

RESOLUTION NO. R-2009-1352

RESOLUTION APPROVING ZONING APPLICATION DOA-2009-00996
(CONTROL NUMBER 1991-00042)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF FAITH UNITED METHODIST CHURCH
BY FAITH UNITED METHODIST CHURCH, AGENT
(FAITH UNITED METHODIST CHURCH)

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-2009-00996 was presented to the Board of County Commissioners at a public hearing conducted on August 27, 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 findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives, and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Development Order Amendment, with conditions as adopted, is

consistent with applicable neighborhood plans in accordance with BCC policy;

- 8. This Development Order Amendment has a concurrency determination and complies with Article 2.F Concurrency of the ULDC; and,
- 9. 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-2009-00996, the application of Faith United Methodist Church, by Faith United Methodist Church, agent, for a Development Order Amendment to allow an increase in the number of children for the Daycare, an increase in the Daycare square footage and an equivalent decrease in the church square footage, reconfigure the site plan, and modify a condition of approval (Daycare). 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 August 27, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.
Burt Aaronson

The motion was seconded by Commissioner _____ 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 - Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 27, 2009.

Filed with the Clerk of the Board of County Commissioners on September 4, 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 BOCK, CLERK, & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

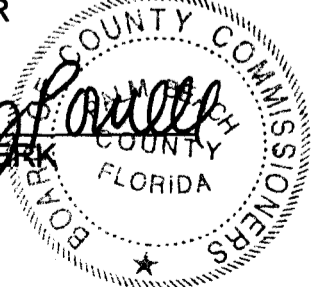


EXHIBIT A

LEGAL DESCRIPTION

THE WEST HALF (W 1/2) OF THE EAST HALF (E 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE NORTH 52.80 FEET OF THE W 1/2 OF E 1/2 OF NW 1/4 OF NE 1/4 OF SAID SECTION 27.

EXHIBIT B
VICINITY SKETCH

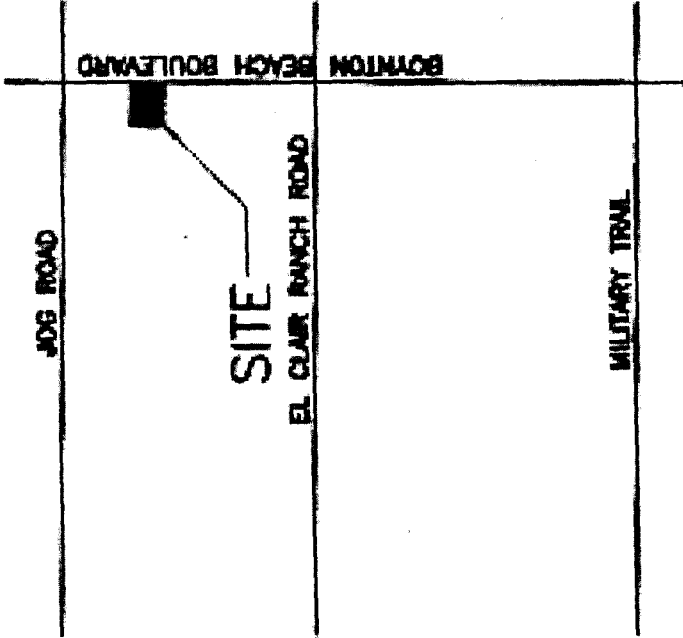


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.Previous Condition A.1. of Resolution R-2004-1374, Control No. 1991-042, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-92-364 (Petition 1991-042), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2004-1374 (Control 1991-042) and Resolution R-2002-0005 (Control 1991-042), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2.Previous Condition A.3. of Resolution R-2004-1374, Control No. 1991-042, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated May 7, 2004. 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.

Is hereby amended to read:

The approved Preliminary Site Plan is dated July 7, 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)

3.The petitioner shall have three (3) years from adoption of the resolution approving Petition 1991-042(A) to commence development on the site. Only one (1) administrative time extension for a maximum of twelve (12) months may be granted. (DATE: MONITORING - Zoning)(Previous Condition A.5. of Resolution R-2004-1374, Control No. 1991-042) [Note: Completed.]

ARCHITECTURAL REVIEW

1.Previous Condition 2 of Resolution R-2002-005, Control No. 1991-042, which currently states:

Prior to the issuance of a building permit, the property owner shall submit an application to the Development Review Committee for review and certification that the projec is in compliance with Section 6.6.E. of the Palm Beach County Unified Land Development Code, "Architectural Guidelines" (BLDG PERMIT: MONITORING - Zoning)

Is hereby amended to read:

All future development shall be subject to Article 5.C. Design Standards or as exempted in accordance with Article 5.C.1.C. of the ULDC. (ON-GOING: ARCH. REVIEW - Zoning)

2.Similar architectural character and treatment, including but not limited to color, material, fenestration and roofline, shall be provided on all sides of all buildings within the site. (BLDG PERMIT: ARCH REVIEW - Zoning)

3.Previous Condition B.2. of Resolution R-2004-1374, Control No. 1991-042, which currently states:

All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (BLDG PERMIT: ARCH REVIEW - Zoning)
Is hereby deleted. [REASON: Superseded by Code]

ENGINEERING

1. The property owner shall convey to the Lake Worth Drainage District 80 feet of right-of-way south of and adjacent to the new south right-of-way line of Boynton Beach Boulevard as shown on the Survey Drawing No. M-89-8-67 prepared by Richard L. Shephard and Associates, Inc. for the required right-of-way for Lateral Canal No. 24, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to June 30, 1992. (DRO: ENGINEERING Eng) (Previous Condition E3 of Resolution R-2004-1374, Control No. 1991-042)[Note: Completed]

2. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney. (DRO: COUNTY ATTY Eng) (Previous Condition E4 of Resolution R-2004-1374, Control No. 1991-042)[Note: Completed]

3. Prior to site plan certification, the petitioner shall obtain permission, if possible, from the Florida State Department of Transportation (FDOT) or the county Engineer to landscape the median of all abutting rights-of-way. This landscaping shall consist of a minimum of one (1) twelve (12) foot tall native tree for each thirty (30) linear feet of the adjacent median and appropriate ground cover. Trees may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. All landscape material shall be selected according to xeriscape principles from the following list.

Trees: Turkey Oak, Live Oak, Slash Pine, Sabal Palmetto
Groundcover: Wedelia, Bahia Grass

Alternative species may be allowed subject to approval by the Zoning Division. All plant material shall be installed according to xeriscape principles and shall conform with the following:

- a. All plants shall be container grown.
- b. The bottom cushion of the planting area shall include a minimum four (4) inch thick, high moisture retaining, marl based soil.
- c. Potting soil shall be placed around the plant root balls at time of planting.

This landscaping shall be the daily maintenance obligation of the property owner, including irrigation, for ninety (90) days from installation and shall be installed prior to the issuance of the first certificate of occupancy on the site. (DRO: ENGINEERING Eng) (Previous Condition E5 of Resolution R-2004-1374, Control No. 1991-042)[Note: Completed]

4. The property owner shall utilize Palm Beach County Sheriff personnel (or other State approved law enforcement personnel for the use of traffic control during the Sunday peak hour volumes and all special events. (ONGOING: CODE ENF Eng) (Previous Condition E6 of Resolution R-2004-1374, Control No. 1991-042)

5. Condition E7 of Resolution R-2004-1374, Control No. 1991-042, which currently states:

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

No Building Permits for the site may be issued after June 16, 2007. 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)

Is hereby amended to read:

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

6.The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Eng) (Previous Condition E9 of Resolution R-2004-1374, Control No. 1991-042)

ENVIRONMENTAL

1.Previous Condition F.1. of Resolution R-2004-1374, Control No. 1991-042 which currently states:

All new excavated lakes shall possess a littoral shelf area. A littoral shelf shall be an area with a slope not greater six (6) feet horizontal to one (1) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below OHW or CWL. A minimum of 30% of the surface area of all lakes shall be planted with native aquatic vegetation on a minimum of three (3) foot centers. A littoral shelf planting plan and maintenance plan shall be submitted to the Department of Environmental Resources Management concurrent with Site Plan Review application and approved by ERM prior to Site Plan certification. This information shall also be provided on a mylar to the Zoning Division as part of the site plan application. Upon completion of Littoral Zone planting, ERM shall be notified. This notification shall occur within 5 working days. This planting shall not be credited as compensation required by wetlands permits. (DRO: ERM Erm)

Is hereby deleted. [REASON: superceded by code]

2.Previous Condition F.2. of Resolution R-2004-1374, Control No. 1991-042 which currently states:

At time of site plan submittal, the petitioner shall submit the following information:

a. A detailed vegetation preservation, relocation, and removal program. This Preservation Program shall:

- 1) Justify all relocation or removal of native vegetation.
- 2) Detail methods to be used in relocation, preservation and removal of native vegetation.
- 3) The program shall identify all trees to be preserved, or relocated and where they are to be relocated to, and shall establish appropriate protection measures during the construction and site development phase of the project. (DRO: ERM Erm)

Is hereby deleted. [REASON: No Longer Applicable]

3.Previous Condition F.3. of Resolution R-2004-1374, Control No. 1991-042 which currently states:

Prior to issuance of a Vegetation Removal Permit, the petitioner shall complete the following:

- a. All trees to be relocated, preserved, or removed shall be identified in the field, tagged and numbered according to a Preservation Program.
- b. Trees to be preserved shall receive appropriate protection during site development. No clearing shall commence until all protection devices are installed by the petitioner, and inspected and approved by the Zoning Division.
- c. Tree relocation shall occur prior to construction activity except as approved by the Zoning Division. (DRO: ERM Erm)

Is hereby deleted. [REASON: No Longer applicable]

4.Previous Condition F.4. of Resolution R-2004-1374, Control No. 1991-042 which currently states:

Prior to removal of any vegetation on site, the petitioner shall schedule a Pre-clearing Inspection with the Zoning Division. (DRO: ERM Erm)

