

RESOLUTION NO. R-2006- 0519

RESOLUTION APPROVING ZONING APPLICATION DOA2005-1465  
(CONTROL NUMBER 2005-008)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF BOYNTON BEACH XXI, LLP  
BY KILDAY & ASSOCIATES, INC., AGENT  
(MINI-ASSEMBLAGE 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, 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 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Application DOA2005-1465 was presented to the Board of County Commissioners at a public hearing conducted on March 23, 2006; 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 2.E (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 has considered the findings in the staff report and 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 2.K.3.b 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 DOA2005-1465, the petition of Boynton Beach XXI, LLP, by Kilday & Associates, Inc., agent, for a Development Order Amendment to add land area, add units and reconfigure the master plan and 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 March 23, 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 Aaronson 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	-	Absent
Jeff Koons	-	Aye
Warren H. Newell	-	Absent
Mary McCarty	-	Aye
Burt Aaronson	-	Aye

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

Filed with the Clerk of the Board of County Commissioners on 23rd day of March, 2006.

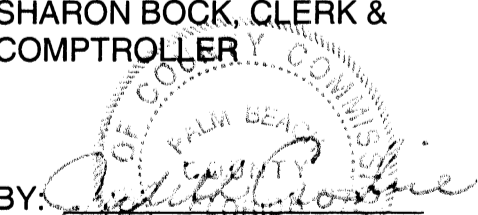
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON BOCK, CLERK &  
COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK

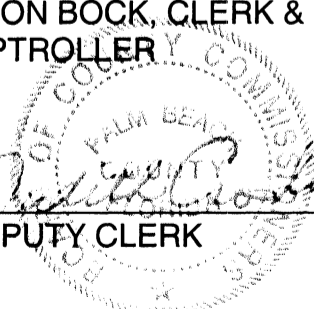


EXHIBIT A

LEGAL DESCRIPTION

ALL OF TRACTS 73 THROUGH TRACT 76, INCLUSIVE, TRACTS 85 THROUGH 88, INCLUSIVE, TRACTS 105 THROUGH 120, AND THE SOUTH 15.00 FEET OF THAT PORTION OF ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, LYING NORTH OF AND ADJACENT TO SAID TRACTS 109 THROUGH 112 BOUNDED ON THE WEST BY THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID TRACT 112 AND ON THE EAST BY THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID TRACT 109, AND THAT PORTION OF ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, LYING BETWEEN SAID TRACTS 105 THROUGH 108 AND SAID TRACTS 85 THROUGH 88, ALL LYING WITHIN BLOCK 55, PALM BEACH FARMS CO. PLAT NO. 3 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT 2, PAGES 45 THROUGH 54, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

LESS THE NORTH 48 FEET OF SAID TRACTS 75 AND 76, AND LESS THE NORTH 48 FEET OF SAID TRACT 74 LESS THE EAST 52.00 FEET THEREOF.

LESS THE NORTH 47.52 FEET OF SAID TRACT 73 AND LESS THE NORTH 47.52 FEET OF THE EAST 52.00 FEET OF SAID TRACT 74 AS DESCRIBED IN OFFICIAL RECORDS BOOK 6495, PAGE 761.

LESS THE EAST 25 FEET OF SAID TRACTS 73, 88, 105, 120 AND SAID ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, LYING BETWEEN SAID TRACTS 105 THROUGH 108 AND SAID TRACTS 85 THROUGH 88 AS DESCRIBED IN DEED BOOK 1135, PAGE 92 AND DEED BOOK 1129, PAGE 412, SAID PUBLIC RECORDS.

