

RESOLUTION NO. R-2006- 0277

RESOLUTION APPROVING ZONING APPLICATION PDD2005-151
(CONTROL NO. 2005-071)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF HUGHES DEVELOPMENT LTD. PARTNERSHIP
BY ELLEN SMITH, AICP, AGENT
(MARTINGALE MEADOWS PUD)

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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), as amended, have been satisfied; and

WHEREAS, Zoning Application PDD2005-151 was presented to the Board of County Commissioners at a public hearing conducted on February 23, 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 recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and 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 2.F, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; and,
7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b (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 Application PDD2005-151, the application of Hughes Development Ltd. Partnership by Ellen Smith, AICP, agent, for an Official Zoning Map Amendment to a Planned Development District from the Agricultural Residential Zoning District to the Residential Planned Unit Development District 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 February 23, 2006, subject to the conditions of approval 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 McCarty and, upon being put to a vote, the vote was as follows:

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

The Chairman thereupon declared that the resolution was duly passed and adopted on February 23, 2006.

Filed with the Clerk of the Board of County Commissioners on 23rd day of February, 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

PARCEL A

The West 315 feet of all that part of the West One-Half (W 1/2) of the Southwest One-Quarter of Section 36, Township 43 South, Range 41 East, PALM BEACH County, Florida. Lying South of the South right-of-way line the West Palm Beach Canal.

CONTAINING: 411,322.39 SQUARE FEET OR 9.44 ACRES, MORE OR LESS

TOGETHER WITH:

PARCEL B

The East 310 feet of the West 625 feet of all that part of the West One-Half of the Southwest One-Quarter of Section 36, Township 43 South, Range 41 East, PALM BEACH County, Florida. Lying South of the South right-of-way line of the West Palm Beach Canal.

CONTAINING: 395,520.99 SQUARE FEET OR 9.04 ACRES, MORE OR LESS

TOGETHER WITH:

PARCEL E

COMMENCING at the Northwest corner of Section 1, Township 44 South, Range 41 East, PALM BEACH County, Florida; thence Easterly along the North line of said Section 1, a distance of 819.21 feet to the POINT OF BEGINNING; thence continue along the North line of said Section 1, a distance of 371 feet; thence Southerly and parallel to the West line of said Section 1, a distance of 1610.12 feet more or less, to a point in the North line of a parcel of land as described in Official Record Book 169, Page 29, PALM BEACH County Records; thence Westerly along said North line a distance of 271 feet more or less, to a point in a line running Southerly from the POINT OF BEGINNING and parallel to the West line of said Section 1; thence Northerly a distance of 1604.15 feet more or less, to the POINT OF BEGINNING.

CONTAINING: 440,244.92 SQUARE FEET, OR 10.11 ACRES, MORE OR LESS.

TOGETHER WITH:

PARCEL F

A tract of land in Section 1, Township 44 South, Range 41 East, PALM BEACH County, Florida, more particularly described as follows: From the Northwest corner of said Section, a distance of 1090.21 feet to the POINT OF BEGINNING; thence continue Easterly along the North line of said Section 1; a distance of 405 feet; thence Southerly, parallel to the West line of said Section 1, a distance of 1619.05 feet, more or less to a point in the North line of the Tract of land described in Deed recorded in Official Record Book 169, Page 29, Public Records of PALM BEACH County, Florida; thence Westerly along said North line, a distance of 405 feet, more or less to a point in a line running Southerly from the POINT OF BEGINNING, parallel to the West line of said Section 1; thence Northerly along said parallel line, a distance of 1610.12 feet to the POINT OF BEGINNING.

CONTAINING 658,045.27 SQUARE FEET, OR 15.11 ACRES, MORE OR LESS.

