

RESOLUTION NO. R-2002-0510

RESOLUTION APPROVING ZONING PETITION CA2001-017
CLASS A CONDITIONAL USE
PETITION OF BP AMOCO
BY PROGRESSIVE DEVELOPMENT GROUP, INC., AGENT
(BP AMOCO)

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 Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA2001-017 was presented to the Board of County Commissioners at a public hearing conducted on January 3, 2002, January 31, 2002, February 28, 2002 and April 4, 2002; 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 recommendations of the Zoning Commission; 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 (ULDC) 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 Class A conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, 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 CA2001-017, the petition of BP Amoco, by Progressive Development Group, Inc., agent, for a Class A Conditional Use to allow a convenience store with gas sales in the General Commercial Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 4, 2002, 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 Masilotti 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	-	Absent
Tony Masilotti	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on April 4, 2002.

Filed with the Clerk of the Board of County Commissioners on 14 day of May, 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

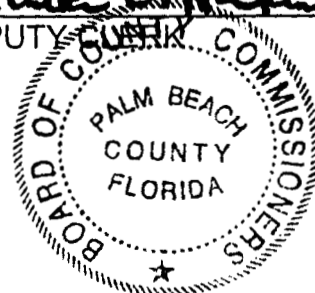


EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

THE WEST 100 FEET OF THE EAST 125 FEET OF THE SOUTH 112.5 FEET OF THE NORTH 227.5 FEET OF TRACT 34, OF MODEL LAND COMPANY'S SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

THE NORTH 100 FEET OF THE EAST 135 FEET OF TRACT 34, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, LESS THE EAST 25 FEET THEREOF, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5 PAGE 79, IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA.

LESS THE SOUTH 10 FEET OF THE NORTH 25 FEET OF THE WEST 110 FEET OF THE EAST 135 FEET OF TRACT 34, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, AND LESS THAT PART OF SAID TRACT 34 WHICH IS INCLUDED IN THE EXTERNAL AREA FORMED BY A 15 FOOT RADIUS ARC TANGENT TO A LINE 25 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID TRACT 34 AND TANGENT TO A LINE 25 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID TRACT 34, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5 PAGE 79, IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA.

PARCEL 3:

THE NORTH 227.5 FEET OF THE EAST 265.4 FEET OF TRACT 34 OF THE MODEL LAND COMPANY'S SUBDIVISION OF SECTION 20, TOWNSHIP 44 SOUTH, RANGE 43 EAST, LESS AND NOT INCLUDING THE EAST 25 FEET FOR ROAD RIGHT OF WAY, BOUTWELL ROAD, THE NORTH 100 FEET OF THE WEST 110 FEET OF THE EAST 135 FEET, THE WEST 100 FEET OF THE EAST 125 FEET OF THE SOUTH 112.5 FEET AND RIGHT OF WAY FOR TENTH AVENUE NORTH; AND TOGETHER WITH THE EAST 5 FEET OF ABANDONED BYRO MEDIA LANE IN DEED BOOK 582, PAGE 2, LYING WEST OF AND ADJACENT TO SAID PROPERTY, PALM BEACH COUNTY, FLORIDA.

TOTAL SITE AREA 49,647.62 SQUARE FEET OR 1.139 ACRES MORE OR LESS.

PARCEL 1: SITE AREA 11,250.35 SQUARE FEET OR 0.258 ACRES MORE OR LESS.

PARCEL 2: SITE AREA 8,202.84 SQUARE FEET OR 0.188 ACRES MORE OR LESS.

PARCEL 3: SITE AREA 30,194.43 SQUARE FEET OR 0.693 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

