

RESOLUTION NO. R-2022- 0765

RESOLUTION APPROVING ZONING APPLICATION EAC-2022-00343
(CONTROL NO. 1981-00190)
a Development Order Amendment
APPLICATION OF SR II LLC
BY Urban Design Studio, AGENT
(Palm Beach Park of Commerce PIPD Surf House)

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 EAC-2022-00343 was presented to the Board of County Commissioners at a public hearing conducted on July 28, 2022;

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 EAC-2022-00343, the Application of SR II LLC, by Urban Design Studio, Agent, for a Development Order Amendment (Expedited Application Consideration) to reconfigure site plan to delete square footage and modify uses, 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 July 28, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

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

Commissioner Robert S. Weinroth, Mayor	- Aye
Commissioner Gregg K. Weiss, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Dave Kerner	- 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 July 28, 2022.

Filed with the Clerk of the Board of County Commissioners on August 2nd, 2022.

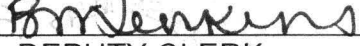
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

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

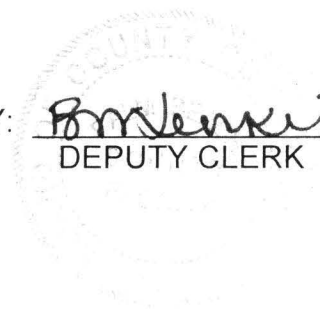


EXHIBIT A

LEGAL DESCRIPTION

Recreation Pod:

PARCEL 1:

THE NORTH 660 FEET OF SECTION 18, TOWNSHIP 41 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, SUBJECT TO A ROAD RIGHT-OF-WAY ON THE WESTERLY 60 FEET THEREOF.

LESS AND EXCEPT THEREFROM THAT PORTION OF PROPERTY CONVEYED TO PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, CONTAINED IN THAT CERTAIN RIGHT OF WAY DEED RECORDED JULY 11, 2016 IN OFFICIAL RECORDS BOOK 28426, PAGE 19, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS:

A PARCEL OF LAND LYING IN SECTION 18, TOWNSHIP 41 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 18, THENCE SOUTH 89°08'21" EAST ALONG THE NORTH LINE OF SAID SECTION 18, A DISTANCE OF 60.02 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF PRATT-WHITNEY ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 6, PAGE 18, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°08'21" EAST ALONG SAID NORTH LINE OF SECTION 18, A DISTANCE OF 85.60 FEET; THENCE SOUTH 00°27'12" EAST, A DISTANCE OF 67.02 FEET; THENCE SOUTH 45°12'14" WEST, A DISTANCE OF 35.76 FEET TO A POINT ON A LINE PARALLEL WITH AND 60.00 FEET EAST OF SAID EAST RIGHT-OF-WAY LINE OF PRATT-WHITNEY ROAD; THENCE SOUTH 00°27'12" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 567.57 FEET TO A POINT ON THE NORTH LINE OF TRACT B, AS SHOWN ON PALM BEACH PARK OF COMMERCE, P.I.P.D., PLAT NO. 1, AS RECORDED IN PLAT BOOK 56, PAGES 172-176, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, FLORIDA; THENCE NORTH 89°08'21" WEST ALONG SAID NORTH LINE OF TRACT B, A DISTANCE OF 60.02 FEET TO A POINT ON SAID EAST RIGHT-OF-WAY LINE OF PRATT-WHITNEY ROAD; THENCE NORTH 00°27'12" WEST ALONG SAID EAST RIGHT-OF-WAY LINE OF PRATT-WHITNEY ROAD, A DISTANCE OF 660.17 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

THE WESTERLY 410 FEET OF THE NORTH 660 FEET OF SECTION 17, TOWNSHIP 41 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA.

TOTAL LAND AREA CONTAINING 78.906 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

