

RESOLUTION NO. R-2018- 1706

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2018-00394
(CONTROL NO. 1986-00090)
a Development Order Amendment
APPLICATION OF Jamestown 29 Investment Holdings LP
BY Urban Design Kilday Studios, AGENT
(Polo Club Shoppes)

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 ZV/DOA/CA-2018-00394 was presented to the Board of County Commissioners at a public hearing conducted on October 25, 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 ZV/DOA/CA-2018-00394, the Application of Jamestown 29 Investment Holdings LP, by Urban Design Kilday Studios, Agent, for a Development Order Amendment to reconfigure the Site Plan and modify the Regulating Plan; to add land area; to add uses; to add an access point; to add square footage; and, modify Conditions of Approval (All Petition and Engineering), 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 October 25, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

The motion was seconded by Commissioner Bernard 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 October 25, 2018.

Filed with the Clerk of the Board of County Commissioners on November 5th, 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

Parcel 1:

Parcel A, POLO CLUB SHOPS REPLAT, according to the Plat thereof, recorded in Plat Book 113, Page 151, of the Public Records of Palm Beach County, Florida, said land situate, lying and being in Palm Beach County, Florida.

Parcel 2:

A strip of land 25.00 feet in width for Palm Beach County Water Utilities Department Easement Purposes, more particularly described as follows: Being a portion of the South 25.00 feet of the Southeast one-quarter of Section 35, Township 46 South, Range 42 East, known as Old Clint Moore Road, as recorded in Deed Book 784, Page 153 and as shown on the Polo Club Shops Replat as recorded in Plat Book 113, Pages 151 and 152, of the Public Records of Palm beach County, Florida, and being more particularly described as follows:

Commence at the Southeast corner of said Section 35; thence South 89°06'02" West, along the South line of said Section 35, a distance of 75.00 feet, to the West right-of-way line of Military Trail, and the Point of Beginning of the following described parcel; thence continue South 89°06'02" West, along the aforesaid South line Section 35, a distance of 941.40 feet, thence North 00°53'58" West a distance of 25.00 feet, to the Southwest corner of Parcel "A" of the said Polo Club Shops Replat; thence North 89°06'02" East, along the South line of Parcel "A" of Polo Club Shops Replat, a distance of 941.30 feet, to the said West right-of-way line of Military Trail; thence South 01°08'04" East, along said West right-of-way line, a distance of 25.00 feet to the Point of Beginning.

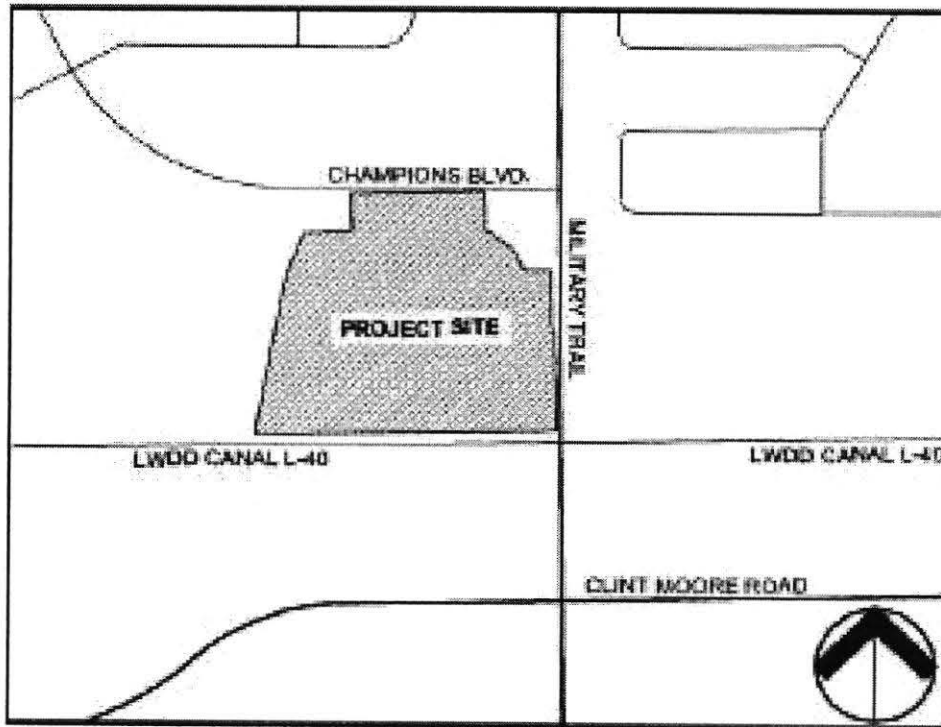
Parcel 3: (NOT SURVEYED)

Together with the Non-Exclusive Drainage Easement as set forth in and subject to the terms of the Grant of Easement recorded November 20, 1987 in Official Records Book 5490, Page 1081, of the Public Records of Palm Beach County, Florida.

