

RESOLUTION NO. R-2011-0223

RESOLUTION APPROVING ZONING APPLICATION DOA-2010-02574  
(CONTROL NO. 2004-00457)  
a Development Order Amendment  
APPLICATION OF Principal Development Group, LLC  
BY CMS Engineering, LLC, AGENT  
(Villaggio Isles MUPD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, 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-2010-02574 was presented to the Board of County Commissioners at a public hearing conducted on February 24, 2011; 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 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-2010-02574, the petition of Principal Development Group, LLC, by CMS Engineering, LLC, agent, for a Development Order Amendment to increase square footage, reconfigure the site plan, modify/delete Conditions of Approval (Architectural Review, Engineering, Landscaping, Planning, Signs, Site Design), and restart the development clock 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 February 24, 2011, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on February 24, 2011.

Filed with the Clerk of the Board of County Commissioners on February 25th, 2011

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

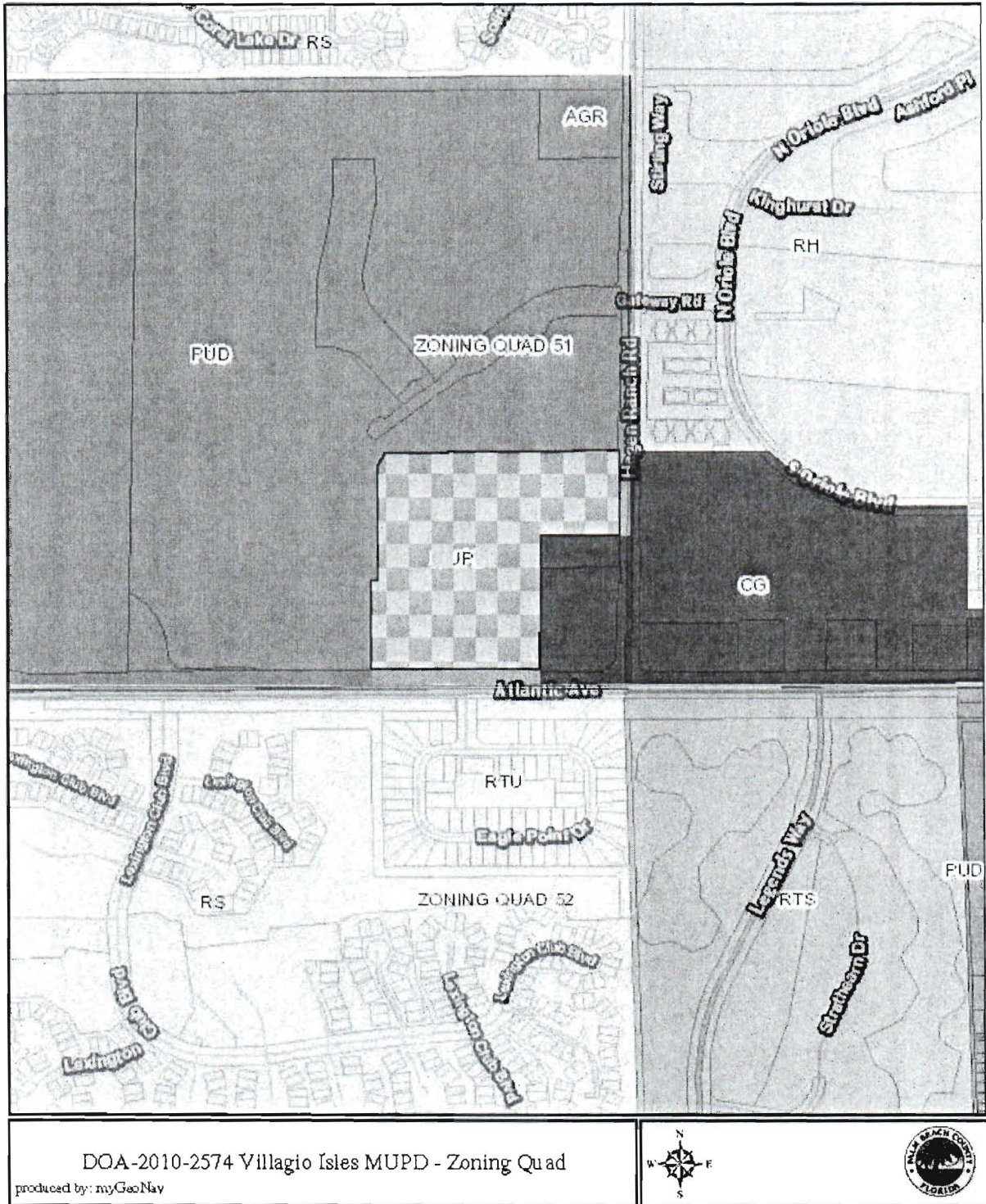
DESCRIPTION:

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, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 16; THENCE S89°22'44"W ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 335.15 FEET; THENCE N00°17'18"E, A DISTANCE OF 78.54 FEET TO A POINT OF INTERSECTION WITH THE EXISTING NORTH RIGHT-OF-WAY LINE OF STATE ROAD 806 (ATLANTIC BOULEVARD), AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 93030-2510; THENCE CONTINUE N00°17'18"E, A DISTANCE OF 17.44 FEET TO A POINT OF INTERSECTION WITH THE PROPOSED NORTH RIGHT-OF-WAY LINE OF STATE ROAD 806 (ATLANTIC BOULEVARD), AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 93030-2510, AND THE POINT OF BEGINNING; THENCE N.89°16'46"W. ALONG SAID PROPOSED RIGHT-OF-WAY LINE, A DISTANCE OF 100.20 FEET; THENCE S.89°22'44"W. ALONG SAID PROPOSED RIGHT-OF-WAY LINE, A DISTANCE OF 578.68 FEET; THENCE N.00°05'39"W., A DISTANCE OF 393.35 FEET; THENCE N.89°54'26"E., A DISTANCE OF 26.02 FEET; THENCE N.00°05'34"W., A DISTANCE OF 522.20 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES S.69°25'52"E., A RADIAL DISTANCE OF 484.69 FEET; THENCE NORTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 07°21'00", A DISTANCE OF 62.18 FEET; THENCE N.88°57'37"E., A DISTANCE OF 948.25 FEET TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF HAGEN RANCH ROAD, AS RECORDED IN OFFICAL RECORD BOOK 13275, PAGE 1342 OF SAID PUBLIC RECORDS; THENCE S.00°14'48"W. ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 386.48 FEET; THENCE S.89°20'02"W., A DISTANCE OF 314.65 FEET; THENCE S.00°17'18"W., A DISTANCE OF 594.32 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.  
CONTAINING 769,864 SQUARE FEET OR 17.674 ACRES MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



DOA-2010-2574 Villagio Isles MUPD - Zoning Quad  
produced by: nvyGeoNay

## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1.All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-2290 (Control 2004-457), 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.All Petitions 1 of Resolution R-2005-2290, Control 2004-457, 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 September 28, 2005. 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 Preliminary Site Plan is dated December 13, 2010. 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 Article 2.E of the Unified land Development Code, this development order meets the requirements to receive a new three (3) year review date from date of approval of this resolution. (DATE: MONITORING - Zoning)

#### ARCHITECTURAL REVIEW

1.Architectural Review 1 of Resolution R-2005-2290, Control 2004-457, which currently states:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for Buildings 1,2, 3, and 5, as indicated on the site plan submitted September 28, 2005, shall be submitted simultaneously with the site plan for final architectural review and approval. All building 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 plans, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW-Zoning)

Is hereby amended to read:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for Building 6, as indicated on the site plan submitted December 13, 2010, shall be submitted simultaneously with the site plan for final architectural review and approval. All building 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 plans, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW-Zoning)

2.Design of gutters, rain leaders, and downspouts shall be integrated into the architectural design of each building. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW -Zoning) (Previous Architectural Review 2 of Resolution R-2005-2290, Control 2004-457)

3. Architectural Review 3 of Resolution R-2005-2290, Control 2004-457, which currently states:

The maximum height of Buildings 4, and 7, as indicated on the site plan submitted September 28, 2005, shall not exceed twenty-five (25) feet. All heights shall be measured from finished grade to the highest point of the building, including air conditioning, mechanical equipment, satellite dishes and architectural features. (DRO: ARCH REVIEW - Zoning)

Is hereby deleted. [Reason: No longer applicable.]

