

RESOLUTION NO. R-98- 1789

RESOLUTION APPROVING ZONING PETITION DOA96-47(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF N. KENT WILMERING
BY R. QUINN TURNER, AGENT
(YAMATO ROAD MUPD)

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

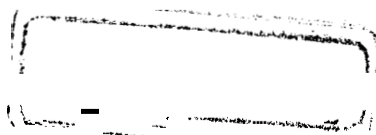
WHEREAS, Zoning Petition DOA96-47(A) was presented to the Board of County Commissioners at a public hearing conducted on October 22, 1998; and

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 DOA96-47(A), the petition of N. Kent Wilmering, by R. Quinn Turner, agent, for a Development Order Amendment (DOA) to modify Condition A.1 (maximum children) of R-96-1733 and add building square footage 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 October 22, 1998, 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 Foster and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 22, 1998.

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

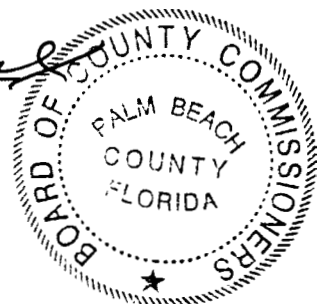


EXHIBIT A
LEGAL DESCRIPTION

**Tract A of YAMATO ROAD COMMERCIAL CORNER,
according to the Plat thereof: recorded in Plat Book 80,
Page 196, of the Public Records of Palm Beach County, Florida**

