

RESOLUTION NO. R-95-1478

RESOLUTION APPROVING ZONING PETITION PDD95-54
OFFICIAL ZONING MAP AMENDMENT (REZONING)
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF Z. E. TAHERI, MD, TRUSTEE
BY KIERAN J. KILDAY, AGENT

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 PDD95-54 was presented to the Board Of County Commissioners at a public hearing conducted on October 26, 1995; 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) of **the Palm Beach County Unified Land Development Code, Ordinance 92-20**; 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 PDD95-54, the petition of Z.E. Taheri, MD, Trustee by Kieran J. Kilday, agent, for an Official Zoning Map Amendment from AR to PDD (PUD) 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 26, 1995, 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 Lee and, upon being put to a vote, the vote was as follows:

Ken Foster, Chair	--	Aye
Burt Aaronson	--	Absent
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Absent
Mary McCarty	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 26th day of October, 1995.

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



LEGAL DESCRIPTION

THE SOUTHEAST QUARTER (S.E. 1/4) OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION 2, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE WEST 123.87 FEET THEREOF; LESS THE SOUTH 80 FEET THEREOF; LESS THE NORTH 10 FEET THEREOF; LESS THAT PART LYING WITHIN 33 FEET OF THE CENTERLINE OF MILITARY TRAIL; AND LESS THE FOLLOWING:

A PARCEL OF LAND FOR ROAD RIGHT-OF-WAY PURPOSES, LYING IN SECTION 2, TOWNSHIP 46 SOUTH, RANGE 42 EAST, COUNTY OF PALM BEACH, STATE OF FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR THE PURPOSE OF THIS DESCRIPTION THE CENTERLINE RIGHT-OF-WAY OF MILITARY TRAIL, (STATE ROAD 809) AS SHOWN ON THE RIGHT-OF-WAY MAP OF MILITARY TRAIL (FROM STATE ROAD 806 NORTH TO STEINER ROAD) NOW IN THE FILES OF THE LAND ACQUISITION DEPARTMENT OF PALM BEACH COUNTY UNDER PROJECT NUMBER 86-112, IS ASSUMED TO BEAR NORTH 01° 46' 18" WEST, AND ALL BEARINGS RECITED HEREIN ARE RELATED THERETO.

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 2, WITH THE CENTERLINE RIGHT-OF-WAY OF SAID MILITARY TRAIL AS SAID INTERSECTION IS SHOWN ON SAID RIGHT-OF-WAY MAP OF MILITARY TRAIL; THENCE, NORTHERLY ALONG THE CENTERLINE RIGHT-OF-WAY OF SAID MILITARY TRAIL, WHICH IS A CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 17,188.80 FEET AND A CENTRAL ANGLE OF 00° 16' 02"; THENCE, NORTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 80.01 FEET TO AN INTERSECTION WITH THE EASTERLY PROLONGATION OF THE NORTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT CANAL LATERAL 30, SAID NORTH RIGHT-OF-WAY LINE BEING A LINE 80.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 2; THENCE, SOUTH 89° 38' 18" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 60.01 FEET TO A POINT ON AN ARC OF A CURVE CONCAVE TO THE WEST AND 60.00 FEET WEST OF AND PARALLEL WITH THE CENTERLINE RIGHT-OF-WAY OF SAID MILITARY TRAIL, AND THE POINT OF BEGINNING (A RADIAL LINE PASSING THROUGH SAID POINT OF BEGINNING BEARS NORTH 88° 41' 44" EAST); THENCE, NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 17,128.80 FEET AND THROUGH A CENTRAL ANGLE OF 00° 28' 02" A DISTANCE OF 139.68 FEET TO A TANGENT LINE; THENCE, NORTH 01° 46' 18" WEST ALONG SAID TANGENT LINE WHICH IS A LINE 60.00 FEET WEST OF AND PARALLEL WITH THE CENTERLINE RIGHT-OF-WAY OF SAID MILITARY TRAIL A DISTANCE OF 1,111.79 FEET TO A LINE 10.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 2; THENCE, NORTH 89° 35' 43" EAST ALONG SAID PARALLEL LINE A DISTANCE OF 27.01 FEET TO A LINE 33.00 FEET WEST OF AND PARALLEL WITH THE CENTERLINE RIGHT-OF-WAY OF SAID MILITARY TRAIL; THENCE, SOUTH 01° 46' 18" EAST ALONG SAID PARALLEL LINE A DISTANCE OF 1,111.15 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 17,155.80 FEET AND A CENTRAL ANGLE OF 00° 28' 07" A DISTANCE OF 140.34 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SAID L.W.D.D. CANAL L-30; THENCE SOUTH 89° 38' 18" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 27.00 FEET TO THE POINT OF BEGINNING.

