

RESOLUTION NO. R-2001- 0010

RESOLUTION OVERTURNING AND AMENDING THE DECISION OF THE
ZONING COMMISSION WHICH APPROVED THE DEVELOPMENT ORDER
AMENDMENT FOR ZONING PETITION DOA95-083(C)
APPEAL OF CARLYLE JUPITER ISLAND CONDOMINIUM ASSOCIATION, INC.
BY DAN ROSENBAUM, BECKER & POLIAKOFF
(LANE BOAT HOUSE)

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) is authorized and empowered to consider appeals from the decision of the Zoning Commission of Development Order Amendments; and

WHEREAS, the notice and hearing requirements for an appeal as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, the appeal of the Zoning Commission decision of Zoning Petition DOA95-083(C) was presented to the Board of County Commissioners at a public hearing conducted on January 8, 2001; and

WHEREAS, the Board of County Commissioners considered the record before the Zoning Commission, evidence and testimony presented by the appellant and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, the Board of County Commissioners found the decision of the Zoning Commission was not supported by competent, substantial evidence and did not meet the requirements of Section 5.4C of the ULDC; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. The Development Order Amendment as approved by the Zoning Commission is not compatible as defined in this Code and not generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
2. The Development Order Amendment as approved by the Zoning Commission did not minimize the adverse effects, including the visual impact of the boat house use on the adjacent lands.
3. There has been no demonstration of changed circumstances to require a modification of conditions of approval.
4. In order to meet the requirements of Section 5.4.c of the ULDC conditions of Zoning Petition DOA95-083(C), Resolution No. ZR-2000-0008 shall be amended as provided in Exhibit C.

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, to OVERTURN AND AMEND the decision of the Zoning Commission on the Development Order Amendment for Zoning Petition DOA95-83(C), 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, and to approve the petition subject to conditions of approval described in Exhibit C, attached hereto and made a part hereof.

Commissioner Aaronson 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:

Warren H. Newell, Chairman	-	Absent
Carol A. Roberts, Vice-Chair	-	Nay
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 January 8, 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

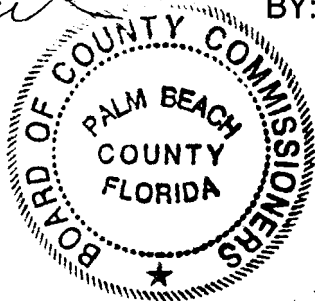


EXHIBIT A

LEGAL DESCRIPTION

BOAT HOUSE PARCEL
LEGAL DESCRIPTION

A PORTION OF THE LAND LYING IN LOT 181, ACCORDING TO THE PLAT OF GOMEZ GRANT AND JUPITER ISLAND, AS RECORDED IN PLAT BOOK 1, PAGE 80, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS AND A PORTION OF THE SUBMERGED LAND LYING BETWEEN THE EASTERLY MEAN HIGH WATER LINE OF HOBE SOUND AND THE BULKHEAD LINE AS RECORDED IN PLAT BOOK 26, PAGES 154 & 155, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF A LINE 51.66 FEET SOUTH OF AND PARALLEL TO SAID WESTERLY EXTENSION OF THE NORTH LINE OF LOT 181 AND SAID EASTERLY BULKHEAD LINE; THENCE S 16° 17' 57" E. ALONG SAID BULKHEAD LINE, A DISTANCE OF 67.60 FEET; THENCE N 89° 38' 44" E, A DISTANCE OF 149.94 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 707; THENCE N 16° 11' 46" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 67.57 FEET; THENCE S 89° 38' 44" W, A DISTANCE OF 150.06 FEET TO THE POINT OF BEGINNING.

CONTAINING 9750 SQUARE FEET OF 0.224 ACRES MORE OR LESS.

