

RESOLUTION NO. R-2001-1862

RESOLUTION APPROVING ZONING PETITION Z1980-174(C)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF PALM BEACH COUNTY BCC
BY WARREN H. NEWELL, CHAIRMAN, AGENT
(DELRAY COMMUNITY HOSPITAL)

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 petitions relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended), have been satisfied; and

WHEREAS, Zoning Petition Z1980-174(C) was presented to the Board of County Commissioners at a public hearing conducted on October 2, 2001 and October 25, 2001; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner 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 made the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11 (Adequate Public Facilities Standards) of the Palm Beach County Unified Land Development Code; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 Z1980-174(C), the petition of Palm Beach County BCC, by Warren H. Newell, Chairman, agent, for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Multiple Use Planned Development (MUPD) Zoning District to the Institutional and Public Facility (IPF) Zoning District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on October 2, 2001 and October 25, 2001 subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

The motion was seconded by Commissioner McCarty 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	-	Absent
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Tony Masilotti	-	Absent
Addie L. Greene	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on October 25, 2001.

Filed with the Clerk of the Board of County Commissioners on 25 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

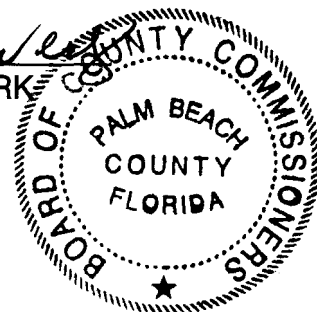


EXHIBIT A

LEGAL DESCRIPTION

A parcel of land situate in Section 26, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the northeast corner of said Section 26; thence along the North line of said Section 26 North $89^{\circ} 56'07''$ West, a distance of 1967.73 feet to a point on the South right-of-way line of Linton Boulevard as described in Official Record Book 7818, Page 139, Public Records of Palm Beach County, Florida, said point being a point of curvature of a curve concave to the South having a radius of 7581.44 feet; thence along said curve, through a central angle of $01^{\circ} 46'47''$, a distance of 235.48 feet to a non-tangent line; thence South $00^{\circ} 03'53''$ West, a distance of 712.34 feet to a point on the South line of the North 715.99 feet of said Section 26 and the POINT OF BEGINNING; thence continue South $00^{\circ} 03'53''$ West a distance of 635.69 feet to a point on the South line of the North half of the northeast corner of said Section 26; thence along said South line South $89^{\circ} 52'51''$ West, a distance of 369.21 feet to a point on the East line of the West 56.10 feet of the northwest quarter of said Section 26; thence along East line North $00^{\circ} 31'11''$ West, a distance of 636.91 feet to a point on the said South line of North 715.99 feet of Section 26; thence along said South line South $89^{\circ} 56'07''$ East, a distance of 375.71 feet to the a POINT OF BEGINNING.

Containing in all 236,991 square feet or 5.440 acres, more or less.

Together With

LEGAL DESCRIPITON:

