

RESOLUTION NO. R-94-1088

RESOLUTION APPROVING ZONING PETITION DOA88-53(C)
DEVELOPMENT ORDER AMENDMENT
PETITION OF WILLIE AND FRANKIE DAY

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

WHEREAS, Zoning Petition DOA88-53(C) was presented to the Board of County Commissioners at a public hearing conducted on August 25, 1994; 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 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 relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach county 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 standards imposed on it by applicable provisions of the Palm Beach County 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 exemption and therefore complies with Art. 11 (Adequate Public Facility Standards) of the Palm Beach County 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.
11. This Development Order Amendment is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County 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 DOA88-53(C), the petition of Willie & Frankie Day, for a DEVELOPMENT ORDER AMENDMENT in the Agricultural Residential (AR) Zoning District, to amend Condition 5 of Resolution R-89-904 (outdoor storage), previously approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on August 25, 1994, subject to the 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 Foster and, upon being put to a vote, the vote was as follows:

Mary McCarty, Chair	--	Aye
Burt Aaronson	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Absent
Karen T. Marcus	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Absent

The Chair thereupon declared that the resolution was duly passed and adopted this 25th day of August, 1994.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Barbara A. Myer*
COUNTY ATTORNEY

BY: *Barbara A. Myer*
DEPUTY CLERK

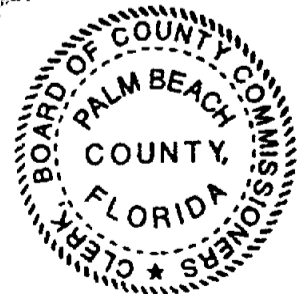


EXHIBIT A
LEGAL DESCRIPTION

The East 386.2 feet of the West 1158.6 feet of Lot 33, Block F, LOXAHATCHEE GROVES,
as recorded in Plat Book 12, page 29, Palm Beach County, Florida Public Records.

Subject to restrictions and reservations of record.