TOGETHER WITH:

"ACCESS TRACT"

A TRACT OF LAND LOCATED IN SECTION 1, TOWNSHIP 44 SOUTH, RANGE 41 EAST; SITUATE AND LYING IN PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM THE NORTHWEST CORNER OF SECTION 1 AFORESAID, RUN EASTERLY ALONG THE NORTH LINE OF SECTION 1 AFORESAID A DISTANCE OF 486.38 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE EASTERLY ALONG THE NORTH LINE OF SECTION 1 AFORESAID A DISTANCE OF 332.83 FEET TO A POINT; THENCE RUN SOUTHERLY ON A LINE PARALLEL TO THE WEST LINE OF SECTION 1, AFORESAID, A DISTANCE OF 204.54 FEET TO A POINT ON A NON RADIAL CURVE CONCAVE TO THE SOUTHWEST; THENCE EAST AND NORTH ALONG THE ARC OF SAID CURVE WHOSE RADIUS IS 786.71 FEET, AND WHOSE CENTRAL ANGLE IS 7 DEGREES 16 MINUTES AND 26 SECONDS FOR A DISTANCE OF 99.88 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST WHOSE RADIUS IS 460.00 FEET AND CENTRAL ANGLE IS 36 DEGREES 51 MINUTES AND 31 SECONDS FOR A DISTANCE OF 295.92 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 42,112.85 SQUARE FEET OR 0.97 ACRES MORE OR LESS.

TOTAL AREA CONTAINED BY COMBINED PARCEL A, PARCEL B, PARCEL E, PARCEL F AND ACCESS TRACT IS 1925255.79 SQUARE FEET OR 44.7 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