LESS PARCEL 122, BEING THAT PORTION OF HAGEN RANCH ROAD RIGHT-OF-WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 12744, PAGE 1840 SAID PUBLIC RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN SECTION 28, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF TRACT 120, BLOCK 55, PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF SAID TRACT 120; THENCE ALONG THE SOUTH LINE OF SAID TRACT 120, SOUTH 89°36'54" WEST FOR 25.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF HAGEN RANCH ROAD AS RECORDED IN DEED BOOK 1129, PAGE 412 OF SAID PUBLIC RECORDS, AND THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SOUTH LINE, SOUTH 89°36'54" WEST FOR 6.92 FEET; THENCE NORTH 00°30'03" WEST FOR 33.82 FEET; THENCE NORTH 02°05'02" EAST 162.21 FEET TO SAID WEST RIGHT-OF-WAY LINE; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE, SOUTH 00°23'06" EAST FOR 195.88 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

BEING ALL OF TRACTS 49 THROUGH 56, BLOCK 55, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS

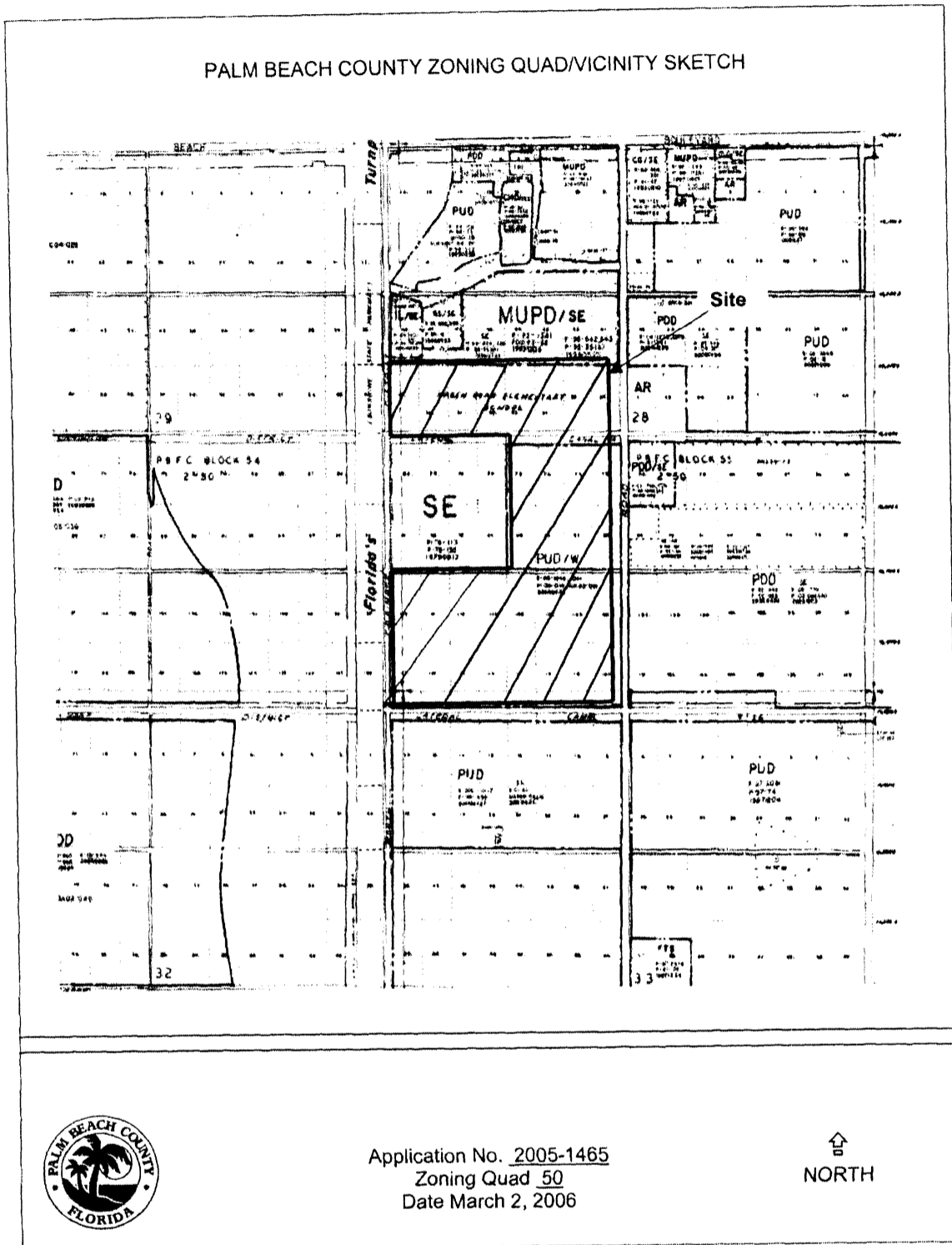
THE EAST 25 FEET OF SAID TRACT 56 FOR PUBLIC ROAD RIGHT-OF-WAY.

