

RESOLUTION NO. R-99- 706

RESOLUTION APPROVING ZONING PETITION Z/COZ98-058
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF HOVSONS, INC.
BY JOHN GRANT, JR. INC., AGENT
(MELROSE EAST 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/COZ98-058 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 1999; 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/COZ98-058, the petition of Hovsons, Inc. by John Grant, Jr. Inc., agent, for an Official Zoning Map Amendment (Z) from Agricultural Residential (AR) to Residential Transitional Suburban (RTS) with a Conditional Overlay Zone (COZ) 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 April 22, 1999, subject to the conditions of the Conditional Overlay Zone (COZ) described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner Roberts and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on April 22, 1999.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Burt Aaronson*
COUNTY ATTORNEY --

BY: *Joan Hansen*
DEPUTY CLERK

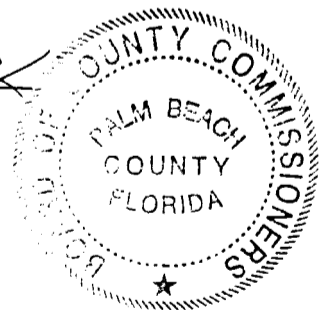


EXHIBIT A
LEGAL DESCRIPTION

PARCEL NO. 1

A parcel of land being a portion of Tracts 1 and 22, Block 46, PALM BEACH FARMS COMPANY PLAT NO. 3 as recorded in Plat Book 2, Pages 45 to 54, inclusive, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

BEGINNING at the Southeast corner of the aforementioned Tract 22, Block 46; thence with an assumed bearing of S. 89° 21' 30" W., along the South line of said Tract 22, a distance of 206.53 feet to a point lying on the East right-of-way line of Lake Worth Drainage District Canal E-2-E; thence with a bearing of N. 00° 37' 02" W., along said East right-of-way line of Canal E-2-E, a distance of 1,070.68 feet to a point lying on the South line of Lake Worth Drainage District Lateral L-20; thence with a bearing of N. 89° 23' 09" E., a distance of 224.58 feet to a point lying on the East line of the aforementioned Tract 1, Block 46; thence with a bearing of S. 00° 20' 54" W., along the East line of said Tracts 1 and 22, along a line lying 25 feet West of and parallel to the East line of Section 17, Township 45 South, Range 42 East, a distance of 1,070.72 feet, more or less, to the POINT OF BEGINNING.

CONTAINING 230,776 square feet (5.298 Acres) more or less.

TOGETHER WITH (PARCEL NO. 2):

A parcel of land being a portion of Tracts 23 and 54, Block 46, PALM BEACH FARMS COMPANY PLAT NO. 3 as recorded in Plat Book 2, Pages 45 to 54, inclusive, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

BEGINNING at the Southeast corner of the aforementioned Tract 54, Block 46; thence with an assumed bearing of S. 89° 21' 30" W., along the South line of said Tract 54, a distance of 183.77 feet to a point lying on the East right-of-way line of Lake Worth Drainage District Canal E-2-E; thence with a bearing of N. 00° 37' 02" W., along said East right-of-way line of Canal E-2-E, a distance of 1,320.00 feet to a point lying on the North line of the aforementioned Tract 23, Block 46; thence with a bearing of N. 89° 21' 30" E., along said North line of Tract 23, a distance of 206.02 feet to the Northeast corner of said tract 23; thence with a bearing of S. 00° 20' 54" W., along the East line of said Tracts 23 and 54, along a line lying 25 feet West of and parallel to the East line of Section 17, Township 45 South, Range 42 East, a distance of 1,320.20 feet, more of less, to the POINT OF BEGINNING.

CONTAINING 257,267 square feet (5.966 Acres) more or less.

EXHIBIT A

LEGAL DESCRIPTION

TOGETHER WITH (PARCEL NO. 3)

A parcel of land lying in Section 17, Township 45 South, Range 42 East, also lying within the Plat of PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Pages 45 to 54, inclusive of the Public Records of Palm Beach County, Florida, being that certain 30 foot road reservation bounded on the North by the South line of Tract 22, Block 46, on the South by the North line of Tract 23, Block 46, on East by the Southerly extension of the Easterly line of Tract 22, Block 46 and on the West by the Easterly right-of-way of Lake Worth Drainage District Canal E-2-E, said parcel of land being vested in the adjacent property owners by virtue of West Peninsular Title Company v. J. Clinton Scott, 689 So. 2d 1085 (Fla. 4th DCA 1997).

CONTAINING 6,188 square feet (0.142 Acres) more of less.

