

RESOLUTION NO. R-2019- 1962

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2017-02426
(CONTROL NO. 2012-00253)
a Development Order Amendment
APPLICATION OF Racetrac Petroleum, Inc.
BY WGINC, AGENT
(RaceTrac Market)

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, Supplement 22, have been satisfied;

WHEREAS, Zoning Application ZV/DOA-2017-02426 was presented to the Board of County Commissioners at a public hearing conducted on December 19, 2019;

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-2017-02426, the Application of Racetrac Petroleum, Inc., by WGINC, Agent, for a Development Order Amendment to reconfigure the Site Plan; add building square footage and pump/fueling position; and, modify Conditions of Approval, 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 December 19, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay 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 Dave Kerner, Mayor | - Nay |
| Commissioner Robert S. Weinroth, Vice Mayor | - Aye |
| Commissioner Hal R. Valeche | - Aye |
| Commissioner Gregg K. Weiss | - Nay |
| Commissioner Mary Lou Berger | - Aye |
| Commissioner Melissa McKinlay | - Aye |
| Commissioner Mack Bernard | - Aye |

The Mayor thereupon declared that the resolution was duly passed and adopted on December 19, 2019.

Filed with the Clerk of the Board of County Commissioners on January 13th, 2020

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

PARCEL 1, TOGETHER WITH TRACT "W", RACEWAY MARKET, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 121, PAGES 55 THROUGH 57, PUBLIC RECORDS ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, IN AND FOR PALM BEACH COUNTY, FLORIDA.

CONTAINING IN TOTAL 74,636.08 SQUARE FEET OR 1.71 ACRES, MORE OR LESS.

ALSO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 OF THE PLAT OF RACEWAY MARKET, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 121, PAGES 55 THROUGH 57, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 88°26'25" EAST ALONG THE NORTH LINE OF SAID PARCEL 1, A DISTANCE 194.66 FEET; THENCE SOUTH 37°29'26" EAST ALONG THE NORTHERLY LINE OF SAID PARCEL 1, A DISTANCE OF 38.83 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HAVERHILL ROAD AS RECORDED IN OFFICIAL RECORD BOOK 12022, PAGE 197 OF SAID PUBLIC RECORDS; THENCE SOUTH 13°27'33" WEST ALONG SAID RIGHT-OF-WAY LINE AND THE EAST LINE OF SAID PARCEL 1, A DISTANCE OF 10.08 FEET; THENCE SOUTH 02°08'57" WEST, ALONG SAID RIGHT-OF-WAY LINE AND SAID EAST LINE OF PARCEL 1, A DISTANCE OF 268.45 FEET; THENCE SOUTH 46°51'16" WEST DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 56.80 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD, ALSO BEING THE NORTH LINE OF TRACT "A" OF SAID PLAT; THE AFORESAID TRACT "A" BEING CONVEYED TO PALM BEACH COUNTY IN OFFICIAL RECORD BOOK 28155, PAGE 1470, OF SAID PUBLIC RECORDS; THENCE NORTH 88°26'25" WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD, THE NORTH LINE OF SAID TRACT "A" AND THE SOUTH LINE OF SAID PARCEL 1, A DISTANCE OF 177.34 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE NORTH 02°07'22" EAST ALONG THE WEST LINE OF SAID PARCEL 1, A DISTANCE OF 348.43 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

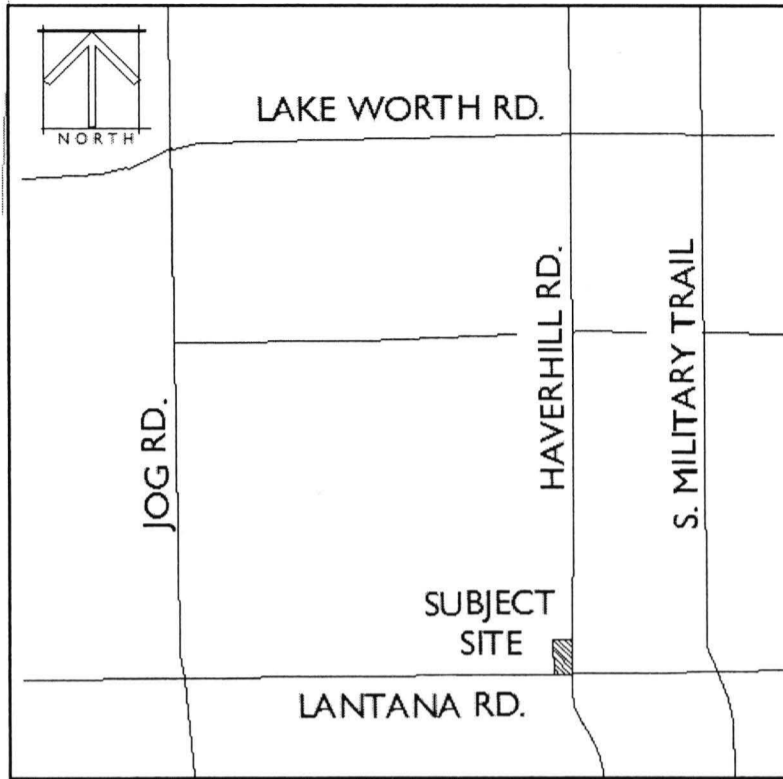


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

The approved Preliminary Site Plan is dated June 13, 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 August 26, 2019. 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)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-1072 (Control 2012-00253), 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)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Convenience Store with Gas Sales and the Gas Canopy 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)