Parcels 1 & 2 being more particularly described as follows:

Commence at the Southeast corner of Section 35, Township 46 South, Range 42 East; thence South 89°06'02" West along the South line of the Southeast ¼ of said Section 35 for 75.00 feet to a point on the West Right-of-Way line of Military trail, also known as State Road No. 809, said point being the Point of Beginning of the hereinafter described parcel of land; thence continue South 89°06'02" West along said South line of the Southeast ¼ for 941.40 feet; thence North 00°53'58" West at right angles to the previously described course for 25.00 feet to the Southwest corner of Parcel A of POLO CLUB SHOPS REPLAT, according to the Plat thereof, as recorded in Plat Book 113, Page 151, of the Public Records of Palm Beach County, Florida, the following twelve (12) courses being along the exterior boundary line of said Parcel A; (1) thence North 10°28'56" East for 509.20 feet; (2) thence North 21°23'31" East for 153.36 feet; (3) thence North 88°51'56" East for 150.00 feet; (4) thence North 01°08'04" West for 130.00 feet to a point on the South Right-of-Way line of Champion Boulevard; (5) thence North 88°51'56" East along said South Right-of-Way line for 420.00 feet; (6) thence South 01°08'04" East, departing said South Right-of-Way line, for 130.00 feet; (7) thence South 54°15'52" East for 100.00 feet; (8) thence South 29°12'25" East for 85.00 feet; (9) thence North 88°51'56" East for 78.00 feet to a point on said West Right-of-Way line of Military Trail, also known as State Road No. 809; (10) thence South 01°08'04" East for 204.50 feet; (11) thence North 88°51'56" East for 12.00 feet; (12) thence South 01°08'04" East for 329.78 feet to the Point of Beginning. The previous three courses were along said West Right-of-Way line of Military Trail also known as State Road No. 809.

EXHIBIT B
VICINITY SKETCH



LOCATION MAP

N.T.S

EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-804, Control No.1986-00090, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2010-003 (Control 1986-00090), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-0804 (Control 1986-00090), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2013-804, Control No.1986-00090, which currently states:

The approved Preliminary Site Plan is dated February 14, 2013. 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 Site Plan is dated June 25, 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. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC). Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2013-804, Control No.1986-00090)

2. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for Buildings E, J and K, or modifications to any existing structures exceeding the thresholds of Art. 5.C, 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 April 5, 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)

ENGINEERING

1. The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" prior to the issuance of the next building permit. The Fair Share Fee for this project presently is \$37,400.00 (1,396 trips X \$26.79 per trip). [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2013-804, Control No.1986-00090)

2. Prior to Site Plan Certification, the Site Plan shall be revised to reflect the following:
a. Medians shall be constructed within the subject site at the project's entrance onto Champion Way (150 feet) and Military Trail (100 feet). (DRO: ENGINEERING - Engineering) [Note: COMPLETED]

b. A minimum "clear area" of 150 feet to be used for stacking distance at the project's entrance onto Champion Boulevard with a minimum of 100 feet of staking for Military Trail. [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2013-804, Control No.1986-00090)

3. The property owner shall convey a temporary road drainage easement along the south property line for Clint Moore Road subject to approval from the Office of both the County Attorney and the County Engineer prior to Master Plan approval. This easement shall expire at the time of the abandonment of Clint Moore Road. [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2013-804, Control No.1986-00090)

4. Prior to issuance of the first building permit for the bank proposed with Application ZV/DOA-2009-564, the property owner shall revise the limits of tracts A and C as shown on Plat Book 59, Pages 41-42. [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2013-804, Control No.1986-00090)

5. Previous ENGINEERING Condition 5 of Resolution R-2013-804, Control No.1986-00090, which currently states:

Previous Condition E8 of Resolution No. R-2010-0003, Control No. 1986-00090, which currently states:

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)

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 December 31, 2021. 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)

6. Prior to the issuance of a building permit, the Property Owner shall abandon, and relocate if necessary, the portion of the Palm Beach County Easement recorded in Official Record Book 5490, Page 1052 that is within the footprint of proposed structures. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2013-804, Control No.1986-00090)

7. 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)

8. Within ninety (90) days notice by the County Engineer, the Property Owner shall provide a temporary roadway construction easement to Palm Beach County along Military Trail, 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)

9. 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 Military Trail on an alignment approved by the County Engineer for the expanded intersection of Military Trail and Clint Moore Road.

