

RESOLUTION NO. R-2017- 1768

RESOLUTION APPROVING ZONING APPLICATION
ZV/ABN/DOA/PDD/CA-2016-02202
(CONTROL NO. 1991-00037)
an Official Zoning Map Amendment
APPLICATION OF Brightwork Acquisitions, LLC
BY Dunay, Miskel and Backman, LLP, AGENT
(Wawa SB 1327)

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, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/ABN/DOA/PDD/CA-2016-02202 was presented to the Board of County Commissioners at a public hearing conducted on November 30, 2017;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for an Official Zoning Map Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC 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/ABN/DOA/PDD/CA-2016-02202, the Application of Brightwork Acquisitions, LLC, by Dunay, Miskel and Backman, LLP, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Light Industrial (IL) and Agricultural Residential (AR) Zoning Districts to the Multiple Use Planned Development (MUPD) Zoning District, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on November 30, 2017, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and

made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

Commissioner Melissa McKinlay, Mayor	-	Aye
Commissioner Mack Bernard, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Dave Kerner	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Mary Lou Berger	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on November 30, 2017.

Filed with the Clerk of the Board of County Commissioners on December 11th 2017.

This resolution shall not become effective unless or until the effective date of Small Scale Land Use Amendment No. SCA-2017-00009.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION A

PARCEL 1:

THE WESTERLY 100 FEET OF THE WEST 400 FEET OF THE EAST 435 FEET OF TRACT 37, BLOCK 7, PALM BEACH FARMS COMPANY, PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE LANDS CONVEYED TO COUNTY OF PALM BEACH IN DEED BOOK 1039, PAGE 609, - PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

THE EAST 150 FEET OF THE SOUTH 300 FEET OF THE WEST 555 FEET OF TRACT 37, BLOCK 7, PALM BEACH FARMS COMPANY, PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXCEPTING THEREFROM A STRIP OF LAND 40 FEET IN WIDTH ON EACH SIDE OF A CENTER LINE OF COUNTY ROAD AND ALSO EXCEPTING THEREFROM ANY EXISTING RIGHTS OF WAY FOR ANY AND ALL PUBLIC UTILITIES. ALSO EXCEPTING THEREFROM THE PARCEL OF LAND CONVEYED TO COUNTY OF PALM BEACH IN THE STATE OF FLORIDA BY DEED RECORDED IN DEED BOOK 1024, PAGE 379.

AND EXCEPTING FROM PARCELS 1 AND 2 THE FOLLOWING:

A PORTION OF TRACT 37, BLOCK 7, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 32, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT 37; THENCE SOUTH 00 DEGREES 59 MINUTES 41 SECONDS EAST ALONG THE WEST LINE OF SAID TRACT 37 AND THE WEST LINE OF THE AMENDED PLAT OF CLAREMONT, AS RECORDED IN PLAT BOOK 15, PAGE 57, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 116.237 METERS (381.36 FEET) TO A POINT ON THE NORTHERLY EXISTING RIGHT OF WAY LINE FOR STATE ROAD 80 (SOUTHERN BOULEVARD) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93.120-2543; THENCE SOUTH 88 DEGREES 26 MINUTES 26 SECONDS EAST ALONG SAID NORTHERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 123.458 METERS (405.04 FEET) TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 59 MINUTES 41 SECONDS WEST, A DISTANCE OF 26.801 METERS (87.93 FEET), THENCE SOUTH 88 DEGREES 21 MINUTES 12 SECONDS EAST, A DISTANCE OF 76.043 METERS (249.48 FEET); THENCE SOUTH 00 DEGREES 59 MINUTES 41 SECONDS EAST, A DISTANCE OF 26.685 METERS (87.55 FEET) TO A POINT ON SAID NORTHERLY EXISTING RIGHT OF WAY LINE FOR STATE ROAD 80 (SOUTHERN BOULEVARD); THENCE NORTH 88 DEGREES 26 MINUTES 26 SECONDS WEST, A DISTANCE OF 76.038 METERS (249.47 FEET) TO THE POINT OF BEGINNING. CONTAINING :1.442 ACRES, 62,816 SQ. FT.

