

RESOLUTION NO. R-2008 -1147

RESOLUTION APPROVING ZONING APPLICATION CA/TDR-2007-1190  
(CONTROL NO. 2007-339)  
TRANSFER OF DEVELOPMENT RIGHTS (TDR)  
APPLICATION OF MOHAMMAD MIRZADEH  
BY SEMINOLE BAY LAND COMPANY INC., AGENT

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 applications relating to the Unified Land Development Code; and

WHEREAS, the notice and 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 CA/TDR-2007-1190 was presented as a development order to the Board of County Commissioners at a public hearing conducted on June 30, 2008; 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 (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 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 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. This Class A Conditional Use also meets applicable local land development regulations.
3. 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.
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 Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. 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.
9. This Class A Conditional Use, 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 Class A Conditional Use.
11. Pursuant to Article 5.G.2 of the ULDC, the Planning Division and the Land Use Advisory Board (LUAB) have recommended that the sale price for a County TDR units for FY 2005-06 be \$50,000.00 per unit.
12. Pursuant to Article 5.G.2 of the ULDC, the to allow the Transfer of Development Rights for more than 2 units to the acre. qualifies as a TDR Receiving Area.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that 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 CA/TDR-2007-1190 the application of Mohammad Mirzadeh by Seminole Bay Land Company Inc., agent, for a Transfer of Development Rights to allow the Transfer of Development Rights and to designate this application as the receiving area for those units on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 30, 2008, 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 Jeff Koons and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-	Aye
Jeff Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on June 30, 2008.

Filed with the Clerk of the Board of County Commissioners on 7<sup>th</sup> day of July, 2008.

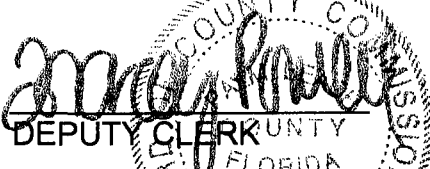
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK

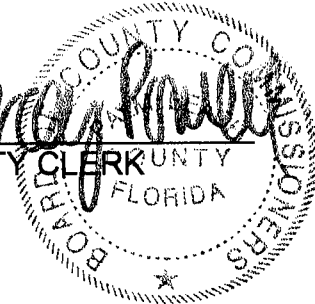


EXHIBIT A

LEGAL DESCRIPTION

Legal Description  
for

Mirzadeh Apartments

PARCEL 1

The north 219.2 feet of the east three-quarters (E 3/4) of the west one-half (W 1/2) less the east 163 feet thereof, of Tract 18, Model Land Company's subdivision of Section 14, Township 44 South, Range 42 East, according to the plat thereof recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 5, Page 78.

Together with an easement for ingress and egress over and across that certain property more particularly described in that certain easement dated February 28, 1958, and recorded February 28, 1958, in Official Record Book 163, Page 451, Public Records of Palm Beach County, Florida.

