

RESOLUTION NO. R-2002-0003

RESOLUTION APPROVING ZONING PETITION DOA1982-022(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF MALLARDS LANDING LLC
BY ROBERT BASEHART, AGENT
(MALLARDS LANDING (FKA INDIAN WOODS PUD))

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 DOA1982-022(A) was presented to the Board of County Commissioners at a public hearing conducted on January 3, 2002; 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 DOAI982-022(A), the petition of Mallards Landing LLC, by Robert Basehart, agent, for a Development Order Amendment (DOA) to add land area and 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 January 3, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 3, 2002.

Filed with the Clerk of the Board of County Commissioners on 3 day of January, 2002.

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

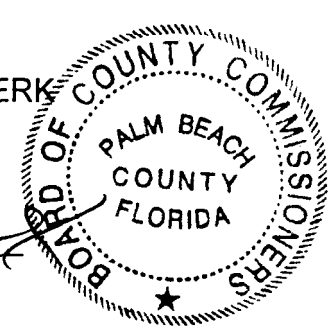


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF AFOREMENTIONED SECTION 25; THENCE SOUTH 01°33'41" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 25 (THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 24 IS ASSUMED TO BEAR SOUTH 01°33'41" WEST AND ALL OTHER BEARINGS ARE RELATIVE THERETO) A DISTANCE OF 2032.11 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 25, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE PLAT OF INDIAN WOODS P.U.D., AS RECORDED IN PLAT BOOK 49, PAGE 1, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL; THENCE CONTINUING ALONG SAID EAST LINE OF THE NORTHEAST QUARTER OF SECTION 25 AND THE EAST LINE OF SAID PLAT OF INDIAN WOODS P.U.D. SOUTH 01°33'41" WEST A DISTANCE OF 677.40 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 AND THE SOUTHEAST CORNER OF SAID PLAT; THENCE NORTH 88°50'49" WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 AND THE SOUTH LINE OF SAID PLAT A DISTANCE OF 672.90 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 25 AND THE SOUTHWEST CORNER OF SAID PLAT; THENCE NORTH 01°31'38" EAST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 25 AND THE WEST LINE OF SAID PLAT A DISTANCE OF 575.86 FEET TO A POINT; THENCE NORTH 88°58'41" WEST A DISTANCE OF 15.00 FEET TO A POINT; THENCE NORTH 01°31'38" EAST ALONG A LINE 15.00 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 25, A DISTANCE OF 62.00 FEET TO A POINT; THENCE SOUTH 88°28'22" EAST A DISTANCE OF 15.00 FEET TO A POINT ON SAID WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25; THENCE NORTH 01°31'38" EAST, ALONG SAID EAST LINE, A DISTANCE OF 38.13 FEET TO THE NORTHEAST CORNER OF SAID PLAT OF INDIAN WOODS P.U.D.; THENCE SOUTH 88°58'41" EAST, ALONG THE NORTH LINE OF SAID PLAT, A DISTANCE OF 15.00 FEET TO A POINT ON THE EAST LINE OF THAT PARCEL CONVEYED TO PALM BEACH COUNTY IN OFFICIAL RECORDS BOOK 2356, PAGE 1287, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°31'38" EAST, ALONG SAID EAST LINE, A DISTANCE OF 208.75 FEET TO A POINT; THENCE SOUTH 88°58'41" EAST, A DISTANCE OF 193.75 FEET TO A POINT; THENCE SOUTH 01°31'38" WEST A DISTANCE OF 208.75 FEET TO A POINT ON THE NORTH LINE OF SAID PLAT; THENCE SOUTH 88°58'41" EAST, ALONG THE NORTH LINE OF SAID PLAT AND THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 25, A DISTANCE OF 464.57 FEET TO THE POINT OF BEGINNING.