## ENGINEERING

1. Previous condition E1 of Resolution R-2005-2290, Control No. 2004-457, which currently states:

The Developer shall be restricted to the following phasing schedule:

a. No Building Permits shall 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)

b. No Building Permits shall 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)

c. No Building Permits shall 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)

d. Building permits for more than 110,000 square feet of commercial building area shall not be issued until the contract has been let for the six (6) lane widening of Jog Road from Lake Ida Road to West Atlantic Avenue. (BLDG PERMITS: MONITORING-Eng)

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)

f. 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:

The Developer shall be restricted to the following phasing schedule:

a. No Building Permits shall 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) [Note: COMPLETED per Atlantic Avenue Agreement]

b. No Building Permits shall 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) [Note: COMPLETED per Atlantic Avenue Agreement]

c.No Building Permits shall 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) [Note: COMPLETED per Atlantic Avenue Agreement]

d.Building permits for more than 110,000 square feet of commercial building area shall not be issued until the contract has been let for the six (6) lane widening of Jog Road from Lake Ida Road to West Atlantic Avenue. (BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED per 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) [Note: COMPLETED per Atlantic Avenue Agreement]

f.No Building Permits for the site shall be issued after December 31, 2015. 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.a and E.1.b above shall be posted with the Office of the Land Development Division on or before May 27, 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-2005-2290, Control No. 2004-457) [Note: COMPLETED per 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-2005-2290, Control No. 2004-457)

4.Prior to September 15, 2006, the property owner shall complete construction plans for the West Atlantic Avenue improvements identified in Condition No. E.1a and E.1b 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-2005-2290, Control No. 2004-457) [Note: COMPLETED per 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.1a and E.1b 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-2005-2290, Control No. 2004-457) [Note: COMPLETED per Atlantic Avenue Agreement]

## 6.CORRIDOR CONVEYANCE OF ROAD 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-2005-2290, Control No. 2004-457) [Note: COMPLETED]

7. Previous condition E7 of Resolution R-2005-2290, Control No. 2004-457, which currently states:

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. West Atlantic Avenue at the project's entrance road.
- b. Hagen Ranch Road and the project's entrance

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)

Is hereby amended to read:

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:

- i. West Atlantic Avenue at the project's entrance road,
- ii. West Atlantic Avenue at the vehicular cross access connection immediately west of the property,
- iii. Hagen Ranch Road and the project's entrance

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)

8. Previous condition E8 of Resolution R-2005-2290, Control No. 2004-457, which currently states:

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 and associated restricted median improvements (left in only) on the south approach of Hagen Ranch Road at the Project's Entrance Road.
- c. Right turn lane east approach on West Atlantic Avenue at the Project's Entrance Road.
- d. left turn lane and associated restricted median improvements (left in only) on the west approach of West Atlantic Avenue at the Project's Entrance Road.



e. Construction 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. Permits required by: - Palm Beach County for items "a" and "b", and - Florida Department of Transportation for items "c" and "d" shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

f. Construction of the turn lane improvements in a. - d. above shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

Is hereby amended to read:

The Property owner shall construct:

- i. Right turn lane north approach on Hagen Ranch Road at the Project's Entrance Road.
- ii. Left turn lane and associated restricted median improvements (left in only) on the south approach of Hagen Ranch Road at the Project's Entrance Road.
- iii. Right turn lane east approach on West Atlantic Avenue at the Project's Entrance Road.
- iv. Right turn lane east approach on West Atlantic Avenue at the Vehicular Cross Access Connection immediately west of the site.
- v. Left turn lane and associated restricted median improvements (left in only) on the west approach of West Atlantic Avenue at the Project's Entrance Road.

a. Construction 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. Permits required by: - Palm Beach County for items i and ii, and - Florida Department of Transportation for items iii, iv and v shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

b. Construction of the turn lane improvements in i - v above shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

9. Previous condition E9 of Resolution R-2005-2290, Control No. 2004-457, which currently states:

On or before 7/1/06, the property owner shall convey to PBC sufficient road DE(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide LPO for runoff from those segments of W Atlantic Ave along the property frontage; and up to a max of an add'l 800' of W Atlantic Ave frontage. The limits of this add'l 800' of drainage shall be determined by the County Engineer. Said easements shall be no less than 20' in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20' DE from the point of origin, to the point of LPO. 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 PBC and the applicable Drainage District, as well as the SFWMD, 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 DEs a minimum of 24" 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 PBC within said easements shall become the property of PBC, which at its discretion may use this fill material. (DATE: MONITORING - Eng)

