

RESOLUTION NO. R-95-523

RESOLUTION APPROVING ZONING PETITION DOA73-43(D)
REQUESTED (R) USE
PETITION OF SHADOWOOD SQUARE, LTD.

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 Board of County Commissioners, pursuant to Article 6, Section 6.8 (Planned Development District Regulations) of the Palm Beach County Unified Land Development Code (Ordinance 92-20) is authorized and empowered to approve, approve with conditions or deny Requested Uses within a Planned Development District; and

WHEREAS, the notice and hearing requirements, as provided for in Article 6, Section 6.8, of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition DOA73-43(D) was presented to the Board of County Commissioners at a public hearing conducted on April 27, 1995; 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 recommendations of the Zoning Commission; 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 Requested Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Requested Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
3. This Requested Use is consistent with all requirements of Article 6, Section 6.8 (Planned Development District Regulations) of the Palm Beach County Unified Land Development Code, Ordinance 92-20.
4. This Requested Use is consistent with all other applicable local land development regulations.

WHEREAS, Article 6, Section 6.8, 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 DOA73-43(D), the petition of Shadowood Square, Ltd., for a REQUESTED USE allowing an indoor theater 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, was approved on April 27, 1995, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 27th day of April, 1995.

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

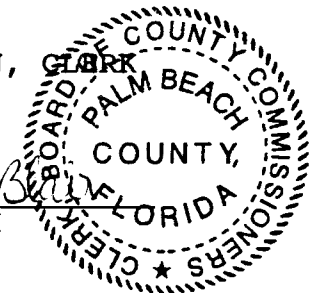


EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION
OF
SHADOWOOD SQUARE

A portion of WEST BOCA PLAZA, according to the plat thereof, as recorded in Plot Book 30, Pages 206 and 207 of the Public Records of Palm Beach County, Florida, more particularly described as follows:

Beginning at the northwest corner of said West Boca Plaza plat; thence North 89°59'58" East, along the south right-of-way of Lake Worth Drainage District Lateral Canal No. 45, a distance of 1244.82 feet; thence South 00°00'23" West, 1230 feet to a point on a line 27.00 feet North of and parallel to the north right-of-way line of State Road 808 as shown upon said West Boca Plaza plat; thence West, along said line, 988.00 feet to a point on the east boundary line of Tract "C" as shown on said West Boca Plaza plat; thence North along said east boundary line 12.00 feet; thence West along a line parallel with and 12.00 feet North of the south boundary of said Tract "C", 246.34 feet to a point on the west boundary line of said West Boca Plaza plat; thence North 00°29'12" West along said West boundary line 1218.03 feet to the POINT OF BEGINNING.

The above parcel having been originally described on an assumed bearing datum, has been redescribed to refer to the State Plane Grid Bearing Datum and describes the identical parcel as follows:

A portion of WEST BOCA PLAZA, according to the Plat thereof, as described in Plat Book 30, Pages 206 and 207 of the Public Records of Palm Beach County, Florida, more particularly described as follows:

BEGINNING at the northwest corner of said West Boca Plaza plat; thence North 89°38'14" East, along the south right-of-way of Lake Worth Drainage District Lateral Canal No. 45, a distance of 1234.82 feet; thence South 00°21'21" East, 1230 feet to a point on a line 27.00 feet North of and parallel to the north right-of-way line of State Road 808 as shown upon said West Boca Plaza plat; thence South 89°38'16" West, along said line, 988.00 feet to a point on the east boundary line of Tract "C" as shown on said West Boca Plaza plat; thence North 00°21'44" East, along said east boundary line 12.00 feet; thence South 89°38'16" West along a line parallel with and 12.00 feet North of the south boundary of said Tract "C", 246.34 feet to a point on the west boundary line of said West Boca Plaza plat; thence North 00°50'56" West along said west boundary line 1218.03 feet to the POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

