

RESOLUTION NO. R-96-820

RESOLUTION APPROVING ZONING PETITION EAC73-91(C)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF L.W. JOG S.C. LTD.  
BY JILL JARKESY, AGENT  
(DECKER'S BAR & GRILL)

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 EAC73-91(C) was presented to the Board of County Commissioners at a public hearing conducted on June 24, 1996; 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 EAC73-91(C), the petition of L.W. Jog S.C. Ltd., by Jill Jarkey, agent, for a Development Order Amendment/Expedited Application Consideration to allow a cocktail lounge within 250 feet of a residential (requested use), 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 24, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

|                           |    |        |
|---------------------------|----|--------|
| Ken Foster, Chair         | -- | Aye    |
| Burt Aaronson, Vice Chair | -- | Absent |
| Maude Ford Lee            | -- | Absent |
| Karen T. Marcus           | -- | Aye    |
| Mary McCarty              | -- | Aye    |
| Warren Newell             | -- | Aye    |
| Carol A. Roberts          | -- | Aye    |

The Chair thereupon declared that the resolution was duly passed and adopted on June 24, 1996.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Barbara Altman*  
COUNTY ATTORNEY

BY: *Joan Haverly*  
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

FILE

APR 17 1995

EXHIBIT "A"  
LEGAL DESCRIPTION

73-91 C

PARCEL 1:

A PARCEL OF LAND IN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27; THENCE SOUTH 00°58'18" WEST (STATE PLANE GRID DATUM), ALONG THE WEST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27, A DISTANCE OF 1339.12 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27; THENCE SOUTH 38°32'45" EAST, ALONG SAID SOUTH LINE, 30.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF JOG ROAD, AND TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN; THENCE CONTINUE SOUTH 38°32'45" EAST, ALONG SAID SOUTH LINE, 933.37 FEET TO THE EAST LINE OF THE WEST HALF (W 1/2) OF THE EAST HALF (E 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27; THENCE NORTH 00°55'50" EAST, ALONG SAID EAST LINE, 1104.20 FEET TO A POINT THAT IS 236.03 FEET SOUTH OF THE NORTH LINE OF SECTION 27, AS MEASURED ALONG SAID EAST LINE; THENCE NORTH 89°04'10" WEST 188.18 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY, ALONG AN ARC OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 38°19'04", AN ARC LENGTH OF 30.06 FEET TO A NON-TANGENT LINE; THENCE NORTH 02°33'43" WEST 197.51 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF LAKE WORTH ROAD (S.R. 302), BEING A NON-TANGENT CURVE; THENCE WESTERLY, ALONG THE SAID SOUTH RIGHT-OF-WAY LINE, BEING AN ARC OF A CURVE CONCAVE TO THE SOUTH, HAVING A CALCULATED RADIUS OF 2798.11 FEET, A CENTRAL ANGLE OF 01°38'18", A CHORD LENGTH OF 30.00 FEET WHICH BEARS SOUTH 87°26'17" WEST, AN ARC LENGTH OF 30.00 FEET TO A NON-TANGENT LINE; THENCE SOUTH 02°33'43" EAST 173.69 FEET TO A NON-TANGENT CURVE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 32°51'53", A CHORD LENGTH OF 16.97 FEET BEARING SOUTH 21°51'23" WEST, AN ARC LENGTH OF 17.21 FEET TO A POINT OF REVERSE CURVATURE; THENCE SOUTHWESTERLY, ALONG AN ARC OF A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 979.00 FEET, A CENTRAL ANGLE OF 22°32'57", AN ARC LENGTH OF 385.29 FEET TO A POINT OF COMPOUND CURVATURE; THENCE SOUTHWESTERLY, ALONG AN ARC OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 149.00 FEET, A CENTRAL ANGLE OF 55°00'46", AN ARC LENGTH OF 143.06 FEET TO A POINT OF TANGENCY; THENCE SOUTH 00°55'50" WEST 365.24 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY, ALONG AN ARC OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 41°51'05", AN ARC LENGTH OF 21.91 FEET TO A POINT OF NON-TANGENCY; THENCE NORTH 89°01'42" WEST 208.35 FEET TO THE EAST RIGHT-OF-WAY LINE OF JOG ROAD, BEING A LINE THAT IS 30.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27; THENCE SOUTH 00°58'18" WEST, ALONG SAID LINE, 30.00 FEET; THENCE SOUTH 89°01'42" EAST, 182.90 FEET; THENCE SOUTH 00°55'50" WEST 336.62 FEET; THENCE NORTH 38°32'45" WEST 183.15 FEET TO THE SAID EAST RIGHT-OF-WAY LINE OF JOG ROAD; THENCE SOUTH 00°58'18" WEST, ALONG SAID LINE, 38.64 FEET TO THE POINT OF BEGINNING.