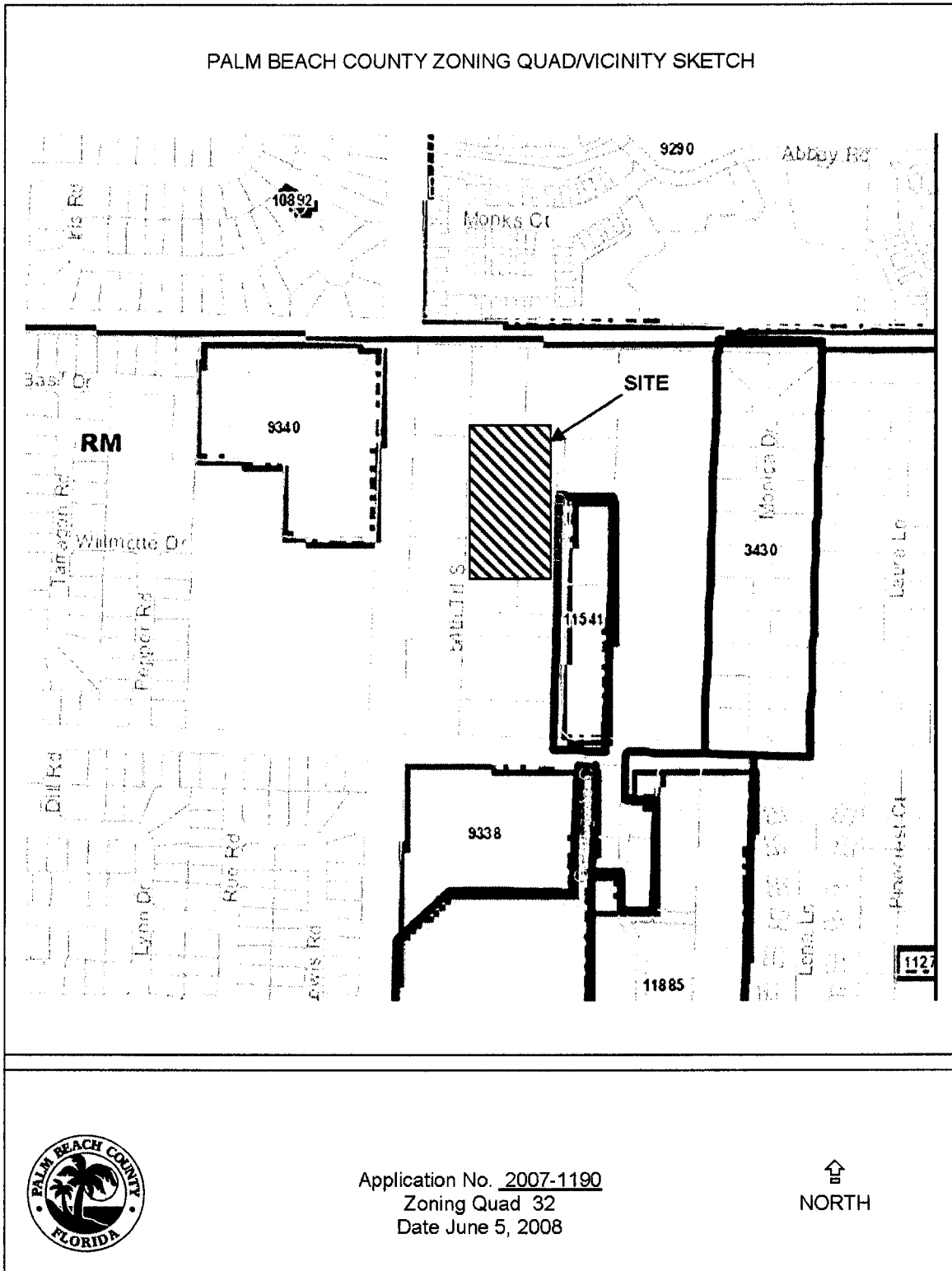
Less and excepting therefrom the right-of-way of Major Drive as conveyed to Palm Beach County, Florida, in Official Record Book 2387, Page 919, being a 20 foot strip of land for road right-of-way in Section 14, Township 44 South, Range 42 East, as now laid out and in use known as Major Drive, and more particularly described as follows: The East 20 feet of the North 219.2 feet of the east 3/4 of the west 1/2, less the east 163 feet thereof, of Tract 18, Model Land Company's subdivision of Section 14, Township 44 South, Range 42 East, according the plat thereof recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 5, Page 78.

Parcel 2

The North 140 feet of the South 700 feet, and the South 1/2 of the North 140 feet of the South 840 feet of the East 3/4 of the West 1/2 of Tracts 18, 19 and 20; less the East 183 feet thereof, on Model Land Company's sub-division, Section 14, Township 44 south, Range 42 East according to the plat therof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, as recorded in Plat Book 5 Page 78.

Containing 125, 274 Sq. Ft. or 2.875 Acres.

EXHIBIT B  
VICINITY SKETCH



Application No. 2007-1190  
Zoning Quad 32  
Date June 5, 2008



EXHIBIT C

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated June 16, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

2. Prior to final plan approval by the Development Review Officer (DRO), the plan shall be revised to show pedestrian access along the north property line to allow pedestrian access through the site and cross access from the adjacent properties. (DRO:ZONING-Eng)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the multi-family buildings 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)

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 June 22, 2011. 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 provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for a 40 foot "Corner Clip" at Major Drive North and Major Drive West. All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of a Building Permit.

