

RESOLUTION NO. R-2000-0891

RESOLUTION APPROVING ZONING PETITION EAC99-041 (A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF HOME DEVELOPMENT CORP. OF SOUTH FLORIDA
BY H.P. TOMPKINS, JR., AGENT
(ENCLAVE SHOPPES)

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

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition EAC99-041 (A) was presented to the Board of County Commissioners at a public hearing conducted on June 29, 2000; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), 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 made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition EAC99-041(A), the petition of Home Development Corp. of South Florida, by H.P. Tompkins, Jr., agent, for a Development Order Amendment/Expedited Application Consideration (EAC) to modify/delete conditions of approval in R-2000-01 18 on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 29, 2000, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

Maude Ford Lee, Chair	-	Aye
Warren Newell, Vice Chair	-	Aye
Karen T. Marcus		Absent
Carol A. Roberts		Aye
Mary McCarty		Absent
Burt Aaronson		Aye
Tony Masilotti		Aye

The Chair thereupon declared that the resolution was duly passed and adopted on June 29, 2000.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

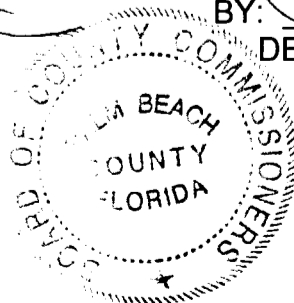


EXHIBIT A
LEGAL DESCRIPTION

A PART OF LOTS 20, 21, AND 22, BREEZY ACRES SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 20, PAGE 79 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ALL LYING, SITUATED AND BEING IN SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND THIS TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 14; THENCE NORTH 00°17'23" WEST, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 14, A DISTANCE OF 1369.22 FEET TO A POINT AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 14; THENCE NORTH 88°39'19" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 14, A DISTANCE OF 661.46 FEET TO A POINT; THENCE SOUTH 00°36'55" EAST, A DISTANCE OF 14.00 FEET TO A POINT ON THE WEST LINE OF LOT 21 OF SAID BREEZY ACRES SUBDIVISION AND THE SOUTH RIGHT-OF-WAY LINE OF ATLANTIC AVENUE AS RECORDED IN OFFICIAL RECORDS BOOK 7396, PAGES 1511 THROUGH 1512 OF THE OFFICIAL PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT OF LAND; THENCE NORTH 89°15'02" EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID ATLANTIC AVENUE, 60.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO THE BASELINE OF ATLANTIC AVENUE ACCORDING TO THE ROAD PLAT BOOK 3, PAGE 26 OF THE OFFICIAL PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 284.90 FEET TO A POINT; THENCE SOUTH 47°01'21" EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID ATLANTIC AVENUE, A DISTANCE OF 36.43 FEET TO A POINT ON THE EAST LINE OF LOT 22 OF SAID BREEZY ACRES SUBDIVISION AND THE WEST RIGHT-OF-WAY LINE OF MARKLAND LANE; THENCE SOUTH 00°32'28" EAST, ALONG THE EAST LINE OF LOTS 22 AND 20 OF SAID BREEZY ACRES SUBDIVISION AND THE WEST RIGHT-OF-WAY LINE OF SAID MARKLAND LANE, A DISTANCE OF 256.33 FEET TO A POINT; THENCE SOUTH 89°24'27" WEST, ALONG A LINE 52.58 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF LOT 20 OF SAID BREEZY ACRES SUBDIVISION, A DISTANCE OF 310.95 FEET TO A POINT ON THE WEST LINE OF SAID LOT 20; THENCE NORTH 00°36'55" WEST, ALONG THE WEST LINE OF LOTS 20 AND 21 OF SAID BREEZY ACRES SUBDIVISION, A DISTANCE OF 280.65 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.000 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