Is hereby deleted. [REASON: Architectural Review to be addressed prior to or concurrent with a Building Permit application.]

2. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

Gas station canopy shall be designed consistent with the following standards:

- a. a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- b. the clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy, and;
- c. lighting for the gas station canopy shall be recessed. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Architectural Review to be addressed prior to or concurrent with a Building Permit application.]

3. The primary exterior treatment of the front and side facades of the Convenience Store

shall be a stucco finish. (BLDGPMT: ZONING - Zoning)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2014. 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)

b. No Building Permits for the site may be issued until the Property Owner makes a proportionate share payment the Palm Beach County Board of County Commissioners to pay for its proportionate share of the required improvement to widen Haverhill Road from a 2-lane roadway to a 4-lane divided roadway from Lantana Road to Lake Worth Road. The proportionate share payment shall be 1.67% of the total cost to construct the additional southbound lane. The amount of the proportionate share payment shall be \$41,237 if submitted prior to October 1, 2013. Otherwise the amount shall be recalculated at the time of payment based on the best estimate of the total cost of the required improvement as approved by the County Engineer.

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)

b. No Building Permits for the site may be issued until the Property Owner makes a proportionate share payment the Palm Beach County Board of County Commissioners to pay for its proportionate share of the required improvement to widen Haverhill Road from a 2-lane roadway to a 4-lane divided roadway from Lantana Road to Lake Worth Road. The proportionate share payment shall be 1.67% of the total cost to construct the additional southbound lane. The amount of the proportionate share payment shall be \$41,237 if submitted prior to October 1, 2013. Otherwise the amount shall be recalculated at the time of payment based on the best estimate of the total cost of the required improvement as approved by the County Engineer. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

2. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Lantana Road between Haverhill Road and the project's entrance road.

This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. The right of way should be continued across the project entrance. This additional right of way shall include a 40 foot corner clip at the intersection of Lantana Road and Haverhill Road. This additional right of way shall be free of all encumbrances and encroachments. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2013-1072, Control No.2012-00253)

3. The Property Owner shall construct:

i. A right turn lane on Lantana Road from Haverhill Road west to the Project's Lantana Road access to be consistent with Palm Beach County standards for a 110 foot right of way Thoroughfare plan street.

ii. An internal non-plan collector road from Haverhill Road to its terminus to be consistent with Palm Beach County standards for an 80 foot right of way non-plan collector street and to provide access to subdivided lots.

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, design, utility relocations, signal modification, and acquisition of any additional required right-of-way.

a. Prior to the issuance of the first Building Permit, permits required for improvements identified above shall be obtained from Palm Beach County. (BLDGPM: MONITORING - Engineering)

b. Prior to the issuance of the first Certificate of Occupancy, construction of the improvements identified above shall be completed. (CO: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2013-1072, Control No.2012-00253)

4. 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. (BLDGPM: MONITORING - Engineering)

5. Prior to the issuance of the first building permit, the Property Owner shall abandon or release, and relocate if necessary, the drainage easement shown in conflict with the proposed structures. (BLDGPM: MONITORING - Engineering)

6. The Property Owner shall restripe the left turn storage lane south approach on Haverhill Road at Lantana Road to 310 feet in length, or 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. (BLDGPM: MONITORING - Engineering)

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

ENVIRONMENTAL

1. A Phase II Environmental Audit for the subject site, shall be submitted to the Department of Environmental Resources Management prior to DRO Site Plan Approval. (DRO:ERM-ERM) (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 1 of Resolution R-2013-1072, Control No.2012-00253)

LANDSCAPE - GENERAL

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

Concurrent with the Final Approval by the Development Review Officer, the Property Owner shall submit an Alternative Landscape Plan (ALP) to the Landscape Section for review and approval. The ALP and/or supporting documents shall demonstrate that all

preserved vegetation meets or exceeds the Unified Land Development Code requirements. Native vegetation may be relocated to the buffers to meet the minimum requirements of the Code. The ALP shall be prepared in compliance with all landscape related Conditions of Approval as contained herein.

