

RESOLUTION NO. R-98- 13

RESOLUTION APPROVING ZONING PETITION EAC88-104(B)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF FIDELITY FEDERAL BANK  
BY KEVIN MCGINLEY, AGENT  
(FIDELITY FEDERAL BANK)

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 **EAC88-104(B)** was presented to the Board of County Commissioners at a public hearing conducted on January **8**, 1998; 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 EAC88-104(B), the petition of Fidelity Federal Bank, by Kevin McGinley, agent, for a Development Order Amendment/Expedited Application Consider (EAC) to Modify Condition D.2.a (sign height) of R-95-1723 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 January 8, 1998, 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 Foster and, upon being put to a vote, the vote was as follows:

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

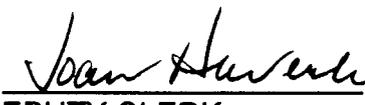
The Chair thereupon declared that the resolution was duly passed and adopted on January 8, 1998.

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

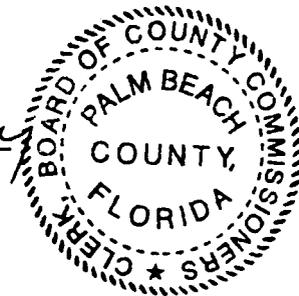


EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 327 FEET OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NW 1/4 OF THE SW 1/4 OF SECTION 7, TOWNSHIP 44 SOUTH, RANGE 43 EAST, LESS THE WEST 40 FEET THEREOF FOR ROAD RIGHT OF WAY FOR KIRK ROAD, AND LESS THE SOUTH 60 FEET THEREOF, AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN DEED FROM MARY H. SPANGLER, TO THE STATE OF FLORIDA FOR THE USE AND BENEFIT OF THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, DATED NOVEMBER 1, 1978, AND RECORDED IN OFFICIAL RECORDS BOOK 2988, PAGE 1879, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXCEPTING THEREFROM THE FOLLOWING PARCEL OF LAND:

A PARCEL OF LAND LYING IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 7, TOWNSHIP 44 SOUTH, RANGE 43 EAST, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

