

RESOLUTION NO. R-2011- 1123

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2011-00423
(CONTROL NO. 1973-00043)
a Development Order Amendment
APPLICATION OF Shadowwood Square Ltd
BY Jon E Schmidt & Associates, AGENT
(Shadowwood Square)

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 ZV/DOA-2011-00423 was presented to the Board of County Commissioners at a public hearing conducted on July 28, 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 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 ZV/DOA-2011-00423, the petition of Shadowwood Square Ltd, by Jon E Schmidt & Associates, agent, for a Development Order Amendment to reconfigure the site plan and add square footage in the Multiple Use Planned Development (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 July 28, 2011, subject to the Conditions of Approval described in EXHIBIT C-2, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

The motion was seconded by Commissioner Aaronson 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	- Absent
Commissioner Priscilla A. Taylor	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 28, 2011.

Filed with the Clerk of the Board of County Commissioners on August 2, 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

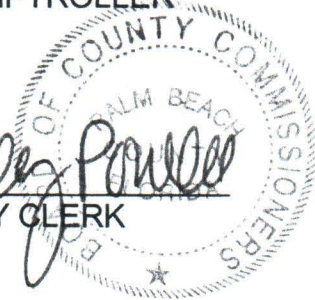


EXHIBIT A
LEGAL DESCRIPTION

Legal Description
Walgreens @ Shadowood Square
Palm Beach County (PBC) Development Review Officer (DRO) Submittal
Re-submittal 1: March 28, 2011

BEING ALL OF THE COMMERCIAL TRACT AND LAKE TRACT, SHADOWOOD SQUARE, AS RECORDED
IN PLAT BOOK 74, PAGES 68 AND 69, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

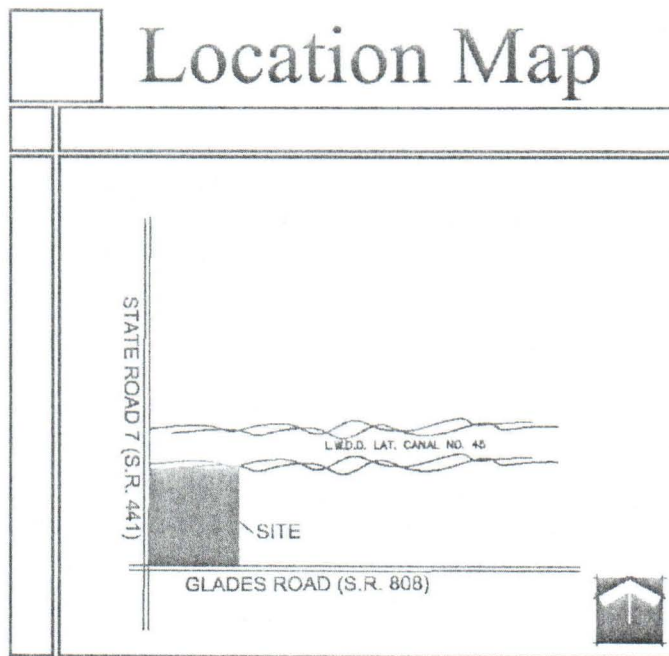


EXHIBIT C-2

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Condition All Petitions 1 of Resolution No. R-2008-0688, Control No. 1973-043, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2003-1122, (Control No. 1973-043), 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 unless expressly modified. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-96-0124, Petition DOA1973-043D and R-96-0258, Petition DOA1973-043E, R-2003-1122, (Control No. 1973-043), R-2008-0688, (Control No. 1973-043), 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. Condition All Petitions 2 of Resolution No. R-2008-0688, Control No. 1973-043, which currently states:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved master plan is dated February 15, 2008. 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 May 16, 2011. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer (DRO) as established in the Unified Land Development Code (ULDC), must be approved by the Board of County Commissioners (BCC). (ONGOING: ZONING - Zoning)

