

RESOLUTION NO. R-2009-2090

RESOLUTION APPROVING WAIVER REQUEST ZV/W-2008-01516
(CONTROL NUMBER 2001-00019)
WAIVER FROM REQUIRED DIMENSIONAL CRITERIA
APPLICATION OF Verizon Wireless Personal Communications - dba Verizon Wireless
BY SBA Network Services, Inc., AGENT
(Verizon/FPL Pinewood Substation)

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 petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Process) 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 Waiver from Required Dimensional Criteria for Communication Towers; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Waiver Request ZV/W-2008-01516 was presented to the Board of County Commissioners at a public hearing conducted on December 8, 2009; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 4.C.3.K.4

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 Waiver Request ZV/W-2008-01516, the application of Verizon Wireless Personal Communications - dba Verizon Wireless, by SBA Network Services, Inc., agent, for a Waiver of Dimensional Criteria to allow a reduction of setbacks from the north and east property lines for a communication tower in the Agricultural Reserve (AGR) 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 December 8, 2009, 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 Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair	-	Aye
Commissioner Karen T. Marcus, Vice Chair	-	Aye
Commissioner Jeff Koons	-	Absent
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on December 8, 2009.

Filed with the Clerk of the Board of County Commissioners on December 9, 2009.

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

PARENT PARCEL
(OFFICIAL RECORD BOOK 11873, PAGE 1781)

A PARCEL OF LAND LYING AND BEING IN SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTH HALF OF SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST AND THE WEST RIGHT-OF-WAY LINE OF FLORIDA STATE ROAD NO. 7 (75' WIDE PRIOR TO ADDITIONAL RIGHT-OF-WAY TAKING); THENCE NORTH 01°05'59" WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 8.00 FEET; THENCE SOUTH 88°55'01" WEST, A DISTANCE OF 164.55 FEET TO A POINT IN THE ULTIMATE WEST RIGHT-OF-WAY LINE OF SAID FLORIDA STATE ROAD NO.7, AND THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND; THENCE NORTH 01°06'44" WEST, ALONG SAID ULTIMATE RIGHT-OF-WAY LINE, A DISTANCE OF 487.00 FEET; THENCE SOUTH 88°55'01" WEST, A DISTANCE OF 111.24 FEET; THENCE NORTH 00°55'55" WEST, A DISTANCE OF 50.00 FEET; THENCE SOUTH 88°55'01" WEST, A DISTANCE OF 255.25 FEET; THENCE SOUTH 01°05'59" EAST, A DISTANCE OF 537.00 FEET; THENCE NORTH 88°55'01" EAST, A DISTANCE OF 366.45 FEET TO THE POINT OF BEGINNING.

CONTAINING 191,193.60 SQUARE FEET (4.389 ACRES) MORE OR LESS.

BEARINGS CITED HEREIN ARE RELATIVE TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST BEARING NORTH 00°55'55" WEST.

T-MOBILE LEASE AREA
(PREPARED BY THIS OFFICE)

THAT PART OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTH HALF OF SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA WITH THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441 (75 FOOT WIDE RIGHT OF WAY PRIOR TO ADDITIONAL RIGHT OF WAY TAKING); THENCE NORTH 01°05'59" WEST, ALONG SAID RIGHT OF WAY LINE FOR 8.00 FEET; THENCE SOUTH 88°55'01" WEST FOR 164.55 FEET TO AN INTERSECTION WITH THE EXISTING WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY NO. 441 AND THE SOUTHEAST CORNER OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE NORTH 01°06'44" WEST ALONG SAID EXISTING WEST RIGHT OF WAY LINE AND ALONG THE EAST LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 487.00 FEET TO THE NORTHEAST CORNER OF SAID "FLORIDA POWER & LIGHT" PARCEL; THENCE SOUTH 88°55'01" WEST ALONG THE NORTH LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 74.97 FEET; THENCE SOUTH 01°04'59" EAST FOR 64.23 FEET TO THE POINT OF BEGINNING; THENCE NORTH 88°53'16" EAST FOR 15.00 FEET; THENCE SOUTH 01°06'44" EAST FOR 40.00 FEET; THENCE SOUTH 88°53'16" WEST FOR 15.00 FEET;

THENCE NORTH 01°06'44" WEST FOR 40.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 600 SQUARE FEET, MORE OR LESS.

