

RESOLUTION NO. R-2008- 0916

RESOLUTION APPROVING ZONING APPLICATION DOA-2007-1005  
(CONTROL NUMBER 1998-062)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF THE WHITESIDE GROUP  
BY KILDAY & ASSOCIATES, INC., AGENT  
(WHITESIDE INDUSTRIAL PARK)

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 DOA-2007-1005 was presented to the Board of County Commissioners at a public hearing conducted on May 22, 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 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 DOADOA-2007-01005, the application of THE WHITESIDE GROUP, by Kilday & Associates, Inc., agent, for a Development Order Amendment to modify a condition of approval (Building and Site Design), re-start the commencement clock, and approve a chain link fence within the perimeter buffer 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 May 22, 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 Jeff Koons and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	¥	Aye
Jeff Koons, Vice Chair	¥	Aye
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 May 22, 2008.

Filed with the Clerk of the Board of County Commissioners on 10 day of June, 2008.

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 BOCK, CLERK &  
COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



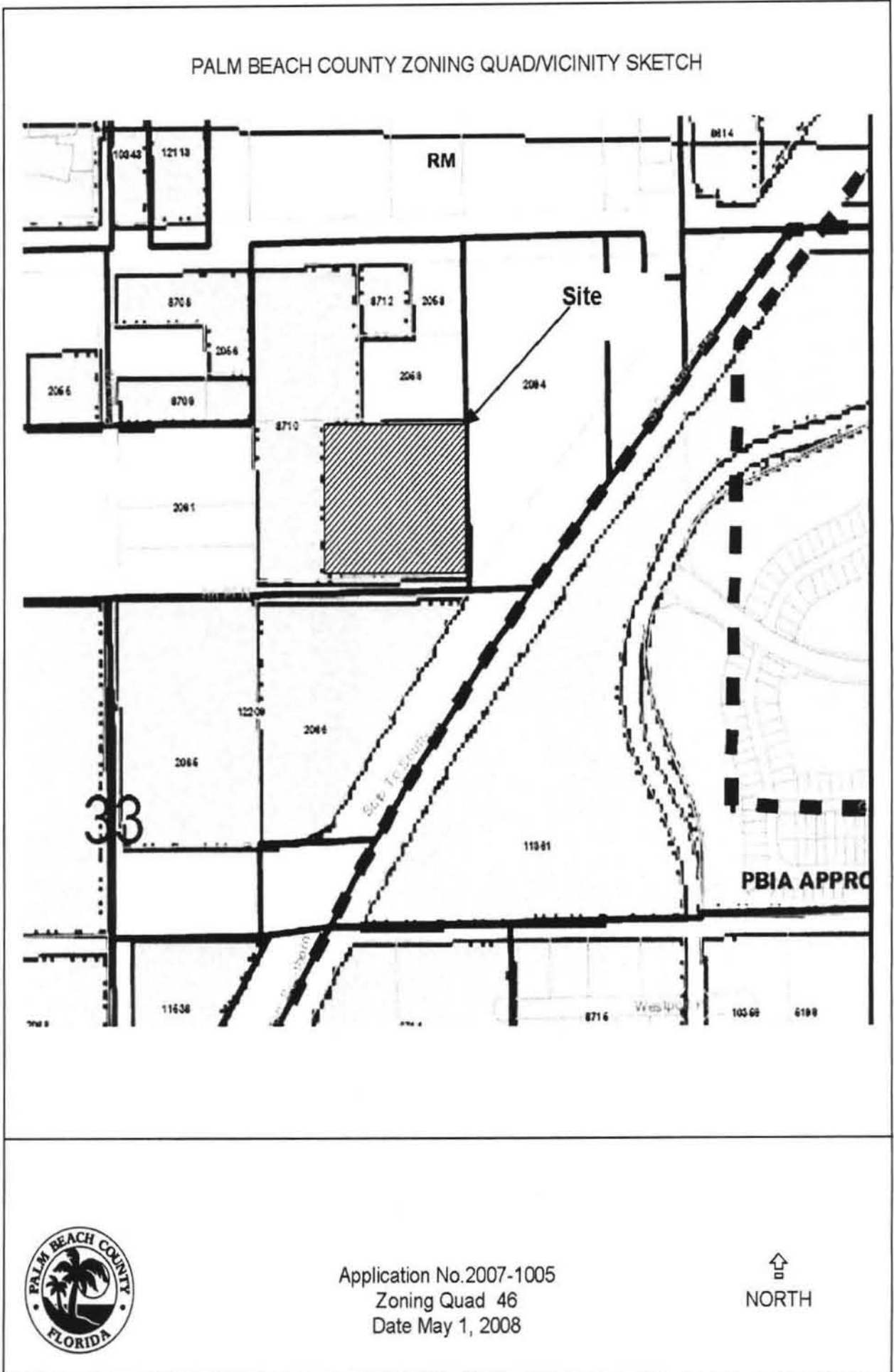
EXHIBIT A  
LEGAL DESCRIPTION

**WHITESIDE INDUSTRIAL PARK  
LEGAL DESCRIPTION:**

TRACTS A, B AND C OF THE HUDSON-SPARLING PLAT AS RECORDED IN PLAT BOOK 98, PAGES 68 AND 69 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 9.62 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



Application No. 2007-1005  
Zoning Quad 46  
Date May 1, 2008



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Previous All Petitions Condition of Resolution R-2005-003 (Control 1998-062 which currently states:

All Voluntary Commitments contained in Resolution R-99-99, Petition Z98-062, and Resolution 2002-0498, Petition 1998-062, shall remain in full force and effect. (ONGOING: ZONING - Zoning)