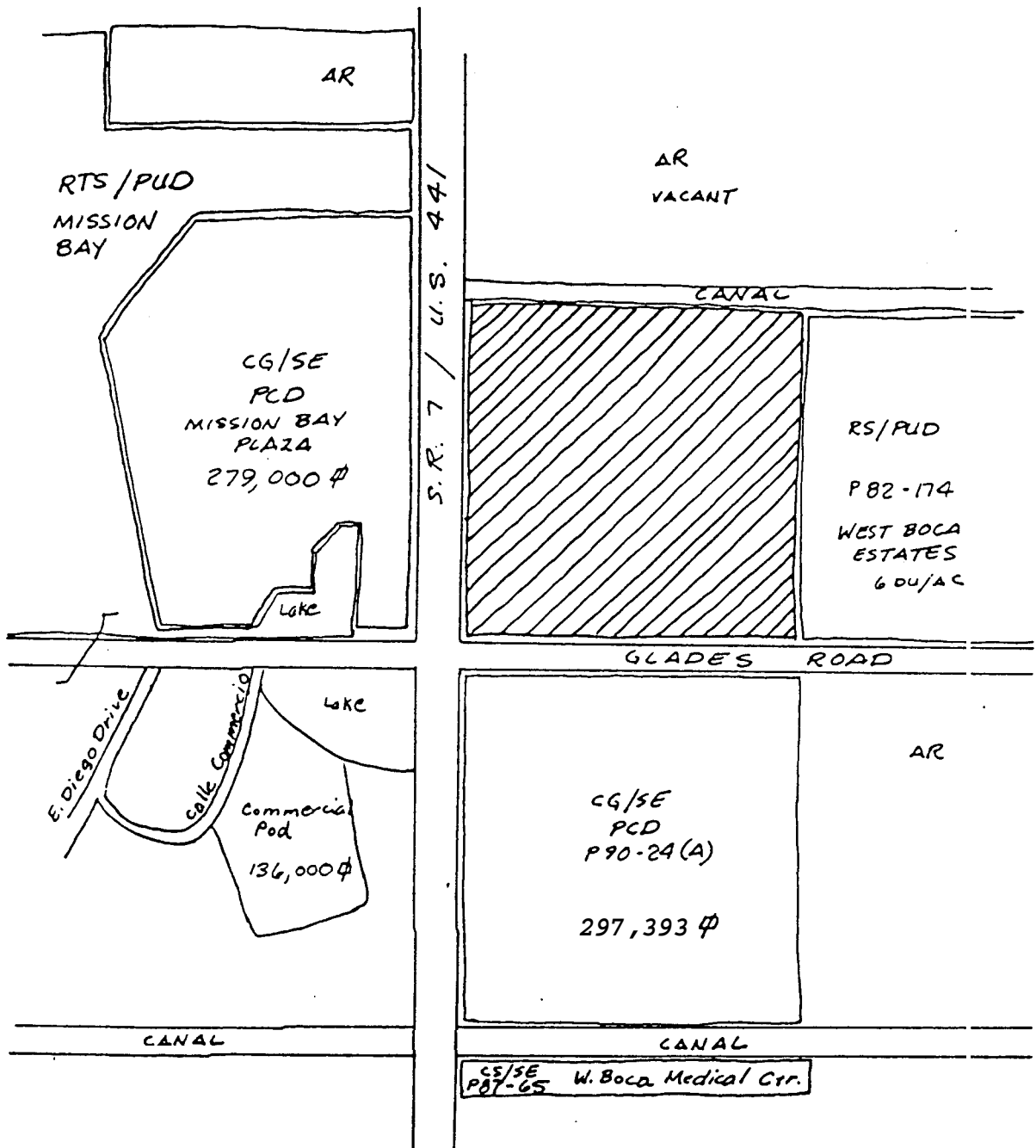


EXHIBIT C

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. ALL PETITIONS

1. Condition 1 of Resolution No. R-87-89, which currently states:

All conditions of previous approvals remain in force unless expressly modified herein.

Is hereby deleted.

2. Condition A.1 of Resolution No. R-91-591, which currently states:

The petitioner shall comply with all previous conditions of approval and all prior time certain conditions, unless expressly modified herein.

Is hereby amended to state:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-73-400, R-85-1427, R-87-89, and R-91-591 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, unless expressly modified. (MONITORING)

B. AUTO REPAIR

1. **No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (Previously Condition B.1 of Resolution No. R-91-591, Petition 73-43 (C). (CODE ENFORCEMENT)**
2. **Vehicle parking shall be limited to the parking spaces designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives. (Previously Condition B.2 of Resolution No. R-91-591, Petition 73-43 (C). (CODE ENFORCEMENT)**
3. **The property owner shall participate in a tire recycling program. (Previously Condition B.3 of Resolution No. R-91-591, Petition 73-43 (C). (SWA)**
4. **Office uses shall not commence business activity prior to 7:00 a.m. nor continue after 8:00 p.m. (Previously Condition B.4 of Resolution No. R-91-591, Petition 73-43 (C). (CODE ENFORCEMENT)**
5. **All other activities, including deliveries, garbage pickup, repairs, and use of pneumatic tools shall not commence prior to 8:00 a.m. nor continue after 6:00 p.m. (Previously Condition B.5 of Resolution No. R-91-591, Petition 73-43 (C). (CODE ENFORCEMENT)**
6. **No activity shall occur on this parcel on Sundays. (Previously Condition B.6 of Resolution No. R-91-591, Petition 73-43 (C). (CODE ENFORCEMENT)**

