

RESOLUTION NO. R-2012- 1168

RESOLUTION APPROVING ZONING APPLICATION ABN/Z/DOA/CA-2012-00696
(CONTROL NO. 2005-00589)
a Development Order Amendment
APPLICATION OF Florida Charter Foundation, Inc, Precious Property Management Llc,
Capstone Resdev LLC
BY Urban Design Kilday Studios, AGENT
(Franklin Academy - Boynton)

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 ABN/Z/DOA/CA-2012-00696 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2012; 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 ABN/Z/DOA/CA-2012-00696, the petition of Florida Charter Foundation, Inc, Precious Property Management Llc, Capstone Resdev LLC, by Urban Design Kilday Studios, agent, for a Development Order Amendment to reconfigure the Site Plan, to add land area, add an access point and to delete the Conditional Overlay Zone (COZ) all Conditions of Approval for Resolution R-2007-1619 in the Single-family Residential (RS) 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 August 23, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams 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 Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	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 August 23, 2012.

Filed with the Clerk of the Board of County Commissioners on September 4th, 2012


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



The seal is circular with a double-line border. The outer ring contains the text "PALM BEACH COUNTY COMMISSIONERS" at the top and "FLORIDA" at the bottom. A five-pointed star is positioned at the bottom center of the seal.

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION- COMBINED PARCELS:

(SOUTH PARCEL)

TRACT 15, AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET AL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, IN THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, ALSO BEING DESCRIBED AS THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPTING:

2 ACRES MORE OR LESS, CONSISTING OF A STRIP 132 FEET BY 660 FEET FROM THE NORTHERN BOUNDARY OF TRACT 15 OF THE SOUTHEAST QUARTER, BEING THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS RUNNING EAST FROM THE CENTER OF MILITARY TRAIL 660 FEET; THENCE SOUTH 132 FEET; THENCE WEST 660 FEET; THENCE NORTH 132 FEET ALONG MILITARY TRAIL TO CLOSE AS SET FORTH IN DEED BOOK 1018, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

FURTHER LESS AND EXCEPTING:

THE SOUTH 25 FEET OF SAID TRACT 15 ABUTTING AND LYING NORTH OF THE PLATTED 15' ROAD RIGHT OF WAY; SAID PLATTED ROAD RIGHT OF WAY AS SHOWN ON THE PLAT OF AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET AL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 74, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

FURTHER LESS AND EXCEPTING:

THAT PORTION LYING WITHIN 33 FEET OF THE CENTER LINE OF OLD MILITARY TRAIL; SAID CENTERLINE BEING THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 12.

TOGETHER WITH:

(NORTH PARCEL)

A PORTION OF TRACT 15, AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; CONSISTING OF A PARCEL OF LAND 132 X 660 FEET FROM THE NORTHERN BOUNDARY OF TRACT 15 OF THE SOUTHEAST QUARTER (1/4), BEING THE SOUTHWEST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS RUNNING EAST FROM THE CENTER LINE OF OLD MILITARY TRAIL, SAID CENTER LINE BEING THE WEST LINE OF THE SOUTHEAST QUARTER (1/4) OF SECTION 12, 660 FEET: THENCE SOUTH 132 FEET: THENCE WEST 660 FEET, THENCE NORTH 132 FEET, ALONG OLD MILITARY TRAIL TO CLOSE: AS SET FORTH IN DEED BOOK 1018, PAGE 145, PALM BEACH COUNTY,

FLORIDA, PUBLIC RECORDS.

LESS AND EXCEPT:

THAT PORTION CONVEYED TO THE STATE OF FLORIDA BY VIRTUE OF THAT QUIT CLAIM DEED RECORDED IN DEED BOOK 909, PAGE 208 FOR RIGHT OF WAY OF MILITARY TRAIL (SR 809);

AND ALSO LESS AND EXCEPT:

THAT PORTION VESTED TO PALM BEACH COUNTY BY VIRTUE OF THAT CERTAIN ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 5969, PAGE 1908 UNDER CASE NO. CL-89-308-AI FOR RIGHT OF WAY OF MILITARY TRAIL (SR 809) AS LAID OUT AND IN USE;

AND ALSO LESS AND EXCEPT:

THAT PORTION LYING WITHIN 15 FEET OF THE CENTER LINE OF OLD MILITARY TRAIL, SAID CENTER LINE BEING THE WEST LINE OF THE SOUTHEAST QUARTER (1/4) OF SECTION 12.