AND LESS THE RIGHT-OF-WAY FOR FLAVOR-PICT ROAD DEEDED TO PALM BEACH COUNTY BY DEED RECORDED IN OFFICIAL RECORD BOOK 8527, PAGE 784 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

BEING 32.13 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

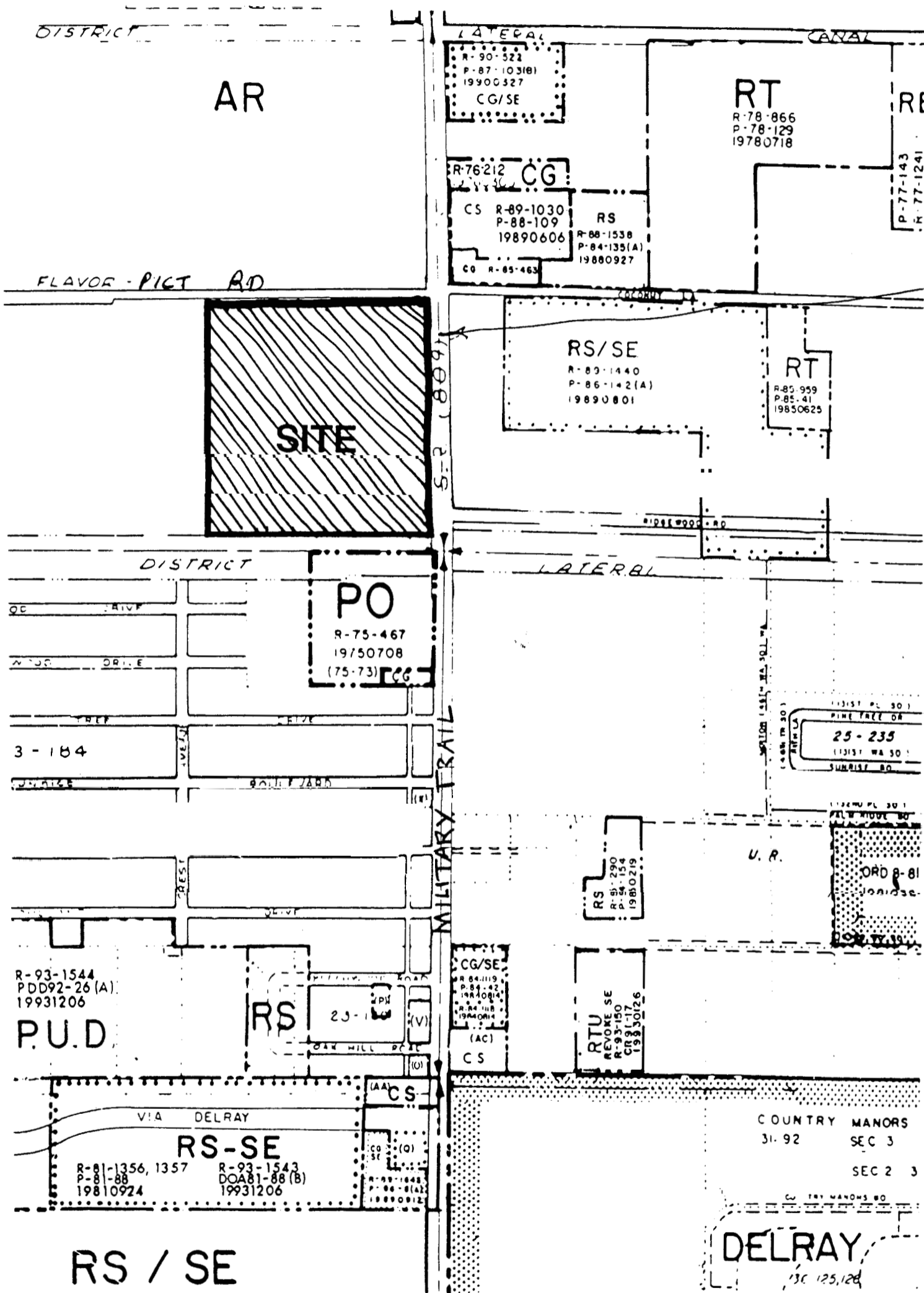


EXHIBIT C

CONDITIONS OF APPROVAL

A. HEALTH

1. Reasonable precautions shall be taken during development to insure that unconfined particulates (dust particles) from the property do not become a nuisance to neighboring properties. (HEALTH)
2. Prior agriculture use of this property may have produced the potential to contaminate the soil and ground water with such chemicals as pesticides, fertilizers and herbicides. In order to assure no health hazards exist on this property the Palm Beach County Public Health Unit requires a Phase I and Phase II Environmental audit be conducted prior to final site plan approval. The Phase I and Phase II audit will be signed and sealed by a registered professional engineer or geologist. (HEALTH)

B. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Closure Assessment Report for all Pollution storage tanks on the property shall be performed according to the Florida Department of Environmental Protection "Pollution Storage Tank Closure Assessment Requirements", June 1994. All Assessment reports shall be submitted to and receive approval from the Department of Environmental Resources Management prior to DRC Master, Site or Subdivision Plan certification. (ERM)

C. ENGINEERING

1. Prior to issuance of a building permit the property owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (ENGINEERING - Engineering).
2. The Property owner shall reconstruct the existing median opening on Military Trail at the property entrance road to provide for a directional median opening. This construction shall be concurrent with the paving and drainage improvements with the first plat. 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. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING - Engineering).
3. On or before June 1, 1996, the property owner shall convey to Palm Beach County adequate road drainage easement(s) through the project's internal drainage system to provide legal positive outfall for runoff from those segments of Flavor Pict Road along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Flavor Pict Road. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a

minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevation and location of all construction shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material (MONITORING - Engineering) .

4. The Developer 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, Zoning Petition Number 95-54, to be paid at the time of issuance of the Building Permit presently is \$272,250 (1650 trips X \$165.00 per trip)(IMPACT FEE COORDINATOR).
5. LANDSCAPE WITHIN MEDIAN
 - A. Prior to technical compliance by the Land Development Division, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. 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. All landscaping installation and maintenance requirements shall be subject to the standards as 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. (ENGINEERING - Engineering)
 - B. All required median landscaping including an irrigation system, if required, shall be at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the property owner 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 concurrent with the improvements with the first plat. (ENGINEERING - Engineering)
 - C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to recordation of the first plat to reflect this obligation. (ENGINEERING - County Attorney)
6. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for:
 - a) Military Trail, 64 feet from centerline; and
 - b) Flavor Pict Road 76 feet from centerline.

All right of way conveyances shall be prior to the technical compliance for the first plat. Conveyance shall be in accordance with Palm Beach County's Typical Intersection Details. The 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (MONITORING/BUILDING - Engineering).

7. Prior to final DRC certification, the Preliminary Development Plan shall be amended to reflect an additional access onto Flavor Pict Road. Location of this additional access shall be subject to approval by the County Engineer.

D. COMPLIANCE

1. 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; 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 conditions 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)