



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of October 20, 2018

DATE: October 11, 2018

SUBJECT:

- A. U-3092-04-2 USE PERMIT REVIEW of a children's tumbling, fitness, and activity center for Fit Kid's, Inc. (Arlington Tumbles); located within the Lee Harrison Shopping Center (Suite LL-1); 2425, 2433, 2435, 2447, 2449, 2491, 2499, 2503 & 2509 N. Harrison St. (RPC# 02-073-084).
- B. U-3113-04-3 USE PERMIT REVIEW of a martial arts studio for TKD Life Skills, Inc. (Jhoon Rhee Institute of Tae Kwon Do); located within the Lee Harrison Shopping Center (Suites 2-LL, 4-LL, and LL-2); 2425, 2433, 2435, 2447, 2449, 2491, 2499, 2503 & 2509 N. Harrison St. (RPC# 02-073-084).
- C. U-3067-03-1 USE PERMIT REVIEW of an after school supplemental program for Kumon Learning Center; located within the Lee Harrison Shopping Center (Suites 6-LL and 7-LL); 2425, 2433, 2435, 2447, 2449, 2491, 2499, 2503 & 2509 N. Harrison St. (RPC# 02-073-084).
- D. U-3171-07-4 USE PERMIT REVIEW for a dance studio (Perfect Pointe Dance Studio); located within the Lee Harrison Shopping Center (Suites 1-LL, 5-LL, 11-LL); 2425, 2433, 2435, 2447, 2449, 2491, 2499, 2503 & 2509 N. Harrison St. (RPC# 02-073-084).
- E. U-3270-10-1 USE PERMIT REVIEW of a studio providing private music lessons and ancillary retail sales for Maley's Music, LLC; located within the Lee Harrison Shopping Center (Suite LL-11); 2425, 2433, 2435, 2447, 2449, 2491, 2499, 2503 & 2509 N. Harrison St. (RPC# 02-073-084).

County Manager:

mgs/smb

County Attorney:

[Signature]

MNC

Staff: Mary (Molly) O'Connell, DCPHD, Planning Division
Jane Kim, DES, Transportation Division
Erika Gibson, DHS, Child & Family Services

Applicants:

- A. Fit Kids, Inc.
2499 N. Harrison St., Suite LL-1
Arlington, VA 22207
- B. TKD Life Skills, Inc.
2449 N. Harrison St., Suites 2-LL, 4-LL, and LL-2
Arlington, VA 22207
- C. Kumon Learning Center
2499 N. Harrison St., Suite 6-LL-A and 7-LL
Arlington, Virginia 22207
- D. Kendra M. Slatt and Christopher G. Slatt
t/a Perfect Pointe Dance Studio
4650 Washington Blvd., #728
Arlington, Virginia 22201
- E. Maley's Music, LLC
2499 Harrison St., Suite LL11
Arlington, Virginia 22207

C.M. RECOMMENDATION**Subjects A-D:**

Renew the subject use permits, subject to all previously approved and modified or added conditions (as stated for each use permit), and with a County Board review in five (5) years (October 2023).

Subject E:

Discontinue the subject use permit (U-3270-10-1) for a studio providing private music lessons and ancillary retail sales for Maley's Music, LLC.

ISSUES: No issues have been reported as of the date of this report.

SUMMARY: This is a review of five (5) use permits for businesses located in the lower level suites of the Lee Harrison Shopping Center. Four (4) of the businesses are currently active and operating, and include: a children's tumbling facility (U-3092-04-2), a martial arts studio (U-3113-04-3), an after-school supplemental program (U-3067-03-1), and a dance studio (U-3171-07-4). The studio providing music lessons (U-3270-10-1) is closed. All active uses have been operating in compliance with their respective use permit conditions and no issues have been reported by County agencies. DES Transportation staff has recommended all condition language related to parking and pick-up and drop-off be updated for each use permit to ensure consistency

in implementation and evaluation. Planning staff has also recommended condition modifications to ensure that monitoring of the use is based on physical capacity of the site, rather than total enrollment. Therefore, staff recommends that use permits A-D be renewed, subject to all previously approved conditions and modified or added conditions (as stated for each use permit), and with a County Board review in five (5) years (October 2023); and staff recommends that use permit E be discontinued.

