

RESOLUTION NO. R-2009- 2087

RESOLUTION APPROVING ZONING APPLICATION DOA-2009-02672  
(CONTROL NO. 1999-00092)  
a Development Order Amendment  
APPLICATION OF Southland Centers Trust - Southland Centers Trust  
BY Land Design South, Inc., AGENT  
(Spalding Property)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied; and

WHEREAS, Zoning Application DOA-2009-02672 was presented to the Board of County Commissioners at a public hearing conducted on December 8, 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Development Order 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 DOA-2009-02672, the petition of Southland Centers Trust - Southland Centers Trust, by Land Design South, Inc., agent, for a Development Order Amendment to amend a Condition of Approval (Use Limitation) 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 December 8, 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.

The motion was seconded by Commissioner Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair	-	Aye
Commissioner Karen T. Marcus, Vice Chair	-	Aye
Commissioner Jeff Koons	-	Absent
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on December 8, 2009.

Filed with the Clerk of the Board of County Commissioners on January 25th, 2010

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

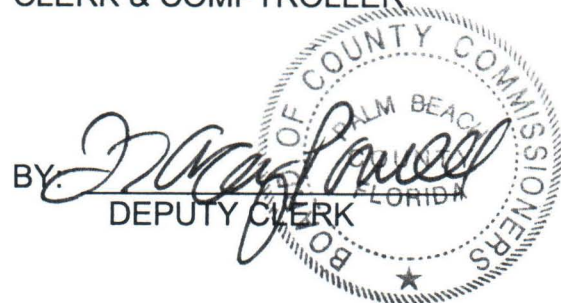
SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:



COUNTY ATTORNEY

BY:



DEPUTY CLERK




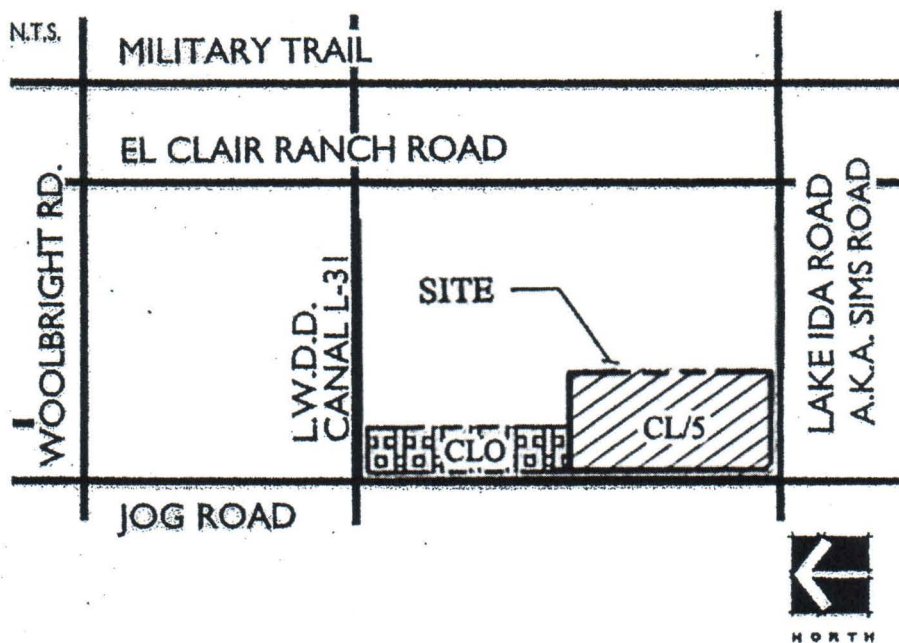
EXHIBIT A

LEGAL DESCRIPTION

All of the plat of "Spalding M.U.P.D. according to the plat as recorded in plat book 91, pages 70 thru 72, of the public records of Palm Beach County, Florida

EXHIBIT B  
VICINITY SKETCH

LOCATION MAP



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1.All Petitions Condition 1 of Resolution R-2005-2296, Control No. 1999-092, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2000-0591 (Application 99-092), 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-2005-2296, (Control No. 1999-092), 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.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 February 24, 2000. 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) (Previous All Petitions Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

