

RESOLUTION NO. R-2003- 0433

RESOLUTION APPROVING ZONING PETITION DOA 988-019A
DEVELOPMENT ORDER AMENDMENT
PETITION OF SEYMOUR & SUSAN APPLEBAUM
BY ANNA S. COTTREL, AGENT
(BENOIST FARMS ROAD PROPERTY)

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 DOA 1988-019A was presented to the Board of County Commissioners at a public hearing conducted on March 27, 2003; 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 has considered the findings in the staff report and 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 DOA1988-019A, the petition of Seymour & Susan Applebaum, by Anna S. Cottrel, agent, for a Development Order Amendment to reconfigure site plan 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 March 27, 2003, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on March 27, 2003.

Filed with the Clerk of the Board of County Commissioners on 3 day of April, 2003

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

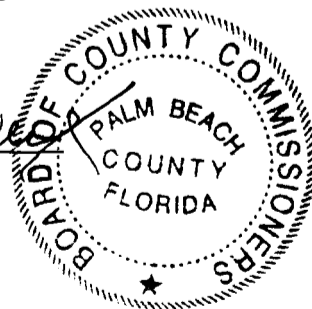


EXHIBIT A
LEGAL DESCRIPTION

THE NORTH 494.58 FEET OF TRACT 12, BLOCK 7, OF **PALM BEACH FARMS COMPANY PLAT NO. 3**, A SUBDIVISION OF PALM BEACH COUNTY, FLORIDA, LESS THE EAST 110 FEET THEREOF, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, IN AND FOR SAID COUNTY, IN PLAT BOOK 2, PAGES 45 TO 54 INCLUSIVE.

