

RESOLUTION NO. R-2024- 1696

RESOLUTION APPROVING ZONING APPLICATION DOAW-2024-01074  
(CONTROL NO. 2003-00830)  
a Development Order Amendment  
APPLICATION OF Hoerbiger Corporation of America, Inc. - Arek Dyrdol  
BY JMorton Planning & Landscape Architecture, AGENT  
(Mountain Business Center MUPD - Project Hotel)

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

WHEREAS, Zoning Application DOAW-2024-01074 was presented to the Board of County Commissioners at a public hearing conducted on December 12, 2024;

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:

1. The foregoing recitals are true and correct and are incorporated herein.
2. Zoning Application DOAW-2024-01074, the Application of Hoerbiger Corporation of America, Inc. - Arek Dyrdol, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Amendment to reconfigure the overall Site Plan to add square footage, modify uses, and to modify and delete Conditions of Approval on 14.23 acres, 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 12, 2024, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Baxter moved for the approval of the Resolution.

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

Commissioner Maria G. Marino, Mayor	-	Aye
Commissioner Sara Baxter, Vice Mayor	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Joel Flores	-	Aye
Commissioner Marci Woodward	-	Aye
Commissioner Maria Sachs	-	Absent
Commissioner Bobby Powell, Jr.	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on December 12, 2024.

Filed with the Clerk of the Board of County Commissioners on December 12th, 2024

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY:   
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOSEPH ABRUZZO,  
CLERK & COMPTROLLER

BY:   
DEPUTY CLERK

**EXHIBIT A**

**LEGAL DESCRIPTION**

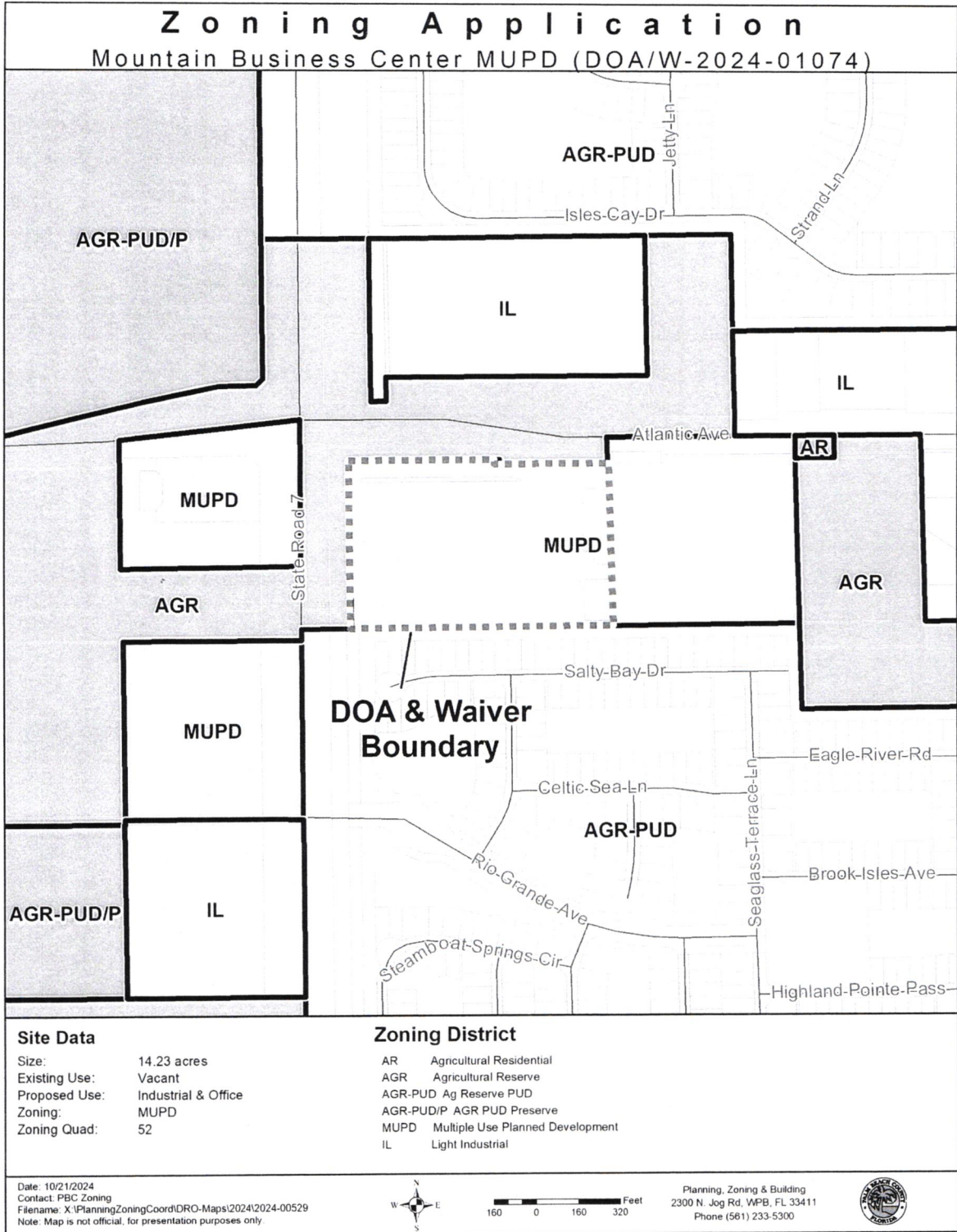
ALL OF MOUNTAIN BUSINESS CENTER MUPD PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 136, PAGE 76, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH NON-EXCLUSIVE EASEMENTS BENEFITING THE ABOVE DESCRIBED PARCEL AS CREATED BY AND SET FORTH IN THE DECLARATION OF CROSS ACCESS EASEMENT RECORDED IN OFFICIAL RECORD BOOK 33709, PAGE 1844, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 619,733 SQUARE FEET/14.2271 ACRES, MORE OR LESS.



