

RESOLUTION NO. R-2012- 0469

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2011-01747  
(CONTROL NO. 1973-00091)  
a Development Order Amendment  
APPLICATION OF Jennifer Urbanek 1999 Trust & Sidney Kohl  
BY Gentile, Holloway, O'Mahoney & Assoc, AGENT  
(Lake Worth Plaza West)

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; and

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

WHEREAS, Zoning Application ZV/DOA-2011-01747 was presented to the Board of County Commissioners at a public hearing conducted on March 22, 2012; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; and

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

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Development Order 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 ZV/DOA-2011-01747, the petition of Jennifer Urbanek 1999 Trust & Sidney Kohl, by Gentile, Holloway, O'Mahoney & Assoc, agent, for a Development Order Amendment to reconfigure the Master Plan to allow a change in use and to add square footage in the Multiple Use Planned Development (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 March 22, 2012, subject to the Conditions of Approval described in EXHIBIT C-2, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on March 22, 2012.

Filed with the Clerk of the Board of County Commissioners on April 9, 2012.

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  
BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY  
FLORIDA

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

THE WEST ONE-HALF OF THE EAST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER, AND THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH, FLORIDA

LESS THE WEST 80.00 FEET THEREOF (AS MEASURED AT RIGHT ANGLES) FOR JOG ROAD RIGHT-OF-WAY PURPOSES; LESS 60.00 FEET NORTH OF AN 60.00 FEET SOUTH OF THE EXISTING CENTERLINE OF RIGHT-OF-WAY OF LAKE WORTH ROAD (S.R. 802 FOR ROAD RIGHT-OF-WAY PURPOSES.

LESS ALL OTHER RIGHTS-OF-WAYS SHOWN ON THE PALM BEACH COUNTY RIGHT-OF-WAY AMP OF LAKE WORTH ROAD (SR #802), DRAWING NO . 3-75-328R/W, SECTION 93610-2602, SHEET 5 OF 14, AND ALL BEARINGS STATE HEREIN ARE RELATIVE TO SAID RIGHT-OF-WAY MAP.

LESS THE FOLLOWING DESCRIBED PARCEL TO BE USED FOR SR 802 ROAD RIGHT-OF-WAY PURPOSES:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 27, THENCE SOUTH 88° 12' 34" EAST, ALONG THE NORTH SECTION LINE OF SAID SECTION 27, 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88° 12' 34" NON-TANGENCY; THENCE SOUTHEASTERLY, ALONG AN ARC OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 36.00 FEET, A CENTRAL ANGLE OF 50° 55' 49", A CHORD LENGTH OF 30.96 FEET WHICH BEARS SOUTH 58° 35' 13" EAST, 32.00 FEET TO A POINT OF COMPOUND CURVATURE; THENCE NORTH, HAVING A RADIUS OF 171.00 FEET, A CENTRAL ANGLE OF 19° 23' 46", 57.89 FEET TO A POINT OF REVERSE CURVATURE, SAID POINT BEING 63.00 FEET NORTH OF AN CONCENTRIC WITH THE EXISTING CENTERLINE OF RIGHT-OF-WAY OF SR #802; THENCE NORTHEASTERLY, ALONG A LINE BEING 63.00 FEET NORTH OF AN CONCENTRIC WITH SAID CENTERLINE OF SR #802, SAID LINE BEING AN ARC OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 2927.93 FEET, A CENTRAL ANGLE OF 00° 44' 34", A CHORD LENGTH OF 37.96 FEET WHICH BEARS NORTH 76° 55' 23" EAST, 37.96 FEET TO A POINT OF NON-TANGENCY, SAID POINT LYING ON THE NORTH LINE OF SAID SECTION 27; THENCE SOUTH 88° 12' 34" EAST, ALONG SAID SECTION LINE, 12.08 FEET TO A POINT OF NON-TANGENCY, SAID POINT LYING 60.00 FEET NORTH OF AND CONCENTRIC WITH EXISTING CENTERLINE OF RIGHT-OF-WAY OF SR #802; THENCE AND CONCENTRIC WITH SAID CENTERLINE OF SR #802, SAID LINE BEING AN ARC OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 2924.93 FEET, A CENTRAL ANGLE OF 03° 01' 42", A CHORD LENGTH OF 154.53 FEET WHICH BEARS SOUTH 76° 00' 34" WEST, 154.60 FEET TO A POINT OF NON-TANGENCY; THENCE NORTH 52° 03' 46" WEST, 48.20 FEET TO A POINT ON A LINE BEING 40.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES), THE WEST LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 27; THENCE NORTH 01° 22' 26" EAST ALONG SAID LINE, 13.61 FEET TO THE POINT OF BEGINNING, CONTAINING 0.065 ACRES, MORE OR LESS.