BACKGROUND: All five use permits have been reviewed on several occasions since being approved by the County Board. This review cycle represents the first time all five permits have been reviewed as a group, which was scheduled to keep future review cycles consistent.

Address: 2425, 2433, 2435, 2447, 2449, 2491, 2499, 2503 & 2509 N.
Harrison St. (RPC# 02-073-084).

Neighborhood: Located in the Yorktown area and adjacent to Leeway-Overlee.

Zoning: C-1, Local Commercial District

GLUP: Service Commercial

Existing Land Use: This 253,495-square-foot lot is developed with a neighborhood shopping center anchored by Harris Teeter. Located at the crossroads of Lee Highway (Route 29) and N. Harrison Street, the center contains multiple retail, service, and restaurant tenants which share a large surface parking lot and smaller underground garage.

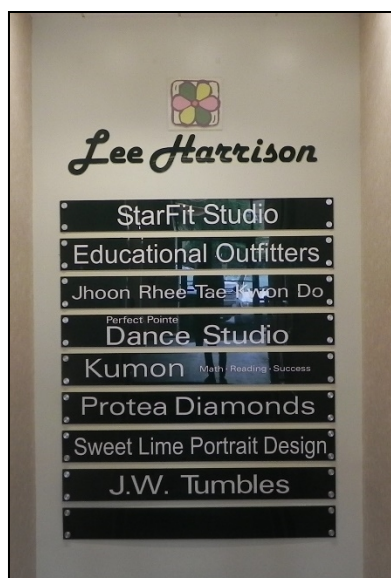
Figure 1: Aerial View



Source: Pictometry

Figure 2: Street View





Source: CPHD

DISCUSSION: The following provides details about the reviewed uses and staff assessment:

REVIEWED USES: There are five (5) use permits scheduled for review, all located within various lower level suites at the Lee Harrison Shopping Center (Table 1).

Table 1

Subject	Use Permit #	Approved Use	Original Approval Date	Staff Recommendation
A	U-3067-03-1	After school supplemental program.	October 2003 (amended September 2013)	Renew with 5-year Review (October 2023)
B	U-3092-04-2	Children's tumbling, fitness and activity center	July 2004	
C	U-3113-04-3	Tae Kwon Do studio	February 2005 (amended July 2010)	
D	U-3171-07-4	Dance studio	May 2007 (amended January 2009 and June 2016)	
E	U-3270-10-1	Music studio/ancillary retail sales	November 2010	Discontinue

Subjects A-D:

- A. Kumon Learning Center operates an after school supplemental learning program and occupies approximately 1,540 square feet in the lower level suites. The space has capacity for up to 35 children and up to 10 staff members, depending on program needs.

- B. Tumbles Arlington offers aerobic activities, birthday parties, and other children's events and classes. The hours of operation are seven (7) days a week from 8 a.m. to 8 p.m., although class and events schedule vary by the day. The site's current configuration allows for a maximum of 40 children for classes and 45 children for birthday parties.
- C. The Jhoon Rhee Institute of Tae Kwon Do has been active in this space since 2005. In July 2010, a use permit amendment was approved to allow the applicant to expand within the lower level suites and increase the class size from 25 to 35 students. Hours of operation are Monday through Friday from 6 a.m. to 9 p.m., Saturday from 8 a.m. to 9 p.m., and Sunday from 9 a.m. to 9 p.m.
- D. Perfect Pointe Dance Studio has been operating since 2007 and was approved to expand their operations in 2009 and 2016. The applicant is currently permitted to have a maximum of 600 enrolled students and a maximum of 96 children on the property at any one time.

Parking for all use permits is located in the shopping center's parking garage, which contains 103 shared parking spaces. The surface parking area includes 327 parking spaces, for a total of 430 parking spaces. The entire shopping center is parked at a ratio of one (1) space per 409 square feet of retail/office GFA, where 400 parking spaces are required by the Zoning Ordinance. Each use permit includes condition language specifying that applicants provide information to patrons to encourage parking in the underground garage.

