

RESOLUTION NO. R-2009- 0898

RESOLUTION APPROVING ZONING APPLICATION PDD/R-2008-01913
(CONTROL NO. 2008-00421)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
Application of Mazzone Revocable Trust - William Mazzone, Thomas Smith
By Land Design South, Inc., Agent
(Hagen Commercial MUPD)

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 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 PDD/R-2008-01913 was presented to the Board of County Commissioners at a public hearing conducted on May 28, 2009; 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 official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan.
2. This official zoning map amendment (rezoning) is consistent with the stated purpose and intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations.
3. This official zoning map amendment (rezoning) is compatible and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land.
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
5. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern.
6. This official zoning map amendment is consistent with applicable Neighborhood Plans.
7. This official zoning map amendment (rezoning) complies with Article 2.F (Concurrency) of the Palm Beach County Unified Land Development Code.

8. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an 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 PDDPDD/R-2008-01913, the application of Mazzone Revocable Trust – (William Mazzone and Thomas Smith, Trustees), by Land Design South, Inc., agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District in the 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 May 28, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burt Aaronson 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 John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
District 7	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 28, 2009.

Filed with the Clerk of the Board of County Commissioners on June 16th, 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

TRACTS 103, 104. AND THAT PORTION OF THE 30 FOOT ROAD RIGHT OF WAY LYING WEST OF TRACT 104, BLOCK 49, PALM BEACH FARMS COMPANY PLAT NO. 3, PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE RIGHT OF WAY FOR BOYNTON BEACH BOULEVARD (STATE ROAD NO. 804), AS DESCRIBED IN OFFICIAL RECORD BOOK 6690, PAGES 1384, AND LESS THAT PORTION OF TRACTS 103 AND 104, DESCRIBED AS FOLLOWS IN PARCELS A AND C.

PARCEL A:

PARCELS OF LAND IN TRACTS 103, 104, AND 105, BLOCK 49 OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF TRACT "S" OF PALM ISLES, A P.U.D., AS RECORDED IN PLAT BOOK 67, PAGES 116 THRU 127, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ON A GRID BEARING OF S.00 56'17"E., ALONG THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID TRACT "S", A DISTANCE OF 1.00 FOOT; THENCE S.89 03'17"W., ALONG THE NORTH RIGHT OF WAY LINE OF WEST BOYNTON BEACH BOULEVARD, A DISTANCE OF 174.63 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89 03'17"W., ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 484.51 FEET TO THE WEST LINE OF SAID TRACT 104; THENCE N.00 56'17"W., ALONG SAID WEST LINE A DISTANCE OF 565.12 FEET TO THE NORTHWEST CORNER OF SAID TRACT; THENCE N.89 03'43"E., ALONG THE NORTH LINE OF SAID TRACT, A DISTANCE OF 31.91 FEET; THENCE S.02 52'10"E., A DISTANCE OF 225.24 FEET TO A LINE OF 39.50 FEET EAST OF AND PARALLEL WITH THE SAID WEST LINE OF TRACT 104; THENCE S.00 56'17"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 287.99 FEET; THENCE S.45 56'30"E., A DISTANCE OF 56.57 FEET TO A LINE 12.00 FEET NORTH OF AND PARALLEL WITH THE SAID NORTH RIGHT OF WAY LINE OF WEST BOYNTON BEACH BOULEVARD; THENCE N.89 03'17"E., ALONG SAID PARALLEL LINE A DISTANCE OF 355.74 FEET; THENCE S.77 15'17"E., A DISTANCE OF 50.70 FEET TO THE POINT OF BEGINNING; TOGETHER WITH PARCEL C, DESCRIBED AS FOLLOWS:

PARCEL C:

A STRIP OF LAND 30.00 FEET IN WIDTH FOR ROAD RIGHT OF WAY PURPOSES BEING A PORTION OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, PALM BEACH COUNTY PUBLIC RECORDS, SITUATE IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF THE 30.00 FOOT ROAD RIGHT OF WAY LYING BETWEEN TRACTS 104 AND 105 BLOCK 49, AS SHOWN ON THE PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE SOUTH 95.00 FEET THEREOF.

(THE ABOVE DESCRIBED PARCEL C BEING A PART OF THE LAND QUIT CLAIMED TO WILLIAM MAZZONI BY QUIT CLAIM DEED RECORDED IN OFFICIAL RECORD BOOK 8746, PAGE 534 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA).

