

RESOLUTION NO. R-2006-0157

RESOLUTION APPROVING ZONING APPLICATION CA2005-299
(CONTROL NO. 1991-043)
CLASS A CONDITIONAL USE
PETITION OF JOSEPH BEVERLY, GARY HORVATH AND BUSS COOPER
BY KILDAY & ASSOCIATES, INC.AGENT
(GROVE MEDICAL PLAZA)

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), as amended, 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 CA2005-299 was presented to the Board of County Commissioners at a public hearing conducted on January 26, 2006; 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 4.B, 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 CA2005-299, the petition of Joseph Beverly, Gary Horvath and Buss Cooper, by Kilday & Associates, Inc., agent, for a Class A Conditional Use to allow a medical or dental office in the Limited Office Commercial 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 January 26, 2006, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

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

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

The Chairman thereupon declared that the resolution was duly passed and adopted on January 26, 2006.

Filed with the Clerk of the Board of County Commissioners on 26th day of January, 2006.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

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

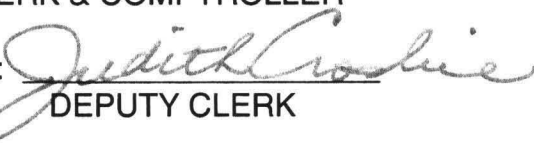
BY: 
DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 700 FEET OF THE WEST 310 FEET OF THAT PART OF TRACT 5, BLOCK K, LYING NORTH OF STATE ROAD 80, "REPLAT OF LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF, ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 12, PAGE 29.

LESS AND EXCEPT THAT PORTION ACQUIRED BY THE ORDER OF TAKING RECORDED IN O.R. BOOK 5444, PAGE 1644, DESCRIBED AS FOLLOWS:

THAT PART OF TRACT 5 IN BLOCK K OF "LOXAHATCHEE GROVES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE S 01° 22' 50" W ALONG THE WEST LINE OF SAID SECTION 33, A DISTANCE OF 3524.15 FEET TO THE BASELINE OF SURVEY FOR STATE ROAD 80; THENCE S 88° 26' 59" E, A DISTANCE OF 197.34 FEET; THENCE S 88° 29' 13" E, A DISTANCE OF 2418.09 FEET; THENCE N 01° 30' 47" E, A DISTANCE OF 50.00 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY FOR STATE ROAD 80 AND THE POINT OF BEGINNING; THENCE N 02° 15' 12" E, A DISTANCE OF 267.84 FEET; THENCE S 87° 44' 48" E, A DISTANCE OF 76.00 FEET; THENCE S 02° 15' 12" W, A DISTANCE OF 111.84 FEET; THENCE S 43° 07' 00" E, A DISTANCE OF 49.18 FEET; THENCE S 88° 29' 13" E, A DISTANCE OF 198.61 FEET; THENCE S 02° 14' 53" W, A DISTANCE OF 120.01 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY FOR STATE ROAD 80; THENCE N 88° 29' 13" W, A DISTANCE OF 309.68 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 158,442 SQUARE FEET / 3.637 ACRES, MORE OR LESS.

