

RESOLUTION NO. R-2021- 0272

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/CA/W-2019-01324
(CONTROL NO. 1978-00207)
a Class A Conditional Use
APPLICATION OF 7-Eleven, Inc.
BY Gunster, Yoakley & Stewart, PA, AGENT
(7-Eleven @ 5960 S Military Trail #34967)

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 (ULDC), Ordinance 2003-067 as amended, have been satisfied;

WHEREAS, Zoning Application ZV/ABN/CA/W-2019-01324 was presented to the Board of County Commissioners at a public hearing conducted on February 25, 2021;

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 Class A Conditional Use;

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/ABN/CA/W-2019-01324, the Application of 7-Eleven, Inc., by Gunster, Yoakley & Stewart, PA, Agent, for a Class A Conditional Use to allow Retail Gas and Fuel Sales with a Convenience Store, 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 February 25, 2021, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

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

Commissioner Dave Kerner, Mayor	-	Aye
Commissioner Robert S. Weinroth, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Maria Sachs	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on February 25, 2021.

Filed with the Clerk of the Board of County Commissioners on March 8th, 2021.

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

LOTS 80 THROUGH 94 INCLUSIVE, A PORTION OF LOTS 61 THROUGH 79 INCLUSIVE, A PORTION OF ORANGE AVENUE, AND A PORTION OF THE WALKWAY ADJACENT TO LOTS 93 AND 94, "RE-PLAT OF ARCANUM", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 23, PAGE 33, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 79, "RE-PLAT OF ARCANUM", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 23, PAGE 33, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND RUN ON AN ASSUMED BEARING OF N2°24'14"E ALONG THE EAST BOUNDARY OF SAID LOT 79 FOR 14.00 FEET TO THE POINT OF BEGINNING; THENCE RUN N88°07'31"W ALONG A LINE PARALLEL WITH AND 14.00 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE NORTH RIGHT-OF-WAY LINE OF LANTANA WEST ROAD, AS SHOWN ON SAID PLAT "RE-PLAT OF ARCANUM" FOR A DISTANCE OF 143.45 FEET; THENCE RUN N52°58'26"W FOR 28.79 FEET; THENCE RUN N17°49'21"W ALONG A LINE PARALLEL WITH AND 10.00 FEET EAST OF AS MEASURED AT RIGHT ANGLES TO THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL (S.R. 809) AS SHOWN ON SAID PLAT "RE-PLAT OF ARCANUM" FOR A DISTANCE OF 78.29 FEET TO A POINT OF CURVATURE; THENCE RUN NORTHWESTERLY ALONG A CIRCULAR CURVE TO THE RIGHT AND CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 2804.93 FEET AND A CENTRAL ANGLE OF 3°44'45" FOR AN ARC DISTANCE OF 183.38 FEET TO A POINT OF NON-TANGENCY, SAID POINT BEARING S75°55'24"W FROM THE RADIUS POINT OF THE LAST DESCRIBED CURVE; THENCE RUN S87°39'24"E ALONG THE SOUTH RIGHT OF WAY LINE OF ORANGE AVENUE, BEING COINCIDENT WITH THE NORTH BOUNDARY LINE OF LOT 77 FOR A DISTANCE OF 146.94 FEET; THENCE RUN S2°24'14"W ALONG THE WEST RIGHT-OF-WAY LINE OF ORANGE AVENUE BEING COINCIDENT WITH THE EAST BOUNDARY OF LOT 77 FOR A DISTANCE OF 10.00 FEET TO A POINT, SAID POINT BEING 8.75 FEET NORTH OF THE SOUTH BOUNDARY OF LOT 77; THENCE S87°15'20"E 40.00 FEET TO A POINT ON A LINE COINCIDENT WITH THE WEST BOUNDARY OF LOT 88, SAID POINT BEING 12.65 FEET NORTH OF THE SOUTH BOUNDARY LINE OF LOT 88; THENCE RUN N2°24'14"E ALONG THE EAST RIGHT OF WAY LINE OF ORANGE AVENUE, BEING COINCIDENT WITH THE WEST BOUNDARY OF LOTS 89, 90 AND 91, AND A PORTION OF LOT 88 FOR 46.03 FEET TO THE NORTHWEST CORNER OF LOT 91; THENCE RUN N87°35'46"W ALONG THE WESTERLY LINE EXTENSION OF THE NORTH BOUNDARY OF LOT 91 FOR 4.24 FEET; THENCE RUN N47°22'09"W ALONG A LINE PARALLEL WITH THE WESTERLY BOUNDARY OF LOT 92, SAID LINE ALSO BEING THE CENTER OF A SIX (6) FOOT WALKWAY AS SHOWN ON SAID PLAT "RE-PLAT OF ARCANUM" FOR 20.80 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST BOUNDARY LINE OF LOT 94; THENCE RUN N2°24'14"E ALONG THE SOUTHERLY EXTENSION OF THE WEST BOUNDARY LINE OF LOT 94 FOR A DISTANCE OF 54.57 FEET TO THE NORTHWEST CORNER OF SAID LOT 94; THENCE RUN S87°39'24"E ALONG THE NORTH BOUNDARY AND EASTERLY EXTENSION OF THE NORTH BOUNDARY OF LOT 94 FOR A DISTANCE OF 54.62 FEET; THENCE RUN S2°24'14"W ALONG THE NORTHERLY EXTENSION OF THE EAST BOUNDARY OF LOT 93 AND THE EAST BOUNDARY OF LOTS 93 THROUGH 80 INCLUSIVE AND A PORTION OF LOT 79 FOR A DISTANCE OF 367.78 FEET TO THE POINT OF BEGINNING, SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

