

RESOLUTION NO. R-2009- 1229

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-02226
(CONTROL NUMBER 2004-00456)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF Anasca Communities Llc
BY Anasca Communities LLC, AGENT
(Villaggio Isles PUD)

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-2008-02226 was presented to the Board of County Commissioners at a public hearing conducted on July 23, 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 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 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 DOA-2008-02226, the application of Anasca Communities Llc, by Anasca Communities LLC, agent, for a Development Order Amendment to to reconfigure the master plan; modify Conditions of Approval (Architectural Review, Engineering, Landscape, Planning, Planned Unit Development); to increase number of dwelling units; to restart commencement clock and; to waive the affordability limitation restrictions. 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 July 23, 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 Steven Abrams 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
Commissioner Priscilla A. Taylor	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 23, 2009.

Filed with the Clerk of the Board of County Commissioners on August 31, 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

BY:


COUNTY ATTORNEY

SHARON BOCK, COUNTY CLERK, &
COMPTROLLER

BY:


DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

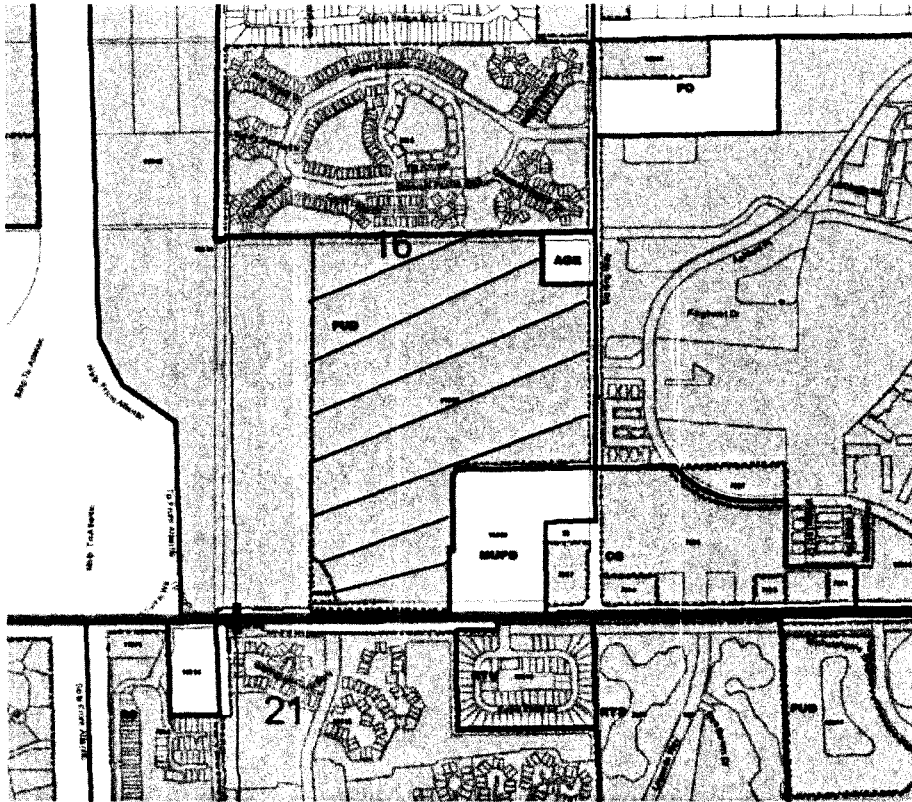
BEING A PORTION OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, TOGETHER WITH A REPLAT OF A PORTION OF THE PLAT OF SUBDIVISION OF S.E. 1/4 AND W. 1/2 OF SECTION 16 TOWNSHIP 46S RANGE 42E, AS RECORDED PLAT BOOK 1, PAGE 158 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 16; THENCE N.89°22'44"E. ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 680.81 FEET; THENCE N.00°34'49"E. ALONG A LINE 680.66 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 98.34 TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 806 (ATLANTIC AVENUE), AS RECORDED IN OFFICIAL RECORD BOOK 21624, PAGE 22 OF THE SAID PUBLIC RECORDS; THENCE N.89°22'44"E. ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 536.18 FEET TO THE POINT OF BEGINNING; THENCE N.77°07'31"W., A DISTANCE OF 51.42 FEET; THENCE S.89°22'44"W., A DISTANCE OF 280.00 FEET; THENCE N.50°01'13"W., A DISTANCE OF 45.55 FEET; THENCE N.09°25'11"W., A DISTANCE OF 77.09 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 340.00 FEET AND A CENTRAL ANGLE OF 48°31'18"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 287.93 FEET; THENCE N.00°34'49"E. ALONG A LINE 680.66 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 2241.14 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-33 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.89°11'52"E. ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 1626.55 FEET; THENCE S00°14'48"W, A DISTANCE OF 307.73 FEET; THENCE N89°17'33"E, A DISTANCE OF 338.25 FEET TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF HAGEN RANCH ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 12186, PAGE 1205 OF SAID PUBLIC RECORDS; THENCE S.00°14'48"W. ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF A DISTANCE OF 1,312.17 FEET; THENCE S.88°57'37"W., A DISTANCE OF 948.25 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.62°04'52"E., A RADIAL DISTANCE OF 484.69 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 07°21'00", A DISTANCE OF 62.18 FEET; THENCE S.00°05'34"E., A DISTANCE OF 522.20 FEET; THENCE S.89°54'26"W., A DISTANCE OF 26.02 FEET; THENCE S.00°05'39"E., A DISTANCE OF 393.35 FEET TO A POINT OF INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF STATE ROAD 806 (ATLANTIC AVENUE), AS RECORDED IN OFFICIAL RECORD BOOK 21624, PAGE 22; THENCE S.89°22'44"W. ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 449.65 FEET TO THE POINT OF BEGINNING.

