

RESOLUTION NO. R-2002-1645

RESOLUTION APPROVING ZONING PETITION Z/COZ2001-071
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF TIDAL WAVE INVESTMENTS
BY KIERAN J. KILDAY, AGENT
(TIDAL WAVE REZONING)

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

WHEREAS, Zoning Petition Z/COZ2001-071 was presented to the Board of County Commissioners at a public hearing conducted on September 26, 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 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) with approved conditions 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) with approved conditions 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) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20, as amended; 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 Z/COZ2001-071, the petition of Tidal Wave Investments by Kieran J. Kilday, agent, for an Official Zoning Map Amendment with Conditional Overlay Zone Rezoning from Agricultural Residential to Light Industrial with a Conditional Overlay Zone 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 September 26, 2002, subject to the conditions of the CONDITIONAL OVERLAY ZONE 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	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on September 26, 2002.

Filed with the Clerk of the Board of County Commissioners on 29 day of October, 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

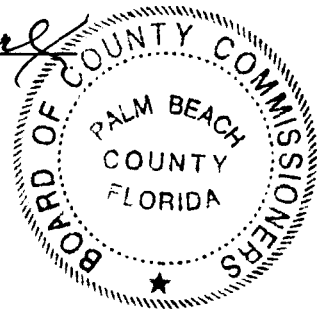


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

The North 450 feet of the East 332 feet of Tract 53, Block 5, of **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54; together with: the East 21 feet of the South 210 feet of said Tract 53, Block 5, of the **PALM BEACH FARMS CO., PLAT NO. 3**, Plat Book 2, Page 45, Public Records of Palm Beach County, Florida.

TOGETHER WITH:

PARCEL 2

The East 15 feet of the West 119 feet of the South 210 feet of Tract 53, Block 5, of **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida; consisting of a driveway from Wallis Road to Parcel 139.

ALSO TOGETHER WITH:

PARCEL 3

The West 104 feet of the South 210 feet of Tract 53, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the plat or map thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH:

PARCEL 4

The South 65 feet of the North 450 feet of the West 112 feet of Tract 53, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH:

PARCEL 5

The East 216 feet of the West 328 feet of the North 450 feet of Tract 53, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH:

PARCEL 6

The North 360 feet of the West Quarter of Tract 54, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida,

Subject to and together with a 35 foot Ingress and Egress easement described as follows: the East 35 feet of the South 300 feet of the West Quarter of Tract 54, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH:

PARCEL 7

The East one-half (E1/2) of the West one-half (W1/2) of Tract 54, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH:

PARCEL 8

The South 300 feet of the West Quarter of Tract 54, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida.

ALSO TOGETHER WITH:

PARCEL 9

The South 210 feet of Tract 53, Block 5, **PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof as recorded in Plat Book 2, Page 45, Public Records of Palm Beach County, Florida, less the West 119 feet thereof and less the East 437 feet thereof described as follows:

Beginning at the Southeast corner of said Tract 53; thence run West along the South line of said Tract 53, 437 feet to a Point of Beginning; Thence North, a distance of 210

EXHIBIT A
LEGAL DESCRIPTION

feet; Thence West, a distance of 104 feet; Thence South, a distance of 210 feet; Thence East, a distance of 104 feet to the Point of Beginning.

ALSO TOGETHER WITH:

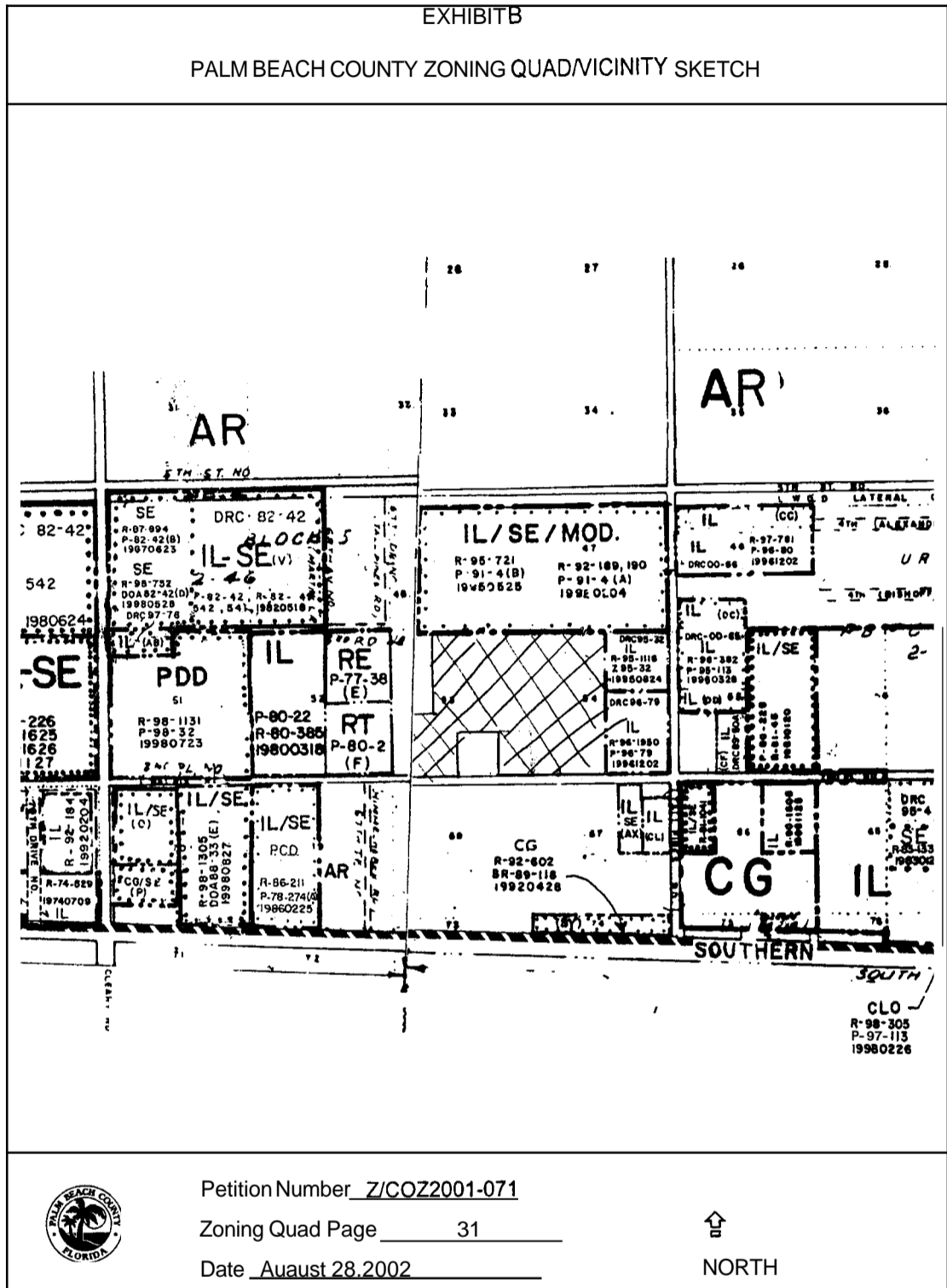
PARCEL 10

The East 332 feet of Tract 53, Block 5, **THE PALM BEACH FARMS CO. PLAT NO. 3**, according to the map or plat thereof, recorded in Plat Book 2, Page 45;

LESS the West 103 feet of the South 210 feet; also the East 21 feet of the South 210 feet; and less the North 450 feet thereof.