Is hereby amended to read

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-287 (Control 1998-062), R-2002-498 (Control 1998-062), R-1999-099 (Control 1998-062), 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. Previous Condition ALL PETITIONS 2 of Resolution R-99-99 (Control 1998-062) which currently states:

Development of the site is limited to the site design as approved by the Zoning Commission. The approved site plan is dated May 24, 2005. All modifications must be approved by the Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

Is hereby amended to read:

Development of the site is limited to the uses approved by the Board of County Commissioners. The approved Preliminary Site plan is dated February 25, 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)

3. Prior to final approval by the Development Review Officer (DRO), the Final site plan shall be prepared to notate that the existing Contractor's Storage Yard shall cease operation with the commencement of Phase II. (DRO/ONGOING: ZONING/MONITORING-Zoning)
4. Prior to final approval by the Development Review Officer (DRO), the applicant/property owner shall file an administrative abandonment for the Class B Conditional Use for the Chipping and Mulching use. (DRO:ZONING-Zoning)
5. Based on Article 2.E of the Unified Land Development Code, this development order meets the requirements to receive a new three (3) year review date from the date of approval of this resolution. (ONGOING: MONITORING-Zoning)



## ARCHITECTURAL REVIEW

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

## BUILDING AND SITE DESIGN

1. Previous Volunteer Commitment A.1 of Resolution R-99-099 Control 98-062, which currently states:

Total gross floor area shall be limited to a maximum of 23,250 square feet.  
(DRC:ZONING)

Is hereby deleted [Reason: Addressed by All Petitions no.2]

## ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
  - a. Building Permits for more than 15,100 square feet of Light Industrial shall not be issued until the Property Owner makes a payment of \$202,507.20 to Palm Beach County for the construction of a traffic signal at the intersection of Belvedere Road and Pike Road which will be incorporated into a scheduled road construction project at this intersection improvement consistent with Article 12.B.2.F.1. (BLDG PERMIT: MONITORING-Eng)
  - b. No building permits for the site shall be issued after December 31, 2010. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study, which complies with the mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING – Eng)
2. The Property owner shall construct a left turn lane east approach on 7<sup>th</sup> Place North at Pike Rd. 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, acquisition of any additional required right-of-way and required drainage.
  - 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)

## ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM-ERM)

## LANDSCAPING

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. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:
  - a. palm 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 provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning)
3. Previous Zoning-Landscaping Condition no. 1 which currently states:

A minimum eight (8) foot high opaque fence shall be installed within the landscape buffer along the north, east and west property lines. (Previous Condition Zoning-Landscaping 1 of R-2005-003, Control 1998-062) (DRO: LANDSCAPE - Zoning)

Is hereby amended to read:

In addition to the code requirements, landscaping and buffer width along the north, east and west property lines shall be upgraded to include:

- a. a minimum ten (10) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. the existing six (6) foot non-vinyl coated chain link high fence shall be allowed to remain. Future replacement of this fence shall comply to ULDC requirements, as amended;
- c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- d. a three (3) foot high hedge at installation. Height of the hedge shall be maintained at six (6) feet at maturity and in perpetuity; and,
- e. installation of this buffer requirements shall be completed prior to the issuance of the first building permit. (BLDG PERMIT: LANDSCAPE - Zoning)

### LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF 7<sup>TH</sup> PLACE NORTH)

4. In addition to the code requirements, landscaping along the south property line shall be upgraded to include:
  - a. installation of this buffer requirement shall be completed prior to the issuance of the first building permit of Phase 1;
  - b. the existing three (3) foot high hedge adjacent to the existing chain link fence may be allowed to be utilized to satisfy the code required hedge provided this hedge is six (6) feet in height at the time issuance of the first building permit for Phase 1.(BLDG PERMIT: LANDSCAPE - Zoning)

## LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning) (Previous Condition Lighting no. 1 of Resolution R-2005-003, Control 1998-062)

2. All outdoor, freestanding lighting fixtures shall be setback a minimum of twenty-five (25) feet from the east property line. (Previous Condition Lighting no. 2 of Resolution R-2005-003, Control 1998-062) (ONGOING: BLDG - Zoning) Is hereby deleted [Reason: Photometrics are now required]
3. All outdoor lighting shall be extinguished no later than 9:00 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous Condition Lighting no. 3 of Resolution R-2005-003, Control 1998-062)
4. 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) (Previous Condition Lighting no. 4 of Resolution R-2005-003, Control 1998-062)

## SIGNS

1. Freestanding signs fronting on 7th Place North shall be limited as follows:
  - a. maximum sign height, measured from finished grade to highest point -fifteen (15) 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 - 7th Place North (BLDG PERMIT: BLDG - Zoning)

## USE LIMITATIONS

1. Hours of operation for the Chipping and Mulching shall be limited to 8 a.m. to 6 p.m. daily. (Previous Use Limitation no. 1 of Resolution R-2005-003, Control 1998-062) (ONGOING: CODE ENF - Zoning) Is hereby deleted
2. The storage piles from the Chipping and Mulching activity shall be limited to a maximum of ten (10) feet in height. (Previous Use Limitation no. 2 of Resolution R-2005-003, Control 1998-062) (ONGOING: CODE ENF - Zoning) Is hereby deleted. [Reason: This use has been eliminated by current DOA]

## 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 Zoning Commission for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning) (Previous Condition Compliance no. 1 of Resolution R-2005-003, Control 1998-062)
2. Previous Condition Compliance no. 2 of Resolution R-2005-003, Control 1998-062) 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; 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.

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 Zoning Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

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)

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

Commissioners.