

RESOLUTION NO. R-2009-1829

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-01672  
(CONTROL NUMBER 1978-00099)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF STAR RANCHES ENTERPRISES INC  
BY MOCK, ROOS & ASSOCIATES, INC, AGENT  
(STAR RANCH EXCAVATION EXPANSION)

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, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2008-01672 was presented to the Board of County Commissioners at a public hearing conducted on October 22, 2009; and

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; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with applicable standards and provisions of the ULDC for use, layout, function, and general development characteristics, including appropriate portions of Article 4.B, Supplementary Use Standards.
3. This Development Order Amendment, with conditions as adopted, is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. This Development Order Amendment with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the property use on adjacent lands.
5. This Development Order Amendment with conditions as adopted, minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
6. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Development Order Amendment is consistent with applicable neighborhood plans in accordance with BCC policy.

8. This Development Order Amendment has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC; and
9. This Development Order Amendment has demonstrated changed conditions or circumstances that necessitate a modification.

WHEREAS, Article 2.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code 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 DOA-2008-01672, the application of Star Ranches Enterprises Inc, by Mock, Roos & Associates, Inc, agent, for a Development Order Amendment to add land area and reconfigure the site plan on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on October 22, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on October 22, 2009.

Filed with the Clerk of the Board of County Commissioners on October 27, 2009.

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 BOCK, CLERK, &  
COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

**DESCRIPTIONS FURNISHED BY CLIENT AS IN ATTORNEYS' TITLE INSURANCE FUND, INC. TITLE SEARCH REPORT, FILE No.06-2008-3505 DATED APRIL 15TH 2008, EXHIBIT A, NORTH PARCEL**

"A portion of Sections 31 and 32, Township 45 South, Range 37 East and a portion of Hiatus Lots 5 and 6 as shown on the Government Township Plat of "Township 46 South, Range 37 East and Hiatus Lots 1 to 6, Inc. between Townships 45 and 46 South, Range 37 East, Palm Beach County, Florida" as surveyed in 1944; all being more particularly described as follows:

Commence at the Northwest corner of Section 6, Township 46 South, Range 37 East, as shown on the aforesaid Township Plat; thence run North 0° 37' 09" West, along the West line of the aforesaid Hiatus Lot 6, (said line being coincident with the East line of Township 46 South, Range 36 East) for a distance of 566.51 feet; thence run North 0° 06' 08" East along the said West line of Hiatus Lot 6 (and along the said East line of Township 46 South, Range 36 East) for a distance of 5832.37 feet to the Point of Beginning of the parcel hereinafter described; thence continue North 0° 06' 08" East, along the last described line for 2710.56 feet to a point that is 67.32 feet West of the Southwest corner of Section 31, Township 45 South, Range 37 East; thence run South 89° 25' 19" East, along the Westerly prolongation of the South line of Section 31 for 67.32 feet to the Southwest corner of said Section 31; thence run North 0° 36' 41" East along the West line of said Section 31 for 37.00 feet; thence run South 89° 25' 19" East along the North line of the South 37 feet of said Section 31 for 5277.87 feet to a point that is 37 feet North of the Southeast corner of said Section 31; thence run South 89° 24' 12" East along the North line of the South 37 feet of Section 32, Township 45 South, Range 37 East for 1300.08 feet to the Westerly Right of Way line of State Road No. 25; thence South 34° 32' 01" East along said Right of Way line, for 94.73 feet; thence run South 34° 35' 49" East, continuing along said Westerly Right of Way line of State Road No. 25 for 3194.68 feet; thence run North 89° 48' 49" West for 8517.84 feet to the Point of Beginning.

LESS and EXCEPT the Right of Way for State Road 25 (U.S. 27) as described in Warranty Deed recorded in O.R. Book 7561, Page 640, Public Records of Palm Beach County, Florida."

**TOGETHER WITH:**

**DESCRIPTIONS FURNISHED BY CLIENT AS IN ATORNEYS' TITLE INSURANCE FUND TITLE SEARCH REPORT FILE No. 06-2008-5882 DATED JULY 15, 2008, SOUTH PARCEL**

