

RESOLUTION NO. R-97- 2069

RESOLUTION APPROVING ZONING PETITION PDD97-56
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF JAMES G. SHAW, LAWRENCE SHAW AND
JAMES R. KAUFMAN, TRUSTEE
BY KERIAN KILDAY, AGENT
(PONTE VERDE PUD)

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 PDD97-56 was presented to the Board of County Commissioners at a public hearing conducted on October 23, 1997; 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 made 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) 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) 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) 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; 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 PDD97-56, the petition of James G. Shaw, Lawrence Shaw and James R. Kaufman, Trustee by Kerian Kilday, agent, for an Official Zoning Map Amendment from Agricultural Residential (AR) to Planned Unit Development (PUD) 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 October 23, 1997, 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 Newell 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	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Absent

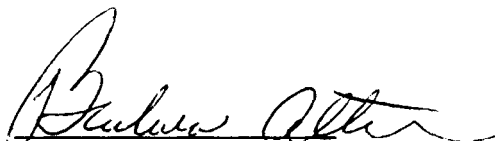
The Chair thereupon declared that the resolution was duly passed and adopted on December 4, 1997.

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

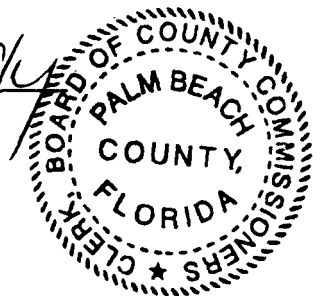


EXHIBIT A

LEGAL DESCRIPTION

LAND DESCRIPTION

A PORTION OF TRACTS 13 AND 14, TRACT 15, LESS THE WEST 60.72 FEET THEREOF, AND ALL OF TRACTS 16, 17, 18, 19 AND 20, BLOCK 78, TOGETHER WITH THE NORTH 15.00 FEET OF THAT CERTAIN 30 FOOT WIDE ROAD RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO TRACTS 18, 19 AND 20, BLOCK 78, ALSO TOGETHER WITH ALL OF SAID 30 FOOT WIDE ROAD RIGHT-OF-WAY LYING BETWEEN SAID TRACTS 18, 17, 16 AND TRACT 15, LESS THE WEST 60.72 FEET THEREOF, BLOCK 78, "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND "ARBOR OAKS AT BOCA RATON". ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 72, PAGES 93 THROUGH 95 OF SAID PUBLIC RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 15, BLOCK 78;

THENCE NORTH 89°37'02" EAST, ALONG THE SOUTH LINE OF SAID TRACT 15, A DISTANCE OF 60.72 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00°53'32" WEST, ALONG A LINE 60.72 EAST OF AND PARALLEL WITH THE WEST LINE OF SAID TRACTS 15 AND 14, A DISTANCE OF 1.127.29 FEET;

THENCE NORTH 89°37'02" EAST, ALONG A LINE 192.76 FEET, AS MEASURED AT RIGHT ANGLES, SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 13 AND 14, A DISTANCE OF 1,271.57 FEET TO THE EAST LINE OF SAID TRACT 13;

THENCE SOUTH 00°22'58" EAST, ALONG THE EAST LINE OF SAID TRACT 13, A DISTANCE OF 467.24 FEET TO THE NORTHWEST CORNER OF SAID TRACT 17;

THENCE NORTH 89°37'02" EAST, ALONG THE NORTH LINE OF SAID TRACTS 17, 18, 19 AND 20, A DISTANCE OF 1,320.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT 20;

THENCE SOUTH 00°22'59" EAST, ALONG THE EAST LINE OF SAID TRACT 20 AND SAID EAST LINE EXTENDED SOUTHERLY, 675.00 FEET TO THE CENTERLINE OF A 30 FOOT WIDE PLATTED ROAD RIGHT-OF-WAY;

THENCE SOUTH 89°37'02" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 985.29 FEET;

THENCE SOUTH 00°22'58" EAST, 15.00 FEET TO THE SOUTH LINE OF SAID 30 FOOT WIDE ROAD RIGHT-OF-WAY AND THE NORTHEAST CORNER OF SAID 'ARBOR OAKS AT BOCA RATON';