LESS

THE WEST 15 FEET OF SAID TRACT 49 AS DESCRIBED IN DEED BOOK 113, PAGE 171, SAID PUBLIC RECORDS.

CONTAINING 157.878 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



Application No. 2005-1465  
Zoning Quad 50  
Date March 2, 2006



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-1040, Petition PDD2005-008, have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article modified. (ONGOING: ZONING - Zoning)
2. All Petitions Condition 1 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved master plan is dated April 29, 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. (ONGOING: ZONING-Zoning)

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved master plan is dated January 17, 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. (ONGOING: ZONING-Zoning)

#### BUILDING AND SITE DESIGN

1. Building Condition 1 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

Decorative paving treatment (stamped concrete or pavers) shall be provided at the following locations:

- a. the main entrance of to the subject site with a minimum of 10,000 square feet;
- b. all cul-de-sacs located within each pod with a minimum of 10,503 square feet;
- c. the main entry into each pod within the PUD with a minimum of 1,000 square feet;
- d. the semi cul-de-sac (eyebrow) located adjacent to lots 26, 27, 42 and 43 in pod A with a minimum of 5,654 square feet; and,
- e. all T-intersections within each pod with a minimum of 3,500 square feet. (DRO/BLDG PERMIT: DRO Zoning)

Is hereby amended to read:

Decorative paving treatment (stamped concrete or pavers) shall be provided at the following locations:

- a. the main entrance of to the subject site with a minimum of 10,000 square feet;
- b. all cul-de-sacs located within each pod with a minimum of 10,503 square feet;
- c. the main entry into each pod within the PUD with a minimum of 1,000 square feet; and,
- d. all T-intersections within each pod with a minimum of 3,500 square feet. (DRO/BLDG PERMIT: DRO -Zoning)

2. Building Condition 2 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

Prior to final approval by the Development Review Officer (DRO), the master/site plans shall indicate a minimum of one (1) fountain in each lake. (DRO: DRO-Zoning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the master/site plans shall indicate a minimum of one (1) fountain in lake numbers 1, 2, and 5. (DRO: DRO- Zoning)

3. Street trees shall be required within the street tracts or right-of-ways of the subject development consistent with the requirements of the Engineering Department, and the following criteria:

- a. Along both sides of all internal PUD street, fifty (50) feet in width or greater; and,
- b. all final subdivision applications shall include roadway cross-section sketches showing street trees. (DRO: ENG - Zoning)(Previous Building Condition 3 of Resolution R-2005-1040, Petition PDD2005-008)

4. Street bike lanes shall be provided in or adjacent to all streets eighty (80) feet in width or greater, pursuant to Article 3.E.1.C.2.e of the ULDC and subject to approval by the County Engineer. (CO: LANDSCPAE- Zoning)(Previous Building Condition 4 of Resolution R-2005-1040, Petition PDD2005-008)

5. Zero-lot line lots (units) with a side yard that abuts the rear yard of two (2) or more lots (units) shall be restricted to one (1) story in height. (BLDG: BLDG PERMIT-Zoning)(Previous Building Condition 5 of Resolution R-2005-1040, Petition PDD2005-008)