-CONTINUED-

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 2:

A PARCEL OF LAND IN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27; THENCE SOUTH 00°58'18" WEST (STATE PLANE GRID DATUM), ALONG THE WEST LINE OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27, A DISTANCE OF 1359.12 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 27; THENCE SOUTH 88°32'45" EAST, ALONG SAID SOUTH LINE, 30.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF JOG ROAD; THENCE NORTH 00°58'18" EAST 38.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°58'18" EAST 335.01 FEET TO A POINT; THENCE SOUTH 89°01'42" EAST 182.90 FEET TO A POINT; THENCE SOUTH 00°55'50" WEST 336.62 FEET TO A POINT; THENCE NORTH 88°32'45" WEST 183.15 FEET TO THE POINT OF BEGINNING.

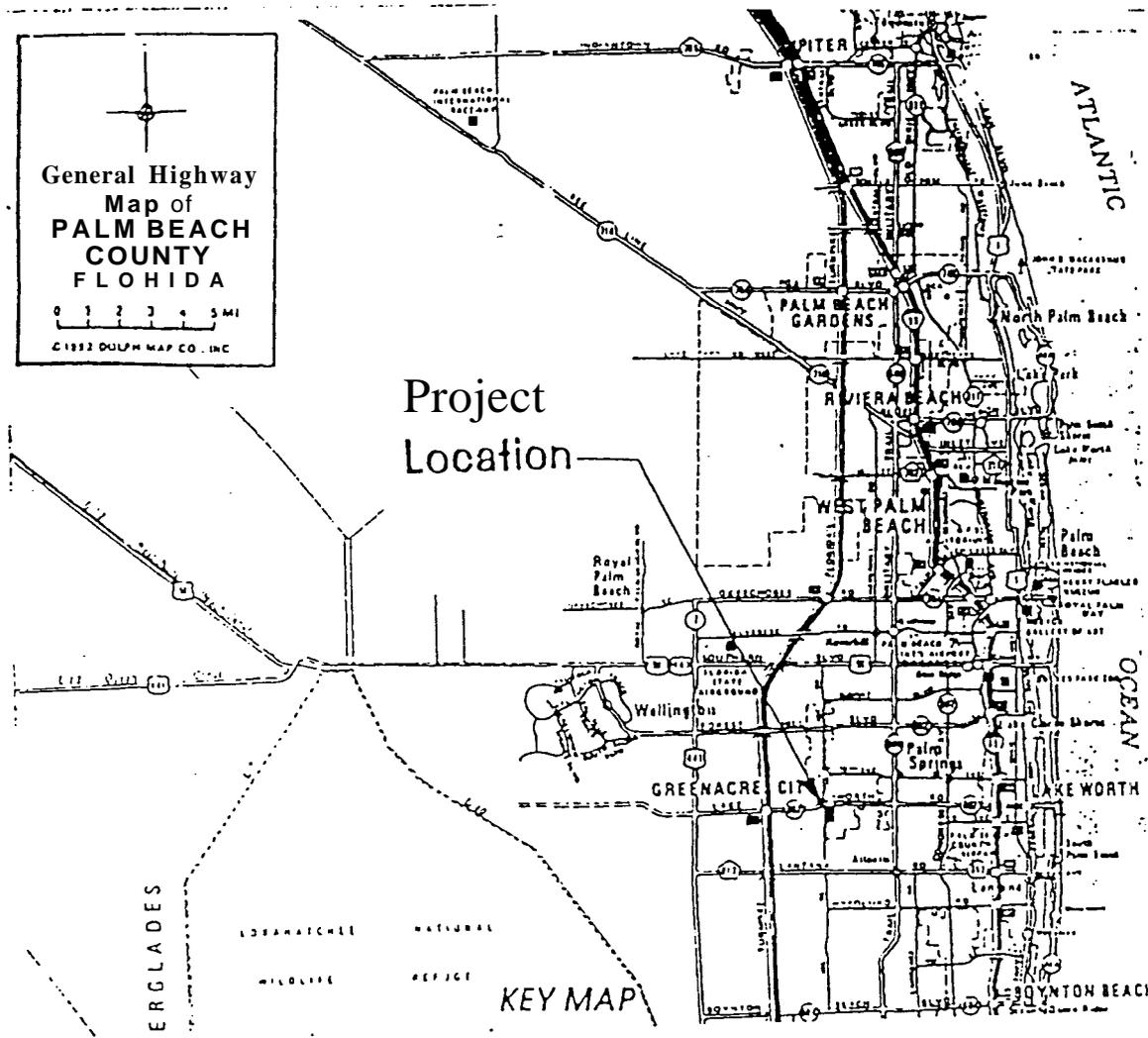
PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 FOR ACCESS OVER AND USE OF THE RETENTION POND ON OUT PARCEL L-4 AS SET FORTH IN PARAGRAPH 1.2 OF THE COOPERATION AND EASEMENT AGREEMENT DATED MARCH 17, 1986 AND RECORDED APRIL 2, 1986 IN OFFICIAL RECORDS BOOK 4836, PAGE 10, AS MODIFIED BY INSTRUMENT RECORDED IN OFFICIAL RECORDS BOOK 5744, PAGE 1905, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID OUT PARCEL L-4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 1°22'26" WEST (STATE PLANE GRID DATUM), ALONG THE NORTH-SOUTH QUARTER SECTION LINE OF SECTION 27, A DISTANCE OF 655.08 FEET; THENCE SOUTH 88°37'34" EAST, PERPENDICULAR TO THE PREVIOUS COURSE, 30.0 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF JOG ROAD AND THE POINT OF BEGINNING; THENCE NORTH 1°22'26" EAST, ALONG SAID RIGHT-OF-WAY LINE AND PARALLEL WITH THE NORTH-SOUTH QUARTER SECTION LINE, 61.29 FEET; THENCE NORTH 02°16'49" EAST, ALONG SAID RIGHT-OF-WAY LINE, 189.64 FEET; THENCE NORTH 01°22'26" EAST, ALONG SAID RIGHT-OF-WAY LINE, 18.00 FEET; THENCE SOUTH 88°37'34" EAST, PERPENDICULAR TO THE PREVIOUS COURSE, 271.16 FEET TO A NON-TANGENT POINT OF CURVATURE; THENCE SOUTHWESTERLY, ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 149.0 FEET, A CENTRAL ANGLE OF 52°40'42", A CHORD LENGTH OF 132.22 FEET WHICH BEARS SOUTH 27°40'35" WEST, AN ARC DISTANCE OF 136.99 FEET TO A POINT OF TANGENCY; THENCE SOUTH 01°20'15" WEST 150.40 FEET; THENCE NORTH 88°37'34" WEST, ALONG A LINE PERPENDICULAR TO THE NORTH-SOUTH QUARTER SECTION LINE, 215.58 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

