

RESOLUTION NO. R-96- 1734

RESOLUTION APPROVING ZONING PETITION EAC92-02(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF BELLSOUTH MOBILITY, INC.
BY KIERAN KILDAY, AGENT
(BCN TOWER)

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 EAC92-02(A) was presented to the Board of County Commissioners at a public hearing conducted on September 26, 1996; 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 EAC92-02(A), the petition of Bellsouth Mobility, Inc., by Kieran Kilday, agent, for a Development Order Amendment/Expedited Application Consideration (EAC) to modify conditions A.2 (site design) and B.1 (building square footage) of Resolution.R-92-435, 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 September 26, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 24, 1996.

APPROVED AS TO FORX
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

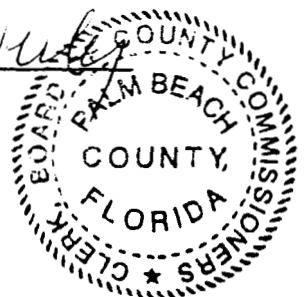


EXHIBIT A

LEGAL DESCRIPTION

LEASE PARCEL LEGAL DESCRIPTION

A parcel of land lying and being in a portion of the West 330.00 feet of Tract 10, Block 53, PALM BEACH FARMS COMPANY, PLAT NO. 3, according to the plat thereof as recorded in Plat Book 2, Page 45 thru 54 inclusive, of the Public Records of Palm Beach County, Florida; being more particularly described as follows:

FILE COPY

Commencing at the Northwest corner of the West 330.00 feet of said Tract 10: thence N.89°02'44"E., a distance of 85.00 feet to a point: thence S.00°22'00"E., a distance of 36.00 feet to a point: thence continue S.00°22'00"E., a distance of 59.00 feet to a point: thence N.89°02'44"E., a distance of 225.00 feet to a point: thence S.00°22'00"E., a distance of 419.66 feet to a point: thence S.89°38'00"W., a distance of 35.00 feet to the Point of Beginning: thence S.00°22'00"E., a distance of 55.00 feet to a point: thence S.89°38'00"W., a distance of 90.00 feet to a point: thence N.00°22'00"W., a distance of 60.00 feet to a point: thence N.89°02'44"E., a distance of 90.00 feet to a point: thence S.00°22'00"E., a distance of 5.00 feet to the Point of Beginning. Containing 5.400 square feet or 0.12 acres more or less.

20' WIDE INGRESS AND EGRESS AND UTILITY EASEMENT.

A strip of land lying and being in a portion of the West 330.00 feet of Tract 10, Block 53, PALM BEACH FARMS COMPANY, PLAT NO. 3, according to the plat thereof as recorded in Plat Book 2, Page 45 thru 54 inclusive, of the Public Records of Palm Beach County, Florida; being more particularly described as follows:

Commencing at the Northwest corner of the West 330.00 feet of said Tract 10: thence N.89°02'44"E., a distance of 86.00 feet to the Point of Beginning: thence S.00°22'00"E., a distance of 36.00 feet to a point: thence continue S.00°22'00"E., a distance of 59.00 feet to a point: thence N.89°02'44"E., a distance of 226.00 feet to a point: thence S.00°22'00"E., a distance of 419.66 feet to a point: thence S.89°38'00"W., a distance of 36.00 feet to a point: thence S.00°22'00"E., a distance of 20.00 feet to a point: thence N.89°38'00"E., a distance of 55.00 feet to a point on a line 330.00 feet East of the West line of said Tract 10: thence N.00°22'00"W., a distance of 159.86 feet to a point: thence S.89°02'44"W., a distance of 225.00 feet to a point: thence N.00°22'00"W., a distance of 75.00 feet to a point: thence S.89°02'44"W., a distance of 20.00 feet along the North line of said Tract 10 to the Point of Beginning. Containing 16,893 square feet or 0.36 acres more or less.

