

RESOLUTION NO. R-2018- 1282

RESOLUTION APPROVING ZONING APPLICATION PDD/DOA-2017-02173
(CONTROL NO. 1984-00159)
a Development Order Amendment
APPLICATION OF PGA Partners 100 LLC
BY Gentile Glas Holloway O'Mahoney & Assoc Inc., AGENT
(PGA Waterfront Residential PUD)

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 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application PDD/DOA-2017-02173 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2018;

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 (Application Processes and 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 Processes) for a Development Order 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.B.6.C (Board Action) 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 PDD/DOA-2017-02173, the Application of PGA Partners 100 LLC, by Gentile Glas Holloway O'Mahoney & Assoc Inc., Agent, for a Development Order Amendment to add land area; delete units; reconfigure the Master Plan; and, modification of conditions (Architecture, Landscape, Planning) , 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 August 23, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

The motion was seconded by Commissioner Buridck 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 August 23, 2018.

Filed with the Clerk of the Board of County Commissioners on September 12th, 2018

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 R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION FOR THE REZONING

PARCEL 5

THAT PORTION OF THE EAST 150.00 FEET OF THE INTRACOASTAL WATERWAY,
ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 17, PAGE 29 OF THE
PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING SOUTH OF THE SOUTH LINE
OF THE PLAT OF HATTIES LANDING M.U.P.D. AS RECORDED IN PLAT BOOK 114, PAGES
195 AND 196, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND LYING NORTH
OF
THE NORTH LINE OF THE SOUTH 300.00 FEET OF THE NORTH HALF OF THE SOUTH HALF
OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 5,
TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

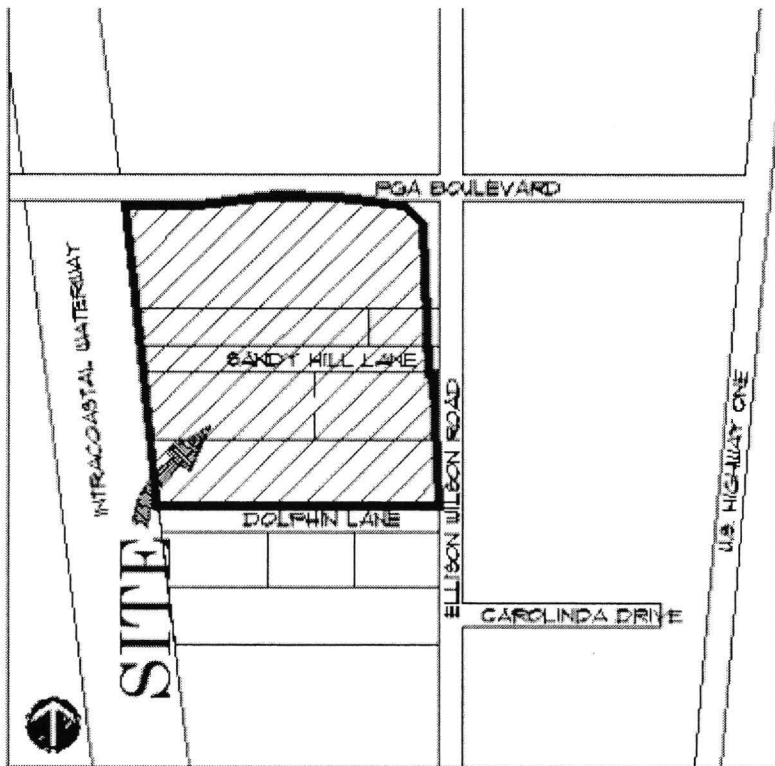


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2015-695, Control No.1984-00159, which currently states:

The approved Preliminary Master and Regulating Plans are dated February 23, 2015 and March 12, 2015. 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.

Is hereby amended to read:

The approved Preliminary Master Plan and Regulating Plans are dated May 14, 2018. 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. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2015-695, Control No.1984-00159, which currently states:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Multi-family building shall be submitted for final 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 dated February 23, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements.

Is hereby amended to read:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Multi-family buildings shall be submitted for final 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 dated May 14, 2018. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

2. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2015-695, Control No.1984-00159, which currently states:

The maximum height of the Multi-family building, measured from finished grade to the highest point of a roof for flat roofs, or as described by the Unified Land Development Code, shall not exceed 98 feet or 77 feet above the finished grade plane at 21 feet NGVD. The maximum height shall exclude Architectural elements that are exempted pursuant to Article 3.D.1.E.4. No habitable space is permitted to be added on the roof without additional Type II Variances and BCC approval.