A parcel of land situate in Section 26, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the northeast corner of said Section 26; thence along the North line of said Section 26 North $89^{\circ} 56'07''$ West, a distance of 1279.56 feet to the northeast corner of Tract "E" as described in the Official Record Book 3442, Page 306, Public Records of Palm Beach County, Florida; thence along the easterly line of said Tract "E" South $45^{\circ} 03'53''$ West a distance of 35.38 feet; thence continue along the said easterly line of said Tract "E" an along the easterly line of Tract "B" as described in the Official Record Book 341, Page 389, Public Records of Palm Beach County, Florida South $00^{\circ} 02'08''$ West a distance of 45.86 feet to a point of curvature of a curve concave to the northwest, having a radius of 199.06 feet; thence continue along the said easterly line of Tract "B" and southwesterly along the arc of the said curve, through a central angle of $57^{\circ} 35'31''$ West a distance of 78.60 feet to a point of curvature of a curve concave to the southeast, having a radius of 147.06; thence southwesterly along the arc of the said curve, through a central angle of $57^{\circ} 31'42''$, a distance of 147.66 feet; thence South $00^{\circ} 03'49''$ West a distance of 268.35 feet to the southeast corner of said Tract "B", said corner lying on the northerly line of said Tract "G" South $89^{\circ} 56'07''$ East a distance of 550.39 feet to the northeast corner of the West half of the southwest quarter of the northeast quarter of the northeast quarter of said Section 26; thence along the east line of the West half of the southwest quarter of the northeast quarter of the of the northeast quarter of said Section 26 South $00^{\circ} 47'39''$ East a distance of 674.28 feet to a point on the South line of the North half of the northeast corner of said Section 26; thence along said South line South $89^{\circ} 52'51''$ West a distance of 1232.53 feet; thence North $00^{\circ} 03'53''$ East a distance of 1348.03 feet to a point on the South right-of-way line of Linton Boulevard as described in the Official Record Book 7818, Page 139, Public Records of Palm Beach County, Florida, said point being on a curve concave to the South having a radius of 7581.44 feet and from which a radial line bears South $01^{\circ} 42'54''$ East; thence along South right-of-way line and easterly

EXHIBIT A

LEGAL DESCRIPTION

along the arc of the said curve, through a central angle of $01^{\circ} 46' 47''$, a distance of 235.48 feet to a point on the aforesaid North line of Section 26; thence along said North line South $89^{\circ} 56' 07''$ East a distance of 688.17 feet to the POINT OF BEGINNING.

Containing in all 1,338,992 square feet or 30.739 acres, more or less.

