

RESOLUTION NO. R-2009- 0164

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2008-01357
(CONTROL NUMBER 1982-00182)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF Catoe Invstmnt Inc
BY Jon E Schmidt & Associates, AGENT
(Fantastic Finishes)

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 ZV/DOA/R-2008-01357 was presented to the Board of County Commissioners at a public hearing conducted on January 29, 2009; 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 ZV/DOA/R-2008-01357, the application of Catoe Invstmnt Inc, by Jon E Schmidt & Associates, agent, for a Development Order Amendment to to reconfigure the Site Plan 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 January 29, 2009, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 29, 2009.

Filed with the Clerk of the Board of County Commissioners on February 17, 2009

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

A PARCEL OF LAND LYING IN SECTION 32, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 2 OF THE PLAT OF LEELAN WEST INDUSTRIAL PARK AS RECORDED IN PLAT BOOK 62, PAGE 133 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 1.43 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

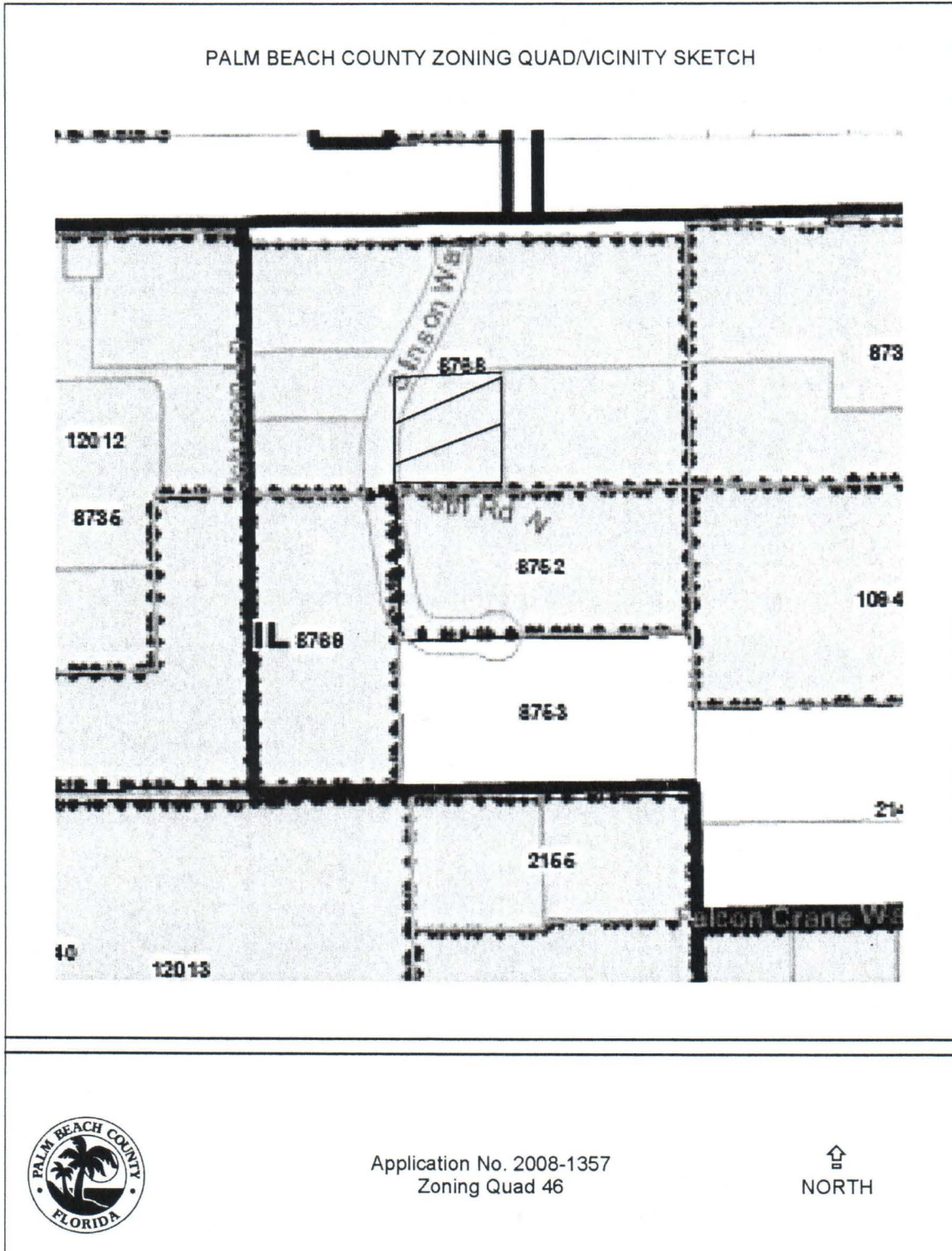


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-83-255, Control 82-182, Resolution R-86-1357, Control 82-182(A), and Resolution R-90-1895, Control 82-182(B), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Development plan is dated November 12, 2008. Replacement of a use by another use listed as permitted by right or permitted subject to approval by the Development Review Officer (DRO) pursuant to Table 3.E.1.B may be allowed subject to the approval by the DRO. All other 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)

3. Condition 1 of Resolution R-1990-1895, Control No. 1982-182, which currently states:

The petitioner shall comply with all previous conditions of approval unless expressly modified herein. (ONGOING: ZONING - Zoning)

Is hereby deleted [Reason: Conditions are consolidated].

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval for all new development, additions and/or renovations to the existing buildings and structures that are in excess of 75 percent or more of the current assessed value of the structure. To establish 5.C. Design Standard applicability, a cost analysis shall be provided. If required, 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)

BUILDING AND SITE DESIGN

1. Individual sites within the Planned Industrial Park shall be subject to approval of the Site Plan Review Committee. (DRO: ZONING Zoning) (Previous Condition 3 of Resolution R- 86-1357, Control No. 1982-182)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No building permits for the site shall be issued after December 31, 2013. 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.E of the Unified Land Development Code. (DATE: MONITORING Eng)