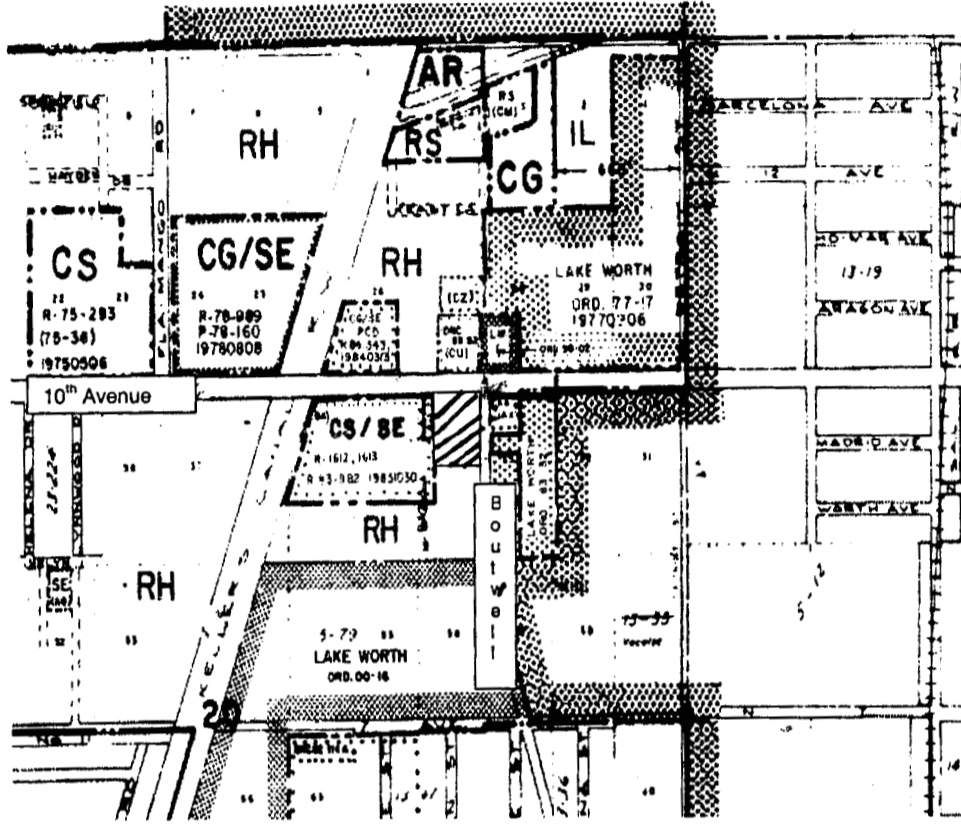


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated March 28, 2002. 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)

B. ANNEXATION

1. The property owner shall voluntarily annex into the City of Lake Worth at such time the subject property becomes contiguous to the City of Lake Worth or is the subject of an annexation proposal by the City of Lake Worth. (ONGOING: PLANNING)

C. ARCHITECTURAL REVIEW

1. The proposed buildings on site shall be designed and constructed to be generally consistent with the facade elevations by Progressive Architects dated March 28, 2002. Deviations from these elevations shall be permitted to comply with applicable architectural conditions of approval. (BLDG PERMIT: BLDG - Zoning)
2. Prior to final DRC certification of the site plan, revised exterior elevations shall be submitted and approved by the Architectural Review Section of the Zoning Division to include the following:
 - a. All roof top mechanical and electrical equipment, including satellite dishes, shall be screened from view on all sides by the parapet;
 - b. Similar architectural character and treatment shall be provided on all sides of the buildings;
 - c. Design of gutters and downspouts shall be architecturally integrated into the architectural design of the building. Painting of the gutters and downspout shall not constitute architectural integration;
 - d. Colors shall be used to achieve compatibility with the surrounding area and complement the project.
 - e. Barrel tile roofs on both the convenience store and the canopy;
 - f. Columns supporting the canopy shall be wider and stucco finish to match the building;
 - g. Color scheme of canopy and building to incorporate mediterranean beiges of the building and sienna tile roofs. (DRC: BLDG PERMIT – Zoning)
3. The maximum height for the convenience store, including air conditioning, mechanical equipment and satellite dishes, shall not exceed twenty-three (23) feet. All heights shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
4. The maximum height for the gas canopy, including air conditioning, mechanical equipment and satellite dishes, shall not exceed twenty-one (21) feet, measured from finished grade to highest point. The clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy; (BLDG PERMIT: BLDG - Zoning)
5. All ground mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG – Zoning)

6. Site improvements shall be consistent with the rendering presented to the Board of County Commissioners dated March 28, 2002 and include a six (6) high combination wrought iron fence with decorative stucco columns. The decorative fence shall be a minimum length of ninety (90) feet along 10th Avenue and sixty (60) feet along Boutwell Road. (DRC: BLDG PERMIT - ZONING)
7. The petitioner shall incorporate a tile roofed entry sign feature consistent with the colors and materials of Condition C.2 and include entrance signage for the "Lake Worth Park of Commerce". (DRC: BLDG PERMIT - ZONING)

D. CONVENIENCE STORE WITH GAS SALES

1. Total gross floor area for the convenience store with gas sales shall be limited to a maximum of 2880 square feet with 6 pumps (maximum/12 fueling stations). (DRC: ZONING)
2. Prior to final site plan certification, the site plan shall be amended to indicate facilities for the provision of free air and water for customer convenience. (DRC/ONGOING: ZONING/CODE ENF)
3. Prior to final site plan certification, the Concurrency Reservation, 01-5001390-C, shall be amended to a maximum of 2880 square feet with 6 pumps (maximum/12 fueling stations). (DRC: ZONING)

E. ENGINEERING

1. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Boutwell Road and 10th Avenue North to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG. PERMIT: MONITORING-Eng)
2. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for Boutwell Road 40 feet from centerline prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (BLDG. PERMIT: MONITORING-Eng)
3. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed additional right of way for the construction of a right turn lane on 10th Avenue North at Boutwell Road. This right-of-way shall be eleven feet in width along the project frontage on 10th Avenue North. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. 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. (BLDG PERMIT: MONITORING-Eng)

F. DUMPSTER

1. Dumpsters shall be located only in the southwest corner of the property. (DRC / ONGOING: ZONING / CODE ENF)

G. HEALTH

1. Stage II vapor recovery plans must be approved by the Palm Beach County Health Department in accordance with Rule 62-252 Florida Administrative Code (FAC) (DRC: HEALTH)