C. DUMPSTER

1. Receptacles for the storage and disposal of trash, garbage or vegetation (i.e. dumpsters) shall not be located within seventy-five (75) feet of the north or east property lines. (Previously Condition C.1 of Resolution No. R-91-591, Petition 73-43(C). (BUILDING-Zoning))
2. All areas or receptacles for the storage and disposal of trash, garbage or vegetation (i.e., dumpsters) shall be screened by an enclosure constructed of brick, decorative concrete, other decorative masonry consistent with the architectural character of the development, or comparable wood or steel. The open end of the enclosure shall have an obscure opaque gate. All exterior sides, except the open end, shall be landscaped with thirty-six (36) inch high shrubs and hedges planted at two (2) foot intervals. This provision shall not apply to litter containers provided for the convenience of pedestrians. (Previously Condition C.2 of Resolution No. R-91-591, Petition 73-43(C). (BUILDING-Zoning))

D. ENVIRONMENTAL RESOURCE MANAGEMENT

1. Secondary containment for stored Regulated Substances- fuels, oils, solvents, or other hazardous chemicals- is required. Environmental Resources Management Department staff are willing to provide guidance on appropriate protective measures. (Previously Condition E.1 of Resolution No. R-91-591, Petition 73-43(C). (ERM))
2. Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures. (Previously Condition E.2 of Resolution No. R-91-591, Petition 73-43(C). (ERM))
3. 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. (Previously Condition F.4 of Resolution No. R-91-591, Petition 73-43(C). (ERM))

E. ENGINEERING

1. Condition D.E1 of Resolution No. R-91-591, which currently states:

The Developer shall provide discharge control and treatment for the storm-water 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 on-site the storm-water 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. (ENGINEERING)

Is hereby deleted. [REASON: CODE REQUIREMENT]

2. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from storm-water runoff from the remainder of the site. (Previously Condition D.E2 of Resolution No. R-91-591, Petition 73-43 (C). (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. (Previously Condition D.E3 of Resolution No. R-91-591, Petition 73-43 (C). (IMPACT FEE COORDINATOR)
4. 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 zoning petition number 73-43(D), the 10,000 square foot theater expansion, shall be paid at the time of issuance of the Building Permit. This amount presently is \$15,895.00 (289 additional trips X \$55.00 per trip) (IMPACT FEE COORDINATOR).

F. HEALTH

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. (Previously Condition F.1 of Resolution No. R-91-591, Petition 73-43 (C). (HEALTH)
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previously Condition F.2 of Resolution No. R-91-591, Petition 73-43 (C). (HEALTH)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition F.3 of Resolution No. R-91-591, Petition 73-43 (C). (HEALTH)
4. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 F.A.C. (Previously Condition F.5 of Resolution No. R-91-591, Petition 73-43 (C). (HEALTH)

G. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within five-hundred (500) feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner. (Previously Condition G.1 of Resolution No. R-91-591, Petition 73-43 (C). (WATER UTILITIES)

H. LANDSCAPING, LARGE SCALE SHOPPING CENTERS

1. Interior Landscaping:
 - a. One landscape island shall be provided for every eight (8) parking spaces for all parking areas yet to be constructed on the site. The Master Plan shall be amended prior to Site Plan certification to meet this requirement.

- b. Fifty (50) percent of all trees within the interior parking area shall be fourteen (14) feet in height or greater; twenty five (25) percent shall be twelve (12) feet tall or greater; and the remainder shall be ten (10) feet in height or greater.
- c. Landscape tabular data shall be revised to reflect conformance to all landscape conditions and Zoning Code requirements.
- d. Fifty (50) percent of all new trees shall be native to Palm Beach County, Florida. (Previously Condition H.1 of Resolution No. R-91-591, Petition 73-43(C). (BUILDING-Zoning)

2. Perimeter Landscaping:

- a. The east property line shall have a ten (10) foot wide perimeter landscape buffer including a six (6) foot high CBS wall and one twelve foot tall tree planted for every 20 linear feet. Both sides of the wall shall be painted a color which coordinates with the shopping center.
- b. The north property line shall be landscaped with Alternative 3 landscape buffer including native canopy trees planted at heights of:

50% 14 feet tall; 25% 12 feet tall; 25% 10 feet tall; all to be installed concurrent with the development of the northern portions of the shopping center, prior to the issuance of a Certificate of Occupancy. (Previously Condition I.2 of Resolution No. R-91-591, Petition 73-43(C). (BUILDING-Zoning)

- 3. Tire Store Landscaping: The north and west parcel boundaries of the tire store site shall have landscape strips, a minimum of five (5) feet in width, containing one twelve (12) foot tall native canopy tree for every 30 linear feet of each boundary line.