6. Building Condition 7 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

Prior to the issuance of a Certificate of Occupancy (CO) for the clubhouse, the facility shall be equipped with a generator that complies with the following requirements:

- a. a minimum load capacity of .02 kw per building square foot;
- b. operates essential electrical systems, including A/C systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;
- c. an aboveground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;
- d. setback in accordance with the Property Development Regulations for a (Recreation or Civic) Pod in accordance with ULDC Table 3.E.2.D-16;
- e. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
- f. subject to review and approval by the Building Division; and,
- g. deviation from these requirements shall be permitted if consistent with future ULDC regulations. (CO: MONITORING - Zoning)

Is hereby deleted. [Reason: Code Requirement]

7. Window openings located on the 2nd story of the units abutting the south property line shall not exceed twenty (20) feet in height from finished grade to the top of the window. (BLDG PERMIT: BLDG-Zoning)(Previous Building Condition 6 of Resolution R-2005-1040, Petition PDD2005-008)

## ENGINEERING

### 1. SIGNALIZATION

- A. The property owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Woolbright Road and Hagen Ranch Road. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation. (ONGOING: ENG-Eng)
- B. Building Permits for more than 300 dwelling units shall not be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount determined by the Director of the Traffic Division. (BLDG PERMIT:MONITORING-Eng).
- C. In order to request release of the surety for the traffic signal for this intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at Woolbright Road and Hagen Ranch Road. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENG - Eng)(Previous Engineering Condition 1 of Zoning Resolution R2005-1040, Petition PDD2005-008)

### 2. Traffic Performance Standards Condition

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

- A) Building Permits for more than 375 single family dwelling units 123 multi family dwelling units (equivalent of 396 PM Peak Hour Trips) shall not be issued until construction commences for turn lane improvements at Boynton Beach Boulevard and Hagen Ranch Road which will provide for an additional north approach and south approach through lanes. (BLDG PERMIT: MONITORING-Eng)
- B) No Building Permits for the site may be issued after January 1, 2010. A time extension for this condition may be approved by the County Engineer only if 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)

### 3. Acceptable surety required for the intersection improvements at:

- Boynton Beach Boulevard and Hagen Ranch Road  
as outlined in the Traffic Performance Standards Condition above shall be posted with the Office of the Land Development Division on or before September 23, 2006 . Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Property owner's Engineer. (TPS - Maximum 6 month time extension) (DATE:MONITORING-Eng)

### 4. Prior to June 1, 2007 the Property owner shall complete construction plans for the intersection improvements at:

- Boynton Beach Boulevard and Hagen Ranch Road  
as outlined in the Traffic Performance Standards Condition above. These construction plans shall be approved by the County Engineer based upon Palm



Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. (DATE:MONITORING-Eng)

5. Prior to April 1, 2008 the property owner shall complete construction of the intersection improvements at:
  - Boynton Beach Boulevard and Hagen Ranch Road as outlined in the Traffic Performance Standards Condition above. (DATE:MONITORING-Eng)
  
6. Landscape Within the Median of Hagen Ranch Road
  - A. The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Hagen Ranch Road. This landscaping and irrigation shall strictly conform with 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.
  - B. 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)
  - C. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
  - D. 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.
  - E. Alternately, at the option of the property owner, and prior to the issuance of a Building Permit, 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 Hagen Ranch Road. 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.
  