TOTAL CONTAINING 4,010,848 SQUARE FEET/92.076 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2008-2226
Zoning Quad 51
Date November 6, 2008

↑
NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.Previous All Petitions Condition 1 of Resolution R-2006-515, Control 2004-456 which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-2288, Petition PDD2004-658, and Resolution R-2006-0281, Petition PDD2004-658, 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: ZONING - Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2008-924 Control 2004-456, R-2006-515 Control 2004-456, Resolution R-2006-281 Control 2004-456, Resolution R-2005-2288 Control 2004-456, and Resolution R-2005-2288 Control 2004-456, 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: ZONING - Zoning)

2.Previous All Petitions Condition 2 of Resolution R-2006-515, Control 2004-456 which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Master plan is dated February 17, 2006. 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:

The approved site plan is dated June 15, 2009. Modifications to the development order 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)

3.Based on ULDC Article 2.E, this development order meets the requirements to receive a new three (3) year review date from the date of approval. (ONGOING: MONITORING-Monitoring)

ARCHITECTURAL REVIEW

1.At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the multi-family 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)

ENGINEERING

1.The Developer shall be restricted to the following phasing schedule:

a.Previous Condition E1a of Resolution R-2006-515, Control No. 2004-456, which currently states:

Occupancy of all dwelling units within the PUD shall be limited to age restricted, over 55

years of age. These dwelling units are referred in the approved traffic study as adult dwelling units.

Is hereby deleted. [REASON: redundant condition]

b. Building Permits for more than 256 single family dwelling units shall not be issued until the construction commences for intersection improvements at West Atlantic Avenue and Jog Road. Intersection improvements shall be as follows:

- exclusive right turn lane north approach- exclusive right turn lane south approach-second right turn lane west approach

(BLDG PERMIT: MONITORING-Eng)

(Previous Condition E1b of Resolution R-2006-515, Control No. 2004-456)

[Note: Completed per the Atlantic Avenue Agreement]

c. Building Permits for more than 275 single family dwelling units shall not be issued until the construction commences for the widening of West Atlantic Avenue as a 4 lane facility from Starkey Road to Lyons Road. (BLDG PERMIT: MONITORING-Eng)

