

RESOLUTION NO. R-2001- 1669

RESOLUTION APPROVING ZONING PETITION DOA1981-157(C)
DEVELOPMENT ORDER AMENDMENT
PETITION OF AMERICORP FINANCIAL GROUP
BY KEVIN MCGINLEY, AGENT
(TARGET SHOPPING CENTER)

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 DOA1981-157(C) was presented to the Board of County Commissioners at a public hearing conducted on October 2, 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 DOA 1981-157(C), the petition of Americorp Financial Group, by Kevin McGinley, agent, for a Development Order Amendment (DOA) to allow a church or place of worship 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 October 2, 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 Greene and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 2, 2001.

Filed with the Clerk of the Board of County Commissioners on 2 day of October, 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

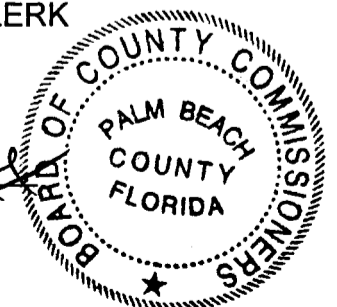


EXHIBIT A
LEGAL DESCRIPTION

The South three quarters of Lot 4, Block 3, Section 12, Township 44 South, Range 42 East, PALMBEACH PLANTATIONS (MODEL LAND COMPANY), according to the plat thereof, as recorded in Plat Book 10, Page 20, of the Public Records of Palm Beach County, Florida, less Right-of-way for Military Trail and less the South 40.00 feet for the LWDD Lateral Canal No. 8.

Together with a portion of Parcel " A" "BOUNDARY PLAT", as recorded in Plat Book 28, Pages 227 and 228 of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of said PARCEL "A"; thence South 89'59'57" West along the South line of said PARCEL "A", a distance of 174.79 feet to the Point of Beginning of this description; thence continue South 89'59'57" West, along the last described course, a distance of 652.04 feet; thence North, a distance of 97.08 feet; thence East, a distance of 647.45 feet; thence South 02'42'30" East, a distance of 97.18 feet to the Point of Beginning.

Said lands situate, lying and being in Palm Beach County, Florida.

Containing 14.96 acres, more or less.

