

RESOLUTION NO. R-2006- 0922

RESOLUTION APPROVING ZONING APPLICATION CA2005-1720  
(CONTROL NO. 2005-535)  
CLASS A CONDITIONAL USE  
PETITION OF K HOVNANIAN T&C HOMES AT FLORIDA LLC  
BY KILDAY & ASSOCIATES, INC.AGENT  
(SABAL GROVE)

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 CA2005-1720 was presented to the Board of County Commissioners at a public hearing conducted on May 25, 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 CA2005-1720, the petition of K Hovnanian T&C Homes At Florida LLC, by Kilday & Associates, Inc., agent, for a Class A Conditional Use to allow townhouses in the Single Family Residential 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 May 25, 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	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	

The Chairman thereupon declared that the resolution was duly passed and adopted on May 25, 2006.

Filed with the Clerk of the Board of County Commissioners on 25th day of May, 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

BY:

  
COUNTY ATTORNEY

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
DEPUTY CLERK

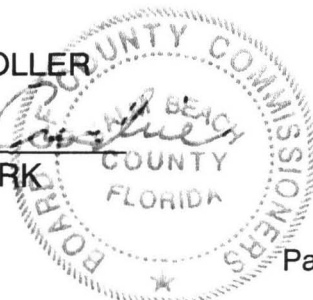


EXHIBIT A

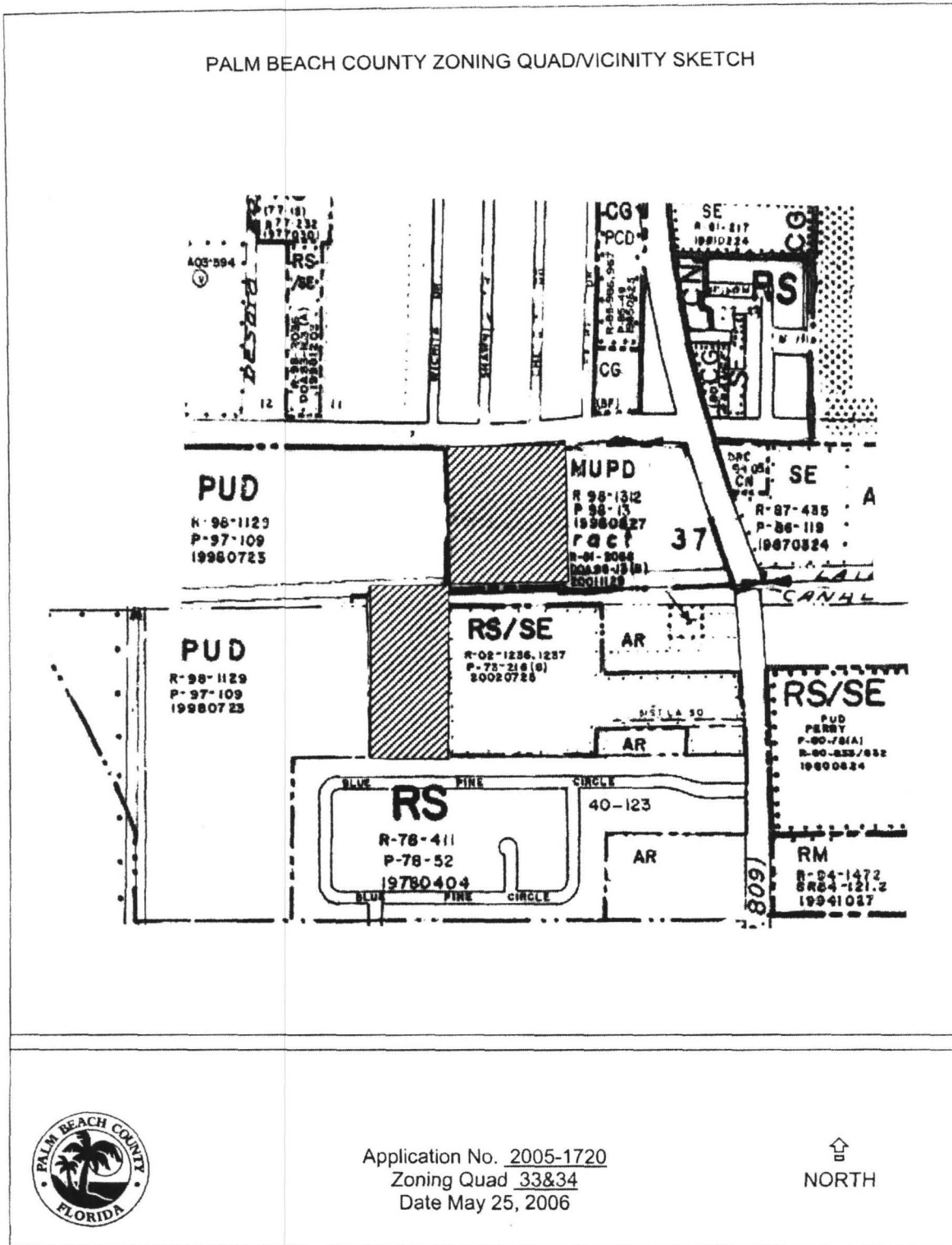
LEGAL DESCRIPTION

A PORTION OF LOT 2, TRACT 37, AS SHOWN ON THE GOVERNMENT PLAT OF THE HIATUS BETWEEN TOWNSHIPS 44 AND 45 SOUTH, RANGE 42 EAST, TOGETHER WITH A PORTION OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE S.88°30'01"E. ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, A DISTANCE OF 1817.31 FEET; THENCE S.01°29'59"W., A DISTANCE OF 54.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF LANTANA ROAD (STATE ROAD 812), AS RECORDED IN OFFICIAL RECORD BOOK 5781, PAGE 1178 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S.88°30'01"E. ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 178.32 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 2,907.79 FEET AND A CENTRAL ANGLE OF 04°11'42"; THENCE EASTERLY ALONG THE ARC OF SAID RIGHT-OF-WAY LINE, A DISTANCE OF 212.90 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 2,821.79 FEET AND A CENTRAL ANGLE OF 00°25'14"; THENCE EASTERLY ALONG THE ARC OF SAID RIGHT-OF-WAY LINE, A DISTANCE OF 20.72 FEET; THENCE S.01°29'59"W. ALONG THE WEST LINE OF MILITARY AND LANTANA M.U.P.D.