

RESOLUTION NO. R-2003- 0093

RESOLUTION APPROVING ZONING PETITION DOA1989-088A
DEVELOPMENT ORDER AMENDMENT
PETITION OF SCI FUNERAL SERVICE OF FLORIDA
BY HOUSCH GHOVAEE, AGENT
(MEMORY GARDENS)

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 DOA1989-088A was presented to the Board of County Commissioners at a public hearing conducted on January 9, 2003; 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 DOAI989-088A, the petition of SCI Funeral Service of Florida, by Housch Ghovae, agent, for a Development Order Amendment to add square footage 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 9, 2003, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 9, 2003.

Filed with the Clerk of the Board of County Commissioners on 30 day of January, 2003

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

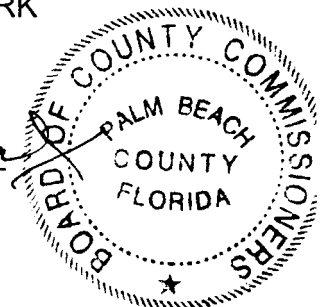


EXHIBIT A
LEGAL DESCRIPTION

Being all of Memory Gardens, as recorded in Plat Book 24, page 133, and of Memory Gardens Plat No. 2, as recorded in Plat Book 26, Page 76, being a portion of the north half of tracts 31 and 32, Model Land Company Subdivision of Section 24, Township 44 South, Range 42 East, as recorded in Plat Book 5, Page 76, Public Records of Palm Beach County, Florida

Less and except additional right-of-way for LWDD Canal No. L-10 and
Less and except additional right-of-way for Kirk Road.

