

RESOLUTION NO. R-2001- 0825

RESOLUTION APPROVING ZONING PETITION DOA1 976-I 39(D)
DEVELOPMENT ORDER AMENDMENT
PETITION OF SHERBROOKE MANAGEMENT INC.
BY SCOTT MOSOLF, AGENT
(SHERBROOKE ESTATES)

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 DOA1 976-139(D) was presented to the Board of County Commissioners at a public hearing conducted on May 24, 2001; 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 DOA1976-139(D), the petition of Sherbrooke Management Inc., by Scott Mosolf, agent, for a Development Order Amendment (DOA) to re-designate land uses and add units 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 **May 24, 2001**, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti 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:

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus		Aye
Mary McCarty		Absent
Burt Aaronson		Aye
Tony Masilotti		Aye
Addie L. Greene		Aye

The Chair thereupon declared that the resolution was duly passed and adopted on May 24, 2001.

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

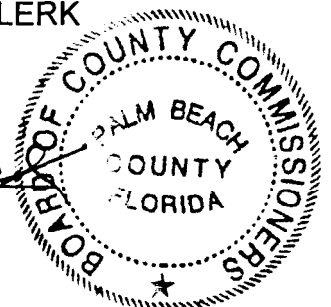


EXHIBIT A
LEGAL DESCRIPTION

Parcel A, Lexington 1 of Sherbrooke, as recorded in plat book 32, page 195, public records of Palm Beach County, Florida. Subject to easements, restrictions, reservations and rights of way of record.