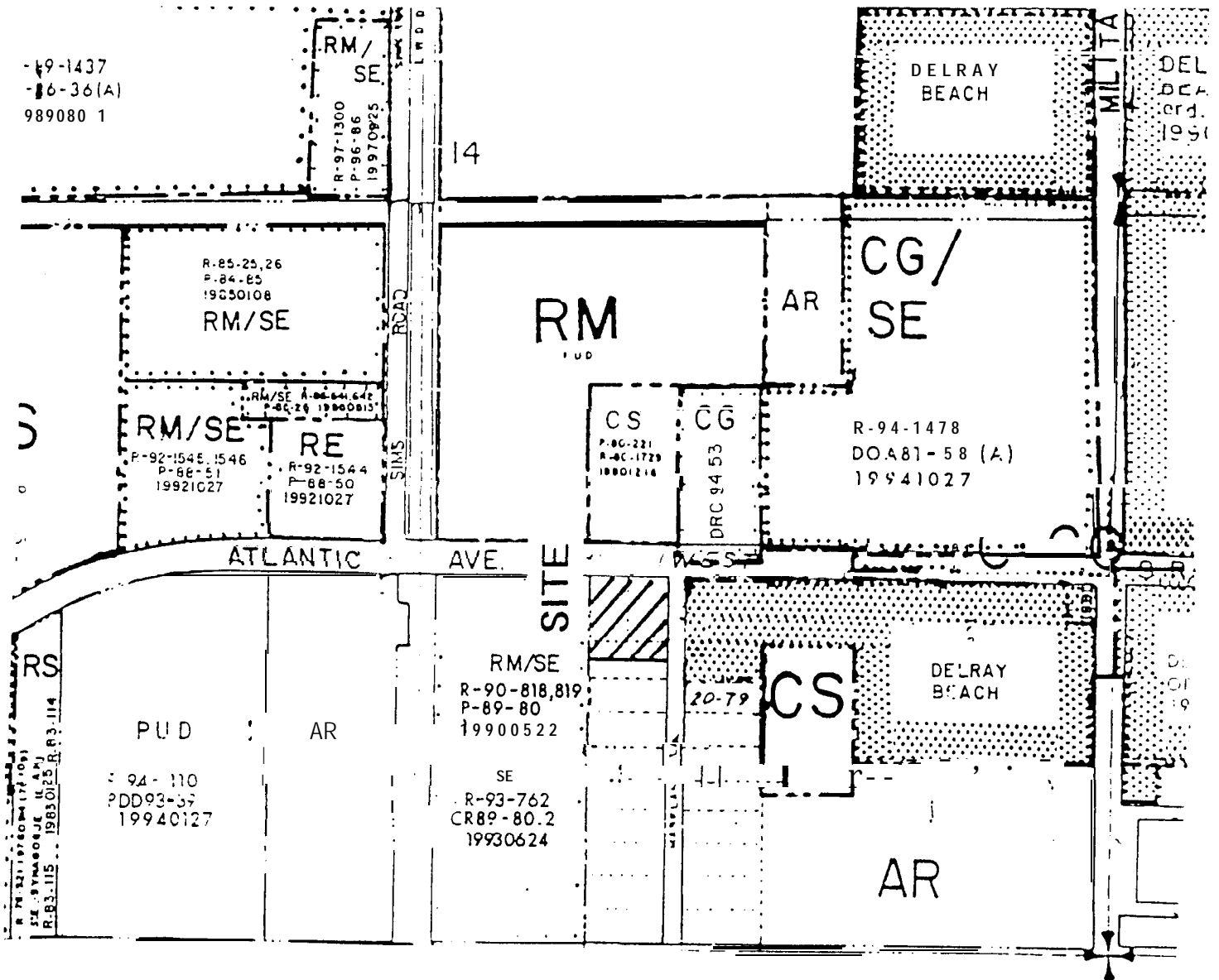


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous voluntary commitments are shown in BOLD and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. **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 November 23, 1999. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet voluntary commitments or are in accordance with the ULDC. (ONGOING: ZONING) Previously condition A.1 of Resolution R-2000-01 18)**

B. BUILDING AND SITE DESIGN

1. **The property owner shall provide the City of Delray with a copy of the Palm Beach County certified site plan, and any major changes proposed to the site plan shall be reviewed by the City. (DRC: ZONING-City of Delray) (Previously condition B.I of Resolution R-2000-01 18)**

C. LANDSCAPING ALONG EAST PROPERTY LINES (ADJACENT TO MARKLAND LANE)

1. **Landscaping and buffering along the east property lines shall be upgraded to include:**
 - a. **A minimum fifteen (15) foot wide landscape buffer strip;**
 - b. **One (1) canopy tree planted every twenty (20) feet on center;**
 - c. **One (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters;**
 - d. **A minimum one (1) to two (2) foot high undulating berm, with an average height of one and one-half (1.5) feet, measured from the top of the curb; and,**
 - e. **Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of sixty (60) inches.**
 - f. **Petitioner shall install/incorporate a wall or fence into the landscape buffer between the first and second driveways to achieve an overall height of eight (8') feet. (CO: LANDSCAPE - Zoning) (Previously condition C.I of Resolution R-2000-01 18)**

D. LANDSCAPING ALONG NORTH PROPERTY LINE (ADJACENT TO ATLANTIC AVENUE)

Condition D. 1 of Resolution R-2000-01 18, Petition 99-041 which currently states:

1. **Landscaping and buffering along the north property line shall be upgraded to include:**
 - a. **A minimum twenty-eight (28) foot wide;**
 - b. **One (1) native canopy tree planted every twenty (20) feet on center;**