EXHIBIT B
VICINITY SKETCH

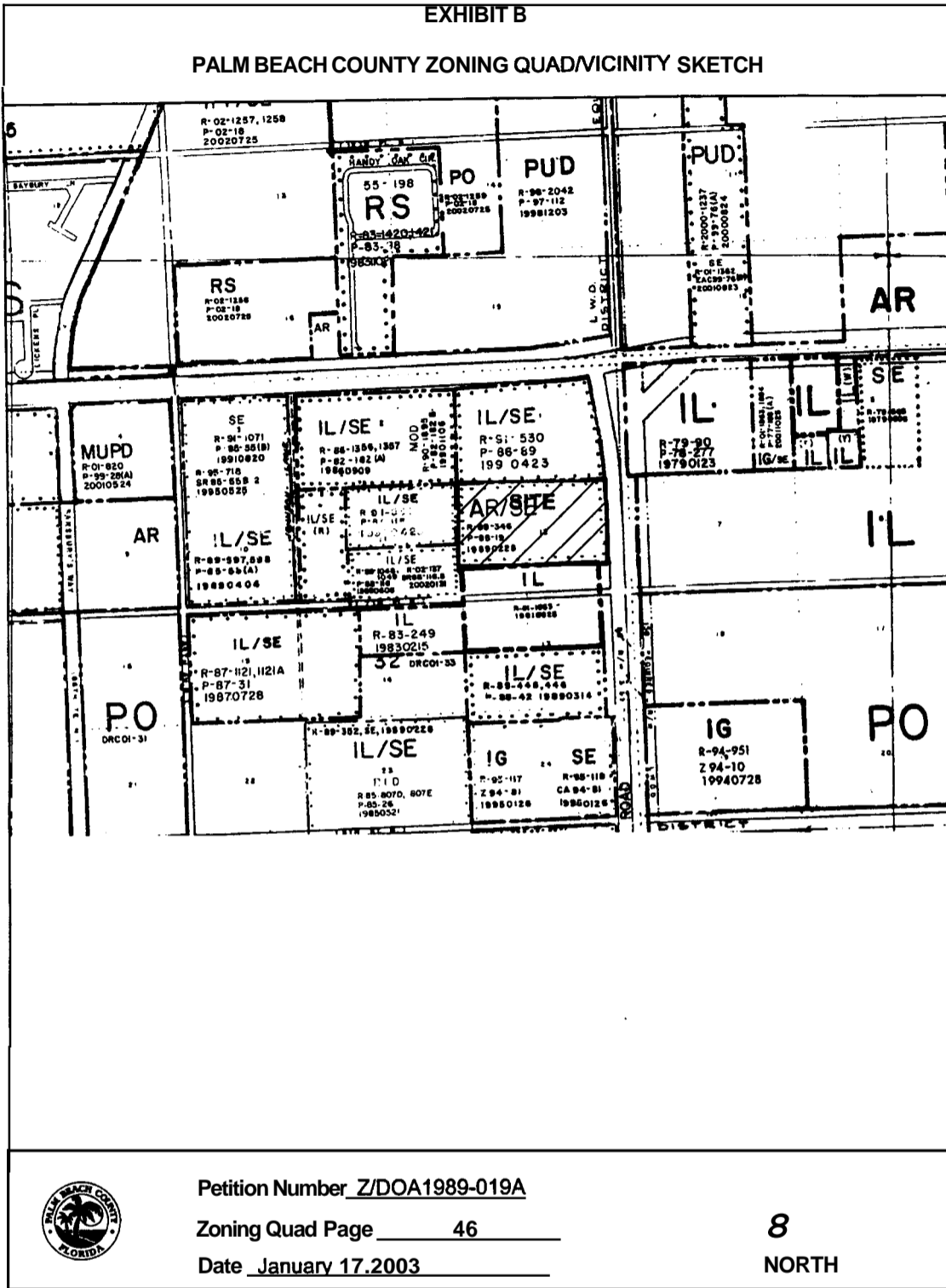


EXHIBIT C

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 Resolution R-89-346 (Petition 1988-019) 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 March 13, 2003. 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: OZONING-Zoning)

B. ARCHITECTURAL REVIEW

1. At time of submittal for final DRC certification of the site plan, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E and Section 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and the certified DRC site plan. (DRC: ZONING - Zoning)

C. CONCURRENCY

1. Prior to final site plan approval by the Development Review Committee (DRC) the petitioner shall revise their concurrency to match the uses and square footages as shown on the approved site plan dated March 13, 2003. (DRC: ZONING - Zoning)

D. BUILDING AND SITE DESIGN

1. Condition 1 of Resolution R89-346, Petition 1988-019, which currently states:

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

- a. **Dimensions and height of the stockpiling area-**
- b. **Height of the air curtain burner.**
- c. **Required 25 foot access dimension.**
- d. **5 foot limited access easement along the north, south and west property lines. .**
- e. **The required landscape strip width along the right-of-way.**

Is hereby deleted: REASON:[replaced by new use]

E. ENGINEERING

1. Condition 5 of Resolution R89-346, Petition 1988-019, which currently states:

The developer shall retain the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite three (3) inches of the stormwater runoff generated by a three (3) year-one (1) hour storm as required by the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

Is hereby deleted. REASON: [code requirement]

2. Condition 6 of Resolution R89-346, Petition 1988-019, which currently states:

The developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site.

Is hereby deleted. REASON: [parking lots are reviewed at time of the permit].

3. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for Benoist Farms Road, 80 feet west of the west right-of-way line of the Lake Worth Drainage District E-2 Canal, as determined by the County Engineer, free of all encumbrances and encroachments. Petitioner shall provide Palm Beach County with sufficient documentation acceptable to the Land Acquisition Division to ensure that the property is free of all encumbrances and encroachments. (ENG) (Previous Condition 7 of Resolution R89-346, Petition 1988-019) [COMPLETED]

4. Condition 8 of Resolution R89-346, Petition 1988-019, which currently states:

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 presently is \$1,607.00 (60 trips X \$26.79 per trip).

Is hereby deleted. REASON: [impact fees and code requirement]

5. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Benoist Farms Road 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)

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

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. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Condition 4 of Resolution R89-346, Petition 1988-019, which currently states:

The petitioner shall preserve the cypress on site.

Is hereby deleted: REASON: [No longer applicable]

2. Condition 11 of Resolution R89-346, Petition 1988-019, which currently states:

An application must be submitted to the F.D.E.R. for a permit to construct an air pollution source in accordance with 17-5, F.A.C. (ERM)

Is hereby deleted: REASON:[No longer applicable]

G. HEALTH

1. Condition 10 of Resolution R89-346, Petition 1988-019, which currently states:

The application and engineering plans, calculations, etc. to construct well and/or septic tank must be submitted to the Health Department prior to site plan approval (or prior to issuance of Building Permit for straight rezoning).

Is hereby amended to read:

Sewer service is available to the property. Therefore, no onsite sewage treatment and disposal system (OSTDS) shall be permitted on this site. All existing OSTDS must be abandoned in accordance with Rule 64E-6 FAC and Palm Beach County ECR-I. (DRC: HEALTH-Health)

2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II (DRC: HEALTH-Health)

H. 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)

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 (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 a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)

I. LANDSCAPE

1. Condition 2 of Resolution R89-346, Petition 1988-019, which currently states:

The petitioner shall landscape the site as indicated on exhibit 3, this shall include canopy trees 10-12 feet high, 30 feet on center and hedge material 24 inches high spaced 24 inches on center.

Is hereby deleted: REASON: [replaced by upgraded landscaping conditions].