CONDOMINIUM
LEGAL DESCRIPTION

A PORTION OF THE LAND LYING IN LOTS 181 AND 182, ACCORDING TO THE PLAT OF GOMEZ GRANT AND JUPITER ISLAND, AS RECORDED IN PLAT BOOK 1, PAGE 80, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS AND A PORTION OF THE SUBMERGED LAND LYING BETWEEN THE EASTERLY MEAN HIGH WATER LINE OF HOBE SOUND AND THE BULKHEAD LINE AS RECORDED IN PLAT BOOK 28, PAGES 154 & 155, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 1 - BEGIN AT THE INTERSECTION OF THE NORTH LINE OF SAID LOT 181 AND THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 707, AS RECORDED IN ROAD PLAT BOOK 2, PAGES 69-72, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS; THENCE N 89° 38' 44" E, ALONG SAID NORTH LINE, A DISTANCE OF 363.66 FEET, MORE OR LESS, TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE SOUTHERLY, ALONG SAID MEAN HIGH WATER LINE TO THE INTERSECTION WITH THE NORTH LINE OF THE SOUTH 200.00 FEET OF SAID LOT 182; THENCE S 89° 38' 44" W, ALONG SAID NORTH LINE, A DISTANCE OF 342.50 FEET, MORE OR LESS, TO SAID EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 707; THENCE N 16° 11' 46" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 451.20 TO THE POINT OF BEGINNING.

AND

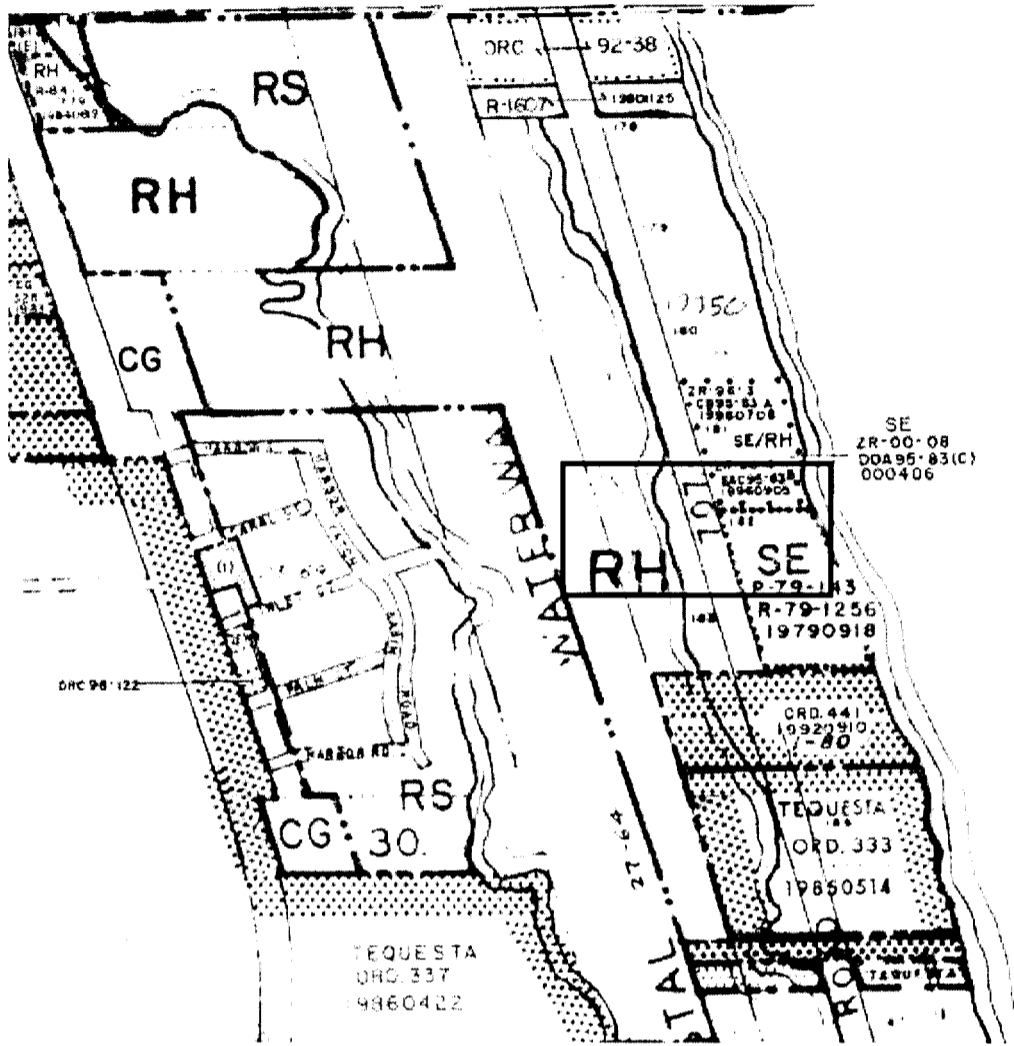
PARCEL NO. 2 - BEGIN AT THE INTERSECTION OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 181 AND SAID BULKHEAD LINE; THENCE N 69° 38' 44" E, ALONG SAID NORTH LINE, A DISTANCE OF 150.16 FEET TO THE INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 707; THENCE S 16° 11' 46" E, A DISTANCE OF 53.70 FEET TO THE INTERSECTION WITH LINE 51.66 FEET SOUTH OF AND PARALLEL TO SAID WESTERLY EXTENSION; THENCE S 69° 36' 44" W, ALONG SAID PARALLEL LINE, A DISTANCE OF 150.06 FEET TO THE INTERSECTION WITH SAID BULKHEAD LINE; THENCE N 16° 17' 57" W, ALONG SAID BULKHEAD LINE, A DISTANCE OF 53.73 FEET TO THE POINT OF BEGINNING.