7. On or before June 1, 2007 the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Hagen Ranch Road along the property frontage; and a maximum 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be

specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (DATE:MONITORING-Eng)

8. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for an expanded intersection at Hagen Ranch Road and Woolbright Road on an alignment approved by the County Engineer. Right of way shall be dedicated prior to June 1, 2007. Right of way conveyance shall be free of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (DATE: MONITORING-Eng)
9. Engineering Condition 2 of Zoning Resolution R2005-1040, Petition PDD2005-008, which currently states:

#### NOISE MITIGATION

- a. The required mitigation as outlined in the approved noise study such as sound walls and landscape buffers shall be shown on the master/site plans and Final Subdivision Plans for this site subject to the approval of the County Engineer and Zoning Division. (DRO: ENG-Eng)
- b. Construction of the required sound walls and landscape buffers as outlined in the Noise Analysis shall be completed prior to the issuance of the first certificate of occupancy for any lot within Pod A. The property owner shall provide Land Development a listing of the applicable PCN numbers for all affected lots within Pod A . (CO:MONITORING-Eng)

Is hereby amended to read:

#### NOISE MITIGATION

- a. The required mitigation as outlined in the approved noise study such as sound walls and landscape buffers shall be shown on the master/site plans and Final Subdivision Plans for this site subject to the approval of the County Engineer and Zoning Division. (DRO: ENG-Eng)
- b. Construction of the required sound walls and landscape buffers as outlined in the Noise Analysis shall be completed prior to the issuance of the first certificate of occupancy for any lot within Pod A and POD E. The property

owner shall provide Land Development a listing of the applicable PCN numbers for all affected lots within Pod A and POD E . (CO:MONITORING-Eng)

10. Prior to technical compliance for the first plat the property owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (TC:ENGINEERING-Eng)
11. Engineering Condition 3 of Zoning Resolution R2005-1040, Petition PDD2005-008, which currently states:
  - a. The property owner 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 that: i) this site is adjacent to the Florida Turnpike, ii) the proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to the Florida Turnpike, and iii) the Developer has installed noise abatement improvements determined by the Florida Turnpike Enterprise to be effective in keeping noise levels from the Florida Turnpike below the State noise abatement criteria in effect as of the date of issuance of this Development Order. All sales contracts and homeowner documents shall also include a statement that any additional noise mitigation measures requested in the future by the Residents will not be funded or constructed by Palm Beach County.
  - b. The property owner shall submit documentation of compliance with item "a" above on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before January 15, 2007 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowner's association. (DATE: MONITORING-Eng)(Engineering Condition 3 of Zoning Resolution R2005-1040, Petition PDD2005-008)

Is hereby amended to read:

- A. The property owner 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 that:
  - B. this site is adjacent to the Florida Turnpike,
  - C. the proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to the Florida Turnpike, and
  - D. the Developer has installed noise abatement improvements determined by the Florida Turnpike Enterprise to be effective in keeping noise levels from the Florida Turnpike below the State noise abatement criteria in effect as of the date of issuance of this Development Order. All sales contracts and homeowner documents shall also include a statement that any additional noise mitigation measures requested in the future by the Residents will not be funded or constructed by Palm Beach County.
  - E. The property owner shall submit documentation of compliance with item "A" above on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before January 15, 2008 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowner's association. (DATE: MONITORING-Eng)
12. Engineering Condition 4 of Zoning Resolution R2005-1040, Petition PDD2005-008, which currently states:

Prior to issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Hagen Ranch Road and the Project's Entrance Road. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDG PERMIT: MONITORING-Eng)

Is hereby amended to read:

Prior to issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane north approach on Hagen Ranch Road at Woolbright Road Extension. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (DATE: MONITORING-Eng)

13. Engineering Condition 5 of Zoning Resolution R2005-1040, Petition PDD2005-008, which currently states:

The property owner shall construct:

- a. right turn lane north approach on Hagen Ranch Road and Project's Entrance Road.
- b. left turn lane south approach on Hagen Ranch Road and Project's Entrance Road

Construction in items 5.a and 5.b 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.

- 1) Permits required by Palm Beach County for the construction in items 5.a and 5.b shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- 2) Construction for the improvements in items 5.a and 5.b shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

Is hereby amended to read:

The property owner shall construct:

- A. right turn lane north approach on Hagen Ranch Road and Woolbright Road extension.
- B. left turn lane south approach on Hagen Ranch Road at Woolbright Road extension
- 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.

