

RESOLUTION NO. R-2001- 0436

RESOLUTION APPROVING ZONING PETITION DOA1985-013(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF ANDRADE ASSOC. LTD. PARTNERSHIP
BY PETER RUSSO, AGENT
(HYPOLUXO PLAZA)

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 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1985-013(B) was presented to the Board of County Commissioners at a public hearing conducted on March 22, 2001; 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 5, Section 5.8 (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 made 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 5 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 Petition DOA1985-013(B), the petition of Andrade Assoc. Ltd. Partnership, by Peter Russo, agent, for a Development Order Amendment (DOA) to allow a fast food restaurant 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 22, 2001, 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 Masilotti and, upon being put to a vote, the vote was as follows:

Warren H. Newell, Chair	-	Absent
Carol A. Roberts, Vice Chair	-	Aye
Karen T. Marcus		Aye
Mary McCarty		Aye
Burt Aaronson		Aye
Tony Masilotti		Aye
Addie L. Greene		Aye

The Chair thereupon declared that the resolution was duly passed and adopted on March 22, 2001.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

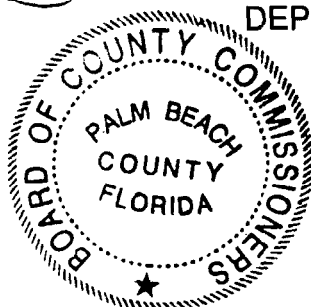


EXHIBIT A
LEGAL DESCRIPTION

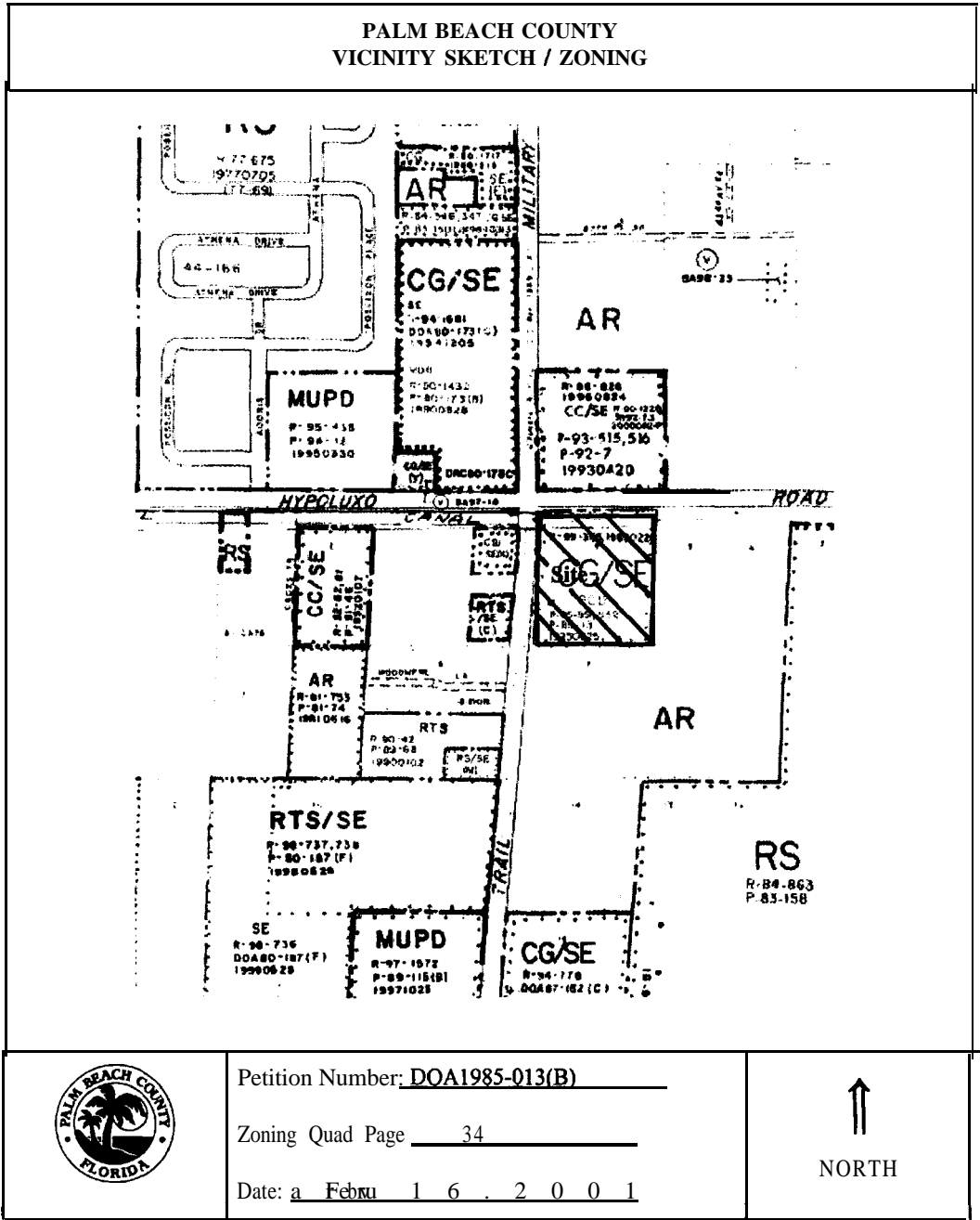
Parcel C:

That part of Lot 6 and the 15 foot road right-of-way lying North of said Lot 6, as shown on the amended plat of Section 12, Township 45 South, Range 42 East, according to the plat thereof recorded in Plat Book 9, Page 74 of the Public records of Palm Beach County, Florida, as follows:

Commence at the north quarter section corner of said Section 12; thence south 89 degrees 54' 03" east, along the north line of said Section 12, 160.60 feet to the point of beginning; thence continue south 89 degrees 54' 03" east along said north line, 181.50 feet; thence south 0 degrees 05' 57" west 240 feet; thence north 89 degrees 54' 03" west, 181.50 feet thence; north 0 degrees 05' 57" east 240 feet to the said point of beginning.

EXHIBIT B
VICINITY SKETCH

EXHIBIT B



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EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. **All previous conditions of approval shall apply unless expressly modified herein.** (Previously Condition 1 of Resolution R-89-365, Petition DOA1 985013(B))
2. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-85-951 (Petition 85-I 3), R-85-952 (**Petition85-13**) and R-89-365 (Petition 85-I **3A**), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: **MONITORING-Zoning**)
3. 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 December 22, 2000 and the site plan is dated January 25, 2001. 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)

B. ARCHITECTURAL CONTROL

1. Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations to the Zoning Division for review. Development shall be consistent with the approved architectural elevations. (DRC: **BLDG PERMIT-Zoning**)

C. BUILDING AND SITE DESIGN

1. **Prior to site plan certification, the Site Plan shall be amended to indicate the following:**
 1. **A 22 foot pavement dimension in the rear of the 15,600 square foot retail building.**
 2. **Minimum six foot interior landscape islands.**
 3. **A minimum side interior setback of fifteen feet for the structure on Parcel B.**
 4. **Site data for each proposed parcel.**
 5. **Location of the slash pine, sabal palms and poinciana. The petitioner may submit an alternative Landscape Betterment Plan, acceptable to the Zoning Division to incorporate existing vegetation into the project design.**
 6. **Number of storage bays in the self storage facility.** (Previously Condition 2 of Resolution R-89-365, Petition DOA1 985-013(B)) (CO:BLDG-ZONING)

2. Condition 3 of Resolution R-89-365, Petition DOA1 985-013(A) which currently states:

The petitioner shall provide for continuous circulation throughout the parking lot of the 4,000 square foot bank site by either redesigning the site or eliminating a minimum of one drive up teller unit. (CO: BLDG.)

Is hereby deleted. Reason: [financial institution is replaced by fast-food restaurant/ retail use].

- 3 **Prior to site plan certification, the petitioner shall obtain the necessary improvements to construct improvements within the 25 foot LWDD easement along the north property line. Documentation shall be submitted in duplicate simultaneously with application to the site plan review committee. (Previously Condition 8 of Resolution R-89-365, Petition DOA1985-013(A)). (CO: BLDG.-ZONING)**
4. **Prior to site plan certification, the petitioner shall execute all necessary cross-access drainage and parking agreements. The executed documents shall be submitted simultaneously with application to Site Plan Review Committee. These documents shall be subject to the approval of the County Attorney and County Engineer. (Previously Condition 10 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: BLDG.-ZONING)**
5. Total gross floor area in the affected area shall be limited:

fast-food restaurant - maximum 1,939 square feet; and,
retail - 2,400 square feet.
Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division and DRC. (DRC: ZONING)
- 6 The maximum height for all structures including air conditioning, mechanical equipment and satellite dishes shall not exceed twenty-five (25) feet. All heights shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
7. All ground or roof mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)