AND

PARCEL NO. 3 - BEGIN AT THE INTERSECTION OF A LINE 116.66 FEET SOUTH OF AND PARALLEL TO SAID WESTERLY EXTENSION OF THE NORTH LINE OF LOT 181 AND SAID BULKHEAD LINE; THENCE N 89° 38' 44" E, ALONG SAID PARALLEL LINE, A DISTANCE OF 149.94 FEET TO THE INTERSECTION WITH SAID WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 707; THENCE S 16° 11' 46" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 329.93 FEET TO THE INTERSECTION WITH THE WESTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 200.00 FEET OF SAID LOT 182; THENCE N 89° 54' 16" W, ALONG SAID NORTH LINE, A DISTANCE OF 145.03 FEET TO THE INTERSECTION WITH SAID BULKHEAD LINE; THENCE N 16° 17' 57" W, ALONG SAID BULKHEAD LINE, A DISTANCE OF 330.10 FEET TO THE POINT OF BEGINNING.

DESCRIPTION
PARCEL "B"
EXHIBIT B

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Petition Number DOA95-083(C)

Zoning Quad Page 10

Date November 16, 2000

NORTH

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 applicable to the subject property, as contained in Resolution ZR-00-008, Petition 95-083(C) have been consolidated herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Zoning Commission, unless expressly modified.**(ONGOING: MONITORING-Zoning) (Previously Condition A.1 of Resolution ZR-00-008, Petition DOA95-083(C))
2. **Development of the site is limited to the uses and site design as approved by the Zoning Commission. The approved site plan, which has not been modified with this petition, is dated November 22, 1996. All modifications must be approved by the Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.** (ONGOING: ZONING) (Previously Condition A.2 of Resolution ZR-00-008, Petition DOA95-083(C))

B. BUILDING AND SITE DESIGN

1. **Total gross floor area of the primary structure excluding the garage and cabana, shall be limited to a maximum of 132,000 gross square feet of air conditioned space, except as permitted by Section 5.4.F.(Minor Deviations) of the ULDC.** (DRC: ZONING - Bldg) (Previously Condition B.1 of Resolution ZR-00-008, Petition DOA95-083(C))
2. **The minimum side setback for the primary structure shall be 120 feet from the north property line and 105 feet from the south property line, or as required by section 6.5.H. (Building Height) of the ULDC, whichever is greater.** (DRC: ZONING) (Previously Condition 8.2 of Resolution ZR-00-008, Petition DOA95-083(C))
3. **The minimum front setback for the primary structure from the west property line shall be 115 feet (measured from the east right-of-way line of Al A), or as required by Section 6.5.H. (Building Height) of the ULDC, whichever is greater.** (DRC: ZONING) (Previously Condition 8.3 of Resolution ZR-00-008, Petition DOA95-083(C))
4. Condition B.4 of Resolution ZR-00-008, Petition DOA95-083(C) which currently states:

The maximum height for all structures shall be measured from average finished grade (AFG) to the highest point in accordance with the ULDC. AFG is determined to be 19.0 mean sea level (MSL). The maximum height shall not exceed 144 feet above MSL or 125 feet above AFG, whichever is less, and shall not include more than twelve (12) living floors, except as permitted by section 6.5.H.4 (Exceptions to Height Regulations) of the ULDC. The 12 floors may be permitted over a parking garage and lobby level.