-PLAT NO. 1, AS RECORDED IN PLAT BOOK 85, PAGES 3 AND 4 OF SAID PUBLIC RECORDS, AND THE SOUTHERLY PROJECTION THEREOF, A DISTANCE OF 513.97 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST; THENCE S.89°26'48"W. ALONG SAID NORTH LINE, A DISTANCE OF 347.60 FEET; THENCE S.00°33'12"E., A DISTANCE OF 52.14 FEET; THENCE S.89°26'48"W., A DISTANCE OF 29.85 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST; THENCE S.00°15'58"E. ALONG SAID EAST LINE, A DISTANCE OF 679.21 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF CONCEPT HOMES, AS RECORDED IN PLAT BOOK 45, PAGES 158 AND 159 OF SAID PUBLIC RECORDS; THENCE S.89°36'03"W. ALONG SAID NORTH LINE, A DISTANCE OF 332.70 FEET; THENCE N.00°18'00"W. ALONG THE EAST LINE OF BRYNTESON NURSERY, P.U.D. WILLOUGHBY FARMS, AS RECORDED IN PLAT BOOK 86, PAGES 198 THROUGH 204 OF SAID PUBLIC RECORDS, A DISTANCE OF 730.45 FEET; THENCE N.89°26'48"E. ALONG SAID EAST LINE, A DISTANCE OF 298.36 FEET; THENCE N.01°29'59"E. ALONG SAID EAST LINE, A DISTANCE OF 519.50 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.  
CONTAINING 456,443 SQUARE FEET OR 10.479 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 March 10, 2006. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING-Zoning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall have the approved variances, pursuant to BA-2006-210, labeled on the approved site plan. (DRO:ZONING-Zoning)

#### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
  - a. No Building Permits for the site may be issued after May 25, 2009. 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 Lantana Road
  - a. The applicant shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lantana Road. 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 applicant shall be perpetually maintained by the applicant, his successors and assigns, without recourse to Palm Beach County, unless applicant 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 applicant's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the applicant 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 applicant. The applicant 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 Applicant.