Is hereby amended to read:

The maximum height of the Multi-family buildings, measured from finished grade to the

highest point of a roof for flat roofs, or as described by the Unified Land Development Code, shall not exceed 96.5 feet NAVD-88 or 77 feet above the Grade Plane at 19.5 feet NAVD-88. The maximum height shall exclude Architectural elements that are exempted pursuant to Article 3.D.1.E.4. No habitable space is permitted to be added on the roof without additional Type II Variances and BCC approval. (BLDGPMT/DRO: ZONING - Zoning)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2015-695, Control No.1984-00159, which currently states:

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, 2020. 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)

Is hereby amended to read:

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 October 21, 2025. This build out date is an extension through Governor's Emergency Executive Order provisions of the previously approved build out date of December 31, 2020 . 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 issuance of the first building permit the Property Owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2015-695, Control No.1984-00159)

3. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall remove all private items (signs, parking, etc.) currently within the public right of way adjacent to the property. (BLDGPMT/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2015-695, Control No.1984-00159)

4. The Property Owner shall construct on Ellison Wilson Road at the Project Entrance:
i. A right turn lane north approach
ii. A left turn lane south approach

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. Construction shall be as required and approved by the County Engineer.

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) (Previous ENGINEERING Condition 4 of Resolution R-2015-695, Control No.1984-00159)

5. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the property owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Ellison Wilson Road at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in

width and a taper length of 50 feet or as approved by the County Engineer. The right of way should be continued across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner Clips where appropriate, as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor 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 Grantor, the Grantor agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 5 of Resolution R-2015-695, Control No.1984-00159)

6. Prior to issuance of the first Certificate of Occupancy, the Property Owner shall design, receive a permit for and construct a concrete sidewalk along the property frontage on Ellison Wilson Road, as required and approved by the County Engineer. 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. (BLDGPM/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 6 of Resolution R-2015-695, Control No.1984-00159)

7. The property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required subdivision or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2015-695, Control No.1984-00159)

8. 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 Ellison Wilson Road, 40 feet measured from centerline of the proposed right of way 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.

(BLDGPMT: MONITORING - Engineering)

LANDSCAPE - GENERAL

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2015-695, Control No.1984-00159, which currently states:

Prior to Final Site Plan Approval by the Development Review Officer (DRO), the Property Owner shall submit a Landscape Plan to the Landscape Section showing the following:

- a. all trees and palms that are listed in the Preliminary Tree Inventory Plan dated March 12, 2015 as preserved in place or to be relocated within the subject property; and,
- b. all proposed plant materials.

Is hereby amended to read:

Prior to Final Approval by the Development Review Officer (DRO), the Preliminary Regulating Plan Tree Disposition Chart dated May 14, 2018 may be revised to be consistent with the agreement between Department of Environment Resource Management, Zoning Division Staff, and the Property Owner on the preservation, relocation and replacement of the existing vegetation. All existing vegetation that are to be preserved shall be subject to the Vegetation Barricade Permit requirements pursuant to Article 7.E of the ULDC, Supplement 23. (DRO/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

2. Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2015-695, Control No.1984-00159, which currently states:

The four (4) specimen oaks labelled as 4184, 4188, 4191, and 4197 and as indicated on the Tree Inventory Plan dated March 12, 2015, shall be preserved in place. Prior to Final Site Plan Approval by the Development Review Officer (DRO), the Property Owner shall complete temporary tree protection devices for these oaks, and shall be inspected and approved by the Landscape Section Staff.

Is hereby amended to read:

The four (4) specimen oaks labelled as 4184, 4188, 4191, and 4197 as indicated on the Preliminary Regulating Plan Tree Disposition Chart dated May 14, 2018, shall be preserved in place. If preservation of these oaks is not feasible based on reassessment by the County, they shall be mitigated pursuant to ULDC, Article 7, Landscaping, Tree Credit Formula, Supplement 23. (DRO/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

3. Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2015-695, Control No.1984-00159, which currently states:

Prior to Final Plan Approval by the Development Review Officer (DRO), the Final Site Plan shall be revised to indicate the location of the permanent tree wells or similar protection structure for the preservation of the oaks that are located at the south property line within the Neighborhood Park. The Regulating Plans shall be revised to show construction materials and details of the permanent tree wells, and subject to the approval by the Landscape Section.