EXHIBIT B
VICINITY SKETCH

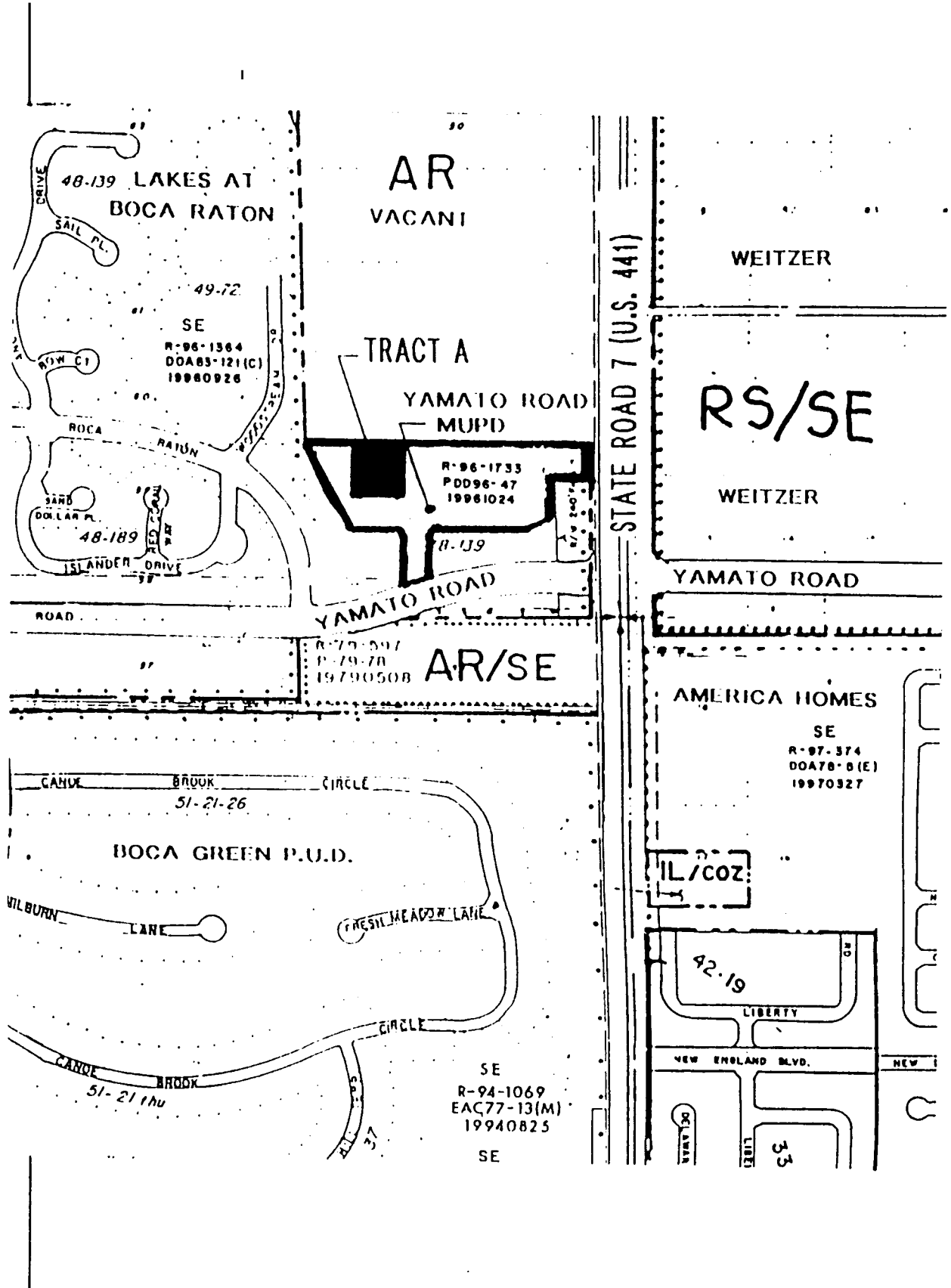


EXHIBIT C

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-96-1733 (Petition ~~96-47~~), 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 August 26, 1998. 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. DAY CARE

1. Condition A.1 of Resolution R-96-1733, Petition 9647 which currently states:

The day care center shall be limited to a maximum of 135 children.

Is hereby amended to state:

The day care center shall be limited to a maximum of 190 children. (ONGOING: HEALTH)

2. One (1) minimum 36 inch high bollard shall be installed every five (5) feet on center within the landscape area along the south perimeter of the outdoor play area. (BLDG - Zoning) Previously Condition A.2 of Resolution R-96-1733, Petition 9647.)

C. HEALTH

1. Architectural plans for the day care facility and private school must be submitted to the Environmental Health Section, Palm Beach County Public Health Unit, in accordance with Chapter 10D-24 FAC prior to issuance of a building permit. (BLDG PERMIT: HEALTH/BLDG) Previously Condition B.1 of Resolution R-96-1733, Petition 96-47.)

D. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. **Trunk** diameter: 3.5 inches measured 4.5 feet above grade.

- c. Canopy diameter: seven (**7**) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least **3.5** feet in length. (CO: LANDSCAPE - Zoning)
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) Previously Condition C. 1 of Resolution R-96-1733, Petition 96-47.)

E. ENGINEERING

1. The Developer shall **replat** the subject property in accordance with provisions of Article **8** of the Unified Land Development Code. The platting of this property may be phased in accordance with a phasing plan acceptable to the Office of the County Engineer and approved by the Development Review Committee. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (BLDG PERMIT: MONITORING - Eng) Previously Condition E. 1 of Resolution R-96-1733, Petition 96-47.)

2. LANDSCAPE WITHIN MEDIAN

a. Prior to issuance of a building permit, 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 and shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards 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. (BLDG PERMIT: MONITORING - Eng) Previously Condition E.2.a of Resolution R-96-1733, Petition 96-47.)

b. All required median landscaping, including an **irrigation** system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and 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 on **or** before the issuance of a Certificate of Occupancy. (**CO: MONITORING - Eng**) Previously Condition E..2.b of Resolution R-96-1733, Petition 96-47.)

- c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: Monitoring - Eng) Previously Condition E.2.c of Resolution R-96-1733, Petition 9647.)
 - 3. 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 Day Care Center (Project Control Number 5000-234) shall be issued until construction has begun for SR 7, 6 laning from Atlantic Avenue to Glades Road plus the appropriate paved tapers. The site plan for the proposed site shall be amended to show this phasing. (BLDG PERMIT: MONITORING-Eng)
- F. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING SR7/US441)
- 1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. A minimum fifty (50) foot wide Type D landscape buffer strip; and,
 - b. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location. (DRC / CO: ZONING / LANDSCAPE) Previously Condition D.1 of Resolution R-96-1733, Petition 96-47.)
- G. LANDSCAPING PERIMETER (EXCEPT RIGHT-OF-WAY BUFFERS ADJACENT TO SR7/US441 AND YAMATO ROAD, AND EAST PROPERTY LINE ADJACENT TO EXISTING LAKE)
- 1. Landscaping and buffering around the perimeter of the entire site, except adjacent to SR7/US441 and Yamato Road right-of-way buffer, and east property line adjacent to the existing lake, shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide Type C compatibility landscape buffer strip; and,
 - b. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location. (DRC / CO: ZONING / LANDSCAPE) Previously Condition F.1 of Resolution R-96-1733, Petition 9647.)
 - 2. Landscape islands shall be provided along the front and side facades of all structures. The minimum width of the required landscape islands shall be five (5) feet. The combined length of the required landscape islands shall be no less than 40% of the total length of the applicable side of the structure. All required landscape islands shall be planted with a minimum of one (1) tree every 20 feet on center and appropriate ground cover. (DRC/CO: ZONING / LANDSCAPE) Previously Condition F.2 of Resolution R-96-1733, Petition 9647.)

H. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ ONGOING: BLDG/ CODE ENF - Zoning) Previously Condition G.1 of Resolution R-96-1733, Petition 96-47.)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning) Previously Condition G.2 of Resolution R-96-1733, Petition 96-47.)
3. All outdoor lighting shall be extinguished no later than 12:00 pm, excluding security lighting only. (ONGOING: CODE ENF) Previously Condition G.3 of Resolution R-96-1733, Petition 96-47.)

I. MASS TRANSIT

1. Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate bus access and/or a bus stop(s) on or adjacent to the subject property. Bus access and/or bus stops shall be located and constructed by the petitioner in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer. The petitioner shall dedicate additional right-of-way to accommodate this requirement, if requested by the County Engineer. Bus stops, if required, shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use, and bicycle rack. (DRC: ZONING - School Board/Eng/Planning) Previously Condition H.1 of Resolution R-96-1733, Petition 96-47.)

J. MUPD STANDARDS

1. Condition 1.1 of Resolution R-96-1733, Petition 96-47 which currently states:

Total gross floor area shall be limited to a maximum of 26,260 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less.

Is hereby amended to state:

Total gross floor area shall be limited to a maximum of 27,650 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less. (DRC: ZONING)
2. Condition 12 of Resolution R-96-1733, Petition 96-47 which currently states:

To ensure consistency with the preliminary development plan dated June 27, 1996 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered.

~~It~~ hereby amended to state:

To ensure consistency with the preliminary development plan dated August 26, 1998 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated ~~as~~ being covered by structures shall be relocated to portions of the site not previously covered. (DRC: ZONING)

3. Condition ~~13~~ of Resolution R-96-1733, Petition 96-47 which currently states:

~~All~~ requested uses shall remain in the location indicated ~~or~~ the preliminary development plan approved by the Board of County Commissioners (exhibit dated June **27, 1996**).

Is hereby amended to state:

All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (exhibit dated August 26, 1998). (DRC: ZONING)

4. Prior to certification of the preliminary development plan by the Development Review Committee, the property owners shall record in the public record a covenant requiring architectural consistency **between** all buildings and **signage**. The covenant shall be recorded in a **form** and manner acceptable to the County Attorney. The covenant shall **not** be removed, altered, changed or amended without written approval ~~From~~ the Zoning Director. (DRC: ZONING - Co **Att**) Previously Condition 14 of Resolution R-96-1733, Petition 96-47.)
5. Prior to certification **of** the preliminary development plan by the Development Review Committee, the property owner shall **record** a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified **planned** development, regardless of ownership. The covenant shall be recorded in the public record in a manner and **form** acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co **Att**) Previously Condition **15** of Resolution R-96-1733, Petition 96-47.)

K. PARKING

1. All delivery and/or loading areas shall be screened from view ~~from~~ the north property line by a twelve (**12**) foot high wing wall, measured ~~from~~ finished grade to highest point. The wing wall shall be **constructed** in a manner consistent with the color, character and architectural style of the principle structure. (CO: BLDG - **Zoning**) Previously Condition ~~1~~ of Resolution R-96-1733, Petition 96-47.)
2. Overnight storage or parking of delivery vehicles or trucks shall **not** be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE **ENF**) Previously Condition J.2 of Resolution R-96-1733, Petition 96-47.)

L. PLANNING

1. A Declaration of Restrictive Covenant, ORB 9237 Pg 395 & 396, has been recorded on this property. The owners placed a **restrictive** covenant on the future development potential of land, if **developed** in accordance with the commercial land use potential, **so** as to limit the property to a general day care facility and a maximum of 20,000 **square** feet of commercial uses **so** as to mitigate the impacts of commercial development on the property from adjacent residential uses. If developed in accordance with the uses allowed by the residential land use designation, then the restriction shall not apply. (DRC: PLANNING) Previously Condition **K.1** of Resolution R-96-1733, Petition 96-47.)

M. SIGNS

1. Point of purchase and/or freestanding signs fronting on US441/SR7 shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to **highest** point - fifteen (15) feet;
 - b. Maximum sign face area per side - 150 square feet;
 - c. Maximum number of signs - one (1); and,
 - d. Style - monument style only. (CO: BLDG) Previously Condition **L.1** of Resolution R-96-1733, Petition 96-47.)
2. Point of purchase **and/or** freestanding signs for each out parcel 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 - **80** square feet;
 - c. Maximum number of signs - one (1) per out parcel (total of three); and,
 - d. Style - monument style only. (CO: **BLDG**) Previously Condition **L.2** of Resolution R-96-1733, Petition 96-47.)

N. 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.

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)** Previously Condition M.1 of R-96-1733, Petition 96-47.)