

RESOLUTION NO. R-2005-0381

RESOLUTION APPROVING ZONING APPLICATION CA2004-1014
(CONTROL NUMBER 1989-006)
CLASS A CONDITIONAL USE
PETITION OF SOUTHERN MANAGEMENT CORP
BY LAND RESEARCH MANAGEMENT, INC., AGENT
(FAMILY GOLF CENTER)

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 Board of County Commissioners, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application CA2004-1014 was presented to the Board of County Commissioners at a public hearing conducted on February 24, 2005; 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2 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 Application CA2004-1014, the petition of Southern Management Corp, by Land Research Management, Inc., agent, for a Class A Conditional Use to allow outdoor entertainment in the Commercial Recreational Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on February 24, 2005, 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:

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

The Chairman thereupon declared that the resolution was duly passed and adopted on February 24, 2005.

Filed with the Clerk of the Board of County Commissioners on 9 day of March 2005

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 1000 FEET OF THAT PART OF THE EAST QUARTER, (E 1/4), OF SAID SECTION 36, LYING NORTH OF THE OLD NORTH RIGHT-OF-WAY LINE FOR STATE ROAD 80 AS SHOWN ON THE STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP FOR SECTION 9312-201, DATED 1949 AD. LESS THE EAST 435.60 FEET THEREOF. ALSO LESS THE ADDITIONAL RIGHT-OF-WAY FOR NEW STATE ROAD 80 RECORDED IN OFFICIAL RECORDS BOOK 4969, PAGES 1528-1530, SAID ADDITIONAL RIGHT-OF-WAY ALSO SHOWN ON STATE ROAD DEPARTMENT NEW RIGHT-OF-WAY MAP FOR SECTION 93120-2515.

CONTAINING: 853,122 SQUARE FEET OR 19.58 ACRES.