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

EXHIBIT B
VICINITY SKETCH

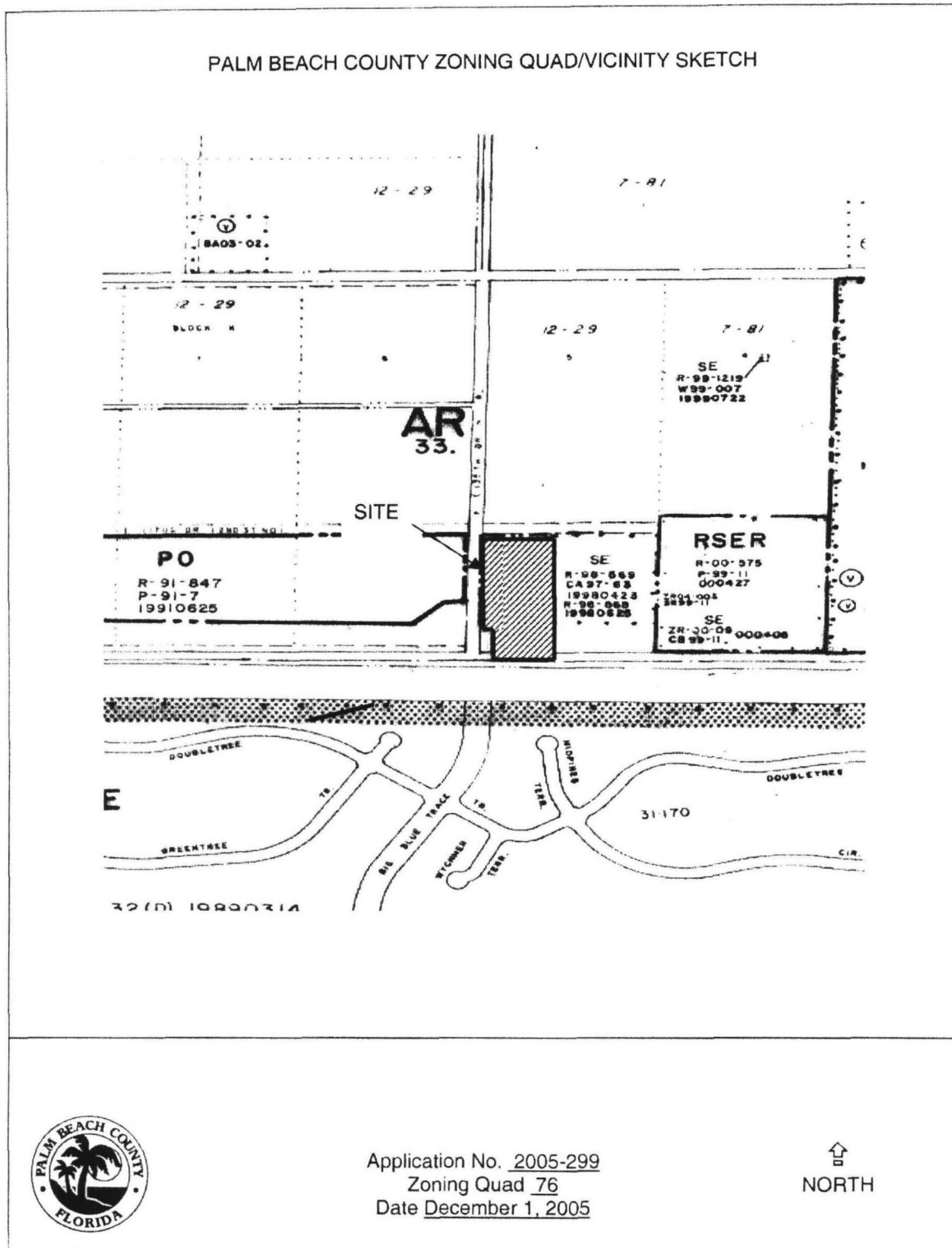


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated September 19, 2005. 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. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the two (2) story medical office building shall be submitted for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the Loxahatchee Groves Rural Vista Design Guidelines, the DRO approved plans, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW-Zoning)
2. The maximum height of the two (2) story medical building shall be thirty-five feet, excluding architectural features which shall not exceed a maximum height of forty-one (41) feet and shall be generally consistent with the elevations prepared by Marc Wiener, AIA and dated September 19, 2005. All heights shall be measured from finished grade to the highest point of the building, including air conditioning, mechanical equipment, satellite dishes and architectural features. (DRO: ARCH REVIEW -Zoning)
3. Design of gutters and downspouts shall be integrated into the architectural design of the two (2) story medical building. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW -Zoning)

ENGINEERING

1. 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 May 17, 2008. A time extension for this condition 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. This extension request shall be made pursuant to the requirements of Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. LANDSCAPE WITHIN THE MEDIAN OF SOUTHERN BOULEVARD

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Southern Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by property owner shall be perpetually maintained by the property owner, his successors and assigns, without recourse to Palm Beach County, unless property owner provides payment for maintenance as set forth in Paragraph d) below.