3. Prior to final DRC approval of the site plan, conceptual approval from FPL must be granted for relocation or removal of the FPL service line shown underlying building M. Documentation of this approval shall be submitted in a form acceptable to the Zoning Division. (DRO: ZONING Zoning) (Previous Condition All Petitions 3 of Resolution No. R-2008-0688, Control No. 1973-043) [NOTE: COMPLETED]

ARCHITECTURAL REVIEW-BUILDING M

1. At time of submittal for final DRC approval of the site plan, the architectural elevations for building M shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E. and Section 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and DRC approved site plan. (DRO: ZONING - Zoning) (Previous Condition Architectural Review 1 of Resolution No. R-2008-0688, Control No. 1973-043)

ARCHITECTURAL REVIEW-BUILDING K (FITNESS CENTER ADDITION)

2. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for Building K (Fitness Center addition) shall be submitted

simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning) (Previous Condition Architectural Review 2 of Resolution No. R-2008-0688, Control No. 1973-043)

ARCHITECTURAL REVIEW-BUILDING N

3. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the General Retail (Building N) shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

DRO-UNITY OF TITLE

1. Prior to site plan approval, petitioner shall provide a Unity of Title agreement covering the entire site. (DRO: CTY ATTY - Zoning) (Previous Condition Unity of Control 1 of Resolution No. R-2008-0688, Control No. 1973-043) [NOTE: COMPLETED]

DRO-DUMPSTER-(FOR THE ENTIRE SITE)

1. Receptacles for the storage and disposal of trash, garbage or vegetation (i.e. dumpsters) shall not be located within seventy-five (75) feet of the north and east property lines. (CO: BLDG - Zoning) (Previous Condition Dumpster 1 of Resolution No. R-2008-0688, Control No. 1973-043)

2. All areas or receptacles for the storage and disposal of trash, garbage or vegetation (i.e., dumpsters) shall be screened by an enclosure constructed of brick, decorative concrete, other decorative masonry consistent with the architectural character of the development, or comparable wood or steel. The open end of the enclosure shall have an obscure opaque gate. All exterior sides, except the open end, shall be landscaped with thirty-six (36) inch high shrubs and hedges planted at two (2) foot intervals. This provision shall not apply to litter containers provided for the convenience of pedestrians. (CO: BLDG - Zoning) (Previous Condition Dumpster 2 of Resolution No. R-2008-0688, Control No. 1973-043)

ENGINEERING

1. Landscape Within Median:

If permitted by the Florida State Department of Transportation or the County Engineer, the petitioner shall landscape the median of all abutting rights-of-way on State Road 7. This landscaping shall consist of one ten (10) foot tall native canopy tree for each thirty (30) linear feet of the adjacent median, appropriate ground cover and irrigation. Trees may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. All landscape material shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the petitioner. Landscaping shall be completed concurrent with the widening of State Road 7 by the Florida Department of Transportation. (ONGOING: ENGINEERING - Eng) (Previous Condition E1 of Resolution R-2008-688, Control No. 1973-043)
[Note: COMPLETED]

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

a. No Building Permits for the site may 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

HEALTH

1. Owners and operators of facilities generating hazardous, industrial or toxic wastes shall not deposit or cause to be deposited into the sanitary sewer system any such wastes unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Palm Beach County Health Department and the agency responsible for sewage works are used. (ONGOING:HEALTH-Health)(Previous condition Health 1 of Resolution R-2008-0688; Control 1973-043)

LANDSCAPE - GENERAL

1. Previous Condition Landscape 1 of Resolution No. R-2008-0688, Control No. 1973-043 which currently states:

All replacement and newly planted trees shall be native canopy trees and meet the following minimum standards at installation:

- a. tree height: Fourteen (14) feet;
- b. trunk diameter: 3.5 inches measured at 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 3.5 feet in length; and,
- d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning)

Is hereby amended to read:

All replacement and newly planted trees shall be native canopy trees, with a minimum height of fourteen (14) feet at installation. (BLDG PERMIT: LANDSCAPE-Zoning)

2. All replacement and newly planted 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. (CO: LANDSCAPE - Zoning) (Previous Condition Landscape 2 of Resolution No. R-2008-0688, Control No. 1973-043)

3. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning) (Previous Condition Landscape 3 of Resolution No. R-2008-0688, Control No. 1973-043)

4. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CO: LANDSCAPE - Zoning) (Previous Condition Landscape 4 of Resolution No. R-2008-0688, Control No. 1973-043)

5. The north property line shall be landscaped with Alternative 3 landscape buffer including native canopy trees planted at heights of:

50% 14 feet tall; 25% 12 feet tall; 25% 10 feet tall; all to be installed concurrent with the development of the northern portions of the shopping center, prior to the issuance of a Certificate of Occupancy. (CO: LANDSCAPE - Zoning) (Previous Condition Landscape 5 of Resolution No. R-2008-0688, Control No. 1973-043) [NOTE: COMPLETED]

LANDSCAPE - GENERAL-LANDSCAPING-ALONG THE EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

6. The east property line shall have a ten (10) foot wide perimeter landscape buffer including a six (6) foot high CBS wall and one twelve foot tall tree planted for every 20 linear feet. Both sides of the wall shall be painted a color which coordinates with the shopping center. (CO: LANDSCAPE - Zoning) (Previous Condition Landscape 6 of Resolution No. R-2008-0688, Control No. 1973-043) [NOTE: COMPLETED]

LANDSCAPE - INTERIOR

7. Previous Condition Landscape 7 of Resolution No. R-2008-0688, Control No. 1973-043 which currently states:

Fifty (50) percent of all trees within the interior parking area shall be fourteen (14) feet in height or greater; twenty five (25) percent shall be twelve (12) feet tall or greater; and the remainder shall be ten (10) feet in height or greater. (CO: LANDSCAPE Zoning)

Is hereby deleted: [REASON: Conflicts with Landscape Condition 1]

LANDSCAPE - INTERIOR-LANDSCAPING-BUILDING M

8. Foundation planting or grade level planters shall be provided along all facades of building M to consist of the following:

- a. The minimum width of the required landscape areas shall be five (5) feet along the north and south facades, six (6) feet along the west facade, and ten (10) feet along the east facade;
- b. The length of the required landscaped areas shall be no less than eighty (80) percent of the total length of each side of the structure, excluding the east facade, where the required landscape area shall be no less than forty (40) percent of the total length of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover. Tree height within the required landscape area along the east facade shall be no less than eight (8) feet below the parapet of the building at installation. (DRO / CO: ZONING / LANDSCAPE - Zoning) (Previous Condition Landscape 8 of Resolution No. R-2008-0688, Control No. 1973-043)

LANDSCAPE - INTERIOR-LANDSCAPING-BUILDING C

9. Tire Store Landscaping: The north and west parcel boundaries of the tire store site shall have landscape strips, a minimum of five (5) feet in width, containing one twelve (12) foot tall native canopy tree for every 30 linear feet of each boundary line.

Landscaping on the parcel frontage on Glades Road shall contain one (1) twelve (12) foot tall native canopy tree for every thirty (30) linear feet and one (1) fourteen (14) foot tall native canopy tree for every thirty (30) linear feet and a continuous opaque native hedge three (3) feet in height at planting the length of the parcel frontage. (CO: LANDSCAPE - Zoning) (Previous Condition Landscape 9 of Resolution No. R-2008-0688, Control No. 1973-043)

LIGHTING

1. All outdoor lighting shall be extinguished no later than thirty (30) minutes after operating hours, excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous Condition Lighting 1 of Resolution No. R-2008-0688, Control No. 1973-043)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to final plan approval by the Development Review Officer (DRO), the property owner or the applicant of the General Retail (Pharmacy) to label the LWDD E-1 Canal right-of-way and show the canal is being tied to/ from an accepted control. This information shall be shown on the Final Site Plan. (DRO: LWDD-LWDD)

SIGNS

1. Previous Condition Sign 1 of Resolution No. R-2008-0688, Control No. 1973-043 which currently states:

A maximum of one (1) ground sign may be permitted on the building C parcel, as follows:

- a. The sign shall be limited to six (6) feet in height.
- b. Maximum sign area shall be one-hundred (100) square feet.
- c. No roof or pole signs shall be permitted on this out parcel, only a monument sign shall

be allowed. (CO: BLDG - Zoning)

Is hereby amended to read:

A maximum of one (1) ground mounted freestanding sign may be permitted on the building C parcel, as follows:

- a. The sign shall be limited to six (6) feet in height.
- b. Maximum sign area shall be one-hundred (100) square feet.
- c. No roof or pole signs shall be permitted on this out parcel, only a monument sign shall be allowed. (CO: BLDG - Zoning)

2. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign related conditions of approval. (BLDG PERMIT: BLDG - Zoning) (Previous Condition Sign 2 of Resolution No. R-2008-0688, Control No. 1973-043)

3. Previous Condition Sign 3 of Resolution No. R-2008-0688, Control No. 1973-043 which currently states:

New or replacement freestanding signs for the building M parcel fronting on State Road 7/U.S. 441 shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. maximum sign face area per side one hundred (100) square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only; and,
- e. location - within fifty (50) feet of the north parcel boundary.
- f. Signs shall be limited to identification of tenants only. (CO: BLDG - Zoning)

Is hereby amended to read:

New or replacement ground mounted freestanding signs for the building M parcel fronting on State Road 7/U.S. 441 shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. maximum sign face area per side one hundred (100) square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only; and,
- e. location - within fifty (50) feet of the north parcel boundary.
- f. Signs shall be limited to identification of tenants only. (CO: BLDG - Zoning)

USE LIMITATIONS-AUTO REPAIR - BUILDING C

1. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation - Auto Repair 1 of Resolution No. R-2008-0688, Control No. 1973-043)

USE LIMITATIONS

2. Previous Condition C. 2 of Resolution No. R-2003-1122, Control No. 1973-043, which currently states:

Vehicle parking shall be limited to the parking spaces designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives. (ONGOING: CODE ENF Zoning)

Is hereby deleted. [REASON: Code requirement]

3. The property owner shall participate in a tire recycling program. (ONGOING: SWA - SWA) (Previous Condition Use Limitation - Auto Repair 3 of Resolution No. R-2008-0688, Control No. 1973-043)

4. Office uses shall not commence business activity prior to 7:00 a.m. nor continue after 8:00 p.m. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation - Auto Repair 4 of Resolution No. R-2008-0688, Control No. 1973-043)

5. All other activities, including deliveries, garbage pickup, repairs, and use of pneumatic tools shall not commence prior to 8:00 a.m. nor continue after 6:00 p.m. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation - Auto Repair 5 of Resolution No. R-2008-0688, Control No. 1973-043)

6. No activity shall occur on this parcel on Sundays. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation - Auto Repair 6 of Resolution No. R-2008-0688, Control No. 1973-043)

7. Future expansion areas:

a. No bay door openings shall be permitted on the east side of any structure. (BLDG PERMIT: BLDG - Zoning) (Previous Condition Use Limitation - Auto Repair 7 of Resolution No. R-2008-0688, Control No. 1973-043)

8. Building height shall be limited to one-story on the tire store parcel, except the southwest corner of the structure may contain second story office space to a maximum of twenty-five (25) feet in height and a maximum of 1,112 square feet in area. (BLDG PERMIT: BLDG - Zoning) (Previous Condition Use Limitation - Auto Repair 8 of Resolution No. R-2008-0688, Control No. 1973-043)

9. Prior to Site Plan Certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the auto service facility shall provide air and water for minor vehicle maintenance to the public at no charge. (DRO: ZONING / CODE ENF - Zoning) (Previous Condition Use Limitation - Auto Repair 9 of Resolution No. R-2008-0688, Control No. 1973-043)

10. Prior to site plan certification, the site plan shall be amended to indicate the location of the proposed storage area adjacent to the dumpster site along the west wing of the proposed structure. (DRO: ZONING - Zoning) (Previous Condition Use Limitation - Auto Repair 10 of Resolution No. R-2008-0688, Control No. 1973-043) [NOTE: Completed.]

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)