

RESOLUTION NO. R-2007- 1038

RESOLUTION APPROVING ZONING APPLICATION DOA2007-062
(CONTROL NUMBER 1992-041)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF PB PLAZA, LLC
BY MOYLE FLANIGAN, AGENT
(JOG ROAD COMMERCIAL)

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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA2007-062 was presented to the Board of County Commissioners at a public hearing conducted on June 28, 2007; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, 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.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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 DOA2007-062, the application of PB Plaza, LLC, by Moyle Flanigan, agent, for a Development Order Amendment to reconfigure the site plan, add square footage and modify/delete conditions of approval 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 June 28, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

| | |
|------------------------------|------------|
| Addie L. Greene, Chairperson | -Aye |
| John F. Koons, Vice Chair | -Aye |
| Karen T. Marcus | -Aye |
| Warren H. Newell | -Abstained |
| Mary McCarty | -Aye |
| Burt Aaronson | -Aye |
| Jess R. Santamaria | -Aye |

The Chairperson thereupon declared that the resolution was duly passed and adopted on June 28, 2007.

Filed with the Clerk of the Board of County Commissioners on 28th day of June.

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

BY:


SHARON BOCK,
CLERK & COMPTROLLER

DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

ALL THAT PART OF TRACT 2, BLOCK 4, PALM BEACH FARMS COMPANY PLAT NO. 3 ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING NORTHERLY AND EASTERLY OF THE NORTHERLY AND EASTERLY RIGHT-OF-WAY LINE OF FOR JOG ROAD, AS DESCRIBED IN THAT CERTAIN RIGHT-OF-WAY WARRANTY DEED DATED NOVEMBER 20, 1991 AND RECORDED IN OFFICIAL RECORD BOOK 7071, PAGES 990 THROUGH 993, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL CONTAINING 112,516 SQUARE FEET, 2.583 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL R/W PARCEL 1

A STRIP OF LAND 15 FEET IN WIDTH BEING A PORTION OF A 30 FOOT PALM BEACH FARMS COMPANY, PLAT NO. 3 ROAD RIGHT-OF-WAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID STRIP ALSO BEING DIRECTLY EAST OF AND PARALLEL WITH THE EAST LINE OF TRACT 2, BLOCK 4 OF SAID PLAT AND NORTHERLY OF THE NORTHERLY RIGHT-OF-WAY LINE OF THAT CERTAIN RIGHT-OF-WAY DEED FOR JOG ROAD RECORDED IN OFFICIAL RECORD BOOK 7071, PAGES 990 THROUGH 993 OF SAID PUBLIC RECORDS.

PARCEL CONTAINING 6,093 SQUARE FEET, 0.140 ACRES, MORE OR LESS.