LESS THE FOLLOWING DESCRIBED PARCEL TO BE USED FOR JOG ROAD AND SR #802 ROAD RIGHT-OF-WAY PURPOSES:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 27, THENCE SOUTH 01° 22' 26" WEST, ALONG THE WEST LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 27, ALSO BEING THE EXISTING CENTERLINE OF RIGHT-OF-WAY OF JOG ROAD, 591.79 FEET; THENCE SOUTH 88° 37' 34" EAST, 40.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01° 22' 26" EAST, ALONG A LINE

BEING 40.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE SAID EXISTING CENTERLINE OF RIGHT-OF-WAY OF JOG ROAD, 396.46 FEET; THENCE NORTH  $37^{\circ} 17'48''$  EAST, 23.46 FEET TO POINT ON A LINE BEING 60.00 FEET SOUTH OF AND CONCENTRIC WITH THE EXISTING CENTERLINE OF RIGHT-OF-WAY OF SR #802; THENCE NORTHEASTERLY, ALONG SAID LINE, BEING AN ARC OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 2804.93 FEET, A CENTRAL ANGLE OF  $02^{\circ} 24'39''$ , 118.03 FEET TO A POINT OF CUSP; THENCE SOUTHWESTERLY ALONG AN ARC OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 168.00 FEET, A CENTRAL ANGLE OF  $16^{\circ} 17'57''$ , 47.79 FEET TO A POINT OF COMPOUND CURVATURE; THENCE SOUTHWESTERLY, ALONG AN ARC OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 78.00 FEET, A CENTRAL ANGLE OF  $41^{\circ} 55'16''$ , 57.07 FEET TO A POINT OF COMPOUND CURVATURE; THENCE SOUTHERLY, ALONG AN ARC OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 168.00 FEET, A CENTRAL ANGLE OF  $16^{\circ} 01'53''$ , 47.01 FEET TO A POINT OF TANGENCY, SAID POINT BEING ON A LINE THAT IS 83.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE EXISTING CENTERLINE OF RIGHT-OF-WAY OF JOG ROAD; THENCE SOUTH  $01^{\circ} 22'26''$  WEST, ALONG SAID LINE 189.64 FEET; TO A POINT THAT IS 80.00' EAST OF (AS MEASURED AT RIGHT ANGLES) THE SAID CENTERLINE OF JOG ROAD; THENCE NORTH  $88^{\circ} 37'34''$  WEST, 40.00 FEET TO THE POINT OF BEGINNING CONTAINING 0.428 ACRES, MORE OR LESS.