TOGETHER WITH:

DESCRIPTION B

ALL OF THE FOLLOWING DESCRIBED PROPERTY, LESS THE WESTERLY 100 FEET THEREOF:

THE WEST 369 FEET OF THE EAST 435 FEET OF TRACT 37, BLOCK 7, PALM

BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THAT PORTION CONVEYED TO COUNTY OF PALM BEACH IN DEED BOOK 1039, PAGE 609. ALSO LESS THE LANDS CONVEYED TO JAY S. EATON AND MAXINE P. EATON, HIS WIFE, BY WARRANTY DEED RECORDED IN O.R. BOOK 871, PAGE 442, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF TRACT 37, BLOCK 7, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID POINT BEING 285 FEET WEST OF THE NORTHEAST CORNER OF TRACT 37, MEASURED ALONG THE NORTH LINE OF SAID TRACT; THENCE EASTERLY ALONG SAID NORTH LINE A DISTANCE OF 220.85 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF BENOIST ROAD; THENCE SOUTHERLY, MAKING AN ANGLE WITH THE PRECEDING COURSE OF 90° 05' 00" MEASURED FROM WEST TO SOUTH ALONG SAID WESTERLY LINE OF WESTERLY RIGHT-OF-WAY OF BENOIST ROAD, A DISTANCE OF 219.89 FEET, THENCE WESTERLY MAKING AN ANGLE WITH THE PRECEDING COURSE OF 87°28'30", MEASURED FROM NORTH TO WEST, A DISTANCE OF 221.30 FEET TO A POINT; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF TRACT 37 TO THE POINT OF BEGINNING.

LESS THAT PORTION TAKEN BY THE ORDER OF TAKING, PARCEL 125, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF TRACT 37, BLOCK 7, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 32, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT 37; THENCE SOUTH 0°59'41" EAST ALONG THE WEST LINE OF SAID TRACT 37 AND THE WEST LINE OF AMENDED PLAT OF CLAREMONT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 15, PAGE 57 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 116.237 METERS (381.36 FEET) TO A POINT ON THE NORTHERLY EXISTING RIGHT OF WAY LINE FOR STATE ROAD 80 (SOUTHERN BOULEVARD) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93120-2543; THENCE SOUTH 88°26'26" EAST ALONG SAID NORTHERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 199.496 METERS (654.51 FEET) TO THE POINT OF BEGINNING; THENCE NORTH 00°59'41" WEST, A DISTANCE OF 26.685 METERS (87.55 FEET); THENCE SOUTH 88°21'12" EAST, A DISTANCE OF 67.104 METERS (220.16 FEET); THENCE NORTH 46°18'22" EAST, A DISTANCE OF 9.085 METERS (29.81 FEET); THENCE NORTH 00°59'41" WEST, A DISTANCE OF 28.598 METERS (93.83 FEET); THENCE SOUTH, 88°26'26" EAST, A DISTANCE OF 8.290 METERS (27.20 FEET); TO A POINT ON THE WESTERLY EXISTING RIGHT OF WAY LINE FOR BENOIST FARMS ROAD; THENCE SOUTH 00°59'41" EAST ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 61.639 METERS (202.23 FEET) TO A POINT ON THE NORTHERLY EXISTING RIGHT OF WAY LINE FOR SAID STATE ROAD 80 (SOUTHERN BOULEVARD); THENCE NORTH 88°26'26" WEST ALONG SAID NORTHERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 82.073 METERS (269.27 FEET) TO THE POINT OF BEGINNING.

CONTAINING :0.864 ACRES, 37,657 SQ. FT.

TOGETHER WITH:
DESCRIPTION C

BEGINNING AT A POINT IN THE NORTH LINE OF TRACT 37, BLOCK 7, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF ON FILE IN

THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, SAID POINT BEING 285 FEET WEST OF THE NORTHEAST CORNER OF TRACT 37, MEASURED ALONG THE NORTH LINE OF SAID TRACT; THENCE EASTERLY ALONG SAID NORTH LINE A DISTANCE OF 220.85 FEET, MORE OR LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF BENOIST ROAD; THENCE SOUTHERLY, MAKING AN ANGLE WITH THE PRECEDING COURSE OF 90 DEGREES, 05 MINUTES, 00 SECONDS MEASURED FROM WEST TO SOUTH ALONG SAID WESTERLY LINE OF WESTERLY RIGHT-OF-WAY OF BENOIST ROAD, A DISTANCE OF 219.89 FEET, THENCE WESTERLY MAKING AN ANGLE WITH THE PRECEDING COURSE OF 87 DEGREES, 28 MINUTES, 30 SECONDS, MEASURED FROM NORTH TO WEST, A DISTANCE OF 221.30 FEET TO A POINT; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF TRACT 37 TO THE POINT OF BEGINNING. LESS AND EXCEPT RIGHT OF WAY CONVEYED TO PALM BEACH COUNTY, BY RIGHT OF WAY WARRANTY DEED RECORDED MARCH 19, 1992 IN OFFICIAL RECORDS BOOK 7165, PAGE 726, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING: 0.821 ACRES, 35,758 SQ. FT.