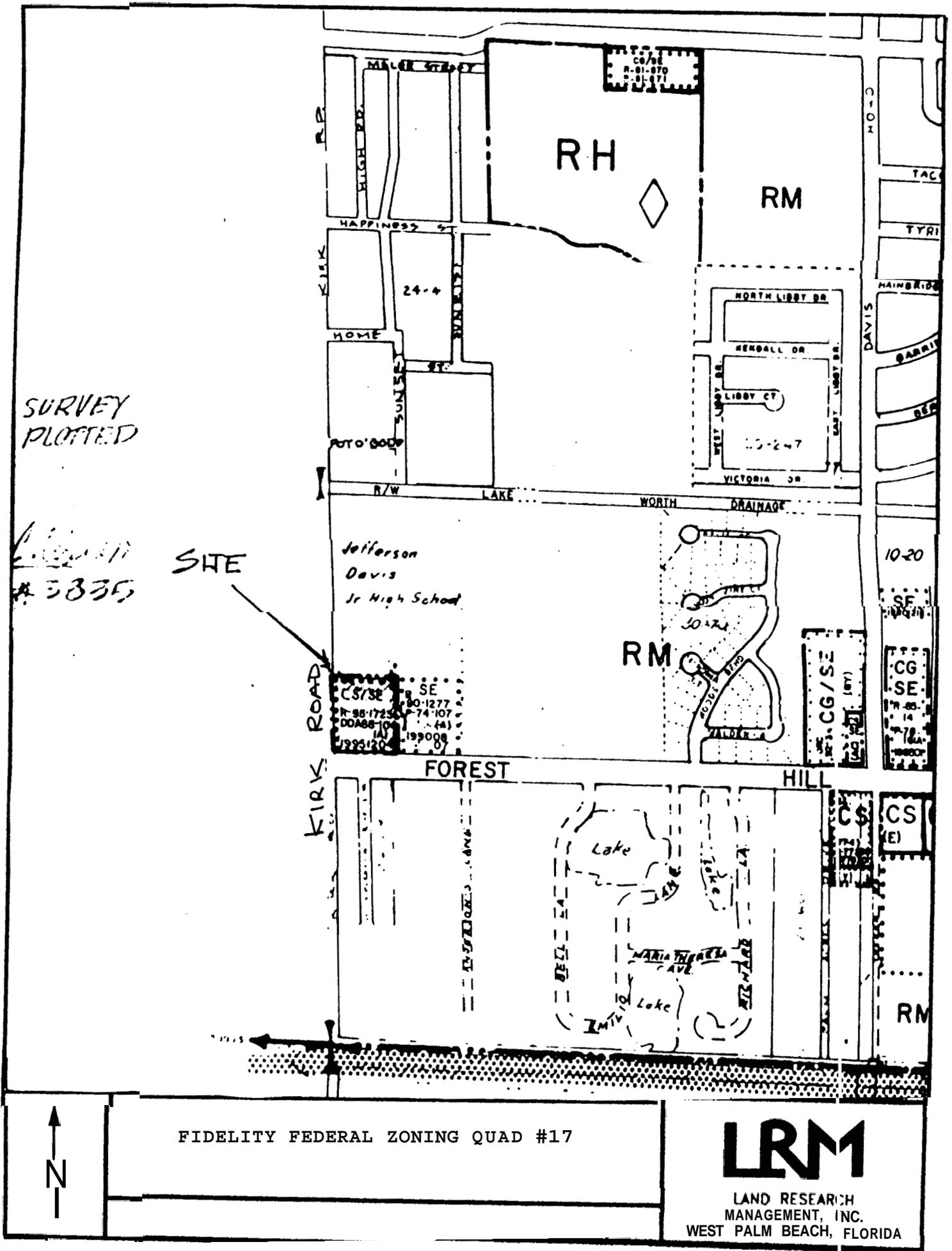
COMMENCING AT THE POINT OF INTERSECTION OF THE CENTERLINE OF KIRK ROAD WITH THE CENTERLINE OF FOREST HILL BOULEVARD; THENCE, SOUTH 88°13'30" EAST, ALONG THE CENTERLINE OF FOREST HILL BOULEVARD, A DISTANCE OF 331.14 FEET; THENCE, NORTH 01°28'54" WEST, A DISTANCE OF 60.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF FOREST HILL BOULEVARD, AS NOW LAID OUT AND IN USE, AND THE POINT OF BEGINNING;

THENCE, NORTH 88°13'30" WEST, ALONG SAID RIGHT OF WAY LINE AND ALONG A LINE PARALLEL WITH AND 60.00 FEET NORTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF FOREST HILL BOULEVARD, A DISTANCE OF 267.46 FEET; THENCE, NORTH 44°51'12" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 34.34 FEET TO THE INTERSECTION THEREOF WITH THE EASTERLY RIGHT OF WAY LINE OF KIRK ROAD, AS NOW LAID OUT AND IN USE; THENCE, NORTH 01°28'54" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE AND ALONG A LINE PARALLEL WITH AND 40.00 FEET EASTERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF KIRK ROAD, A DISTANCE OF 12.02 FEET; THENCE, SOUTH 44°51'12" EAST, A DISTANCE OF 34.34 FEET; THENCE, SOUTH 88°13'30" EAST, ALONG A LINE PARALLEL WITH AND 72.00 FEET NORTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF FOREST HILL BOULEVARD, A DISTANCE OF 267.46 FEET; THENCE, SOUTH 01°28'54" EAST, A DISTANCE OF 12.02 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.70 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH



88-104B

## EXHIBIT C

### CONDITIONS OF APPROVAL

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

#### A. GENERAL

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-81-755 (Petition 81-77) (Revoked), **R-88-104-** (Petition **88-104**), and **R-95-1723** Petition **88-104(A)**, have been consolidated 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)
2. Development of the site is limited to the uses and site design **approved** by the Board of County Commissioners. The approved master/site plan is dated November 25, 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. (DRC: ZONING)