2. Petitioner shall amend the proposed site plan to reflect legal access, maximum turn-out dimensions, confirmed base building lines, and resulting setbacks prior to site plan certification and subsequent to final resolution of the alignment of Johnson Lane. (DRO: ENGINEERING Eng) (Previous Condition 2 of Resolution R-83-255, Control No. 1982-

182)

3. Petitioner shall provide a limited access easement along Belvedere Road. (DRO: ENGINEERING - Eng) (Previous Condition 4 of Resolution R- 86-1357, Control No. 1982-182)

4. Prior to the issuance of a Certificate of Occupancy, the Developer shall construct:

- a. Johnson Lane from Belvedere Road south to the project's entrance road.
- b. A left turn lane east approach on Belvedere Road at its intersection with Johnson Lane. Plans for these improvements shall be included in the application to the County Engineer's Office for the project's Paving and Drainage Permit. (DRO: ENGINEERING Eng) (Previous Condition 5 of Resolution R-83-255, Control No. 1982-182)

5. Developer shall contribute the sum of Four Hundred and Eighty-Eight (\$488.00) toward the cost of meeting this project's direct and indentifiable impact, to be paid at the time of issuance of the Building Permit. (BLDG PERMIT: ENGINEERING Eng) (Previous Condition 6 of Resolution R-83-255, Control No. 1982-182)

6. The development shall retain on-site 85% of the stormwater runoff generated by a three (3) year- one hour storm per requirements of the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition per the County Engineer's approval. (ONGOING: ENGINEERING Eng) (Previous Condition 8 of Resolution R- 86-1357, Control No. 1982-182)

7. The property owner shall convey for the ultimate right-of-way of Johnson Lane, 30 feet from centerline or provide alternate right-of-way as approved by County Engineer within 90 days of adoption of the Resolution by t h e Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first Building Permit. (ONGOING: ENGINEERING Eng) (Previous Condition 9 of Resolution R- 86-1357, Control No. 1982-182)

[Note:Complete]

8. The property owner shall construct left turn lane, east approach and a right turn lane, west approach on Belvedere Road at the project's entrance road concurrent with on site paving and drainage improvements. (ONGOING: ENGINEERING Eng) (Previous Condition 10 of Resolution R- 86-1357, Control No. 1982-182)

[Note:Complete]

9. The property owner shall convey for the ultimate right-of-way of Belvedere Road, 60 feet from centerline within 90 days of the approval of the Resolution approving this project. (ONGOING: ENGINEERING Eng) (Previous Condition 11 of Resolution R- 86-1357, Control No. 1982-182)

[Note:Complete]

ENVIRONMENTAL

1. Previous Condition 2 of Resolution No. R-90-1895, Control No. 1982-182 which currently states:

The Petitioner shall submit to the Zoning Division and the Department of Environmental Resources Management a planting and maintenance plan for all remianing preservation areas prior to Site Plan certification. (DRO:ZONING-ERM)

Is hereby deleted [Reason: Completed]

HEALTH

1.Previous condition Health 8. of Resolution R-90-1895 which reads:

Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.