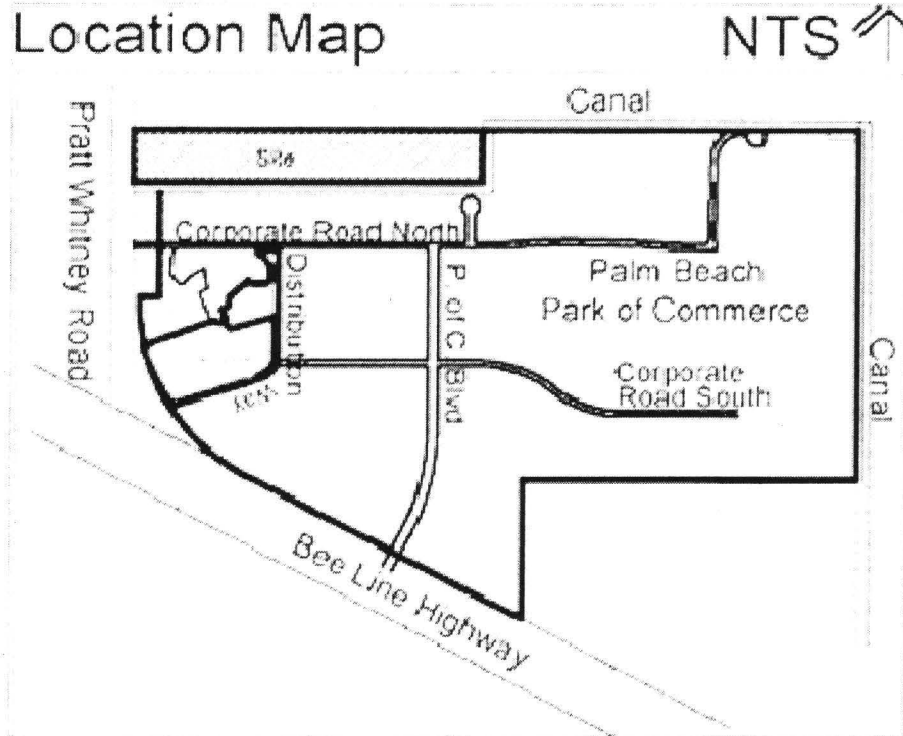


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment Expedited Application Consideration (Recreation Pod – Outdoor Entertainment)

ALL PETITIONS-REGIONAL RECREATION POD

1. Previous ALL PETITIONS Condition 1 of Resolution R-2019-554, Control No.1981-00190, which currently states:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated July 9, 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.

Is hereby amended to read:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated July 9, 2022. 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. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2019-554, Control No.1981-00190, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2018-1482(Control 1981-00190), 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-2019-0554(Control 1981-00190), 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)

ENGINEERING

1. Engineering Condition 1 was deleted per Resolution R-2019-554.

2. The Property Owner shall construct:

- i. right turn lane south approach on Pratt Whitney Rd at Project entrance.
- ii. Left turn lane north approach on Pratt Whitney Rd at Project entrance.
- iii. Separate left and right turn lanes on Project entrance at Pratt Whitney Rd.

The lengths of these turn lanes will be 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 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. (BLDGPM/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2019-0554, Control No.1981-00190)

3. The Property Owner will be required to use appropriate number of police detail at strategic points to direct traffic to/from the site during the special events, that are limited to a maximum of 3 times per year, as per ULDC Article 4. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2019-0554, Control No.1981-00190)

4. Prior to the issuance of the first building permit, the Property Owner shall configure the property into legal lots of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2019-0554, Control No.1981-00190)

5. Prior to the issuance of the first building permit, the Property Owner shall abandon or release, and relocate if necessary, any and all drainage easements shown in conflict with the existing or proposed structures. (BLDGPM/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 5 of Resolution R-2019-0554, Control No.1981-00190)

6. The Property Owner shall fund the construction plans and construction of the project road from Pratt Whitney Road to the east terminus to be consistent with Palm Beach County standards for an 80 right of way non-plan collector street. 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 for Improvements identified above shall be obtained prior to the issuance of the first Building Permit. (BLDGPM/CO: ENGINEERING - Land Development)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: ENGINEERING - Land Development) (Previous ENGINEERING Condition 6 of Resolution R-2019-0554, Control No.1981-00190)

7. Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Pratt Whitney Road along the property frontage; and a maximum of an additional 800 feet of these adjacent roadway(s), with an assumed impervious area of 95-percent, unless otherwise approved by the County Engineer. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one through lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. 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. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2019-0554, Control No.1981-00190)

ENVIRONMENTAL

1. Onsite lighting shall be designed and shielded so that light shall be contained on the property and that direct or indirect light shall be shielded from the natural area. The Lighting Plan shall be approved by The Department of Environmental Resources Management (ERM) prior to DRO Site Plan approval. Compliance with this condition may limit the nighttime hours of operation of the facility. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 1 of Resolution R-2019-0554, Control No.1981-00190)

2. Sound generated on the property shall not exceed 70dB at the property line. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

3. Prior to Final Plan approval by the Development Review Officer, the Property Owner shall submit an application for the Preservation of Native Vegetation to the Department of Environmental Resources Management (ERM). (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 3 of Resolution R-2019-0554, Control No.1981-00190)