#### ARCHITECTURAL REVIEW

1.Similar architectural character and treatment, including but not limited to color, roof pitch and treatment, material, fenestration, and horizontal and vertical architectural details shall be provided on all sides of the buildings. (BLDG PERMIT: BLDG - Zoning) (Previous Architectural Review Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

2.All proposed buildings shall be designed and constructed to be consistent with the architectural character depicted in the facade renderings by Glen Santayana dated February 2, 2000. Modifications may be permitted subject to compliance with all of the following:

- a. The architectural treatments are equal to or an upgrade in aesthetic and performance above the original architectural treatment;
- b. The architectural treatments are complementary to existing adjacent residences;
- c. The architectural treatments are approved by the Architectural Review Section of the Zoning Division. (BLDG PERMIT: BLDG - Zoning) (Previous Architectural Review Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3.Exterior colors shall be neutral, pastel, or earth tone colors. Building colors shall be varied by providing contrasting, but complimentary, colors for the building trims (i.e. stucco banding, door and window frames, etc.). Roof and trim colors shall be coordinated and complimentary with base colors. (BLDG PERMIT: BLDG-Zoning) (Previous Architectural Review Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

4.All roof top mechanical and electrical equipment, including satellite dishes, shall be screened from view on all sides by a parapet or roof treatment (i.e. cupola, dormer, etc.) (BLDG PERMIT: BLDG- Zoning) (Previous Architectural Review Condition 4 of Resolution R-2005-2296, Control No. 1999-092)

5. Prior to final site plan approval by the Development Review Committee, colored architectural elevations for the main center (Retail #1-3) shall be submitted for approval by the Architectural Review Section of the Zoning Division. Elevations of all remaining buildings on the site shall also be designed and constructed consistent with these approved elevations. Consistency shall mean having similar colors, roof design/pitch/ and treatment, materials, fenestration, and horizontal and vertical architectural details. (DRO: ARCH REVIEW-Zoning) (Previous Architectural Review Condition 5 of Resolution R-2005-2296, Control No. 1999-092)

#### ENGINEERING

1. Prior to December 1, 2000 or prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional to provide for an expanded intersection on Lake Ida Road at Jog Road.

Additional right-of-way for Lake Ida Road shall be in accordance with the County Engineer approval for the minimum storage and taper length. All right of way shall be free of all encumbrances and encroachments and shall include Corner Clips" where appropriate as determined by the County Engineer. The 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 Engineering Condition 1 of Resolution No. R-2005-2296, Control No. 1999-092) [Note: COMPLETED]

2. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way for the construction of a right turn lane on:

- a) Jog Road south approach at the project's south entrance road.
- b) Lake Ida Road east approach if the projects entrance remains in the current location as shown on the February 24, 2000 site plan.

Additional right-of-way on Jog Road and Lake Ida Road shall be in accordance with the County Engineer approval for the minimum storage and taper length. All right of way shall be free of all encumbrances and encroachments and shall include Corner Clips" where appropriate as determined by the County Engineer. The 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 Engineering Condition 2 of Resolution No. R-2005-2296, Control No. 1999-092) [Note: COMPLETED]

3. Prior to DRC approval of the site plan a geometric study for Lake Ida Road from Jog Road east to the project's east property line shall be prepared by the property owner and shall be approved by the County Engineer. This geometric study shall also include the appropriate paved tapers to determine the impact's of the project's entrance road onto Lake Ida Road. If the projects entrance remains in its current location as shown on the February 24, 2000 site plan then a concrete traffic separator shall be constructed from Jog Road east a minium distance of 400 feet. Also, the intersection of Jog Road and Lake Ida Road shall be reconstructed and additional east bound lanes shall be provided to accommodate U" turns at this intersection. The west side of this intersection shall also be redesigned to accommodate east and west bound traffic.