CONTAINING 11.41 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

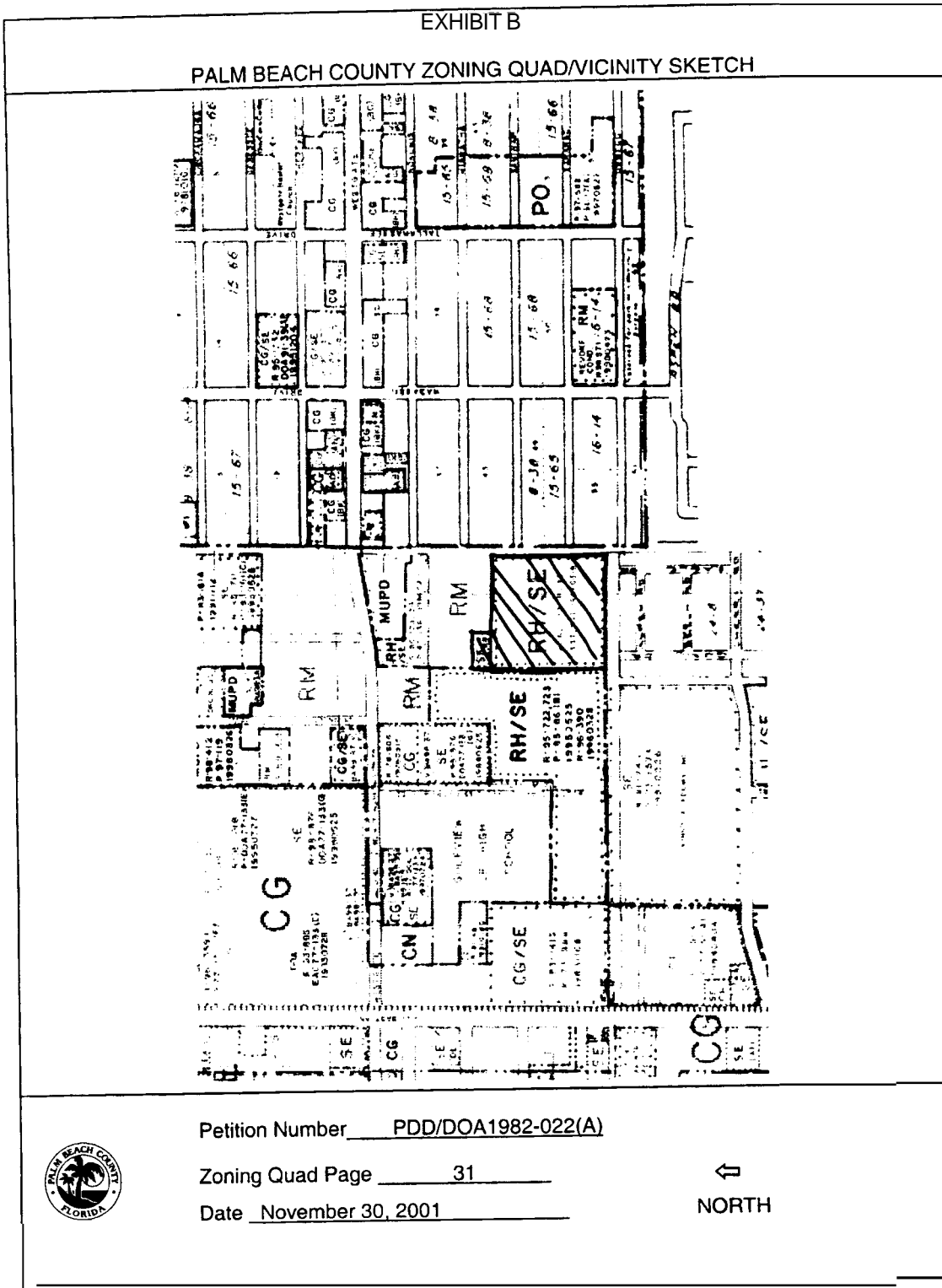


EXHIBIT C

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. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-82-537 (Petition82-022), 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 December 13, 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. Petitioner shall participate in a bond program with Palm Beach County. (Previously Condition 13. of Resolution R-82-537, Petition 82-22)

B. ARCHITECTURAL CONTROL

1. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the building located on the north portion of the site. (BLDG PERMIT: BLDG-Zoning)

C. BUILDING AND SITE DESIGN

1. Condition 7. of Resolution R-82-537 (Petition82-022), which currently states:
Petitioner shall be eligible for consideration of a partial PUD bonus.
Is hereby deleted. [REASON: Not applicable.]
2. The development of the project shall be limited to one-story units along the south property line. (CO: BLDG – Zoning) (Previously Condition 8. of Resolution R-82-537, Petition 82-22)
3. Condition 9. of Resolution R-82-537, Petition 82-22, which currently states:
There shall be no conversion of rental units for seven (7) years after the date of issuance of the first Certificate of Occupancy.
Is hereby deleted. [REASON: Completed.]
4. No culvert shall be located along the canal at the Orange Avenue right of way. (Previously Condition 11. of Resolution R-82-537, Petition 82-22)
5. The south property line shall be fenced, which fence shall extend from the centerline of Quail Drive to the centerline of Eagle Drive, when abandoned. (Previously Condition 12. of Resolution R-82-537, Petition 82-22)

6. All parking improvements indicated on the site plan dated December 13, 2001 shall be installed prior to issuance of a Certificate of Occupancy for the office/3-unit building located at the project's entrance. (CO: ZONING/BLDG)

D. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within twenty (20) feet of the property line and shall be confined to the areas designated on the site plan. (DRC / ONGOING: ZONING / CODE ENF)

E. ENGINEERING

1. Petitioner shall construct prior to the issuance of a Certificate of Occupancy:
 - a. Quail Drive from Westgate Avenue south to the project's entrance road (COMPLETE)
 - b. Left turn lane, east approach, at the intersection of Quail Drive and Westgate Avenue (COMPLETE)
 - c. Left turn lane, west approach, at the intersection of Westgate Avenue and Indian Road. (Previously Condition 1. of Resolution R-82-537, Petition 82-22) (COMPLETE)
2. Petitioner shall provide for a "safecorner" at the intersection of Quail Drive and Westgate Avenue as determined by the County Engineer. (Previously Condition 2. of Resolution R-82-537, Petition 82-22)
3. Condition 3. of Resolution R-82-537, Petition 82-22 which currently states:

Petitioner shall contribute Thirty Thousand Seven Hundred and Fifty Dollars (\$30,750.00) toward the cost of meeting this project's direct and identifiable traffic impact, to be paid on a pro-rata basis at the time of issuance of the building permit(s).