VERIZON WIRELESS LEASE AREA
(PREPARED BY THIS OFFICE)

THAT PART OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTH HALF OF SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA WITH THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441 (75 FOOT WIDE RIGHT OF WAY PRIOR TO ADDITIONAL RIGHT OF WAY TAKING); THENCE NORTH 01°05'59" WEST, ALONG SAID RIGHT OF WAY LINE FOR 8.00 FEET; THENCE SOUTH 88°55'01" WEST FOR 164.55 FEET TO AN INTERSECTION WITH THE EXISTING WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY NO. 441 AND THE SOUTHEAST CORNER OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE NORTH 01°06'44" WEST ALONG SAID EXISTING WEST RIGHT OF WAY LINE AND ALONG THE EAST LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 487.00 FEET TO THE NORTHEAST CORNER OF SAID "FLORIDA POWER & LIGHT" PARCEL; THENCE SOUTH 88°55'01" WEST ALONG THE NORTH LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 74.97 FEET; THENCE SOUTH 01°04'59" EAST FOR 64.23 FEET; THENCE NORTH 88°53'16" EAST FOR 15.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 88°53'16" EAST FOR 16.50 FEET; THENCE SOUTH 01°06'44" EAST FOR 40.00 FEET; THENCE SOUTH 88°53'16" WEST FOR 16.50 FEET; THENCE NORTH 01°06'44" WEST FOR 40.00 FEET TO THE AFORESAID POINT OF BEGINNING.

CONTAINING 660 SQUARE FEET, MORE OR LESS.

20 FOOT WIDE INGRESS AND EGRESS EASEMENT
(PREPARED BY THIS OFFICE)

THAT PART OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, LYING WITHIN 10 FEET OF BOTH SIDES OF A CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTH HALF OF SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA WITH THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441 (75 FOOT WIDE RIGHT OF WAY PRIOR TO ADDITIONAL RIGHT OF WAY TAKING); THENCE NORTH 01°05'59" WEST, ALONG SAID RIGHT OF WAY LINE FOR 8.00 FEET; THENCE SOUTH 88°55'01" WEST FOR 164.55 FEET TO AN INTERSECTION WITH THE EXISTING WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY NO. 441 AND THE SOUTHEAST CORNER OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE NORTH 01°06'44" WEST ALONG SAID EXISTING WEST RIGHT OF WAY LINE AND ALONG THE EAST LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 487.00 FEET TO THE NORTHEAST CORNER OF SAID "FLORIDA POWER & LIGHT" PARCEL; THENCE SOUTH 88°55'01" WEST ALONG THE NORTH LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 74.97 FEET; THENCE SOUTH 01°04'59" EAST FOR 64.23 FEET TO THE NORTHWEST CORNER

OF A 31.50 FOOT X 40 FOOT TOWER PARCEL; THENCE SOUTH 01°06'44" EAST ALONG THE WEST LINE OF SAID TOWER PARCEL FOR FOR 40.00 FEET TO THE SOUTHWEST CORNER OF SAID TOWER PARCEL; THENCE NORTH 88°53'16" EAST ALONG THE SOUTH LINE OF SAID TOWER PARCEL FOR 15.75 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE SOUTH 01°06'44" EAST FOR 92.85 FEET; THENCE SOUTH 64°13'52" EAST FOR 64.99 FEET TO AN INTERSECTION WITH SAID EXISTING WEST RIGHT OF WAY LINE AND SAID EAST LINE, AND THE POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.

CONTAINING 3,157 SQUARE FEET, MORE OR LESS.

5 FOOT WIDE UTILITY EASEMENT
(PREPARED BY THIS OFFICE)

THAT PART OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, LYING WITHIN 2.5 FEET OF BOTH SIDES OF A CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE SOUTH HALF OF SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA WITH THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441 (75 FOOT WIDE RIGHT OF WAY PRIOR TO ADDITIONAL RIGHT OF WAY TAKING); THENCE NORTH 01°05'59" WEST, ALONG SAID RIGHT OF WAY LINE FOR 8.00 FEET; THENCE SOUTH 88°55'01" WEST FOR 164.55 FEET TO AN INTERSECTION WITH THE EXISTING WEST RIGHT OF WAY LINE OF SAID U.S. HIGHWAY NO. 441 AND THE SOUTHEAST CORNER OF THE "FLORIDA POWER & LIGHT" PARCEL AS PER DESCRIPTION RECORDED IN OFFICIAL RECORD BOOK 11873, PAGE 1779 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE NORTH 01°06'44" WEST ALONG SAID EXISTING WEST RIGHT OF WAY LINE AND ALONG THE EAST LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 487.00 FEET TO THE NORTHEAST CORNER OF SAID "FLORIDA POWER & LIGHT" PARCEL; THENCE SOUTH 88°55'01" WEST ALONG THE NORTH LINE OF SAID "FLORIDA POWER & LIGHT" PARCEL FOR 74.97 FEET; THENCE SOUTH 01°04'59" EAST FOR 64.23 FEET TO THE NORTHWEST CORNER OF A 31.50 FOOT X 40 FOOT TOWER PARCEL; THENCE SOUTH 01°06'44" EAST ALONG THE WEST LINE OF SAID TOWER PARCEL FOR 40.00 FEET TO THE SOUTHWEST CORNER OF SAID TOWER PARCEL; THENCE NORTH 88°53'16" EAST ALONG THE SOUTH LINE OF SAID TOWER PARCEL FOR 15.75 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED CENTERLINE; THENCE SOUTH 01°06'44" EAST FOR 3.59 FEET; THENCE SOUTH 42°43'13" EAST FOR 87.75 FEET TO AN INTERSECTION WITH SAID EXISTING WEST RIGHT OF WAY LINE AND SAID EAST LINE, AND THE POINT OF TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.