Parcel Control Numbers:

00-42-43-27-05-049-1030
00-42-43-27-05-049-1040

EXHIBIT B
VICINITY SKETCH

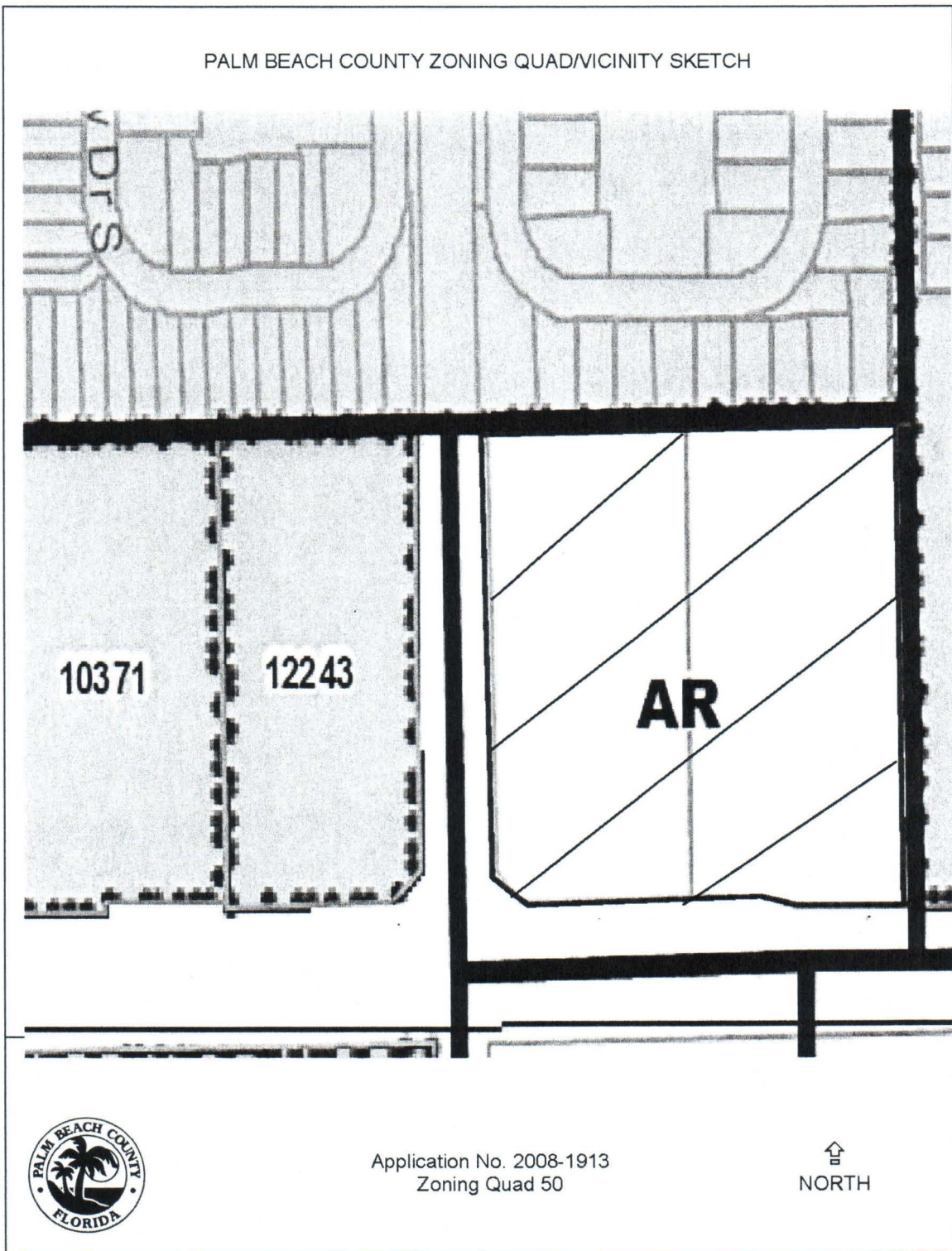


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.The approved Preliminary Site Plan is dated February 23, 2009. Modifications inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, 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 Development Review Officer (DRO) approval, the architectural elevations for the primary 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)

2.A divider median shall be provided between each drive thru lane of Building #5 (Financial Institution), and as follows:

Minimum width of five (5) feet, excluding curb;

A planting area shall be provided at each end of the median and shall have a minimum five (5) feet by five (5) feet of planting area extended beyond the boundary of the overhead canopy;

One (1) palm tree with a minimum ten (10) feet of grey-wood and appropriate ground cover shall be installed in each planting area; and,

The remaining portion of the median shall be paved with decorative paving such as pre-cast concrete pavers, stamped concrete or any other materials acceptable to the Landscape Section.