ALSO KNOWN AS:

A PORTION OF TRACT 37, BLOCK 7, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING AND BEING IN SECTION 32, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT 37; THENCE N 89° 01' 00" E ALONG THE NORTH LINE OF THE AMENDED PLAT OF CLAREMONT ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 15, PAGE 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID LINE ALSO BEING THE NORTH LINE OF SAID TRACT 37, FOR A DISTANCE OF 555.00 FEET TO THE NORTHEAST CORNER OF SAID AMENDED PLAT OF CLAREMONT, AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE CONTINUE N 89° 01' 00" E ALONG THE SAID NORTH LINE OF TRACT 37 FOR A DISTANCE OF 318.57 FEET;

THENCE S 00° 13' 16" E ALONG THE WEST RIGHT OF WAY LINE OF BENOIST FARMS ROAD AS RECORDED IN OFFICIAL RECORD BOOK 7165, PAGE 726, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA FOR DISTANCE OF 217.59 FEET;

THENCE S 88° 26' 26" E FOR A DISTANCE OF 25.06 FEET;

THENCE S 00° 56' 52" E ALONG THE WEST RIGHT OF WAY LINE OF BENOIST FARMS ROAD AS DESCRIBED IN OFFICIAL RECORD BOOK 13751, PAGE 1427, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA FOR A DISTANCE OF 91.53 FEET;

THENCE S 46° 19' 18" W ALONG AFORESAID RIGHT OF WAY FOR A DISTANCE OF 29.82 FEET;

THENCE N 88° 21' 12" W ALONG THE NORTH RIGHT OF WAY OF STATE ROAD 80 PROJECT NO.93120-2543 (SOUTHERN BOULEVARD) AS DESCRIBED IN SAID OFFICIAL RECORD BOOK 13751, PAGE 1427, AND OFFICIAL RECORD BOOK 13672, PAGE 645, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA FOR A DISTANCE OF 469.31 FEET;

THENCE N 00° 58' 10" W FOR A DISTANCE OF 208.88 FEET;

THENCE S 88° 23' 38" E FOR DISTANCE OF 150.15 FEET;

THENCE N 00° 58' 10" W ALONG THE EAST LINE OF SAID AMENDED PLAT OF

CLAREMONT FOR A DISTANCE OF 106.80 FEET, TO THE POINT OF BEGINNING,
CONTAINING 136,231.25 SQ.FT. OR 3.127 ACRES.