(Previous Condition E1c of Resolution R-2006-515, Control No. 2004-456)

[Note: Completed per the Atlantic Avenue Agreement]

d. Building Permits for more than 275 single family dwelling units shall not be issued until the contract has been let for the construction of West Atlantic Avenue as a 4 lane facility from Starkey Road to the Florida Turnpike. (BLDG PERMIT: MONITORING-Eng)

(Previous Condition E1d of Resolution R-2006-515, Control No. 2004-456)

[Note: Completed per the Atlantic Avenue Agreement]

e. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING: ENGINEERING-Eng)

(Previous Condition E1e of Resolution R-2006-515, Control No. 2004-456)

f. Previous Condition E.1.f of Resolution R-2006-515, Control No. 2004-456, which currently states:

No Building Permits for the site shall be issued after January 1, 2008. 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)

Is hereby amended to read:

No building permits for the site shall be issued after December 31, 2018. 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)

2. Acceptable surety required for the West Atlantic Avenue improvements identified in

Condition No. E.1 .b and E.1.c above shall be posted with the Office of the Land Development Division on or before May 17, 2006. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Property Owner's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE: MONITORING-ENG)
(Previous Condition E2 of Resolution R-2006-515, Control No. 2004-456)
[Note: Completed per the Atlantic Avenue Agreement]

3.The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance.
(ONGOING: ENGINEERING-Eng)
(Previous Condition E3 of Resolution R-2006-515, Control No. 2004-456)

4.Prior to September 15, 2006, the property owner shall complete construction plans for the West Atlantic Avenue improvements identified in Condition No. E.1b and E.1c above. These construction plans shall be approved by the Florida Department of Transportation. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration.

(DATE: MONITORING-Eng)
(Previous Condition E4 of Resolution R-2006-515, Control No. 2004-456)

[Note: Completed per the Atlantic Avenue Agreement]

5.Prior to May 15, 2007, the property owner shall complete construction of the West Atlantic Avenue improvements identified in Condition No. E.1 .b and E.1 .c above. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. (DATE: MONITORING-ENG)
(Previous Condition E5 of Resolution R-2006-515, Control No. 2004-456)

[Note: Completed per the Atlantic Avenue Agreement]

6.CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for West Atlantic Avenue 120 feet north of the existing south right of way line.

Right of way shall be dedicated prior to June 1, 2006. All Right of way conveyances shall be free of all encumbrances and encroachments. Developer 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. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and Corner Clips." (DATE: MONITORING-Eng)

(Previous Condition E6 of Resolution R-2006-515, Control No. 2004-456)

[Note: Completed]

7. Prior to 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 on:

a. Hagen Ranch Road at the PUD and adjacent MUPD entrances.

These rights of ways shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. 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)

(Previous Condition E7 of Resolution R-2006-515, Control No. 2004-456)

8. The Property owner shall construct:

a. Right turn lane north approach on Hagen Ranch Road at the Project's Entrance Road.
b. Left turn lane south approach on Hagen Ranch Road at the Project's Entrance Road.
c. Construction of these improvements shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.

d. Permits required by Palm Beach County for items a and b, shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E8d of Resolution R-2006-515, Control No. 2004-456)

e. Construction of the turn lane improvements in a and b above shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING Eng)
(Previous Condition E8e of Resolution R-2006-515, Control No. 2004-456)

9. Previous Condition E9 of Resolution R-2006-515, Control No. 2004-456, which currently states:

On or before July 1, 2006, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of West Atlantic Avenue along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20-foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County

Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County, which at its discretion may use this fill material. (DATE: MONITORING Eng)

Is hereby amended to read:

On or before July 23, 2010, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of West Atlantic Avenue along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20-foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County, which at its discretion may use this fill material. (DATE: MONITORING- Eng)