EXHIBIT B
VICINITY SKETCH

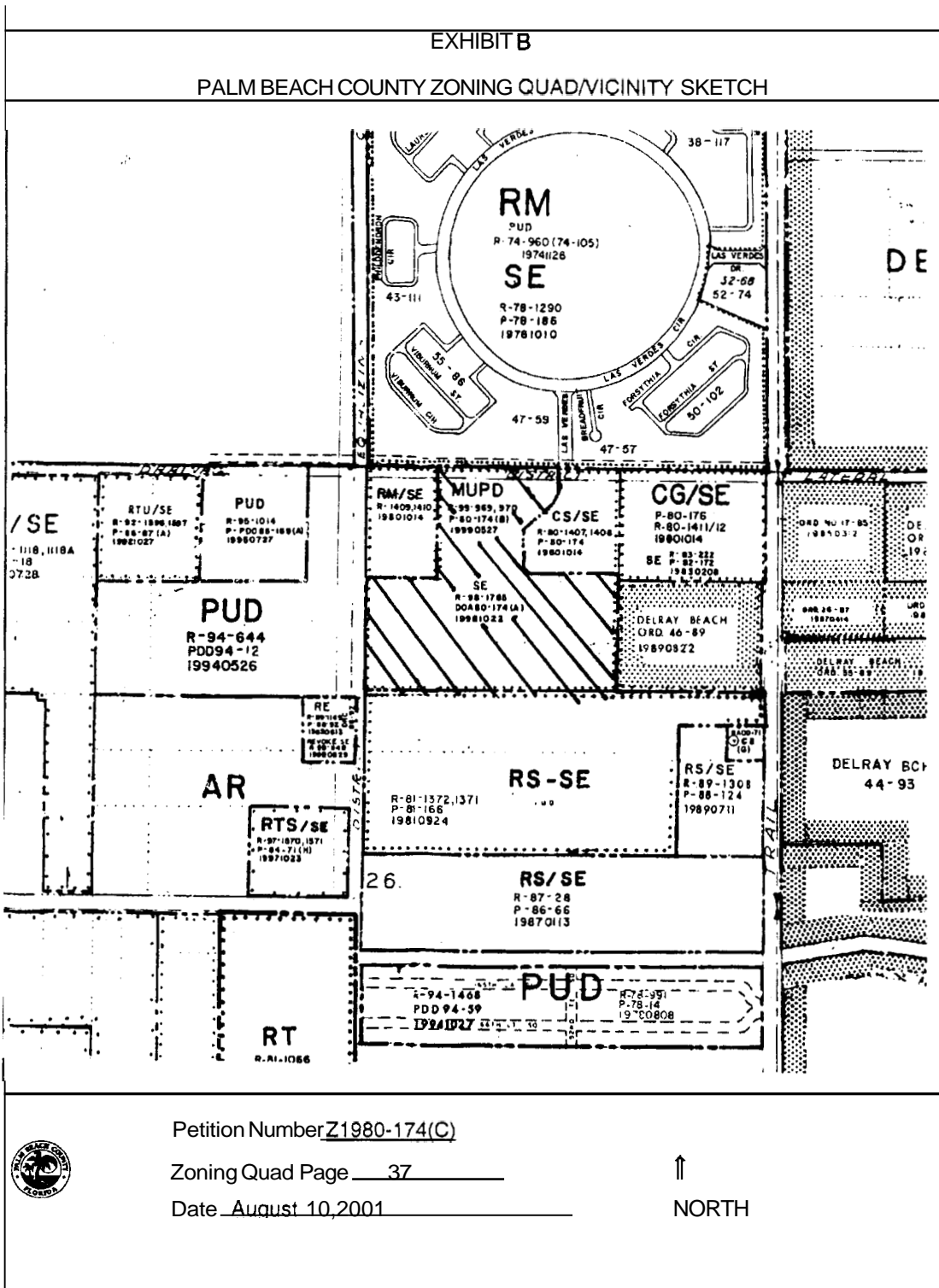


EXHIBIT C

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-99-0969, Petition DOA80-174(B) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution **R-98-1785** (Petition **DOA80-174(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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-99-969 (Petition DOA80-174(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. 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 May, 17 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) (Previously Condition A.2 of Resolution R-99-0969, Petition DOA80-174(B))
3. Prior to final certification of the site plan by DRC, the site plan shall be amended to indicate all existing and proposed landscaping. (DRC : Zoning) (Previously Condition A.3 of Resolution R-99-0969, Petition DOA80-174(B))
4. The developer will take reasonable precautions during the development of this project to insure that fugitive particulates (dust particles) from the project do not become a nuisance to neighboring properties. (ONGOING: CODE ENF) (Previously Condition A.4 of Resolution R-99-0969, Petition DOA80-174(B))

B. HEALTH

1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF) (Previously Condition B.1 of Resolution R-99-0969, Petition DOA80-174(B))

2. Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule **64E-16FAC**. (ONGOING: HEALTHICODE ENF) (Previously Condition B.2 of Resolution R-99-0969, Petition DOA80-174(B))
3. Any toxic or hazardous waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule **62-730FAC**. (ONGOING: HEALTHICODE ENF) (Previously Condition 6.3 of Resolution R-99-0969, Petition DOA80-174(B))

C. LANDSCAPING

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: Twelve (12) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (CO: LANDSCAPE-Zoning)
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previously Condition C.1 of Resolution R-99-0969, Petition DOA80-174(B))
2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;
 - 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) (Previously Condition C.2 of Resolution R-99-0969, Petition DOA80-174(B))

D. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING COMMERCIAL)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip; and
 - b. One (1) canopy tree planted every thirty (30) feet on center;
 - c. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - d. Twenty four inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation to be planted at the plateau of the berm and to be maintained at a minimum height of seventy two (72) inches; and
 - e. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previously Condition D.1 of Resolution R-99-0969, Petition DOA80-174(B))