EXHIBIT B
VICINITY SKETCH

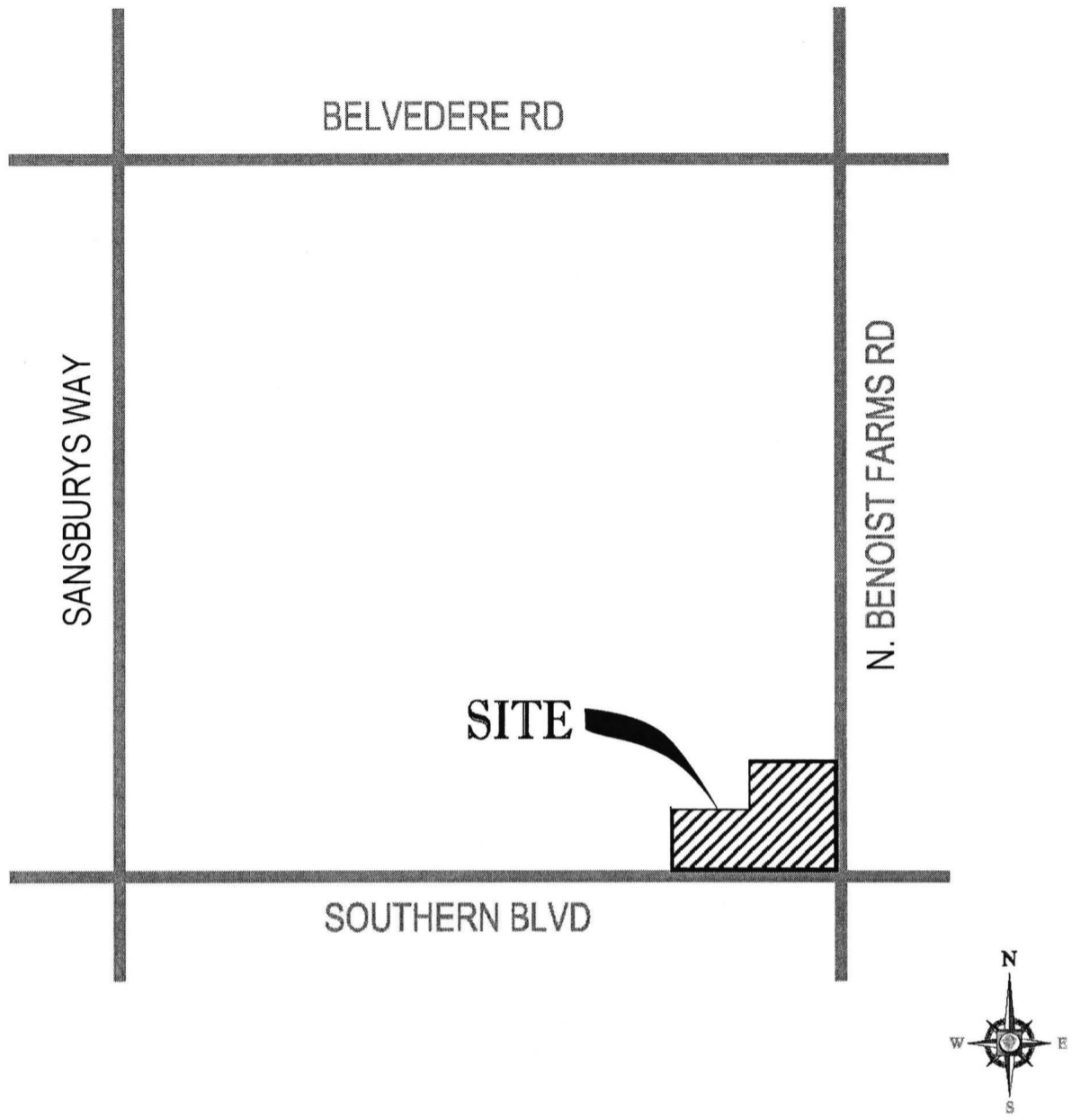


EXHIBIT C

CONDITIONS OF APPROVAL

Non Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Site Plan is dated August 25, 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 Building Permits for Phase 2, the Architectural Elevations for the Retail Building (Phase 2) 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) and shall be generally consistent with the Architectural Elevations of the Final Approved Convenience Store. 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)

2. There shall be no additions or modifications to the Retail Nursery buildings located at 8135 Southern Boulevard (PCN 00424327050070374). (BLDGPM: BUILDING DIVISION - Zoning)

ENGINEERING

1. 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)

2. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering)

3. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right-of-way deed and all associated documents as required by FDOT for Southern Boulevard for 200 feet measured from the existing south right-of-way line of Southern Boulevard on an alignment approved by the FDOT and the County Engineer.

All right-of-way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's Phase I frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT 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 and FDOT 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPMT: MONITORING - Engineering)

4. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Southern Boulevard for 200 feet measured from the existing south right of line of Southern Boulevard on an alignment approved by the FDOT and the County Engineer.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit of Phase II. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT 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 and FDOT 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPMT/ONGOING: MONITORING - Engineering)

5. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right-of-way and all associated documents as required by the County Engineer for Benoist Farms Road, 112 feet measured from the existing east right-of-way line of Benoist Farms Road on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved 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. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax

pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/ONGOING: MONITORING - Engineering)

6. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Wallis Road, measured from the existing right of way 15 feet in width on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved 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. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/ONGOING: MONITORING - Engineering)

7. The Property Owner shall construct a left turn lane south approach on Benoist Farms Road at Wallis 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. (BLDGPM: MONITORING - Engineering)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

8. The Property Owner shall construct a right turn lane east approach on Southern Boulevard at the project entrance.

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

9. The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Benoist Farms Road. 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 Benoist Farms Road. 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)