PALM BEACH COUNTY  
VICINITY SKETCH / ZONING



Petition Number: 73-91 C

Zoning Quad Page \_\_\_\_\_

Date: 4/7/96



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. GENERAL**

1. Condition A.1. of R-94-938, Petition 73-91(B), which currently states:

**All previous conditions of approval applicable to the subject property, as contained in Resolutions R-73-427, and R-79-190 have been consolidated as contained herein. The petition shall comply with all previous conditions of approval unless expressly modified.**

Is hereby amended to state:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-73-427 (Petition 73-91), R-88-1199 (Petition 73-91A) and R-94-938 (Petition 73-91B), 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)

2. Prior to **site plan certification**, the site plan shall be amended to **indicate** the following:
  - a. **Landscaping located outside of the utility easements, or release agreements shall be obtained from all easement holders and filed with the Zoning Division.**
  - b. **Revised square footage of the veterinary clinic and commercial kennel with corrective changes to the parking calculations. Previously Condition 2 of R-94-938, Petition 73-91(B). (ZONING)**
3. **The petitioner shall revise the Preliminary Development Plan to relocate all dumpsters a minimum of twenty five (25) feet from the east property line. Previously Condition A.3. of R-94-938, Petition 73-91(B). (ZONING)**
4. **Prior to the issuance of the Certificate of Occupancy or Certificate of Completion for the Winn Dixie (subject of Petition 73-91(B)) the petitioner shall relocate all dumpsters and provide screening pursuant to section 6.6.A.5 (Dumpster). Previously Condition A.4. of R-94-938, Petition 73-91(B). (BUILDING)**
5. The cocktail lounge permitted by Zoning Petition 73-91C shall be limited to a maximum of **5,000** gross square feet located in the southwest area of the principle structure, as indicated on Exhibit 48. (DRC: ZONING)

