

RESOLUTION NO. R-2009- 0704

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2008-01684
(CONTROL NUMBER 1993-00040)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF MOUNTAINEER PROPERTIES LLC
BY COVELLI DESIGN ASSOCIATES, INC., AGENT
(RESIDENT SERVICE CENTER)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application ZV/DOA-2008-01684 was presented to the Board of County Commissioners at a public hearing conducted on April 23, 2009; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/DOA-2008-01684, the application of Mountaineer Properties LLC, by Covelli Design Associates, Inc., agent, for a Development Order Amendment to modify/delete conditions of approval (Landscaping, Lighting, Use Limitations) and add land area on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on April 23, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burt Aaronson moved for the approval of the Resolution.

The motion was seconded by Commissioner Vana and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 23, 2009.

Filed with the Clerk of the Board of County Commissioners on May 14, 2009.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

Tract 5, Century Village Plat No. One, according to the Plat thereof as recorded in Plat Book 28, Page 194, Public Records of Palm Beach County, Florida.

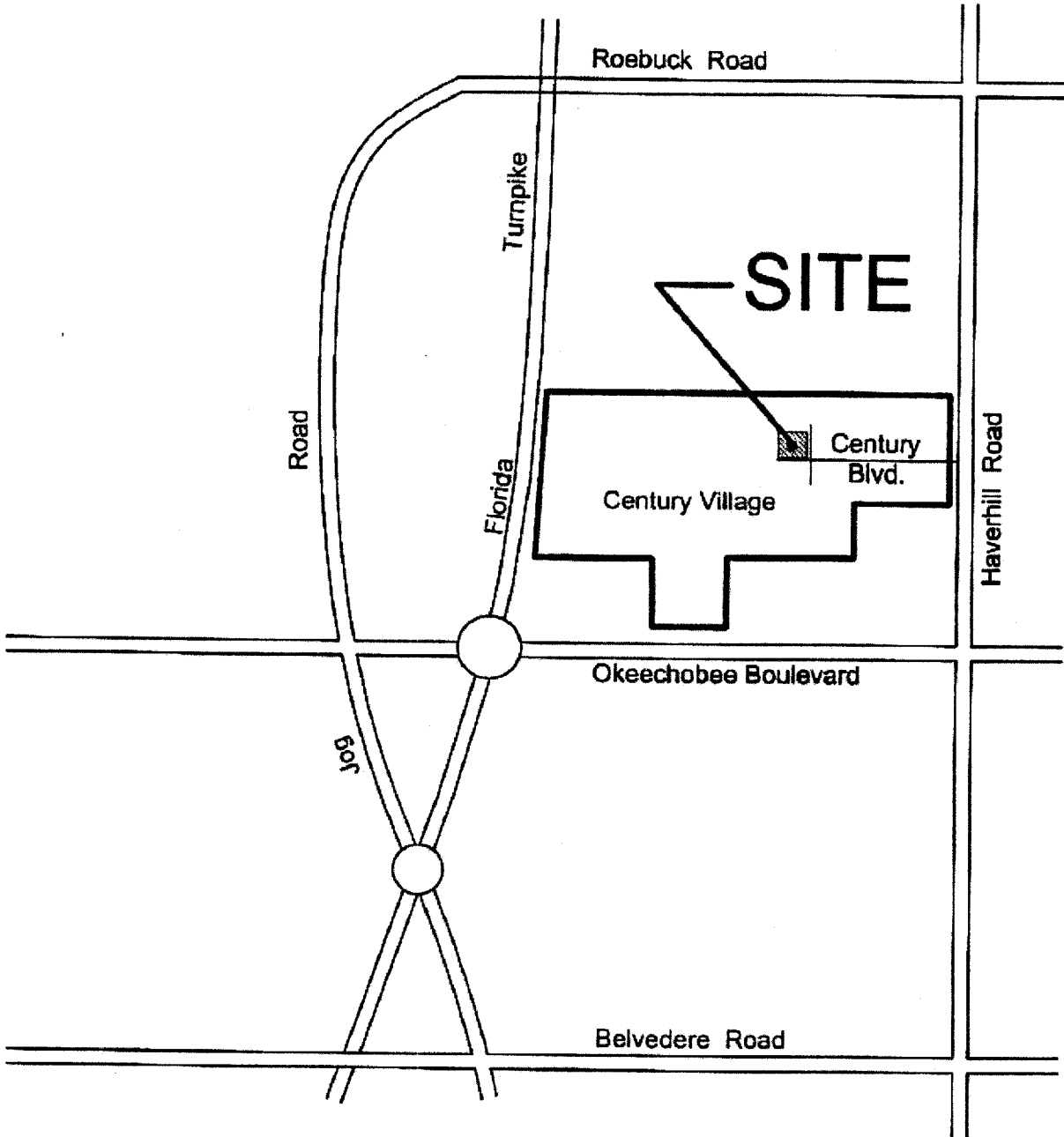
Parcel 2:

A parcel of land in Tract #8, Century Village Plat No. Two, according to the Plat thereof as recorded in Plat Book 28, Page 219, Public Records of Palm Beach County, Florida; said parcel of land specifically described as follows:

BEGIN at the Northwest corner of said Tract #8 and bear assumed due South, along the West line of said Tract #8, a distance of 105.96 feet; thence North 70° 01' 50" East, a distance of 125.07 feet; thence North 59° 32' 04" East, a distance of 126.70 feet to a point on a curve having a radius of 25.00 feet; thence Westerly along the arc of said curve, a distance of 4.45 feet; thence due West, along the North line of said Tract #8, a distance of 220.0 feet to the POINT OF BEGINNING.

EXHIBIT B

VICINITY SKETCH



SITE LOCATION MAP CA93-40

S23 T42S R42E

N.T.S.



**Resident Service Center
100 Century Blvd.
West Palm Beach, FL 33417**

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-94-111 (Control 93-40), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioner, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated March 12, 2009. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. Previous General Condition A.2. of Resolution R-94-111, Control 1993-040 which currently states:

All existing air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (BUILDING)

Is hereby amended to read:

All roof or ground mounted air conditioning, mechanical equipment, electrical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (BLDG. PERMIT: ARCH REVIEW - Zoning)

2. Prior building permit approval similar architectural character and treatment, including but not limited to color, material, fenestration and roofline, shall be provided to the additional 3,160 square feet building and elevator to be consistent with the architecture of the existing building. (BLDG: ARCH REVIEW - Zoning)

DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within fifty (50) feet of the north property line and shall be confined to areas designated on the site plan. (BLDG PERMIT: BLDG - Zoning) (Previous Condition E.1, Resolution R-94-111, Control Number (93-40)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No building permits for the site shall be issued after December 31, 2012. 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING Eng)

2. Prior to April 23, 2010, the property owner shall subdivide the offsite parking area south of Century Boulevard from Tract 8 of Plat Book 28, Page 219, in accordance with Article 11. (DATE: MONITORING-Eng)

ZONING - LANDSCAPING

1.Previous Landscaping-General Condition 1, Resolution R-94-111, Control Number (93-40), which currently states:

All existing trees shall be upgraded to meet the following minimum standards:

- a. Tree height: fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (ZONING)

Is hereby amended to read:

Canopy trees shall be native and meet the following minimum standards at installation:

- a. tree height: fourteen (14) feet;
- b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
- c. canopy diameter: seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
- d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning)

2.Previous Landscaping - General Condition 2, Resolution R-94-111, Control Number (93-40), which currently states:

Terminal islands, divider medians, and landscape islands shall incorporate existing native vegetation to the extent determined by the Zoning Division. Adjustments to the location of landscape islands may occur as the result of acceptance of an Alternative Landscape Betterment Plan by the Zoning Division. (Zoning)

Is hereby amended to read:

Prior to the issuance of a building permit for the building addition, the property owner shall replace all dead and missing plant materials on the entire subject property. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG SOUTH AND EAST PROPERTY LINES (ABUTTING RIGHTS-OF-WAY)

3.Landscaping within the required buffer along the south and east property lines shall be upgraded to include:

- a. One (1) native canopy tree planted every twenty (20) feet on center.
- b. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
- c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (BLDG PERMIT: Landscaping-Zoning)(Previous Landscaping Condition C-1, Resolution R-94-111, Control Number (93-40))

ZONING - LANDSCAPING-LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

4.Landscaping and buffering along the north property line shall be upgraded to include:

- a. A minimum ten (10) foot wide landscape buffer strip.
- b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (BUILDING-Zoning)(Previous Landscaping Condition D-1, Resolution R-94-111, Control Number (93-40))

5.Previous Landscaping Condition D-2, Resolution R-94-111, Control Number (93-40), which currently states:

The following landscaping requirements shall be installed on the exterior side of the required wall:

- a. One (1) native canopy tree planted every twenty (20) feet on center.
- b. One (1) native palm tree or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees or pine trees may supersede the requirement for a native canopy tree in that location.
- c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.

Is hereby amended to read:

The following landscaping requirements shall be installed in the buffer:

- a. One (1) native canopy tree planted every twenty (20) feet on center.
- b. One (1) native palm tree or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees or pine trees may supersede the requirement for a native canopy tree in that location.
- c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation shall be planted on both sides of the wall and shall be maintained at a minimum height of forty-eight (48) inches. (BLDG PERMIT: BUILDING-Landscaping)

6.Previous Landscaping Condition D-3, Resolution R-94-111, Control Number (93-40), which currently states:

Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches.

Is hereby deleted. Reason: Installed height and maintained height of interior hedge is increased as amended in Landscape Condition 5.

ZONING - LANDSCAPING

7.Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1.Previous Lighting Condition 1, Resolution R-94-111 Control (93-40), which currently states:

All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG PERMIT: BLDG - Bldg)

Is hereby deleted. Reason: New Outdoor Lighting Condition 4 shall require the site to comply with ULDC 5.E.4.E.

2.Previous Condition F.2, Resolution R-94-111, Control Number (93-40), which currently states:

All outdoor lighting fixtures shall not exceed fifteen (15) feet in height, measured from finished grade to highest point. (BUILIDNG)

Is hereby deleted. Reason: New Outdoor Lighting Condition 4 shall require the site to comply with ULDC 5.E.4.E, which requires outdoor lighting within 100 feet of residential to be limited to 20 feet in height.

3.Previous Condition F.3, Resolution R-94-111, Control Number (93-40), which currently states:

All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

Is hereby deleted. Reason: Code Requirement.

4. Prior to the issuance of a Certificate of Occupancy (CO) for the building addition or the elevator, whichever shall first occur, the outdoor lighting shall comply with ULDC 5.E.4.E. (CO: BLDG - Bldg)

PARKING

1. Previous Condition G.1, Resolution R-94-111, Control Number (93-40), which currently states:

Prior to site plan certification, the applicant shall either obtain a variance from the Board of Adjustment or reduce proposed square footage as may be necessary to meet all parking requirements.

Is hereby deleted. Reason: No longer applicable.

2. All delivery and/or loading areas shall be screened from view from the north property line by a twelve (12) foot high wing wall, measured from finished grade to highest point, consistent with the color and character of the principle structure. (BLDG PERMIT: BLDG-Zoning) (Previous Condition G.2, Resolution R-94-111, Control Number (93-40))

3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan. (ONGOING: CODE ENF-Code Enf) (Previous Condition G.3. Resolution R-94-111, Control Number (93-40))

4. The parking area along the south side of Century Boulevard shall be used for employee parking only. Appropriate signs shall be posted restricting this area to employee parking only. (BLDG PERMIT: BLDG-Bldg) (Previous Condition G.4. Resolution R-94-111, Control Number (93-40))

5. No parking of any vehicles shall be permitted along the rear of the facility except in parking spaces designated on the site plan. (ONGOING: CODE ENF-Code Enf) (Previous Condition G.5. Resolution R-94-111, Control Number (93-40))