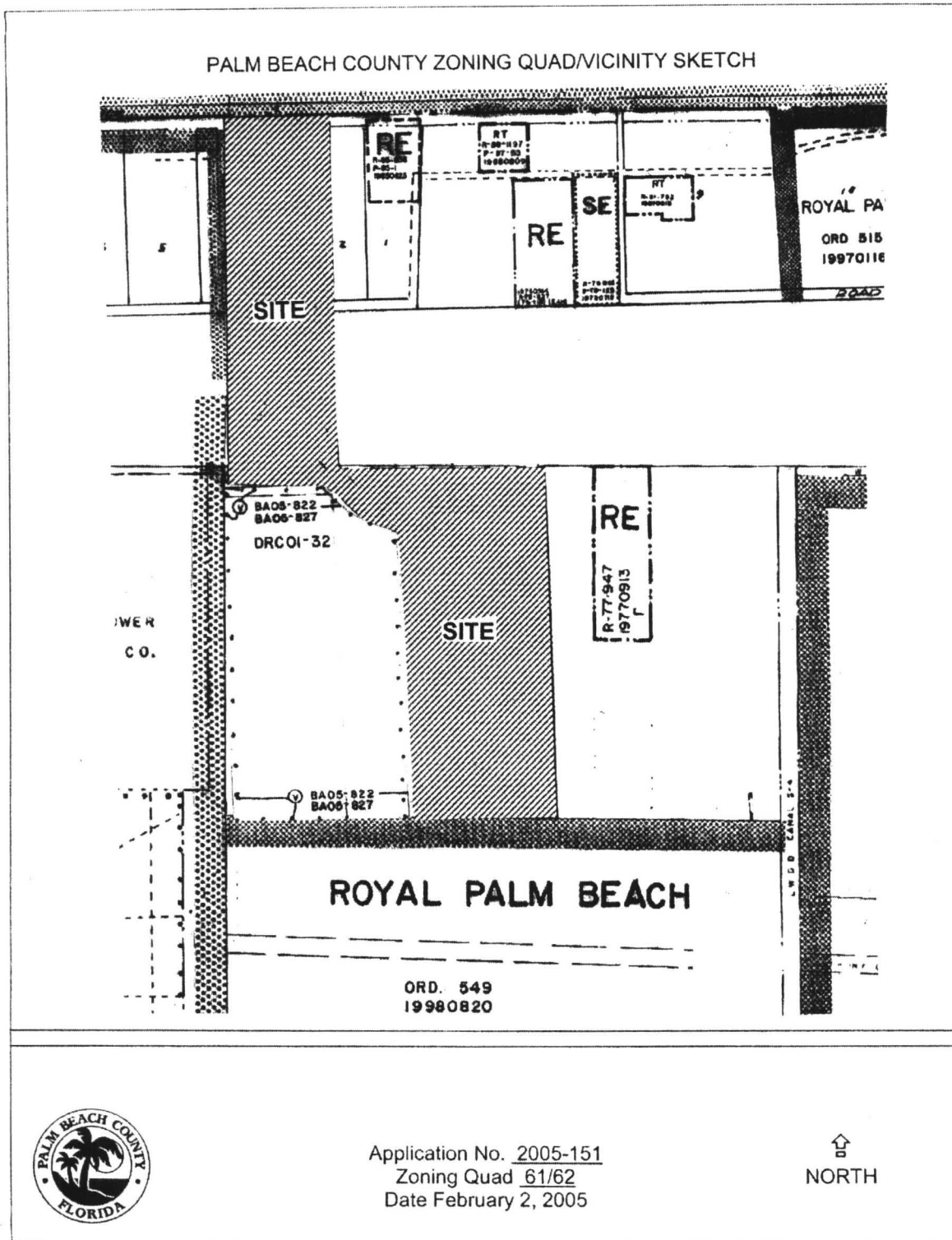


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved master plan is dated November 23, 2006. 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)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the property owner/developer shall be restricted to the following phasing schedule:
No Building Permits for the site may be issued after December 31, 2007. 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 petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner 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 petitioner 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-ENG - 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: ENG - Eng)

3. The property owner shall construct a 20 foot paved relocated entrance road to the Folke Peterson property. This construction shall be concurrent with the paving and drainage improvements for the PUD site.

Construction shall be completed prior to the issuance of the first Certificate of Occupancy for the PUD. (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: CODE ENF - Health)
2. Water is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing onsite potable water supply systems shall be abandoned in accordance with Palm Beach County ECR-II. (ONGOING: CODE ENF - Health)
3. Wastewater service is available to the property. Therefore, no onsite sewage treatment and disposal system (OSTDS) shall be permitted on this site. All existing OSTDS must be abandoned in accordance with Chapter 64E-6, FAC and Palm Beach County ECR-I. (ONGOING: CODE ENF - Health)
4. Prior to the issuance of a building permit, the property owner shall enter into a Utility Service Agreement with the Village of Wellington or other approved utility provider to ensure continued availability of adequate potable water and wastewater utility services for the project. (DRO: HEALTH - Health)

ZONING - LANDSCAPING

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of seventy (70) 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. All palms required to be planted on the property by this approval, except on individual residential lots, 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. (BLDG PERMIT: LANDSCAPE - Zoning)
4. 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)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE PERIMETER OF THE PUD

1. In addition to the proposed landscaping and code requirements, landscaping along the perimeter property lines shall be upgraded to include:
- a. 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: BLDG-Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the master/site plans shall be revised to indicate a cross access stub street to the eastern property line to include a break in any buffering or walls. The master/site plans shall include a notation at this cross access point that shall read "future vehicular and pedestrian cross access to be paved to the property line." A gate or other security device that can be controlled by the residents of the PUD may control the cross access point. (DRO: PLANNING - Planning)
2. In no case shall a gate or security device, located at the cross access point to the eastern property, not provide access by being rendered inoperable or non-functional. (ONGOING: CODE ENF - Planning)

PLANNED UNIT DEVELOPMENT

1. Prior to recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:
- a. Formation of a single "master" property owner's association, automatic voting membership in the master association by any party

holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

- b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
 - c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG/COUNTY ATTY - Zoning)
2. The property owner shall include in homeowners documents as well as written sales brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying of the existence of the Folke-Peterson Center for Animal Welfare in the vicinity of the development. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on February 23, 2007 and shall continue on an annual basis until all units within the development have been sold or the property owner relinquishes control to the homeowners association. (DATE: MONITORING - Zoning)

SCHOOL BOARD

1. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING - School Board.)
2. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD)

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 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)