EXHIBIT B
VICINITY SKETCH

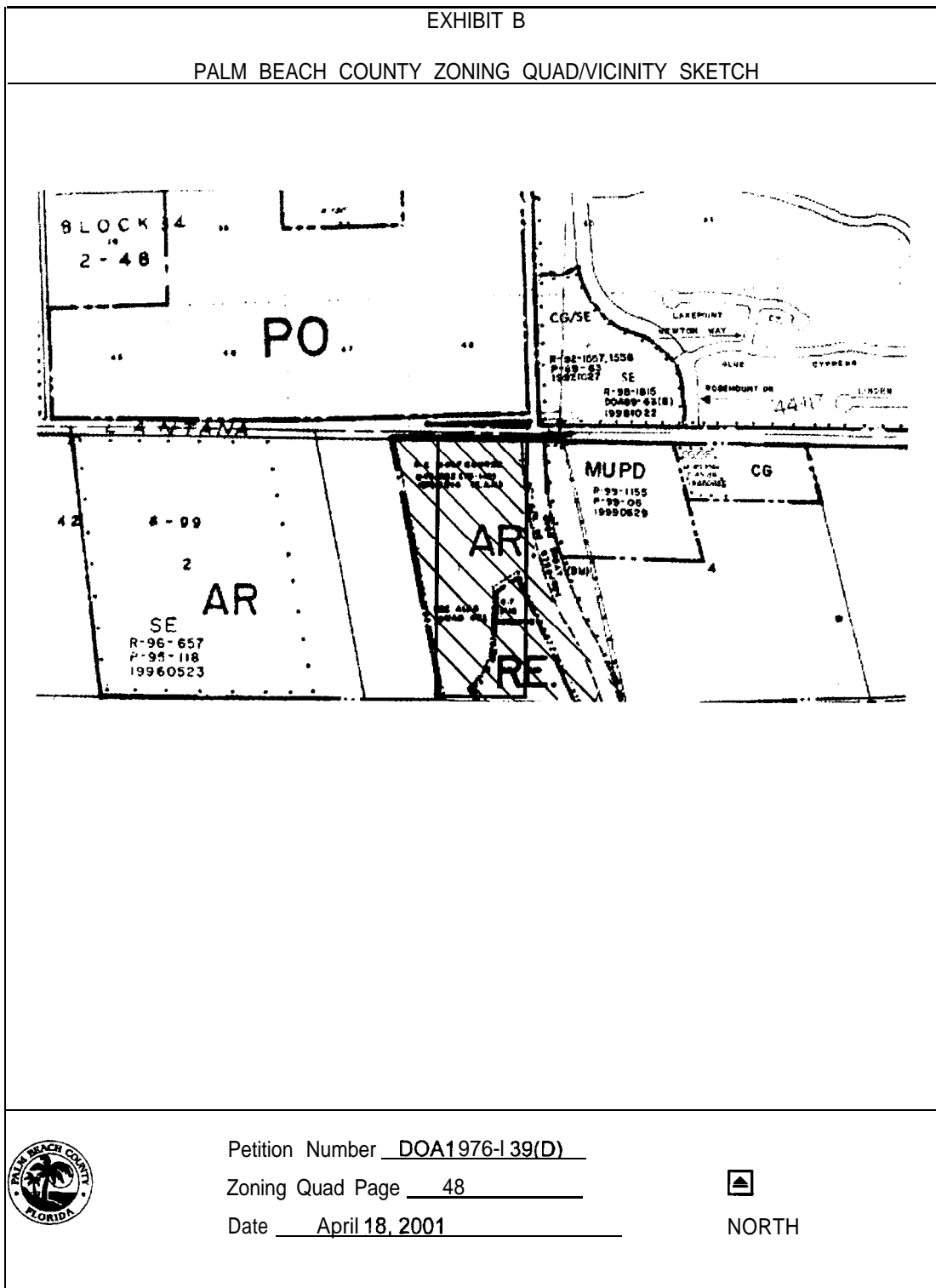


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. **All previous conditions of approval applicable to the subject property, as contained in Resolutions R-76-928 (Petition 76-139), and R-89-2217 (Petition 76-139(A)), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING -Zoning) (Previously Condition A.1 of Resolution R-99-I 154, Petition DOA76-139(B))**

2. Condition A.2 of Resolution R-99-I 154, Petition DOA76-139(B) 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 April 13, 1999. 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)

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated February 21, 2001. 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)

3. **Prior to August 1, 1999, the petitioner shall amend the preliminary development plan of record in the Zoning Division files to delete the subject 2.5 acre parcel from the overall PUD limits and revise all applicable data to be consistent with this approval, Petition 76-139(B). (DATE: MONITORING -Zoning) (Previously Condition A.3 of Resolution R-99-1 154, Petition DOA76-139(B))**
4. Prior to final DRC certification of the site plan, the petitioner shall revise the master plan to indicate the accurate number of lots for the entire Planned Unit Development. (DRC:ZONING)

B. BUILDING AND SITE DESIGN

1. **Developers shall obtain appropriate water management permits from the proper permitting authorities prior to final plat recordation. (PLAT: ENG) (Previously Condition B.1 of Resolution R-99-I 154, Petition DOA76-139(B))**
2. **The petitioner shall, as part of the future PUD master plan approval to be submitted for Petition No. 89-58:**

- a. **Dedicate the civic site required for Sherbrooke Estates PUD by unencumbered fee simple title deed to Palm Beach County, 2% of the grass area of the planned unit development (10.75 acres); or**
 - b. **The petitioner may exchange the required on-site dedication of land for civic uses either for a parcel of land off-site equal in acreage or cash of equal value. In the event that the off-site land dedication is of less cash value than the on-site dedication, petitioner shall also contribute an amount in cash equal to the difference between the value of the on-site and off-site land dedications. The value of the on-site land dedication shall be based upon its value as a civic site. This contribution shall be used offset the identifiable impacts directly attributable to this projects. If an off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent of Zoning Code Section 500.21.H. (DRC: PREM) (Previously Condition B.2 of Resolution R-99-I 154, Petition DOA76-139(B))**
3. **All property included in the legal description of this petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's Office which shall provide, among other things, for the formation of a single "master property owners' association", and automatic membership in the "master" association by any party holding title to any portion of the property included in the planned unit development. (PLAT: ENG - Co Att) (Previously Condition 8.3 of Resolution R-99-I 154, Petition DOA76-139(B))**

Letters C and D have been omitted.