10.LANDSCAPE WITHIN THE MEDIAN OF WEST ATLANTIC AVENUE

The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of West Atlantic Avenue. 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 petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

a. 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)
(Previous Condition E10a of Resolution R-2006-515, Control No. 2004-456)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng) (Previous Condition E10b of Resolution R-2006-515, Control No. 2004-456)

c. At petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner 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 petitioner. The petitioner 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 Petitioner. (ONGOING:ENGINEERING) (Previous Condition E10c of Resolution R-2006-515, Control No. 2004-456)

d.Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification 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 West Atlantic Avenue. 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. (ONGONG:ENGINEERING-Eng) (Previous Condition E10d of Resolution R-2006-515, Control No. 2004-456) [Note: Completed per the Atlantic Avenue Agreement]

11.Previous Condition E.11 of Resolution R-2006-515, Control No. 2004-456, which currently states:

A restrictive covenant shall be recorded prior to DRO approval of the final development plan limiting occupancy of the dwelling units as outlined above. (DRO: ENGINEERING-Eng)

Is hereby amended to read:

Prior to the Final DRO approval, the property owner shall record a restrictive covenant limiting occupancy of the 115 detached dwelling units and 407 attached dwelling units to age-restricted, over 55 years of age, subject to approval by the County Attorney and County Engineer. (DRO:ENGINEERING-Eng)

12.TEMPORARY ROADWAY CONSTRUCTION EASEMENT

Prior to technical compliance for the first plat the property owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's road right of way. Construction within this easement shall conform to Palm Beach County Standards. (TC:ENGINEERING-Eng) (Previous Condition E12 of Resolution R-2006-515, Control No. 2004-456)

[Note: Completed]

13.TEMPORARY ROADWAY CONSTRUCTION EASEMENT

Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along West Atlantic Avenue to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance.(BLDG. PERMIT: MONITORING-Eng)

(Previous Condition E13 of Resolution R-2006-515, Control No. 2004-456)

14.Previous Condition E14b of Resolution R-2006-515, Control No. 2004-456, which currently states:

SIGNALIZATION REQUIRMENTS The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at: The Project's Entrance and Hagen Ranch Road Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation;

a. Building Permits for more than 200 dwelling units shall not be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT:MONITORING-Eng).

b. In order to request release of the surety for the traffic signal at these intersections the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING-Eng)

Is hereby amended to read:

The Property Owner shall construct the signal, if warranted as determined by the County Engineer, at the Project's Entrance and Hagen Ranch Road. Signalization shall be a mast arm structure installation. The property owner shall be responsible for all costs, including design costs and any required utility relocation. The property owner shall commence construction within 60 days notice from the County Engineer that the warrants have been met. If the design and construction procedure does not progress satisfactorily, the County Engineer shall have the authority to draw the surety and install the signal.

a. Building Permits for more than 300 dwelling units shall not be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT:MONITORING-Eng).

b. In order to request release of the surety for the traffic signal at these intersections the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING-Eng)

15. The mix of allowable uses between this project and the adjacent companion commercial parcel and the phasing requirements for this project may be adjusted by the County Engineer based upon an approved Traffic Study, addressing the combined impacts for both projects which complies with Mandatory Traffic Performance Standards in place at the time of the request. (ONGOING: ENGINEERING-Eng)

(Previous Condition E15 of Resolution R-2006-515, Control No. 2004-456)

16. Prior to issuance of the first building permit in a specific pod, the property owner shall plat that pod in accordance with the approved Final Subdivision Plan with Application DOA-2008-2226.

17. The property owner shall close the full median opening on Atlantic Avenue along the south property frontage to prevent vehicles from making u-turns from the project at that location.

a. Prior to the issuance of the first building permit for the Pod adjacent to and having access onto Atlantic Avenue, as shown with Application DOA-2008-2226, the property owner shall obtain permits from Florida Department of Transportation to remove the median opening west of the proposed access for the Pod.

b. Construction shall be complete prior to issuance of the first Certificate of Occupancy for the Pod adjacent to and having access onto Atlantic Avenue, as shown with Application

DOA-2008-2226.

