

RESOLUTION NO. R-2008- 1693

RESOLUTION APPROVING ZONING APPLICATION PDD-2006-01682
(CONTROL NO. 2006-00529)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
Application of W & W IX LLC
By Land Design South, Inc., Agent
(112th/Northlake Office)

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 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 PDD-2006-01682 was presented to the Board of County Commissioners at a public hearing conducted on September 29, 2008; 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 recommendations of the Zoning Commission; and

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

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

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan.
2. This official zoning map amendment (rezoning) is consistent with the stated purpose and intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations.
3. This official zoning map amendment (rezoning) is compatible and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land.
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
5. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern.
6. This official zoning map amendment is consistent with applicable Neighborhood Plans.
7. This official zoning map amendment (rezoning) complies with Article 2.F (Concurrency) of the Palm Beach County Unified Land Development Code.

8. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment.

WHEREAS, Article 2.A.1.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 PDDPDD-2006-01682, the application of W & W IX LLC, by Land Design South, Inc., agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District. in the MUPD Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on September 29, 2008, 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:

Addie L. Greene, Chairperson	-	Aye
Jeff Koons, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on September 29, 2008.

Filed with the Clerk of the Board of County Commissioners on 29 day of September, 2008.

This resolution was filed with the Clerk of the Board of County Commissioners on October 6, 2008.

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

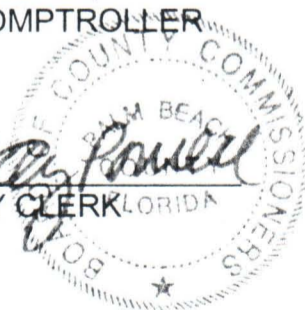


EXHIBIT A

LEGAL DESCRIPTION

112th Terrace North & Northlake Boulevard

Legal Description

Parcel A: 5.8 acres

The East ½ of the East ½ of Section 14, Township 42 south, Range 41 east, less that part lying North of the South right-of-way line of the West Lake Park Road extension as described in right-of-way deed from H.K. Terry, ET AL., to County of Palm Beach in State of Florida, dated June 4, 1965, and filed November 18, 1965 in Official Record Book 1290, Page 513, Public Records of Palm Beach County, Florida less the West 377.23 feet thereof and also less the East 535 feet thereof.

Parcel B: 5.0 acres

The West 377.23 feet of the East one-half (E ½) of the East one-half (E ½) of Section 14, Township 42 South, Range 41 East, less that part lying North of the South Right of way line of West Lake Park Road Extension as described in Right of way Deed for H.K. Terry ET AL., to County of Palm Beach in the State of Florida, dated June 4, 1965, and filed November 18, 1965 in Official Record Book 1290, page 513, Public Records of Palm Beach County, Florida.

Subject to a 60 foot Right of way Easement over the West 60 feet and further subject to Restriction, Reservation and Easements of Record.

LESS from both parcels above, additional lands, for road right(s)-of-way, conveyed to Palm Beach County by instrument(s) recorded in Official Record Book 12123, Page 179, of the Public Records of Palm Beach County, Florida.

Containing 10.8 acres, more or less.

