

RESOLUTION APPROVING ZONING PETITION CA89-27(A)
CLASS A CONDITIONAL USE
PETITION OF FELIX FUNDORA
BY CARLOS GONZALEZ, AGENT
(PLANET KIDS IV)

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 CA89-27(A) was presented to the Board of County Commissioners at a public hearing conducted on September 24, 1998; 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 CA89-27(A), the petition of Felix Fundora, by Carlos Gonzalez, agent, for a Class A Conditional Use (CA) to allow a Daycare, general (170 children) in the Single Family Residential (RS) 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 September 24, 1998, 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 Foster and, upon being put to a vote, the vote was as follows:

Burt Aaronson, Chair	--	Aye
Maude Ford Lee, Vice Chair	--	Aye
Ken Foster	--	Aye
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 September 24, 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

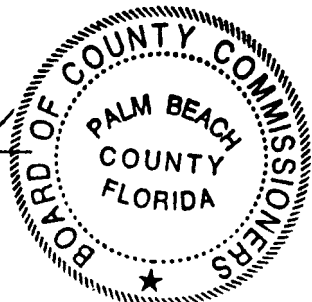


EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:
THE NORTH **160** FEET OF THE FOLLOWING DESCRIBED LAND:

A PART OF TRACT **62**, BLOCK **5**, **THE PALM BEACH FARMS CO. PLAT NO. 3**, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK **2**, PAGES **45** TO **54**, INCLUSIVE, DESCRIBED AS FOLLOWS:

STARTING AT POINT ON THE WEST LINE OF SAID TRACT **62**, WHERE IT INTERSECTS THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD **80**; THENCE RUNNING EAST ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD **80**, A DISTANCE OF **125** FEET **11** INCHES, MORE OR LESS TO A POINT IN A LINE WHICH IS PARALLEL TO AND **125** FEET EAST OF, MEASURED AT RIGHT ANGLES, THE WEST LINE OF SAID TRACT **62**. THENCE RUN NORTHERLY ALONG SAID LINE, PARALLEL TO THE WEST LINE OF SAID TRACT **62**, A DISTANCE OF **317** FEET; THENCE RUN WEST PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD, A DISTANCE OF **125** FEET **11** INCHES, MORE OR LESS, TO THE WEST LINE OF SAID TRACT **62**; THENCE RUN SOUTH ALONG WEST LINE OF TRACT **62**, A DISTANCE OF **317** FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE WEST **15** FEET THEREOF AS CONVEYED TO PALM BEACH COUNTY IN OFFICIAL RECORDS BOOK **6495**, PAGE **88**, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:
THE NORTH **160** FEET OF THE FOLLOWING DESCRIBED LAND:

A PORTION OF TRACT **62**, BLOCK **5**, **THE PALM BEACH FARMS CO. PLAT NO. 3**, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK **2**, PAGES **45** TO **54**, INCLUSIVE, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD **80** AS IN ROAD PLAT BOOK **2**, PAGES **11** TO **18**, WHERE SAID RIGHT-OF-WAY LINE INTERSECTS THE WEST LINE OF SAID TRACT **62**; THENCE RUN EASTERLY ON THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD **80**, A DISTANCE OF **243.11** FEET, MORE OR LESS, TO THE POINT OF BEGINNING WHICH POINT IS THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED IN DEED BOOK **1098**, PAGE **675**, TO GUARLING F. SYRMAN, ET. UX; THENCE RUN NORTHERLY ON SYRMAN'S WEST LINE AND HIS NORTHERLY EXTENSION TO A POINT IN A LINE PARALLEL TO AND **577.31** FEET SOUTH OF THE NORTH LINE OF SAID TRACT **62**; THENCE RUN WESTERLY ON SAID PARALLEL LINE **128** FEET, MORE OR LESS, TO A POINT IN A LINE PARALLEL TO AND **125** FEET EAST OF THE WEST LINE OF TRACT **62**, AFORESAID, WHICH POINT IS IN THE EASTERLY BOUNDARY LINE OF A TRACT OF LAND CONVEYED IN OFFICIAL RECORDS BOOK **48**, PAGE **451** TO JOHN F. DALEY, ET. UX; THENCE RUN SOUTHERLY A DISTANCE OF **322.29** FEET ALONG DALEY'S EASTERLY LINE TO A POINT IN THE NORTHERLY LINE OF STATE ROAD **80**; THENCE RUN EASTERLY A DISTANCE OF **128** FEET, MORE OR LESS, ALONG THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD **80** TO THE POINT OF BEGINNING, TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS RUNNING FROM THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD **80**, NORTHERLY TO THE SOUTH LINE OF TRACT HEREIN CONVEYED WHICH EASEMENT OVER THE EAST **10** FEET OF LAND CONVEYED TO FRED D. TOSLAND AND BEATRICE I. TOSLAND, HIS WIFE, IN OFFICIAL RECORDS BOOK **202**, PAGE **525**, AND WHICH EASEMENT HEREIN GRANTED CONSISTS OF THE SAME **7** FEET RESERVED IN SAID DEED, PLUS AN ADDITIONAL **3** FEET.