88-53 C

EXHIBIT B
VICINITY SKETCH

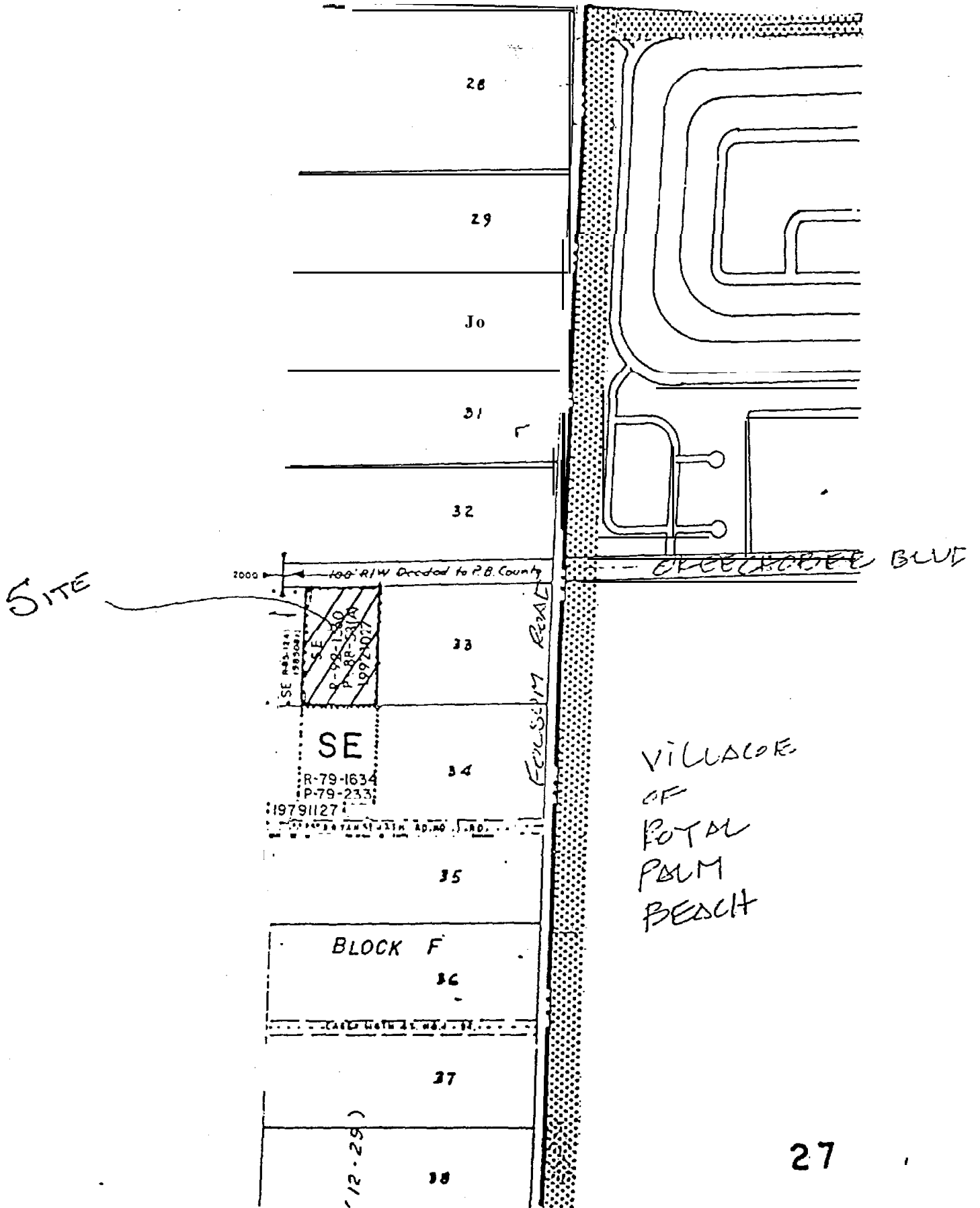


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in BOLD and will be carried forward with this petition unless expressly modified herein.

A. GENERAL

1. Previous Condition **1** of Resolution R-90-351, Petition 88-53(A) which states:

The petitioner shall comply with all previous conditions of approval unless expressly modified herein.

Is hereby amended to state:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-89-904, and R-90-351 have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval unless expressly modified. (MONITORING)

2. The citrus grove shall be clearly dimensioned and labelled. (Previously Condition 2 of Resolution R-89-904, Petition 88-53). (ZONING)
3. The property owner (OR all property owners and lessee's) shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, **paper**, plastic, metal and glass products. (SWA)

B. HOURS OF OPERATION

1. The hours **of** operation shall be limited to **7:00** a.m. to 9:00 p.m. daily. (Previously Condition 11 of Resolution R-89-904, Petition 88-53). (CODE ENFORCEMENT)

C. USE LIMITATIONS

1. Previous Condition 12 of Resolution R-89-904, Petition 88-53 which states:

No tractor trailers or semi-trucks shall be permitted to deliver goods to this site.

Is hereby deleted. [REASON: Superseded by conditions to allow storage trailers] (CODE ENFORCEMENT)

2. Previous Condition 13 of Resolution R-89-904, Petition 88-53 which states:

No delivery vehicles shall be permitted to be parked on site. No sales of products shall be permitted from parked vehicles.

Is hereby amended to state:

No delivery vehicles shall be permitted to be parked on site except within the fenced outdoor storage area. No sales of products shall be permitted from parked vehicles. (CODE ENFORCEMENT)

3. Total building area shall be limited to 9,900 square feet, not including the covered loading and storage areas. (Previously Condition 3 of Resolution R-90-351, Petition 88-53(A)). (BUILDING/ZONING)

4. Condition 4 of Resolution R-90-351, Zoning Petition 88-53(A), which states:

All vehicles used for product storage shall **only** be parked within the covered loading and storage area. These areas shall not be aompletely enclosed.

