

RESOLUTION NO. R-2005-0016

RESOLUTION APPROVING ZONING PETITION PDD/R/TDR2004-001
(CONTROL NO. 2004001)
DEVELOPMENT ORDER AMENDMENT
PETITION OF BRIELLA LLC
BY MILLER LAND PLANNING CONSULTANTS, INC., AGENT
(BRIELLA PUD)

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

WHEREAS, Zoning Petition PDD/R/TDR2004-001 was presented to the Board of County Commissioners at a public hearing conducted on January 6, 2005; 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 2.E (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 has considered the findings in the staff report and 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 2.K.3.b 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 PDD/R/TDR2004-001, the petition of Briella LLC, by Miller Land Planning Consultants, Inc., agent, for a Development Order Amendment to modify Condition A.2 of Resolution R-2004-2278 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 6, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

Tony Masilotti, Chairman	-	Aye
Addie L. Greene, Vice Chairperson	-	Aye
Karen T. Marcus	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 6, 2005.


Filed with the Clerk of the Board of County Commissioners on 17 day of January, 2005.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK




EXHIBIT A

LEGAL DESCRIPTION

Tracts 37, 38, 39 40, 59 and 60, Block 55, PALM BEACH FARMS COMPANY 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, as recorded in Plat Book 2, Pages 45 - 54 of the Public Records of Palm Beach County, Florida, LESS and EXCEPT the West 25 feet of said Tract 40, Block 55, for public road right-of-way purposes.

TOGETHER WITH:

A portion of the 30 Foot Road, Dyke and Ditch Reservations, lying in Block 55, PALM BEACH FARMS COMPANY PLAT NO. 3, according to the Plat thereof, as recorded in Plat Book 2, Pages 45 through 54, of the Public Records of Palm Beach County, Florida, and a portion of Tract "C", MIZNER FALLS, according to the Plat thereof, as recorded in Plat Book 91, Pages 7 through 14, of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

Beginning at the Southwest corner of the said Tract "C" of the plat of MIZNER FALLS; thence North 00°02'26" East, along the west line of the said plat of MIZNER FALLS, a distance of 15.00 feet; thence North 89°59'22" East, along the north line of said Tract "C" of the plat of MIZNER FALLS, a distance of 988.91 feet; thence South 00°01'33" West, along the northerly prolongation of the west line of Tract 36 of said Block 55, a distance of 45.00 feet; thence South 89°59'22" West, along the north line of Tracts 37 through 40, less the west 25 feet of Tract 40 of said Block 55, a distance of 1,293.53 feet; thence North 00°01'32" West, along a line 25 feet east of as measured at right angles to and parallel with the west line of Tract 40 of said Block 55, a distance of 15.00 feet; thence North 89°59'22" East, a distance of 304.63 feet; thence North 00°02'26" East, a distance of 15.00 feet to the POINT OF BEGINNING.