EXHIBIT B

VICINITY SKETCH

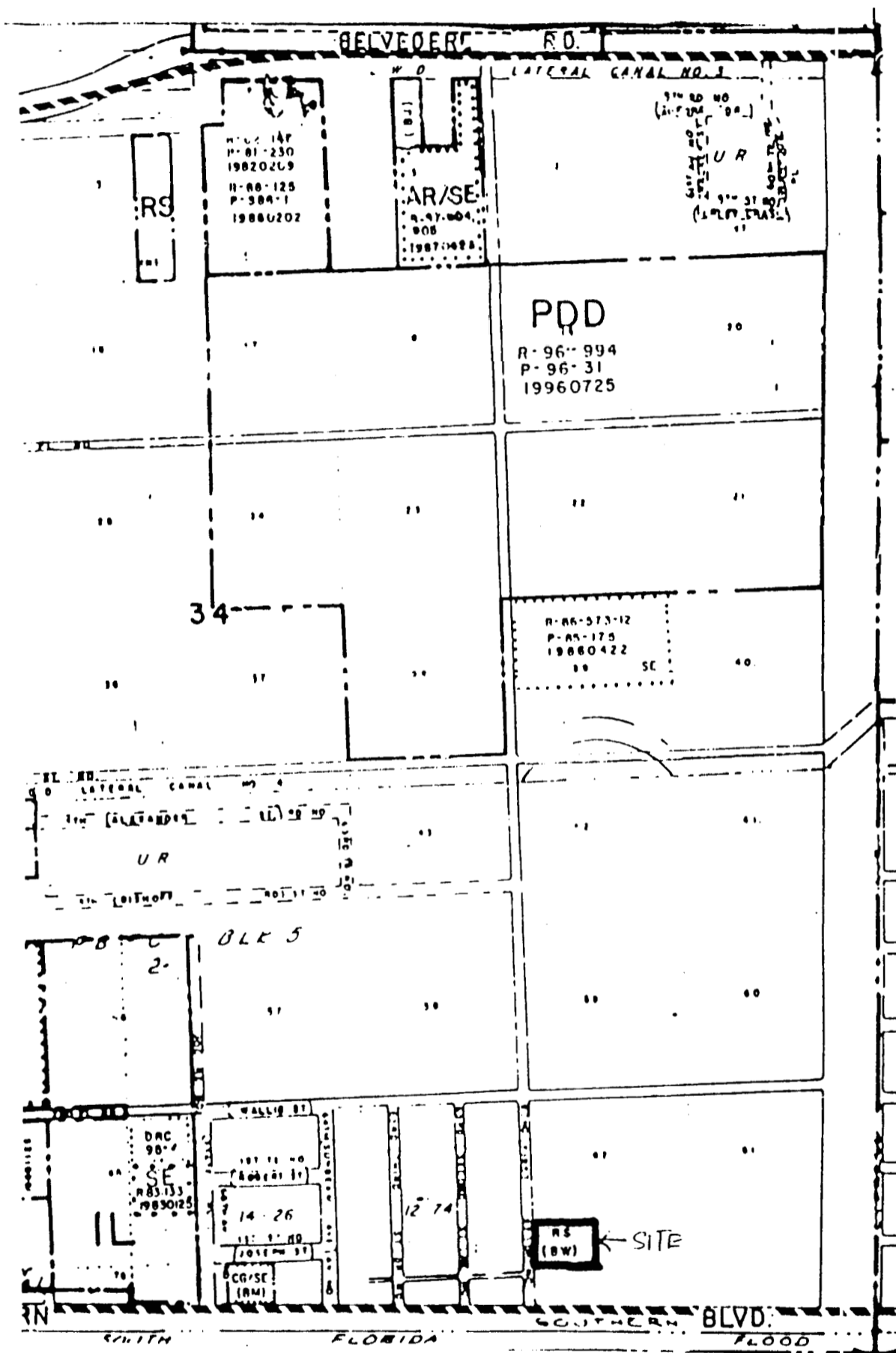


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design **approved** by the Board of County Commissioners. The approved site plan is dated August **26**, 1998. 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. (DRC: ZONING)

B. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 7,200 square feet. (DRC: ZONING)
2. The maximum height for all structures, including all air conditioning and mechanical equipment, measured from finished grade to highest point, shall not exceed twenty five (25) feet. (BLDG PERMIT: BLDG - Zoning)
3. 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)
4. Outdoor speakers or public address systems shall not be permitted on site. (ONGOING: CODE ENF - Zoning)

C. DAY CARE

1. The day care center shall be limited to a maximum of 170 children. (ONGOING: HEALTH)
2. Prior to DRC site plan application, the site plan shall be revised to indicate a six (6) foot high, black vinyl coated chain link fence around the entire perimeter of the outdoor play activity area. (DRC: ZONING)
3. The outdoor play area shall not be used for activities after 7:00 p.m. or before 8:00 a.m. (ONGOING: CODE ENF)
4. The minimum setback for the outdoor play/recreational equipment shall be twenty five (25) feet from all residentially zoned or used property lines. (DRC: ZONING)
5. Hours of operation for the daycare facility shall be limited to 6:00 a.m. to 5:00 a.m. daily. (ONGOING: CODE ENF)

D. DUMPSTER

1. Prior to final DRC certification of the site plan, the petitioner shall obtain a variance approval from the Board of Adjustments for the location of the dumpster. The variance is for the reduction from twenty five (25) foot to sixteen (16) foot setback from the south residential property line. (DRC: BOARD OF ADJUSTMENT- Zoning)

E. ENGINEERING

1. The Property owner shall construct:
 - a) First Street from the projects north property line south to Southern Boulevard,
 - b) Left turn lane north approach on First Street at Southern Boulevard.
 - A) This construction shall be concurrent with the paving and drainage improvements for the site. Any and all **costs** associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - B) Required permits for the construction for First Street shall be obtained prior to site plan approval for the Day Care Site. Drainage **design** for the construction plans shall include retention and detention requirements of the Lake Worth Drainage District, SFWMD, and applicable Palm Beach County and Florida DOT requirements'.
 - C) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
2. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after June 30, 1999. A time extension for this condition may be approved by the **County** Engineer only if 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 Section 5.8 of the Unified Land Development Code. (DATE: MONITORING-Eng)
3. Prior to issuance of a Building Permit the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)
4. Prior to approval of the site plan by the Development Review Committee the property owner shall receive approval from the Land Development Division for a revised drainage study demonstrating that the project will be in compliance with the SFWMD C51 Basin Requirements. (DRC APPROVAL: ENGINEERING)

F. HEALTH

1. Architectural plans for the day care facility must be submitted to the Environmental Health Section, Palm Beach County Health Department in accordance with Rule 10D-24FAC prior to issuance of a building permit. (BLDG: HEALTH/BLDG)

G. LANDSCAPING - STANDARD

1. **All** canopy trees required to be planted on site by this approval 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)
2. **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)
3. **A** group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING - INTERIOR

- 1. One 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. 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 five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of the applicable exterior side of the structure; and,
 - c. Landscape areas shall be planted with a minimum of one (1) tree or palm every twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)

I. LANDSCAPING ALONG NORTH, SOUTH AND EAST PROPERTY LINES (ABUTTING RESIDENTIAL)

- 1. Landscaping and buffering along the above property lines shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip; and
 - b. One (1) native canopy tree planted every twenty (20) feet on center;
 - c. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - d. Thirty six (36) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of seventy-two (72) inches. (CO: LANDSCAPE)

J. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING FIRST STREET)

1. Landscaping and buffering along the west property line shall include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. A two (2) foot high continuous berm measured from top of the berm to finished grade; and
 - c. One (1) canopy tree planted every thirty (30) feet on center;
 - d. One (1) palm or pine tree for each twenty (20) linear feet of frontage. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - e. Twenty four (24) inch high shrub or hedge material shall be planted at the plateau of the berm, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

K. 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 five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 10:00 p.m., excluding security lighting only. (ONGOING: CODE ENF)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

L. SIGNS

1. Freestanding point of purchase signs fronting on First Street shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. Maximum sign face area per side - 32 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BLDG)
2. No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)
3. Wall signs shall be limited to the west facade of the building. (CO: BLDG)

M. 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; 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)