Is hereby amended to read:

On or before April 29, 2013, 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 West Atlantic Avenue frontage. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. At his discretion, the County Engineer may accept equivalent drainage capacity on offsite property subject to drainage easements. Required 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

- a. 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)
- b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
- 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-ENG-Eng)
- 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 E10 of Resolution R-2005-2290, Control No. 2004-457) [Note: COMPLETED per Atlantic Avenue Agreement]

11.Previous condition E11 of Resolution R-2005-2290, Control No. 2004-457, which currently states:

#### 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)

Is hereby amended to read:

#### TEMPORARY ROADWAY CONSTRUCTION EASEMENT

Prior to issuance of a building permit, or within ninety (90) days of a request from the County Engineer, whichever shall occur first, 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/ONGOING: MONITORING-Eng)

12. The mix of allowable uses between this project and the adjacent companion residential 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 E12 of Resolution R-2005-2290, Control No. 2004-457)

13. Prior to final site plan approval by the DRO, the property owner shall revise the access easement for the adjacent PUD to locations that do not conflict with proposed buildings. (DRO: ENGINEERING - Eng)

#### HEALTH

1. Owners and operators of facilities generating hazardous, toxic, or industrial wastes shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP) the Palm Beach County Health Department and the agency responsible for sewerage works is used. (ONGOING: HEALTH-Health) (Previous condition Health 1. of Resolution R-2005-2290; Control 2004-457)

#### LANDSCAPE – GENERAL

1. Zoning - Landscape Standards 1 of Resolution R-2005-2290, Control 2004-457, which currently states:

A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall 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)

Is hereby amended to read:

A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum height at installation: Fourteen (14) feet. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE-Zoning)

2.All palms required to be planted on the property by this approval 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 Zoning - Landscape Standards 2 of Resolution R-2005-2290, Control 2004-457)

3.Field adjustment of locations of berms, walls and plant materials 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 Zoning - Landscape Standards 3 of Resolution R-2005-2290, Control 2004-457)

#### LANDSCAPE – INTERIOR

4.A minimum of three (3) small palms and ground cover shall be installed at the median of each drive-thru lane. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Zoning - Landscape Standards 4 of Resolution R-2005-2290, Control 2004-457)

#### LANDSCAPE – PERIMETER

5.Zoning - Landscaping along the north property line (abutting the Terra Nova PUD) 1 of Resolution R-2005-2290, Control 2004-457, which currently states:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the north property line shall be upgraded to include:

- a. a minimum fifty (50) foot wide landscape buffer strip;
- 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 adjacent street or the nearest finished floor elevation, whichever is higher;
- c. a six (6) foot high opaque concrete panel wall 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 structure. A maximum of two (2) openings in the wall shall be permitted to provide pedestrian connectivity;
- d. 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;
- e. shrub materials required by code shall be double in quantity;
- f. plant materials required by ULDC or by conditions of approval shall be planted alternating on both sides of the wall; and,
- g. 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.f. (BLDG PERMIT: LANDSCAPE-Zoning)

Is hereby deleted. [Reason: DOA-2010-2457 request to delete condition based on reconfigured Preliminary Site Plan.]

6.Zoning - Landscaping abutting the south and west property lines (frontage of Atlantic Boulevard and Terra Nova PUD) 1 of Resolution R-2005-2290, Control 2004-457, which currently states:

In addition to ULDC requirements, landscaping and buffering along the south property line shall be upgraded to include one (1) palm for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE-Zoning)

Is hereby amended to read:

In addition to ULDC requirements, landscaping and buffering in the north, the south right-of-way, and the west buffers shall be upgraded to include one (1) palm for each thirty (30) linear feet with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT:

## LANDSCAPE-Zoning)

### LIGHTING

1.Previous Lighting 1 of Resolution R-2005-2290, Control 2004-457, which currently states:

All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

Is hereby deleted. [Reason: Project is not constructed and current ULDC requirements for lighting within 100 feet of residential is more restrictive.]