EXHIBIT B
VICINITY SKETCH

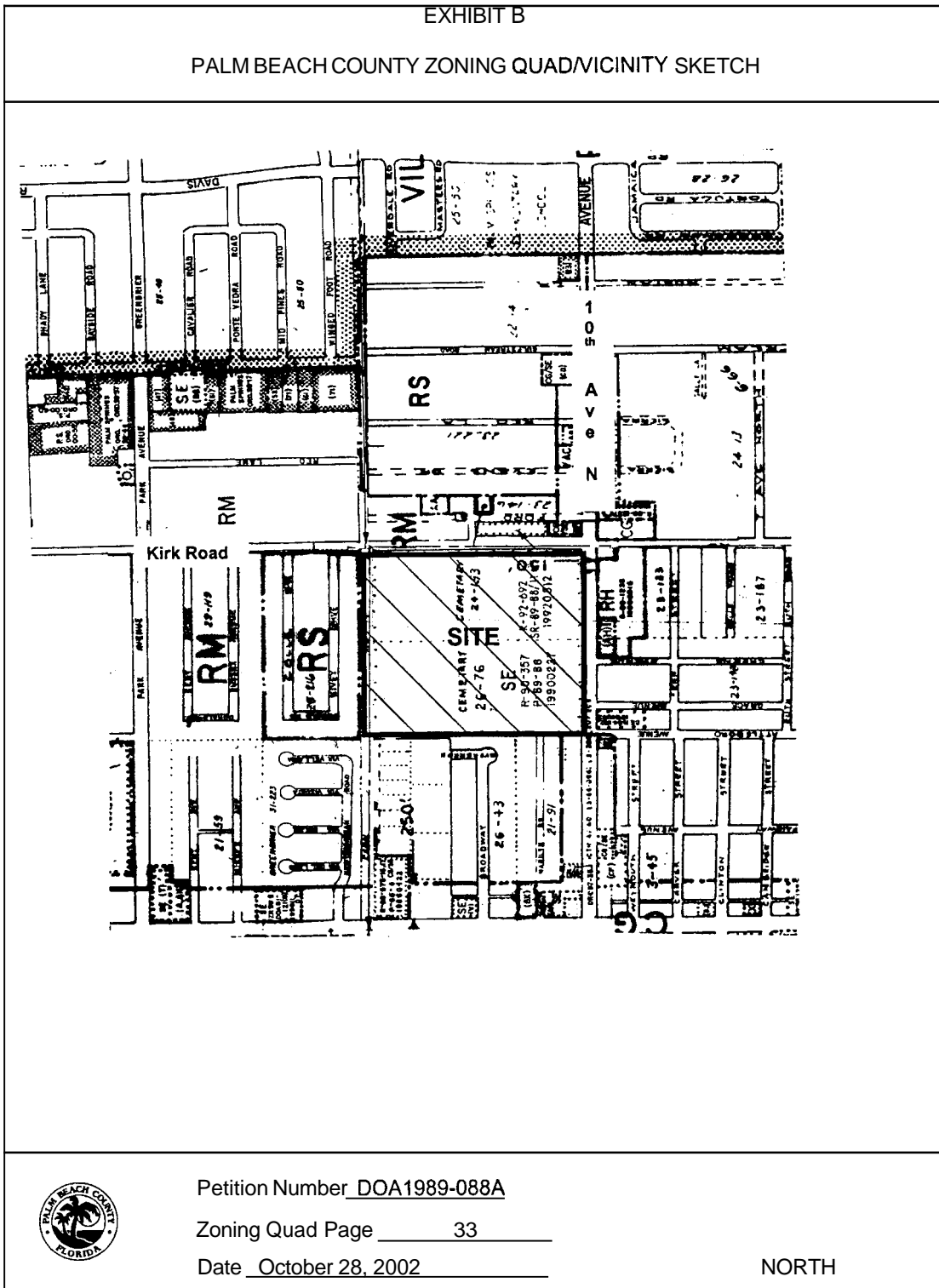


EXHIBIT C

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. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-90-0357 (Petition 89-088), 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. 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 September 20, 2002. 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)

B. BUILDING AND SITE DESIGN

1. Condition 1 of Resolution R-1990-0357, Petition 1989-088, which currently states:

Prior to Site Plan Review Committee submittal, the site development plan shall be amended to satisfy all minimum property development regulations and land development requirements.

Is hereby deleted. [REASON: Code requirement.]
2. Condition 4 of Resolution R-1990-0357, Petition 1989-088, which currently states:

Trash receptacles shall be totally screened with a six (6) foot high wall or fence and located away from adjacent properties.

Is hereby deleted. [REASON: Code requirement.]
3. All new roof or ground mounted air-conditioning, mechanical equipment and satellite dishes 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. HEALTH DEPARTMENT

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 sewage works are constructed and used by project tenants or owners generating such effluents. (ONGOING: HEALTH – Health) (Previous Condition 6 of Resolution R-1990-0357, Petition 1989-088)

2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (ONGOING: HEALTH – Health) (Previous condition 7 of Resolution R-1990-0357, Petition 1989-088)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING: HEALTH – Health) (Previous condition 8 of Resolution R-1990-0357, Petition 1989-088)
4. Condition 9 of Resolution R-1990-0357, Petition 1989-088, which currently states:

The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil.

Is hereby deleted. [REASON: Not applicable.]

D. LAKE WORTH DRAINAGE DISTRICT

1. The property owner shall convey to the Lake Worth Drainage District the North 10 feet of the plat of Memory Gardens Plat No. 2 and a parcel 10 feet in width lying south of the northwest corner and 15 feet south of the northeast corner of the plat of Memory Gardens for the required right-of-way for Lateral Canal No. 10, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to February 1, 1990. (DATE: LWDD – LWDD) (Previous Condition 14 of Resolution R-1990-0357, Petition 1989-088)

E. ENGINEERING

1. Condition 10 of Resolution R-1990-0357, Petition 1989-088, which currently states:

The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain **onsite** the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

Is hereby deleted. [REASON: code requirement]

2. Prior to February 1, 1990 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for:
 - a. Kirk Road, 40 feet from centerline;
 - b. 10th Avenue North, 55 feet from centerline; and,

- c. Sufficient right-of-way required for an expanded intersection at Kirk Road and 10th Avenue North in accordance with Palm Beach County's Typical expanded intersection drawings. Kirk Road, 60.5 feet from centerline and 10th Avenue North, 60.5 feet from centerline.

All free of encumbrances and encroachments. Property owner 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PRMT: BLDG – Eng) (Previous Condition 11 of Resolution R-1990-0357, Petition 1989-088)

Is hereby deleted. REASON: [Superceded by Condition E.6.]

3. The Property owner shall convey to Palm Beach County prior to February 1, 1990 adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of both 10th Avenue North and Kirk Road along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along both 10th Avenue North and Kirk Road. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment. (DATE: ENG – Eng) (Previous Condition 12 of Resolution R-1990-0357, Petition 1989-088) [Completed]

4. Condition 13 of Resolution R-1990-0357, Petition 1989-088, which currently states:

The Developer 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.

