

RESOLUTION NO. R-96-1945

RESOLUTION APPROVING ZONING PETITION CA95-17(C)  
CLASS A CONDITIONAL USE  
PETITION OF ROBERT LEVY, AS TRUSTEE  
BY ROBERT BENTZ, AGENT  
(ADDISON COURT)

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 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA95-17(C) was presented to the Board of County Commissioners at a public hearing conducted on October 24, 1996; 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 (ULDC) 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, 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 CA95-17(C), the petition of Robert Levy, as Trustee, by Robert Bentz, agent, for a Class A Conditional Use (CA) to allow a financial institution with four (4) drive thru lanes in the General Commercial (CG) Zoning District, 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 October 24, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Foster moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on December 2, 1996.

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**

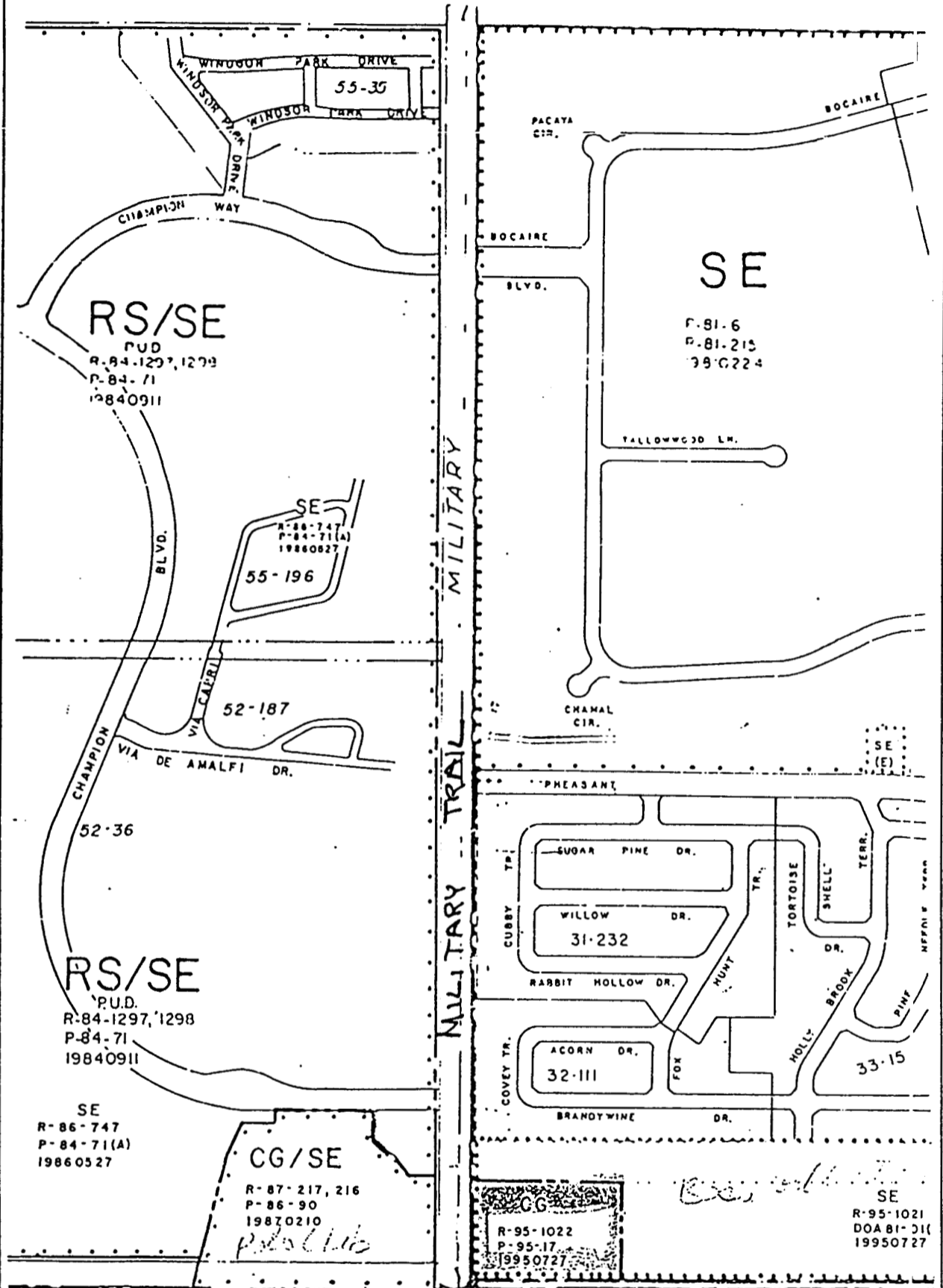
**ADDISON COURT  
Legal Description**

**A parcel of land in the SW ¼ of Section 36, Township 46 South, Range 42 East.** said parcel more particularly described as follows:

Commencing at the Southwest corner of said SW¼ of Section 36; thence run South 89°40'13" East (on an assumed bearing) 40 feet along the South boundary of said SW¼, to the Point of Beginning thence continue South 89°40'13" East 617.48 feet along said South boundary; thence run North 0°19'47" East 440 feet to an intersection with a line 440 feet North of, as measured at right angles and parallel to said South line of the SW ¼; thence run North 89°40'13" West 620.02 feet along said parallel line to an intersection with a line 40 feet East of, as measured at right angles and parallel to the West line of said SW ¼; thence run due South 440.01 feet along said parallel line, also forming the East right-of-way line of Military Trail, as now located and constructed to the Point of Beginning.

EXHIBIT B

PALM BEACH COUNTY  
VICINITY SKETCH/ZONING



UNIVERSITY PARK *Area* *Bea Tech* TO CLINT MOORE ROAD



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Zoning Quad Page \_\_\_\_\_

Date: 9/26/96



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-95-1022 (Petition 95-17), R-95-01 (Petition CB95-17(A) and Resolution R-96-1187, Petition 95-17(B), 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. CONCURRENCY

1. Prior to issuance of the first building permit, a **Concurrency Reservation is required.** (Previously Condition B.1 of Resolution R-96-1187, Petition 95-17(B). (BLDG PERMIT: CONCURRENCY/BLDG)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The Preserve Management/ Vegetation Relocation Plan shall be submitted to and receive approval from the Department of Environmental Resources Management prior to DRC site plan certification. (Previously Condition D.1 of Resolution R-96-1187, Petition 95-17(B). (DRC: ERM)

D. LANDSCAPING ALONG THE NORTH PROPERTY LINE

1. Landscaping and buffering along the north property line shall be upgraded to include:
  - b. A six (6) foot high chain link fence with green or black vinyl coating. (Previously Condition C.1 of Resolution R-96-1187, Petition 95-17(B). (BLDG)
2. The following landscaping requirements shall be installed on the exterior side of the required fence
  - a. One (1) canopy tree planted every twenty (20) feet on center.
  - b. Thirty six (36) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of six (6) feet. (Previously Condition C.2 of Resolution R-96-1187, Petition 95-17(B). (BLDG-Zoning)

E. ENGINEERING

1. 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. The Fair Share Fee for this project, Zoning Petition Number 95-17, to be paid at the time of issuance of the Building Permit presently is:

- a. \$29,315.00 for the proposed quality restaurant (533 trips/day X \$55.00 per trip);
  - b. \$31,515.00 for the proposed bank with drive thru (573 trips/day X \$55.00 per trip);
  - c. \$52,415.00 for the proposed retail center (953 trips/day X \$55.00 per trip; and
  - d. \$11,000.00 for the proposed church/synagogue (200 trips/day X \$55.00 per trip) (Previously Condition E.1 of Resolution R-96-1187, Petition 95-17(B). (BLDG PERMIT: IMPACT FEE COORD) .
2. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

- a. Building Permits for only the 21,450 square feet church or synagogue shall be issued until the construction has begun for dual left turn lanes north and south approaches on Military Trail at its intersection with Clint Moore Road, plus the appropriate paved tapers. (Previously Condition E.2a of Resolution R-96-1187, Petition 95-17(B). (BLDG - Eng)
- b. Condition E.2b of Reso R-96-1187, Pet 95-17(B), which currently states:

No Building Permits for

- the quality restaurant (or)
- bank with drive thru (or)
- retail center

shall be issued until construction has begun for the following roadways:

- 1. Widening of Military Trail to a six-lane section from Clint Moore Road to West Atlantic Avenue.
- 2. Widening of Military Trail to a six-lane section from Glades Road to Clint Moore Road.
- 3. Widening of Jog Road to a six-lane section from Clint Moore Road to north of the Civic Center.

The mix of allowable commercial uses listed above may be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

Is hereby deleted. [REASON: no longer applicable]

3. LANDSCAPE WITHIN MEDIAN

- a. Prior to issuance of a building permit, the property Owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works

Department March 1994 Streetscape Standards. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (Previously Condition E.3.a of Resolution R-96-1187, Petition 95-17(B)). (FLDG PERMIT: BLDG - Eng)

- b. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (Previously Condition E.3.b of Resolution R-96-1187, Petition 95-17(B)). (CO: BLDG - Eng)
- c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (Previously Condition E.3.c of Resolution R-96-1187, Petition 95-17(B)). (CO: BLDG - Co Atty)
- d. If the required landscaping is not installed prior to commencement of the 6 laning of Military Trail, the property owner shall post surety for the installation of the Landscaping with the Office of the County Engineer in a form and manner acceptable to the County Engineer prior to the issuance of a building permit for any of the uses onsite. This surety shall be based upon a certified cost estimate from the developers Landscape Architect.