EXHIBIT B
VICINITY SKETCH

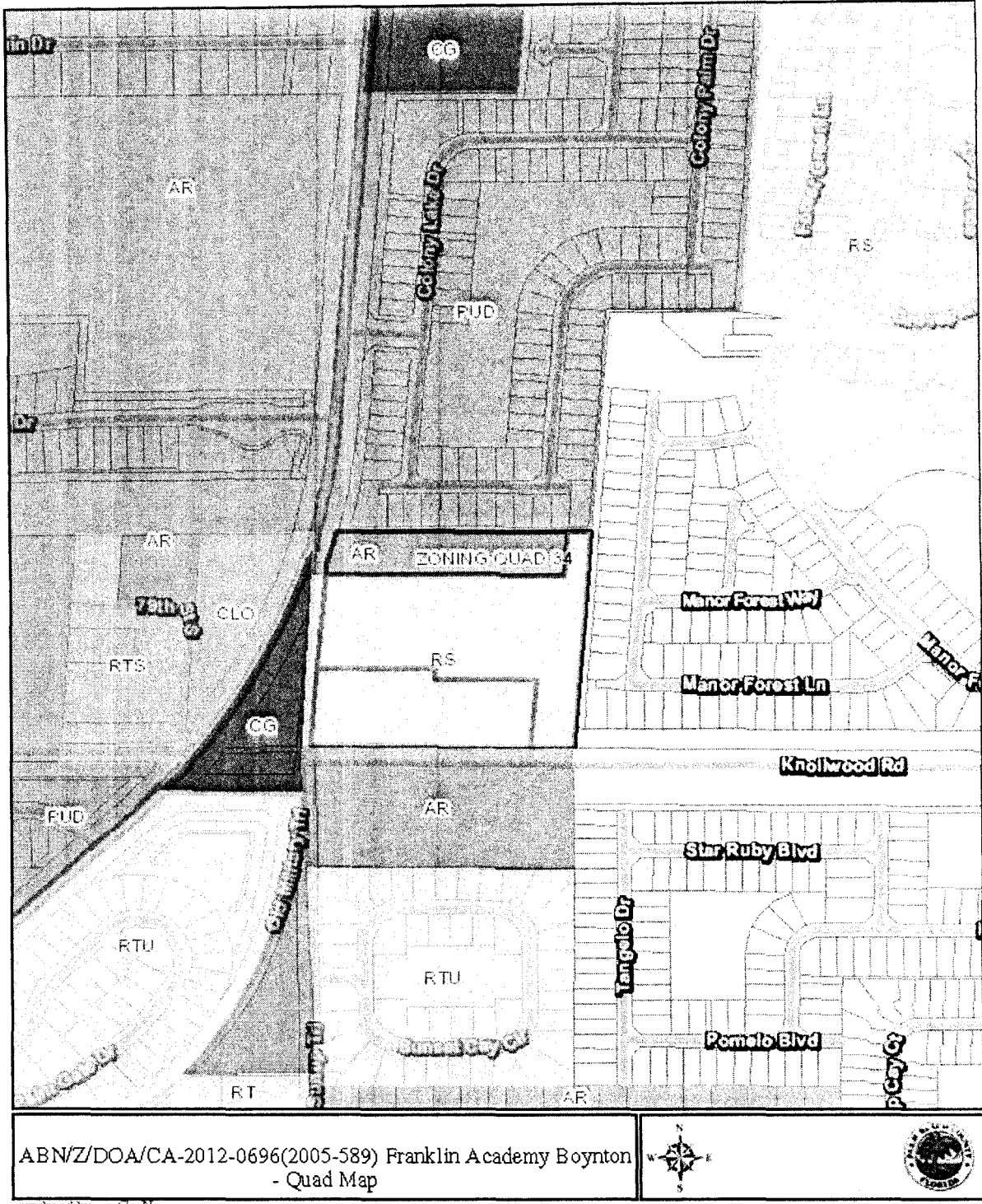


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2007-1619 (Control 2005-589), have been revoked. (ONGOING: MONITORING - Zoning)

2. The approved Preliminary Site Plan is dated May 10, 2012. 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 as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. 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, 2016. 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)

2. The property owner shall enter into an agreement with the Right of Way Acquisition Section and provide for the acquisition funding costs of the right of way and utility easement(s) for a south approach right turn lane on Military Trail at Miner Road to provide for a minimum of 280 feet in length, 12 feet in width and a 50 foot taper or as approved by the County Engineer. Final alignment for the right of way shall be subject to approval by the County Engineer. Funding shall include Palm Beach County staff and attorney costs, as well as utility relocation costs. Acceptable surety shall be provided to the Land Development Division prior to January 26, 2013 or prior to issuance of the first building permit, whichever shall occur first. (DATE: MONITORING-Eng)