Is hereby deleted. [REASON: No Longer Applicable]

5.Previous Condition F.5. of Resolution R-2004-1374, Control No. 1991-042 which currently states:

All prohibited species shall be removed from the subject property prior to the issuance of a Certificate of Occupancy (C.O.). (CO: ERM Erm)

Is hereby deleted. [REASON: No Longer Applicable]

6.Previous Condition F.6. of Resolution R-2004-1374, Control No. 1991-042 which currently states:

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

Is hereby deleted. [REASON: No Longer Applicable]

LANDSCAPE - PERIMETER-LANDSCAPING ALONG NORTH PROPERTY LINE (FRONTAGE OF BOYNTON BEACH BOULEVARD)

1.Landscaping for the Boynton Beach Boulevard frontage shall be upgraded to include:
a. a minimum ten (10) foot wide landscape buffer strip;
b. one (1) canopy tree planted for each thirty (30) linear feet of the property line; and,
c. thirty (30) inch tall hedge or shrub material planted twenty-four (24) inches on center. (CO: LANDSCAPE Zoning) (Previous Condition J.1. of Resolution R-2004-1374, Control No. 1991-042)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG SOUTH PROPERTY LINE

2.Landscaping and buffering along the south property line shall be upgraded to include:
a. a minimum fifteen (15) foot wide landscape buffer strip;
b. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
d. thirty (30) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of seventy-two (72) inches at maturity. (BLDG PERMIT: LANDSCAPE Zoning) (Previous Condition K.1. of Resolution R-2004-1374, Control No. 1991-042)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE NORTH 642 FEET OF THE EAST PROPERTY LINE

3.Landscaping and buffering along the north 642 feet of the east property line shall be upgraded to include:
a. a minimum ten (10) foot wide landscape buffer strip;
b. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
c. one (1) small shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
d. one (1) medium shrub (Saw Palmetto or similar species or ornamental grass) for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (BLDG. PERMIT: LANDSCAPE - Zoning) (Previous Condition L.1. of Resolution R-2004-1374, Control No. 1991-042)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH 638 FEET OF THE

EAST PROPERTY LINE

4. Landscaping and buffering along the south 638 feet of the east property line shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip;
- b. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation;
- e. one (1) medium shrub (Saw Palmetto or similar species or ornamental grass) for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation; and,
- f. one (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. (BLDG. PERMIT: LANDSCAPE - Zoning) (Previous Condition M.1 of Resolution R-2004-1374, Control No. 1991-042)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING POST OFFICE AND RESIDENTIAL)

5. Landscaping and buffering along the west property line shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip;
- b. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- d. thirty (30) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (BLDG PERMIT: LANDSCAPE Zoning) (Previous Condition N.1. of Resolution R-2004-1374, Control No. 1991-042)

LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG PERMIT: BLDG - Zoning) (Previous Condition O.1. of Resolution R-2004-1374, Control No. 1991-042)

2. Lighting fixtures shall not exceed twenty (20) feet in height. Lighting fixtures within fifty (50) feet of the south, east and west property lines shall not exceed a height of twelve (12) feet in height. (CO: BLDG - Zoning) (Previous Condition O.2. of Resolution R-2004-1374, Control No. 1991-042)

3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (ONGOING: CODE ENF - Zoning) (Previous Condition O.3. of Resolution R-2004-1374, Control No. 1991-042)

4. Rooftop lighting shall not be permitted on any structures. (BLDG PERMIT: BLDG Zoning) (Previous Condition O.4. of Resolution R-2004-1374, Control No. 1991-042)

PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the Planning Division shall ensure that this site plan conforms with the site plan presented to the BCC including those recommendations of the West Boynton Area Community Plan incorporated onto the site plan dated April 13, 2004 (Rec.# 41, 42, and 47) regarding pedestrian pathways and pedestrian connections. (DRO: PLANNING-Planning) (Previous Condition P.1 of Resolution R-2004-1374, Control No. 1991-00042)

2. Prior to final site plan approval by the Development Review Officer (DRO), in order to comply with Recommendations 41 and 42 from the West Boynton Area Community Plan, the applicant shall provide landscaping section details depicting landscaped and shaded sidewalks for pedestrian circulation for all internal sidewalks shown in the project. (DRO: PLANNING-Planning) (Previous Condition P.2 of Resolution R-2004-1374, Control No. 1991-00042)

SIGNS

1. Signs fronting on Boynton Beach Boulevard shall be limited as follows:

- a. Maximum sign height - ten (10) feet.
- b. Maximum total sign face area 100 sq. ft. total.
- c. Maximum number of signs one (1) monument sign. (CO: BLDG - Zoning) (Previous Condition S.1. of Resolution R-2004-1374, Control No. 1991-042)

USE LIMITATIONS

1. Previous Condition C.1. of Resolution R-2004-1374, Control No. 1991-042, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate the following limitations:

- a. A maximum of 120 students and 4,800 square feet of building area.

Is hereby amended to read:

The Daycare use shall be limited to a maximum of 170 children. (ONGOING: 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)