2.Lighting 2 of Resolution R-2005-2290, Control 2004-457, which currently states:

All outdoor, freestanding lighting fixtures be setback twenty-five (25) feet from the north property line. (BLDG PERMIT: BLDG - Zoning)

Is hereby deleted: [Reason: Project is not constructed and current ULDC Lighting requirements regulate maximum light trespass at a property boundary abutting residential.]

3.Lighting 3 of Resolution R-2005-2290, Control 2004-457, which currently states:

All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours excluding security lighting only. (ONGOING: CODE ENF - Zoning)

Is hereby deleted: [Reason: Current ULDC Lighting requirements addresses Security Lighting and Time Restrictions.]

4.Lighting 4 of Resolution R-2005-2290, Control 2004-457, which currently states:

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)

Is hereby deleted. [Reason: No longer applicable.]

### PALM TRAN

1.Prior to final approval by the Development Review Officer (DRO), the property owner shall amend the Master Site Plan to indicate mass transit circulation, bus access, and/or bus stops on or adjacent to the subject property. (DRO: PALM TRAN-Zoning)

2.Prior to Plat Recordation or 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/PLAT:MONITORING/ENG -Palm Tran)

### PLANNING

1.Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate a pedestrian cross access connection, in addition to the vehicular cross access connection shown on the certified plan, at the northwestern portion of the property. A note shall be placed at this location that reads proposed vehicular and pedestrian cross access connection". This pedestrian connection shall be adjacent to the vehicular connection and provide continuous pedestrian circulation from the property line to the fountain" area. This cross access connection shall align with the proposed cross access connection in the adjacent property. (DRO: PLANNING - Planning) (Previous

Planning Condition 1 of Resolution 2005-2290, Control No. 2004-457)

2. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate a pedestrian cross access connection at the southwestern portion of the site which shall provide continuous circulation to the proposed pedestrian connection from the cul-de-sac in the adjacent PUD. A note shall be placed at this location that reads "proposed pedestrian cross access connection". (DRO: PLANNING - Planning) (Previous Planning Condition 2 of Resolution 2005-2290, Control No. 2004-457)

3. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the subject property to the adjacent property to the northwest for the proposed vehicular connection in a form acceptable to the County Attorney. (DRO: COUNTY ATTY - Planning) (Previous Planning Condition 3 of Resolution 2005-2290, Control No. 2004-457)

4. Prior to final approval by the Development Review Officer (DRO), the property owner shall record cross access easements from the subject property to the adjacent commercial property to the southeast for the two proposed vehicular connections in a form acceptable to the County Attorney. (DRO: COUNTY ATTY - Planning) (Previous Planning Condition 4 of Resolution 2005-2290, Control No. 2004-457)

5. Previous Planning Condition 5 of Resolution R-2005-2290, Control 2004-457 which currently states:

Prior to the issuance of the first certificate of completion (CC) or certificate of occupancy (CO), whichever shall occur first, the property owner shall pave all vehicular and pedestrian cross access connections to the edge of the property line, with a break in any buffering or walls, at the locations shown on certified plan. (CC: MONITORING - Planning)

Is hereby amended to read:

Prior to the issuance of the first certificate of completion (CC) or certificate of occupancy (CO) for Buildings 1, 1A and 6, whichever shall occur first, the property owner shall pave all vehicular and pedestrian cross access connections on the northwest portion of the site to the edge of the property line, with a break in any buffering or walls, at the locations shown on certified plan. (CO/CC: MONITORING - Planning)

6. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall include all pedestrian pathways generally consistent with the certified plan. (DRO: PLANNING - Planning) (Previous Planning Condition 6 of Resolution 2005-2290, Control No. 2004-457)

7. Prior to the issuance of the first certificate of completion (CC) or certificate of occupancy (CO) for Buildings 2, 3, 4 and 5, whichever shall occur first, the property owner shall pave vehicular and pedestrian cross access connections along the northeast, east and southwest portions of the site to the edge of the property line, with a break in any buffering or walls, at the SW and SE locations shown on certified plan. (CO/CC: MONITORING - Planning)

8. Prior to the issuance of the certificate of completion (CC) or certificate of occupancy (CO) for 145,000 square feet, the property owner shall pave all vehicular and pedestrian cross access connections to the edge of the property line, with any required breaks in any buffering or walls, as shown on the certified plan. (CO/CC: MONITORING - Planning)