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)

10. The Property Owner shall fund the construction plans and the construction to lengthen the existing left turn lane east approach on Champion Boulevard at the Project entrance road. This turn lane shall be lengthened 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. Construction shall be completed prior to the issuance of the Certificate of Occupancy of Building I. (BLDGPM/CO: MONITORING - Engineering)

HEALTH

1. Previous HEALTH Condition 1 of Resolution R-2013-804, Control No.1986-00090, which currently states:

Since sewer and water service are available to the property, septic tank and well shall not be approved for use on the subject property. (ONGOING: HEALTH-Health) (Previous condition Health 1. of Resolution R-2010-0003; Control 1986-090)

Is hereby deleted. [REASON: Required by code.]

LANDSCAPE - GENERAL

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2013-804, Control No.1986-00090, which currently states:

Prior to June 6, 2014 or issuance of a Certificate of Occupancy which ever occurs first, the Property Owner shall replace all dead and missing plant materials on the entire subject property.

Is hereby amended to read:

Prior to issuance of a Certificate of Occupancy, the Property Owner shall replace all dead and missing plant materials on the entire subject property. (BLDGPMPT/DATE: ZONING - Zoning)

LANDSCAPE - INTERIOR-MEDIAN DRIVE THRU FOR BUILDING A

1. A divider median shall be provided between each adjacent drive-thru lane as follows:

- a. a minimum width of three (3) feet excluding curb. This median shall extend a minimum distance of five (5) feet beyond the East and West boundaries of the overhead canopy.
- b. the East and West extensions of this median beyond the overhead canopy shall be planed with a palm having a minimum grey wood height of ten (10) feet and appropriate ground cover; and,
- c. the remaining portions of this median lying beneath the overhead canopy shall be surfaced with brick, precast paving block, or other decorative paving surface. (BLDGPMPT/ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 2 of Resolution R-2013-804, Control No.1986-00090)

PALM TRAN

1. Prior to Issuance of the first Building Permit, the Property Owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran shall be required. (BLDG PERMIT:MONITORING -Palm Tran) (BLDGPMPT: MONITORING - Palm-Tran) (Previous PALM TRAN Condition 1 of Resolution R-2013-804, Control No.1986-00090)

PLANNED DEVELOPMENT

1. Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2013-804, Control No.1986-00090, which currently states:

A unity of control agreement covering the entire site shall be recorded prior to site plan certification.

Is hereby amended to read:

Prior to Final Approval by the Development Review Officer, the Applicant shall submit a revised Unity of Control, or other Unified Control as may be required by the County Attorney, to incorporate the land area being added by the Development Order for ZV/DOA/CA-2018-00394. (DRO: COUNTY ATTORNEY - Zoning)

SITE DESIGN-PEDESTRIAN CIRCULATION SYSTEM

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Site Plan shall be revised to provide the following pedestrian circulation system improvements:

- a. Proposed or modified Outdoor Dining Areas abutting Building G shall be revised to provide a minimum five foot wide pedestrian walkway within areas labeled Covered Sidewalk.
- b. Any outdoor dining areas located within five feet of vehicular parking spaces or access ways shall provide planting areas with safety bollards, or decorative fencing, to protect dining patrons from vehicular use areas.

- c. Clearly delineate the pedestrian walkway from the covered sidewalk located at the northeast corner of Building G, to handicapped parking spaces and the pedestrian connection to Military Trail.
- d. Provide a pedestrian connection within the development, from Building J to the overall pedestrian circulation system for the development. (DRO: ZONING - Zoning)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer (DRO), the Site Plan shall be amended to eliminate the Type 1 Restaurant with a Drive-through (Building I), and replace it with a Type 2 Restaurant. (DRO: ZONING - Zoning)
2. Building setback for the Type 2 Restaurant shall be a minimum of seventy (70) feet measuring from the north property line. Dumpster of this restaurant shall not be located within the 70-foot setback area. (DRO: ZONING - Zoning)

USE LIMITATIONS

1. Hours of construction activity during all stages of site development shall be limited to 7:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 8:00 p.m. on Saturday. Construction shall be prohibited on Sunday, and statutory holidays. (ONGOING: CODE ENF - 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: 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: MONITORING - Zoning)

DISCLOSURE

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