Containing 1,337,424.42 Square Feet or 30.7030 Acres

EXHIBIT B
VICINITY SKETCH

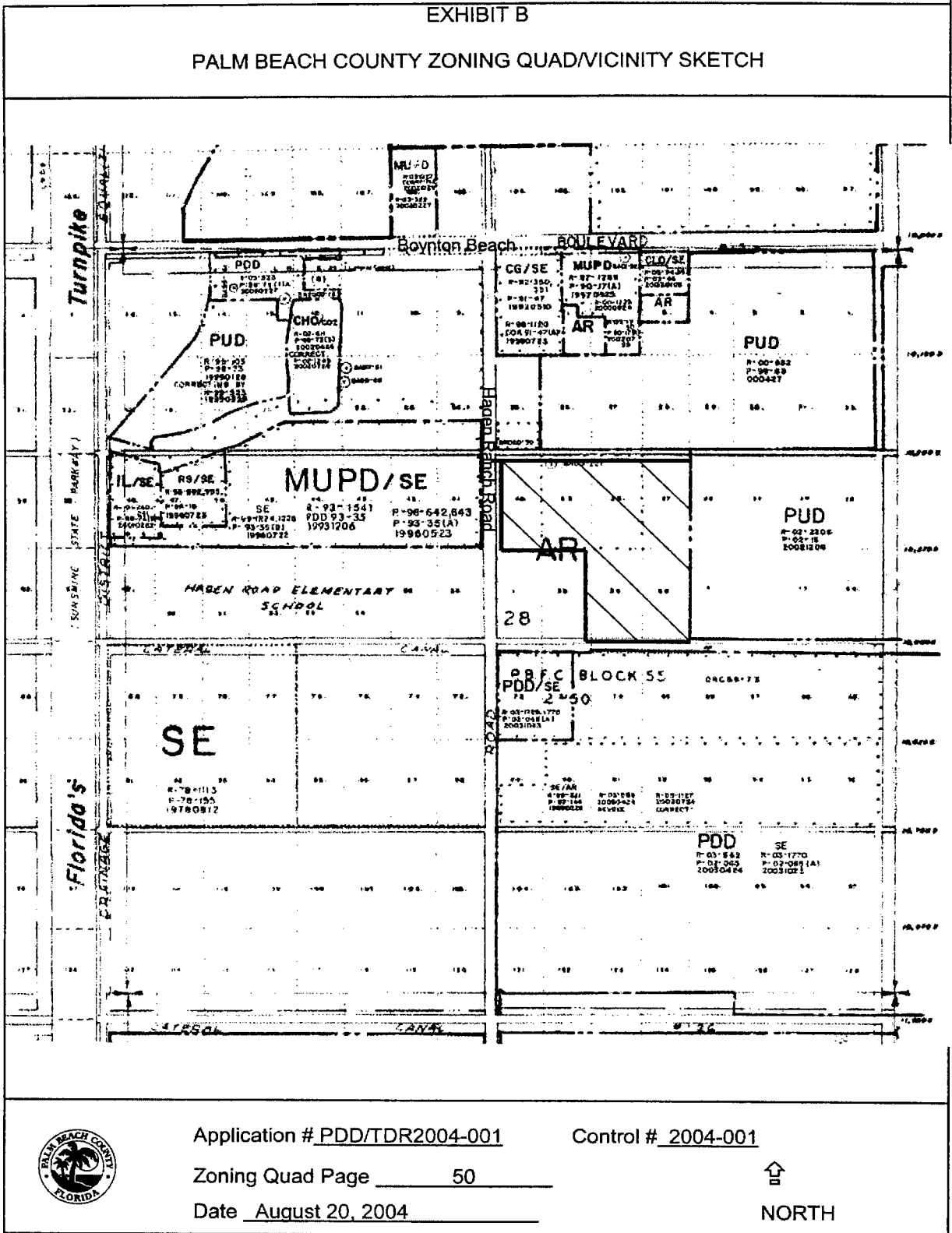


EXHIBIT C

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. **Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated October 19, 2004. 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 - Zoning) (Previous Condition A.1 of Resolution R-2004-2278, Petition PDD2004-001)**

2. Condition A.2 of Resolution R-2004-2278, Petition PDD2004-001, which currently states:

Prior to the issuance of a Certificate of Occupancy (CO) for the 150th unit, the property owner shall submit documentation to the satisfaction of the Zoning Division to verify that no less than thirty (30) units have been sold at a base purchase price not greater than \$250,000. (CO: MONITORING - Zoning)

Is hereby amended to read:

Prior to the issuance of a Certificate of Occupancy (CO) for the 150th unit, the property owner shall submit documentation to the satisfaction of the Zoning Division to verify that no less than twenty-three (23) units have been sold at a base purchase price not greater than \$250,000. (CO: MONITORING - Zoning)

B. ARCHITECTURAL REVIEW

1. **At time of submittal for final Development Review Officer (DRO) approval, architectural elevations for the residential buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with all applicable provisions of Section 5.C. of the ULDC. Development shall be consistent with the approved architectural elevations and the DRO approved site plan. (DRO: ARCH REVIEW - Zoning) (Previous Condition B.1 of Resolution R-2004-2278, Petition PDD2004-001)**
2. **Each residential unit shall include a garage that exceeds the minimum residential parking dimensions or a separate storage closet for trash receptacles, as deemed acceptable to the Architectural Review Section. (DRO/BLDG PERMIT: ARCH REVIEW/BLDG - Zoning) (Previous Condition B.2 of Resolution R-2004-2278, Petition PDD2004-001)**
3. **All architectural focal points shall be subject to review and approval by the Architectural Review Section prior to final approval by the Development Review Officer (DRO). (DRO: ARCH REVIEW - Zoning) (Previous Condition B.3 of Resolution R-2004-2278, Petition PDD2004-001)**

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. **All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM - ERM) (Previous Condition C.1 of Resolution R-2004-2278, Petition PDD2004-001)**