THE ABOVE PARCEL ALSO BEING DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING A PORTION OF LOTS 61 THROUGH 79, A PORTION OF ORANGE AVENUE, A PORTION OF A WALKWAY LYING BETWEEN LOTS 93 AND 94 AND ALL OF LOTS 80-94 AS SHOWN ON "RE-PLAT OF ARCANUM" AS DESCRIBED IN

PLAT BOOK 23, AT PAGE 33, AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGIN AT A 5/8" REBAR FOUND IN PLACE AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY OF ORANGE AVENUE WITH THE EASTERLY RIGHT-OF-WAY OF N. MILITARY TRAIL; THENCE S 87°39'24" E ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 146.94 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET AT THE NW CORNER OF LOT 77 AS SHOWN ON SAID "RE-PLAT OF ARCANUM"; THENCE S 87°15'20" E A DISTANCE OF 40.00 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006142) SET; THENCE S2°24'14"W ALONG THE WEST RIGHT-OF-WAY LINE OF ORANGE AVENUE BEING COINCIDENT WITH THE EAST LINE OF LOT 77 A DISTANCE OF 10.00; THENCE N02°24'14" E A DISTANCE OF 46.03 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 87°35'46" W A DISTANCE OF 4.24 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 47°22'09" E A DISTANCE OF 20.80 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 02°24'14" E A DISTANCE OF 54.57 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET AT THE NW CORNER OF LOT 94 AS SHOWN ON SAID "RE-PLAT OF ARCANUM"; THENCE S 87°39'24" E A DISTANCE OF 56.53 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET ON THE WESTERLY RIGHT-OF-WAY LINE OF A 20' ALLEY AS SHOWN ON SAID "RE-PLAT OF ARCANUM"; THENCE S 02°24'14" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF A 20' ALLEY A DISTANCE OF 367.78 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET ON THE NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD; THENCE N 88°07'31" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD A DISTANCE OF 145.44 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET; THENCE N 52°58'26" W CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD A DISTANCE OF 28.79 FEET TO A 5/8" CAPPED REBAR (SMW LS 0006141) SET ON THE EASTERLY RIGHT-OF-WAY LINE OF N. MILITARY TRAIL; THENCE N 17°49'21" W ALONG SAID EASTERLY RIGHT-OF-WAY OF N. MILITARY TRAIL A DISTANCE OF 78.29 FEET TO A PK NAIL SET; THENCE WITH A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 183.38 FEET, WITH A RADIUS OF 2804.93 FEET, AND A CHORD BEARING OF N 15°56'58" W, A CHORD DISTANCE OF 183.35 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, CONTAINING 60,561 SQUARE FEET (1.3903 ACRES) MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