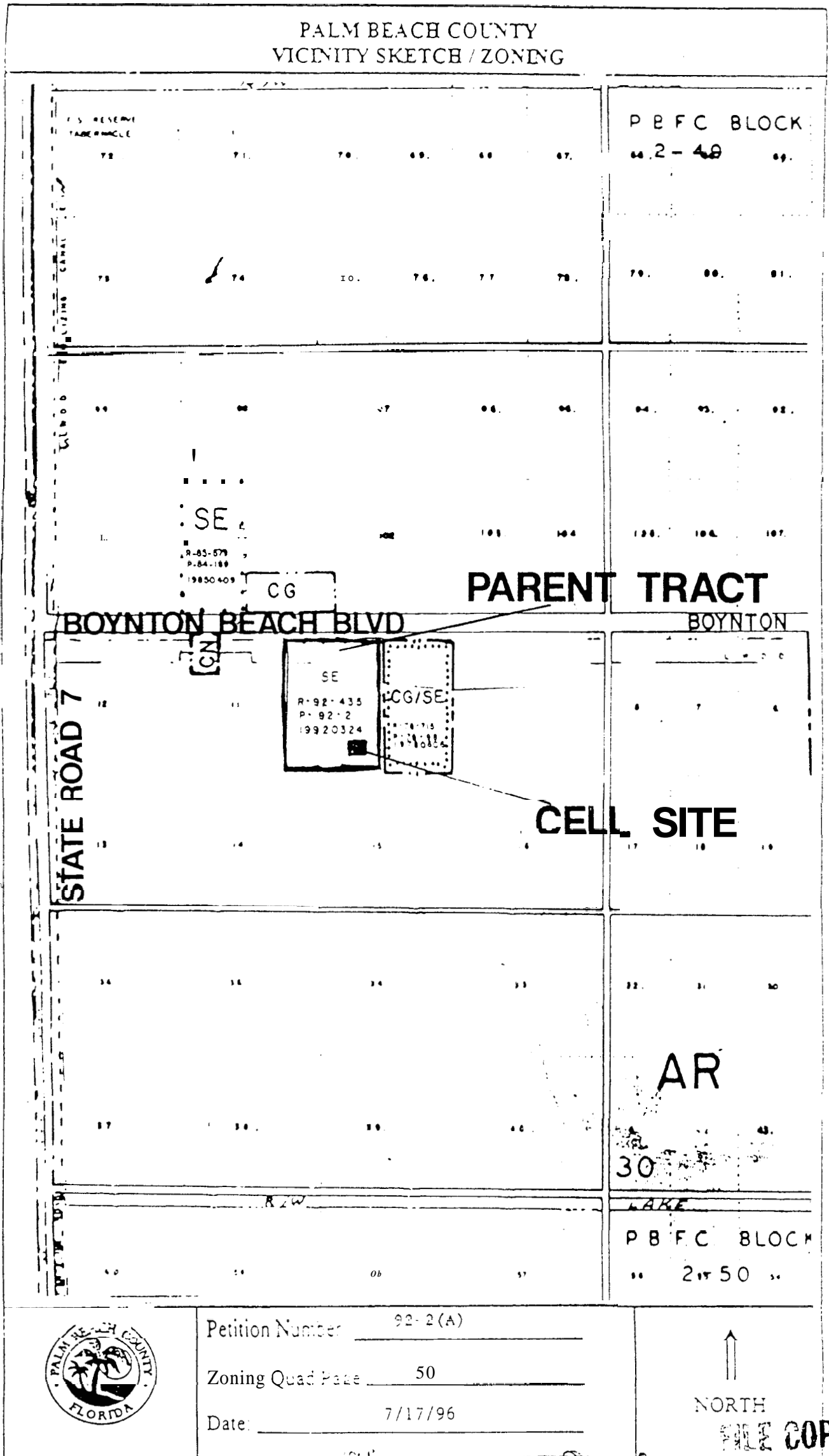
LEGAL DESCRIPTION - PARENT TRACT

Tract 11, less the West 495 feet thereof, and the West 330 feet of Tract 10, less the North 36 feet of said Tracts 10 and 11, and less the right of way for State Road Number 804 as shown on State Road Department Right of Way Map Number 9364-152, Sheet 1, Block 53 PALM BEACH FARMS COMPANY, PLAT NO. 3, according to the Plat thereof recorded in Plat Book 2, pages 45 through 54, inclusive, of the Public Records of Palm Beach County, Florida.

Legal Description provided by the client.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number 92-2(A)
 Zoning Quad Page 50
 Date: 7/17/96

↑
 NORTH
FILE COPY

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 R-92-435 (Petition 92-02), 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)

B. **COMMUNICATIONS TOWER**

1. **Palm Beach county (i.e., Sheriff's Department/Fire Department/Emergency Medical Service8 and/or other appropriate county affiliated departments or agencies) shall have the right to co-locate communication equipment on the subject tower at no cost to Palm Beach County provided that the placement of such equipment doe8 not interfere with the petitioner's equipment or operations.**
(ONGOING: PREM)

2. Condition D.2 of Reso. R-92-435, Pet 92-02, which states:

If possible, the petitioner shall accommodate the equipment of other commercial communication ventures on the subject tover, provided that the placement of their equipment doe8 not interfere with the petitioner's equipment or operation..