SUBJECT TO EASEMENTS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH

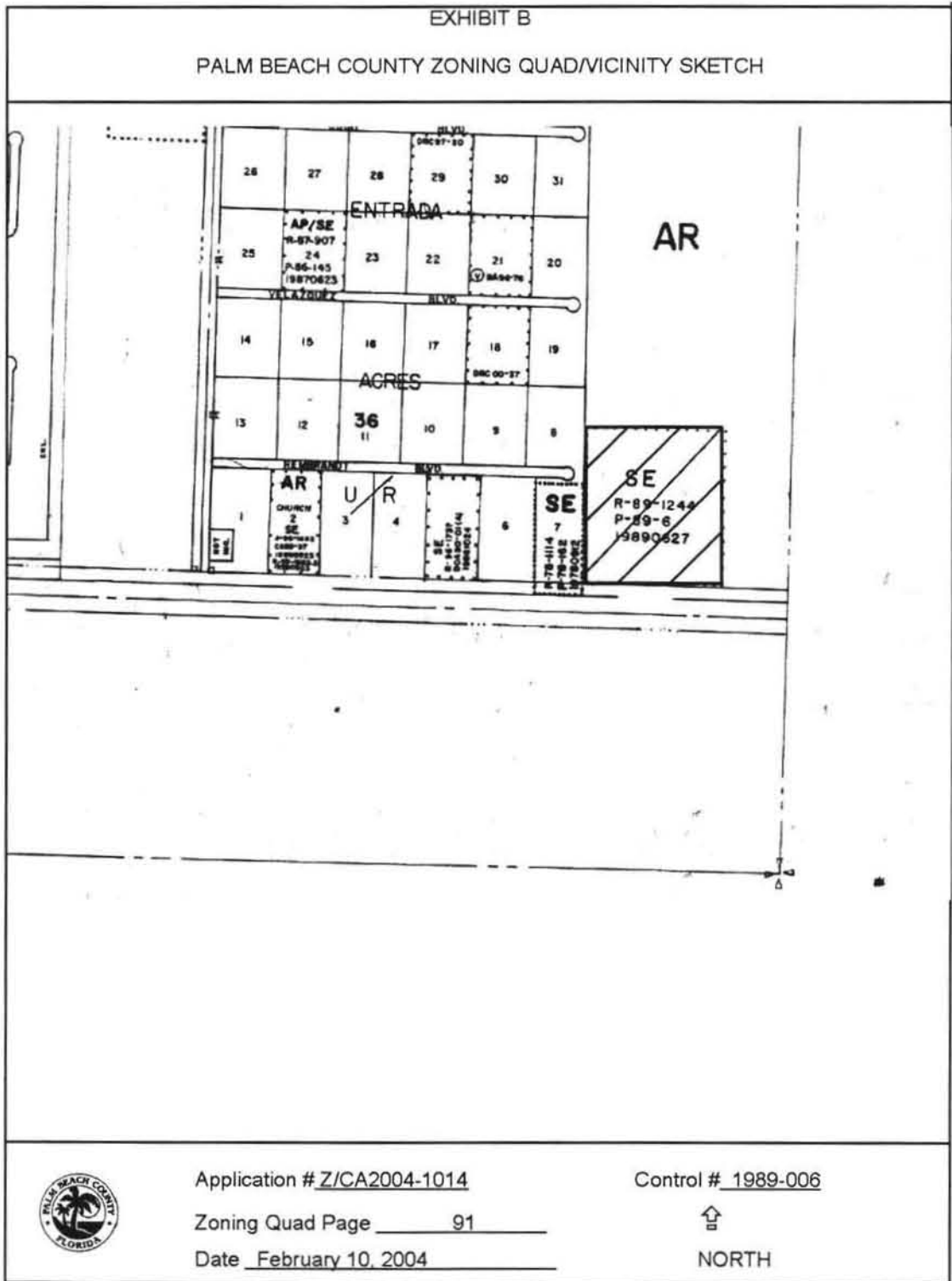


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-89-1244 (Petition DOA1989-06) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 2.E 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 December 1, 2004. 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)
3. Prior to final site plan approval by the Development Review Officer (DRO), all notes referencing previous conditions shall be amended to reflect the current status of each condition pursuant to petition Z/CA2004-01014. (DRO: ZONING – Zoning)

B. ENVIRONMENTAL RESOURCES MANAGEMENT

1. **The developer shall preserve existing vegetation onsite. The vegetation, specifically, “native slash pine” which are located in clusters shall be incorporated into the project design. Areas of existing vegetation to be preserved shall be shown upon the approved development plan prior to site plan certification. These preservation areas shall receive appropriate protection from damage and disturbance in accordance with Section 500.36 of the Zoning Code during the site development and construction phase. (Previous condition 10 of Resolution R89-1244, Petition 1989-006) (DRO: ERM – Erm)**
2. Previous condition 13 of Resolution R89-1244, Petition 1989-006, which currently states:

All prohibited plant species shall be removed from the site prior to issuance of a Certificate of Occupancy.

Is hereby deleted. [Reason: Code requirement].
3. **All vegetation on site shall be grown and maintained in its natural state. Pruning shall be limited to that necessary to insure proper growth and form. Pruning methods shall be consistent with acceptable horticultural practices as recommended by the Florida Division of Forestry and American Nurserymans Association. (Previous condition 23 of Resolution R89-1244, Petition 1989-006) (ONGOING: ERM – Erm)**

C. HEALTH

1. Prior to final site plan approval, the property owner shall submit an Existing System Site Evaluation of the onsite sewage treatment and disposal system, and obtain an Existing System Approval from the Palm Beach County Health Department. (DRO: HEALTH – Health)
2. Prior to final site plan approval the non-community potable water system at the facility shall be in compliance with all Palm Beach County Health Department requirements. (DRO: HEALTH – Health)
3. Previous condition 14 of Resolution R89-1244, Petition 1989-006, 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 deleted. [Reason: No longer applicable].