Subject E: During the scheduled review, staff confirmed that Maley's Music is no longer operating. The space previously occupied by this tenant is now used by Perfect Pointe Dance Studio, which was approved for expansion of their use in July 2016. Therefore, staff recommends the use permit be discontinued.

ASSESSMENT:

Zoning Enforcement: There are no issues; all applicants are operating in compliance with their use permit conditions.

Code Enforcement: There are no issues as of the date of this report.

Fire Marshal's Office: There are no issues as of the date of this report.

Police Department: There are no concerns regarding the renewals of these use permits.

DHS, Child Care Office: There are no concerns regarding the renewals of these use permits.

DES, Transportation: There is ample parking to accommodate existing uses at the site, and staff does not anticipate any undue, adverse impact resulting from the continuation of these use permits. However, DES staff is recommending that all use permit conditions

related to parking and pick-up and drop-off be modified across each permit for consistency in implementation and evaluation.

DCPHD, Planning: Staff recommends renewal of the active use permits and discontinuation of the inactive use permit. The applicants have been operating in compliance with the use permit conditions and no issues have been reported.

Staff also recommends condition modifications for Fit Kids, Inc. (U-3092-04-2) and Perfect Pointe (U-3171-07-4). Both use permits include condition language that reference a limit to total enrollment in addition to a limit on maximum physical capacity; staff proposes to remove the requirement for total enrollment. Staff considers the maximum capacity of a space when forecasting and evaluating potential impacts, such as parking needs, and these maximum limits are further reinforced by Inspection Services and the Child Care Office during their processes. Removing the language ensures that the related businesses can have enrollment flexibility while maximum capacity remains in place as approved in previous actions.

Additionally, the use permits provide valuable services to the community by offering activities for children and families. Continued operation of the uses is not anticipated to adversely affect the health or safety of persons residing or working in the neighborhood; will not be detrimental to the public welfare or injurious to property or improvements; and are not in conflict the purposes of the master plans of the County.

PUBLIC ENGAGEMENT:

Level of Engagement:

Communicate

This level of engagement is appropriate because staff does not expect the implementation and operation of the proposed use to adversely impact the neighborhood.

Outreach Methods:

- Public notice was given in accordance with the Code of Virginia §15.2-2204. Notices of the County Board hearing on the use permit were placed in the September 26, 2018 and October 3, 2018 issues of the Washington Times for the October 20, 2018 County Board Meeting.

In addition to the above legal requirements:

- Individual letters outlining the project description and public hearing details were mailed to surrounding property owners of the subject property.
- Placards were placed in various locations surrounding the subject property within seven (7) days of the public hearing.

- Civic associations were informed of the application via email communication. The subject property is located within the Yorktown Civic Association and is adjacent to the Leeway-Overlee Civic Association.

Community Feedback:

- Leeway-Overlee Civic Association (LOCA): LOCA responded to staff and reported no issues with the renewal of the subject use permits.
- Yorktown Civic Association: The president of the Yorktown Civic Association responded to staff, stating that while they had no issues with the renewal of the existing use permits, there are still ongoing concerns about the shopping center as a whole related to parking and traffic.

CONCLUSION: The applicants have been operating in compliance with all existing use permit conditions and are not anticipated to have an undue, adverse impact with continued operation. Therefore, staff recommends the County Board renew subject use permits A-D, subject to all previously approved and modified or added conditions (as stated for each use permit), and with a County Board review in five (5) years (October 2023) and the County Board discontinue subject use permit E.

Modified / Added Conditions:

A. U-3092-04-2 (Fit Kids Inc)

4. The applicant agrees ~~that the total number of children enrolled in the studio classes shall not exceed 400 children and~~ that the maximum number of children on site at one time is 40 in classes and 45 for birthday parties.
5. ~~The applicant agrees to provide information to patrons that encourages parking in the underground parking garage and describes the location of the garage entrance and hours of operation.~~ The applicant agrees to provide information to patrons, parents, and/or students on the first day of classes that:
 - a. Encourages parking in the underground parking garage and describes the location of the garage entrance and hours of operation.
 - b. Encourages all pick-up and drop-off activity to occur in the underground parking garage.
 - c. Encourages patrons/students, and parents escorting students, to utilize the path that connects the parking garage to the outdoor entrances to the lower level studios when entering and exiting the site.
6. The applicant agrees that all instructors and/or staff will park in the underground parking garage.