18. The site plan for Application DOA-2008-2226 shall be amended to show the following:
- i. All proposed round-a-bouts meet the Land Development Design Standards requirements
 - ii. No offsets at intersections of streets are permitted unless an internal traffic analysis, acceptable to the County Engineer, indicates no additional conflict points are created by the offset.
 - iii. Pod A shall be revised such that the streets meet the Land Development Design Standards requirements

These changes shall be made prior to final DRO approval. (DRO:ENGINEERING-Eng)

HEALTH

1. Previous condition Health 1. of Resolution R-2006-515; Control 2004-456 which reads:

Prior to the issuance of the first building permit, the property owner/developer shall submit a detailed written plan acceptable to the Palm Beach County Health Department for the control of air pollutants, including fugitive dust particulates, on the site during all phases of site development. The property owner or the representative of the property owner shall meet with staff of the Air Pollution Control Section of the Palm Beach County Health Department on request to clarify and discuss the scope and potential effectiveness of the proposed dust control measures. (BLDG PERMIT: MONITORING-Health)

Is COMPLETED

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (FRONTAGES OF WEST ATLANTIC AVENUE AND HAGEN RANCH ROAD)

6. Landscape Condition 6 of Resolution R-2006-515, Control # 2004-456, which currently states:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and/or buffer width along the south and east property lines (frontages of West Atlantic Avenue and Hagen Ranch Road), shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a continuous berm with a minimum height of three (3) feet. Berm height shall be measured from the nearest top of curb, crown of the nearest street or the nearest finished floor elevation, whichever is higher;
- c. a six (6) foot high opaque concrete panel wall, or chain link fence, to be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structures within the Terra Nova MUPD. A maximum of two (2) openings in the wall, or fence, shall be permitted to provide pedestrian connectivity;
- d. if a chain link fence is being utilized to meet the requirement, then a hedge, six (6) foot in height at installation shall be provided on both sides of the chain link fence;
- e. 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;
- f. shrub materials required by code shall be double in quantity;
- g. plant materials required by ULDC or by conditions of approval shall be planted alternating on both sides of the wall; and,
- h. prior to the issuance of the first building permit, the property owner shall submit a landscape plan to the Landscape Section for review and approval. This plan shall be prepared in accordance to the landscape code requirements and conditions as required under 1.a-1.g. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Landscaping South and East Property Lines (Atlantic/Hagen))

Is hereby amended to read:

See Draft Copy.

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE WEST PROPERTY LINE

7. In addition to the proposed landscaping and buffering program and code requirements, landscaping and/or buffer width along the west property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. 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; and,
- c. prior to the issuance of the first building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. This plan shall be prepared in accordance to the landscape code requirements and conditions as required under 1.a-1.b. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscaping West Property Line Condition 1 of Resolution R-2006-515, Petition PDD2004-658)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (ABUTTING THE TERRA NOVA MUPD)

8. In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the south and east property lines (abutting the Terra Nova MUPD), shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted; and,
- b. 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) (Previous Landscaping South and East Property Lines (Terra Nova) Condition 1 of Resolution R-2006-515, Petition PDD2004-658)

ZONING - LANDSCAPING-LANDSCAPE STANDARDS

1. A minimum of fifty (50%) percent of canopy trees to be planted in the landscape 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) (Previous Landscape Condition 1 of Resolution R-2006-515, Control 2004-456)

ZONING - LANDSCAPING

2. All palms required to be planted on the property by this approval, except on individual residential lots 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) (Previous Landscape Condition 2 of Resolution R-2006-515, Control 2004-456)

3. 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) (Previous Landscape Condition 3 of Resolution R-2006-515, Control 2004-456)