- D. Permits required by Palm Beach County for the construction of these turn lanes shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- E. Construction for the improvements of these turn lanes shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

### ENVIRONMENTAL

- 1. Prior to the issuance of a building permit for designated parcel control numbers for this site, the Department of Environmental Resources Management (ERM) shall be in receipt of a Florida Department of Environmental Protection (DEP) letter stating that the remedy has been received, approved and completed for the contaminated site(s). A list of designated PCN numbers shall be submitted to ERM prior to issuance of the first building permit, for those parcels within contaminated site(s). (BLDG PERMIT:ERM-ERM)

### HEALTH

- 1. Prior to the issuance of a building permit, the property owner must submit results of an asbestos containing materials (ACM) survey to the Palm Beach County Health Department. (BLDG PERMIT: MONITORING- Health)
- 2. Prior to final site plan approval by the Development Review Officer, the applicant must provide information on the number and location of known septic tank systems and wells on the site; clearly and accurately depict their location, and identify the well(s) that will be abandoned, and those, if any, that will be retained onsite. (DRO: HEALTH-Health)
- 3. Prior to final approval by the Development Review Officer, the property owner must provide information that clearly identifies the lots and areas of the proposed development that fall within the boundaries of contaminated site(s) as defined in Chapter 62-780, Florida Administrative Code. This information must be submitted in a report signed and sealed by a Professional Engineer or Professional Geologist, licensed in the State of Florida. (DRO: HEALTH-Health)
- 4. The property owner shall not develop any current or previously identified contaminated site(s) unless the property owner is in receipt of written approval of the remedy from the Florida Department of Environmental Protection including details of any necessary engineering and/or institutional controls or restrictions on such development. (ONGOING: CODE ENF/HEALTH)
- 5. Prior to the final site plan approval by the Development Review Officer, the property owner must submit to the Palm Beach County Health Department copies of all documents required by the Florida Department of Environmental Protection. (DRO: HEALTH-Health)

### ZONING -LANDSCAPE STANDARDS

- 1. Prior to the issuance of the first Certificate of Occupancy, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Landscape Plan submittal and review required above shall not apply to the 13.0 acre-School Site. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (CO: LANDSCAPE-Zoning)
- 2. Landscape Condition 2 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall 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)

Is hereby amended to read:

A minimum of fifty (50) percent of all trees to be planted in the landscape buffers, with the exception of the 13.0-acre School Site, shall 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. Landscape Condition 3 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

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)

Is hereby amended to read:

All palms required to be planted on the property by this approval, except on individual residential lots and the 13.0-acre School Site, 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. Field adjustment of locations of berms, walls and plant materials 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)(Previous Landscape Condition 3 of Resolution R-2005-1040, Petition PDD2005-008)

ZONING - LANDSCAPING ABUTTING THE EAST PROPERTY LINE (FRONTAGE OF HAGEN RANCH ROAD)

- 5. Landscape Condition 4 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

In addition to ULDC requirements, landscaping and buffering along the east property line shall be upgraded to include one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING - Landscape)

Is hereby amended to read:

In addition to ULDC requirements, landscaping and buffering along the east property line, with the exception of the 13.0 acre-School Site, shall be upgraded to include one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING - Landscape)

ZONING LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

6. Landscape Condition 5 of Resolution R-2005-1040, Petition PDD2005-008, which currently states:

Landscape width and berm requirements along the south property line shall be upgraded to include:

- a. a minimum ten (10) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum two and one half (2.5) foot high undulating berm measured from top of curb;
- c. a six (6) foot high opaque concrete wall to be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
- d. one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters alternating on both sides of the wall. (CO: LANDSCAPE - Zoning)

Is hereby amended to read:

In addition to the shrub requirements per the ULDC, landscape width and berm requirements along the south property line shall be upgraded to include:

- a. a minimum forty (40) foot wide buffer strip, inclusive of a ten (10) foot wide open space and a maximum five (5) foot easement encroachment, for that portion of the south buffer abutting residential units within Tivoli Reserve PUD to the south (being the approximate westerly 1,800 feet of the south buffer) and a minimum fifteen (15) foot wide landscape buffer strip with no reduction or easement encroachment for the remainder of the south property line (that being the approximate easterly 750 feet of the south buffer);
- b. a minimum five (5) foot high berm within that portion of the southerly buffer with a width of forty (40) feet and a minimum one (1) foot high berm within that portion of the southerly buffer with a width of fifteen (15) feet;
- c. a minimum of six (6) foot high concrete panel wall to be located on the plateau of the berm. The finished architectural treatment shall be consistent with the color and style of the principal structure;
- d. one (1) native canopy tree twenty (20) feet on center on each side of the panel wall to create a double row of canopy trees. The location of the canopy trees shall be staggered to create a continuous canopy. The canopy trees shall be a minimum of sixteen (16) feet in height at installation. Location of trees are subject to an Alternative Landscape Plan (ALP) which will be reviewed and approved by the Landscape Section at time of submittal of a Building Permit; and,
- e. prior to the issuance of a building permit for any lot adjacent to the south property line, the above landscaping requirements landscaping requirements 6.a through 6.c shall be installed together with the landscaping along the south side of the wall required pursuant to 6.d. Prior to issuance of the first

certificate of occupancy for any lot adjacent to the south property line, the required landscaping along the north side of the wall required pursuant to 6.d. shall be installed. (BLDG PERMIT: LANDSCAPE-Zoning)

#### LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting, the owner shall convey either by warranty or easement dead, the North 50 feet of Tracts 73-76, the South 25 feet of Tracts 113-120 and the West 60 feet of Tracts 49, 112-113 all of Block 55, less lands owned by the District for the required right-of-way for the L-25, L-26 and E-2E Canals. (based on cross sections) (PLAT: ENG - LWDD)

#### MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior to Plat Recordation or issuance of the first Building Permit, whichever shall first occur, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (BLDG PERMIT: MONITORING-Eng)

#### PLANNING

1. Condition Planning 1. of Resolution 2005-1040, Control No. PDD 2005-016, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the master/site plan shall include all mulch pathways, consistent with the certified site plan dated April 29, 2005. (DRO:PLANNING-Planning)

Is hereby deleted. [REASON: No longer applicable.]

2. Prior to final approval by the DRO, the plan shall include pedestrian pathways from Pods B and C to sidewalks along Hagen Ranch Road, with a break in any buffering or walls. These access points may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (DRO: PLANNING-Planning)
3. Prior to final approval by the DRO, the plan shall include pedestrian pathways from Pod B and/or Pod C to the school site, with a break in any buffering or walls. These access points may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (DRO: PLANNING-Planning)
4. Prior to the issuance of the 300th Certificate of Occupancy, the property owner shall pave the pathways to the sidewalks along Hagen Ranch Road and to the school site at the location shown on the site plan, with a break in any buffering or walls. These access points may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (CO: MONITORING-Planning)
5. The pedestrian access point(s) to Hagen Ranch Road and the school site may be controlled by gates or other security devices that may be controlled by the property owner, developer, Homeowners Association, and/or residents of the PUD. However, in no case, shall a gate or security device not provide access by being rendered inoperable or non-functional. (ONGOING: CODE ENF - Planning)



## PLANNED UNIT DEVELOPMENT

1. Prior to the 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; and,
  - 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-Cty Atty)(Previous PUD Condition 1 of Resolution R-2005-1040, Petition PDD2005-008)
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 agricultural uses 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 January 1, 2006 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)(Previous PUD Condition 2 of Resolution R-2005-1040, Petition PDD2005-008)

## SCHOOL BOARD

1. 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-School Board)
2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. 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.)

## 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: PBCWUD-PBCWUD)

## COMPLIANCE

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