

RESOLUTION NO. R-98- 3

RESOLUTION APPROVING ZONING PETITION CA97-54
CLASS A CONDITIONAL USE
PETITION OF RIVERHOUSE INVESTMENTS, INC.
BY KEVIN MCGINLEY, AGENT
(OVER THE RAINBOW DAYCARE)

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 petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA97-54 was presented to the Board of County Commissioners at a public hearing conducted on December 4, 1997; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; 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 (ULDC) 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. 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.
5. 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.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. **This** Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. 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.
10. This Class A Conditional Use, 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 CA97-54, the petition of Riverhouse Investments, Inc., by Kevin McGinley, agent, for a Class A Conditional Use (CA) to allow a Daycare, general (125 children) in the Agricultural Residential (AR) Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on December 4, 1997, 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 Foster and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 8, 1998.

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

**THE WEST 269 FEET
OF THE SOUTH 478 FEET OF THE NORTH
1404 FEET OF SECTION 4, TOWNSHIP 43
SOUTH, RANGE 41 EAST, PALM BEACH
COUNTY, FLORIDA, SUBJECT TO EASEMENTS
FOR ROAD RIGHT-OF-WAY AND DRAINAGE
OVER THE NORTHERLY AND SOUTHERLY
30 FEET AND OVER THE WESTERLY 60 FEET
THEREOF. ALSO KNOWN AS TRACTS G-471
AND G-472 OF SAID SECTION 4, ROYAL
PALM BEACH ACREAGE, UNRECORDED PLAT.**

EXHIBIT B
VICINITY SKETCH

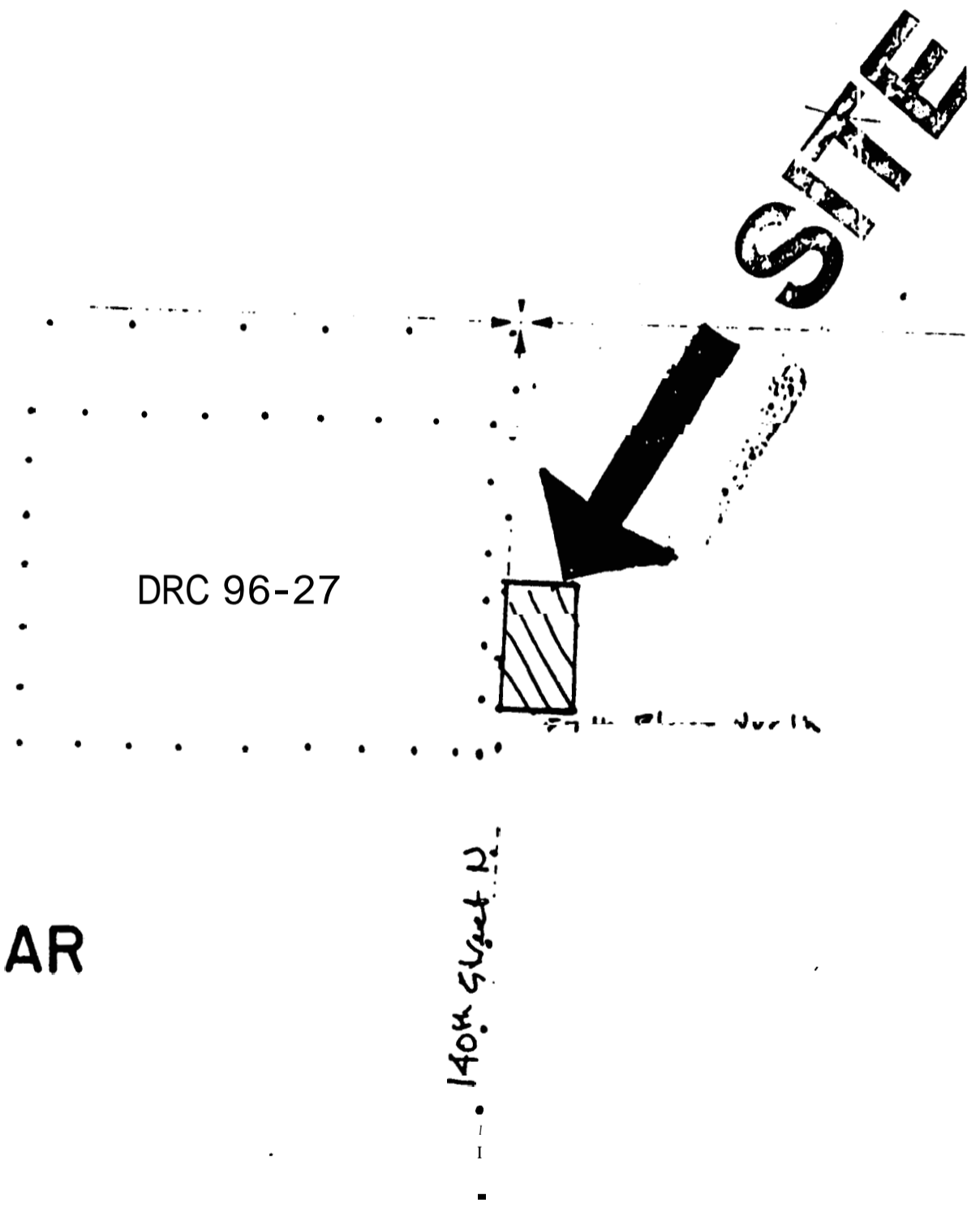


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated June 25, 1997. **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. BUILDING AND SITE DESIGN