EXHIBIT B
VICINITY SKETCH

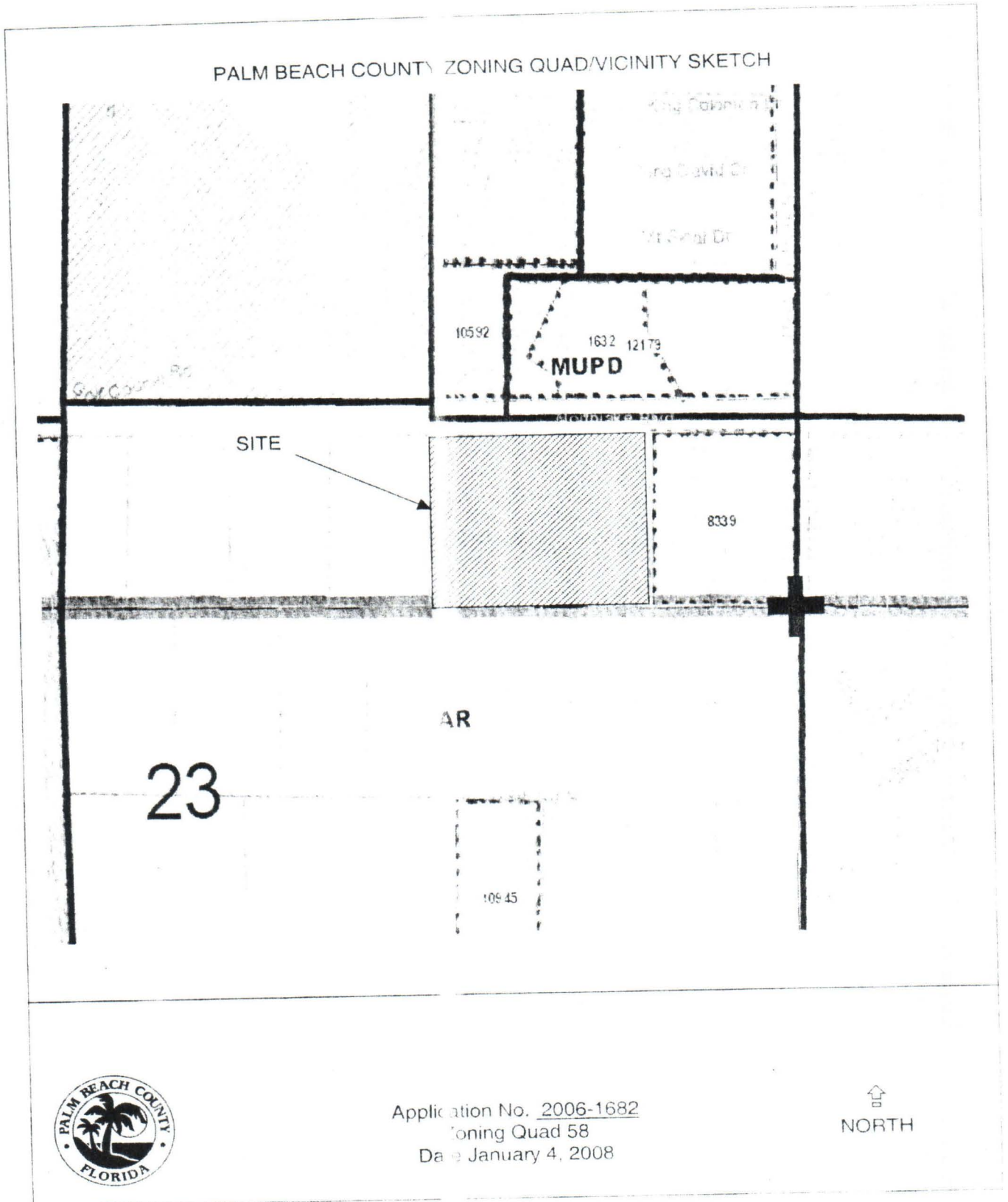


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated August 18, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING-Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final DRO approval of the site plan, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Article 5.C. of the ULDC. Development shall be consistent with the approved architectural elevations and the approved DRO site plan. (DRO: ZONING Architecture Review)