TOGETHER WITH (PARCEL NO. 4)

A parcel of land lying in Section 17, Township 45 South, Range 42 East, being the Westerly 12.50 feet of that certain 25.00 foot road reservation lying adjacent to the Easterly line of Tracts 1 & 22, Block 46 of PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Pages 45 to 54, inclusive, of the Public Records of Palm Beach County, Florida, bounded on the South by the Easterly extension of the South line of Tract 22 and on the North by the Southerly Right-of-Way line of the Lake Worth Drainage District Lateral No. 20;

AND

A parcel of land lying in Section 17, Township 45 South, Range 42 East, being the Westerly 12.50 feet of that certain 25.00 foot road reservation lying adjacent to the Easterly line of Tracts 23 and 54, Block 46 of PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, pages 45 to 54, inclusive, of the Public Records of Palm Beach County, Florida, bounded on the North by the Easterly extension of the North line of said Tract 23, and on the South by the Easterly extension of the South line of said Tract 54;

AND

A parcel of land lying in Section 17, Township 45 South, Range 42 East, being the Westerly 12.50 feet of that certain 25.00 foot road reservation lying South of the Easterly extension of the South line of Tract 22, and North of the Easterly extension of the North line of Tract 23 and East of the Southerly extension of the East line of Tract 22, Block 46, PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Pages 45 to 54, inclusive, of the Public Records of Palm Beach County, Florida.

CONTAINING 30,262 square feet (0.695 Acres) more or less, said parcels being vested in the adjacent property owners by virtue of West Peninsular Title Company v. J. Clinton Scott, 689 So. 2d 1085 (Fla. 4th DCA 1997).

EXHIBIT A
LEGAL DESCRIPTION

TOGETHER WITH (PARCEL NO. 5)

A parcel of land lying in Section 8, Township 45 South, Range 42 East, being a portion of Tract 1, Block 46, PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Pages 45 to 54, inclusive, being more particularly described as follows:

COMMENCING at the Northeast Comer of Tract 1, Block 46 of said PALM BEACH FARMS. COMPANY PLAT NO. 3;

THENCE with a bearing of S. 00° 20' 54" W., along the East line of said Tract 1, for a distance of 35.85 feet to the POINT OF BEGINNING.

THENCE continue with a bearing of S. 00° 20' 54" W., for a distance of 133.47 feet to the Northerly right-of-way line of the Lake Worth Drainage District Canal No. L-20;

THENCE with a bearing of S. 89° 23' 09" W., along a line parallel with the North line of said Tract 1, Block 46, for a distance of 225.93 feet to a point lying on the Easterly right-of-way line of Lake Worth Drainage District Canal No. E-2-E;

THENCE with a bearing of N. 00° 37' 02" W., along said East right-of-way line of said Lake Worth Drainage District Canal No. E-2-E for a distance of 133.45 feet to a point lying 35.85 feet South of the North line of said Tract 1, Block 46;

THENCE with a bearing of N. 89° 23' 09" E., along a line 35.85 feet South of the North line of said Tract 1, Block 46 for a distance of 228.17 feet, more or less, to the POINT OF BEGINNING.

CONTAINING 30,300 square feet (0.696 Acres) more or less.