E. ENGINEERING

1. Condition 1 of Resolution R-76-928, Petition 76-I 39 deleted by Condition 15 of Resolution R-89-221 7.
2. Condition 2 of Resolution R-76-928, Petition 76-I 39 deleted by Condition 15 of Resolution R-89-221 7.
3. **Developer shall provide drainage easements across the development to assure continuity of drainage for the golf course with the intent of having a common drainage system for the Planned Unit Development and golf course. (Previously Condition E.3 of Resolution R-99-I 154, Petition DOA76-139(B))**
4. **The master plan shall accommodate a golf cart path either through Tract G, one lot west of Lyons Road or at a location approved by the County Engineer. (Previously Condition E.4 of Resolution R-99-I 154, Petition DOA76-139(B))**
5. Condition 5 of Resolution R-76-928, Petition 76-I 39 deleted by Condition 15 Resolution R-89-221 7.

6. **Developers shall dedicate to Palm Beach County, the additional property required to provide fifty-four (54) feet of right-of-way, from centerline, for the ultimate right-of-way for Lantana Road. (Previously Condition E.6 of Resolution R-99-I 154, Petition DOA76-139(B))**

7. **Within 2 years of the effective date of the Resolution approving this project or as may be extended to correspond with roadway design schedules with approval by the County Engineer, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed free of all encumbrances and encroachments for the remaining unplatted portion of Sherbrooke, PUD:**
 - a. **Hypoluxo Road, 110 feet of right-of-way;**
 - b. **Lyons Road, 108 feet of right-of-way;**
 - c. **Sufficient right-of-way as determined by the County Engineer for the Hypoluxo Road/Turnpike Overpass and/or Interchange; and,**
 - d. **The following intersections. These intersections shall be in conformance with expanded intersections as defined in Palm Beach County's Thoroughfare Right-of-Way Protection Map:**
 1. **State Road 7 and Hypoluxo Road; and,**
 2. **Hypoluxo Road and Lyons Road.**

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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. (Previously Condition E.7 of Resolution R-99-I 154, Petition DOA76-139(B))

8. **Residential dwelling units deleted from the Sherbrooke Planned Unit Development shall not be eligible for credit against any future residential development under the current standards of the 1987 Traffic Performance Standards. (Previously Condition E.8 of Resolution R-99-I 154, Petition DOA76-139(B))**

9. **All building permits requests shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$1,045.00 per approved single family home over 2,000 square feet and \$804.00 per approved single family home under 2,000 square feet. (Previously Condition E.9 of Resolution R-99-I 154, Petition DOA76-139(B))**

10. **Prior to Master Plan certification the Master Plan for Sherbrooke Planned Unit Development shall be revised to indicate that all road rights-of-way shall be terminated in a cul-de-sac or receive subdivision variance to permit a "T" turnaround. This requirement shall not prohibit issuance of single family building permits in the PUD. (Previously Condition E. 10 of Resolution R-99-I 154, Petition DOA76-139(B))**

11. **The property owner shall provide construction plans to the Land Development Division for the completion of Lyons Road from the construction currently in progress south of Lantana Road for the construction of 2 lanes expandable to 6 lanes. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. These construction plans shall be completed within 12 months of the effective date of the Resolution approving this project. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate pave configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. Surety for these plans shall be posted within sixty (60) days of the effective date of adoption of the Resolution approving this petition in the amount to be determined by the County Engineer. (Previously Condition E. 11 of Resolution R-99-I 154, Petition DOA76-139(B))**
12. **The property owner shall complete the construction of Lyons Road from the south property line of Petition No. 89-58 north to the paved terminus south of Lantana Road in accordance with the Condition above. This construction shall be started within ninety (90) days, completed prior to 12 months from the date of notification by the County Engineer for paved continuity of Lyons Roads. Paved continuity shall be defined in this instance as roadway construction contracts having been let for Lyons Road from the south boundary of Petition No. 89-58, Lyons Road through Hypoluxo Road to Boynton Beach Boulevard or concurrent with the construction of Hypoluxo Road as outlined in the conditions belowwhichevershall first occur. All canal crossings within the project limits shall be constructed to their ultimate configuration. (Previously Condition E.12 of Resolution R-99-I 154, Petition DOA76-139(B))**
13. **The property owner shall provide construction plans to Land Development Division for Hypoluxo Road as a 2 lane section (expandable to 6 lanes) from the Florida Turnpike to State Road 7, excluding the Turnpike/overpass plus the appropriate tapers. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. These construction plans shall be commenced within 24 months and completed prior to 36 months of the effective date of the Resolution approving this project. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. Surety for these plans shall be posted within sixty (60) days of the effective date of adoption of the Resolution approving this petition in an amount to be determined by the County Engineer. (Previously Condition E.13 of Resolution R-99-I 154, Petition DOA76-139(B))**
14. **The property owner shall construct Hypoluxo Road as a 2 lane section from State Road 7 to the Florida Turnpike excluding the turnpike overpass/interchange in accordance with the Condition above. This construction shall be started within four (4) years and shall be**