Right of way conveyance shall be free of all encroachments and encumbrances. 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 provisions for Expanded Intersection Details and The Property Owner shall not record these required deeds or related documents. After final

acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG. PERMIT: MONITORING-Eng)

3. The Property owner shall extend any unpaved portion of Major Drive to this projects entrance.

Any required construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the 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.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

#### ENVIRONMENTAL

1. All existing native vegetation depicted on the site plan dated June 16, 2008 to remain shall be maintained in perpetuity. Areas where existing native vegetation has been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (DRO:ERM-ERM)

#### ZONING - LANDSCAPING-STANDARD

1. Prior to the final approval by the Development Review Officer (DRO), 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. (DRO: LANDSCAPE - Zoning)

2. A minimum of sixty (60) 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. (DRO: LANDSCAPE - Zoning)

3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (DRO: LANDSCAPE - Zoning)

4. Preservation areas may be excluded from perimeter landscape buffer planting requirements, subject to the following:

a. prior to final approval by the Development Review Officer (DRO), documentation that demonstrates native preserve area vegetation will meet or exceed the screening provided by required perimeter landscaping shall be submitted to the Landscape Section for review and approval; and,

b. additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRO: LANDSCAPE - Zoning)

#### LANDSCAPING ALONG THE WEST 132 OF THE NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

5. In addition to code requirements, landscaping along the west 132 feet of the north property line shall be upgraded to include:

- a. a six (6) foot high fence. Height of the fence shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property; and,
- b. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of forty (40) feet between clusters. (DRO: LANDSCAPE - Zoning)

## 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)

## WORKFORCE HOUSING

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 but is not limited to the following:

- a. Guarantees the attainability of all required workforce units, which includes all units required per Article 5.G in the ULDC and 11 requested TDR units, for a period of twenty-five years (recurring). These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the Workforce Housing requirements in Article 5.G in the ULDC; and
- b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTY- Planning)

2. Prior to final approval by the Development Review Officer (DRO), the property owner shall include a notation in Master Plans and related Site Plans that shall indicate that a minimum of 14 units have been designated as workforce housing units. Notations shall make reference to the recorded Restrictive Covenants for Workforce Housing and indicate that all the required workforce units are subject to the Restrictive Covenants and shall be sold, resold, or rented only to low, moderate 1, moderate 2, or middle-income qualified households. (DRO: PLANNING Planning)

3. On an annual basis, beginning April 1, 2009, or as otherwise stipulated in the Declaration of Restrictive Covenants for Workforce Housing, the property owner, master homeowners association, or property owner association shall submit an annual report to the Planning Division and HCD documenting compliance with the Declaration of Restrictive Covenants for Workforce Housing. (DATE/ONGOING: MONITORING Planning/HCD)

## COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:



- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)

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

EXHIBIT C-1  
TRANSFER OF DEVELOPMENT RIGHTS  
CONDITIONS OF APPROVAL

TRANSFER OF DEVLEOPMENT RIGHTS

1. At time of submittal for final Development Review Officer (DRO) approval, an official "Contract for Sale and Purchase of TDR Units", "TDR Escrow Agreement", and "TDR Deed" shall be submitted for final review and execution. (DRO: ZONING - Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner/applicant shall perform the following:
  - a. Execute a "Contract for Sale and Purchase of TDRs" in a manner and form approved by the Office of the County Attorney, and formally executed by the Chairman of the Board of County Commissioners. The Contract shall accommodate a maximum of eleven (11) TDR units at a selling price of one dollar (\$1.00) per unit. Two (2) recorded copies of the "Contract for Sale and Purchase of TDRs" shall be provided to the Palm Beach County Zoning Division.
  - b. Monies representing eleven (11) of TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County or the non-refundable monies shall be paid to Palm Beach County. (DRO: ZONING - Zoning)
3. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (BLDG PERMIT: MONITORING - Zoning)
4. Prior to the issuance of the first building permit, a deed conveying the applicable TDR units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. (BLDG PERMIT: MONITORING - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
  - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
  - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
  - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
  - d. Referral to code enforcement; and/or
  - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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.

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