

RESOLUTION NO. R-2007-1046

RESOLUTION APPROVING ZONING APPLICATION DOA2006-1684  
(CONTROL NUMBER 1973-091)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF BANK ATLANTIC, A FEDERAL SAVINGS BANK  
BY CORPORATE PROPERTY SERVICES, AGENT  
(LAKE WORTH PLAZA WEST – BANK ATLANTIC)

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 public 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 DOA2006-1684 was presented to the Board of County Commissioners at a public hearing conducted on June 28, 2007; 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, 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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.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 DOA2006-1684, the application of Bank Atlantic, A Federal Savings Bank by Corporate Property Services, Agent, for a Development Order Amendment to reconfigure the site plan, add square footage and modify/delete conditions of approval 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 28, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell 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
John F. Koons, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on June 28, 2007.

Filed with the Clerk of the Board of County Commissioners on 10th day of July.

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

BY:

  
COUNTY ATTORNEY

SHARON BOCK,  
CLERK & COMPTROLLER

BY:

  
DEPUTY CLERK



EXHIBIT A  
LEGAL DESCRIPTION

PARCEL NO. 1:

Commencing at the north quarter corner of Section 27, Township 44 South, Range 42 East, Palm Beach County, Florida; thence South  $1^{\circ}22'26''$  West along the North-South Quarter section line of Section 27, 886.08 feet; thence South  $88^{\circ}37'34''$  East, perpendicular to the previous course, 80.0 feet to the Easterly right-of-way line of Jog Road and the Point of Beginning; thence North  $1^{\circ}22'26''$  East along said right-of-way line and parallel with the north-South quarter section line, 233.00 feet; thence South  $88^{\circ}37'34''$  East, perpendicular to the previous course, 215.68 feet; thence South  $1^{\circ}20'16''$  West, 212.97 feet to a point of curvature; thence Southwesterly along the arc of a curve concave to the Northwest having a radius of 30.0 feet and a central angle of  $41^{\circ}50'47''$  and whose chord bears South  $22^{\circ}15'31''$  West; an arc distance of 21.91 feet to a point of non-tangency; thence North  $88^{\circ}37'34''$  West along a line perpendicular to the North-South quarter section line, 208.17 feet to the Point of Beginning.

PARCEL NO. 2:

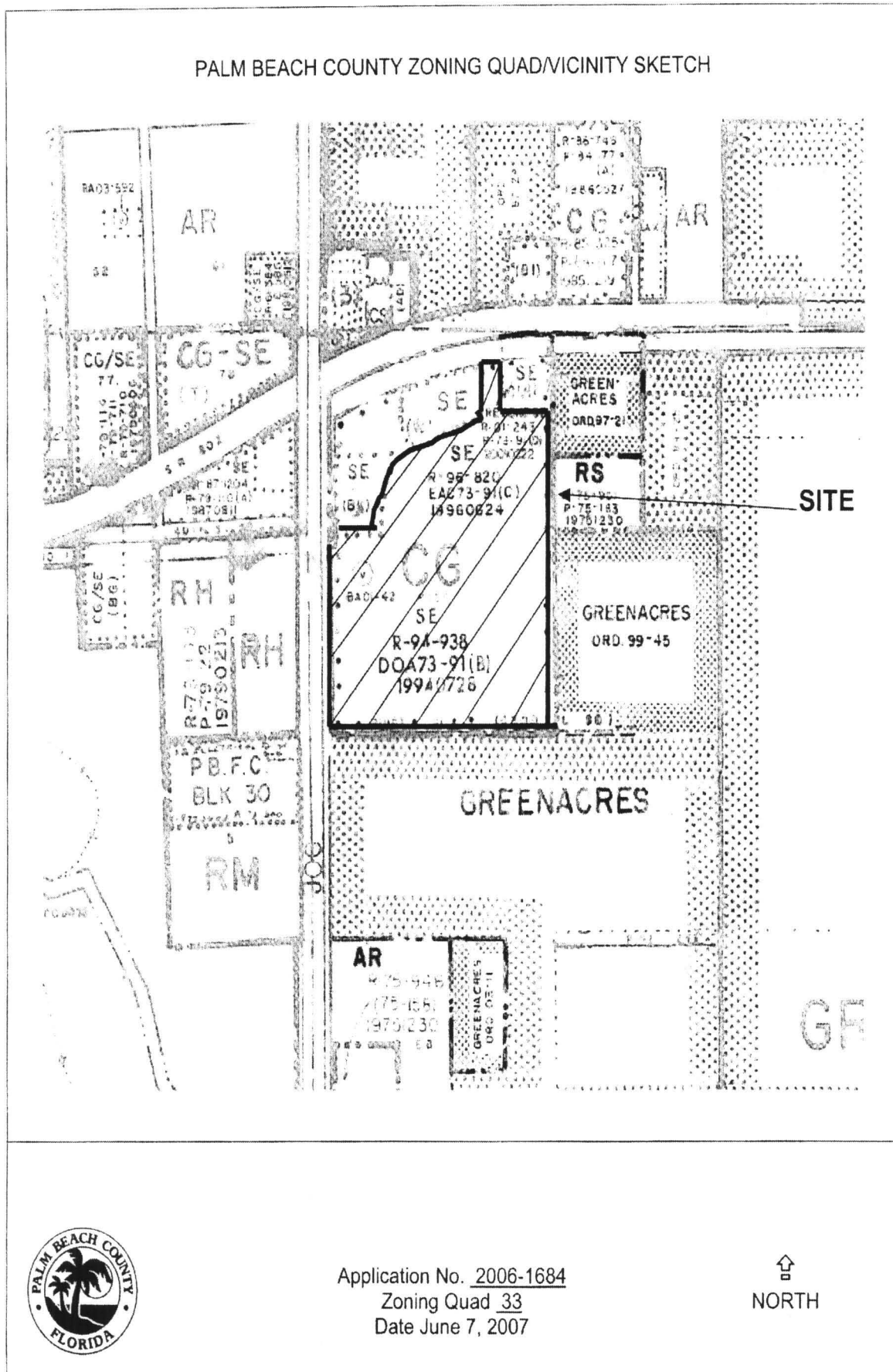
Non-exclusive easement rights for pedestrian and vehicular ingress and egress over the adjacent shopping center as set forth in that certain Cooperation and Easement Agreement recorded in Official Records Book 4836, Page 10, Public Records of Palm Beach County, Florida and parking rights as set forth in that Memorandum of Lease to be recorded (book and page to be cited on policy).