D. LANDSCAPING - STANDARD

1. **A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:**
 - a. **Tree height: Fourteen (14) feet;**
 - b. **Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;**
 - c. **Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,**
 - d. **Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition D.1 of Resolution R-2004-2278, Petition PDD2004-001)**
2. **Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition D.2 of Resolution R-2004-2278, Petition PDD2004-001)**
3. **Berm height shall be measured from the nearest top of the curb, the crown of the nearest road, or the nearest adjacent finished floor elevation, whichever is higher. Minor height adjustment may be permitted subject to the approval by the Landscape Section prior to the issuance of a building permit. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition D.3 of Resolution R-2004-2278, Petition PDD2004-001)**
4. **All landscaping and plant materials shall comply with the recommendations of the West Boynton Area Community Plan. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition D.4 of Resolution R-2004-2278, Petition PDD2004-001)**
5. **Special planting treatment shall be provided within the median at the access point from Hagen Ranch Road. Planting shall consist of the following:**
 - a. **a minimum of four (4) specimen palm (Medjool, Canary, or other species that is acceptable to the Landscape Section);**
 - b. **a minimum of one (1) medium shrub for each four (4) linear feet of curb;**
 - c. **appropriate ground cover; and,**
 - d. **shrub and ground cover shall be maintained at a maximum height of thirty (30) inches at maturity. (CO: LANDSCAPE - Zoning) (Previous Condition D.5 of Resolution R-2004-2278, Petition PDD2004-001)**

6. **All landscape focal points shall be subject to review and approval by the Landscape Section prior to final approval by the Development Review Officer (DRO).** (DRO: ARCH REVIEW - Zoning) (Previous Condition D.6 of Resolution R-2004-2278, Petition PDD2004-001)

E. ENGINEERING

1. **In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:**
 - a. **No Building Permits shall be issued until the contract has been awarded for the construction of Woolbright Road as a 4-lane section from Hagen Ranch Road to Jog Road plus the appropriate paved tapers.** (BLDG PERMIT: MONITORING - Eng)
 - b. **No Building Permits for the site may be issued after January 1, 2008. 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 Article 2.E of the Unified Land Development Code.** (DATE: MONITORING - Eng) (Previous Condition E.1 of Resolution R-2004-2278, Petition PDD2004-001)
2. **Prior to Site Plan approval by the Development Review Officer (DRO), the property owner shall abandon the existing right of way of 102nd Place South adjacent to the site.** (DRO: ENGINEERING - Eng) (Previous Condition E.2 of Resolution R-2004-2278, Petition PDD2004-001)
3. **The property owner shall construct a left turn lane north approach on Hagen Ranch Road at the Project's Entrance Road. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.**
 - a. **Construction for this left turn lane shall be completed prior to the issuance of the first Certificate of Occupancy.** (CO: MONITORING - Eng) (Previous Condition E.3 of Resolution R-2004-2278, Petition PDD2004-001)
4. **LANDSCAPE WITHIN THE MEDIAN OF HAGEN RANCH ROAD**

The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Hagen Ranch Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

 - a. **The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit.** (BLDG PERMIT: MONITORING - Eng)

- b. **All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)**
 - c. **At the petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the petitioner. (ONGOING: ENGINEERING - Eng)**
 - d. **Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the projects front footage along Hagen Ranch Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENGINEERING - Eng) (Previous Condition E.4 of Resolution R-2004-2278, Petition PDD2004-001)**
5. **The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Eng) (Previous Condition E.5 of Resolution R-2004-2278, Petition PDD2004-001)**

F. PLANNED UNIT DEVELOPMENT

- 1. **Prior to the recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:**
 - a. **Formation of a single "master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.**
 - b. **All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.**
 - c. **The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG/COUNTY ATTY - Zoning) (Previous Condition F.1 of Resolution R-2004-2278, Petition PDD2004-001)**

**"NOTICE TO HOME BUYERS AND
PARENTS OF SCHOOL AGE CHILDREN"**

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD - School Board) (Previous Condition H.1 of Resolution R-2004-2278, Petition PDD2004-001)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: SCHOOL BOARD/ENG - School Board) (Previous Condition H.2 of Resolution R-2004-2278, Petition PDD2004-001)

I. 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) (Previous Condition I.1 of Resolution R-2004-2278, Petition PDD2004-001)
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 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.

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. (ONGOING: MONITORING - Zoning) (Previous Condition 1.2 of Resolution R-2004-2278, Petition PDD2004-001)