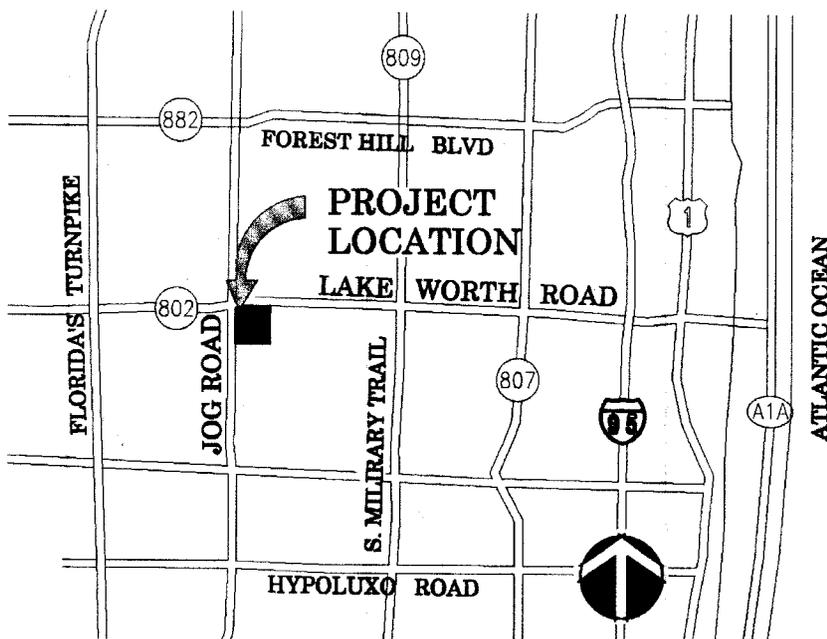
SUBJECT TO AN EASEMENT OVER THE NORTHERLY 12 FEET AND THE EASTERLY 12 FEET OF THE S 1/2 OF THE SW 1/4 OF THE NW 1/4 OF THE NE 1/4 OF SECTION 27, TOWNSHIP 44 SOUTH RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA FOR DRAINAGE PURPOSES, AS RECORDED IN OFFICIAL RECORD BOOK 1473, PAGE 418

ABOVE DESCRIBED PARCEL CONTAINS 27.14 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

LAKE WORTH PLAZA WEST  
PARCEL L-3  
LOCATION MAP  
N.T.S.



## EXHIBIT C-2

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Previous Condition All Petitions 1 of R-2007-1046, Control No. 73-91 which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-1997-1576 (Control 1973-091D), 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 ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution Resolution R-1997-1576 (Control No. 1973-091D), R-2007-1046 (Control 1973-091), 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 or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. The approved Preliminary Site Plan is dated January 18, 2012. 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)

#### ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the Architectural Elevations for the retail building (Parcel L-3) shall be submitted for final architectural review and approval. 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 Site Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

#### ENGINEERING

1. Prior to the issuance of any building permits the developer shall dedicate to Palm Beach County the additional right-of-way required to provide for a one hundred twenty (120) foot right-of-way for Lake Worth Road (SR 802) and Jog Road. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.1 of Resolution R-2007-1046, Control No. 1973-91) [Note: COMPLETED]

2. Previous Condition E.2 of Resolution R-2007-1046, Control No. 1973-91, which currently states:

The developer shall construct the necessary roadway improvements as required by the County Engineer. (ONGOING: ENGINEERING - Eng)

Is hereby deleted. [Reason: No longer necessary]

3. Previous Condition E.7 of Resolution R-2007-1046, Control No. 1973-91, which currently states:

Access to the site shall be from the site's internal accessways. No direct access shall be permitted to Jog Road. (ONGOING: ENGINEERING - Eng)

Is hereby deleted. [Reason: No longer necessary]

4. Previous Condition E.8 of Resolution R-2007-1046, Control No. 1973-91, which currently states:

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

No Building Permits for the 4,100 square foot financial institution shall be issued after June 28, 2010. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

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 shall be issued after December 31, 2015. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

5. Prior to issuance of the first 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 on Jog Road at the intersection with Lake Worth Road as well as a Removal Agreement approved by the Engineering Department to allow improvements to remain until notified by the County Engineer. This right of way shall be a minimum of 192 feet in storage length and a minimum of twelve feet in width 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 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, including a topographic survey, unless otherwise approved by the County Engineer with an appropriate subordination agreement.

The Grantor 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 Grantor, the Grantor 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 (BLDG PERMIT: MONITORING-Eng)

6. Prior to issuance of the first building permit on the parcel located at the northwest corner of the development site, the property owner shall legally create the lot in accordance with Article 11 of the ULDC. (BLDG PERMIT: MONITORING - Eng)

#### LANDSCAPE - GENERAL

1. Prior to December 31, 1996, the petitioner of Zoning Control No. 73-91(C) shall install native canopy trees thirty (30) feet on center along Jog Road and a continuous opaque hedge in accordance with ULDC requirements, between the south property line and the second driveway entrance north. Credit shall be given for existing landscape material in this area meeting this requirement. (DATE: MONITORING - Landscape) (Previous Condition Landscape 1 of R-2007-1046, Control No. 73-91)

