

RESOLUTION NO. R-2003-0423

RESOLUTION APPROVING ZONING PETITION Z/COZ2002-063
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF COMMUNITIES FINANCE CO.
BY KIERAN J. KILDAY, AGENT
(HARBOR PLACE)

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 notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition Z/COZ2002-063 was presented to the Board of County Commissioners at a public hearing conducted on March 27, 2003; 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 recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20, as amended; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 Z/COZ2002-063, the petition of Communities Finance Co. by Kieran J. Kilday, agent, for an Official Zoning Map Amendment with a Conditional Overlay Zone rezoning from the Light Industrial and the Agricultural Residential Zoning Districts to the Residential Transitional Suburban Zoning District with a Conditional Overlay Zone on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on March 27, 2003, subject to the conditions of the CONDITIONAL OVERLAY ZONE 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 Greene and, upon being put to a vote, the vote ~~was~~ as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on March 27, 2003.

Filed with the Clerk of the Board of County Commissioners on 3 day of April, 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

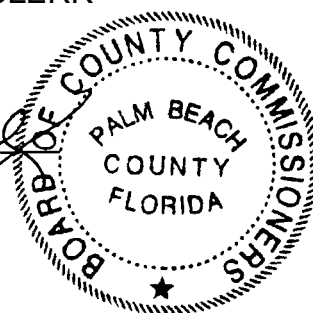


EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION:

PARCEL 1.04

A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF PALMWOOD ROAD, AS SAID RIGHT OF WAY IS SHOWN ON THE PLAT RECORDED IN ROAD PLAT BOOK 2, PAGE 76 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, WITH THE EAST-WEST QUARTER SECTION LINE OF SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, (FOR PURPOSES OF THIS DESCRIPTION, THE CENTERLINE OF PALMWOOD ROAD AS MONUMENTED IS ASSUMED TO BEAR NORTH 01'31'24" WEST, AND ALL OTHER BEARINGS MENTIONED HEREIN ARE RELATIVE THERETO); THENCE NORTH 01°33'06" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE A DISTANCE OF 108.70 FEET TO POINT OF BEGINNING NO. 1 OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE NORTH 01'33'06" EAST ALONG THE EASTERLY RIGHT OF WAY LINE 46.55 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 2,904.93 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE AND THROUGH A CENTRAL ANGLE OF 13°09'06", A DISTANCE OF 666.80 FEET; THENCE SOUTH 87°43'14" EAST ALONG A LINE PARALLEL WITH AND 815.17 FEET NORTH OF (MEASURED AT RIGHT ANGLES TO) SAID EAST-WEST QUARTER SECTION LINE, A DISTANCE OF 276.20 FEET, MORE OR LESS, TO THE WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY AS SHOWN IN PLAT BOOK 17, PAGE 6 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 22'21'37" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY, A DISTANCE OF 238.28 FEET; THENCE SOUTH 31'12'32" EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY A DISTANCE OF 61.72 FEET; BEING REFERENCE POINT 'A'; THENCE NORTH 87'43'14" WEST, A DISTANCE OF 129.99 FEET, MORE OR LESS, TO THE EAST LINE OF THE WEST HALF (W1/2) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 20; THENCE SOUTH 01'33'06" WEST ALONG SAID EAST LINE OF THE WEST HALF (W1/2) OF THE NORTHWEST QUARTER (NW1/4), DISTANCE OF 438.46 FEET; THENCE NORTH 87'43'14" WEST, A DISTANCE OF 200.00 FEET, MORE OR LESS, TO POINT OF BEGINNING NO. 1.

TOGETHER WITH A PARCEL OF LAND IN THE WEST HALF (W1/2) OF THE NORTHWEST ONE-QUARTER (NW1/4) OF SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BOUNDED AS FOLLOWS:

ON THE EAST SIDE BY THE WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY AS SHOWN IN PAT BOOK 17, PAGE 6, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. ON THE WEST BY THE EASTERLY RIGHT OF WAY LINE OF PALMWOOD ROAD AS DESCRIBED IN DEED BOOK 1070, PAGE 577 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. ON THE NORTH BY THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 3455, PAGES 1003 AND 1004 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. ON THE SOUTH BY A LINE PARALLEL WITH AND 815.17 FEET NORTH OF (AS MEASURED AT RIGHT ANGLES TO) THE SOUTH LINE OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 20.