J. LANDSCAPING ALONG THE EAST PROPERTY LINE (BENOIST FARMS ROAD FRONTAGE)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip;
 - b. a minimum two (2) foot high continuous berm, measured from top of curb;
 - c. a six (6) foot high poly vinyl opaque fence to be located on the plateau of the berm, where applicable. The fence shall be black or green or a color consistent with the wall along the north property line. The fence shall begin from the north end of the east property line extending southward approximately 320 linear feet continuing west approximately 200 linear feet, continuing south approximately 170 linear feet;
 - d. one (1) native canopy tree for each thirty (30) linear feet of the property line, to be planted on the exterior side of the fence where applicable;
 - 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, to be planted on the exterior side of the fence, where applicable;
 - f. one (1) small shrub for each two (2) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - g. one (1) medium shrub for each four (4) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of twenty-four (24) inches at installation;
 - h. one (1) large shrub for each six (6) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of thirty (30) inches at installation; and
 - i. planting and fencing shall be exempted in area where the safe sight triangles are located. (CO: LANDSCAPE - Zoning)

K. LANDSCAPING ALONG THE EAST 170 FEET OF THE SOUTH PROPERTY LINE (ABUTTING INDUSTRIAL)

1. Landscaping along the east 170 feet of the south property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip;
 - b. a minimum two (2) foot two foot high continuous berm, measured from top of curb;
 - c. a six (6) foot high poly vinyl opaque fence located on the plateau of the berm. The fence shall be black or green or a color consistent with the wall along the north property line. The fence will not be required if the petitioner submits documentation demonstrating existence of an opaque barrier along the adjacent property line meeting the intent of this condition. If the adjacent opaque barrier is removed the petitioner will be required to provide fencing;
 - d. one (1) native canopy tree for each twenty (20) linear feet of the property line, to be planted on the exterior side of the fence; if applicable;
 - 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;
 - f. one (1) small shrub for each two (2) linear feet of the property line, to be planted on the exterior side of the fence, if applicable. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - g. one (1) medium shrub for each four (4) linear feet of the property line, to be planted on the exterior side of the fence. Shrub shall be a minimum height of twenty-four (24) inches at installation;
 - h. one (1) large shrub for each six (6) linear feet of the property line, to be planted on the exterior side of the fence. Shrub shall be a minimum height of thirty (30) inches at installation; and
 - i. planting and fencing shall be exempted in area where the safe sight triangles are located. (CO: LANDSCAPE - Zoning)

L. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING INDUSTRIAL)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. a minimum ten (10) foot wide landscape buffer strip;
 - b. a six (6) foot high concrete screen panel wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the principal structure of the adjacent northern parcel;
 - c. one (1) canopy tree planted for each twenty (20) linear feet of the property line, to be planted on the exterior side of the wall;
 - d. 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, to be planted on the exterior side of the wall;
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation, to be planted on the exterior-side of the wall; and
 - f. one (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation, and to be planted on the exterior side of the wall. (CO: LANDSCAPE - Zoning)

M. LANDSCAPING – INTERIOR

1. Landscaping along the southern edge (approximately 170 linear feet) of the retention pond shall consist of the following:
 - a. one (1) native canopy tree for each twenty (20) linear feet of the southern edge;

- b. one (1) medium shrub for each two (2) linear feet of the southern edge. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE - Zoning)

N. SIGNS

- 1. Any new freestanding sign fronting on Benoist Farms Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. maximum sign face area per side – fifty (50) square feet;
 - c. maximum number of signs - one (1) along the entire road frontage of Benoist Farms Road;
 - d. style - monument style only;
 - e. location - Benoist Farms Road; and
 - f. The sign shall be limited to identification of tenants only. (CO: BLDG - Zoning)

O. USE LIMITATION

- 1. Condition 3 of Resolution R89-346, Petition 1988-019, which currently states:

Use of the site shall be limited to a landscape nursery and paving business with an associated special exception to allow the incineration of vegetative material.

Is hereby deleted: REASON [superceded by Condition A.2]
- 2. Condition 12 of Resolution R89-346, Petition 1988-019, which currently states:

Stockpiling shall not exceed ten (10) feet in height and shall not take place within twenty-five (25) feet of the north, west, or south property lines. No stockpiling shall take place within the eastern three-hundred (300) feet of the property. (ZONING)

Is hereby deleted: REASON:[replaced by new use]

P. COMPLIANCE

- 1. Condition 9 of Resolution R89-346, Petition 1988-019, which currently states:

Failure to comply with the conditions herein may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violations of the Palm Beach County Zoning Code.

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. (ONGOING: MONITORING-Zoning)

2. 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)