If the project's entrance is relocated to the project's east property line then a separate left turn lane west approach and a right turn lane east approach shall be constructed by the property owner.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng) [Note:COMPLETED]

b.All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) (Previous Engineering Condition 3 of Resolution No. R-2005-2296, Control No. 1999-092) [Note:COMPLETED]

4.The Property owner shall construct all improvements identified in the approved geometric study 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 or modifications to the adjacent Lake Worth Drainage District Canal. Acceptable surety in the amount of 110% of the Certified Cost Estimate provided by the Developers Engineer and approved by the County Engineer shall be provided to the Land Development Division for the adjacent road improvements prior to issuance of a Building Permit.

a.Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)

b.All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) (Previous Engineering Condition 4 of Resolution No. R-2005-2296, Control No. 1999-092) [Note: COMPLETED]

5.The Property owner shall:

- i. construct a right turn lane south approach on Jog Road at the project's south entrance road
- ii. construct a right turn lane east approach on Lake Ida Road at the project's entrance road

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit.

Construction shall be completed prior to the issuance of the first Certificate of Occupancy.

a.Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)

b.All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) [Note: COMPLETED]  
(Previous Engineering Condition 5 of Resolution No. R-2005-2296, Control No. 1999-092)

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

- i. Building Permits for no more than 35,000 square feet of general retail (or the equivalent of 2042 net external daily trips) until the contract has been let for the construction of Lake Ida Road from Military Trail to Barwick Road to a 4-lane divided cross section. [Note: COMPLETED]
- ii. Building Permits for no more than 59,100 square feet of general retail (or the equivalent of 2860 net external daily trips) until the contract has been let for the construction of Lake Ida Road from Barwick Road to Congress Avenue to a 4-lane divided cross section [Note: COMPLETED]
- iii. Building Permits for no more than 67,800 square feet of general retail (or the equivalent of 3128 net external daily trips) until the contract has been let for the construction of Hagen Ranch Road from Boynton Beach Boulevard to West Atlantic Avenue to a 5-lane cross section.) [Note: COMPLETED]

iv. Building Permits for no more than 147,000 square feet of general retail, 33,570 square foot medical office building, and a 5,000 square foot of bank (or the equivalent of 6713 net external daily trips) until the contract is let for construction of Jog Road from Lake Ida Road to West Atlantic Avenue to a 6-lane cross section. [Note: COMPLETED]

The mix of allowable commercial uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

b. All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) [Note: COMPLETED] (Previous Engineering Condition 5 of Resolution No. R-2005-2296, Control No. 1999-092)

## 7. LANDSCAPE WITHIN MEDIAN OF COUNTY ROADS

i. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department Permit Section for a permit to landscape the adjacent median of Jog Road right-of-way. This permit shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. When permitted by the Land Development Division of the Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the Low Cost Planting Concept" outlined in the latest revision to the Palm Beach County Engineering and Public Works Department Streetscape Standards. The property owner shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscaping installation and maintenance requirements shall be subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

ii. All required median landscaping, including an irrigation system if required, shall be installed at the property owner's expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng) [Note: COMPLETED]

iii. If the County does not assume maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. [Note: COMPLETED]

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]



b.All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) [Note: COMPLETED] (Previous Engineering Condition 7 of Resolution No. R-2005-2296, Control No. 1999-092)

#### 8.CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF JOG ROAD

a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to provide landscape cutouts within the concrete median of Jog Road right-of-way contiguous to the frontage. As part of this permit process, the property owner shall enter into a Right of Way, concrete median cutout, Landscape Installation and Maintenance, Removal, and Indemnification Agreements. All new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Standards. Alternative plant and paver block material other than those listed in the County standards may be permitted subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

b. All required median landscaping, including an irrigation system, the cost of the removal or cutting out the existing concrete median as well as the installation of all landscape material, paver block or similar materials shall be funded at the property owners expense. When landscape cutouts are permitted, the landscaping shall consist of Landscape Material approved by the County Engineer. All new and existing landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association. The maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, and the irrigation system. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng) [Note: COMPLETED]

c. If the County does not assume maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED] (Previous Engineering Condition 8 of Resolution No. R-2005-2296, Control No. 1999-092)

