

RESOLUTION NO. R-2020-1245

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA/W-2019-01438  
(CONTROL NO. 1973-00039)

a Development Order Amendment

APPLICATION OF Atlantic Avenue Realty Associates LLC, McDonald's USA, L/C  
BY Corporate Property Services, Inc., Dunay, Miskel and Backman, LLP, AGENT  
(McDonald's L/C #009-2659 Atlantic and Hagen)

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 25, have been satisfied;

WHEREAS, Zoning Application ZV/DOA/CA/W-2019-01438 was presented to the Board of County Commissioners at a public hearing conducted on August 27, 2020;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/DOA/CA/W-2019-01438, the Application of Atlantic Avenue Realty Associates LLC, McDonald's USA, L/C, by Corporate Property Services, Inc., Dunay, Miskel and Backman, LLP, Agent, for a Development Order Amendment to reconfigure the Site Plan, to add a use, building and square footage, 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 August 27, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

The motion was seconded by Commissioner Valeche 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                 | - Aye    |
| Commissioner Mary Lou Berger                | - Absent |
| Commissioner Melissa McKinlay               | - Absent |
| Commissioner Mack Bernard                   | - Aye    |

The Mayor thereupon declared that the resolution was duly passed and adopted on August 27, 2020.

Filed with the Clerk of the Board of County Commissioners on September 9th, 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

PARCEL C-1 OF "VILLAGES OF ORIOLE SHOPS", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 35, AT PAGES 9 AND 10, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THE SOUTH 200.00 FEET OF THE EAST 218.00 FEET THEREOF, AND LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL 124 AS ACQUIRED BY PALM BEACH COUNTY, FLORIDA IN THAT ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 12313, PAGE 1550 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 124:

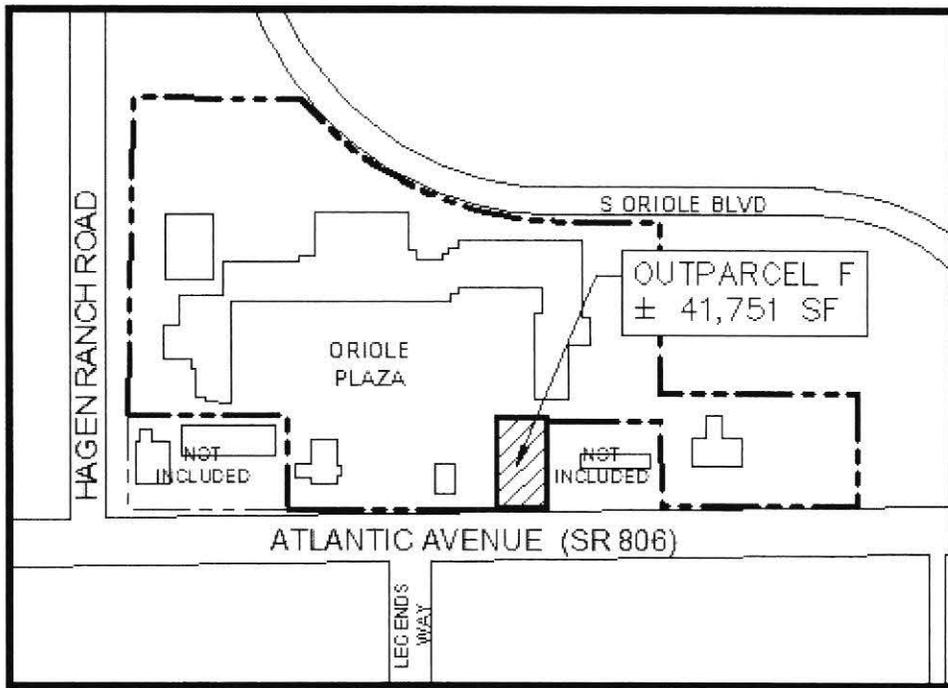
A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF PARCEL C-1 OF THE PLAT OF "VILLAGES OF ORIOLE SHOPS", RECORDED IN PLAT BOOK 35, PAGE 10, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF SAID PARCEL C-1; THENCE ALONG THE WEST BOUNDARY OF SAID PARCEL C-1, NORTH 00 DEGREES 14'48" EAST FOR 357.08 FEET; THENCE DEPARTING SAID BOUNDARY, SOUTH 01 DEGREE 45'12" EAST FOR 53.90 FEET; THENCE SOUTH 00 DEGREES 14'48" WEST FOR 303.17 FEET TO THE SOUTH BOUNDARY OF SAID PARCEL C-1; THENCE ALONG SAID SOUTHERLY BOUNDARY, SOUTH 89 DEGREES 18'02" WEST FOR 1.88 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

ALL OF "VILLAGES OF ORIOLE SHOPS PLAT NO. TWO", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 43, AT PAGE 104 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 1,108,822 SQUARE FEET (25.4550 ACRES), MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **Development Order Amendment (Planned Development District)**

##### **ALL PETITIONS**

1. Previous ALL PETITIONS Condition 3 of Resolution R-2017-1766, Control No.1973-00039, which currently states:

The approved Preliminary Site Plan is dated August 28, 2017. 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 April 13, 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)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2017-1766, Control No.1973-00039, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1973-0396 (Control No. 1973-00039); Resolution R-1980-0835 (Control No. 1980-00082); Resolution R-1981-1071 (Control No. 1981-000140); Resolution R-1981-1072 (Control No. 1981-00140); Resolution R-1983-136 (Control No. 1982-00128), Resolution R-1984-051 (Control No. 1973-00039(A); Resolution R-1991-0365 (Control No. 1973-00039(C); R-1991-0376 (Control No. 1973-00039(D); 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-2017-01766 (Control 1973-00039) 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.

3. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2017-1767 for the Class A Conditional Use for a Self Service Storage Facility (Control 1973-00039) shall remain in full force and effect and have not been consolidated 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. Condition deleted in Resolution R-2017-1766 (Previous ENGINEERING Condition 1 of Resolution R-2017-1766, Control No.1973-00039)

2. Concurrent with on-site paving and drainage improvements the developer shall construct on Delray West Road at its intersection with the project's entrance, a right turn lane, east approach as specified by the paving and drainage permit issued from the office of the

County Engineer. [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2017-1766, Control No.1973-00039)

3. The developer shall contribute Fifteen Thousand Nine Hundred and Seventy-five Dollars (\$15,975.00) toward the cost of meeting this project's direct and identifiable impact, to be paid at the time of the issuance of the building permit. [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2017-1766, Control No.1973-00039)

4. Within 90 days of this approval, the Property Owner shall convey to Palm Beach County the ultimate right-of-way necessary to provide for an 80 foot section for Hagen Ranch Road. [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2017-1766, Control No.1973-00039)

5. Condition deleted in Resolution R-2017-1766 (Previous ENGINEERING Condition 5 of Resolution R-2017-1766, Control No.1973-00039)

6. Condition deleted in Resolution R-2017-1766 (Previous ENGINEERING Condition 6 of Resolution R-2017-1766, Control No.1973-00039)

7. Prior to June 1, 1991 or prior to the issuance of the first Building Permit, whichever shall first occur, the Property Owner shall convey to the Florida Department of Transportation, a 10 foot construction easement for the 6 laning of West Atlantic Avenue. (BLDGPM/DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2017-1766, Control No.1973-00039)

8. Condition deleted in Resolution R-2017-1766 (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 8 of Resolution R-2017-1766, Control No.1973-00039)

9. The Developer shall re-plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations 90-8 as amended. (BLDGPM/DATE: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2017-1766, Control No.1973-00039)

10. Previous ENGINEERING Condition 10 of Resolution R-2017-1766, Control No.1973-00039, 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, 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

**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, 2024, or as amended. 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)

11. Prior to issuance of the first building permit, the Property Owner shall provide to the FDOT, a road right of way deed, or easement acceptable to the FDOT, and all associated documents as required by FDOT for: The ultimate right of way for Atlantic Avenue, 126 feet in width, measured from the south right of way line, on an alignment approved by the FDOT or County Engineer. (BLDGPM/DATE: MONITORING - Engineering)

## HEALTH

1. Owners and operators of facilities that generate industrial, toxic, or hazardous waste shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Florida Department of Health (FDOH), and the agency responsible for sewage works are constructed and used. (ONGOING; CODE ENF-Health) (Previous HEALTH Condition 1 of Resolution R-2017-1766, Control No.1973-00039)

2. Previous HEALTH Condition 2 of Resolution R-2017-1766, Control No.1973-00039, which currently states:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (ONGOING:HEALTH-Health)

**Is hereby deleted.** [REASON: Code Requirement]

3. Previous HEALTH Condition 3 of Resolution R-2017-1766, Control No.1973-00039, which currently states:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING:HEALTH-Health)

**Is hereby deleted.** [REASON: Code Requirement]

4. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil. (ONGOING:HEALTH-Health) (Previous HEALTH Condition 4 of Resolution R-2017-1766, Control No.1973-00039)

5. Previous HEALTH Condition 5 of Resolution R-2017-1766, Control No.1973-00039, which currently states:

The developer shall take reasonable precautions during the development of this property to insure that fugitive particulates (dust particles) from this project do not become a nuisance to neighboring properties. (ONGOING:HEALTH-Health)

**Is hereby deleted.** [REASON: Covered by Dust Control letter.]

## LANDSCAPE - PERIMETER

1. Landscaping along the east property line shall be upgraded to include fourteen (14) foot tall native canopy trees placed fifteen (15) feet on center and a continuous hedge a minimum of thirty-six (36) inches tall. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 6 of Resolution R-2017-1766, Control No.1973-00039)

2. Landscaping shall be upgraded along the north perimeter to include:

- a. A continuous six (6) foot high wooden fence or solid wall.
- b. Fourteen (14) foot tall native canopy trees at planting, placed fifteen (15) feet on center and a continuous thirty-six (36) inch tall hedge along the interior side of the required wooden fence or solid wall. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 5 of Resolution R-2017-1766, Control No.1973-00039)

3. Previous LANDSCAPE - PERIMETER Condition 7 of Resolution R-2017-1766, Control No. 1973-00039, which currently states:

Landscaping along the south and west perimeters shall include native canopy trees a minimum of fourteen (14) feet tall spaced twenty (20) feet on center with a continuous hedge a minimum of thirty-six (36) inches tall.