1. The maximum height for the proposed one story building shall not exceed twenty (20) feet measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
2. **All** air conditioning and mechanical equipment 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)

C. DAY CARE

1. The day care center shall **be** limited to a maximum of **125** children. (ONGOING: HEALTH)
2. The day care center hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. daily. (ONGOING: CODE ENF)
3. Prior to final site plan **certification** all stationary outdoor play equipment with a permanent foundation shall **be** shown on site plan and located 25 feet from any residentially zoned or used property line. (DRC: ZONING)

D. LANDSCAPING

1. Foundation landscaping shall be provided on all facades of the proposed building. The minimum **width** for the foundation landscaping shall be **five (5)** feet and no less than forty (40) percent of the total length of the applicable side of the building. The required foundation landscaping shall consist of a minimum of one (1) tree or palm every 20 feet on center with appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)
2. The petitioner shall preserve **native** vegetation within the north portion of the site with a depth of one hundred twenty-five (125) feet. The undeveloped area may include the required perimeter buffers. (DRC: ZONING)
3. **Credit may be** given for existing or relocated vegetation provided it **exceeds** current ULDC requirements for the required **right-of-way** buffers or perimeter buffers. (DRC / CO: ZONING / LANDSCAPE)
4. Landscaping and buffering along the west property line abutting 140th Avenue North shall **be** upgraded to include a minimum fifteen (15) foot wide right-of-way landscape buffer strip. (DRC: LANDSCAPE - Zoning)

E. ENGINEERING

1. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for **two** corner clips at the following locations:

- a) Southeast corner of the intersection of 140th and 58th Court North
- b) Northeast corner of the intersection of 140th and 57th Place North

This additional right of way shall be conveyed prior to the issuance of the first Building Permit. These corner clips shall be free of all encumbrances and encroachments. Developer 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. (BLDG PERMIT: MONITORING-Eng)

2. The Property owner shall construct 57th Place North from 140th Avenue to the Project Entrance Road. Construction shall be to local road standards, minimum 20 foot of pavement.
 - a. This construction shall be concurrent with the paving and drainage improvements for the adjacent sites. **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.
 - b. Permits required by Palm Beach County and Indian Trail Water Control District for this construction shall be obtained prior to the issuance of the first Building Permit. **Construction** shall be **completed** prior to the issuance of the first Certificate of Occupancy, (CO: MONITORING-Eng)
3. The property owner shall install and maintain no parking signs **along the south** property right-of-way of 57th Place North along the projects **frontage**. Location **of** these signs shall be subject to the approval of the County Engineer and the Indian Trail Water Control District. All signs **shall be** installed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng)

F. HEALTH

1. Application and engineering plans to construct an **onsite** sewage treatment and disposal system (OSTDS) in accordance with Rule 10D-6FAC and Palm **Beach** County ECR-I must **be** submitted to the Palm Beach County **Health** Department prior to final site plan approval. (DRC: HEALTH)
2. Application and engineering plans to construct a non-transient non-community water supply system in accordance with Rule 62-555 FAC and Palm Beach **County** ECR-II must be submitted to the Palm Beach **County** Health **Department** prior to final site plan approval. (DRC: HEALTH)
3. **Architectural** plans must **be** submitted to the Environmental Health **Section**, Palm Beach County Health Department, in accordance with Rule 10D-24 FAC prior to issuance of a building permit. (BLDG: HEALTH/BLDG)
4. No food service or processing will be allowed on this site when an OSTDS is required. (ONGOING: HEALTH/CODE ENF)

5. This facility will be limited to ninety-eight (98) children unless a variance is granted by the Environmental Appeals Board. (ONGOING: HEALTH)

G. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ ONGOING: BLDG / CODE: ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty (20) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. *All* outdoor lighting shall be extinguished no later than 7:00 p.m., excluding security lighting only. (ONGOING: CODE ENF)

I. PLANNING

1. Prior to final site plan certification by the Development Review Committee (DRC), the developer shall submit architectural elevations of the building depicting a design compatible with the rural character of the area. (DRC: PLANNING)