D. LANDSCAPING GENERAL

1. Previous condition 2 of Resolution R89-1244, Petition 1989-006, which currently states:

The petitioner shall submit an Alternative Landscape Betterment Plan at the time of Site Plan Review submittal to allow some flexibility in the elimination of parking stalls and subsequent relocation of interior landscape islands and parking stalls which will allow for the preservation of more slash pines.

Is hereby deleted. [Reason: Completed].

2. Previous condition 4 of Resolution R89-1244, Petition 1989-006, which currently states:

Prior to Site Plan Review submittal, the petitioner shall redesign the site to locate the driving range within the eastern ½ of the site and the Phase II golf course within the western ½ of the site. The golf course shall be redesigned to accommodate the preservation of significant clusters of native vegetation.

Is hereby deleted. [Reason: Completed].

3. Previous condition 5 of Resolution R89-1244, Petition 1989-006, which currently states:

The site plan shall be amended to indicate a fifty (50) foot wide buffer along the eastern and western property lines to provide screening in areas that are devoid of existing valuable vegetation. Existing vegetation may be utilized to satisfy the intent of this condition which shall meet the equivalent of fifteen (15) foot high canopy trees alternately spaced at an equivalent of twenty (20) feet on center up to three (3) rows in depth. This buffer shall be subject to final approval by the Zoning Division.

A supplemental landscape buffer shall be established in this fifty (50) foot zone for a distance of 400 feet north of the north right-of-way line of Southern Boulevard (SR 80). This shall consist of understory landscape material planted at a minimum height of thirty-six (36) inches and spaced at an equivalent of thirty-six (36) inches on center.

Is hereby amended to read:

Landscaping along the east and west property lines shall include the following:

- a. A minimum of fifty (50) foot wide strip;
 - b. fifteen (15) foot high canopy trees alternatively spaced at twenty (20) feet on center up to three (3) rows in depth.
 - c. Additionally, the south 400 feet of the west property line shall include understory landscape material planted at a minimum height of thirty-six (36) inches, and spaced at thirty-six (36) inches on center. (ONGOING: LANDSCAPE – Zoning)
4. Previous condition 6 of Resolution R89-1244, Petition 1989-006, which currently states:

Concurrent with Site Plan Review Committee Meeting submittal, the petitioner shall submit an aerial photo of the site at a scale that matches the site development plan. From this aerial the petitioner shall prepare a preservation and buffer plan that identifies all improvements on site: preservation areas and vegetation targeted for relocation into the fifty (50) foot buffer zones.

Is hereby deleted. [Reason: Completed].

5. **Prior to Site Plan Review certification, the petitioner shall amend the site plan to indicate a minimum twenty-five (25) foot buffer between the miniature golf area and the southern property line. This buffer shall be landscaped with ten (10) to twelve (12) foot high native canopy trees, alternatively spaced two (2) rows deep at an equivalent of twenty (20) feet on center.** (Previous condition 20 of Resolution R89-1244, Petition 1989-006) (DRO: Zoning – Zoning)

E. ENGINEERING

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

The Paint Ball Facility shall be limited to Saturday and Sunday use only. Additional days may be approved by the County Engineer based upon an approved Traffic Study, which complies, with Mandatory Traffic Performance Standards in place at the time of the request. (ONGOING: ENG - Eng)

2. Previous condition 15 of Resolution R89-1244, Petition 1989-006, which currently states:

The developer shall provide discharge control and treatment for 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 the stormwater runoff generated by a three (3) year-one (1) hour storm with a total

rainfall of three (3) inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. 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]

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 Southern Boulevard, 220 feet north of the north right-of-way line of the C-51 Canal free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. (Previous condition 16 of Resolution R89-1244, Petition 1989-006) [Completed]**
4. **Relocate the proposed median opening west of this subject site on Southern Boulevard and construct a left turn lane, west approach on Southern Boulevard at the project's entrance road. Should a permit from the Florida Department of Transportation not be able to be obtained, then petitioner shall be relieved from this obligation. (Previous condition 17 of Resolution R89-1244, Petition 1989-006)**
5. Previous condition 18 of Resolution R89-1244, Petition 1989-006, which currently states:

The petitioner 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 \$16,931.00 (632 trips X \$26.79 per trip).