Is hereby amended to read:

Concurrent with the Building Permit submittal, the Final Site Plan shall be revised to indicate the location of the permanent tree wells or similar protection structure for the

preservation of the oaks that are located at the south property line within the Neighborhood Park and Perimeter Buffer. The Regulating Plans shall be revised to show construction materials and details of the permanent tree wells, subject to the approval by the Development Review Officer. (BLDGPM/ONGOING: ZONING - Zoning)

LANDSCAPE - GENERAL-LANDSCAPE PRESERVATION

4. Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2015-695, Control No.1984-00159, which currently states:

No vehicular or construction activities shall be permitted in the areas that are within the drip lines of those four (4) specimen oaks that are subject to preservation pursuant to Landscape Condition 1.

Is hereby amended to read:

No vehicular or general construction activities shall be permitted in the areas that are shown on the approved Vegetation Barricade Permit. (ONGOING: CODE ENF - Environmental Resources Management)

LANDSCAPE - PERIMETER

5. Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2015-695, Control No.1984-00159, which currently states:

In addition to the ULDC requirements, landscaping along the north, south and east property lines shall include the following:

- a. One additional Palm for each twenty five (25) lineal feet of the property line;
 - b. Palm species: Royal Palm or an equivalent approved by the Landscape Section;
 - c. Clear Trunk: minimum twelve (12) feet; and,
 - d. Clusters: staggered heights of twelve (12) to eighteen (18) feet.
- (BLDGPM/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning)

Is hereby deleted. [REASON: Applicant will design landscaping features.]

6. Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2015-695, Control No.1984-00159, which currently states:

In addition to the ULDC requirements, landscaping at the intersection of the northeast corner of the perimeter buffer located at PGA Boulevard and Ellison Wilson Road shall include:

- a. Two (2) Date Palms at a minimum of fourteen (14) feet in height at the time of installation. (DRO/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Applicant will design landscaping features.]

PLANNING

1. Previous PLANNING Condition 1 of Resolution R-2015-695, Control No.1984-00159, which currently states:

Prior to the issuance of the first residential Building Permit, the applicant shall submit payment to Department of Economic Sustainability(DES) and a copy of a receipt for that payment to the Planning Division in the amount of \$326,000 (4 units at \$81,500 per WHP unit).

Is hereby amended to read:

Prior to the issuance of the first residential Building Permit, the applicant shall submit payment to Department of Housing and Economic Sustainability (DHES), and a copy of a receipt for that payment to the Planning Division, totaling the amount of WHP units bought at \$81,500 per WHP unit. (BLDGPM: MONITORING - Planning)

2. Prior to Final Site Plan approval, the property owner shall obtain a Certificate to Dig

(CTD) from the County Archaeologist. (DRO: PLANNING - Planning) [Note: COMPLETED]
(Previous PLANNING Condition 2 of Resolution R-2015-695, Control No.1984-00159)

3. Per the conditions of the Certificate to Dig that was issued July 6, 2015, an Archaeologist shall be onsite to monitor all activities and the developer shall contact the County Historic Preservation Officer when the Archaeologist will be onsite. (ONGOING: PLANNING - Planning)

4. Should any archaeological artifacts be uncovered during development or soil disturbing activity, excavation shall halt; the County Archaeologist contacted and allowed to comment on the significance of the find as provided for in Article 9 of the ULDC. (ONGOING: PLANNING - Planning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s).

(ONGOING: SCHOOL BOARD - School Board) (Previous SCHOOL BOARD Condition 1 of Resolution R-2015-695, Control No.1984-00159)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' school bus shelter shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential property owner. (Previous SCHOOL BOARD Condition 2 of Resolution R-2015-695, Control No.1984-00159)

SIGNS

1. Previous SIGNS Condition 1 of Resolution R-2015-695, Control No.1984-00159, which currently states:

Prior to Final Approval by the Development Review Officer (DRO), the Master Sign Plan shall be revised to provide the specific details, style, character and dimensions as required by Article 8.E.3. (DRO/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: ULDC Article 8 requirements are sufficient.]

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: ZONING - 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: ZONING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.