BUILDING AND SITE DESIGN

1. Prior to final approval by the Development Review Officer, the variance chart shall be removed from the site plan. (DRO: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:
 - a. Building Permits for more than 11,290 s.f. of Medical Office and 41,100 s.f. of Professional Office shall not be issued until the contract is let for the construction of State Road 7 from 60th Street to Northlake Blvd. as a 2 lane facility plus appropriate paved tapers OR September 30, 2009, whichever occurs first. (BLDG PERMIT/DATE: MONITORING- Eng)
 - b. No Building Permits for the site shall be issued after January 1, 2011. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study, which complies with the 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)
2. Prior to or concurrent with the plat recordation, the property owner shall convey a 60 foot roadway easement for 112th Terrace to the Rustic Lakes Homeowner's Association. Right of way dedication shall be from the project's north property line to the project's south property line. The final alignment shall be approved by the County Engineer. This roadway easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's entrance road right of way. (PLAT: MONITORING - Eng)
3. Prior to issuance of a Building Permit the Property owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)
4. Prior to or concurrent with the plat recordation the property owner shall record a 30 foot roadway easement along the project's south property line to the Rustic Lakes Homeowner's Association. The property owner shall record all appropriate deeds and documents. (PLAT: MONITORING - Eng)
5. Prior to the issuance of a building permit 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 west approach on Northlake Boulevard at the project's entrance road. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This

additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. 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. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: MONITORING-Eng)

6. The Property Owner shall construct a left turn lane east approach and associated median improvements to provide for a restricted median opening on Northlake Boulevard at the project's entrance road and a right turn lane west approach on Northlake Boulevard at the project's entrance road. 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 acquisitions of any additional required right-of-way.

- a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING- Eng)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING- Eng)

7. Prior to Final Site Plan approval by the Development Review Officer, the property owner shall provide documentation acceptable to the County Engineer that the property has been annexed into the Indian Trail Water Improvement District for the purposes of obtaining Legal Positive Outfall. (DRO: ENGINEERING- Eng)

8. Landscape Within the Median of Northlake Boulevard

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Northlake Boulevard. 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 Board of County Commissioners 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 D below. (ONGOING: ENGINEERING-Eng)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING- Eng)

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING- Eng)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Northlake Boulevard. 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. (ONGOING:

ENGINEERING- Eng)

HEALTH

1. Prior to the final approval by the Development Review Officer, the property owner shall provide proof of concurrency for sanitary sewer to the Palm Beach County Health Department. (BLDG PERMIT: MONITORING-Health)

LANDSCAPE - STANDARD

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

2. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

3. All palm or pine trees required to be planted on the property by this approval shall meet the following minimum standards at installation:
 - a. heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms or pines provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

4. All pines required to be planted on the property by this approval shall meet the following minimum standards at installation:
 - a. pines shall be planted in clusters of five (5) to seven (7) pines. Pine height shall be a minimum of twelve (12) feet to sixteen (16) feet at installation and have a maximum spacing of forty (40) feet between clusters; and,
 - b. credit may be given for existing pines provided they meet current ULDC requirements. (DRO/BLDG PERMIT: LANDSCAPE - Zoning)

5. Field adjustment of plant material may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE Zoning)

6. Special planting treatment shall be provided within the median at the central access point from Northlake Boulevard, as shown on the site plan dated August 18, 2008. Planting shall consist of the following:
 - a. a minimum of three (3) native palms or flowering trees appropriate ground cover and native shrubs;
 - b. appropriate ground cover and native shrubs;
 - c. all plant materials shall be planted in a naturalistic and meandering pattern. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE SOUTH AND WEST PROPERTY LINES (ABUTTING 112TH TERRACE AND 90TH STREET NORTH)

7. In addition to code requirements, the landscape buffer along the south and west property lines shall be upgraded to include:

a. one (1) palm or pine tree for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor lighting shall be extinguished no later than 11:30 p.m., excluding security lighting only. (ONGOING: CODE ENF - Zoning)

2. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning)

PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)

2. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (PLAT: ENG/MONITORING-Palm Tran)

PLANNING

1. The project will be limited to 82,799 SF of general office and 11,290 SF of Medical Office uses per Ordinance 2006-051. (ONGOING: PLANNING-Planning)

SIGNS

1. Freestanding signs fronting on Northlake Boulevard shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point twelve (12) feet;
b. maximum sign face area per side - one hundred (100) square feet;
c. maximum number of signs - one (1);
d. style - monument style only;
e. location - within fifty (50) feet of the access point measured from edge of pavement. (BLDG PERMIT: BLDG- Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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; 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 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 Conditional Use, Type II Variance, 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.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)