Is hereby amended to read:

Owners and operators of facilities generating hazardous, industrial or toxics wastes shall not deposit or cause to be deposited any such wastes into the sanitary sewage system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Palm Beach County Health Department, and the agency responsible for sewage works are used. (ONGOING: CODE ENF-Health)

2.Previous condition Health 9. of Resolution R-90-1895 which reads:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.

Is hereby DELETED----Reason: Code requirement

3.Previous condition Health 10. of Resolution R-90-1895 which reads:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

Is hereby DELETED----Reason: Code Requirement

4.Previous condition Health 11. of Resolution R-90-1895 which reads:

No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 Florida Administrative Code.

Is hereby DELETED-----Reason: Code Requirement

5.Previous condition 3 of Resolution R-1983-255 which reads:

Petitioner shall take reasonable precautions during development of this project to insure that fugitive particles (dust particulates) from this project do not become a nuisance to neighboring properties.

Is hereby Deleted---Reason: Addressed is Dust control letter

6.Previous condition 4 of Resolution R-1983-255 which reads:

Petitioner shall take reasonable precaution to insure that runoff from this project will not pollute adjacent or nearby surface waters.

Is hereby Deleted----Reason: Code Requirement

7.Previous condition 6 of Resolution R-86-1357 which reads:

Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and agency responsible for sewage works, are constructed and used by project tenants or owners generating such effluents. (ONGOING:HEALTH-Health)

Is hereby Deleted---Reason: Superseded by Health condition 1

8.Previous condition 7 of Resolution R-86-1357 which reads:

No building permit shall be issued for the subject property until such a time that the site is connected to a public sewer system. (ONGOING:HEALTH-Health)

Is hereby Deleted----Reason: Completed

ZONING - LANDSCAPING

1.All existing native vegetation shall be preserved or relocated to the fifteen (15) foot landscape buffer along the north property line. Relocated vegetation shall not be credited toward the overall tree requirement. Preservation areas shall be shown on the master plan and site plan prior to certification by the site plan review committee. These preservation areas shall receive appropriate protection from damage and disturbance during the site development and construction phase. the minimum protection shall include highlighting of preservation areas throughout the installation with stakes installed a minimum of twenty (20) feet apart. Ropes, plastic, tape or ribbons shall be attached to the stakes around the perimeter of the protected area. Marking materials shall not be attached to a protected tree.

In addition, individual trees not within a preserved area or relocated shall be protected by a barrier, constructed of metal or wood, placed s distance of six (6) feet apart, or at the radius of the dripline, whichever is greater.

Additional tree preservation guidelines can be obtained from the Tree Protection Manual for Builders and Developers published by the Division of Forestry of the Florida Department of Agriculture and Consumer Services. (ZONING: ZONING-Landscape) (Previous Condition 3 of Resolution R-90-1895, Control No. 82-182(B)).

2.Previous Condition 4 of Resolution R-90-1895 which currently states:

A preclaring inspection shall be required by the Planning, Zoning and Building Department prior to Site Plan certification. The inspection shall include the location and tagging of all vegetation to be preserved or relocated. (ZONING: Zoning-Landscape)

Is hereby deleted - [Reason: Completed]

3.Previous Condition 5 of Resolution R-90-1895 which currently states:

A Landscape Betterment Plan shall be sumbitted to the Planning, Zoning and Buiding Department prior to Site Plan Certification indicating the following:

- a. Trees ten (10) feet in height abd no greater than twenty (20) feet on center within the required landscape buffer around the perimeter of the site;
- b. The north property line shall be supplemented with a thirty-six (36) inch high hedge in the landscape buffer; and
- c. Seventy-five (75) percent of vegetation planted on site shall be of native species. (ZONING:Zoning-Landscape)

Is hereby deleted - [Reason: No longer applicable]

4.Previous Condition 6 of Resolution R-90-1895 which currently states:

The landscape buffer areas adjacent to Leelan Way shall be planted with trees ten (10) feet in height and no greater than twenty (20) feet on center supplemented with a thirty-six (36) inch high hedge. (ZONING: Zoning-Landscape)

Is hereby deleted - [Reason: No longer applicable]

5.The required number of trees on site shall be no less than 233. (ONGOING: Zoning -

Zoning) (Previous Condition 7 of Resolution R-90-1895, Control No. 82-182(B)).