**Is hereby amended to read:**

Landscaping along the south and west perimeters, excluding the Atlantic Avenue frontage for the Type 1 Restaurant with Drive-Through (proposed Outparcel F), shall include native canopy trees a minimum of fourteen (14) feet tall spaced twenty (20) feet on center with a continuous hedge a minimum of thirty-six (36) inches tall. (ONGOING: ZONING - Zoning)

4. Landscaping along the north perimeter shall be upgraded to include fourteen (14) foot tall native canopy trees at planting, placed fifteen (15) feet on center and a continuous thirty-six (36) inch tall hedge. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 9 of Resolution R-2017-1766, Control No.1973-00039)

5. In addition to Code requirements, any new or replacement canopy trees within the R-O-W Buffer for the Type 1 Restaurant with Drive-Through (proposed Outparcel F) fronting Atlantic Avenue, shall be upgraded to a minimum of fourteen (14) feet tall, spaced twenty (20) feet on center. (ONGOING: ZONING – Zoning)

**SIGNS**

1. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign related conditions of approval. (ONGOING: ZONING - Zoning) (Previous SIGNS Condition 5 of Resolution R-2017-1766, Control No.1973-00039)

2. No freestanding signs shall be permitted on any outparcel of the PCD over the number of permitted by the sign code. Any new or replaced freestanding signs shall conform to the following standard:

Maximum number of signs: 1 (one)

Maximum square footage of total sign face area: 100 square feet

Maximum height: 15 feet

(ONGOING: ZONING - Zoning) (Previous SIGNS Condition 3 of Resolution R-2017-1766, Control No.1973-00039)

**SITE DESIGN**

1. No outdoor speaker or public address systems which are audible off of the subject site shall be permitted. (ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 7 of Resolution R-2017-1766, Control No.1973-00039)

2. Previous SITE DESIGN Condition 8 of Resolution R-2017-1766, Control No.1973-00039, which currently states:

Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles is to be allowed in landscaped areas, access easements or interior drives.

**Is hereby deleted.** [REASON: Code Requirement.]

3. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind an enclosure having an architectural treatment compatible with the principle building. The open end of the enclosure shall have an obscuring, opaque gate. (Previous SITE DESIGN-DUMPSTER Condition 4 of Resolution R-2017-1766, Control No.1973-00039)

**SOLID WASTE AUTHORITY**

1. The Property Owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, as programs are available. (ONGOING: ZONING - Zoning) (Previous SOLID WASTE AUTHORITY Condition 1 of Resolution R-2017-1766, Control No.1973-00039)

**USE LIMITATIONS-FUNERAL HOME**

1. Prior to Site Plan Certification, the site plan shall be revised to indicate:

- a. The name of the State Road 806 shall be revised to West Atlantic Avenue.
  - b. The first access point to the funeral home site, north of the access driveway from West Atlantic Avenue for the whole Planned Commercial Development, shall be an entrance only. [Note: COMPLETED] (Previous USE LIMITATIONS Condition 1 of Resolution R-2017-1766, Control No.1973-00039)
2. Funeral home personnel shall supervise the arrival and departure of all customers to ensure orderly parking and stacking operations for funeral services. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2017-1766, Control No.1973-00039)
  3. All delivery or unloading of caskets or any other items shall occur in a fully enclosed structures. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2017-1766, Control No.1973-00039)
  4. No medical preparation or embalming shall occur on site. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 4 of Resolution R-2017-1766, Control No.1973-00039)
  5. Hours of operations for funeral services shall be limited to 8 a.m. to 5 p.m. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 5 of Resolution R-2017-1766, Control No.1973-00039)
  6. The capacity of the facility shall be limited to 195 seats and 7,200 square feet. (ONGOING: ZONING – Zoning) (Previous USE LIMITATIONS Condition 6 of Resolution R-2017-1766, Control No.1973-00039)

**USE LIMITATIONS-FUNERAL HOME- SIGN**

6. Only one (1) sign shall be permitted on this out parcel, as follows:
  - a. The sign shall be limited to six (6) feet in height;
  - b. Maximum sign area shall be one-hundred (100) square feet;
  - c. No roof or pole signs shall be permitted in this out parcel, only a monument sign shall be allowed;
  - d. Letter on the sign shall read as follows: Riverside – Gordon Memorial Chapel. No other advertising copy shall be allowed on this sign. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS-FUNERAL HOME- SIGN Condition 9 of Resolution R-2017-1766, Control No.1973-00039)

**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.