**B. LANDSCAPE**

1. **Prior to the issuance of the Certificate of Occupancy or Certificate of Completion for the Winn Dixie (subject of petition 73-91(B)) the petitioner shall complete the following:**

- a. Repair or replace all missing or damaged fence panels on the south and east property lines of the shopping center;
  - b. Install on 8 (1) eighteen (18) to twenty (20) foot tall **sabal palms** twenty (20) feet on center along the east property line within the five foot wide **existing Alternate 1 Landscape Buffer**; and,
    - a. **Replace** all missing or dead landscaping within the parking areas (excluding out parcels). All replacement trees and shrubs shall meet the **standards** of section 7.3 of the ULDC. Previously Condition B.1. of R-94-938, Petition 73-91(B) (CO: BUILDING / LANDSCAPE - Zoning)
2. Prior to December 31, 1996, the petitioner of Zoning Petition 73-91(C) shall install native canopy trees thirty (30) feet on center along Jog Road and a continuous opaque hedge in accordance with ULDC requirements, between the south property line and the second driveway entrance north. Credit shall be given for existing landscape material in this area meeting this requirement. (DATE: MONITORING - Landscape)

C. **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 **sewer works** are constructed and used by project tenants or owners generating such effluents. Previously Condition C.1 of Resolution R-94-938, Petition 73-91(B). (HEALTH)
- 2. Since **sewer service** is available to the property, septic tank shall not be approved for use on said property. Previously Condition C.2. of Resolution R-94-938, Petition 73-91(B). (HEALTH)
- 3. Since **water service** is available to the property, a well shall not be approved for **use** on said property for **potable water**. Previously Condition C.3. of Resolution R-94-938, Petition 73-91(B). (HEALTH)

E. **ENGINEERING**

- 1. Prior to the issuance of any building permits the developer shall dedicate to Palm Beach County the additional right-of-way required to provide for a one hundred twenty (120) foot right-of-way for Lake Worth Road (S.R. 802) and Jog Road. Previously Condition E.1 of Resolution R-94-938, Petition 73-91(B). (BUILDING-Engineering)

STATUS: Survey indicates compliance with this condition.

- 2. The **developer** shall construct the necessary roadway **improvements** as required by the County Engineer. Previously Condition E.3. of Resolution R-94-938, Petition 73-91(B). (ENGINEERING)

NOTE: Engineering indicates compliance with this condition.

3. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project at the time of the Building Permit presently is \$13,145 (239 additional trips X \$55.00 per trip). Previously Condition E.4. of Resolution R-94-938, Petition 73-91(B). (IMPACT FEE COORDINATOR)
4. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$12,056.00 (450 trips X \$26.79 per trip). Previously Condition E.6. of Resolution R-94-938, Petition 73-91(B). (IMPACT FEE COORDINATOR)
5. Based on the Traffic Performance Standards (Category "B"), the developer shall contribute an additional \$3,014.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of \$15,070.00 to be paid prior to the issuance of the first building permit or prior to December 1, 1987 whichever shall first occur. Previously Condition E.7. of Resolution R-94-938, Petition 73-91(B). (DATE / BLDG PERMIT: MONITORING - Eng)
6. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$3,014.00 shall be credited toward the increased Fair Share Fee. Previously Condition E.8. of Resolution R-94-938, Petition 73-91(B). (IMPACT FEE COORDINATOR)
7. Access to the site shall be from the site's internal accessways. No direct access shall be permitted to Jog Road. Previously Condition E.9. of Resolution R-94-938, Petition 73-91(B). (ENGINEERING)

F. COMPLIANCE

1. 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; cease and desist 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 Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
  - 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;
  - d. Referral to code enforcement; and/or
  - e. Imposition of entitlement density or intensity.

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 Conditional Use, 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. Previously Condition F.1. of R-94-938, Petition 73-91(B). (MONITORING)