completed within 5 years of the effective date of the Resolution approving this project or as required by the County Engineer for paved continuity for Hypoluxo Road from State Road 7 to Jog Road whichever of the two shall first occur. In no case however shall construction be required to begin prior to 3 years of the effective date of the Resolution approving this project. All canal crossings within the project limits shall be constructed to their ultimate configuration. (Previously Condition E.14 of Resolution R-99-I 154, Petition DOA76-139(B))

15. **Surety required for construction of off-site improvements shall be posted with the Land Development Division for construction as outlined in Condition No. 10 ninety (90) days after completion of the construction plans or as requested by the County Engineer for paved continuity as provided for in Condition Nos. 9 and 11 above, whichever shall first occur. Palm Beach County shall not draw any surety posted by this developer prior to 3 years of the effective date of the Resolution approving this project in accordance with the Condition above. (Previously Condition E.15 of Resolution R-99-I 154, Petition DOA76-139(B))**
16. **The Developer shall give its best effort to cause the platting to all remaining unplatted property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended. (Previously Condition E. 16 of Resolution R-99-I 154, Petition DOA76-139(B))**
17. Prior to the issuance of any building permits for the four additional lots, the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)
18. LYONS ROAD DISCLOSURE
 - a. Prior to the recordation of the next plat, the petitioner shall include in the homeowners documents and all sales contracts, as well as all sales brochures, Master Plans and related Site Plans a disclosure statement identifying Lyons Road as a planned thoroughfare roadway adjacent to or through this property. This shall also include the ultimate number of lanes for the road(s). Information which appears in written form shall appear in **bold print**.(PLAT: ENGINEERING)
 - b. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before July 15, 2002 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowners association. (DATE: MONITORING-Eng)
 - c. The subject property shall be appropriately signed by the developer prior to the issuance of the first building permit. There shall be two signs posted by the developer. The first sign shall be posted adjacent to the additional lots, and the second sign shall be posted at the terminus of Lyons Road south of Lantana Road. These sign locations shall be indicated both on the Master Plan and appropriate Site Plans. (BLDG PERMIT: MONITORING - Eng)

F. PLANNING

1. Prior to final site plan approval by the Development Review Committee (DRC), the site plan shall be amended to include the existing or proposed location of sidewalks along Lantana Road and Lyons Road since this site is within two (2) miles of a school. (DRC: PLANNING)

G. SCHOOL BOARD

1. The property owner shall post the following notice of annual boundary school assignments for students from this development on an 11" X 17" sign in a clear and visible location in all sales offices and models:

"NOTICE TO HOME BUYERS/TENANTS"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding overcrowding or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: School Board)

H. 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 condition of this approval.** (ONGOING: MONITORING - Zoning) (Previously Condition F. 1 of Resolution R-99-I 154, Petition DOA76-139(B))
2. Condition F.2 of Resolution R-99-I 154, Petition DOA76-139(B) which currently states:

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; 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 condition of approval.

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)

Is hereby amended to read:

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; 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 the Code Enforcement Division 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 condition of approval.

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)