E. ENGINEERING

1. Petitioner shall construct Linton Boulevard to a four-lane median divided section from the project's east property line to the project's west property line, as determined by the County Engineer. [completed] (Previously Condition E. 1 of Resolution R-99-0969, Petition DOA80-174(B))
2. Petitioner shall construct at the project's entrance on Linton Boulevard:
 - a. Left turn land, east approach
 - b. Right turn lane, west approach
 - c. One land entering and two lanes exiting
 - d. Signalization when warranted, as determined by the County Engineer. [completed] (Previously Condition E.2 of Resolution R-99-0969, Petition DOA80-174(B))
3. Petitioner shall align the project's entrance on Linton Boulevard with the proposed entrance to Kings Point, Phase IV. [completed] (Previously Condition E.3 of Resolution R-99-0969, Petition DOA80-174(B))
4. Petitioner shall only be permitted one median opening on Linton Boulevard to be located a distance of 1,300 feet west of the centerline of Military Trail. [completed] (Previously Condition E.4 of Resolution R-99-0969, Petition DOA80-174(B))
5. Petitioner shall contribute One hundred One Thousand Seven Hundred Fifty Dollars (\$101,750.00) toward the cost of meeting this project's direct and identifiable traffic impact to be paid at the time of issuance of the building permit (s). Credit shall be applied toward the Fair Share contribution based on a certified cost estimate for the reconstruction of the portion of Military Trail to be four-laned as stated in Condition No. 2, not including turn lanes, per the County Engineer's approval. Additionally, full credit shall be applied toward the portion of construction on Linton Boulevard east of Military Trail not including turn lanes. (Condition #2 mentioned above is a shown in Petition 80-176) (Previously Condition E.5 of Resolution R-99-0969, Petition DOA80-174(B))
6. The Lake Worth Drainage District will require the North 90 feet of the East 1160 feet of the West 1628 feet of the North Half of the North Half of the Northeast Quarter of Section 26,46142 for the right-of-way for Lateral Canal No. 36. We will accept a Quit Claim owner prefers. If the owner succeeds in negotiating for the abandonment of L-36, then the above request will be withdrawn. (Previously Condition E.6 of Resolution R-99-0969, Petition DOA80-174(B))
7. LANDSCAPE WITHIN MEDIAN OF LINTON BOULEVARD RIGHT OF WAY
 - 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(s) of Linton Boulevard right of way and shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County . 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. 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) (Previously Condition E.7.A of Resolution R-99-0969, Petition DOA80-174(B))

B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. 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 on or before the issuance of a Certificate of Occupancy. (CO: MONITORING- Eng) (Previously Condition E.7.B of Resolution R-99-0969, Petition DOA80-174(B))

C. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation, prior to issuance of a building permit to reflect this obligation. (BLDG PERMIT: MONITORING - Eng) (Previously Condition E.7.C of Resolution R-99-0969, Petition DOA80-174(B))

8. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

A. No Building Permits shall be issued until construction has begun for Linton Boulevard as a 6 lane section from Military Trail to Congress Avenue plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng) (Previously Condition E.8 of Resolution R-99-0969, Petition DOA80-174(B))

F. LANDSCAPING - INTERIOR

1. One landscape island shall be provided for every twelve (12) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred twenty (120) linear feet. (DRC: ZONING) (Previously Condition F.1 of Resolution R-99-0969, Petition DOA80-174(B))

2. Landscape islands shall be provided along the facades 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 50% of the accumulative length of the structure. All required landscape islands shall be planted with a minimum of one (1) tree or palm every 20 feet on center and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE) (Previously Condition F.2 of Resolution R-99-0969, Petition DOA80-174(B))

G. REZONING

1. Prior to August 1, 2000, the property owner shall agree to the County's rezoning of the site's MUPD zoning district to the **INST** zoning district or any zoning district that is consistent with the site's future land use

designation and the ULDC regulations as amended. If the ULDC is amended to provide for a consistent zoning district then the property owner will be relieved of this condition. (DATE: MONITORING -Zoning-Planning) (Previously Condition G.1 of Resolution R-99-0969, Petition DOA80-174(B))

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 H.1 of Resolution R-99-0969, Petition DOA80-174(B))
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; 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) (Previously Condition H.1 of Resolution R-99-0969, Petition DOA80-174(B))