#### 9.CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF LAKE IDA ROAD

i. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to provide landscape cutouts within the concrete median of Lake Ida Road right-of-way contiguous to the frontage if the property owner widens Lake Ida Road and constructs a concrete traffic separator adjacent to this site. As part of this permit process, the property owner shall enter into a Right of Way, concrete median cutout, Landscape Installation and Maintenance, Removal, and Indemnification Agreements. All new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Standards. Alternative plant and paver block material other than those listed in the County standards may be permitted subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

ii.All required median landscaping, including an irrigation system, the cost of the removal or cutting out the existing concrete median as well as the installation of all landscape material, paver block or similar materials shall be funded at the property owners expense. When landscape cutouts are permitted the, landscaping shall consist of Landscape Material approved by the County Engineer. All new and existing landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its

successors, or assigns or duly established Property Owner's Association. The maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, and the irrigation system. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng) [Note: COMPLETED]

iii. If the County does not assume maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING - Eng)

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

b. All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) [Note: COMPLETED] (Previous Engineering Condition 9 of Resolution No. R-2005-2296, Control No. 1999-092)

10. The construction of the projects north access road onto Jog Road shall be constructed to collector street standards a minimum of two (2) - twelve (12) foot travel lanes.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

b. All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) [Note: COMPLETED] (Previous Engineering Condition 10 of Resolution No. R-2005-2296, Control No. 1999-092)

## ENVIRONMENTAL

1. The property owner shall notify, in their sales or rental documents, all future property owners or lessees, in the area located within the Wellfield Protection Zone #1, that they are subject to the Zone #1 standards pursuant Article 14.B. ULDC. (DRO: ERM-ERM) (Previous Condition ERM.1 of Resolution R-2005-2296, Control No. 1999-092)

2. Applicant and /or property owner shall notify all potential tenants of the Wellfield Protection zones within this development. All tenants shall comply with the standards pursuant to ULDC Article 14.B. (ONGOING:ERM-ERM)(Previous Condition No. ERM-2 of Resolution No. R-2005-2296, Control No. 1999-092)

## HEALTH

1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants and owners generating such effluents. (ONGOING: CODE ENF--Health) (Previous condition Health 1 of Resolution R-2005-2296; Control 1999-092)

2. Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 64E-16 FAC (ONGOING: CODE ENF-Health) (Previous condition Health 2 of Resolution R-2005-2296; Control 1999-092)

3. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: CODE ENF-Health) (Previous condition Health 3. of Resolution R-2005-2296; control 1999-092)

## LANDSCAPE - GENERAL

1. All canopy trees required to be planted on site by this approval shall meet the following minimum standards at installation, unless otherwise stated herein:

- a. Tree height: Twelve (12) feet, unless stated herein;
- b. Trunk diameter: 2.5 inches measured 3 feet above grade;
- c. Canopy diameter: Six (6) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

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

- a. Palm heights: Fourteen (14) 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. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3. A group of three (3) or more palm or pine trees may not supersede the requirement for a perimeter canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

## LANDSCAPE - INTERIOR

4. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRO: ZONING-Zoning) (Previous Landscaping Interior Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

5. Landscaped divider medians shall be provided between all rows of parking indicated on the site plan shown to the BCC dated February 24, 2000. The minimum width of this median shall be ten (10) feet. One canopy tree and appropriate ground cover shall be planted for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center. (DRO: ZONING-Zoning) (Previous Landscaping Interior Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

6. Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided in the center of all driveways over thirty (30) feet in width providing ingress or egress to the site. The minimum width of this median shall be six (6) feet, inclusive of curbing. The minimum length of this median shall be twenty five (25) feet. A minimum width of five (5) feet of landscaped area shall be provided. One tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median. (DRO: ZONING -Zoning) (Previous Landscaping Interior Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