D. LANDSCAPING

1. **The petitioner shall preserve and incorporate slash pine and royal poincianas in the design of the site meeting the standards of Section 500.36 (Vegetation Protection). The sabal palms shall also be relocated as necessary and incorporated into the project design. (Previously Condition 4 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: LANDSCAPE-ZONING)**

2. **The petitioner may submit an alternate betterment plan, acceptable to the Zoning Division, to meet the preservation requirements. Only variation from interior landscape requirements shall be considered in te approval of said plan.** (Previously Condition 5 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: LANDSCAPE-ZONING)
3. **The western 200 feet of the southern landscape strip shall be upgraded with one (1) ten (10) foot to twelve (12) foot canopy tree planted twenty (20) feet on center. A berm and hedge combination shall be installed to provide for a four (4) foot buffer at planting and to be maintained at a six (6) foot height upon maturity.** (Previously Condition 6 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: LANDSCAPE-ZONING)
4. **The petitioner may utilize Alternative Perimeter Landscape Buffer Number 3 along the two non-frontage perimeters of the site, as noted in Exhibit No. 47.** (Previously Condition 9 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: LANDSCAPE-ZONING)
5. **The petitioner shall install a six (6) foot high wall along the western and northern boundary lines of the self service storage facility. Landscaping meeting the perimeter landscape requirements of Section 500.35.E.3.b.(2) o the Landscape Code shall be installed along the northern edge of the retention pond. The site plan shall be redesigned in this area to accommodate the wall and landscaping.** (Previously Condition 29 of Resolution R-89-365, Petition DOA1985-013(A)). (CO: LANDSCAPE-ZONING)
6. Prior to June 1, 2001, the petitioner/property owner(s) shall replace any dead, damaged or missing plant materials in the entire shopping center. (DATE: LANDSCAPE)
7. All canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
8. All palms required to be planted on site 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. (CO: LANDSCAPE - Zoning)
9. A group of three (3) or more palm or pine trees may not supersede the requirement for **(all or perimeter)** canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)

10. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E. 12.a of the ULDC. (CO: LANDSCAPE - Zoning)
11. The petitioner shall install a six (6) foot high wall around the area designated for the freezer unit located to the rear of the restaurant.

D. ENVIRONMENTAL RESOURCE MANAGEMENT

1. **Simultaneously with the site plan review submittal, the petitioner shall submit a tree survey indicating the location of slash pine, sabal palms and royal poincianas on site with associated native understory.** (Previously Condition 7 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: ERM-ZONING)
2. **Bulkheading of proposed lake shall be done in accordance with Palm Beach County's Subdivision Code and Platting Ordinance, Article 10, Section 6 (Ordinance No. 86-21), as well as other applicable governmental agencies which regulate water quality and quantity, This may include South Florida Water Management District, the Department of Environmental Regulation, and the Army Corps of Engineers.** (Previously Condition 17 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: ERM-ZONING)

E. ENGINEERING

1. **The developer shall retain the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite three (3) inches of the stormwater runoff generated by a three (3) year-one (1) hour storm as required by the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.**

If required by the County Engineer or the South Florida Water Management District the developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site. (Previously Condition 18 of Resolution R-89-365, Petition DOA1985-013(A)). (BLDG. PERMIT: MONITORING- ENG.)

2. **The developer shall fund the construction of Military Trail as a 4-lane median divided section from Station 170+00 north to a point 200 feet north of the north right of way line of Hypoluxo Road plus the appropriate paved tapers. Construction costs shall include sidewalks, bike paths, or sidewalk combinations, curb and gutter, and drainage. Surety acceptable to the County Engineer and County Attorney shall be posted in the amount of 110% prior to July 1, 1988, or prior to certification of the site plan, or prior to issuance of any building permits, whichever of the three shall first occur. Once surety has been posted,**

Palm Beach County may call this surety at any time required for the construction of Military Trail. Funding shall be limited to any amount not to exceed \$277,276.00. Note: COMPLETED (Previously Condition 23 of Resolution R-89-365, Petition DOA1 985-013(A)). (BLDG. PERMIT: MONITORING- ENG.)