Landscaping on the parcel frontage on Glades Road shall contain one (1) twelve (12) foot tall native canopy tree for every thirty (30) linear feet and one (1) fourteen (14) foot tall native canopy tree for every thirty (30) linear feet and a continuous opaque native hedge three (3) feet in height at planting the length of the parcel frontage. (Previously Condition H.3 of Resolution No. R-91-591, Petition 73-43(C). (BUILDING-Zoning)

4. Landscape Within Median:

If permitted by the Florida State Department of Transportation or the County Engineer, the petitioner shall landscape the median of all abutting rights-of-way on State Road 7. This landscaping shall consist of one ten (10) foot tall native canopy tree for each thirty (30) linear feet of the adjacent median, appropriate ground cover and irrigation. Trees may be planted singly or in clusters, with a maximum spacing of sixty (60) feet

on center. All landscape material shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the petitioner. Landscaping shall be completed concurrent with the widening of State Road 7 by the Florida Department of Transportation. (Previously Condition H.4 of Resolution No. R-91-591, Petition 73-43(C)). (ENGINEERING)

I. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets. (Previously Condition 1.1 of Resolution No. R-91-591, Petition 73-43(C)). (BUILDING/CODE ENFORCEMENT)
2. All outdoor lighting shall be extinguished no later than 10:00 p.m. Security lighting only is excluded from this requirement. (Previously Condition 1.2 of Resolution No. R-91-591, Petition 73-43(C)). (CODE ENFORCEMENT)

J. SIGNS

1. A maximum of one (1) ground sign may be permitted on this out parcel, as follows:
 - a. The sign shall be limited to six (6) feet in height.
 - b. Maximum sign area shall be one-hundred (100) square feet.
 - c. No roof or pole signs shall be permitted on this out parcel, only a monument sign shall be allowed. (Previously Condition J.1 of Resolution No. R-91-591, Petition 73-43(C)). (ZONING-Building)
2. Prior to Site Plan Certification, the petitioner shall submit a Master Sign Program which specifies sign location, site, color and graphic representation for the subject out parcel only. (Previously Condition J.2 of Resolution No. R-91-591, Petition 73-43(C)). (ZONING)
3. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign related conditions of approval. (Previously Condition J.3 of Resolution No. R-91-591, Petition 73-43(C)). (ZONING-Building)

K. SITE DESIGN, TIRE STORE AND PARCEL

1. Future expansion areas:
 - a. No bay door openings shall be permitted on the east side of any structure. (Previously Condition K.1 of Resolution No. R-91-591, Petition 73-43(C)). (BUILDING)

2. Building height shall be limited to one-story on the tire store parcel, except the southwest corner of the structure may contain second story office space to a maximum of twenty-five (25) feet in height and a maximum of 1,112 square feet in area. (Previously Condition K.2 of Resolution No. R-91-591, Petition 73-43(C). (ZONING-Building)
3. Prior to Site Plan Certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the auto service facility shall provide air and water for minor vehicle maintenance to the public at no charge. (Previously Condition K.3 of Resolution No. R-91-591, Petition 73-43(C). (ZONING)
4. Prior to site plan certification, the site plan shall be amended to indicate the location of the proposed storage area adjacent to the dumpster site along the west wing of the proposed structure. (Previously Condition K.4 of Resolution No. R-91-591, Petition 73-43(C). (ZONING)

L. STANDARD CONDITIONS

1. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements. (Previously Condition K.2 of Resolution No. R-91-591, Petition 73-43(C). (ZONING)
2. Prior to Site Plan Review Committee approval, the site plan shall be revised to reflect a 50 foot front yard setback. (Previously Condition No. 2 of Resolution No. R-87-89, Petition 73-43(B). (ZONING)

M. UNITY OF TITLE

1. Prior to site plan approval, petitioner shall provide a Unity of Title agreement covering the entire site. (Previously Condition No. 3 of Resolution No. R-87-89, Petition 73-43(B). (COUNTY ATTORNEY)

N. USE LIMITATION

1. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review). (Previously Condition A.3 of Resolution No. R-91-591, Petition 73-43(C). (ZONING)

O. COMPLIANCE

1. Condition L.1 of Resolution No. R-91-591, which currently states:

As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:

- a. 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; and/or
- b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
- 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, 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.

Is hereby amended to state:

Failure to comply with any of these conditions 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 Cocnty 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)