

RESOLUTION NO. R-2008- 1395

RESOLUTION APPROVING ZONING APPLICATION CA2008-00294
(CONTROL NO. 1995-00044)
CLASS A CONDITIONAL USE
APPLICATION OF FLORIDA SEVASHRAM SANGHA INC.
BY JON E. SCHMIDT & ASSOCIATES, AGENT
(FLORIDA SEVASHRAM SANGHA)

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 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 Class A Conditional Uses; 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, Zoning Application CA2008-00294 was presented to the Board of County Commissioners at a public hearing conducted on August 28, 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 Class A Conditional Use 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 Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations. This Class A Conditional Use, 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.
3. This Class A Conditional Use, 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 Class A Conditional Use, 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.
6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Class A Conditional Use.

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 CA2008-00294, the application of Florida Sevashram Sangha Inc., by Jon E .Schmidt & Associates, agent, for a Class A Conditional Use to allow a Place of Worship in the Residential Single Family 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 August 28, 2008, subject to the conditions of approval described in EXHIBIT C as amended, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner Santamaria 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	-

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 28, 2008.

Filed with the Clerk of the Board of County Commissioners on ~~August 28, 2008~~

This resolution was filed with the Clerk of the Board of County Commissioners on September 18, 2008.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK

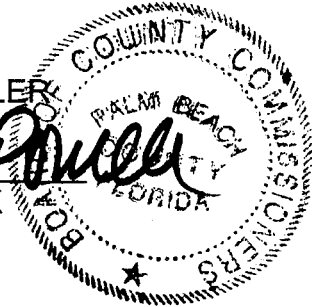


EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 240.35 FEET OF THE WEST 299.69 FEET OF TRACT 109, BLOCK 32, THE PALM BEACH FARMS CO., PLAT NO. 3, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 45. SAID SOUTH 240.35 FEET OF THE WEST 299.69 FEET OF TRACT 109 LYING NORTH OF THE NORTHERLY RIGHT-OF-WAY LINE OF LANTANA ROAD AS SAID NORTHERLY RIGHT-OF-WAY LINE IS DESCRIBED IN INSTRUMENTS RECORDED IN OFFICIAL RECORD BOOK 5298, PAGE 742, OF SAID PUBLIC RECORDS.

LESS THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF TRACT 109, BLOCK 32, THE PALM BEACH FARMS CO., PLAT NO. 3, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 45, LYING WITHIN THE SOUTHWEST ONE-QUARTER OF SECTION 33, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 33; THENCE SOUTH 88 DEGREES 31'48" EAST, ALONG THE SOUTH LINE OF SAID SECTION 33, A DISTANCE OF 848.78 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE EAST RIGHT-OF-WAY LINE OF BENTBROOK BOULEVARD AS SHOWN ON COUNTRYWOOD PLAT NO. 1, ACCORDING TO THE PLAT THEREOF A RECORDED IN PLAT BOOK 40, PAGE 31, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01 DEGREES 00'43" WEST, ALONG SAID SOUTHERLY EXTENSION, A DISTANCE OF 54.05 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF LANTANA ROAD, AS DESCRIBED IN OFFICIAL RECORD BOOK 5298, PAGE 742, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE NORTH 01 DEGREES 00'43" WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 24.71 FEET; THENCE SOUTH 50 DEGREES 48'27" EAST, A DISTANCE OF 40.36 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 30.85 FEET TO THE POINT OF BEGINNING. BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED BEARING WITH THE SOUTH LINE OF SECTION 33, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, WHICH BEARS SOUTH 88 DEGREES 08'06" EAST, ALL BEARINGS ARE RELATIVE THERETO. SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 71716.87 SQ FT OR 1.646 ACRES