Is hereby amended to state:

The maximum height for the primary structure shall be measured from average finished grade (AFG) to the highest point in accordance with the ULDC. AFG is determined to be 19.0 above mean sea level (MSL). The maximum height shall not exceed 144 feet above MSL or 125 feet above AFG, whichever is less, and shall not include more than twelve (12) living floors, except as permitted by section 6.5.H.4 (Exceptions to Height Regulations) of the ULDC. The 12 floors may be permitted over a parking garage and lobby level. (DRC: BLDG PERMIT: BLDG - Zoning) (Previously

5. **The primary structure, excluding balconies and appurtenances, shall not encroach into the Florida Coastal Construction Control Line.** (BLDG PERMIT: BLDG - Zoning) (Previously Condition B.5 of Resolution ZR-00-008, Petition DOA95-083(C))
6. Condition B.6 of Resolution ZR-00-008, Petition DOA95-083(C)) which currently states:

The subject site shall support a maximum of 24 units for the 12 story condominium, excluding the caretaker quarters, and one (1) unit for the boathouse property.

Is hereby amended to read:

The subject site shall support a maximum of 24 units for the 12 story condominium, excluding the caretaker quarters, and the redevelopment of the former boathouse as one (1) additional unit or as a recreational amenity for the condominium. (DRC: Zoning/Building)

7. Condition 8.7 of Resolution ZR-00-008, Petition DOA95-083(C)) which currently states:

Total gross floor area for the boathouse shall be 2,156 square feet of air conditioned space and 607 square feet of porch area (2,763 total).

Is hereby amended to read:

Total gross floor area for the boathouse parcel including balconies, shall not exceed 1300 square feet of floor area. (BLDG PERMIT: BLDG/ ZONING)

8. Condition B.8 of Resolution ZR-00-008, Petition DOA95-083(C)) which currently states:

Prior to October 1, 2000, building permit issuance, or building permit revisions, for B97-0335667 former boathouse site, the property owner shall provide a building elevation indicating architectural consistency between the boathouse property and the 24 unit Carlyle condominium. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. (DATE: BLDG PERMIT: ZONING)

Is hereby deleted.

9. Condition B.9 of Resolution ZR-00-008, Petition DOA95-083(C)) which currently states:

The petitioner, Carlyle Condominium Association and Zoning Staff shall come to an agreement on the architectural elevations of the boathouse property by October 1, 2000, or this petition will be brought back to the Zoning Commission on the next available agenda. (DATE: ZONING)

Is hereby deleted.

10. Condition B.10 of Resolution ZR-00-008, Petition DOA95-083(C)) which currently states:

The maximum height for the single family residence (Lane Boathouse), including all air conditioning and mechanical equipment, and satellite dishes shall not exceed thirty-five(35) feet as measured by the ULDC. All heights shall be measured from the mean sea level (MSL).

Is hereby amended to read:

The maximum height for the boathouse parcel, including all air conditioning and mechanical equipmen and satellite dishes, shall not exceed twenty-two feet (22) feet to the highest point. Height shall be measured from the mean sea level (MSL). (BLDG PERMIT: BLDG - Zoning)