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) (Previous Landscape Condition 4 of Resolution R-2006-515, Control 2004-456)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH PROPERTY LINE ABUTTING THE LWDD L33 CANAL

5. In addition to the proposed landscaping and buffering program and code requirements, landscaping and/or buffer width along the north property line shall be upgraded to include: a. a minimum ten (10) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted; and b. 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) (Previous Landscape Condition 5 of Resolution R-2006-515, Control 2004-456)

PALM TRAN

1. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (BLDG PERMIT/PLAT: MONITORING/ENG - Palm Tran)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to include a notation at the vehicular cross access point shown on the certified plan to the southeastern property line which shall read "proposed vehicular and pedestrian cross access". (Previous Condition Planning 1 of Resolution R-2006-515, Control No. 2004-658) (DRO: PLANNING-Planning)

2. Prior to the issuance of the first certificate of occupancy, the property owner shall pave the vehicular and pedestrian connection to the edge of the southeastern property line at the location shown on the certified plan that reads "proposed vehicular and pedestrian cross access". (Previous Condition Planning 2 of Resolution R-2006-515, Control No. 2004-658) (CO: MONITORING - Planning)

3. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to include a pedestrian connection to the commercial property to the southeast from the cul-de-sac in the southwestern part of the PUD. (Previous Condition Planning 3 of R-2006-515, Control No. 2004-658) (DRO: PLANNING-Planning)

4. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to include notations at all pedestrian connections to the commercial property to the southeast that shall read "Pedestrian cross access to MUPD". (Previous Condition Planning 4 of Resolution R-2006-515, Control No. 2004-658) (DRO: PLANNING-Planning)

5. Prior to the issuance of the 186th certificate of occupancy, the property owner shall pave all pedestrian connections to the commercial property at the southeastern portion of the site, with a break in any buffering or walls, at the locations shown on the certified plan that read "Pedestrian cross access to MUPD". (Previous Condition Planning 5 of Resolution R-2006-515, Control No. 2004-658) (CO: MONITORING - Planning)

6. Pedestrian and vehicular cross access points to the commercial property to the southeast may be controlled by gates or other security devices that may be controlled only by the developer/property owner/Homeowners Association of the PUD. However, in no case, shall a gate or security device not provide access to the commercial property by being rendered inoperable or non-functional. (Previous Condition Planning 6 of Resolution

R-2006-515, Control No. 2004-658) (ONGOING: CODE ENF - Planning)

7. Previous Condition Planning 7 of Resolution R-2006-515, Control No. 2004-658, which currently states:

Prior to final approval by the Development Review Officer (DRO), the site plan shall include all pathways within, and pedestrian access to, the open space and recreation areas, and lakes tracts generally consistent with the certified master plan, dated February 17, 2006. (Previous Condition Planning 7 of Resolution R-2006-515, Control No. 2004-658) (DRO: PLANNING - Planning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the site plan shall include all pathways within, and pedestrian access to, the open space and recreation areas, and lakes tracts generally consistent with the certified master plan, dated June 15, 2009. (DRO: PLANNING - Planning)

8. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney, which includes but is not limited to the following:

Guarantees the attainability of all required workforce units required per article 5.G. in the ULDC, for a period of twenty-five years (recurring). These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in Article 5.G. in the ULDC. (DRO: PLANNING Planning)

9. On an annual basis, beginning June 1, 2010, or as otherwise stipulated in the Declaration of Restrictive Covenants for Workforce Housing, the property owner, master homeowners association or individual Workforce Housing dwelling unit owner, shall submit an annual report/update to the Planning Division and HCD documenting compliance with the Declaration of Restrictive Covenants for Workforce Housing. (DATE/ONGOING: MONITORING Planning/HCD)

PLANNED UNIT DEVELOPMENT

1. Prior to recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following: a. Formation of a single master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas. b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents. c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG-Zoning) (Previous PUD Condition 1 of Resolution R-2006-515, Control No. 2004-658)