7. The applicant agrees to encourage parents, students and staff to walk, bike, and use public transportation by providing information at the educational facility and on its website regarding public transit and other alternatives to driving.

5. U-3113-04-3 (TKD Life Skills Inc)

8. The applicant agrees to encourage parents, students and staff to walk, bike, and use public transportation by providing information at the educational facility and on its website regarding public transit and other alternatives to driving.

6. U-3067-03-1 (Kumon Learning Center)

7. The applicant agrees to provide information to patrons, parents, and/or students on the first day of classes that:

- a. Encourages parking in the underground parking garage and describes the location of the garage entrance and hours of operation.
- b. Encourages all pick-up and drop-off activity to occur in the underground parking garage.
- c. Encourages patrons/students, and parents escorting students, to utilize the path that connects the parking garage to the outdoor entrances to the lower level studios when entering and exiting the site.

7. U-3171-07-4 (Perfect Pointe Dance Studio)

~~4. The applicant agrees that the total number of students enrolled in the Perfect Pointe Dance Studio shall not exceed 600 students or limit as otherwise set by the Child Care Office of the Department of Human Services.~~

~~4.~~ 5. The applicant agrees that the total number of students at the Perfect Pointe Dance Studio shall not exceed 96 students at any one time or a limit as otherwise set by the Child Care Office of the Department of Human Services.

~~5.~~ 6. The applicant agrees to provide information to patrons, parents, and/or students on the first day of classes that:

- a. Encourages parking in the underground parking garage and describes the location of the garage entrance and hours of operation.
- b. Encourages all pick-up and drop-off activity to occur in the underground parking garage.
- c. Encourages patrons/students, and parents escorting students, to utilize the path that connects the parking garage to the outdoor entrances to the lower level studios when entering and exiting the site.

6. 7. The applicant agrees that all instructors and/or staff will park in the underground parking garage.
7. The applicant agrees to encourage parents, students and staff to walk, bike, and use public transportation by providing information at the educational facility and on its website regarding public transit and other alternatives to driving.

A. U-3092-04-2 (Fit Kids, Inc.)

Approved Conditions:

1. The applicant agrees to meet the requirements of the Child Care Ordinance, Community Code Enforcement Office, Environmental Health Bureau and the Fire Marshal's Office, including securing the appropriate assembly permit prior to the issuance of a certificate of occupancy.
2. The applicant agrees that parents of children attending the program shall escort their children to and from the center at all times.
3. The applicant agrees that the hours of operation of the program shall be Sunday through Saturday between the hours of 8 a.m. and 8 p.m.

B. U-3113-04-3 (TKD Life Skills, Inc.)

Approved Conditions:

1. The applicant agrees to meet the requirements of the Child Care Ordinance, Community Code Enforcement Office, Environmental Health Bureau and the Fire Marshal's Office, including securing the appropriate assembly permit prior to the issuance of a certificate of occupancy.
2. The applicant agrees that parents of students attending the program shall escort their students aged eight (8) and under to and from the facility at all times. Additionally, the applicant agrees that parents of students under the age of four (4) attending the program shall remain on site during class.
3. The applicant agrees that the hours of operation of the program for classes and/or special events shall be limited to Monday through Friday from 6 a.m. to 9 p.m. and Saturday from 8 a.m. to 9 p.m., and Sunday from 9 a.m. to 9 p.m.
4. The applicant agrees that separate bathroom and dressing facilities for males and females shall be operational prior to the time the Tae Kwon-Do school receives a Certificate of Occupancy. Separate public bathrooms are located adjacent to the Tae Kwon Do facility.
5. The applicant agrees to obtain a sign permit prior to the installation of any signage for the proposed use.
6. The applicant agrees to provide information to patrons that, parents, and/or students on the first day of classes that:
 - Encourages parking in the underground parking garage and describes the location of the garage entrance and hours of operation
 - Encourages all pick-up and drop-off activity to occur in the underground parking garage
 - Encourages patrons/students, and parents escorting students, to utilize the path that connects the parking garage to the outdoor entrances to the lower level studios when entering and exiting the site.
7. The applicant agrees that all instructors and/or staff shall park in the underground parking garage.