SIGNS

1. Previous Condition H.1. Resolution R-94-111, Control Number (93-40), which currently states,

Prior to site plan certification, the petitioner shall submit a master sign plan indicating signage details. The site shall be limited to one (1) free standing sign no larger in face, area, or height than the existing sign on site. (DRO: ZONING-Zoning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the Master Sign Plan shall be revised to limit freestanding signs to one (1) sign with a maximum sign face area of twelve (12) square feet as indicated on the April 27, 1994 Certified site plan. The sign shall be limited to a maximum height of six (6) feet. (DRO: ZONING - Zoning)

SOLID WASTE AUTHORITY

1. The property owner and all lessees shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA) (Previous Condition J.1. Resolution R-94-111, Control Number (93-40))

USE LIMITATIONS

1. Previous Condition I.1. Resolution R-94-111, Control Number (93-40), which currently states:

Proposed uses of the site shall be limited to the following limitations of the CN district:

- a. General Retail: limited to a maximum of 1500 square feet of gross floor area per use and shall be limited to: the sale of prescription and over the counter pharmaceutical drugs, health aids, durable medical goods and other items which are health related, and which are for the exclusive use of the residents of Century Village; and, newstand and gift shop;
- b. Medical office or dental clinic: limited to a maximum of 1500 square feet of gross floor area per use, not to exceed 8,000 square feet of gross floor area;
- c. Business or professional office: limited to legal services, accounting services, real estate services or other Florida state licensed professional services which do not include the sale of goods, or management functions which directly relate to the management and operation of Century Village Communities, with total office use limited to a maximum of 8,000 square feet of gross floor area per lot;
- d. Personal services: limited to a maximum of 1,500 square feet of gross floor area per use;
- e. Adult day care center: for an adult day care center of twenty persons or less, the minimum usable floor area, exclusive of any space devoted to the kitchen, office, storage, and toilet facilities shall be 1,500 square feet or more. An additional 75 square feet of floor area or the amount required by the PBCPHU shall be provided for each person in an adult day care center that is proposed to accommodate more than twenty persons. There shall be a minimum of 1,500 square feet of outdoor activity area or 100 square feet of outdoor activity area per person for an adult day care center, whichever produces the larger area; and,
- f. The CN regulations require certain limitations of square footage per use. The petitioner may seek variance relief from CN code requirements regarding square footage limitations per use. In no event shall the cumulative square footage exceed the proposed 31,800 square feet of accessory commercial development.

Is hereby amended to read:

The site is limited to 31,800 square feet. Uses shall be limited to the following limitations of the Neighborhood Commercial (CN) Zoning District and shall be for the exclusive use of the Century Village residents and their guests:

- a. Retail, General (Class A approved CA93-40): maximum of 3,000 square feet per use and shall be limited to: the sale of prescription and over-the-counter pharmaceutical drugs, health aids, durable medical goods, other health-related items, convenience food and household items, newsstand and gift shop, and postal service, and which are for the exclusive use of the Century Village residents;
- b. Medical or Dental Office (Class A approved CA93-40)
- c. Office, Business or Professional (Class A approved CA93-40): limited to legal, accounting, tax, insurance, real estate, or other Florida state-licensed professional services which do not include the sale of goods; management functions which directly relate to the management and operation of Century Village Communities; or, other services or property management functions for service to Century Village residents only.
- d. Personal Services (Class A approved CA93-40)
- e. Adult Day Care, Limited (Class A approved CA93-40)
- f. Financial institution: limited to up to 5,000 square feet. Drive thru services not permitted. (DRO approval Petition 2008-1684) (ONGOING: ZONING-Zoning)

ZONING

1. Previous Zoning GENERAL Condition 1, Resolution R-91-111, Control Number 93-40, which currently states:

No occupational licenses for accessory commercial uses shall be issued until the parking and landscaping improvements are completed in accordance with the certified site plan. (ZONING)

Is hereby deleted. Reason: No longer applicable.

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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; revocation of any concurrency; and/or

a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

b. A requirement of the development to conform with the standards of the ULDC 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; and/or

c. Referral to code enforcement; and/or

d. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a 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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING:MONITORING-Zoning)