Carolina Valera, Project Manager

Patrick W. Rutter

Jon P. MacGillis

Stephen Oseroff

Gerry Morrison

Barbara Roth

Steve Slade

P.O. Box 740814, Boynton Beach, FL 33474-0814 • 561-572-9151 • e-mail: [info@cobwra.org](mailto:info@cobwra.org)

[www.COBWRA.org](http://www.COBWRA.org) • <https://www.facebook.com/COBWRA> • <https://twitter.com/COBWRA>