7. Foundation planting or grade level planters shall be provided along the front and side facades of all structures as follow:

- a. Main center (Retail 1-3) - a minimum width of ten (10) feet;
- b. All freestanding buildings (Retail 3-6) - A minimum width of eight (8) feet for buildings which are two-stories or twenty-five (25) feet in height and a minimum width of five (5) feet for buildings which are one-story or less than twenty-five (25) feet in height. All heights shall be measured from finished grade to highest point;
- c. One (1) medium canopy tree every twenty (20) linear feet of building facade with a

maximum spacing of forty (40) feet between clusters; and,  
d. One (1) additional palm every thirty (30) linear feet of building facade with a maximum spacing of sixty (60) feet between clusters.  
(DRO: LANDSCAPE- Zoning) (Previous Landscaping Interior Condition 4 of Resolution R-2005-2296, Control No. 1999-092)

#### LANDSCAPE - PERIMETER-ALONG RESIDENTIAL PROPERTY LINE (ADJACENT TO DELRAY VILLAS)

8.Landscaping and buffering along the north (approximately three hundred and thirty-six (336) feet) and east property lines, within the CL/5 future land use designated portion of the site, shall be upgraded to include:

- a. A minimum fifty (50) foot wide landscape buffer strip with no reduction, drainage area or easement encroachment are permitted;
- b. A six (6) foot high continuous berm, measured from finished grade; and,
- c. A six (6) foot high opaque concrete wall setback a minimum of thirty (30) feet from the east property line and located on the plateau of the required berm. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development and the consistent with the architectural treatment of the buildings within the site. (DRO: PLANNING- Landscape) (Previous Landscaping Along Residential Property Line Condition 1 of Resolution R-2005-2296, Control No. 99-092)

9.Landscaping and buffering along the east property line, within the CL-O/5 future land use designated portion of the site, shall be upgraded to include:

- a. A minimum twenty-five (25) foot wide landscape buffer strip with no reduction, drainage area or easement encroachments are permitted;
- b. A minimum two (2) foot high continuous berm, measured from finished grade; and,
- c. A six (6) foot high opaque concrete wall located on the plateau of the required berm. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development and the consistent with the architectural treatment of the buildings within the site. (DRO: PLANNING- Landscape) (Previous Landscaping Along Residential Property Line Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

10.The following landscaping requirements shall be installed on the exterior side of the required walls:

- a. One (1) large canopy tree planted every twenty (20) feet on center;
- b. One additional (1) booted sabal palm for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet between clusters; and
- c. Thirty (30) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center at installation and maintained at a minimum height of forty-eight (48) inches. (DRO: PLANNING- Landscape) (Previous Landscaping Along Residential Property Line Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

11.Along the interior side of the required walls, the property owner shall install the following:

- a. One (1) medium canopy tree for each twenty (20) linear feet with a maximum spacing of sixty (60) feet between trees. A group of three (3) or more palm or pine trees may supersede the requirement for a canopy tree in that location. A maximum thirty (30) percent of the required canopy trees within the buffer may be replaced by the palm clusters; and,
- b. Twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation and maintained at a minimum height of thirty-six (36) inches. (DRO: PLANNING- Landscape) (Previous Landscaping Along Residential Property Line Condition 4 of Resolution R-2005-2296, Control No. 1999-092)

#### LANDSCAPE - PERIMETER-ALONG WEST AND SOUTH PROPERTY LINES (ACROSS

FROM HUNTINGTON WALK PUD A.K.A. VILLA BORGHESE AND HUNTINGTON POINTE)

12.Landscaping and buffering along the west and south property lines shall include:

- a. A minimum twenty (20) foot wide landscape buffer strip with a maximum five (5) foot easement encroachment;
- b. A minimum one (1) to three (3) foot high undulating berm with an average height of two (2) feet, measured from top of curb;
- c. One (1) medium to large canopy tree every thirty (30) feet on center setback from the existing overhead powerlines pursuant to FPL requirements. A group of three (3) or more palms may supersede the requirement for a large canopy tree in that location. A maximum twenty-five (25) percent of the required canopy trees within the buffer may be replaced by the palm clusters;
- d. One (1) additional palm for each twenty-five (25) linear feet of property line with a maximum spacing of ninety (90) feet between clusters;
- e. One (1) minimum six (6) foot high ornamental or accent tree for every thirty (30) linear feet of property line to be clustered with the palms; and,
- f. Twenty-four (24) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center at installation and maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE-Zoning) (Previous Landscaping Along West and South Property Lines Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

LANDSCAPE - PERIMETER-ALONG NORTH PROPERTY LINE

13.Landscaping and buffering along the north property line shall include:

- a. A minimum twenty (20) foot wide landscape buffer strip with a maximum five (5) foot easement encroachment;
- b. A continuous two (2) foot high berm measured from top of curb;
- c. One (1) large canopy tree every thirty (30) feet on center. A group of three (3) or more palms may supersede the requirement for a large canopy tree in that location. A maximum twenty-five (25) percent of the required canopy trees within the buffer may be replaced by the palm clusters;
- d. One (1) additional palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet between clusters;
- e. One (1) minimum six (6) foot high ornamental or accent tree for every thirty (30) linear feet of property line to be clustered with the palms; and,
- f. Twenty-four (24) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center at installation and maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE-Zoning) (Previous Landscaping Along North Property Line Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

LIGHTING

1.All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, the minimum necessary to satisfy the Palm Beach County Security Code, shielded on all four (4) sides and directed down and away from adjacent properties and streets. (Previous Condition L.1 of Resolution R-2000-0591 (PDD99-092)) (BLDG PERMIT:BLDG- Zoning)

2.All outdoor light fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point, and shall be coordinated with the lighting fixtures attached to the building for a unified appearance. (BLDG PERMIT: BLDG - Zoning) (Previous Lighting Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3.All outdoor lighting shall be extinguished no later than 11:30 p.m., excluding the pharmacy at the southwest corner of the site. (ONGOING: CODE ENF-Zoning) (Previous Lighting Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

4.The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-

Zoning) (Previous Lighting Condition 4 of Resolution R-2005-2296, Control No. 1999-092)

#### PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran) (Previous Mass Transit Condition 1 of Resolution Resolution R-2005-2296, Control No. 1999-092)

2. Prior to issuance of the first Building Permit, whichever shall first occur, 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 MONITORING-Palm Tran) (Previous Mass Transit Condition 2 of Resolution Resolution R-2005-2296, Control No. 1999-092)

#### PARKING

1. Prior to certification of a Preliminary Development Plan (PDP) by the Development Review Committee (DRC), the PDP shall be amended to indicate the MUPD maximum parking requirements or a variance shall be obtained from the Board of Adjustment for any additional parking spaces in excess of the minimum MUPD requirements. In the event the ULDC is amended to allow excess parking above the MUPD minimum parking requirements, the petitioner shall be relieved of this requirement. (DRO: ZONING-Zoning) (Previous Parking Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

2. Delivery and/or loading areas for Retail #1-4 shall be designed and screened as follow:

a. All delivery and/or loading areas along the north side of Retail #4 (pharmacy) building shall be screened completely from view by an eight (8) foot high 100% opaque tiered landscaped barrier within the divider medians to the north of the loading area. A minimum of three (3) parking spaces shall be deleted from the adjacent diagonal row of parking to provide an adequate planting area for this barrier; and,

b. Delivery and/or loading areas located at the southeast corner of Retail #1 for the main center shall be screened completely by a minimum twelve (12) foot high opaque wall or a minimum six (6) foot high opaque wall if the loading area is depressed from parking grade level. The wall shall be given an architectural treatment similar to the building. (CO: BLDG - Zoning) (Previous Parking Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF-Zoning) (Previous Parking Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

4. Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to include shopping cart storage and retrieval corrals in all retail parking areas. (DRO: ZONING-Zoning) (Previous Parking Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