EXHIBIT B

VICINITY SKETCH

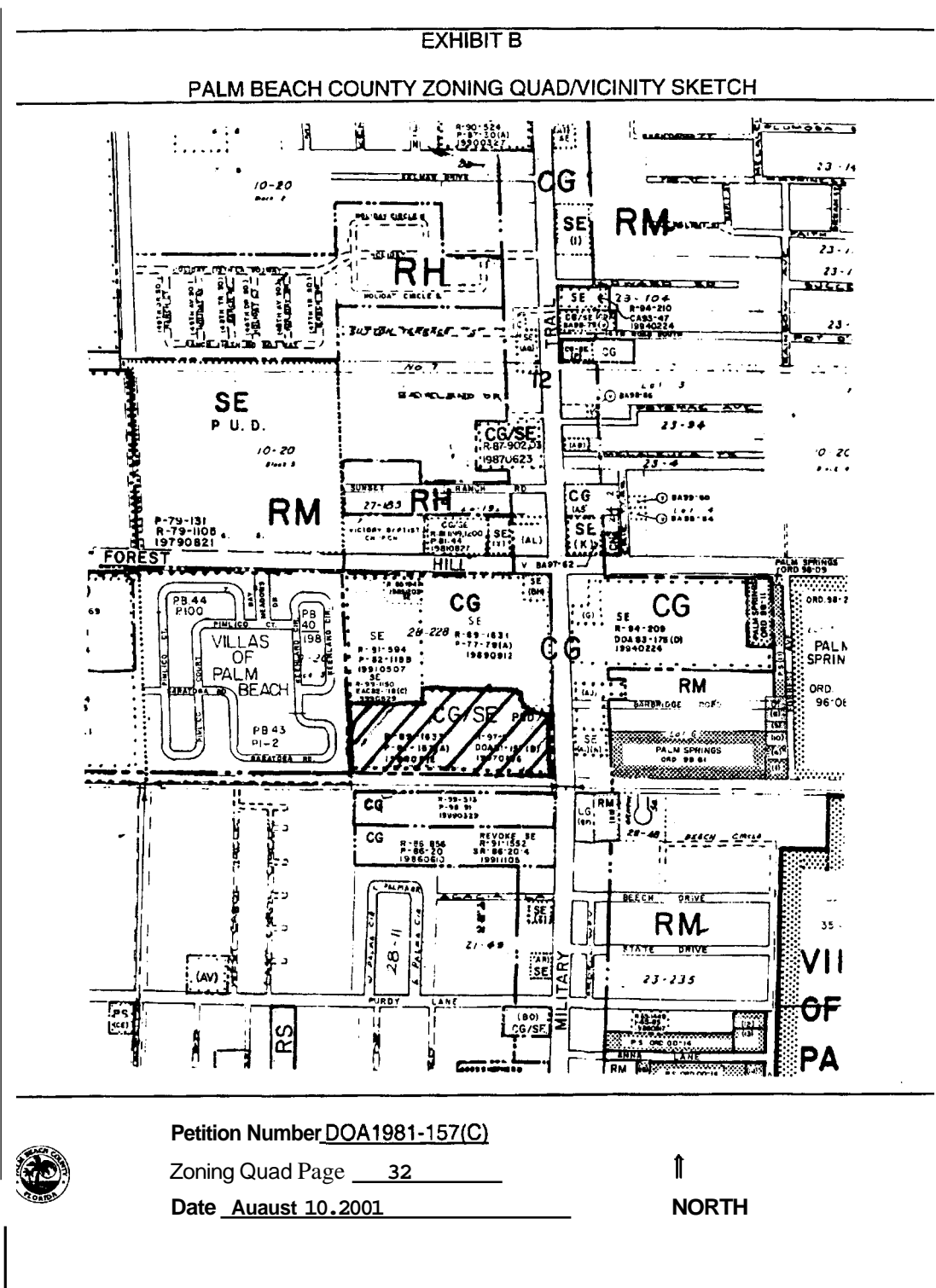


EXHIBIT C

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. Condition A.1 of Resolution R-97-0009, Petition DOA81-157(B), which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions **R-81-1223** (Petition **81-157**), and **R-89-1633** (Petition **81-157(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.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-0009 (Petition DOA81-157(B)), 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)

2. Condition A.2 of Resolution R-97-0009, Petition DOA81-157(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 October **24, 1996**. 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.

Is hereby amended to read:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated May 16, 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. (DRC: ZONING)

B. BUILDING AND SITE DESIGN

1. Petitioner shall confirm legal access to Forest Hill Boulevard prior to site plan approval. (DRC: ZONING) (Previously Condition B.1 of Resolution R-97-0009, Petition DOA81-157(B))
2. Loading areas shall be enclosed with a ten (**10**) foot wing wall to screen areas from residential property to the west. (DRC: ZONING) (Previously Condition **B.2** of Resolution R-97-0009, Petition DOA81-157(B))
3. Air conditioning and exhaust equipment shall be roof mounted and screened to at least the same height as such equipment. (DRC: ZONING) (Previously Condition B.3 of Resolution R-97-0009, Petition DOA81-157(B))

4. Condition 6.4 of Resolution R-97-0009, Petition DOA81-157(B), which currently states:

Prior to certification, the site plan shall be amended to indicate the following:

- a. A minimum twenty-five (25) foot wide pavement dimension between the proposed **4,800** square foot garden center and the southern property line;
- b. Required perimeter landscape **plantings** as indicated on Exhibit **29**;
- c. Landscape tabular information as required by section **500.35** of the Zoning Code; and
- d. Minimum tree planting requirement for the entire site as required by Section **500.35.G.7** of the Zoning Code.

Is hereby amended to read:

Prior to final DRC certification, the site plan shall be amended to include a commercial landscape requirements chart. (DRC: ZONING)

5. Condition **6.5** of Resolution R-97-0009, Petition DOA81-157(B), which currently states:

The garden center storage area shall be redesigned to permit a **twenty-five (25) foot** bypass lane. **No** openings for customer pickup shall be permitted in the fence surrounding the garden center.