- e. Alternately, at the option of the applicant, and prior to the issuance of a Building Permit, the applicant 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 Lantana 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.
3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG – Eng)

HEALTH

1. Prior to the issuance of a building permit, the property owner must submit the results of a pre-demolition asbestos containing materials (ACM) survey of the building(s) on the site to the Palm Beach County Health Department. (BLDG PERMIT: HEALTH - Health)
2. Prior to the final approval by the Development Review Officer (DRO), the property owner must provide documentation that clearly and accurately shows the location of all buildings, septic tank systems, and wells on the site. (DRO: HEALTH-Health)
3. Prior to the issuance of a building permit, the property owner must be in receipt of a letter issued by the Florida Department of Environmental Protection (FDEP) stating that a determination of No Further Action has been issued for the contaminated site, or that contamination assessment and clean-up of the site are addressed satisfactorily, and development may proceed subject to any institutional and/or engineering controls approved by FDEP. (BLDG PERMIT: MONITORING - Health)

SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to:
  - a. provide decorative pavers within the t-intersection; and,
  - b. provide fountain within the lake tract. (DRO:ZONING-Zoning)

ZONING - LANDSCAPING - STANDARDS

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 all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. Provide landscape focal points within all cul-de-sacs. Prior to final approval by the Development Review Officer (DRO) the landscape focal points shall be subject to review and approval by the Landscape Section. (DRO: ARCH REVIEW - Zoning)

ZONING - LANDSCAPING ALONG THE SOUTH 328 FEET OF THE WEST PROPERTY LINE (ABUTTING SINGLE FAMILY RESIDENTIAL)

1. A minimum of fifty (50) percent of all trees to be planted in the landscape buffer 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)

### 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, 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. (PLAT/BLDG PERMIT: MONITORING – Palm Tran)

### PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:
  - a. Guarantees the attainability of the seven (7) designated workforce housing dwelling units for a period of ten years (ownership) to moderate income (>80% - 120% median income) households, with the unit sales prices determined by Palm Beach County's Housing and Community Development Department; and
  - b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: PLANNING/COUNTY ATTY- Planning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall indicate the following information on the site plan, consistent with the locations indicated on the site plan dated March 10, 2006:
  - a. The minimum required seven (7) workforce housing units will be equitably distributed through the development area, no concentration of units in one building or area shall occur;
  - b. units are required to be provided as seven (7) workforce housing units to moderate income households; and
  - c. the minimum required seven (7) workforce housing units shall include similar variation in bedroom and floor area options as the market rate units. (DRO: PLANNING - Planning)
3. The property owner shall include in sales documents as well as written brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying future residents of this development, that the project has a minimum of seven (7) workforce housing dwelling units and any residents wishing to reside in a unit that has been earmarked as an attainable housing unit shall qualify for eligibility. Every deed of sale for each of the attainable units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of ten years (ownership) twenty years (rental). The property owner is responsible for

disclosure of the location of these attainable units prior to the sale of any units. On an annual basis, beginning June 1, 2007, the property owner/homeowner association shall submit an annual report to the Planning Division documenting compliance with the Attainable Housing declaration of restrictive covenants, the sales document disclosure, and the deed of sale restriction. (DATE/ONGOING: MONITORING - Planning)

#### SCHOOL BOARD

1. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the applicant 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: SCHOOL – 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). (CO: SCHOOL BOARD – 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 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)