5. Prior to site plan certification by the Development Review Committee (DRC) all vehicular parking aisles and/or maneuvering areas required by truck traffic on the site shall be limited to the minimum widths required by the ULDC. Excess pavement areas shall be converted to additional landscaped areas and/or foundation planters. (DRO: ZONING - Landscape) (Previous Parking Condition 3 of Resolution R-2005-2296, Control No. 51999-092)

#### PLANNED DEVELOPMENT

1. To ensure consistency with the site plan dated February 24, 2000 presented to the Board of County Commissioners, no more than ten (10) percent of the total approved

square footage of each use or building indicated as being covered by structures shall be relocated to portions of the site not previously covered. (DRO: ZONING- Zoning) (Previous MUPD Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

2. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - Co Att) (Previous MUPD Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - Co Att) (Previous MUPD Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

4. All architectural treatment, focal points, pedestrian amenities (10' minimum clear width covered walkways at the main center, loggia, fountains, trellises, etc.) and common areas, decorative pavers and/or accent landscaping shall be provided in the general areas as indicated on the site plan dated February 24, 2000. These design elements shall be constructed or installed in accordance with the Focal Point/Pedestrian Amenities Phasing Plan. Modification to these shall be permitted provided the changes are an equivalent or betterment to the project and are subject to approval by the Public Hearing Section of the Zoning Division. (CO: MONITORING - Zoning) (Previous MUPD Condition 4 of Resolution R-2005-2296, Control No. 1999-092)

5. Prior to final site plan certification by the Development Review Committee (DRC), a Focal Point/Pedestrian Amenities Phasing Plan shall be approved by the Public Hearing Section of the Zoning Division. This phasing plan shall indicate a unified treatment for all design elements indicated in Condition 4 above, applicable details, and installation schedule for these elements in relation to the issuance of the Certificate of Occupancy for the adjacent buildings. (DRO: ZONING - Zoning) (Previous MUPD Condition 5 of Resolution R-2005-2296, Control No. 1999-092)

## SIGNS

1. Prior to site plan certification by the Development Review Committee (DRC), a Master Signage Program for all point of purchase, monument, wall and directional signs shall be approved by the Zoning Division. The master signage plan shall include, at a minimum, the proposed sign type, unified colors, unified graphics, dimensions, materials and method of construction. (DRO: ARCH REVIEW- Zoning) (Previous Signs Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

2. Freestanding signs (including entrance walls, directional, and point of purchase) for the site shall be limited as follow:

- a. Maximum sign height, measured from finished grade to highest point - twelve (12) feet for median sign fronting on Jog Road, ten (10) feet for median sign fronting on Lake Ida Road, and eight (8) feet for sign at southwest corner of the site;
- b. Maximum sign face area per side - 120 square feet for the median sign on Jog Road, 100 square feet for median sign on Lake Ida Jog Road and 60 square feet for sign at the southwest corner of site;
- c. Maximum number of signs (excluding internal directional signs) - One (1) project identification only along Lake Ida Road, one (1) project identification only at the southwest

- corner of the site, and one (1) project identification only along Jog Road;
- d. Location - Within twenty-five feet of each entrance and clear of all safe sight corners; and,
- e. Style - Monument style only. (BLDG PERMIT: BLDG-Zoning)(Previous Signs Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3. Wall signs mounted on each building shall be limited to the west and south facades and tenant name and/or logo only, except for the 5,000 square foot retail number 4 building (as labeled on the site plan approved at 12/23/03 DRO) which shall limit signage to the north and west facades and tenant name and/or logo only. (BLDG PERMIT: BLDG - Zoning) (Previous Signs Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

4. Prior to final approval by the Development Review Officer (DRO), the property owner shall obtain a variance approval from the Board of Adjustment on the location of the wall sign for the faade not facing the right of way or reorient the building to meet sign code requirements. (DRO: ZONING- Zoning) (Previous Signs Condition 4 of Resolution R-2005-2296, Control No. 1999-092)