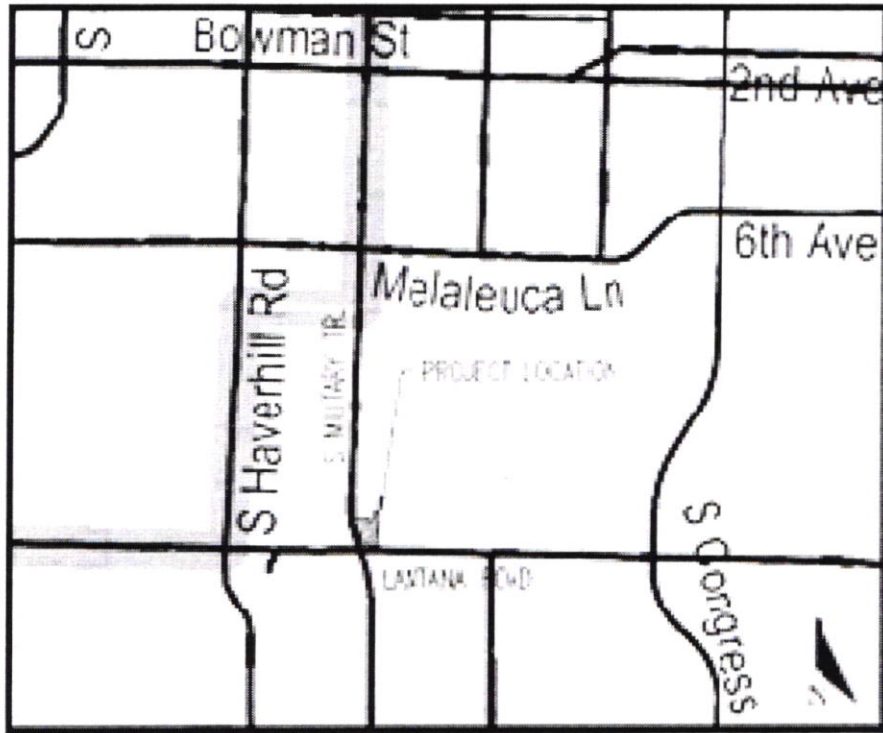


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use (Retail Gas and Fuels Sales with Convenience Store)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated December 14, 2020. 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)

ARCHITECTURE

1. The clearance of the gas station fuel canopy shall be a maximum of fourteen (14) feet, measured from finished grade to the underside of the canopy. (BLDGPMT: ZONING - 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, 2022. 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 or as otherwise approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

3. 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 a 40 foot corner clip at the northeast corner of the intersection of Military Trail and Lantana 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. (BLDGPMT/ONGOING: MONITORING -

Engineering)

4. 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 the corner clip at the southeast corner of Orange Avenue and Military Trail as required by the County Engineer to cover the ingress radius return.

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/ONGOING: MONITORING - Engineering)

5. The Property Owner shall construct a right turn lane south approach on Military Trail at the project entrance.

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. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the entire condition shall be considered satisfied. (BLDGPMT: MONITORING - Engineering)

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

6. 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 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 lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPMT/PLAT: ENGINEERING - Engineering)

7. The Property Owner shall reconstruct Orange Avenue from Military Trail to the project entrance to be consistent with Palm Beach County standards for a non-plan collector roadway or as approved by the County Engineer with no less than 24 feet of pavement. The required sidewalk can be constructed outside of the right-of-way as shown on the Final

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

8. Prior to approval of the Final Site Plan by the Development Review Officer, the site plan shall be amended to reflect the final layout of the driveway connection to Orange Avenue along with any required right-of-way dedication. (DRO: ENGINEERING - Engineering)

LANDSCAPE - PERIMETER-EASTERN PROPERTY LINE

1. The Property Owner shall provide and maintain a Type 2 Incompatibility Buffer along the eastern property line. (BLDGPM/ONGOING: ZONING - Zoning)

SITE DESIGN

1. Prior to Final Development Review Officer (DRO) approval, the Site Plan shall be amended to indicate the location of conduit to be installed during site development that can serve to accommodate future Electrical Vehicle Charging Stations (EVCS). (BLDGPM/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.