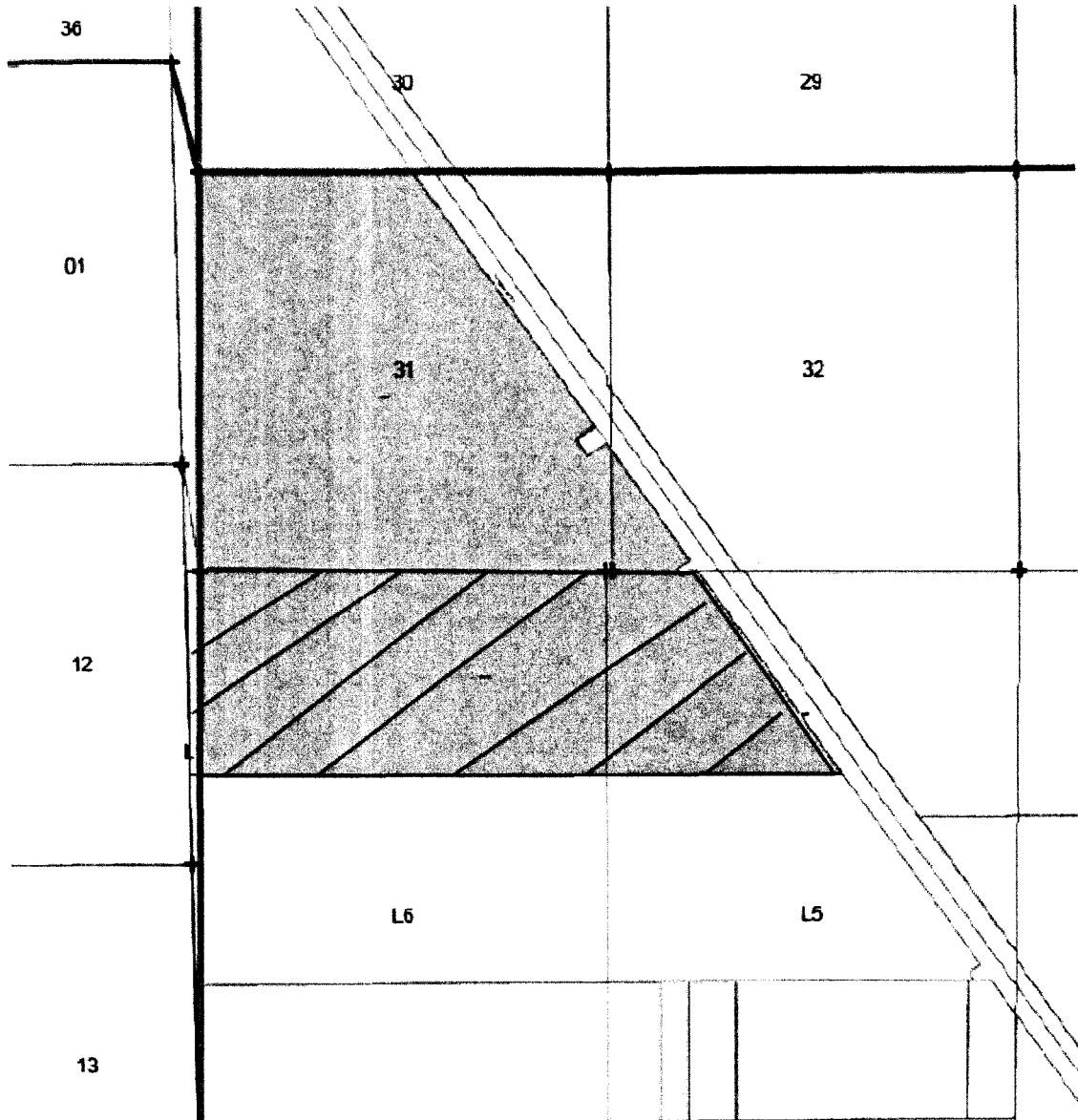
"A portion of Hiatus Lots 5 and 6, as shown on Government Township Plat of "Township 46 South, Range 37 East and Hiatus Lots 1 to 6, inclusive, between Townships 45 and 46 South, Range 37 East, Palm Beach County, Florida", as surveyed in 1944 and being more particularly described as follows:

Commence at the Northwest corner of Section 6, Township 46 South, Range 37 East, as shown on said Government Township Plat; thence North 0 degrees 37 minutes 09 seconds West along the West line of the aforesaid Hiatus Lot 6, said line being coincident with the East line of Township 46 South, Range 36 East for 566.51 feet; thence North 0 degrees 06 minutes 08 seconds East, continuing along said West line of Hiatus Lot 6 (being coincident with the East line of Township 46 South, Range 36 East) for 3073.52 feet to the POINT OF BEGINNING of the parcel of land hereinafter described; thence continue North 0 degrees 06 minutes 08 seconds East, along the last described course for 2758.85 feet, (said line extended North, passes through a point 67.32 feet West of the Southwest corner of Section 31, Township 45 South, Range 37 East as measured along the Westerly extension of the South line of said Section 31); thence South 89 degrees 48 minutes 49 seconds East for 8517.84 feet to a point of intersection with the Westerly Right-of-Way line of State Road No. 25; thence South 34 degrees 35 minutes 49 seconds East along said Westerly right-of-Way line of State Road No. 25 for 3328.65 feet; thence North 89 degrees 58 minutes 00 seconds West, along a line parallel with and 3640.00 feet North of the North line of Section 5, Township 46 South, Range 37 East for 5123.36 feet to a point in the East line of Hiatus Lot 6; thence North 89 degrees 56 minutes 09 seconds West along a line parallel with and 3640.00 feet North of the North line of the aforesaid Section 6 for 5289.36 feet to the POINT OF BEGINNING.

LESS and EXCEPT the Right of Way for State Road 25 (U.S. 27) as described in Warranty Deed recorded in O.R. Book 7561, Page 640, Public Records of Palm Beach County, Florida."

EXHIBIT B  
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2008-1672  
Zoning Quad 208  
Date September 3, 2008



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Development of the site is limited to the excavation activities approved by the Board of County Commissioners. The approved site plan is dated April 13, 2009 and depicts the 1055.6-acre site. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the site plan is modified to meet conditions of approval or in accordance with Article 2. of the ULDC. (DRO: ZONING - Zoning)

2. Reconfiguration of the site plan necessary to comply with State or Federal permitting requirements shall be permitted subject to DRO approval. (DRO: ZONING - Zoning)

#### ACCESS

1. The site shall be limited to three (3) vehicular access points on to US Hwy 27, 2 for the use of excavation and one for the existing agricultural uses. (ONGOING: CODE ENF - Zoning)

#### DRO-MONITORING

1. Mining of the expansion area may be permitted only to support public roadway projects or agricultural activities, or water management projects associated with the ecosystem restoration, regional water supply or flood protection, on sites identified by SFWMD or ACOE where such uses provide viable alternative technologies for water management. (ONGOING: MONITORING-ERM/ZONING)

2. The property owner shall submit a five (5) year monitoring report in a form determined by the Zoning Director on November 1, 2014. The report shall record the last five (5) year site activities. The Zoning Director shall schedule an Administrative Inquiry to the Board of County Commissioners (BCC) to discuss ongoing status of the project to ensure consistency with the BCC's approval. (DATE: MONITORING Zoning)

3. The Maintenance and Monitoring Report of Reclaimed Areas required by Article 4.D.5.E.7 of the ULDC shall be submitted to the Environmental Resources Management Division starting on November 1, 2010 and submitted annually thereafter until completion of the excavation activity and reclamation of the site. The report shall include an "as built" survey for the lake being excavated at the same scale as the approved site plan, delineating the excavation boundaries of the excavaton for the current year and previous year activity to verify compliance with the DRI Thresholds and Mining Phasing Plan. (DATE: MONITORING - ERM/Zoning)

4. If after 3 years from the date of this development order approval (October 22, 2009) the applicant has not secured all necessary permits from the DEP and the SFWMD, including any necessary consumptive use permits, this development order shall be brought back to the BCC for reconsideration. (DATE: MONITORING Zoning)

#### ENGINEERING

1. Developer shall construct a left turn lane, south approach, and a right turn lane, north approach, on U.S. 27 (S.R. 25) at the development's entrance when warranted, as determined by the County Engineer or at such time as there are seven (7) trucks per hour entering into the project. (ONGOING: ENGINEERING-Eng) (Previous Condition 1 of Resolution R-1978-877, Control No. 1978-099)  
[Note:Completed]

2. Developer shall install warning signs on U.S. 27 as warranted, as determined by the County Engineer. (ONGOING:ENGINEERING-Eng) (Previous Condition 2 of Resolution R-1978-877, Control No. 1978-099)

3. Developer shall reserve an additional one hundred sixteen (116) feet for the ultimate right of way for S.R. 25. (OINGOING:ENGINEERING-Eng) (Previous Condition 3 of

Resolution R-1978-877, Control No. 1978-099)  
[Note: Completed]

4.Previous Condition 6 of Resolution R-1978-877, Control No. 1978-099, which currently states:

A slight berm around the excavation for stormwater runoff quality improvement shall be incorporated into the design of the excavation. (ONGOING:ENGINEERING-Eng)

Is hereby deleted. [Reason: Stormwater Management is a Code Requirement]

5.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, 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING Eng)