**EXHIBIT B**  
**VICINITY SKETCH**



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Development Order Amendment

##### ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2022-378, Control No.2003-00830, which currently states:

The approved Preliminary Site Plan is dated February 10, 2022; and the approved Preliminary Master Sign Plan is dated February 10, 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.

##### Is hereby amended to read:

The approved Preliminary Site Plan is dated October 9, 2024. 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: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2022-00378 (Control 2003-00830), 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 (ULDC) and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)

##### ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2022-378, Control No.2003-00830, 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, 2026, 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)

##### 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, 2029, 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)

2. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2022-378, Control No.2003-00830)

3. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering) [Note: COMPLETED]  
b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/PLAT: MONITORING - Engineering) [Note: COMPLETED] (Previous



ENGINEERING Condition 3 of Resolution R-2022-378, Control No.2003-00830)

4. The Property Owner shall construct a right turn lane west approach on Atlantic Avenue at the project entrance.

Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from the Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

b. Construction shall be completed prior to issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2022-378, Control No.2003-00830)

5. Landscape Within the Median of State Road 7

The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of State Road 7. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires County Engineer approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit, or as approved by the County Engineer. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy, or as approved by the County Engineer. (BLDGPMT/CO: MONITORING - Engineering) [Note: COMPLETED]

c. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to Palm Beach County s Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit, or as approved by the County Engineer. This payment option is only available if the roadway segment is included in the County s current OTIS Master Plan or a corridor proposed to be added to the OTIS Master Plan and shall be based on the project s front footage along State Road 7. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2022-378, Control No.2003-00830)

#### **LANDSCAPE - PERIMETER-PERIMETER ALONG THE SOUTH PROPERTY LINE ABUTTING RESIDENTIAL**

1. A Type 3 Incompatibility Buffer shall be provided along the south property line abutting residential. No buffer reduction or easement encroachment shall be allowed. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2022-378, Control No.2003-00830)

2. In addition to the Code requirements, landscaping and/or buffer width along the south property line shall be upgraded to include:

a. a minimum 12 foot high wall, for the screening of the loading and maneuvering area. The wall shall be a minimum length of 390 feet, commencing approximately 195 feet east of the west base building line; and,

b. the remainder of the required wall barrier shall be designed to reduce height from 12-feet to 6-feet in two foot increments with a minimum of 80 foot distance between height changes until the minimum six foot height is reached. (BLDGPMT/ONGOING: ZONING - Zoning)

#### **LAKE WORTH DRAINAGE DISTRICT**

1. The Property Owner shall convey Exclusive Easements required on the E-1 and L-34 Canals, lying outside of FDOT's project construction limits directly to LWDD, prior to platting. (PLAT: ENGINEERING - Lake Worth Drainage District) [Note: COMPLETED] (Previous LAKE WORTH DRAINAGE DISTRICT Condition 1 of Resolution R-2022-378)

#### **LIGHTING**

1. The maximum height of outdoor lighting, from finished grade to the highest point shall be 15 feet, when the lighting is 100 feet or less from the south property line. Lighting installed adjacent



to the south property line shall be shielded. (BLDGPMPT: ZONING - Zoning)

2. The maximum height of outdoor lighting, from finished grade to the highest point shall be 25 feet, when the lighting is greater than 100 feet or from the south property line. (BLDGPMPT: ZONING - Zoning)