- c. **One (1) native palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters;**
- d. **A minimum two (2) to three (3) foot high undulating berm, with an average height of two and one half (2 ½) feet, measured from the top of the curb; and,**
- e. **Thirty (30) inch high shrub or hedge material located on the plateau of the berm spaced twenty-four (24) inches on center at installation to be maintained a minimum of sixty (60) inches in height. (CO: LANDSCAPE - Zoning)**

Is hereby amended to read:

- 1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. A minimum twenty-eight (28) foot wide, to include a ten (10) foot utility easement;
 - b. One (1) native canopy tree planted every twenty (20) feet on center;
 - c. One (1) native palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters;
 - d. A minimum two (2) to three (3) foot high undulating berm, with an average height of two and one half (2 ½) feet, measured from the top of the curb; and,
 - e. Thirty (30) inch high shrub or hedge material located on the plateau of the berm spaced twenty-four (24) inches on center at installation to be maintained a minimum of sixty (60) inches in height. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

- 1. **Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way for:**
 - a. **the construction of a right turn lane west approach on West Atlantic Avenue at Markland Lane. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer.**
 - b. **Markland Lane, 40 feet from centerline.**

Right of way conveyance shall be along the projects entire frontage and 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng) (Previously condition E.I of Resolution R-2000-01 18)

- 2. **The Property owner shall construct a right turn lane west approach on West Atlantic Ave at Markland Lane.**

- a. **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.**
 - b. **Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)**
 - c. **Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)(Previously condition E.2 of Resolution R-2000-01 18)**
3. **LANDSCAPE WITHIN MEDIAN OF WEST ATLANTIC AVENUE**
- a. **Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of West Atlantic Avenue Right-of-Way. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the “Low Cost Planting Concept” outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT:MONITORING - Eng)**
 - b. **All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner’s Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner’s Association and/or Homeowners’s Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material**

during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of a certificate of occupancy. (CO: MONITORING-Eng)

- c. **If the County does not assume maintenance responsibility, the property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng) (Previously condition E.3 of Resolution R-2000-0118)**

F. LANDSCAPING ALONG SOUTH AND WEST PROPERTY LINES (ADJACENT TO RESIDENTIAL)

Condition F.I of Resolution R-2000-01 18, Petition 99-041 which currently states:

- 1. **Landscaping and buffering shall be upgraded to include:**
 - a. **A minimum fifteen (15) foot wide buffer strip;**
 - b. **One (1) native canopy tree planted every twenty (20) feet on center;**
 - c. **One (1) native palm or pine tree for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;**
 - d. **Six (6) feet high screen wall setback ten (10) feet from the south and west property lines and terminating twenty-five (25) feet south of W. Atlantic Avenue right-of-way; and,**
 - e. **Shrub or hedge material located on both sides of the wall to be maintained a minimum of sixty (60) inches in height. (CO: LANDSCAPE - Zoning)**

Is hereby amended to read:

- 1. Landscaping and buffering shall be upgraded to include:
 - a. A minimum seven and one-half (7.5) foot wide buffer strip;
 - b. One (1) native canopy tree planted every twenty (20) feet on center;
 - c. One (1) native palm or pine tree for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
 - d. Six (6) feet high screen wall setback ten (10) feet from the south and west property lines and terminating twenty-five (25) feet south of W. Atlantic Avenue right-of-way; and,
 - e. Shrub or hedge material located on both sides of the wall to be maintained a minimum of sixty (60) inches in height. (CO: LANDSCAPE - Zoning)

G. PLANNING

- 1. **Prior to final site plan approval by the Development Review Committee (DRC), the site plan shall be revised to indicate a sidewalk along Markland Lane to the southern property line of the subject site since the site is within two (2) miles of a school. (DRC: PLANNING) (Previously condition G.I of Resolution R-2000-01 18)**

H. SIGNS

1. **Freestanding sign located at the corner of W. Atlantic Avenue and Markland Lane 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 - 100 square feet;**
 - c. **Maximum number of signs - one (1); and**
 - d. **Style - monument style only. (CO: BLDG)**
(Previously condition H. 1 of Resolution R-2000-01 18)

I. LANDSCAPE - FOUNDATION PLANTING

1. **Landscape islands shall be provided along the front and sides of all structures. The minimum width of the required landscape islands shall be five (5') feet. The combined length of the required landscape islands shall be no less than 40% of the total length of the applicable side of the structure. All required landscape islands shall be planted with a minimum of one (1) tree or palm every twenty (20) feet on center and appropriate ground cover. (DRC: LANDSCAPE) (Previously condition I. 1 of Resolution R-2000-01 18)**

J. COMPLIANCE

1. **In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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 commitment of this approval. (ONGOING: MONITORING - Zoning) (Previously condition J.I of Resolution R-2000-01 18)**
2. **Failure to comply with any of the voluntary commitments 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; 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 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 a majority vote of the Code Enforcement Board 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any voluntary commitment.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING) (Previously condition E.3 of Resolution R-2000-01 18)