ENGINEERING

1.The median opening on Boynton Beach Boulevard approximately 680 feet east of the intersection at Hagen Ranch Road shall be modified to prohibit u-turning vehicles from the eastbound lanes on Boynton Beach Boulevard.

a.The property owner shall apply to and obtain a permit from Florida Department of Transportation to modify the median opening to prohibit u-turning vehicles at this location prior to issuance of the first building permit. Appropriate signage prohibiting u-turns shall be provided. (BLDG PERMIT:MONITORING-Eng)

b.Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (CO:MONITORING-Eng)

2.In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a.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 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.E of the Unified Land Development Code. (DATE: MONITORING Eng)

3.Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right-of-way for the construction of a right turn lane at the project entrance on Hagen Ranch Rd. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. The right of way should be continued across the project entrance. This additional right-of-way shall be free of all encumbrances and encroachments and 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. (BLDG PERMIT: MONITORING-Eng)

4.The Property owner shall construct a right turn lane south approach on Hagen Ranch Road at the project entrance. 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 by the 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)

5.The property owner shall modify the median on Hagen Ranch Road to restrict left turns in to the site from southbound lanes on Hagen Ranch, permit only left turns out from the site and include adequate space for left turning vehicle storage within the median, by increasing the width of the median, as approved by the County Engineer. Right in and right out access from Hagen Ranch Road shall be permitted. The proposed driveway location may be required to shift north and align with the driveway on the west side of Hagen Ranch Road to provide adequate sight distance for vehicles exiting both sites.

a.The property owner shall apply to Palm Beach County to construct a channelized median for left turns out from the site prior to issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

b.Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (CO:MONITORING-Eng)

6.The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 76 feet of right of way from centerline of Boynton Beach Boulevard, for the expanded intersection at Hagen Ranch Road, or as otherwise in accordance with the Thoroughfare Plan, prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include corner clips. (BLDG PERMIT: MONITORING-Eng)

ZONING - 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 shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2.A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)

3.All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:

a. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
b. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (ONGOING: LANDSCAPE - Zoning)

4.Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage

easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING RESIDENTIAL)

5. In addition to the code requirements, landscaping and buffering along the north and east property lines shall provide screening for the adjacent residential units and be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted; and,
- b. Staggered sabal palms to provide screening for the adjacent residential units. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE ON BOYNTON BEACH BOULEVARD)

6. Landscaping and buffering along the south property line shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;
- c. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line; and
- d. one (1) palm (Royal Palm) tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Ixora 'Nora Grant' shall be planted in a bed at the base of each Royal Palm. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING AND BUFFERING ALONG THE WEST PROPERTY LINE (FRONTAGE ON HAGEN RANCH ROAD)

7. In addition to the code requirements landscaping and buffering along the west property line shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. one (1) native canopy tree (Live Oak) for each fifteen (15) linear feet of the property line; and,
- 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. (BLDG PERMIT: LANDSCAPE - Zoning)

SIGNS

1. Freestanding signs on Hagen Ranch Road and Boynton Beach Boulevard shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point eight (8) feet;
- b. maximum sign face area per side - one hundred (100) square feet; and,
- c. maximum number of signs per frontage - one (1). (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Retail business activity shall not be allowed on the property, including deliveries, prior to 7:00 a.m. nor continue later than 9:00 p.m. Monday through Saturday and 8:00 a.m. to 6:00 p.m. Sunday. (ONGOING: CODE ENF - Zoning)

2. Prior to the final site plan approval by the DRO officer, the site plan shall be revised to remove the restaurant, Type II requested use and replace with retail. (DRO: ZONING-Zoning)

3. The following uses shall be prohibited on the subject site:

- a. Indoor Entertainment for Bingo Hall;
- b. Vehicle Sales and Rental; and
- c. Car Wash. (ONGOING: ZONING-Zoning)

4.If an auto retail store is established the property owner shall place signs in the parking lot, stating the prohibition of on-site repair and maintenance of vehicles. (ONGOING: MONITORING - 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. (ONGOING: MONITORING - Zoning)