3. **Within ninety (90) days of special exception approval, the property owner shall convey by road right-of-way warranty deed any additional right-of-way required by the County Engineer for the construction of an expanded intersection, as referenced Palm Beach County's Comprehensive Land Use Plan, at Hypoluxo Road and Military Trail. Prior to site plan certification, the petitioner's site plan shall be modified accordingly.** (Previously Condition 26 of Resolution R-89-365, Petition DOA1 985-013(A)). (BLDG. PERMIT: MONITORING- ENG.)
4. **The property owner shall be restricted to a Phase I which shall generate no more total traffic than an amount which would be generated under the previous Condition No. 16 of Zoning Petition No. 85-13 (Resolution No. R-85-951), which limited the project to no more than 36,500 square feet of general retail until construction has begun by Palm Beach County for Military Trail widening adjacent to this project.** Note: Military Trail has been widened to 6 lanes adjacent to the site. (Previously Condition 27 of Resolution R-89-365, Petition DOA1985-013(A)). (BLDG. PERMIT: MONITORING- ENG.)
5. **The developer shall construct concurrent with the construction of the project's:**
 - a. **East entrance onto Hypoluxo Road, a left turn lane east approach, if feasible (as determined by the County Engineer) and a right turn lane west approach;**
 - b. **West entrance road onto Hypoluxo Road, a right turn lane west approach. This entrance/exit shall not be permitted a median opening onto Hypoluxo Road.**
 - c. **North entrance road onto Military Trail, a right turn lane south approach. This entrance shall not be permitted a median opening onto Military Trial.**
 - d. **South entrance onto Military Trail, a right turn lane south approach and left turn lane north approach.** (Previously Condition 28 of Resolution R-89-365, Petition DOA1 985-013(A)). (BLDG. PERMIT: MONITORING- ENG.)

F. LANDSCAPING - INTERIOR

1. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING)
2. Landscaped divider medians shall be provided between all rows of abutting parking. The minimum width of this median shall be ten (10) feet excluding curb. One tree and appropriate ground cover shall be planted for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center. (DRC: ZONING)

3. Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided in the center of all driveways over thirty (30) feet in width providing ingress or egress to the site. The minimum length of this median shall be twenty five (25) feet. A minimum width of eight (8) feet of landscaped area shall be provided. One tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median. (DRC: ZONING)
4. Foundation planting or grade level planters shall be provided along the front and side facades of all structures to consist of the following:
 - a. The minimum width of the required landscape areas shall be eight (8) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: **ZONING** / LANDSCAPE)

G. MUPD

1. **Property owner shall record a Unity of Control on the subject property prior to May 1, 1988 or prior to Site Plan approval subject to approval by the County Engineer and County Attorney.** (Previously Condition 24 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: COUNTY ATTORNEY)

H. HEALTH

1. **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.** (Previously Condition 19 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: HEALTH)
2. **Since sewer service is available to the property, septic tank shall not be approved for use on the property.** (Previously Condition 20 of Resolution R-89-365, Petition DOA1985-013(A)). (CO: HEALTH)
3. **Because water service is available to the property, a well shall not be approved for potable water use.** (Previously Condition 21 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: HEALTH)
4. **The petitioner shall relocate the dumpster from the perimeter property lines to the interior portion of the site.** (Previously Condition 30 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: HEALTH)
5. **The petitionershall eliminate the chain link fence in the perimeter buffer.** (Previously Condition 31 of Resolution R-89-365, Petition DOA1 985-013(A)). (CO: HEALTH)

I. SIGNS (AFFECTED AREA)

1. Freestanding point of purchase sign fronting on Hypoluxo Road shall be limited as follows:

- a. Maximum sign height ten (10) feet;
 - b. Maximum sign face area - one hundred (100) square feet;
 - c. Maximum number of signs - one (1).
 - d. Style- monument. (CO: SIGNS-ZONING)
2. **No off-premise signs shall be permitted on the site.** (Previously Condition 25 of Resolution R-89-365, Petition DOA1 985-013(A)). CO: SIGNS-ZONING)

J. 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 a majority vote of the Code Enforcement Board 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 5.8 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. (MONITORING)