C. U-3067-03-1 (Kumon Learning Center)

Approved Conditions:

1. The applicant agrees to comply with all requirements set forth in all applicable ordinances and regulations, including, by way of illustration and not limitation, those administered by the Child Care Ordinance, Community Code Enforcement Office, Environmental Health Bureau, the Zoning Office, and the Fire Marshal's Office prior to the issuance of a certificate of occupancy for the additional space (identified as Suite LL-7 in the use permit application dated July 12, 2013).
2. The applicant agrees that parents of students attending the program shall escort their students to and from the center and shall be required to sign students in as they arrive.
3. The applicant agrees that notice shall be given to parents of the students attending the program that structured parking below the Harris Teeter grocery store is available for their use on-site.
4. The applicant agrees that the number of students present at any one time shall be limited to 35, provided that the Child Care Office of the Department of Human Services supports a Certificate of Occupancy for at least that number of students. In the event the Child Care Office cannot support 35 students, then the applicant agrees that no more than the total number of students approved by the Child Care Office will be allowed on the premises at any one time. In the event that the applicant does not occupy the additional space (identified as Suite LL-7) in the future, the applicant shall have the right to occupy the original space (identified as Suite LL-6) with no more than 15 students present at any one time, without the approval of a use permit amendment.
5. The applicant agrees that all instructors and/or staff will park in the underground parking garage.
6. The applicant agrees to encourage students and staff to walk, bike, and use public transportation by providing information at the educational facility and on its website regarding public transit and other alternatives to driving. The applicant agrees to submit a copy of the materials used to provide this information to the Zoning Administrator upon application for a certificate of occupancy.

D. U-3171-07-4 Perfect Pointe

Approved Conditions:

1. The applicant agrees to meet the requirements of the Child Care Ordinance, Community Code Enforcement Office, Environmental Health Bureau and the Fire Marshal's Office, including securing the appropriate assembly permit prior to the issuance of a certificate of occupancy.
2. The applicant agrees that parents of students attending the program shall escort their students who are ten (10) years old and younger to and from the center at all times.
3. The applicant agrees that the hours of operation will be limited to Monday through Friday 9 a.m. to 10 p.m.; Saturday 9 a.m. to 7:30 p.m.; and Sunday 10 a.m. to 7:30 p.m.

PREVIOUS COUNTY BOARD ACTIONS:

October 18, 2003	Approved a use permit (U-3067-03-1) for an after school supplemental program for up to fifteen (15) students with an administrative review in one (1) year (October 2004) and a County Board review in two (2) years (October 2005).
July 10, 2004	Approved a use permit (U-3092-04-2) for a children's tumbling, fitness, and activity center, subject to conditions in the staff report, with a review by the County Board in three (3) years (July 2007).
February 12, 2005	Approved a use permit (U-3113-04-3) for a tae kwon do studio subject to conditions and with an administrative review in one (1) year (February 2006) and County Board review in three (3) years (February 2008).
October 15, 2005	Renewed a use permit (U-3067-03-1) subject to all previous conditions, with County Board review in three (3) years (October 2008).
July 8, 2006	Approved a use permit amendment request (U-3113-04-3) to expand the operating hours to one hour earlier on Saturdays and to allow classes on Saturday and Sunday afternoons, subject to all previous conditions, with revised Condition #3, new Condition #6, and a review by the County Board in one (1) year (July 2007).
May 5, 2007	Approved a use permit (U-3171-07-4) for a dance studio, subject to conditions, and with a County Board review in one (1) year (May 2008).
July 7, 2007	Renewed a use permit (U-3092-04-2) for a children's tumbling, fitness, and activity center; located in the Lee-Harrison Shopping Center subject to all previous conditions, with a review by the County Board in five (5) years (July 2012). Renewed a use permit (U-3113-04-3) for a martial arts studio, subject to all previous conditions, with a review by the County Board in three (3) years (July 2010).