## SIGNS

1. Signs 1 of Resolution R-2005-2290, Control 2004-457, which currently states:

Signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
- b. maximum sign face area per side one hundred (100) square feet;

- c. maximum number of signs two (2) for the overall site;
- d. style - monument style only;
- e. location - approximately fifty (50) feet measured from the centerline of each access point at West Atlantic Avenue and at Hagen Ranch Road as indicated on the Site Plan and Regulating Plan dated September 28, 2005; and,
- f. signs shall be limited to identification of the overall development only. (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

Signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
- b. maximum sign face area per side one hundred (100) square feet;
- c. maximum number of signs two (2) for the overall site;
- d. style - monument style only;
- e. location - approximately fifty (50) feet measured from the centerline of each access point at West Atlantic Avenue and at Hagen Ranch Road as indicated on the Site Plan and Regulating Plan dated December 13, 2010; and,
- f. signs shall be limited to identification of the overall development only. (BLDG PERMIT: BLDG - Zoning)

2. Signs 2 of Resolution R-2005-2290, Control 2004-457, which currently states:

Freestanding Outparcel Identification signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - six (6) feet;
- b. maximum sign face area per side twenty (20) square feet;
- c. maximum number of signs is one (1) per outparcel;
- d. style - monument style only;
- e. location - as indicated on the site plan dated September 28, 2005; and,
- f. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

Freestanding Outparcel Identification signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - six (6) feet;
- b. maximum sign face area per side twenty (20) square feet;
- c. maximum number of signs is one (1) per outparcel;
- d. style - monument style only;
- e. location - as indicated on the site plan dated December 13, 2010; and,
- f. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

3. Signs 3 of Resolution R-2005-2290, Control 2004-457, which currently states:

Wall signs shall be limited to any two (2) facades of each building and individual lettering size shall be limited to twenty-four (24) inches high, subject to compliance with all applicable ULDC requirements. Wall signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

Is hereby deleted. [Reason: Wall signs are to comply with current ULDC Art. 8 requirements.]

## SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to relocate the sidewalk on the south side of Building 6 from the north side of the drive aisle to the south side of the drive aisle. (DRO: ZONING - Zoning)

2. Prior to final approval by the Development Review Officer (DRO), a copy of the Final Site Plan for Villaggio Isles PUD shall be submitted indicating a 6-foot high wall within the east 15-foot incompatibility buffer of Pod E to comply with ULDC Art. 3.E.3.B.2. If this wall is not indicated within the Villaggio Isles PUD Final Site Plan, then the Villaggio Isles

MUPD Final Site Plan shall be revised to indicate a 6-foot high wall in the west Type 3 incompatibility buffer south of the vehicular and pedestrian cross access. (DRO: ZONING - Zoning)

3. Prior to Certificate of Occupancy (CO) for Bldg. 2, if the 6-foot high wall has not been completed west of the vehicular and pedestrian cross access on the adjacent property (Villaggio Isles PUD), the property owner shall install a 6-foot wall in the Type 3 incompatibility buffer south of the cross access connection. (CO: LANDSCAPING - Landscaping)

4. Site Design 1 of Resolution R-2005-2290, Control 2004-457, which currently states:

Prior to final approval by the Development Review Officer (DRO), the plan shall be revised to remove six (6) parking spaces east of the pharmacy drive-thru or provide back-up aisle for these spaces. (DRO: DRO-Zoning)

Is hereby deleted. Reason: No longer applicable.

5. Site Design 2 of Resolution R-2005-2290, Control 2004-457, which currently states:

Prior to final approval by the Development Review Officer (DRO), layout plan/sections/details for the following shall be provided and indicated on the Regulating Plan:

- a. the fountain (Building 2);
- b. landscape focal points (Building 5);
- c. revise the southwest corner of Building 4 to provide an Architectural/Landscape focal point;
- d. architectural/landscape focal points (Building 7);
- e. each focal point shall include, but not be limited to, a fountain, sculpture, loggia or other architectural element. Special planting treatment shall not satisfy the requirement for any focal point. The design and location of this element(s) shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW-Zoning)

Is hereby deleted. Reason: No longer applicable.

## 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/property owner shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING : PBCWUD - PBCWUD) (Previous Utilities Condition 1 of Resolution R-2005-2290, Control 2004-457)

## 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)