C. ENVIRONMENTAL RESOURCE MANAGEMENT

1. **The petitioner shall submit to the Department of Environmental Resources Management an exterior lighting plan for review and approval prior to DRC site plan certification.** (DRC: ERM - Bldg) (Previously Condition C. 1 of Resolution ZR-00-008, Petition DOA95-083(C))
2. **Prior to DRC approval, the Coral Cove Beach/Dune Restoration and Access Easement shall be clearly shown on the certified site plan and shall indicate all proposed structures or construction activities within the easement.** (DRC: ERM - Bldg) (Previously Condition C.2 of Resolution ZR-00-008, Petition DOA95-083(C))
3. **The petitioner shall submit to the Department of Environmental Resources a plan to delineate the dune restoration easement in order to protect the dune vegetation from damage during construction activities. This plan shall be approved by the Department of Environmental Resources Management prior to site plan certification.** (DRC: ERM - Bldg) (Previously Condition C.3 of Resolution ZR-00-008, Petition DOA95-083(C))
4. **All outdoor lighting used to illuminate the subject property and identification signs, except as otherwise designated by the Department of Environmental Resources Management, shall be of low intensity, shielded and directed down and away from adjacent properties and streets and shall meet the guidelines of the ULDC pursuant to Section 9.1.** (CO / ONGOING: BLDG / ERM / CODE ENF - Zoning) (Previously Condition C.4 of Resolution ZR-00-008, Petition DOA95-083(C))
5. **All roof mounted air conditioning units, mechanical equipment and radio antennas, shall be screened from view on all sides in a manner consistent with the color, character and architectural style of the principle structure.** (BLDG PERMIT: BLDG -Zoning) (Previously Condition C.5 of Resolution ZR-00-008, Petition DOA95-083(C))

D. LANDSCAPING - GENERAL

1. **All canopy trees required to be planted within the perimeter landscape buffers 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. (CO: BLDG) (Previously Condition D.I of Resolution ZR-00-008, Petition DOA95-083(C))

E. ENGINEERING

No Engineering conditions.

F. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING BEACH ROAD)

1. **Landscaping and buffering along the west property line, abutting Beach Road (A1A/707), shall be upgraded to include:**
 - a. **A minimum fifteen (15) foot wide landscape buffer strip;**
 - b. **One (1) canopy tree planted every thirty (30) feet on center;**
 - c. **One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and,**
 - d. **Thirty (30) 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 thirty-six (36)inches. (DRC/ CO: ZONING/LANDSCAPE) (Previously Condition F.I of Resolution ZR-00-008, Petition DOA95-083(C))**

G. LANDSCAPING ALONG THE NORTH AND SOUTH PROPERTY LINES

1. **Landscaping and buffering along the north and south property lines adjacent to multi-family residential shall be upgraded to include:**
 - a. **A minimum fifteen (15) foot wide landscape buffer strip.**
 - b. **A six (6) foot high opaque concrete wall. All required landscape material shall be planted on the exterior side of the wall prior to issuance of the issuance of the first Certificate of Occupancy. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with the abutting development.(CO: LANDSCAPE -Zoning) (Previously Condition C.I of Resolution ZR-00-008, Petition DOA95-083(C))**
2. **The following landscaping requirements shall be installed on the exterior side of the required wall:**
 - a. **One (1) canopy tree planted every thirty (30) feet on center.**
 - b. **One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location.**
 - c. **Thirty (30) 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 thirty-six (36)inches. (CO: LANDSCAPE - Zoning) (Previously Condition G.2 of Resolution ZR-00-008, Petition DOA95-083(C))**

H. PLANNING

1. **Should any archeological materials be uncovered, all work on the site shall cease until such time as “the find” has been examined, catalogued, and recorded and preservation status determined, as required by ULDC Section 7.13.C.2, Archeological Resource**

Protection. (ONGOING: CODE ENF - PLANNING) (Previously Condition H.I of Resolution ZR-00-008, Petition DOA95-083(C))

I. UNITY

Condition I.1 of Resolution ZR-00-008, Petition DOA95-083(C)) which currently states:

1. **Prior to the issuance of a building permit, the petitioner shall record in the public record a unity of title for the entire subject property excluding the 0.22 acre boathouse parcel. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director.**

Is hereby amended to read:

Prior to issuance of a building permit, the petitioner shall record in the public record a unity of title for the entire subject property. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. (BLDG PERMIT: CO ATT-Zoning)

J. SIGNS

1. **Freestanding signs fronting on A1A/SR707 shall be limited as follows:**
 - a. **Maximum sign height, measured from finished grade to highest point - five (5) feet;**
 - b. **Maximum sign face area per side - 50 square feet;**
 - c. **Maximum number of signs - one (1); and,**
 - d. **Style - monument style only. (CO: BLDG) (Previously Condition J.I of Resolution ZR-00-008, Petition DOA95-083(C))**

K. COMPLIANCE

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 Zoning Commission for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning) (Previously Condition K.I of Resolution ZR-00-008, Petition DOA95-083(C))**
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) (Previously Condition K.2 of Resolution ZR-00-008, Petition DOA95-083(C))