#### C. LANDSCAPING - STANDARD

1. **All** trees required to be planted on site by this approval along Forest Hill Boulevard and Kirk Road 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 ground.
  - 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. (Previously Condition C.I of Resolution R-95-1723, Petition DOA88-104(A) (CO: ZONING)
2. **Prior** to issuance of the first certificate of occupancy for new construction, the **six (6)** foot high opaque concrete wall along the **north** and east **property** line shall be given a finished architectural treatment which is compatible and harmonious with the abutting development. (Previously Condition A.II of Resolution R-95-1723, Petition DOA88-104(A)(CO: BLDG - Zoning)

#### D. SIGNS

1. The freestanding point of purchase sign fronting on Forest Hill Boulevard, adjacent to the east entryway, shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - ten **(10)** feet;
  - b. Maximum sign face area per side - **90** square feet;
  - c. Maximum number of signs - one **(1)**; and
  - d. Style - monument style only. (Previously Condition 0.1 of Resolution R-95-1723, Petition DOA88-104(A) (**BLDG PERMIT**: BLDG - Zoning)

2. Condition D.2 of Resolution R-95-1723, Petition DOA88-104(A) which currently states:

The freestanding point of purchase sign at the intersection of Forest Hill Boulevard and Kirk Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - fifteen feet **(15)** feet;
- b. Maximum sign face area per side - **130** square feet;
- c. Maximum number of signs - one **(1)**; and
- d. Style - pylon **or** monument style.

Is hereby amended to read:

The freestanding point of purchase sign at the intersection of Forest Hill Boulevard and Kirk Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - twenty-five feet (25) feet;
- b. Maximum sign face area per side - 75 square feet;
- c. Maximum number of signs - one (1); and
- d. Style - pylon or monument style. (BLDG PERMIT: BUILDING-Zoning)

3. Freestanding point of purchase signs shall not be permitted along Kirk Road. Directional signage fronting Kirk Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - eight **(8)** feet;
- b. Maximum sign face area per side - twenty-four **(24)** square feet;
- c. Maximum number of signs - one **(1)**;
- d. Style - monument style only; and
- e. Location - adjacent to north driveway entrance. (Previously Condition D.3 of Resolution R-95-1723, Petition DOA88-104(A)(BLDG PERMIT: BLDG - Zoning)

## E. ENGINEERING

1. Condition 10 of Resolution R-89-1026, Petition 88-104, is superseded by the following condition:

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, Zoning Petition **88-104(A)**, which is to be paid at the time of issuance of the first Building Permit presently **is \$26,345.00 (479 additional trips X \$55.00 per trip)**. (Previously Condition E.1 of Resolution R-95-1723, Petition DOA88-104(A)(BLDG PERMIT: IMPACT FEE COORD)

2. 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 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. (Previously Condition **A6** of Resolution R-95-1723, DOA88-104(A))

3. Condition **7** of Resolution R-89-1026, Petition 88-104, is in compliance.
4. Condition 8 is deleted **by** R-95-1723, Petition 88-104(A).
5. Condition 9 of Resolution R-89-1026, Petition 88-104, is in compliance.

**F. HEALTH**

1. Application and engineering plans to upgrade the existing onsite sewage treatment disposal system (**OSTDS**), in accordance with chapter D-6 FA and Palm Beach County **ECR-I** must be submitted to the Palm Beach County Public Health Unit prior to final site plan certification. (Previously Condition F.1 of Resolution R-95-1723, Petition DOA88-104(A)(DRC: HEALTH))
2. Water service is available to the property. Therefore, no well **shall** be permitted **on** the site to provide potable water. (Previously Condition A5 of Resolution R-95-1723, DOA88-104(A)).

**G. COMPLIANCE**

1. Condition G.1 of Resolution R-95-1723, Petition DOA88-104(A), **which** currently states:

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 here under 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.**

Is hereby amended to read:

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; revocation of any concurrency; 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)