April 19, 2008	<p>Approved a use permit amendment request (U-3092-04-2) to occupy approximately 1,100 square feet of additional space in the basement of the Lee Harrison Shopping Center.</p> <p>Approved a use permit amendment request (U-3113-04-3) to occupy additional space, allow children ages two (2) and older, and provide more flexibility in hours of operation.</p>
May 17, 2008	Renewed a use permit (U-3171-07-4) for a dance studio, subject to one (1) new condition, and with a County Board review in one (1) year (May 2009).
October 18, 2008	Renewed a use permit (U-3067-03-1) subject to one (1) new condition and all previously approved conditions, with a County Board review in five (5) years (October 2013).
January 24, 2009	Approved a use permit amendment request (U-3171-07-4) for an expansion of an existing dance studio subject to four (4) amended conditions, one (1) new condition, with an administrative review in four months (June 2009).
April 25, 2009	<p>Renewed a use permit (U-3092-04-2) subject to all previously approved conditions and a County Board review in one (1) year (April 2010).</p> <p>Renewed a use permit (U-3113-04-3) subject to the conditions of the staff report and with a County Board review in one (1) year (April 2010).</p>
January 23, 2010	Renewed a use permit (U-3171-07-4) subject to the conditions of the staff report and with a County Board review in three (3) years (January 2013).
April 24, 2010	<p>Renewed a use permit (U-3092-04-2) subject to the conditions of the staff report and with a County Board review in three and one half (3 ½) years (October 2013).</p> <p>Renewed a use permit (U-3113-04-3) subject to the conditions of the staff report and with a County Board review in three and one half (3 ½) years</p>

(October 2013).

July 10, 2010

Approved a use permit amendment request (U-3113-04-3) subject to all previously approved conditions, one (1) modified condition, one (1) new condition, and with a County Board review in three (3) years and three (3) months (October 2013).

November 13, 2010

Approved a use permit (U-3270-10-1) for a studio for private music lessons and ancillary retail sales subject to the conditions of the staff report, and with a County Board review in one (1) year (November 2011).

November 19, 2011

Renewed a use permit (U-3270-10-1) for a studio for private music lessons and ancillary retail sales, subject to all previously approved conditions, and with a County Board review in October 2013.

January 26, 2013

Renewed a use permit (U-3171-07-4) for an existing dance studio subject to all previously approved conditions and with a County Board review in five (5) years, ten (10) months (October 2018).

September 21, 2013

Approved a use permit amendment request (U-3067-03-1) for the expansion of an existing after school supplemental program from 15 to 35 students for Kumon Learning Center, subject to all previously approved conditions, with revised Condition #1 and new Conditions #4, 5 and 6 and with a County Board review in one (1) year and one (1) month (October 2014).

October 19, 2013

Renewed use permits for JW Tumbles (U-3092-04-2), Jhoon Rhee Institute of Tae Kwon Do (U-3113-04-3) and Maley's Music (U-3270-10-1), subject to all previously approved conditions and with a County Board review in five (5) years (October 2018).

October 18, 2014

Renewed a use permit (U-3067-03-1) for an existing after school supplemental program for Kumon Learning Center, subject to all previously approved conditions and with a County Board review in four (4) years (October 2018) (this use