TOGETHER WITH: ADDITIONAL R/W PARCEL 2

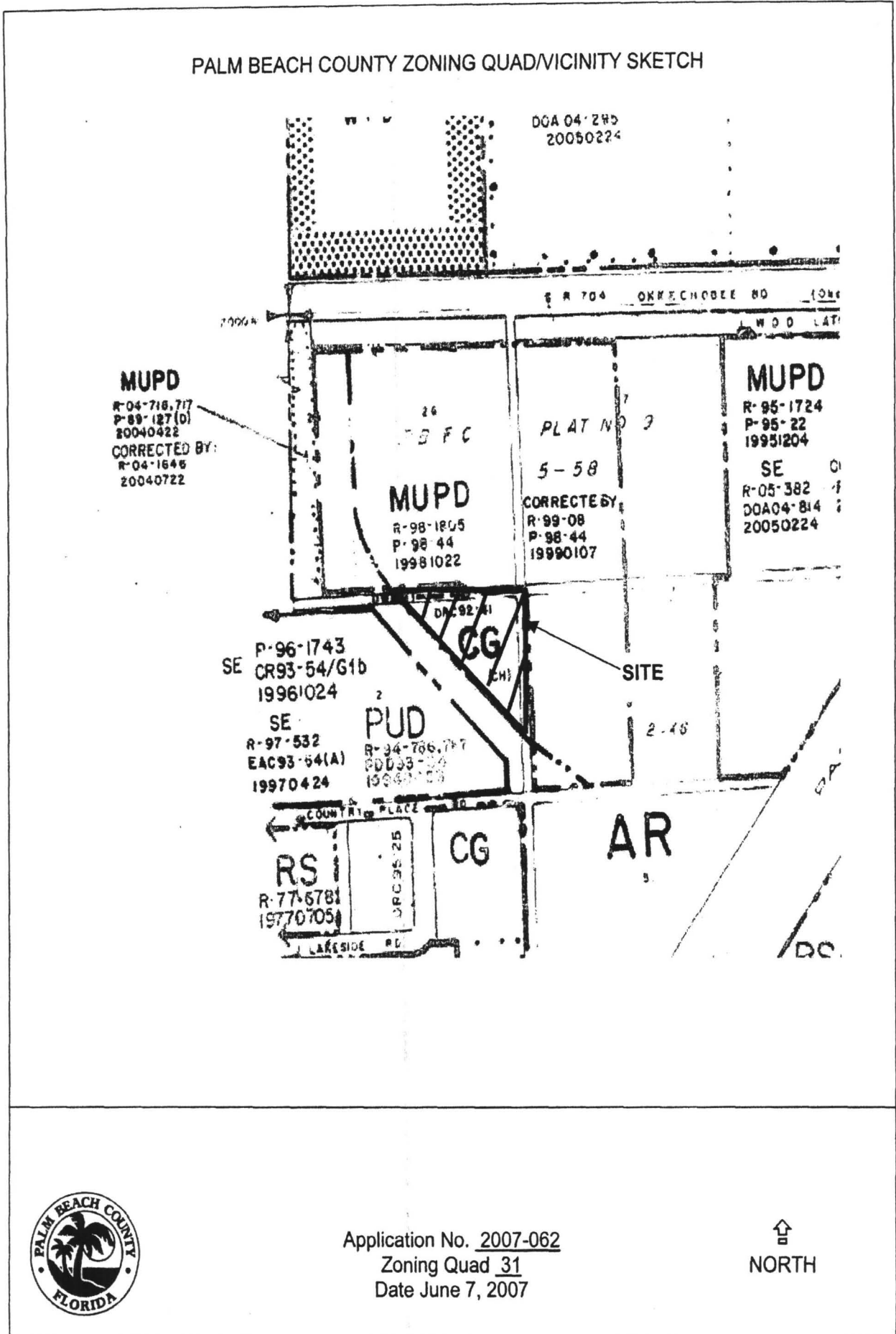
A STRIP OF LAND 15 FEET IN WIDTH BEING A PORTION OF A 30 FOOT PALM BEACH FARMS COMPANY, PLAT NO. 3 ROAD RIGHT-OF-WAY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID STRIP ALSO BEING DIRECTLY WEST OF AND PARALLEL WITH THE WEST LINE OF TRACT 1, BLOCK 4 OF SAID PLAT AND NORTHERLY OF THE NORTHERLY RIGHT-OF-WAY LINE OF THAT CERTAIN RIGHT-OF-WAY DEED FOR JOG ROAD RECORDED IN OFFICIAL RECORD BOOK 7071, PAGES 990 THROUGH 993 OF SAID PUBLIC RECORDS.

PARCEL CONTAINING 6,248 SQUARE FEET, 0.143 ACRES MORE OR LESS.

TOTAL AREA 124,857 SQUARE FEET, 2.866 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH



Application No. 2007-062
Zoning Quad 31
Date June 7, 2007



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All voluntary commitments contained in Resolution R-93-004 (Control 1992-041), are hereby repealed. (ONGOING: ZONING -Zoning) (Note: Completed)
2. Previous Condition 2. of Resolution R-2006-1545 Control Number 1992-041 which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated April 11, 2007. 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 site design approved by the Board of County Commissioners. The approved site plan dated April 11, 2007. 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)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning) (Previous Condition Architectural Review 1 of Resolution R-2006-1545, Control Number 1992-041)
2. Design of gutters and downspouts shall be integrated into the architectural design of the building. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW -Zoning) (Previous Condition Architectural Review 2 of Resolution R-2006-1545, Control Number 1992-041)
3. All electrical, air conditioning and fixed mechanical equipment, including satellite dishes shall be screened on all sides by a parapet or mansard roof, to a minimum height equal to the highest point of the equipment. (DRO: ARCH REVIEW - Zoning) (Previous Condition Architectural Review 3 of Resolution R-2006-1545, Control Number 1992-041)