Is hereby amended to state:

All vehicles used for product storage and sheds too large to be placed under the covered loading area shall be located within the designated outdoor fenced storage area to the south of the primary building. The covered loading area shall not be completely enclosed. (CODE ENFORCEMENT)

5. All loading activities shall take place in the designated loading area. (Previously Condition 5 of Resolution R-90-351, Petition 88-53(A). (CODE ENFORCEMENT)
6. The site shall be limited to the following uses and activities:
- Agriculturally related sales and services such as feed and grain, farm and garden equipment and **tools**, fresh fruit and vegetables, fertilioer and seed, plants and other nursery products, **garden** and nursery supplies; and,
 - There shall be no repair of mechanical equipment on site, nor any sale of large scale farm implements,
 - There shall be **no food sold for consumption** on premises, and no food shall be prepared on site. (Previously Condition 8 of Resolution R-90-351, Petition 88-53(A). (CODE ENFORCEMENT/ZONING)

7. Deliveries from tractor-trailers or semi-trucks shall be allowed only during the hours between 7:00 a.m. to 4:00 **p.m.**, Monday through Saturday. (Previously Condition 9 of Resolution R-90-351, Petition 88-53 (A). (CODE ENFORCEMENT)

8. Condition 10 of Resolution R-90-351, Zoning Petition 88-53(A), which states:

Delivery vehicles and trailers may only be parked on site within the **30' x 125'** covered areas shown on the Bite plan **for** the storage and sale of hay, nursery plants, feed, fertiliaer, and wood shavings.

Is hereby amended to state:

Delivery vehicles, trailers and sheds may **only** be parked and or stored on the site within the **30' x 125'** covered areas shown on the site plan for the storage and sale of hay, nursery plants, feed, fertilizer, wood shavings and sheds. or in the designated outdoor fenced storage area located to the south of the primary building. (CODE ENFORCEMENT)

9. The structures existing on the five (5) acre parcel to the south of this property shall not be used **for** equipment repair or storage of items related to the Red Barn business unless Petition **No.** 88-53(A) is modified to include that area. (Previously Condition 11 of Resolution R-90-351, Petition 88-53 (A) . (CODE ENFORCEMENT)

10. Condition 5 of Resolution R-89-904, Zoning Petition 88-53, which states:

There shall ~~be~~ no outside storage of **disassembled vehicles** or product inventory.

Is hereby amended to state:

There shall be no outdoor storage of disassembled vehicles or product inventory outside of the designated outdoor fenced storage area located south of the primary structure. (ZONING/CODE ENFORCEMENT)

11. **Use** of the site shall be limited to:

- a. Retail sales of citrus and vegetable **products**, animal feed and grain, and related products **used** in agricultural areas.
- b. There shall be no retail sales of prepared foods, nor shall food **be** prepared on **the site**. (Previously Condition 3 of Resolution R-89-,904, Petition 88-53). (ZONING/CODE ENFORCEMENT)

D. HEALTH

1. The application and **engineering plans, calculations, etc.** to **construct** well and/or septic tank must be **submitted** to the Health Department prior to site plan approval (or prior to issuance of Building Permit **for straight rezoning**). (Previously Condition 6 of Resolution 1:-89-904, Petition 88-53). (HEALTH)

E. ENGINEERING

1. 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. 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**. (Previously Condition 7 of Resolution R-89-904, Petition 88-53). (ENGINEERING)
2. The property owner shall construct a left turn lane, east approach and a right turn lane west **approach** on **Okeechobee Road** at the project's entrance road **concurrent** with **onsite paving and drainage improvements**. Construction shall be completed prior to the issuance of a Certificate of Occupancy. (Previously Condition 8 of Resolution R-89-904, Petition 88-53). (ENGINEERING)
3. The property owner 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. The **Fair Share Fee** for this project **presently** is **\$18,994.00** (709 trips X \$26.79 per trip). (Previously Condition 9 of Resolution R-89-904, Petition 88-53). (IMPACT FEE COORDINATOR)

4. There shall be no access to Bryant Road from this facility. (Previously Condition 6 of Resolution F-90-351, Petition 88-53(A). (ENGINEERING))