Is hereby deleted. [REASON: Impact fees are code requirements.]
4. Abandon the rights of way of Eagle Drive, Orange Avenue and Whidden Avenue which abut the Project, and Quail Drive from the Project's entrance to the canal. (Previously Condition 10. of Resolution R-82-537, Petition 82-22)

F. HEALTH

1. The Petitioner 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. (Previously Condition 5. of Resolution R-82-537, Petition 82-22)
2. The petitioner will take necessary precautions to insure there will be no pollutant run-off from this project to adjacent or nearby surface waters. (Previously Condition 6. of Resolution R-82-537, Petition 82-22)

G. LAKE WORTH DRAINAGE DISTRICT

- I. **The Lake Worth Drainage District will require the South 23.00 feet of the SE 1/4 of the SE 1/4 of the NE 1/4 of Section 25, Township 43 South, Range 42 East for Lateral Canal No. 2. Petitioners shall convey said right of way by either a Quit Claim Deed or an Easement on a form acceptable to the District.** (Previously Condition 4. of Resolution R-82-537, Petition 82-22)

H. LANDSCAPING – STANDARD

1. Fifty-percent of trees to be planted in the perimeter buffer of the northern 1.15 acres (affected area) and replacement of trees for the entire site (where applicable), shall be native canopy trees and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length.

Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)

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; and
 - b. Clusters: Staggered heights twelve (12) to eighteen (18) feet.

Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

3. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
4. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
5. All canopy trees to be planted within and/or adjacent to overhead utility easements shall be consistent with FP&L's tree list suggested in the Plant the Right Tree in the Right Place guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE - Zoning)

I. LANDSCAPING ALONG WEST PROPERTY LINE (ADJACENT TO QUAIL DRIVE)

1. Landscaping along the west property line adjacent to Quail Drive shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide right-of-way buffer. No width reduction shall be permitted;
 - b. One (1) native canopy tree for each thirty (30) linear feet of property line;
 - c. One pine or palm for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet between clusters;

- d. One small shrub for each two (2) linear feet of property line, to be maintained at a minimum height of twenty-four (24) inches;
- e. One medium shrub for each four (4) linear feet of property line, to be maintained at a minimum height of thirty-six (36) inches;
- f. One large shrub for each eight (8) linear feet of property line, to be maintained at a minimum height of forty (48) inches;
- g. All shrub or hedge material shall be planted in tiered layers, consisting of a minimum of three (3) varying heights as follows:

eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 twenty-four (24) to thirty-six (36) inches – medium shrub; and
 thirty-six (36) to forty-eight (48) inches – large shrub/hedge.

These heights shall be continuously maintained to achieve the tiered effect.
 (CO: LANDSCAPE – Zoning)

J. LANDSCAPING ALONG NORTH PROPERTY LINE (NORTH OF OFFICE)

- 1. Landscaping along the north property line north of the 0.93 acre addition shall be upgraded to include:
 - a. A ten (10) foot wide landscape buffer;
 - b. One (1) native canopy tree for each twenty (20) linear feet of property line; and
 - c. One small shrub for each two (2) linear feet of property line, to be planted twenty-four (24) inches on center and maintained at a minimum height of twenty-four (24) inches. (CO: LANDSCAPE – Zoning)
- 2. Prior to final Development Review Committee certification, the site plan shall be amended to incorporate the existing hedge along the north property line. (DRC: ZONING/Landscape)

K. PLANNED UNIT DEVELOPMENT

- 1. Decorative street lights shall be provided within the northernmost 1.15 acres of the site, pursuant to Section 6.8.A.16.c.(1) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
- 2. Prior to final Development Review Committee certification, the site plan shall be amended to show street trees and/or a landscape focal point within the main entrance divider median, subject to approval by the County Engineer. (DRC: LANDSCAPE - Eng)
- 3. All utilities shall be underground, pursuant to Section 6.8.A.16.c(5) of the ULDC. (PLAT: ENG - Zoning)
- 4. The courtyard focal point indicated on the site plan dated December 13, 2001 shall be installed prior to issuance of a Certificate of Occupancy for the office/3-unit building located at the project's entrance. (CO: ZONING/BLDG)

L. SIGNS

- 1. Freestanding signs shall be limited as follows:
 - a. Maximum sign height: Six (6) feet measured from finished grade to highest point;
 - b. Maximum sign face area per side: Sixty (60) feet;

- c. Maximum number of signs: One (1);
- d. Style: Monument style only; and
- e. Location: Quail Drive. (CO: BLDG)

M. SCHOOL BOARD

1. The subject development shall post a notice of annual boundary school assignments for students from this development. The District will provide an 11" X 17" sign to be posted 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 residents. 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)

N. 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. 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)