6. Prior to final site plan approval by the Development Review Officer (DRO), the plan shall be revised to show a minimum fifteen (15) foot right-of-way buffer along Leelan Way for Lot 2, with no easement overlap. One existing parking space encroachment into the buffer area shall be permitted. (DRO: Zoning Landscape)

7. The Petitioner shall submit to the Zoning Division and the Department of Environmental Resources Management a planting and maintenance plan for all remaining preservation areas prior to Site Plan certification. (DRO: ZONING ERM) (Previous Condition 2 of Resolution R-90-1895, Control No. 1982-182)

8. Prior to site plan certification, the site plan shall be amended to reflect the following:

- a) indicate the fifteen (15) foot perimeter landscape buffer easement.
- b) indicate the area within the perimeter buffer as acreage to be excluded from the minimum tree requirement calculation. (DRO: ZONING Zoning) (Previous Condition 1 of Resolution R- 86-1357, Control No. 1982-182)

9. Prior to site plan certification, the site plan shall be amended to reflect the following:

- a) The required number of trees to be preserved or planted. If trees are to be preserved, the site plan shall be accompanied by a tree survey indicating said trees. (DRO: LANDSCAPE Zoning) (Previous Condition 2 of Resolution R- 86-1357, Control No. 1982-182)

10. Previous Condition 5 of Resolution R- 86-1357, Control No. 1982-182 which currently states:

Areas of existing vegetation, particularly within the perimeter buffer, to be preserved shall be shown upon the approved development plan prior to master plan and/or site plan certification . These preservation areas shall receive appropriate protection from damage and disturbance during the site development and construction phase. The minimum protection shall include highlighting of preservation areas throughout the installation of stakes installed a maximum of fifty (50) feet apart. Ropes, plastic, tape or ribbons shall be attached to the stakes around the perimeter of the protected area. Marking materials shall not be attached to a protected tree.

In addition, individual trees not within a preserved area shall be protected by a barrier, constructed of metal or wood, placed a distance of six feet apart, or at the radius of the dipline, whichever is greater.

Additional tree preservation guidelines can be obtained from The Tree Protection Manual for Builders and Developers published by the Division of Forestry of the Florida Department of Agriculture and Consumer Services. (DRO: LANDSCAPE Zoning)

Is hereby deleted [Reason: Superseded by Landscape Condition 1]

11. Prior to final Development Review Officer (DRO) approval, the applicant shall provide a release agreement and removal for any plant material encroaching into the utility easement. (DRO: LANDSCAPE-Zoning)

SOLID WASTE AUTHORITY

1. Previous Condition 12 of Resolution R-90-1895 which currently states:

The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, as programs are available. (ONGOING: ZONING - Zoning)

Is hereby deleted - [Reason: No longer applicable]

USE LIMITATIONS

1. There shall be no retail or consumer service uses permitted in the proposed office-warehouse combination. (ONGOING: ZONING Zoning) (Previous Condition 12 of Resolution R- 86-1357, Control No. 1982-182)

UTILITIES

1. Previous Condition 1 of Resolution R-83-255, Control No. 1982-182 which currently states:

Developer shall enter into a contract for water service with Palm Beach County Utilities prior to site plan certification. (ONGOING: UTILITIES Utilities)

Is hereby deleted - [Reason: No longer applicable]

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)

1. 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

a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

b. 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

c. Referral to code enforcement; and/or

d. 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.

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)

3. Condition 13 of Resolution R-90-1895, Control No. 1982-182, which currently states:

As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:

a. The denial or revocation of a building permit; the issuance of a stop work order; the

denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or

b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or

c. A requirement of the development to conform with updated standards of development, applicable 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, 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)

Is hereby deleted. [Reason: superseded by standard condition 2 above]