H. SIGNAGE

1. Signage for the property fronting on 140th Avenue shall be located perpendicular to the front property line and be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - five (5) feet;
 - b. Maximum sign face area - 50 square feet;
 - c. Style - monument style only. (CO: BLDG)

I. COMPLIANCE

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; 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)

2. On or before January 1, **1998**, the property owner shall convey to Palm Beach County sufficient road drainage **easement(s)** through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of:
 - the expanded intersection at Congress Avenue and Summit Boulevard
 - Kirk Road along the property frontage; and a maximum **800** feet of these adjacent roadways
 - Gun Club Road along the property frontage; and a maximum **800** feet **of** these adjacent roadways (DATE: MONITORING - Engineering). (Previous Condition E.2 of Resolution R-97-01, Petition 97-12)

3. Prior to sitelmaster plan approval the property owner and lessee shall enter into and record in the public records, the Temporary Construction Restoration Agreement as approved by the Board of County Commissioners. This agreement shall grant to the County or the FDOT an area **10** foot wide measured from the right of way line **into** the property for construction purposes. The agreement shall cover the areas along Summit Boulevard, Gun Club Road, Congress Avenue, and Kirk Road. (SITE PLAN/MASTER PLAN APPROVAL - ENG). (Previous Condition E.3 of Resolution R-97-01, Petition 97-12)

4. Prior to Site Plan approval by the Development Review Committee, the property owner shall revise the site plan to:
 - a) reflect a cul-de-sac at the **termination of** Davis Road right-of-way-or have completed the abandonment process for Davis Road north of Summit Boulevard,
 - b) delete the service entrance access to the Club House **from** Summit Boulevard. (DRC:ENGINEERING). (Previous Condition **E. 4** of Resolution R-97-01, Petition 97-12)

5. LANDSCAPE WITHIN MEDIAN
 - A. Prior to issuance of a building permit, the property owner shall apply to the Land Development Division, Permit Section, of the Palm Beach County Engineering and Public **Works** Department for a permit to landscape all adjacent **median(s)** of all abutting rights-of-way. When permitted by the Land Development Division Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist **of** the "**Low** Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March **1994** Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. **Also**, any **existing** trees within the median shall be incorporated into this **projects** overall design. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If **all** xeriscape material is utilized, the watering of the plant material during the initial heal-

in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.5.A of Resolution R-97-01, Petition 97-12)

- B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. The maintenance responsibility of any existing trees within the median shall also become the responsibility of this property owner. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (CO: MONITORING- Eng) (Previous Condition E.5.8 of Resolution R-97-01, Petition 97-12)
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING - Eng) (Previous Condition E.5.C of Resolution 5-97-01, Petition 97-12)

F. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. This condition shall not apply to security lighting, lighting to illuminate the driving range or low voltage landscape lights used to emphasize or accent plant material. (CO: BLDG - Zoning) (Previous Condition F.1 of Resolution R-97-01, Petition 97-12)

G. PROTECTION OF RESIDENTIAL AREAS

- 1. Development and construction of the golf course, clubhouse, and facilities shall be limited to the following hours: Monday through Saturday from 7 am to 9 pm, and Sunday from 10 am to 8 pm. (ONGOING : CODE ENF) (Previous Condition G.1 of Resolution R-97-01, Petition 97-12)
- 2. Best management practices, acceptable to the Health Department, shall be utilized during construction to alleviate dust and dirt caused by land clearing operations. (ONGOING: HEALTH) (Previous Condition G.2 of Resolution R-97-01, Petition 97-12)
- 3. Prior to initiation of land clearing or development on the site, the petitioner shall install a temporary four (4) foot high fence along the west boundary of the site. (VEG REMOVAL: ERM) (Previous Condition G.3 of Resolution R-97-01, Petition 97-12)

H. SIGNS

1. Freestanding signs shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - eight (**8**) feet;
 - b. Maximum sign face area per side - **60** square feet;
 - c. Maximum number **of** signs - two (**2**),
 - d. Location - Summit Boulevard only; and
 - e. Style - monument style only. **(CO: BLDG)** (Previous Condition H.I of Resolution R-97-01, Petition 97-12)
2. **Condition H.I.** shall not apply to directional signs. **(CO: BLDG)** (Previous Condition ~~H.I.2~~ of Resolution R-97-01, Petition 97-12)

I. CONCURRENCY

1. Prior to DRC final certification of the site plan, the petitioner shall revise the concurrency application to reflect the following:
59,750 s.f. of **golf** clubhouse, 5,250 s.f. cart storage, 875 s.f. of guard house, **9,864** s.f. golf course maintenance building, 4,000 s.f. of shelter/ res room (2), and a driving range. (DRC: CONCURRENCY)

J. COMPLIANCE

1. Condition I.1 of Resolution R-97-01, Petition 97-12 which currently states:

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; 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)

Is hereby amended to read: [Reason: Replaced by new language]

1. In granting this approval, the Zoning Commission 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)