#### SITE DESIGN

1. The maximum height for all structures, including all air conditioning, mechanical equipment, and satellite dishes shall not exceed thirty-five (35) feet, excluding unoccupied decorative architectural elements which are not the major component of the roofing system (i.e. spires, belfries, etc.). These elements may exceed this height requirement up to an overall building height of forty (40) feet provided that all required setbacks are met. All heights shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning) (Previous Site Design Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

2. All ground mounted air conditioning and mechanical equipment, including satellite dishes, shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure or equivalent landscape material. (CO: BLDG - Zoning) (Previous Site Design Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within 100' feet of the east property line and shall be confined to the general areas designated on the site plan. (ONGOING: CODE ENF- Zoning) (Previous Site Design Condition 3 of Resolution R-2005-2296, Control No. 1999-092)

4. A pedestrian and/or non-vehicular connection to the MUPD shall be provided from Delray Villas if requested by the residents of Delray Villas. This connection, if requested, shall be installed prior to the issuance of the first Certificate of Occupancy for the MUPD. To be relieved of this condition, the petitioner shall provide documentation to the Building and Zoning Divisions from Delray Villas Master HOA if a connection is not desired. (CO: MONITORING- Zoning) (Previous Site Design Condition 4 of Resolution R-2005-2296, Control No. 1999-092)

#### USE LIMITATIONS

1. Uses on the site shall be limited as follows:

- a. 80,000 square feet of medical and professional office use;
  - b. 138,700 square feet inclusive of general retail (one-story only), professional offices, and financial offices (less than 10,000 square foot with three or less drive-thru lanes), or other uses as permitted by the ULDC with equivalent or less traffic generation as determined by the Traffic Division; and,
  - c. Single-tenant use shall be limited to a maximum of 50,000 gross square feet with no expansion permitted.
- Expansion of the above uses, unless otherwise indicated, is permitted subject to



Development Review Committee (DRC) approval and shall be limited to 1,000 square feet for the project or 5% of the square footage for each building, whichever is less. (DRO: ZONING- Zoning) (Previous Use Limitations Condition 1 of Resolution R-2005-2296, Control No. 1999-092) (Previous Use Limitations Condition 1 of Resolution R-2005-2296, Control No. 1999-092)

2. Hours of operation for all uses shall be limited to 6:00 a.m. - 11:00 p.m. daily, excluding the 24-hour pharmacy located at the southwest corner of the site and the grocery store which will be limited to preferably 9:00 p.m. but no later than 10:00 p.m. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 2 of Resolution R-2005-2296, Control No. 1999-092)

3. Loading, delivery and dumpster service shall only be permitted from 7:00 a.m. - 7:00 p.m. and be restricted to the Jog Road accessways only. (Previous Condition Q.3 of Resolution R-2000-0591 (PDD99-092)) (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 3 of Resolution R-2005-2296, Control No. 199-092)

4. Use Limitations Condition 4 of Resolution R-2005-2296, Control No. 199-092 which currently states:

In addition to the limitations of Condition Q.1, the uses listed in the May 26, 1999 letter to Mr. Mel Garrett (Exhibit D) shall be prohibited from this site. (ONGOING: CODE ENF-Zoning)

Is hereby amended to read:

The following uses are prohibited on this site:

- Agricultural Stand
- Amusements, Temporary or Special Events
- Assembly, Nonprofit
- Auto Service Station
- Bed & Breakfast
- Cocktail Lounge (except with restaurant)
- Congregate Living Facility, Type III
- Day Care Center
- Funeral Home or Crematory
- Entertainment, Indoor & Outdoor
- Monument Sales, retail
- Nursing or Convalescent home
- Recycling Center
- Recycling Collection Station
- Recycling Drop-Off Bin
- Retail Sales, Mobile, Temporary or Transient
- School, Elementary or Secondary
- Self-Service Storage
- Vocational School
- (ONGOING: CODE ENF-Zoning)

#### UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD PBCWUD) (Previous Utilities Condition 3 of Resolution R-2005-2296, Control No. 199-092)

#### 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)