H. LANDSCAPING – STANDARDS

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer 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 be booted native Sabal palms and meet the following minimum standards at installation:
 - a. Palm heights: twelve (12) feet clear trunk;
 - 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)
3. All shrub or hedge material shall be planted in a hierarchy of 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,
forty-eight (48) to sixty (60) inches – large shrub

These heights shall be continuously maintained to achieve the hierarchical effect. (CO: LANDSCAPE - Zoning)
4. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
5. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE - Zoning)
6. All canopy trees to be planted within overhead utilities easement 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 NORTH AND EAST PROPERTY LINES (ADJACENT TO 10th AVENUE AND BOUTWELL ROAD FRONTAGES)

1. Landscaping and buffering along the north and east property lines shall be upgraded to include:

- a. a minimum fifteen (15) foot width on 10th Avenue and minimum twenty (20) width landscape strip on Boutwell Road;
- b. a continuous two and one half (2 ½) foot high berm measured from top of curb with the decorative fence (Condition C.6) located on the plateau of the berm;
- c. one (1) canopy tree planted every twenty (20) feet on center;
- d. one (1) palm or pine tree for each twenty (20) linear feet of frontage with a maximum spacing of sixty (60) feet between clusters; and,
- e. twenty-four (24) inch high shrub or hedge material installed a minimum fifty (50) percent on the plateau of the berm, spaced no more than twenty four (24) inches on center at installation and maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

J. LANDSCAPING ALONG SOUTH PROPERTY LINE (FACING RESIDENTIAL)

- 1. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. a minimum ten (10) foot wide landscape buffer strip; and
 - b. a six (6) foot high masonry screen wall. Both sides the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. (CO: LANDSCAPE)
- 2. The following landscaping requirements shall be installed alternating on both sides of the required wall:
 - a. one (1) canopy tree planted every twenty (20) feet on center;
 - b. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (CO: LANDSCAPE)
- 3. Along both interior and exterior interior sides of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of forty-eight (48) inches. (CO: LANDSCAPE)

K. LANDSCAPING ALONG WEST PROPERTY LINE

- 1. Landscaping and buffering for the west property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot width with ten (10) foot overlapping landscape easement allowed by property owner to the west;
 - b. a continuous two and one half (2 ½) foot high berm measured from top of curb;
 - c. one (1) canopy tree planted every twenty (20) feet on center;
 - d. one (1) palm or pine tree for each twenty (20) linear feet with a maximum spacing of sixty (60) feet between clusters; and,
 - e. twenty-four (24) inch high shrub or hedge material installed a minimum fifty (50) percent on the plateau of the berm, spaced no more than twenty four (24) inches on center at installation and maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

L. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)

2. All outdoor lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
3. Lighting for the gas station canopy shall be flush mounted or recessed. (BLDG PERMIT/CO: BLDG - Zoning)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

M. PARKING

1. A maximum of 18 parking spaces shall be allowed on site. (DRC: ZONING)
2. No overnight parking of trucks shall be permitted on site. (ONGOING: CODE ENF - Zoning)
3. Appropriate signs shall be posted to prohibit loitering in the parking area. (CO/ONGOING: CODE ENF)

N. PLANNING

1. Prior to final Development Review Certification, the site plan shall be revised to indicate a notation on the edge of the western property line which shall read "vehicular and pedestrian connection to adjacent commercial site". (DRC: PLANNING)
2. Prior to the issuance of the certificate of occupancy, the petitioner shall pave the property to the edge of the western property line at the location shown on the final certified site plan which shall read "vehicular and pedestrian connection to adjacent commercial site". (CO: MONITORING-BUILDING-Planning)

O. SIGNS

1. Freestanding point of purchase sign shall be limited to the 10th Avenue frontage as follows:
 - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only.
 - e. Location: Northwest corner of property. (BLDG PERMIT/CO: BLDG - Zoning)
2. Canopy signs shall be limited to east and west facades of the canopy and shall be limited to eighteen (18) inches high. (BLDG PERMIT/CO: BLDG - Zoning)
3. Wall signs shall be limited to north and east facades of the building and shall be limited to eighteen (18) inches high. (BLDG PERMIT/CO: BLDG - Zoning)
4. Prior to final DRC approval, the petitioner shall record a sign easement to the City of Lake Worth for the "Lake Worth Park of Commerce: entry sign subject to review and approval by the City of Lake Worth. This sign to be consistent with the rendering presented to the Board of County Commissioners dated March 28, 2002. (DRC: ZONING)
5. "No loitering" signs shall be posted both inside and outside the building. (CO: ONGOING: CODE ENF - Zoning)

P. USE LIMITATIONS

1. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)
2. Parking of delivery vehicles shall not be permitted on site except within the designated loading space located along the north property line. (ONGOING: CODE ENF - Zoning)
3. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
4. No on site consumption of alcohol shall be permitted. (ONGOING: CODE ENF - Zoning)

Q. 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)