- 4. Condition Number E-4 of Zoning Petition Number 95-17(B) which currently states:

A preliminary drainage study of this site shall be submitted by the Developer's Engineer and approved by the County Engineer prior to DRC approval. Should this commercial site develop an offsite drainage system, then this developer shall provide an equivalent lake system to be utilized by the Pheasant Walk drainage system to the north. It is the intent of this condition that this supplement to the Pheasant Walk Drainage System shall provide measurable benefit to the existing Pheasant Walk Drainage System, and shall in no way negatively impact the existing Pheasant Walk drainage system. All costs for the construction, and installation of the supplement to the Pheasant Walk drainage system, if required, shall be the responsibility of this property owner.

Is hereby amended to state:

- 4. A preliminary drainage study of this site shall be submitted by the Developer's Engineer and approved

by the County Engineer prior to DRC approval. Should this commercial site develop an offsite drainage system, then this developer shall provide an equivalent lake system and or dry retention area to be utilized by the Pheasant Walk drainage system to the north. It is the intent of this condition that this supplement to the Pheasant Walk Drainage System shall provide measurable benefit to the existing Pheasant Walk Drainage System, and shall in no way negatively impact the existing Pheasant Walk drainage system. All costs for the construction, and installation of the supplement to the Pheasant Walk drainage system, if required, shall be the responsibility of this property owner. (DRC: ENG)

5. Prior to DRC approval, the site plan shall be amended to reflect the final location of the Pheasant Walk drainage ditch along the projects west property line. (DRC: ENG)
6. The property shall be accessed by way of a partial median opening located at Station Number 165 on Military Trail opposite the north entrance. The median opening shall permit left turns in only, and shall be served by a southbound left turn lane of 150 feet storage length and a 50 feet taper on Military Trail. Right turns in and out of the site shall also be permitted at the north entrance as well as the south entrance to the property. (ENG)

F. LANDSCAPING - STANDARD

1. Condition C.3 of Reso. R-96-1187, Pet. 95-17(B) which currently states:

**All trees required to be planted along the north property line shall meet the following minimum standards at installation:**

- a. **Tree height:** fourteen (14) feet.
- b. **Trunk diameter:** 3.5 inches measured 4.5 feet above grade.
- c. **Canopy diameter:** seven (7) feet. 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:

All canopy trees required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. **Tree height:** fourteen (14) feet.
- b. **Trunk diameter:** 3.5 inches measured 4.5 feet above grade.
- c. **Canopy diameter:** seven (7) feet. 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.
- d. **Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (C): LANDSCAPE - Zoning)**



2. All palms required to be planted on site by this approval shall meet the following minimum standards at time of installation:

- a. Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
- c. Pruning: minimum six (6) fronds, no clipped or spiked cuts.
- d. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CC: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING MILITARY TRAIL)

- 1. Landscaping and buffering along the west property line shall be upgraded to include:
  - a. A minimum fifteen (15) foot wide landscape buffer strip;
  - b. One (1) canopy tree planted every thirty (30) feet on center;
  - c. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and
  - d. Thirty-six (36) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (DRC / CO: ZONING / LANDSCAPE)

H. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (Previously Condition 1 F.1 of Resolution R-96-1187, Petition 95-17(B)). (ONGOING BLDG / CODE ENF - Zoning)
- 2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (Previously Condition F.2 of Resolution R-96-1187, Petition 95-17(B)). (BLDG - Zoning)

I. SITE DESIGN

- 1. The drive-up teller queuing lane for the financial institution shall accommodate one (1) vehicle space beyond the point of service. (DRC: BLDG - Zoning)

J. SIGNS

- 1. Point of purchase and/or freestanding signs fronting on Military Trail shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
  - b. Maximum sign face area per side - 140 square feet;
  - c. Maximum number of signs - two (2); and
  - d. Style - monument style only. (CO: BLDG)

K. USE LIMITATION

1. One (1) 6,500 square foot restaurant shall be permitted on site . The restaurant shall not be located adjacent to the north property line. (Previously Condition G.1. of Resolution R-96-1187, Petition 95-17(B). (DRC:BLDG)

L. WATER UTILITIES

1. The Developer shall be required to extend a 16 inch water main from Champions Boulevard and provide a 16 inch stubout on the northwest corner of Old Clint Moore Road and Military Trail. (Previously Condition H.1 of Resolution R-96-1187, Petition 95-17(B). (PBCWUD)

M. 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. (Previously Condition 1.1 of Resolution R-96-1187, Petition 95-17(B). (MONITORING)