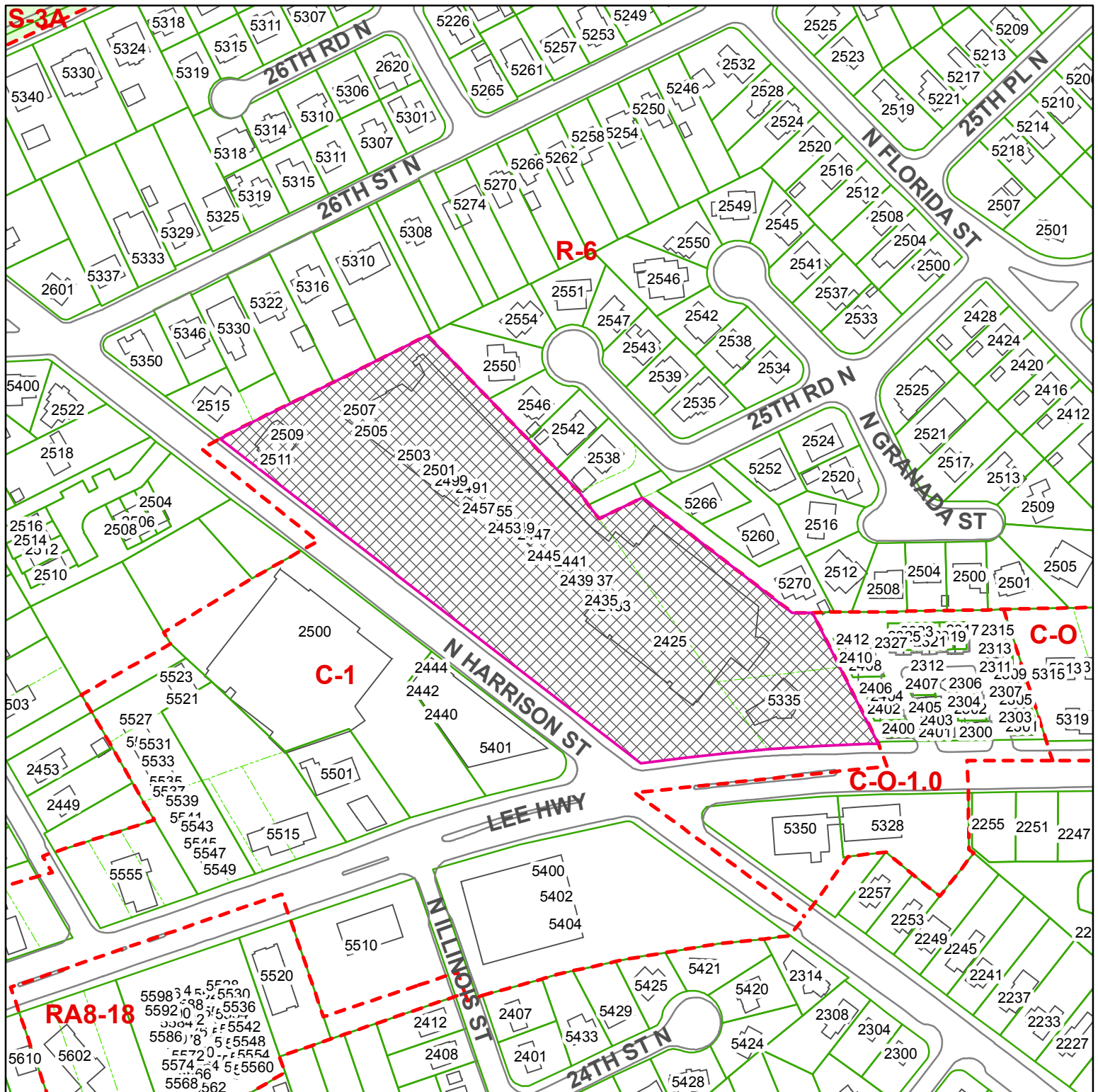
permit will be on the same review cycle as other active use permits within the Lee Harrison Shopping Center).

June 18, 2016

Approved a use permit amendment for an expansion of capacity and modification of Friday hours of operation at Perfect Pointe Dance Studio, subject to all previously approved conditions, with revised Conditions #3 and 5 and with a County Board review in one (1) year (June 2017).

June 17, 2017

Renewed a use permit for a dance studio (Perfect Pointe Dance Studio), subject to all previously approved conditions, and with a County Board review in one (1) year and four (4) months (October 2018).



U-3171-07-4, U-3067-03-1, U-3092-04-2, U-3113-04-3, and U-3270-10-1

2425, 2433, 2435, 2447, 2449, 2491, 2499, 2503, and 2509 N Harrison St

RPC # 02-073-084



 Case Location(s)
Scale: 1:2,400

Note: These maps are for property location assistance only. They may not represent the latest survey and other information.

Department of Community Planning, Housing and Development

County Use Only
Date Placard Posted _____
By _____
Removed _____