**LANDSCAPE - GENERAL-FIRST UNION BANK EXPANSION PETITION 93-91(D)**

2. Landscaping and buffering along 153 Feet of the North Property Line Commencing from the Northeast Corner Abutting Lake Worth Road shall be upgraded to include:

- a. One (1) canopy tree planted every twenty (20) linear feet with a maximum spacing of thirty (30) feet on center;
- b. Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE-Zoning) (Previous Condition Landscape 2 of R-2007-1046, Control No. 73-91)

3. Previous Condition Landscape 3 of R-2007-1046, Control No. 73-91 which currently states:

The petitioner shall replace all missing or dead landscaping within the parking areas and adjacent to the east property line. All replacement trees and shrubs shall meet the standards of Section 7.3 of the ULDC. (CO: LANDSCAPE-Zoning)

Is hereby deleted - [Reason: Code Requirements, pursuant to ULDC Article 7, Landscape]

**LANDSCAPE - GENERAL-WINN DIXIE/MAIN ANCHOR RETAIL**

4. Prior to the issuance of the Certificate of Occupancy or Certificate of Completion for the Winn Dixie (subject of petition 73-91(B) the petitioner shall complete the following:

- a. Repair or replace all missing or damaged fence panels on the south and east property lines of the shopping center;
- b. Install one (1) eighteen (18) to twenty (20) foot tall Sabal Palms twenty (20) feet on center along the east property line within the five foot wide existing Alternate 1 Landscape Buffer; and,
- c. Replace all missing or dead landscaping within the parking areas (excluding out parcels). All replacement trees and shrubs shall meet the standards of Section 7.3 of the ULDC. (CO: BLDG / LANDSCAPE - Zoning) (Previous Condition Landscape 4 of R-2007-1046, Control No. 73-91)

**SITE DESIGN**

1. Previous Condition Building and Site Design 1 of R-2007-1046, Control No. 73-91 which currently states:

The petitioner shall revise the Preliminary Development Plan to relocate all dumpsters a minimum of twenty five (25) feet from the east property line. (ONGOING: ZONING-Zoning)

Is hereby deleted - [Reason: Code Requirements, Pursuant to Article 5.B.1.A.8, Dumpsters]

2. Previous Condition Building and Site Design 2 of R-2007-1046, Control No. 73-91 which currently states:

Prior to the issuance of the Certificate of Occupancy or Certificate of Completion for the Winn Dixie (subject of Petition 73-91(B) the petitioner shall relocate all dumpsters and provide screening pursuant to section 6.6.A.5 (Dumpster). (CO: BLDG Bldg)

Is hereby deleted - [Reason: Code Requirements, Pursuant to Article 5.B.1.A.8, Dumpsters]

**USE LIMITATIONS-COCKTAIL LOUNGE**

1. The cocktail lounge permitted by Zoning Control No. 73-91(C) shall be limited to a maximum of 5,000 gross square feet located in the southwest area of the principle structure, as indicated on Exhibit 48. (DRO: ZONING-Zoning) (Previous Condition Use Limitations 1 of R-2007-1046, Control No. 73-91)

## USE LIMITATIONS-VETERINARY CLINIC AND COMMERCIAL KENNEL

2. Prior to site plan certification, the site plan shall be amended to indicate the following:
  - a. Landscaping located outside of the utility easements, or release agreements shall be obtained from all easement holders and filed with the Zoning Division.
  - b. Revise square footage of the veterinary clinic and commercial kennel with corrective changes to the parking calculations. (DRO: ZONING - Zoning) (Previous Condition Use Limitations 2 of R-2007-1046, Control No. 73-91)

## USE LIMITATIONS-USE RETAIL-PARCEL L-3

3. Prior to July 31, 2014, the applicant shall abandon the Type II Restaurant use and amend approved Plans to remove any Phasing reference to implement the General Retail Use. (DATE: MONITORING - Zoning)

## UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are the direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD - PBCWUD) (Previous Utilities Condition 1 of Resolution R-2007-1046, Control 1973-091)

## COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

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

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

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