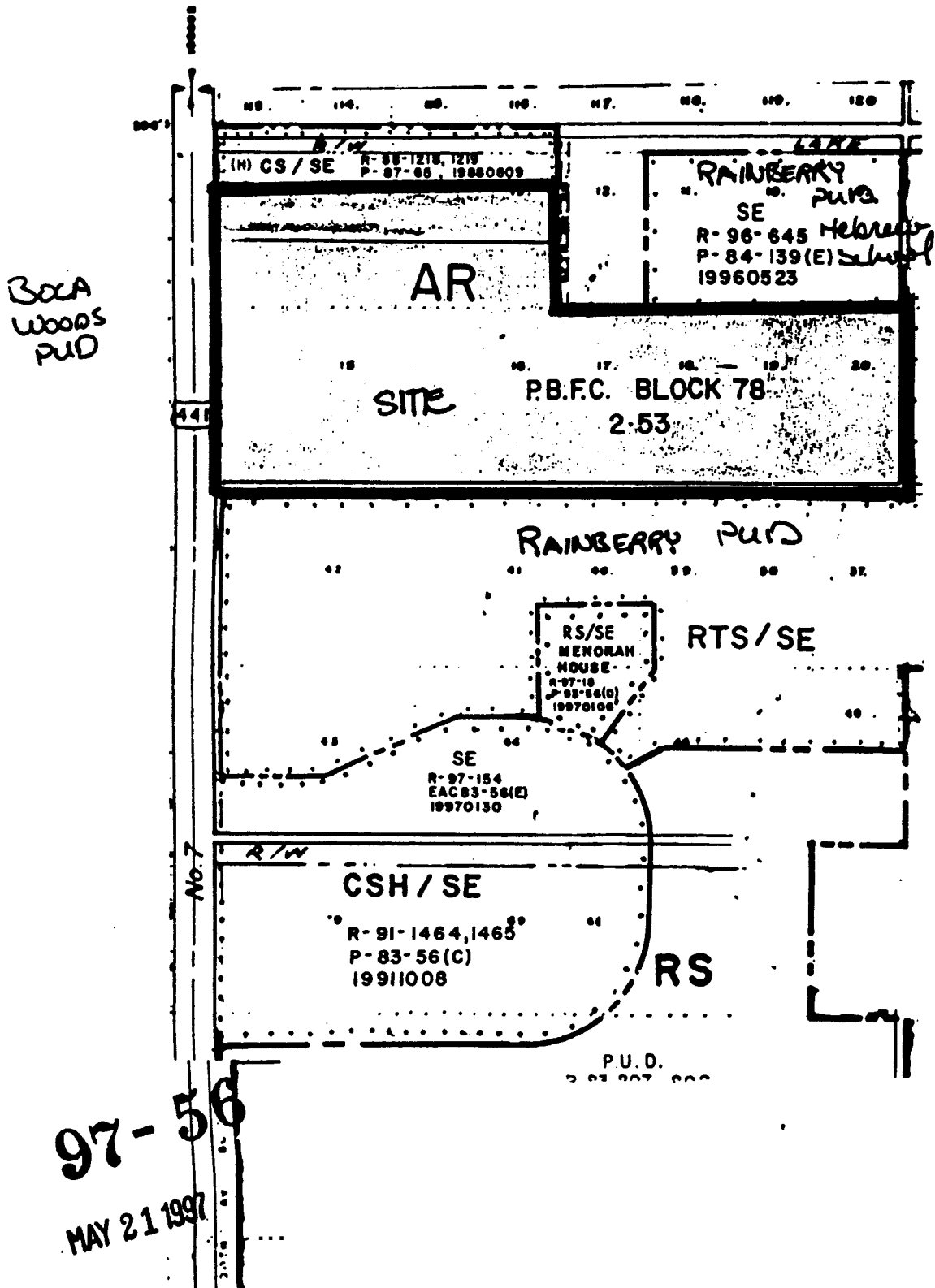
THENCE SOUTH 89°37'02" WEST, ALONG SAID SOUTH RIGHT-OF-WAY LINE AND THE NORTH LINE OF SAID 'ARBOR OAKS AT BOCA RATON', A DISTANCE OF 1,595.99 FEET;

THENCE NORTH 00°53'32" WEST, 30.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA CONTAINING 54.214 ACRES (2,361,576.46 SQUARE FEET), MORE OR LESS.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number: 97-56
Zoning Quad Page 54
Date: _____



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 preliminary development plan is dated August 27, 1997. 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)

B. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval, except on individual residential lots, 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. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval, except on individual residential lots, 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)

C. LANDSCAPING ALONG SOUTH PROPERTY LINE (ACROSS FROM RESIDENTIAL)

1. Landscaping and buffering along the south property line shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. One (1) canopy tree for each twenty-five (25) linear feet of frontage with a maximum spacing of thirty (30) feet on center;
 - c. One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and
 - d. Twenty four (24) inch high shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

D. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING 95TH AVE.)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every twenty (20) 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 (30) 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 thirty-six (36) inches. (CO: LANDSCAPE)

E. ENGINEERING

1. The property owner shall provide access to the not included 5 acre parcel located 1200 feet east of State Road 7, north of this site. Access shall be through this projects internal roadway system. The width of this right-of-way shall be subject to the approval of the County Engineer.
2. The property owner shall construct a left turn lane north approach on State Road 7 at the project's entrance road.
 - a. This construction shall be concurrent with the paving and drainage improvements for the first plat. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
 - c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
3. LANDSCAPE WITHIN MEDIAN OF STATE ROADS
 - a. Prior to technical compliance by the Land Development Division, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of SR 7 Road Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. When landscaping is permitted by the Florida Department of Transportation, 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. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall **be** consistent with the landscaping theme adopted for this roadway. 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. (TC: ENG)

- b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assigns 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 concurrent with the improvements with the first plat. (PLAT FINAL: ENG)
 - c. Declaration of Covenants and Restriction Documents shall be established or amended as required and shall be approved and recorded prior to the recordation of the first plat to reflect this obligation. (PLAT: ENG)
4. An additional ingress/egress point may be added to the southwest corner of the civic site at a location approved by the County Engineer. (ONGOING: ENG)

F. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING SR7/US44 1)

- 1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every twenty (20) 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 not supersede the requirement for a canopy tree in that location;
 - d. A continuous one foot six inch (1' 6') high berm measured from top of curb; and,
 - e. Twenty-four (24) inch high shrub or hedge material, installed on the plateau of the berm, and spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

G. MASS TRANSIT

- 1. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of a building permit for more than 25% (68) of the units. The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (BLDG PERMIT: MONITORING - Eng)

H. PLANNING

- 1. Development of the site is subject to the conditions as outlined in Ordinance 96-61 and restrictive covenant as identified in OR BOOK 9619 PAGE 734. The restrictive covenant includes the conditions listed below:

- a. A maximum gross density of 5 dwelling units per acre. Application for density increases thru the Transfer of Development Rights (TDR) or Voluntary Density Bonus (VDB) programs are not permitted.
- b. The east 15 acres of the PUD shall be used for private civic uses only;
- c. The west 25 acres of the PUD shall be used for residential uses only.
- d. The west 25 acre residential area of the PUD shall be permitted access onto State Road 7/US441. No vehicular access to this civic parcel or 95th Avenue South shall be provided for the residential uses.
- e. The private civic area shall be permitted access onto 95th Avenue South if it is part of the contiguous private civic uses to the north, south and east of the project site. (ONGOING: PLANNING)

I. PLANNED UNIT DEVELOPMENT

- 1. Street lights shall be provided pursuant to Section 6.8.A.23.d(1) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
- 2. Street trees shall be planted in or adjacent to all rights-of-way, pursuant to Section 6.8.A.23.d(3) of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
- 3. Bike lanes shall be provided in or adjacent to all rights-of-way over fifty (50) feet in width, pursuant to Section 6.8.A.23.d(4) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
- 4. All utilities shall be underground, pursuant to Section 6.8.A.23.d(5) of the ULDC. (PLAT: ENG - Zoning)
- 5. All property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall, among other things, provide for: formation of a single "master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

The property shall not be subjected to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the issuance of the first building permit, or recordation of the first plat for any portion of the planned development, whichever occurs first. (BLDG PERMIT / PLAT: MONITORING / ENG - Co Att)

J. SCHOOL BOARD

- 1. The petitioner shall post in a clear and visible location in all sales office.; and model homes a sign provided by the School Board of Palm Beach County which indicates that school age children in the development may not be assigned to the most proximate public school because of overcrowding, racial balancing, or other School Board policies. (ONGOING: SCHOOL BOARD)

K. 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 noncompliance, 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 majority vote of the Code Enforcement Board 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. (MONITORING)