Is hereby deleted: [Reason: impact fees are code requirement.]

F. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF SOUTHERN BOULEVARD)

1. Previous condition 1 of Resolution R89-1244, Petition 1989-006, which currently states:

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

- a. **Dimensions for the Phase I driving range area;**
- b. **Location of all significant groupings of preserved vegetation;**
and,
- c. **Twenty-five (25) foot wide minimum landscape strip along Southern Boulevard (SR 80).**

Is hereby amended to read:

In addition to the landscape requirements per ULDC, landscaping along the south property line shall be upgraded to include:

- a. A minimum twenty-five (25) foot wide landscape buffer strip and no width reduction or easement encroachment shall be permitted.
- b. All existing vegetation to be preserved shall remain in their current locations. (ONGOING: LANDSCAPE - Zoning)

G. LIGHTING

1. Previous condition 9 of Resolution R89-1244, Petition 1989-006, currently states:

Security lighting shall be of low intensity and equipped with "house side shields" to direct light away from adjacent properties and rights-of-way. Lighting standards shall not exceed thirty (30) feet in height.

Is hereby amended to read:

All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG PERMIT/ONGOING: BLDG / CODE ENF - Zoning)

2. All outdoor, freestanding lighting fixtures shall not exceed thirty (30) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 10:00 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning)

H. PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be revised to indicate that the FLU designation to the south of the site is RR-10 and the FLU designation to the west of the site is RR-5. (DRO: PLANNING - Planning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the application shall be revised to indicate that the subject site is located within one mile of the Village of Wellington. (DRO: PLANNING - Planning)

I. SIGNAGE

1. Previous condition 7 of Resolution R89-1244, Petition 1989-006, which currently states:

No off premise signs shall be permitted on site.

Is hereby deleted. [Reason: Code requirement].

2. **No point of purchase signs advertising the sale of golf supplies or related products shall be permitted on site.** (Previous condition 22 of Resolution R89-1244, Petition 1989-006) (DRO: ZONING – Zoning)

J. UNITY OF CONTROL

1. **Prior to Site Plan certification by the Site Plan Review Committee the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney.** (Previous

condition 19 of Resolution R89-1244, Petition 1989-006) (UNITY OF CONTROL: COUNTY ATTY – County Atty)

K. USE LIMITATIONS

1. **Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.** (Previous condition 3 of Resolution R89-1244, Petition 1989-006) (ONGOING: CODE EFN – Zoning)

2. Previous condition 11 of Resolution R89-1244, Petition 1989-006, which currently states:

The 1,500 square foot pro shop shall be limited to the rental of golf clubs, bags, and golf carts and sale and rental of golf balls and tees and accessory golf related materials, equipment, and clothing.

Is hereby amended to read:

The 1,500 square foot pro shop shall be limited to the rental of golf clubs, bags, and golf carts and sale and rental of golf balls and tees and accessory golf related materials, equipment and clothing, and sale and rental of paintball markers, safety equipment and accessory paintball equipment and clothing. (ONGOING: CODE ENF – Zoning)

3. **No outdoor loudspeaker system shall be permitted on site.** (Previous condition 8 of Resolution R89-1244, Petition 1989-006) (ONGOING: CODE ENF – Zoning)
4. **There shall be no sales of prepared foods, alcoholic beverages on site, nor shall food be prepared on the site for consumption. Vending machines may be permitted within the Pro Shop.** (Previous condition 12 of Resolution R89-1244, Petition 1989-006) (ONGOING: CODE ENF – Zoning)
5. **The driving range shall be limited to fifteen (15) tees or driving stations.** (Previous condition 21 of Resolution R89-1244, Petition 1989-006) (ONGOING: CODE ENF – Zoning)

L. 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. Previous condition 24 of Resolution R89-1244, Petition 1989-006, which currently states:

Failure to comply with any conditions of approval 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.

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 Article 2.E 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)