- a) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
 - b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
 - c) At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the property owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the property owner. The property owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the property owner. (ONGOING:ENGINEERING-Eng)
 - d) Also, prior to the issuance of a Building Permit, and at the option of the property owner, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Southern Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGONG:ENGINEERING-Eng)
3. Prior to final approval of the proposed site plan by the DRO, the property owner shall convey a forty (40) foot access easement to the Public along the south property line. This Access easement shall extend from F Road to the projects east property line as shown on the current DRO site plan. Final approval of the location of the access easement shall be approved by the County Engineer. Easement document shall be approved by the County Attorney. (DRO APPROVAL: ENGINEERING-Eng)
4. Prior to issuance of a certificate of occupancy, construction of the public access easement shall be completed from the projects east property line to F Road. (CO:MONITORING-Eng)
5. F ROAD CONSTRUCTION IMPROVEMENTS
- A. The Property owner shall construct F Road from the north side of project's north entrance to the north right of way line of Collecting Canal Road. Construction of this portion of F Road shall be subject to the requirements of the Loxahatchee Groves Water Control District. Construction is intended to be 22 feet in width with the wearing surface to be an Open Graded Emulsified Mix. This condition is subject to an executed agreement between the property owner and Loxhatchee Groves Water Control District Board of Supervisors, which includes provisions for the property owner to fund, in lieu of constructing, the aforementioned improvements. This agreement must be approved by the District prior to the issuance of a Building Permit for the proposed medical office building. (ONGOING: ENG-Eng)

- B. The Property owner shall construct F Road from the north side of projects north entrance to Southern Boulevard. Construction of this portion of F Road shall be to collector street standards, minimum 2 - 12 foot paved travel lanes. (ONGOING: ENG-Eng)
- C. Construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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. (ONGOING: ENG-Eng)
- D. Permits required by Loxahatchee Groves Water Control District for the construction in A and B shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- E. Construction and/or funding for the improvements in A and B shall be completed prior to the issuance of the first Certificate of Occupancy. (CO:MONITORING-Eng)

ENVIRONMENTAL

- 1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. No grade changes, or the toe of proposed grade changes, shall occur within the dripline of existing native vegetation depicted to remain. (ONGOING: ERM-Erm)

HEALTH

- 1. Property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: HEALTH-Code Enf)

ZONING – LANDSCAPE -STANDARDS

- 1. Prior to the issuance of the first building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all the landscape conditions as contained herein and Conditions under the Board of Adjustment BA 2005-00461. (BLDG PERMT:LANDSCAPE-Zoning)
- 2. A minimum of seventy (75) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT:LANDSCAPE-Zoning)

3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE-Zoning)
4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE-Zoning)

ZONING - LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF SOUTHERN BOULEVARD)

1. In addition to the proposed landscaping and code requirements, landscaping and/or buffer width along the south property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip; and,
 - b. one (1) palm or pine for each for each twenty (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE-Zoning)

ZONING - LANDSCAPING ALONG THE WEST PROPERTY LINE (FRONTAGE OF "F" ROAD)

1. In addition to the proposed landscaping and code requirements, landscaping and/or buffer width along the west property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip; and,
 - b. one (1) palm or pine for each for each twenty (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE-Zoning)

ZONING - LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. In addition to the proposed landscaping and code requirements, landscaping and/or buffer width along the north property line shall be upgraded to include:
 - a. a minimum fifty (50) foot wide landscape buffer strip as shown on the Site Plan and Regulating Plan as Section A-A and dated September 19, 2005;
 - b. a minimum twelve (12) foot wide meandering equestrian trail; and,
 - c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE-Zoning)

LIGHTING

1. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours excluding security lighting only. (ONGOING: CODE ENF - Zoning)
2. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)
3. All outdoor, freestanding lighting fixtures shall be in conformance with the Loxahatchee Groves Rural Vista Design Guidelines and shall not exceed twenty (20) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

PLANNING

1. The site shall be limited to medical office uses only. (ONGOING: MONITORING-Planning)

SIGNS

1. Freestanding signs fronting on Southern Boulevard and "F" Road shall conform to the Loxahatchee Groves Rural Vista Design Guidelines and shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - fifty (50) inches in height;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs - one (1) for each road frontage;
 - d. style - monument style only;
 - e. location - Sign B within fifty (50) feet of the south access point of "F" Road; and,
 - f. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Development and use of the site is limited to a medical or dental office and shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: WUD-WUD)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the applicant 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 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)