CONTAINING 457 SQUARE FEET, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

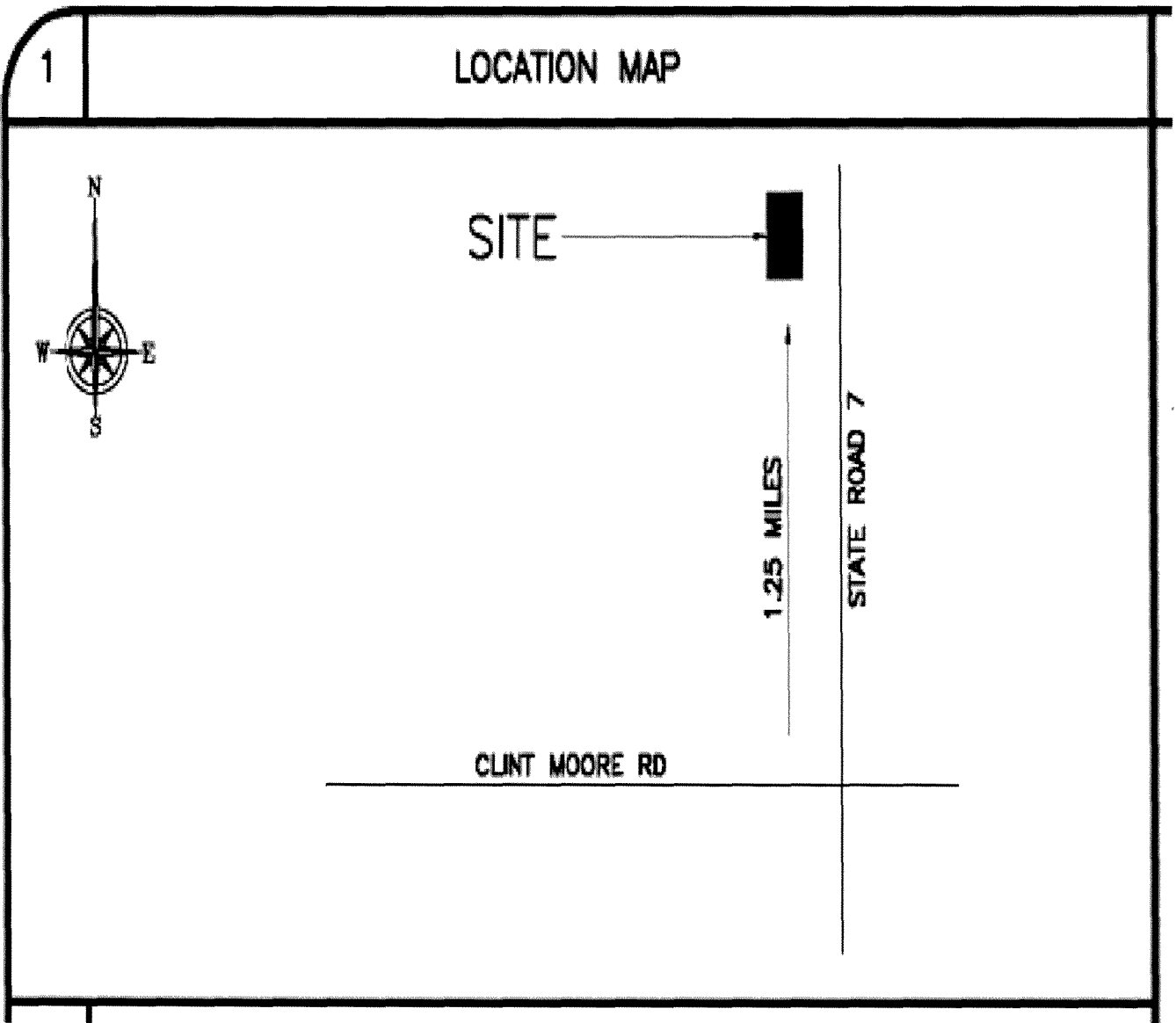


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses and/or site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated December 16, 2008. All modifications to the development order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet conditions of approval. (BLDG PERMIT: BLDG - Zoning)

TOWERS

1. At time of application for a building permit, the applicant shall provide a copy of this waiver approval along with copies of the Preliminary Site Plan dated December 16, 2008 to the Building Division. (BLDG PERMIT: BLDG - 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 (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)