TOGETHER WITH:

PARCEL 1.20

A PARCELOF LAND LYING IN SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, WITHIN THE MUNICIPAL LIMITS OF THE CITY OF PALM BEACH GARDENS, PALM BEACH COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT CERTAIN PARCELOF LAND LYING IN THE NORTHWEST QUARTER OF SAID SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BOUNDED AS FOLLOWS:

ON THE NORTHEAST BY THE CENTERLINE OF THE INTRACOASTAL WATERWAY, AS SHOWN IN PLAT BOOK 17, PAGE 6; ON THE SOUTH BY A LINE BEGINNING AT THE MOST EASTERLY CORNER OF THAT PROPERTY DESCRIBED IN DEED AT OFFICIAL RECORD BOOK 3377, PAGE 1939 AND EXTENDING EASTERLY ON A PROLONGATION OF THE SOUTH LINE OF SAID PROPERTY TO THE CENTERLINE OF SAID INTRACOASTAL WATERWAY; ON THE SOUTHWEST BY THE WESTERLY RIGHT OF WAY LINE OF THE SAID INTRACOASTAL WATERWAY AND ON THE NORTHWEST BY A LINE BEGINNING AT THE SOUTHEAST CORNER OF PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 3455, PAGE 1003 AND EXTENDING EASTERLY ON A PROLONGATION OF THE SOUTH LINE OF SAID PROPERTY TO THE CENTERLINE OF SAID INTRACOASTAL WATERWAY.

ALSO KNOWN AS:

A PARCELOF LAND IN THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTH 318.35 FEET OF THE SOUTH 865.46 FEET OF SAID NORTHWEST QUARTER LYING EASTERLY OF THE WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY AS SHOWN IN PLAT BOOK 17, PAGE 6, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND WESTELY OF THE CENTERLINE OF SAID INTRACOASTAL WATERWAY.

LESS AND EXCEPT ANY PORTION THEREOF CONVEYED TO THE UNITED STATES OF AMERICA BY THE DEED RECORDED IN DEED BOOK 443, PAGE 430, AND LESS AND EXCEPT ANY PORTION THEREOF LYING WITHIN THE LAND WHICH IS SUBJECT TO THE DECLARATION OF CONDOMINIUM FOR CYPRESS ISLAND MARINA CONDOMINIUM, RECORDED IN OFFICIAL RECORDS BOOK 6538, PAGE 817, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA, CONTAINING 5.7 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