Is hereby amended to read:

No openings for customer pickup shall be permitted in the fence surrounding the garden center. (DRC: ZONING)

6. Condition 6.6 of Resolution R-97-0009, Petition DOA81-157(B), which currently states:

The petitioner shall redesign the **4,800** square foot outdoor addition to comply with condition 2.a.

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

7. Condition 6.7 of Resolution R-97-0009, Petition DOA81-157(B), which currently states:

Simultaneously with the submittal for Site Plan Review, the petitioner shall resubmit a copy of the **Official** Zoning Map that correctly indicates the boundaries of the entire site as approved pursuant to Resolution **R-81-1223** and **R-81-1224**.

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

8. Condition B.8 of Resolution R-97-0009, Petition DOA81-157(B), which currently states

Prior to issuance of a building permit for the **4,800** square foot garden center addition, the petitioner shall submit to the Zoning Division, an overall landscape plan for the entire **14.88** planned commercial development indicating the location of the **260** trees within the overall **14.88** acre development as required by Section **500.35.G.7** and **E.1.a(2)** of the Zoning Code.

Is hereby amended to read:

Prior to final DRC certification, the site plan shall be amended to delineate the location of all 260 trees required per the original approval. (DRC: ZONING)

C. HEALTH

1. The developer will take reasonable precautions during the development of this project to insure that fugitive particulates (dust particles) from this project do not become a nuisance to neighboring properties. (ONGOING: HEALTH) (Previously Condition C.1 of Resolution R-97-0009, Petition DOA81-157(B))
2. The developer will take necessary precautions to insure there will be no pollutant runoff from this project to adjacent or nearby surface waters. (ONGOING: HEALTH) (Previously Condition C.2 of Resolution R-97-0009, Petition DOA81-157(B))
3. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for the sewage works are constructed and used by project tenants or owners generating such effluents. (ONGOING: HEALTH) (Previously Condition C.3 of Resolution R-97-0009, Petition DOA81-157(B))
4. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site. (ONGOING: HEALTH) (Previously Condition C.4 of Resolution R-97-0009, Petition DOA81-157(B))
5. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING: HEALTH) (Previously Condition C.5 of Resolution R-97-0009, Petition DOA81-157(B))

D. LANDSCAPING (Along the West Property Line)

1. Petitioner shall be required to construct a six (6) foot wall along the western property boundary prior to the issuance of a Certificate of Occupancy. (CO: LANDSCAPE - Zoning) (Previously Condition F.1 of Resolution R-97-0009, Petition DOA81-157(B))

E. ENGINEERING

1. Within ninety (90) days of Special Exception approval, petitioner shall convey to Palm Beach County sixty (60) feet from centerline for the ultimate right-of-way for Military Trail. (ENG) (Previously Condition E.1 of Resolution R-97-0009, Petition DOA81-157(B))
2. Petitioner shall construct at the project's entrance road and Military Trail:
 - a. Left turn lane, south approach
 - b. Right turn lane, north approach (ENG) (Previously Condition E.2 of Resolution R-97-0009, Petition DOA81-157(B))
3. Petitioner shall construct at the project's entrance road and Forest Hill Boulevard prior to the issuance of a Certificate of Occupancy:
 - a. Left turn lane, east approach
 - b. Right turn lane, west approach (ENG) (Previously Condition E.3 of Resolution R-97-0009, Petition DOA81-157(B))

4. Petitioner shall contribute One Hundred Fifty Thousand Dollars (\$150,000.00) within 120 days of Special Exception approval toward the construction program for Forest Hill Blvd. as a four lane median divided section from Congress Avenue on the east to Military Trails on the west as provided for in the 1981-1982 proposed capital outlay program. In the event this roadway improvement is not part of the 1981-1982 capital outlay program the approval of this petition shall be readdressed by the Board of County Commissioners. The terms of this condition to be specifically set forth in a road construction agreement approved by the County Attorney's office. (ENG) (Previously Condition E.4 of Resolution R-97-0009, Petition DOA81-157(B))

NOTE: Forest Hill Boulevard widening is now complete.