F. SIGNS

1. No off-premise signs shall be permitted on the site. (Previously Condition 14 of Resolution R-89-904, Petition 88-53). (CODE ENFORCEMENT)
2. Point of Purchase **signage** shall be limited to one (1) sign, a maximum of fifteen (15) feet in height and **sixty-four (64) square feet** in area. All **signage** shall be in conformance with the Palm Beach County Sign code, permitting no flags, banners, snipe signs, etc. (Previously Condition 2 of Resolution R-90-351, Petition 88-53(A). (BUILDING/ZONING))

G. LANDSCAPING ALONG RIGHT-OF-WAYS

1. Landscaping along Okeechobee Road shall be upgraded to include fourteen (14) **foot** high native canopy trees, spaced twenty (20) feet on center, and a thirty-six (36) inch high hedge. (Previously Condition 7 of Resolution R-90-351, Petition 88-53(A). (BUILDING))

H. OUTDOOR STORAGE AREA

1. The outdoor storage area shall be limited to the **storage** of sheds, pallets, and a maximum of twelve (12) **10' x 40'** trailers. (ZONING)
2. The maximum square footage of the outdoor open storage area shall be limited to 31,250 square feet. (ZONING)
2. The outdoor open storage area shall be enclosed on all sides with a six (6) foot high opaque fence. Two (2) gated openings may be permitted. (ZONING/BUILDING)
3. Prior to January 6, 1995, the petitioner shall install the following landscape buffer on the north side of the outdoor storage area. Two (2) drive way openings are permitted. This buffer shall be installed with the following landscape material:
 - a) One (1) native canopy tree with a minimum **height** of twelve (12) feet planted thirty (30) feet on center;
 - b) One (1) palm with a minimum of eight (8) feet of clear trunk, thirty (30) feet on center planted between each native canopy tree; and,
 - c) A continuous thirty six (36) inch high hedge planted twenty four (24) inches on **center**. (MONITORING-BUILDING:Landscaping)
4. Prior to January 6, 1995, the petitioner shall install the following landscape buffer on the east south and west side of the outdoor storage area. This buffer shall be installed with the following landscape **material**:
 - a) One (1) palm with a minimum of eight (8) feet of clear trunk, thirty (20) feet on center planted between each native canopy tree; and,
 - b) A continuous thirty six (36) inch high hedge planted twenty four (24) inches on **center**. (MONITORING-BWILDING:Landscaping)

I. UNITY OF CONTROL

1. Prior to Bite Plan Certification property owner shall record a Unity of Control on the subject property. (Previously Condition 10 of Resolution R-89-904, Petition 88-53). (ZONING-County Attorney)

J. LANDSCAPING

1. Prior to Site Plan Review Committee certification, the site plan shall be amended to indicate landscape strip alternative number three (3) along the western and southern property line. (Previously Condition 4 of Resolution R-89-904, Petition 88-53). (ZONING)
2. Prior to January 6, 1995, the petitioner shall replace any dead, damaged, or missing tree, shrub, or other required improvements as required in condition J.1 (south and west Perimeter landscape buffers). (MONITORING-Building:Landscaping)
3. Prior to January 6, 1995, the petitioner shall install a continuous forty two (42) inch high hedge planted twenty four (24) inches on center around the perimeter fence surrounding the LP gas dispenser on the north property line. (MONITORING-BUILDING:Landscaping)

K. VEGETATION

1. The petitioner shall preserve the existing cypress tree located adjacent to the northern property line and the existing citrus grove as indicated on Exhibit No. 3. (Previously Condition 1 of Resolution R-89-904, Petition 88-53). (ERM)

L. COMPLIANCE

1. Previous Condition 15 of Resolution R-89-904, Petition 88-53 which states:

Failure to comply with the conditions herein 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 **deleted**. [REASON: **Superseded by new condition.**]

2. Previous Condition 12 of Resolution R-90-351, Petition 88-53(A) which 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 state:

Failure to comply with any of these condition:: of approval at any time may result in:

- a. The denial or revocation of a building permit; the issuance of a stop work order; cease and **desist** 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; and/or
- b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
- c. A requirement of the development to conform with updated standards of development, applicable 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:
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

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 Conditional Use, Rezoning, 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)