10. The Property Owner shall construct a right turn lane west approach on Wallis Road at Benoist Farms 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)

11. Within ninety (90) days notice by the County Engineer, the Property Owner shall provide a roadway construction easement to Palm Beach County along Benoist Farms Road, a minimum of 10 feet in width, or as otherwise approved by the County Engineer. This roadway construction easement shall also contain an isosceles trapezoid connecting the Corner Clips across this Property Owner's entrance. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (ONGOING: ENGINEERING - Engineering)

12. Property Owner shall construct a minimum 5 foot wide concrete sidewalk along the west side of Benoist Farms Road from Southern Boulevard to the north property line. 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. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first certificate of

occupancy. (BLDGPMT/CO: MONITORING - Engineering)

13. For Phase 1, only existing building, approved landscaping and approved signage shall be allowed within 220ft north of the south R-O-W line of Southern Boulevard. For Phase 2, only approved landscaping and approved signage shall be allowed within 220ft north of the south R-O-W line of Southern Boulevard. (ONGOING: ENGINEERING - Engineering)

14. No Building Permits for the site shall be issued until the Property Owner makes a proportionate share payment of \$350,096.28 to make improvements to the intersection of Southern Blvd and Sansburys Way, that will include adding 1 left, 1 through, 1 right turn lanes on the south approach, 1 left turn lane, 1 through lane on the east approach, 1 right turn lane on the west approach, and 1 through lane on the north approach. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in a later Condition below. Any road impact fees paid by the Developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPMT: MONITORING - Engineering)

15. In recognition that construction prices may change over the life of the project, the proportionate share payments included in the above conditions shall be subject to the following escalator calculation:

Adjusted Payment (when payment is being made) = Original Payment Amount x Cost Adjustment Factor

Where,

Original Payment Amount = Proportionate Share Payment amount specified in the Proportionate Share Agreement

Cost Adjustment Factor = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution))

The Bureau of Labor Statistics Producer Price Index (PPI) for Commodities (Series ID: WPUIP2312301), can be found at <http://data.bls.gov/timeseries/WPUIP2312301>.

If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United States Bureau of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non-residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect. (ONGOING: ENGINEERING - Engineering)

16. No Building Permits shall be issued until the Property Owner makes a lump sum payment of \$150,000 towards mitigating impacts created by this project or towards any other improvements deemed necessary, at the sole discretion of the County Engineer. This amount will not be impact fee creditable. (BLDGPMT: MONITORING - Engineering)

17. The Property Owner shall construct

- i. left turn lane south approach on Benoist Farms Rd at Wallis Rd.
- ii. right turn lane east approach on Southern Blvd at Project entrance.

These turn lanes should be at a minimum 280 ft in storage plus 50 ft taper, or as approved by the County Engineer. 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 i above) and from FDOT (for ii above) for these construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

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

18. Prior to the final site plan approval by the DRO, an updated concurrency traffic study shall be submitted that includes the proposed 4,900 sf retail use as shown on the proposed site plan. A fully executed new Proportionate Share agreement, based on the updated traffic study, shall also be submitted at that time, before the final site plan approval. (DRO: ENGINEERING - Engineering)

19. Property Owner shall construct a minimum 5 foot wide concrete sidewalk along Wallis Road from Benoist Farms Road to the west property line. 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. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering)

20. Property Owner shall construct a minimum 6 foot wide concrete sidewalk along Southern Boulevard from Benoist Farms Road to the west property line. 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. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering)

21. Prior to final approval of the Site Plan by the DRO, the site plan shall be amended to show, label and dimension the sidewalks along Benoist Farms Road and Wallis Road. (DRO: ENGINEERING - Engineering)

LANDSCAPE - GENERAL

1. Concurrent with the submittal for Building Permits, the Property Owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (BLDGPM/ONGOING: BUILDING DIVISION - Zoning)

2. At time of submittal for Building Permits, the Property Owner shall submit Landscape Plan(s) to the Landscape Section for review and approval. In addition to the minimum requirements of the Code, the Plan(s) and/or supporting documents shall indicate four Quercus Virginiana (Live Oaks) at 20-ft. minimum height to replace two Live Oaks being removed. (BLDGPM: BUILDING DIVISION - Zoning)

LANDSCAPE - PERIMETER

3. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING BENOIST FARMS ROAD) Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revised in accordance with the following:

- a. There shall be no easement overlap in the 10-foot buffer; and
- b. The easement that is overlapping the landscape islands shall be relocated so that there is no overlap with any landscape island. (DRO/ONGOING: ZONING - Zoning)

4. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING SOUTHERN BOULEVARD) Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revised in accordance with the following:

- a. There shall be no easement overlap into the 20-foot Right-of-Way buffer; and
- b. The easement that is overlapping the landscape islands shall be relocated so that there is no overlap with any landscape island. (DRO/ONGOING: ZONING - Zoning)

LANDSCAPE - PRESERVATION OF VEGETATION

5. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit a Final Site Plan with a Tree Disposition Chart for review and approval. All Vegetation that is subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4. The Plan(s) shall show:

- a. the temporary location for the relocated Vegetation and identify what type of tree barricades will be utilized;
- b. the location of all preserved Vegetation and identify what type of the permanent tree barricades / protection devices will be utilized;
- c. a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation; and,
- d. the above requirements (a thru c) shall be updated in the Tree Disposition Chart. (DRO: ZONING - Zoning)

6. Prior to Final Approval by the Development Review Officer, the Property Owner shall:

- a. submit an application for a Vegetation Barricade Permit to the Building Division. The application shall be routed to the Zoning Division for coordinated review by Zoning, ERM and Building Divisions;
- b. include the approved DRO plan(s) with the approved Disposition Chart with the barricade permit application;
- c. complete the installation of all vegetation protection barricades and tagging; and,
- d. schedule inspections and receive a "Pass" status with Zoning Landscape Inspectors prior to any tree removal activity. (DRO: ZONING - Zoning)

7. No vegetation shall be removed or relocated and no Building Permit(s) shall be issued until Landscape Conditions 5 and 6 are satisfied. (ONGOING: ZONING - Zoning)

8. Failure to comply with the Landscape - Preservation of Vegetation, Conditions 5 through 7 may result in a Stop Work Order being placed on the site and applicable fines assessed. (ONGOING: ZONING - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), submit a recorded cross access easement agreement for the western side of the site as depicted on the site plans. (DRO: PLANNING - Planning)

2. Construct, and pave to the property line, the cross access as shown on the site plans prior to the release of the Certificate of Occupancy. (CO: MONITORING - Planning)

SIGNS

1. Prior to Final Approval by the Development Review Officer, the Final Master Sign Plan shall be amended to show proposed wall and freestanding signs, and the location of the wall signs on the Retail Building elevations of Phase 2. (DRO: ZONING - Zoning)

SITE DESIGN

1. At the time of platting, the 6-ft. Utility Easement (ORB 1939, PG 386) shall be abandoned and the Final Site Plan shall be amended indicating the abandonment. (PLAT: ZONING - Zoning)

2. Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be amended to remove parking overhang onto the east ROW landscape buffer. (DRO: ZONING - Zoning)

3. Prior to Final Approval by the Development Review Officer, the truck traffic circulation exhibit shall be amended to be consistent with the Preliminary Site Plan dated August 25, 2017 and to show circulation leading to the underground fuel tanks. (DRO: ZONING - Zoning)

4. Should Southern Boulevard be widened to the 220-ft. ultimate Right-of-Way, the

Property Owner shall relocate any signs and landscaping and the site shall be redesigned to shift the buffer out of the Right-of-Way. (ONGOING: MONITORING - Zoning)

5. Prior to Final Approval by the Development Review Officer, the Traffic Study and Final Site Plan shall be amended to include Concurrency for the development of Phase 1 (Retail Nursery and the Retail Gas and Fuel with Convenience Store) and Phase 2 (General Retail uses and Retail Gas and Fuel with Convenience Store). (DRO: ZONING - Zoning)

6. Prior to Final Approval by the Development Review Officer, the Phase 1 Site Plan shall include the site layout and function for the existing Retail Nursery. This includes, but is not limited to, structures, parking, landscaping, dimensions and locations of all ingress and egress, planting areas and pedestrian and vehicular connectivity to the overall development. (DRO: ZONING - Zoning)

7. Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revised to show, label and dimension a continuous pedestrian walkway connecting customer entrances of the buildings to the sidewalks along Southern Boulevard, and the sidewalk on Wallis Road as required by Engineering Condition 19 and 20. (DRO: 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.