5. Condition 10 of Resolution R-89-1633, Petition 81-157(A) was deleted by Resolution R-97-0009, Petition DOA81-157(B).
6. The petitioner 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 addition to the Target Discount Store presently is \$2,840.00 (106 trips x \$26.79 per trip). (ENG) (Previously Condition E.6 of Resolution R-97-0009, Petition DOA81-157(B))
7. In addition the Developer shall contribute the amount of \$217.00 as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of \$217.00 shall be paid prior to issuance of the first Building Permit. (ENG) (Previously Condition E.7 of Resolution R-97-0009, Petition DOA81-157(B))
8. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$217.00 shall be credited toward the increased Fair Share Fee. (ENG) (Previously Condition E.8 of Resolution R-97-0009, Petition DOA81-157(B))
9. The property owner 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, Zoning Petition 81-157(B) to be paid at the time of issuance of the Building Permit presently is \$16,665 (303 trips X \$55.00 per trip). (ONGOING: ACCOUNTING - Fair Share Fee Coordinator) (Previously Condition E.9 of Resolution R-97-0009, Petition DOA81-157(B))
10. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following:
 - a. Maximum occupancy of the Bingo Hall shall be limited to 400 persons.
 - b. Weekday hours of operation shall be from:
 - 12:00 noon - 3:00 pm (afternoon matinee)
 - 7:00 pm to 10:00 pm (evening game)
 - 11:00 pm to 1:00 am (ONGOING: CODE ENF)
 - c. Weekend hours of operation shall be from:
 - 7:00 pm to 10:00 pm (evening game)
 - 11:00 pm to 1:00 am (ONGOING: CODE ENF) (Previously Condition E.10 of Resolution R-97-0009, Petition DOA81-157(B))

11. LANDSCAPE WITHIN MEDIAN

- A. Prior to issuance of any building permits or interior modifications, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent **median(s)** of Military Trail. When permitted by Palm Beach County Department of Engineering and Public Works, 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 and 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) (Previously Condition E . II.A of Resolution R-97-0009, Petition DOA81-157(B))
- B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All 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 on or before the issuance of a Certificate of Occupancy. (CO: MONITORING- Eng) (Previously Condition E . II.B of Resolution R-97-0009, Petition DOA81-157(B))
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING - Eng) (Previously Condition E . II.C of Resolution R-97-0009, Petition DOA81-157(B))

F. LANDSCAPING

1. Prior to the issuance of a Building Permit, the petitioner shall plant foundation landscape area trees and any other trees depicted on the site plan but not planted on site. (BLDG PERMIT: LANDSCAPE - Zoning) (Previously Condition G. 1 of Resolution R-97-0009, Petition DOA81-157(B))

G. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to include the future location of sidewalks along Military Trail since this site is within two (2) miles of a school. (DRC: PLANNING)

H. OIL RECYCLING

1. The owner, occupant or tenant of the facility shall participate in an oil recycling program which ensures proper re-use or disposal of waste oil. (ONGOING: HEALTH) (Previously Condition H.I of Resolution R-97-0009, Petition DOA81-157(B))

I. USE LIMITATION

1. The hours of operation for the Bingo Hall shall be as follows:
 - a. 7:00 p.m. to 10:00 p.m. (Mon. thru Sun.)
 - b. 11:00 p.m. to 1:00 a.m. (Mon. thru Sun.)
 - c. Noon to 3:00 p.m. (Mon. thru Fri.) (ONGOING: CODE ENF - Zoning) (Previously Condition I.1 of Resolution R-97-0009, Petition DOA81-157(B))
2. The Bingo Hall shall be limited to a maximum of 400 seats. (ONGOING: CODE ENF - Zoning) (Previously Condition 12 of Resolution R-97-0009, Petition DOA81-157(B))
3. The church shall be limited to a maximum of 400 seats and 15,000 square feet. All services shall be held within the church. (ONGOING: CODE ENF)
4. Accessory outdoor uses such as temporary sales events shall be limited to a maximum of four (4) events per year and shall be setback a minimum of 100 feet from all perimeter property lines. No temporary amusements or special events are permitted on the site. (ONGOING/SPECIAL PERMIT: CODE ENF - Zoning/ZONING)

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 condition of this approval. (ONGOING: MONITORING - Zoning)
2. Condition J.1 of Resolution R-97-0009, Petition DOA81-157(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; 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.

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.

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 a 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 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)