#### ENVIRONMENTAL

1.Provide a Phase I or Phase II Audit, which ever is most appropriate, for all portions of this petition that may have stored or utilized regulated substances currently or have in the past prior to DRO Site Plan Certification. (DRO:ERM-ERM)

2.The property owner shall report to the Environmental Resources Management on May 31, 2010 and on an annual basis verifying that there will be no off-site discharge from the mining operation during a 25 year, three day storm event, either during or post construction into adjacent canal system. (DATE: ERM -ERM)

3.If the proposed expansion area excavation exceeds the depth standards of Article 4.D, the property owner shall provide request for a waiver pursuant to the requirements of Article 4.D.9 of the Unified Land Development Code prior to final approval by the Development Review Officer. (DRO:ERM-ERM)

4.The property owner shall report to Environmental Resources Management prior to DRO site plan certification verifying the complete separation of the farmfield agricultural activities from the industrial mining/ excavation activities. (DRO:ERM-ERM)

5.Prior to final approval by the Development Review Officer (DRO), the property owner shall obtain an Environmental Resource Permit from the Florida Department of Environmental Protection. (DRO:ERM-ERM)

6.A natural resource extraction fee is to be provided yearly for the expansion area of this mining operation from the operators of this mine or its successors. The basis for the extraction fee is calculated at \$.05 per ton of material sold from the mine. The tonnage will be calculated at the end of each calendar year with the information provided to ERM by January 31 of the succeeding year with the payment of \$.05 per ton provided by February 15. To receive these funds, ERM will set up a separate account for natural resource extraction fees. The funds will be used for environmental enhancement activities which include, but are not limited to: Purchase land; restore land to a more natural state; and, enhance the flora and fauna of already preserved natural areas. The natural resources extraction fee shall escalate annually at the rate prescribed by Section 373.41492(5) as amended, of the Florida Statutes. In the event the legislature of the State of Florida or the County imposes, by legislation, ordinance, or other means, an extraction fee, tax, or charge, then this natural resources extraction fee shall be reduced by the same amount. (ONGOING: MONITORING-ERM)

7.Should a waiver be approved to allow excavation beyond the permitted depth of 15 feet for the expansion area of this mining operation, then the following requirements shall

apply:

- a.) During the Notice of Intent to Construct (NIC) application process, the operator shall provide a Chloride Monitoring Plan acceptable to ERM that includes exploratory monitoring, monitoring for lakes, and daily monitoring during construction.
- b.) Should chloride levels exceed 250 ppm in any one sample during exploratory monitoring, the operator shall submit to ERM within 30 days for review and approval, a plan to address the exceedance. The Chloride Management Plan may include increased monitoring prior to excavation to isolate areas with exceedances, not mining in the affected cell, not mining certain areas previously approved for mining or not mining certain areas to the depth previously approved.
- c.) As part of the Notice of Intent to Construct Approval (NIC), the operator is to monitor each lake to ensure that chlorides do not exceed 250 ppm. In the event that the monitoring data for the lake as evaluated by a mixing analysis, exceeds 250 ppm, the operator shall submit for ERM's review and approval within 30 days a remediation plan for the affected lake. The mixing analysis is to provide for reasonable assurances and shall be based on a protocol acceptable to ERM. Possible remedial actions may include, but is not limited to, additional monitoring at new locations, more frequent monitoring, restrictions on mining depth or on mining locations, cessation of mining in the affected lake or suspension or revocation of the NIC with restoration. The remediation plan shall include provisions for lowering the chloride level in the affected cell and/or isolating the affected cell from surface and subsurface movement of chlorides. (ONGOING: ERM-ERM)

#### LANDSCAPE - GENERAL

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

#### LANDSCAPE - GENERAL-LANDSCAPING ALONG THE SOUTHEAST PROPERTY LINE (FRONTAGE OF US HIGHWAY 27/SR 25)

2. In addition to code requirements, landscaping along the south 3,140 feet of the east property line abutting State Road 25/US27 shall be upgraded to include:

- a. A minimum fifty (50) foot wide right-of-way landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. Canopy trees planted fifteen (15) feet on center with fifty (50) percent of the trees
- c. a minimum fourteen (14) feet high;
- d. native hedge material planted in a meandering and naturalistic pattern to be installed and maintained a minimum of eight (8) feet in height; and
- e. The landscape buffer shall be installed within one year of commencement of excavation activity of the south phase. (BLDG PERMIT: LANDSCAPE - Zoning)

#### PLANNING

1. 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)