EXHIBIT B
VICINITY SKETCH

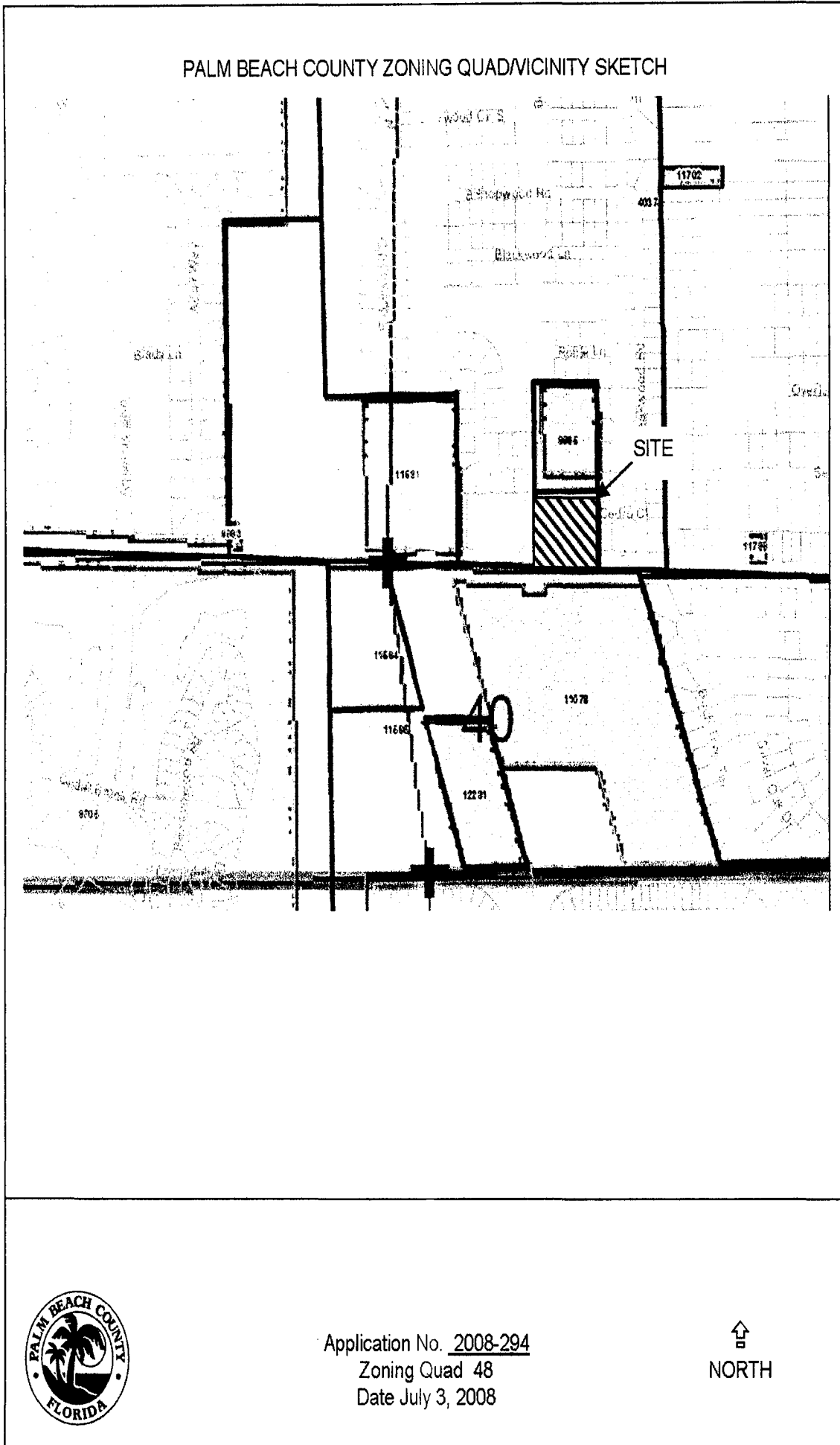


EXHIBIT C

CONDITIONS OF APPROVAL (Class A Conditional Use)

ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated April 28, 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 Development Review Officer (DRO) approval, the architectural elevations for the Place of Worship building 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)

ENGINEERING

1. 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 site may be issued after August 28, 2011. 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)

2. The Property owner shall construct a right turn lane south approach on Bentbrook Boulevard at the projects 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 acquisition of any additional required right-of-way.

A) Permits required from 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)

3. Landscape Within the Median of Lantana Road

A. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lantana Road. 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)

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)

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 Lantana Road. 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)

4. Prior to final approval by the Development Review Officer (DRO) the final site plan shall be revised to permit a second ingress only from Lantana Road. (DRO: ENG - Eng)

LANDSCAPE - STANDARD

1. Prior to final approval by the Development Review Officer (DRO), 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 to mitigate incompatibility issues. The Plan shall incorporate plant material that will effectively screen the adjacent residential properties. This requirement includes, but is not limited to, additional quantities, sizes and heights. (DRO: LANDSCAPE - Zoning)

2. A minimum of sixty (60) percent of canopy trees to be planted in the landscape north, east and west buffers shall be native and 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)

LANDSCAPE - STANDARD-LANDSCAPING ALONG ALL PROPERTY LINES ABUTTING RESIDENTIAL, FRONTAGE OF LANTANA ROAD AND BENTBROOK BOULEVARD (SOUTH, EAST AND WEST BUFFERS)

3. In addition to code requirements, landscaping along all the property lines shall be upgraded to include:

- a. 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. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPE - STANDARD-LANDSCAPING - NORTH PROPERTY LINE

4. Prior to Certificate of Occupancy and in addition to Code requirements, landscaping along the north property line (adjacent to an existing Civic Use) shall be upgraded to a 15-foot wide buffer to facilitate vegetation protection as shown on the Preliminary Site Plan dated May 19, 2008. At time of installation, plantings in the eastern 100 feet of the buffer shall provide a six (6)-foot high continuous solid opaque visual vegetative landscape screen. (CO: LANDSCAPING - Zoning)

LANDSCAPE - STANDARD-LANDSCAPE ALONG THE EAST PROPERTY LINE

5. Prior to Certificate of Occupancy and in addition to Code requirements, the Property Owner shall provide a six (6)-foot high continuous solid opaque visual screen at time of installation consisting of vegetative landscape material (hedges or shrubs) in the Type II landscape buffer along the east property line. (CO: LANDSCAPING - Zoning)

LANDSCAPE – STANDARD

6. Field adjustment of plant material locations may be permitted to accommodate transverse utility or drainage easements crossings and existing vegetation. (CO: LANDSCAPE - Zoning)

7. Any existing native slash pines removed during construction shall be replaced with slash pines in accordance with the replacement standards in Article 7. (BLDG PERMIT: BLDG – Landscape)

USE LIMITATIONS

1. Accessory outdoor uses such as temporary sales events shall be setback a minimum of seventy-five (75) feet from the east property line. (ONGOING: CODE ENF - Zoning)

2. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

3. Within ninety (90) days of the August 28, 2008 Board of County Commissioners (BCC) Hearing, the congregational services shall cease at this location until construction and Certificate of Occupancy of the new facilities. (DATE: MONITORING – Code Enf./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)