3. The maximum height of outdoor lighting attached to the building shall be mounted no higher than 15 feet from finished floor. (BLDGPMPT: ZONING - Zoning)

4. The maximum foot-candles for outdoor lighting at the south property line shall be zero. (BLDGPMPT: ZONING - Zoning)

## **PLANNING**

1. Prior to Final Approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded cross access easement agreement, for the location depicted on the site plans. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 1 of Resolution R-2022-378, Control No.2003-00830)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Site Plan to add the Official records book and page number for the recorded cross access easement. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 2 of Resolution R-2022-378, Control No.2003-00830)

3. Previous PLANNING Condition 3 of Resolution R-2022-378, Control No.2003-00830 which currently states:

Prior to the release of the Certificate of Occupancy, the Property Owner shall construct, and pave to the property line, the cross access as shown on the final site plan.

### **Is hereby amended to read:**

Prior to the release of the Certificate of Occupancy, the Property Owner shall construct the emergency cross access connection to the property line with the adjacent site to the east as shown on the Final Site Plan. The emergency access connection shall provide for a gate and be constructed using asphalt or a stabilized subgrade driving surface, as acceptable to PBC Fire Rescue. (CO: MONITORING - Planning)

4. Prior to Final Approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded amendment to the Declaration of Cross Access Easement recorded on July 19, 2022, in Book 33709, Page 1844 of the Official Records of Palm Beach County, Florida limiting the easement to emergency vehicles only. (DRO: PLANNING – Planning)

5. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Final Site Plan (FSP) to graphically depict a cross access connection, for use by emergency services only, to the property to the east, and indicate on the FSP the official records book and page number of the recorded amended easement for the emergency connection. (DRO: PLANNING – Planning)

## **SIGNS**

1. Previous SIGNS Condition 1 of Resolution R-2022-378, Control No.2003-00830, which currently states:

Wall signage (W3) located on the rear (south) facade of Building 1 shall be limited to a maximum height of twenty-nine (29) feet.

### **Is hereby amended to read:**

Building Mounted signage shall be limited to the north and west facades. Wall signage shall be prohibited on the south and east facades: (BLDGPMPT/ONGOING: BLDG DIVISION - Zoning)

2. Previous SIGNS Condition 2 of Resolution R-2022-378, Control No.2003-00830, which currently states:

Wall Signage (W7 and W8) along the south facade of Building 2 shall not exceed twenty-four (24) square feet per tenant. (BLDGPMPT/ONGOING: ZONING - Zoning)

**Is hereby deleted.** [REASON: Buildings and sign design have change and Sign Condition 1 is proposed for modification]

#### **SITE DESIGN**

1. Previous SITE DESIGN Condition 1 of Resolution R-2022-378, Control No.2003-00830, which currently states:

Any building or structure within 150 feet of the south property line shall be limited to a maximum of 30 feet in height, measured from finished grade to the highest point of the building or structure.

#### **Is hereby amended to read:**

Any building or structure shall be limited to a maximum of 40 feet in height, measured from finished grade to the highest point of the building or structure, and shall be setback a minimum of one hundred and four (104) feet from the south property line. (BLDGPMT/ONGOING: ZONING - Zoning)

2. Dumpster enclosures shall not be located within 100 feet of the south property line. (BLDGPMT/ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 2 of Resolution R-2022-378, Control No.2003-00830)

3. Prior to Final Development Review Officer (DRO) approval the Preliminary Site Plan shall be revised to reflect the correct the driveway turning movement counts to be consistent with those of the approved Traffic Study dated February 10, 2022. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 3 of Resolution R-2022-378, Control No.2003-00830)

#### **USE LIMITATIONS**

1. Previous USE LIMITATIONS Condition 1 of Resolution R-2022-378, Control No.2003-00830, which currently states:

The following uses shall be prohibited within Building 2:

- a. Repair and Maintenance Heavy;
- b. Machine or Welding Shop;
- c. Manufacturing and Processing;
- d. Towing Service and Storage;
- e. Contractors Storage Yard; and
- f. Composting Facility (ONGOING: ZONING - Zoning)

#### **Is hereby amended to read:**

The following uses shall be prohibited:

- a. Repair and Maintenance Heavy;
- b. Machine or Welding Shop;
- c. Heavy Industry;
- d. Towing Service and Storage;
- e. Contractors Storage Yard;
- f. Composting Facility; and
- g. Brewery-Distillery. (ONGOING: ZONING - Zoning)

#### **COMPLIANCE**

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or



- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

**DISCLOSURE**

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.