CONTAINING 13.00 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



Petition Number Z/COZ2001-071

Zoning Quad Page 31

Date August 28, 2002

↑
NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses as approved by the Board of County Commissioners. 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-ZONING)
2. At time of submittal for final DRC Certification, the petitioner shall submit a site plan to the Zoning Division (DRC) for the site plan review and approval. The site shall be limited to only 98,000 square feet of building area and outdoor storage for the overall site. This site plan shall also be submitted to the PBIA-Overlay Committee for review and approval concurrent with the final DRC submittal. (DRC:ZONING-ZONING-PLANNING)

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-HEALTH)
2. Any toxic or hazardous waste, which may be generated at this site, shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENF-HEALTH)

C. LANDSCAPING - STANDARD

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; and,
 - d. 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;
 - 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)
(CO: LANDSCAPE - Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both sides of the wall. (CO: LANDSCAPE - Zoning)
- 4. All trees and palms 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 canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
 - 6. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CO:LANDSCAPE – Zoning)

D. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF WALLIS ROAD)

- 1. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction shall be permitted;
 - b. a continuous two and one half (2.5) foot high berm measured from top of curb;
 - c. one (1) canopy tree for each thirty (30) linear feet of the property line;
 - d. one (1) palm or pine tree for each twenty-five (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - e. one (1) small shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
 - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - g. one (1) large shrub (ficus) for each two (2) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation to be planted on the plateau of the berm. A minimum overall height of six (6) feet (berm and shrub) should be achieved at maturity. (CO: LANDSCAPE-Zoning)

E. ENGINEERING

- 1. Prior to issuance of a building permit the property owner shall obtain a recorded drainage easement from the adjacent property to the North for the purpose of obtaining Legal Positive Outfall to the LWDD L-4 Canal. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The width and location of this easement shall be based upon a preliminary drainage plan completed by the Developer's Engineer and approved by the County Engineer. (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 Wallis Road, 30 feet from centerline on or before **September 1, 2003** or 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." (DATE/BLDG. PERMIT: MONITORING-Eng)

3. The Property owner shall construct Wallis Road from the project's entrance to Tall Pines Road. Construction shall be a minimum 2-10 foot travel lanes, collector street standards, including all applicable regulation requirements for drainage and stormwater runoff for that portion of Wallis Road being constructed by this property owner.
 - a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
4. Prior to issuance of a Building Permit, the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code.
5. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. No building permits for the site may be issued until construction has begun for the 8 Lane widening of State Road 80 from the Ronald Reagan Turnpike to Haverhill Road. (BLDG PERMIT: MONITORING-Eng)
 - b. No Building Permits for the site may be issued after December 31, 2006. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Section 5.8 of the Unified Land Development Code. (DATE: MONITORING-Eng)

F. LANDSCAPING ALONG NORTH, EAST, AND WEST PROPERTY LINES
(ABUTTING INDUSTRIAL)

1. Landscaping and buffering along the north, east, and west property lines shall be upgraded to include:
 - a. a minimum ten (10) foot wide landscape buffer strip. No width reduction shall be permitted;
 - b. one (1) native canopy tree for each thirty (30) feet of the property line;

- c. one (1) palm or pine tree for each twenty-five (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- e. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE-Zoning)

G. LANDSCAPING ALONG THE PORTION OF THE SOUTH PROPERTY LINE (208 FEET), THE EAST PROPERTY LINE (209 FEET), AND THE WEST PROPERTY LINE (209 FEET) (ABUTTING EXISTING RESIDENTIAL)

1. Landscaping and buffering along the portion of the south (208 feet), east (209 feet), and the west (209) property lines shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction shall be permitted;
 - b. a continuous two and one half (2.5) foot high berm measured from top of curb;
 - c. a six (6) foot high opaque concrete wall (construction pursuant to the ULDC PBIA-Overlay District requirements) to be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
 - d. one (1) canopy tree for each twenty (20) linear feet of the property line to be planted alternating on both sides of the wall;
 - e. 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; and to be planted alternating on both sides of the wall. (CO: LANDSCAPE-Zoning)

2. The following landscaping requirements shall be installed on both sides of the required wall:
 - a. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and
 - b. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE-Zoning)

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)

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)