Is hereby amended to read:

Concurrent with the Final Approval by the Development Review Officer, the Property Owner shall submit an Alternative Landscape Plan (ALP) to the Zoning Division for review and approval. The ALP and/or supporting documents shall demonstrate that all preserved vegetation meets or exceeds the Unified Land Development Code requirements. Native vegetation may be relocated to the buffers to meet the minimum requirements of the Code. The ALP shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (DRO: ZONING - Zoning)

2. A minimum of eighty (80%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. tree height: fourteen (14) feet; and,
- b. credit may be given for existing or relocated trees provided they meet the Unified Land Development Code requirements. (DRO: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2013-1072, Control No.2012-00253)

3. The Alternative Landscape Plan shall incorporate the following:

- a. A tree survey that depicts the location and size of all trees on site before clearing;
- b. All trees not preserved within the buffers shall be mitigated as required by Article 7 of the Code;
- c. All pines shall be planted in clusters of five (5) to seven (7) pines;
- d. Pine heights shall range from a minimum of six (6) feet to sixteen (16) feet at installation; and,
- e. credit may be given for existing native trees provided they meet current Unified Land Development Code requirements. (DRO: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2013-1072, Control No.2012-00253)

LANDSCAPE - INTERIOR

4. Previous LANDSCAPE - INTERIOR Condition 4 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

Prior to Final Approval by the Development Review Officer, the Alternative Landscape Plan shall include the following:

- a. Ten (10) additional native trees shall be planted in a naturalistic design along the banks of the detention area;
- b. The subject trees shall meet the minimum standards for Interior trees as defined by the Code but shall not be included in the minimum require Interior tree count. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: No longer necessary as parcel to the north has been rezoned from Residential to Industrial.]

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINE (FRONTAGE OF LANTANA ROAD AND HAVERHILL ROAD)

5. Previous LANDSCAPE - PERIMETER Condition 5 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

Landscaping and buffering along the south and east property line shall be upgraded to include:

- a. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line; and,
- b. one (1) palm (Royal Palm) for each thirty (30) linear feet of the property line.

Is hereby amended to read:

Landscaping and buffering along the east property line shall be upgraded to include:

a. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line; and, b. one (1) palm (Royal Palm) for each thirty (30) linear feet of the property line. (DRO: ZONING - Zoning)

6. Landscaping and buffering along the south property line shall be upgraded to include:
a. An additional 10 feet of ROW Buffer, for a total of 30 feet of ROW Buffer;
b. One (1) canopy tree (Live Oak) per 15 linear feet of the property line, to be planted in two staggered rows;
c. One (1) palm (Royal Palm) for each thirty (30) linear feet of the property line; and,
d. The buffer shall conform to all other planting requirements as per the ULDC. (DRO: ZONING - Zoning)

LANDSCAPE - PRESERVATION OF VEGETATION

7. Prior to the issuance of any Building Permit(s) the Property Owner shall submit a Site Plan, with a Tree Disposition Chart for review and approval. All Vegetation that are subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Site Plan and the Tree Disposition Chart, per Technical Manual, Title 4). The Plan(s) shall show:
a) the temporary and permanent locations 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) the above requirements (a and b) shall be updated in the Tree Disposition Chart; and,
d) a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation. (DRO: ZONING - Zoning)

SIGNS

1. Signage on the Gas Canopy shall be limited to the following:
a. a maximum of 1 (one) canopy sign on the Lantana Road side and 1 (one) canopy sign on the Haverhill Road side of the canopy only;
b. the gas station canopy signage shall be included within the maximum wall signage calculation allowed for the Convenience Store. (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2013-1072, Control No.2012-00253)

SITE DESIGN

1. Previous SITE DESIGN Condition 1 of Resolution R-2013-1072, Control No.2012-00253, which currently states:

Prior to final approval by the Development Review Officer, the Site Plan shall be modified to indicate the total number of gas pumps limited to a maximum of five (5) pumps with each pump having up to two (2) fueling stations each.

Is hereby amended to read:

Prior to final approval by the Development Review Officer, the Site Plan shall be modified to indicate the total number of gas pumps limited to a maximum of six (6) pumps with each pump having up to two (2) fueling stations each. (ONGOING: MONITORING - Zoning)

2. Prior to final approval by the Development Review Officer, the applicant shall submit a Regulating Plan providing for the installation of wiring necessary to support potential future electrical charging for three parking spaces, or 10 percent of required parking spaces, whichever is less. (DRO: ZONING - Zoning)

USE LIMITATIONS - CONVENIENCE STORE

1. Prior to Final Approval by the Development Review Officer, the Site Plan shall be amended to indicate facilities for the provision of free air and vacuum for customer convenience. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous USE LIMITATIONS - CONVENIENCE STORE Condition 1 of Resolution R-2013-1072, Control No.2012-00253)

USE LIMITATIONS

1. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2013-1072, Control No.2012-00253)

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.