ENGINEERING

1. Condition E1 of Zoning Resolution 2006-1545 Currently States

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 August 24, 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)

Is hereby amended to read:

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 June 28, 2010. 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. The property owner shall pay an additional Fair Share Fee in the amount 56.1% of the regular Impact Fee. This additional fee shall be used for Mitigation of the Okeechobee Road Corridor. This additional Impact Fee shall be paid at the time of issuance of the first Building Permit. (ONGOING: ACCOUNTING-Impact Fee Coordinator)
3. Prior to Final Site Plan approval by the Development Review Officer, the property owner shall record a restrictive covenant limiting the uses to those shown on the site plan, subject to approval by the County Attorney and County Engineer. (DRO:ENGINEERING)

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)(Previous Condition ERM-1 of Resolution R-2006-1545 of Control # 1992-041)

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)

ZONING - LANDSCAPING-STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan (ALP) to the Landscape Section for review and approval. Landscaping along the line of sight easement shall be subject to an ALP or could be combined in the Landscape Plan as deemed appropriate by the Landscape Section. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE Zoning) (Previous Condition Landscape 1 of Resolution R-2006-1545, Control Number 1992-041)
2. A minimum of seventy-five (75%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. tree height: fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;

- c. canopy diameter: seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Conditions Landscape Standard 2 of Resolution R-2006-1545, Control Number 1992-041)
3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscape Standard 3 of Resolution R-2006-1545, Control Number 1992-041)
 4. Field adjustment of plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Conditions Landscape Standard 4 of Resolution R-2006-1545, Control Number 1992-041)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING JOG ROAD)

1. In addition to code requirements, landscaping along the west property line 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: LANDSCAPE - Zoning) (Previous Conditions Landscape West 1 of Resolution R-2006-1545, Control Number 1992-041)

SIGNS

1. Previous Condition 1 Signs of Resolution R-2006-1545 Control Number 1992-041 which currently states:

Freestanding signs fronting on Jog Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. maximum sign face area per side - one hundred (100) square feet;
- c. maximum number of signs one (1) pair;
- d. location within fifty (50) feet of the entrance off Jog Road; and,
- e. style - monument style only. (BLDG PERMIT: BLDG- Zoning)

Is hereby amended to read:

Freestanding signs fronting on Jog Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. maximum sign face area per side - one hundred (100) square feet;
- c. maximum number of signs: two (2);
- d. location: one within the divider median at the entrance off Jog Road, and the second at the southeast corner of the site; and,
- e. style - monument style only. (BLDG PERMIT: BLDG- Zoning)

SITE DESIGN

1. Prior to the issuance of a building permit, the applicant shall obtain approval of a variance to reduce the landscape buffer along the north property line from fifteen feet to five feet. (BUILDING PERMIT: LANDSCAPE/ZONING) (Note: Completed)

USE LIMITATIONS

1. Hours of construction activity during all stages of site development shall be limited to 6 a.m. to 7 p.m. Monday through Friday and 8 am to 5 pm Saturday. Construction shall be prohibited Sunday and statutory holidays. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitations 1 of R-2006-1545 Control 1992-041)
2. Hours of operation, including deliveries, shall be limited to 7 a.m. to 10 p.m. daily, Monday through Friday, and 9 a.m. to 6 p.m. Saturdays, Sundays and statutory holidays. (ONGOING: CODE ENF - Zoning)(Previous Condition Use Limitations 2 of R-2006-1545 Control 1992-041)

UTILITIES

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

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/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) (Previous Condition Compliance 1 of Resolution R-2006-1545, Control Number 1992-041)
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 (CO); 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 Unified Land Development Code (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 the 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 Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)