3. The Property Owner shall construct:

- i. a right turn lane south approach (a minimum of 280 feet in storage length and a taper length of 50 feet) and an extension to the left turn lane north approach (a minimum of 425 feet in storage length and a taper length of 50 feet) on Military Trail at Miner Road (aka Knollwood Rd/80th Lane South),
- ii. median modifications on Military Trail to remove approximately 30 feet of median on the south approach at Miner Road (aka Knollwood Rd/80th Lane South) to accommodate east approach left turns;
- iii. median modifications on Military Trail to remove approximately 20 feet of median on the north approach, add approximately 50 feet of median on the south approach, and install a directional median restriction (i.e. "peanut") to improve operations at the north project entrance/Old Military Trail,
- iv. Old Military Trail from Miner Road (aka Knollwood Rd/80th Lane South) to the south project entrance to local street standards including paved shoulders, appropriate drainage, two 10-foot travel lanes and sidewalks, and
- v. Miner Road (aka Knollwood Rd/80th Lane South) as a continuous 3-lane section (two westbound lanes and one eastbound lane) from Military Trail to Old Military Trail to collector road standards including paved shoulders, appropriate drainage and sidewalks.
- vi. Install traffic diverter(s) (i.e. "porkchop(s)") to prevent northbound traffic on Sunup Trail from continuing onto Old Military Trail and to prevent southbound traffic on Old Military Trail from continuing onto Sunup Trail; including appropriate traffic control signage to prohibit such north-south through travel.

All construction shall be as required and approved by the County Engineer. 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. All construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

4. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall permit, fund, install and have operational the traffic signal at Miner Road and Military Trail. Signalization shall be a mast arm structure installation. The cost of signalization shall be paid by the Property Owner and shall also include all design costs and any required utility relocation and right of way or easement acquisition. (CO: MONITORING-Eng)

5. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

6. The property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING-Eng)

b. Any required drainage easements shall be dedicated in conjunction with any subdivision approval or recorded prior to issuance of the first building permit, whichever shall occur first. (PLAT/BLDG PERMIT: MONITORING-Eng)

7. The property owner may construct a temporary right turn lane within existing right of way, as approved by the County Engineer, prior to the first Certificate of Occupancy provided:

a. A surety is provided to the Land Development Division prior to the first Certificate of Occupancy for the costs of construction of the ultimate right turn lane configuration, including a paved shoulder, utility relocation costs and design costs. (CO: MONITORING - Eng)

b. Construction of the ultimate right turn lane is completed prior to August 1, 2014. (DATE: MONITORING - Eng)

8. The property owner shall monitor the abandonment process of Old Military Trail, south of Miner Road (aka Knollwood Rd/80th Lane South). In the event that the abandonment has not been completed prior to issuance of the first Certificate of Occupancy, the property owner shall provide "No Parking or Standing" signage within the right of way for that portion of Old Military Trail. In any event, such signs shall also be provided along Sunup Trail between Miner Road (aka Knollwood Rd/80th Lane South) and White Feather Trail. (CO: MONITORING - Eng)

HEALTH

1. Prior to the issuance of a building permit, the property owner shall be in receipt of a Site Rehabilitation Completion Order or a No Further Action determination from the Florida Department of Environmental Protection. (BLDG PERMIT: MONITORING-Health)

2. Prior to the issuance of a building permit, the property owner shall submit results of a pre-demolition asbestos containing materials (ACM) of the building(s) on the site to the Palm Beach County Health Department. (BLDG PERMIT: MONITORING-Health)

3. Wastewater is available to the property. Therefore no onsite sewage treatment and disposal system (OSTDS) shall be permitted on this site. All existing OSTDS shall be

abandoned in accordance with Chapter 64E-6, FAC, and Palm Beach County ECR-I. (ONGOING: HEALTH-Health)

4. Water is available to the property. Therefore, no well shall on the site to provide potable water. All existing potable water supply systems shall be abandoned in accordance with Chapter 64E-8 and Palm Beach County ECR-II. (ONGOING: HEALTH-Health)

LANDSCAPE – GENERAL

1. At time of submittal for Building Permit, the property owner shall submit a Landscape Plan or an Alternative Landscape Plan to the Landscape Section for review and approval. The plans shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2. All palms shall meet the following minimum standards:

a. Clear trunk: staggered heights of twelve (12) to eighteen (18) feet. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPE – PERIMETER

3. In addition to code requirements, landscaping and buffering along the north property line shall be upgraded to include:

a. a two (2) foot high continuous berm;

b. a six (6) foot high concrete panel wall to be located at the top of the berm. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure

c. wall and berm shall be located along the west four hundred (400) feet of the north property line; and,

b. one (1) palm or pine for each for each thirty (30) linear feet for the entire north property line. (BLDG PERMIT: LANDSCAPE - Zoning)

4. In addition to code requirements the proposed landscaping along the east property line shall be upgraded to include:

a. one (1) palm or pine for each for each thirty (30) linear feet of the property lines with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to Platting, the issuance of any Lake Worth Drainage District permits, or approval from the District for Technical Compliance the owner shall convey either by an exclusive easement or warranty deed, the North 10 feet of the South 50 feet, less lands owned by the District. Being more particularly described as, the area between the east line of Tract 15, and a line shown as the east line of the 66 foot road right-of-way, which is based on the South line of Section 12/45/42, "PER PLAT OF MARY A LYMAN" ET AL, PB 9, PG 74. This is for the required right-of-way for the L-20 Canal (based on canal cross-sections) ENG: PLAT-LWDD

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)