Is hereby amended to state:

Prior to site plan certification by the DRC, the petitioner shall comply with the shared use provisions of the ULDC, Section 6.4 .D.22.k. (shared use), as may be amended. Additional square footage on the site of the tower approval, to accommodate additional unmanned users only, may be permitted administratively subject to approval by the DRC. (DRC: ZONING)

3. Condition B.1 of Reso. R-92-435, Pet.92-02 which states:

The leas8 parcel shall be limited to 314 square feet of total gross floor area and a 180 foot high radio tower, subject to Section 402.7 of the Zoning Code.

Is hereby amended to state:

The communication tower shall be limited to a maximum 180 foot high self support or monopole structure, measured from finished grade to highest point. (DRC: ZONING - Bldg)

4. **Simultaneously With submittal to Site Plan Review Committee, the petitioner shall submit two copies of one-hundred t8n percent break-point calculations for the tower. The calculation8 and tower location shall be subject to approval by the Planning, Zoning & Building Department. Previously Condition D.3 of Resolution R-92-435, Petition 92-02 (DRC: ZONING).**

5. Prior to site plan certification, the petitioner shall provide documentation that the tower does not encroach into any public or private airport approach pattern as documentation shall be the Federal Aviation Administration. This documentation shall be approved by the Palm Beach County Department of Airports. (Previously Condition D.4 of resolution R-92-435, Petition 92-02) (DRC: AIRPORTS)

C. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 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 C.1 of resolution R-92-435, Petition 92-02) (ONGOING: HEALTH)

D. LANDSCAPING - GENERAL

1. Condition F.1 of Reso. R-92-435, Pet. 92-02 which states:

Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval.

Is hereby amended to state:

The petitioner shall provide a minimum six (6) foot, and up to, ten (10) foot wide Alternative 3 landscape buffer within the tower lease parcel. Ten (10) feet shall be provided where existing site improvements allow. The landscape buffer for the communication tower shall be located on the lease parcel with required landscape materials located on the interior side of the required chain link fence. (DRC: LANDSCAPE - Zoning)

2. Condition F.2 of Reso. R-92-435, Pet.92-02, which states:

All required trees in landscape buffer strips shall at a minimum meet the following standards:

- a. Tree species: 100% native canopy.
- b. Tree height: fourteen (14) feet minimum.
- c. Trunk diameter: 3.5 inches at 4.5 feet above grade.
- d. Canopy diameter: seven (7) feet minimum. The 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.

Is hereby amended to state:

Canopy trees shall be planted thirty (30) feet on center around the entire tower lease parcel site. (CO: LANDSCAPE - Zoning)

3. Condition 1.1 of Reso. R-92-435, Pet.92-02, which states:

All prohibited species shall be removed from the subject property prior to the issuance of a certificate of Occupancy (C.O.) .

Is hereby deleted: [REASON: Code Requirement]

4. Condition 1.2 of Reso. R-92-435, Pet. 92-02 which states:

No removal of native plant material shall be permitted on the site until the site plan has been certified by the site Plan Review Committee.

Is hereby deleted. [REASON: Code Requirement]

E. ENGINEERING

1. Condition E.1 of Resolution R-92-435, Pet.92-02 which 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 mite 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]

F. LANDSCAPING ALONG SOUTH BOUNDARY LINE

1. Condition G.1 of Reso.R-92-435, Pet. 92-02 which states:

Landocaping and buffer along the south boundary line of the lease parcel shall be upgraded to include:

- a. One native canopy tree planted every twenty (20) feet on center.
- b. One native palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees shall supersede the requirement for a native canopy tree in that location.
- c. Thirty (30) inch high shrubs or hedge material spaced no more than twenty (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.

Is hereby deleted: [REASON: Replaced with new landscape conditions.]

G. SIGNS

1. No signs, other than any hazard notification, shall be permitted on the lease parcel. (Previously Condition H.1 of resolution R-92-435, Petition 92-02) (ONGOING: CODE ENF)

H. STANDARD CONDITIONS

1. Condition A.1 of Reso. R-92-435, Pet. 92-02 which states:

Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements Of Palm Beach County.

Is hereby deleted. (REASON: Code Requirement]

2. Condition A.2 of Reso. R-92-435, Pet.92-02, which states:

Development of the site is limited to the uses 8nd site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 3). Any modifications must be approved by the Board of County Commissioner8 unless the proposed use or design changes are permitted pursuant to the Zoning Code Section 402.7 (E)2 (b) (Site Plan Review Committee Powers and Standards of Review) or required by the condition8 of approval contained heroin.

Is hereby deleted: [REASON: New site plans submitted]

3. Condition A.3 of Reso. R-92-435, Pet. 92-02 which states:

The petitioner shall submit an application to the Site Plan Review Committee for the certification of the site plan approved by the Board of County Commissioner8 for this site prior to April 7, 1992.

Is hereby deleted. [REASON: Code Requirement]

I. COMPLIANCE

1. 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; 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.

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)