2. Prior to final site plan certification by the Development Review Officer (DRO), the property owner shall provide a copy of the SFWMD, ACOE and DEP permits associated with the proposed mining activities. (DRO: ERM-Planning)

3. Starting the year excavation activities commence, within 30 days of December 31st of that year, and every year thereafter, the property owner shall submit an annual report as required by Article 4.D.5.E.7 of the ULDC to the Planning Director, Development Review Officer (DRO) and the Director of ERM that shall demonstrate compliance with the requirements of Future land Use Element (FLUE) Policy 2.3-e.3 regarding permitted mining and excavation activities within the Agricultural Production (AP) Future land Use (FLU) designation. The document shall also contain the following:

- a) Status of each phase of the operation.
- b) Total tonnage removed from the site and associated tonnage fee paid to ERM.
- c) Documentation as to the intended use of the material complies with the County requirements, such as but not limited to the quarry's aggregate status with FDOT and other usages for the mined aggregate.
- d) Status of compliance with conditions contained within Resolution
- e) Status of compliance with SFWMD and DEP permits. Copies of all modifications to permits shall be submitted in their entirety to PBC Planning, Land Development and ERM.
- f) Status of eligibility for the mined areas to be utilized for Water Management or ecosystem restoration purposes with a letter from each corresponding agency discussing eligibility or any executed binding agreements pertaining to the reclaimed mined areas future proposed uses. (ONGOING: PLANNING-Planning)

4. Upon completion of each phase submit the following documents where applicable:

- a) Should the reclaimed mined area be used for agricultural activities associated with flood control or irrigation submit an executed binding agreement, or other such documentation as approved by the County Attorney's office, between the property owner and the lessee describing how the use of the area will be for agricultural purposes and submit a copy of the modified SFWMD Water Resource Permit demonstrating the use of the area for agricultural activities associated with flood control and or irrigation.
- b) Should the mined reclamation area be used, with consent of the property owner, for water management projects associated with ecosystem restoration, regional water supply, flood protection or other such projects in direct association with the SFWMD, ACOE, DEP or other applicable governmental agency, submit either a copy of an executed binding agreement with the subsequent agency illustrating the use of the reclaimed areas within the proposed project or a copy of the deed transferring the reclaimed area to the subsequent agency. (ONGOING: MONITORING-Planning)

5. Should any permits associated with the requested mining operations be found in violation, revoked, suspended or otherwise nullified, the county shall be notified within 15 working days. Should compliance not be achieved or a consent/settlement agreement not be executed within 120 working days of notification, the Development Order shall be brought to the Board of County Commissioners for further review at which time they may require operations to cease or take other appropriate action. (ONGOING-MONITORING-Planning)

#### SITE DESIGN-BLASTING

1. No blast shall be detonated within the required separation areas set forth in the ULDC. (ONGOING: CODE ENF - Zoning)

#### USE LIMITATIONS

1. No subphase shall exceed one-hundred (100) acres of land per year. (ONGOING: CODE ENF- Zoning)

2. Condition 5 of Resolution R-1978-877, Control No. 1978-099 which currently states:

The excavation of Phase 4 shall not commence until the existing canal running through Phases 4, 11, 18, and 25 is plugged at the north and south ends as shown on the Site Rehabilitation and Reclamation Plan, Exhibit No. 2, on file in the office of the Director of the Department of Planning, Zoning and Building.

Is hereby amended to read:

Any accessory asphalt, concrete batch plant or rock processing and crushing facilities shall be setback a minimum of 600 feet from the ultimate right-of-way line of SR 25/US 27. (DRO: Zoning Building)

a. Stock piles of rock or other material shall not exceed a maximum height of one hundred (100) feet or the height permitted in the ULDC, as may be amended from time to time for a Type IIIB Excavation, whichever is lower, from the undisturbed average finished grade.



(ONGOING: CODE ENF - Zoning)

3. Condition 4 of Resolution R-1978-877, Control No. 1978-099 which currently states:

The proposed setback of six hundred (600) feet from the right-of-way line of U.S. 27 to the excavation shall be maintained.

Is hereby amended to read:

The final phases of excavation shall be located along the property's SR 25/US 27 frontage. These final phases shall be a minimum of 600 feet in depth from the ultimate right-of-way line of SR 25/US 27 and shall remain in agricultural production until time of excavation, less the right-of-way buffer. (DRO: Zoning Building)

4. All uses shall not exceed 50 dBA as measured in the Performance standards of Article 5.E.3. of the ULDC. Noise shall be measured from the residential property line closest to the area under excavation. (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: 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 (CO); 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; 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 (ULDC) 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; 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)