Is hereby deleted. [REASON: code requirement]

5. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along 10th Avenue North and Kirk Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PRMT: MONITORING – Eng)

6. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Kirk Road, 71 ½ feet from centerline plus the appropriate tapers as shown in Palm Beach County's Typical Expanded Intersection details from centerline on or before, November 12, 2003, or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and 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. Thoroughfare Plan Road right-of-way conveyances shall be consistent with

Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (DATE/BLDG PRMT: MONITORING – Eng)

F. LANDSCAPING STANDARD

1. Fifty-percent (50%) of all new and/or replacement trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured at 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 3.5 feet in length; and,
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All new and/or replacement palms required to be planted on site by this approval 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. All new shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. Eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. Twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. Forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. This condition does not apply to existing landscape buffers unless conditioned otherwise herein. (CO: LANDSCAPE – Zoning)
4. All new and/or replacement trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE – Zoning)

G. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL AND AFFECTED AREA)

1. Landscaping along the westernmost 993 feet of the north property line shall be upgraded as follows:
 - a. One (1) native canopy tree for each twenty-five (25) linear feet of property line; and
 - b. One (1) large shrub for each two (2) linear feet of property line, spaced twenty-four inches on center. All new and/or replacement shrubs shall be planted at a minimum height of thirty (30) inches at installation. (DRC: LANDSCAPING – Zoning)
2. Landscaping along the easternmost 300 feet of the north property line shall be upgraded as follows:

- a. A minimum fifteen (15) foot wide landscape buffer strip. No easement encroachment shall be permitted;
- b. A minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb. Berm may be field adjusted to accommodate existing vegetation;
- c. One (1) native canopy tree for each twenty (20) feet of the property line;
- d. One (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- e. One (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- f. One (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- g. One (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE – Zoning)

H. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINES

- Condition 2 of Resolution R-1990-0357, Petition 1989-088, which currently states:

The petitioner shall provide the following:

- a. **Along the east property line, Alternative Perimeter Landscape No. 3 supplemented with a six (6) foot high hedge/berm combination and ten (10) foot high native canopy trees Petition No. 89-88 Page 1 planted twenty-five (25) feet on center; and,**
- b. **Along the north property line, thirty-six (36) inch high hedge and native canopy trees planted twenty-five (25) feet on center.**

~~Is~~ hereby amended to read:

Landscaping and buffering along the east property line shall be upgraded as follows:

- a. One (1) native canopy tree planted twenty-five (25) feet on center; and
- b. A six (6) foot high hedge/berm combination. (CO: LANDSCAPE – Zoning)

I. LANDSCAPING INTERIOR

- 1. 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 each side of the structure; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO: ZONING/ LANDSCAPE – Zoning)

2. A minimum of one (1) 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 – Zoning)
3. Landscaping for divider median in any parking area shall consist of the following:
 - a. One (1) canopy or flowering tree for each twenty-five (25) linear feet of the median;
 - b. One (1) palm for each thirty-five (35) linear feet of the median;
 - c. A continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches; and
 - d. Exceptions shall be permitted for divider medians adjacent to or underneath canopies. (CO: LANDSCAPE – Zoning)

J. LIGHTING

1. Condition 3 of Resolution R-1990-0357, Petition 1989-088, which currently states:

All site lighting shall be low intensity, shielded and directed away from surrounding residences and rights-of-way.

Is hereby amended to read:

All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF – Zoning)

2. All outdoor lighting shall be extinguished no later than 10:00 p.m. excluding security lighting only. (ONGOING: CODE ENF – Zoning)
3. 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 – Zoning)

K. PLANNING

1. Prior to final site plan approval, the applicant shall revise the site plan to label the location of the proposed future or existing sidewalks along Kirk Road and 10th Avenue North since this site is within two (2) miles of a school. (DRC: PLANNING – Planning)

L. SIGNS

1. Condition 5 of Resolution R-1990-0357, Petition 1989-088, which currently states:

No off-premise signs shall be permitted on site.

Is hereby deleted. [REASON: Inconsistent with billboard settlement agreement.]

2. All new or replacement signage for the funeral home shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point: eight (8) feet;
 - b. Maximum sign face area: eighty (80) square feet;
 - c. Maximum number of signs: one (1);
 - d. Style: monument style only; and,

- e. location: Kirk road frontage. (CO: BLDG – Zoning)

M. USE LIMITATIONS

- 1. Hours of business operation for the funeral home shall be limited to 7:00 a.m. to 9:00 p.m. daily. (ONGOING: ZONING/CODE ENF – Zoning)

N. 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)
- 2. Condition 15 of Resolution R-1990-0357, Petition 1989-088, which currently states:

Failure to comply with any conditions of approval may result in the denial or revocation of a building permit; the issuance of a stop work 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Is hereby amended to read:

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 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. (ONGOING: MONITORING – Zoning)