EXHIBIT B
VICINITY SKETCH

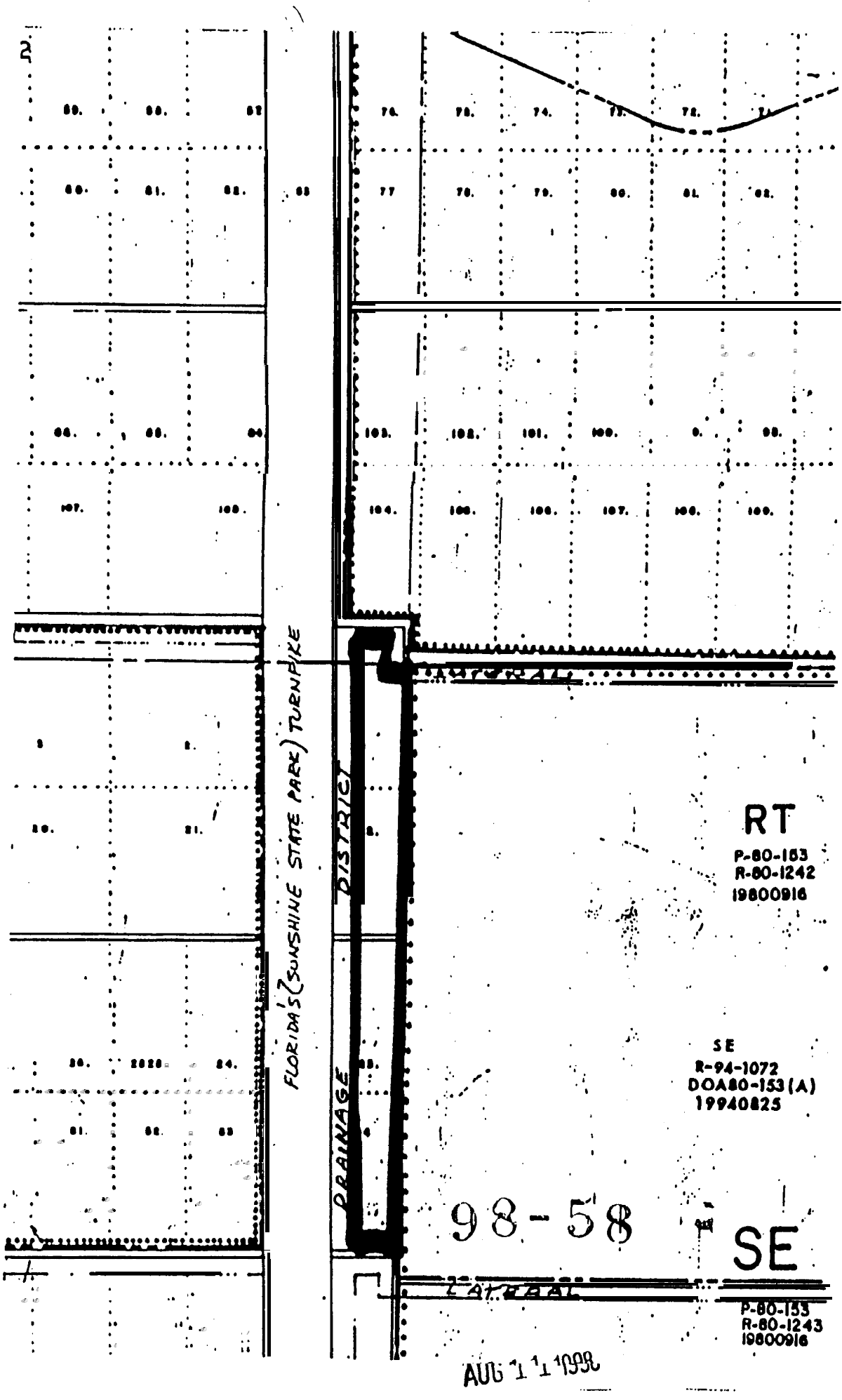


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: There are no Conditions of Approval D, the letter "E" is always reserved for the Engineering Department.

A. CONCURRENCY

1. Prior to final DRC certification of the site plan, the petitioner shall convert the APF determination to a full concurrency reservation. (DRC: CONCURRENCY)

B. HOMEOWNERS ASSOCIATION AND ACCESS AGREEMENT

1. Prior to the issuance of the Technical Compliance for any plats of this property, or any portion thereof, Hovsons shall establish a homeowners association and will subject the property to a Declaration of Covenants and Restrictions in accordance with the Settlement Agreement between Hovsons, Sunbelt Properties and Palm Beach County and in accordance with the Palm Beach County ULDC.. (ENG/ZONING:Co-Atty)
2. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record an access agreement from the Hovsons property to the property immediately south of the Hovsons property. This access agreement shall be in accordance with the Settlement Agreement between Hovsons, Sunbelt Properties and Palm Beach County. (DRC: ZONING-Co Att)

C. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING THE LWDD CANAL AND THE TURNPIKE)

1. A minimum six (6) foot high concrete panel wall (with no continuous footings). (CO: LANDSCAPE - Zoning)
2. The following shall supplement the minimum landscape requirements of the ULDC, and the plant materials shall be installed on the interior side of the required wall:

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; and,
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
3. 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)
- 4. All shrubs required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.

E. ENGINEERING

- 1. Prior to the issuance any Building Permits the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)
- 2.
 - a. The petitioner shall notify future home buyers by providing that all homeowners documents, sales contracts, as well as all sales brochures, Master Plans and related Site Plans contain a disclosure statement identifying the existence of the Florida Turnpike adjacent to the site, that this property is in an area subject to noise generated by traffic on the Turnpike and that any costs to mitigate this noise shall be borne by the property owners and not Palm Beach County. This shall also include a statement to be contained in the sales contracts, homeowners documents, and all sales contracts of the existence of this thoroughfare and the noise levels residents may expect. (PLAT: ENGINEERING)
 - b. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The first report shall be submitted on or before July 15, 1999 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control of the homeowners association to the homeowners. (DATE: MONITORING-Eng)
- 3. Property owner shall post acceptable surety with the County Engineer and County Attorney to be used for the repair of any internal roadways within Aberdeen PUD as a result of damage caused during the construction of the improvements for this. This bond may also be used for the repair of any internal roadways within Aberdeen PUD as a result of any damage caused during the construction of the individual home sites within Melrose East Subdivision. This bond shall be posted prior to the issuance of the first building permit and shall remain active until the final Certificate of Occupancy for the site. This property owner shall also be responsible for any shortages between the cost of the repair and the amount of the bond posted. (BLDG PERMIT:MONITORING - Eng)

F. SCHOOL BOARD

- 1. The petitioner shall post in a clear and visible location in all sales offices and model homes a sign provided by the School Board of Palm Beach County which indicates that school age children in the development may not be assigned to the most proximate public school because of overcrowding, racial balancing, or other School Board policies. (ONGOING: SCHOOL BOARD)

2. The subject development shall post a notice of annual boundary school assignments for students from this development. The District will provide an 11" X 17" sign to be posted in a clear and visible location in all sales offices and models. (ONGOING: SCHOOL BOARD)

G. 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 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 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)