PARCEL 3:

Easement for access to and the use of water stored in the retention pond located on Out Parcel L-4, and for access to and use of certain water pumps and related equipment situated on Out Parcel L-4, as set forth in that certain Cooperation and Easement Agreement recorded in Official Records Book 4836, Page 10, as modified in Official Records Book 5744, Page 1905, Public Records of Palm Beach County, Florida.

EXHIBIT B

VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. 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)
2. Previous Condition A.2 of R-97-1576, Control 73-91(D) which currently reads:  
  
Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated June 25, 1997. 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)  
  
Is hereby amended to read:  
  
Development of the site is limited to the uses or site design approved by the Board of County Commissioners. The approved Preliminary Site plan is dated April 13, 2007. 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)
3. At time of submittal for final approval by the Development Review Officer, new site plan reflecting all existing and the proposed structures/improvements shall be prepared for the subject property. The overall site plan shall be prepared in accordance to the minimum technical requirements pursuant to the Technical Manual. (DRO:ZONING-Zoning)

#### BUILDING AND SITE DESIGN

1. 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) (Previously Condition B.1 of R-97-1576, Control 73-91(D))
2. 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) (Previously Condition B.2 of R-97-1576, Control 73-91(D))

#### 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: ENG - Eng) (Previous Condition E.1 of Resolution R-96-820, Petition 73-91(C) (Note: Completed)
2. The developer shall construct the necessary roadway improvements as required by the County Engineer. (ENG) (Previous Condition E.2 of Resolution R-96-820, Petition 73-91(C) (Note: Completed)
3. Condition Number E.3 of Resolution R-96-820 Presently states:



The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project at the time of the Building Permit presently is \$13,145 (239 additional trips X \$55.00 per trip). (BLDG PERMIT:IMPACT FEE COORD-Impact Fee Coord ) (Previous Condition E.3 of Resolution R-96-820, Petition 73-91(C))

Is hereby deleted. Reason Impact fees are now a code requirement.

4. Condition Number E.4 of Resolution R-96-820 Presently states:

The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$12,056.00 (450 trips X \$26.79 per trip). (IMPACT FEE COORD) (Previously Condition E.4 of Resolution R-96-820, Petition 73-91(C))

Is hereby deleted. Reason Impact fees are now a code requirement.

5. Condition Number E.5 of Resolution R-96-820 Presently states:

Based on the Traffic Performance Standards (Category "B"), the developer shall contribute an additional \$3,014.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of \$15,070.00 to be paid prior to the issuance of the first building permit or prior to December 1, 1987 whichever shall first occur. (DATE / BLDG PERMIT: MONITORING - Eng) (Previously Condition E.5 of Resolution R-96-820, Petition 73-91(C)).

Is hereby deleted. Reason Impact fees are now a code requirement.

6. Condition Number E.5 of Resolution R-96-820 Presently states:

If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$3,014.00 shall be credited toward the increased Fair Share Fee. (IMPACT FEE COORD) (Previously Condition E.6 of Resolution R-96-820, Petition 73-91(C))

Is hereby deleted. Reason Impact fees are now a code requirement.

7. Access to the site shall be from the site's internal accessways. No direct access shall be permitted to Jog Road. (ONGOING:ENG - Eng) (Previous Condition E.7 of Resolution R-96-820, Petition 73-91(C))

8. 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 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)

#### ZONING - LANDSCAPING-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) (Previously Condition F.1 of R-97-1576, Control 73-91(D))

ZONING - LANDSCAPING-LANDSCAPING- 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) (Previously Condition G.1 of R-97-1576, Control 73-91 (D)
3. 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) (Previously Condition G.2 of R-97-1576)

ZONING - LANDSCAPING-LANDSCAPING - 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) (Previously Condition H.1 of R-97-1576, Control 73-91(D)

USE LIMITATIONS-COCKTAIL LOUNGE

1. The cocktail lounge permitted by Zoning Control No. 73-91C 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) (Previously Condition C.1 of R-97-1576, Control 73-91(D)

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) (Previously Condition I.1 of R-97-1576, Control 73-91(D)

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:Utilities-ONGOING)

## COMPLIANCE

1. Previous Condition J.1 of R-97-1576, Control 73-91 (D) which currently states:

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; 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 a majority vote of the Code Enforcement Board 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Is hereby amended to read:

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 a 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 Article 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 an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15<sup>th</sup> Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)