2. Previous PUD Condition 2 of Resolution R-2006-515, Control No. 2004-658, which currently states:

Prior to final approval by the Development Review Officer (DRO), the master and site plans shall be revised to indicate a minimum of one (1) water fountain as a focal feature within two lake tracts. The location of each fountain shall be subject to review and approval by the Zoning Division. (DRO: ZONING - Zoning)

[Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the master and site plans shall be revised to indicate a minimum of one (1) water fountain as a focal feature within the 3.85-acre lake tract. (DRO: ZONING - Zoning)

3. Starting on October 27, 2006, the property owner shall submit an annual report to the Zoning and Traffic Divisions demonstrating compliance with the adult only community requirements as documented in the restrictive covenant. (DATE: MONITORING - Zoning/Eng) (Previous PUD Condition 3 of Resolution R-2006-515, Control No. 2004-658)

4. Prior to the issuance of a building permit for the first unit over 40% of the total number of units in the development, a Certificate of Occupancy (CO) shall be issued for a clubhouse or similar common building exceeding 2,500 total square feet on the 3.14-acre recreation parcel. This facility shall be equipped with a generator that complies with the following requirements:

- a. operates essential electrical systems, including A/C systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;
- b. an aboveground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;
- c. setback in accordance with the Property Development Regulations for a Recreation Pod in accordance with ULDC Table 3.E.2.D-16;
- d. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
- e. subject to review and approval by the Building Division; and,
- f. deviation from these requirements and/or required building size shall be permitted if consistent with future ULDC regulations. (BLDG PERMIT: MONITORING - Zoning) (Previous PUD Condition 4 of Resolution R-2006-515, Control No. 2004-658)

SCHOOL BOARD

1. School Board Condition 1 of Resolution R 2006-0515 (Control 2004-456) which currently states:

Prior to final approval by the Development Review Officer (DRO), the applicant shall provide a Declaration and Restrictive Covenant" which prohibits children less than nineteen years of age from residing in the community. This declaration shall be recorded in the public records for Palm Beach County in a form and manner acceptable to the School Board and the County Attorney. (DRO: CTY ATTY-School Board)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the applicant shall provide a Declaration and Restrictive Covenant" which prohibits children less than nineteen years of age from residing in the development's age restricted units. This declaration shall be recorded in the public records for Palm Beach County in a form and manner acceptable to the School Board and the County Attorney. (DRO: CTY ATTY-School Board)

2. Prior to final site plan approval by the Development Review Officer (DRO), a 10' X 15' school bus shelter must be placed on the site plan/master plan, located east of the Palm Tran bus easement along Atlantic Avenue.

3. Prior to the issuance of the first Certificate of Occupancy (CO) for the multi-family pod, the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING School Board.)

4. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s).

SITE DESIGN

1. Previous Architectural Review Condition 1 of Resolution No. R-2006-0515, Control No. 2004-0456, which currently states:

Prior to final approval by the Development Review Officer (DRO), the site plan and regulating plans shall be revised to indicate upgraded recreation amenities within each of the neighborhood parks. These additional amenities shall: a. be accessible from a minimum five (5) foot wide pathway composed of stamped concrete, paver blocks, or other improved surface; b. include a minimum of two (2) pedestrian benches; c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench; d. include a shade structure (eg. trellis, gazebo, pergola), tot lot, fitness station, rest station, or similar recreation amenity or other shade structure; and e. details of all items indicated above shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH. REVIEW - Zoning)

is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the site plan and regulating plans shall be revised to indicate upgraded recreation amenities within the neighborhood park. These additional amenities shall:

- a. be accessible from a minimum five (5) foot wide pathway;
- b. include a minimum of one (1) pedestrian bench;
- c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
- d. include a shade structure (eg. trellis, gazebo, pergola), tot lot, fitness station, rest station, or similar recreation amenity or other shade structure; and
- e. details of all items indicated above shall be subject to review and approval by the CDR Section. (DRO: ZONING - 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)