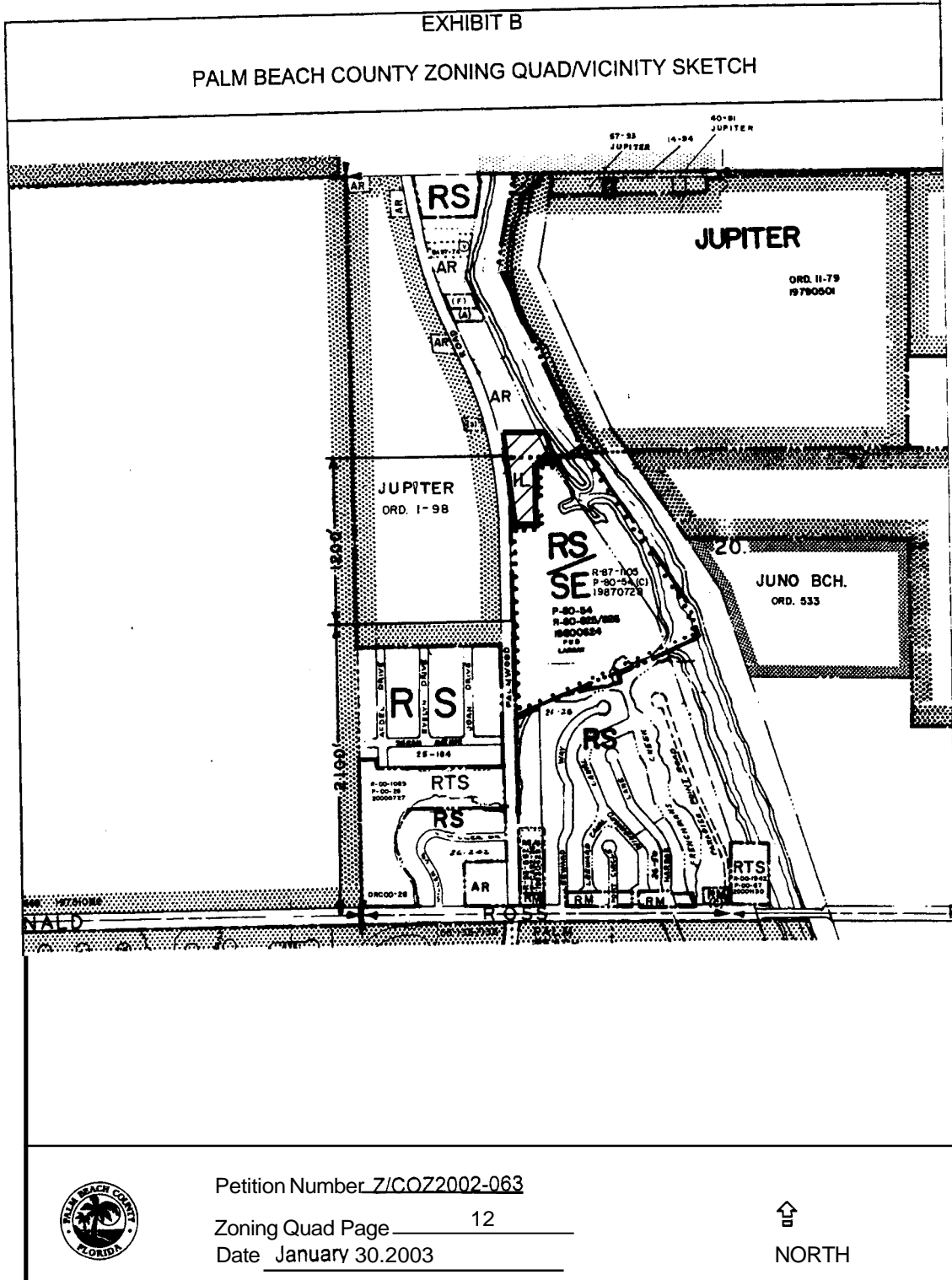


EXHIBIT C

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 January 16, 2003. 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. LANDSCAPING – STANDARD

1. Fifty-percent (50%) of trees to be planted in the perimeter buffers shall be native canopy trees unless specified otherwise, 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 palms required to be planted in perimeter buffers 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 shrub or hedge materials required to be planted in perimeter buffers shall be native, and 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;
 - d. Shrubs shall be installed on the exterior side of a wall, where applicable; and,
 - e. This condition shall not apply where a single-row of shrubs or hedges are required on one (1) side of a wall. (CO: LANDSCAPE – Zoning)
4. All trees and palms required to be planted in perimeter buffers shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE – Zoning)
5. Prior to final Development Review Committee (DRC) certification of the landscape plan, the petitioner shall coordinate with Palm Beach County Landscape staff to ensure that landscaping is similar to and/or consistent with materials provided in the Bears Club PUD landscape buffer on the west side of Palmwood Road. (DRC: LANDSCAPE – Zoning)

C. LANDSCAPING ALONG WEST PROPERTY LINE (PALMWOOD ROAD FRONTAGE)

1. Landscaping along the west property line fronting on Palmwood Road, shall be upgraded to include:
 - a. One (1) native canopy tree for each thirty (30) linear feet of property line, of which a minimum of fifty (50) percent shall be oak trees;
 - b. One (1) palm or pine tree for each thirty (30) linear feet of property line, of which a minimum of fifty (50) percent shall be pine trees, to be planted in clusters with a minimum spacing of ninety (90) feet;
 - c. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
 - d. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and
 - e. One (1) large shrub for each eight (8) linear feet of property line, to be installed at a minimum height of thirty (30) inches. (CO: LANDSCAPE – Zoning)

D. SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO HOME BUYERS/TENANTS"

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)

E. ENGINEERING

1. Prior to December 15, 2003, 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 Palmwood Road, an additional 30 feet of right-of-way of right of way along the Project's entire frontage. This additional right of way shall be free of all 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 "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING – Eng)
2. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Palmwood 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 PERMIT: MONITORING – Eng)
3. Prior to issuance of a building permit the property owner shall convey a roadway construction easement to Palm Beach County at the Projects Entrance Road. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's road right of way. Construction by the applicant within this easement

shall conform to 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 PERMIT: MONITORING – Eng)

F. 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. 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)