4. Prior to Final Plan Approval by the Development Review Officer (DRO), the Property Owner shall submit a 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 a 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: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 4 of Resolution R-2019-0554, Control No.1981-00190)

5. No vegetation shall be removed and no Preservation of Native Vegetation permit, pursuant to ULDC Article 14.C, shall be issued until ERM condition 3 and 4 are satisfied. Relocation of native material may take place with ERM approval and the Property Owner's commitment to maintain the tree tags per the tree disposition plan presented at the Board of County Commissioners Hearing. (ONGOING: ERM-ERM) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 5 of Resolution R-2019-0554, Control No.1981-00190)

6. Measurements of the sound levels at the north property line shall be recorded for a continuous 24 hour period bi-monthly during normal operations, and shall be submitted quarterly to the Department of Environmental Resources Management for two years following the commencement of the operation of the Surf Ranch. The Quarterly Monitoring Reports shall include measurement data for any Surf Ranch Special Event occurring during that quarter. (ONGOING: ERM-ERM)

7. Should the Department of Environmental Resources Management (ERM) determine that impacts from the operation of the Surf Ranch are impacting the Natural Area, the Surf Ranch shall eliminate the cause, obtain necessary approvals and take any necessary corrective actions to resolve those impacts. (ONGOING: ERM-ERM)

LIGHTING

1. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours, excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 1 of Resolution R-2019-0554, Control No.1981-00190)

2. Outdoor lighting system shall be designed and shielded so that light shall be contained on the property and that direct or indirect light is designed, constructed and installed to minimize glare and light trespass, minimize obstructive light, and eliminate the increase of lighting levels on surrounding properties. Compliance with this condition may limit the nighttime hours of operation of the facility. (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 2 of Resolution R-2019-0554, Control No.1981-00190)

3. At the north property line, maximum illumination for outdoor lighting shall not exceed 3.0 horizontal and vertical foot-candles measured at six (6) feet above grade level. (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 3 of Resolution R-2019-0554, Control No.1981-00190)

PARKING

1. Prior to final approval by the Development Review Officer, the Property Owner shall confirm that the "drop off" areas delineated on the Preliminary Site Plan dated July 9, 2018 will accommodate all vehicles that may be permitted to provide for the transport of attendees or other entities associated with any future Special Events, or otherwise amend the Plan to delineate adequate pickup and drop-off areas, a transit circulation plan, and appropriate pedestrian connectivity, to include sufficient seating and other safety considerations. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous PARKING Condition 1 of Resolution R-2019-0554, Control No.1981-00190)

2. All attendees of any Special Event shall be required to park within the subject site or any off site parking that may be permitted as part of the Special Event approval. The parking of any vehicles associated with a Special Event or any attendees shall be prohibited within any right-of-way. If buses or shuttles are permitted as part of the Special Event approval, no such vehicles shall park, stand or stop within any right-of-way. All loading or unloading shall occur within areas designated for loading, unloading, pick up, "drop off" or other similar as may be delineated on the Final Site Plan. (ONGOING: CODE ENF - Zoning) (Previous PARKING Condition 2 of Resolution R-2019-0554, Control No.1981-00190)

3. Prior to Final Plan Approval by the Development Review Officer (DRO), the Property Owner shall revise the Site Data on the Preliminary Site Plan, to indicate the actual number of parking spaces indicated on the PSP dated July 9, 2018. (DRO/ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous PARKING Condition 3 of Resolution R-2019-0554, Control No.1981-00190)

PLANNING

1. In the event of discovery of archeological artifacts during project construction, the developer shall stop construction in that area and notify the Bureau of Historic Sites and Properties in the Florida Department of State and the Palm Beach County Planning Division. Proper protection of these artifacts to the satisfaction of the Bureau and the Planning Division shall be provided by the property owner. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 1 of Resolution R-2019-0554, Control No.1981-00190)

USE LIMITATIONS-EXIT STRATEGY

1. If after construction of the surf lagoon, the Conditional Use for the Outdoor Entertainment does not commence or the operation ceases for more than 180 days, Staff may schedule a status report to assess any additional conditions which may be required to protect the public health, safety and welfare. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2019-0554, Control No.1981-00190)

USE LIMITATIONS-HOURS OF OPERATION

1. Hours of business operation shall be limited to 6 a.m. to 11 p.m. daily. Operation of wave equipment or use of the surf lagoon shall cease by no later than 9 p.m. daily. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2019-0554, Control No.1981-00190)

USE LIMITATIONS-SOUND

1. Sound generated on the property shall not exceed 70dB at the property line. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2019-0554, Control No.1981-00190)

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.