

RESOLUTION NO. ZR-2002-006

RESOLUTION APPROVING ZONING PETITION CB1977-077B
CLASS B CONDITIONAL USE
PETITION OF ATLANTIS INVESTMENT GROUP, LLC
BY STEVEN E. TATE, AGENT
(ATLANTIS OUTPATIENT CENTER)

WHEREAS, the Palm Beach County Zoning Commission, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20) is authorized and empowered to consider, approve, approve with conditions or deny Class B 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 CB1977-077B was presented to the Zoning Commission at a public hearing conducted on July 8, 2002; and

WHEREAS, the Zoning Commission 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 Zoning Commission made the following findings of fact:

1. This Class B Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class B 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 B Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class B 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 B 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 B Conditional Use meets applicable local land development regulations.
7. This Class B Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class B Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards.

9. This Class B 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 B Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
11. This Class B Conditional Use, with conditions as adopted, is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CB1977-077B, the petition of Atlantis Investment Group, LLC, by Steven E. Tate, agent, for a Class B Conditional Use to allow a medical office in the Community Commercial 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 July 8, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

commissioner Hyman moved for the approval of the Resolution.

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

Frank A. Barbieri, Jr., Chair	--	Absent
Allan Kaplan, Vice Chair	--	Aye
William Anderson	--	Aye
Kevin Foley	--	Aye
Sherry Hyman	--	Aye
Peter Carney	--	Absent
Wayne M. Richards	--	Aye
Kelley Armitage	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on July 8, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
VICE-CHAIR

EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, AND MORE FULLY DESCRIBED AS FOLLOWS:

LOTS 23 AND 24 OF THE UNRECORDED PLAT OF PINE RIDGE ESTATES, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, RUN NORTHERLY ALONG THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 36, A DISTANCE OF 1793.43 FEET TO A POINT; THENCE WESTERLY ALONG A LINE MAKING AN ANGLE OF 90 DEGREES 13 MINUTES 18 SECONDS MEASURED FROM SOUTH TO WEST, A DISTANCE OF 50.0 FEET TO THE WESTERLY RIGHT-OF-WAY OF MILITARY TRAIL AND THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE CONTINUE WESTERLY ON A PROLONGATION OF THE PRECEDING COURSE AND THE NORTHERLY RIGHT-OF-WAY OF COLLIER DRIVE, A DISTANCE OF 212.50 FEET; THENCE NORTHERLY PARALLEL WITH SAID QUARTER SECTION LINE, A DISTANCE OF 190.47 FEET; THENCE EASTERLY ALONG A LINE MAKING AN ANGLE OF 89 DEGREES, 43 MINUTES 07 SECONDS MEASURED FROM SOUTH TO EAST, A DISTANCE OF 212.50 FEET; THENCE SOUTHERLY PARALLEL WITH SAID QUARTER SECTION LINE A DISTANCE OF 190.26 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPTING THE EAST 10 FEET OF LOTS 23 AND 24 DEEDED FOR RIGHT-OF-WAY DECEMBER 8, 1978 TO PALM BEACH COUNTY.

AND LESS THE FOLLOWING:

A PORTION OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 36; THENCE NORTH 1 DEGREE 47 MINUTES 03 SECONDS EAST, ALONG THE NORTH-SOUTH ONE-QUARTER SECTION LINE, A DISTANCE OF 1794.22 FEET; THENCE NORTH 88 DEGREES 12 MINUTES 57 SECONDS WEST, AS MEASURED AT RIGHT ANGLES TO SAID NORTH-SOUTH ONE-QUARTER SECTION LINE, A DISTANCE OF 60.00 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL AS RECORDED IN OFFICIAL RECORDS BOOK 3002, PAGE 1758, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 87 DEGREES 59 MINUTES 25 SECONDS WEST, A DISTANCE OF 7.00 FEET; THENCE NORTH 1 DEGREE 47 MINUTES 03 SECONDS EAST PARALLEL WITH AND 7.00 FEET WEST OF SAID EXISTING WESTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL, A DISTANCE OF 190.34 FEET; THENCE SOUTH 87 DEGREES 55 MINUTES 54 SECONDS EAST, A DISTANCE OF 7.00 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT-OF-WAY LINE OF SAID MILITARY TRAIL; THENCE SOUTH 1 DEGREE 47 MINUTES 03 SECONDS WEST, ALONG SAID EXISTING WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 190.33 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 37,217 SQUARE FEET / 0.8544 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

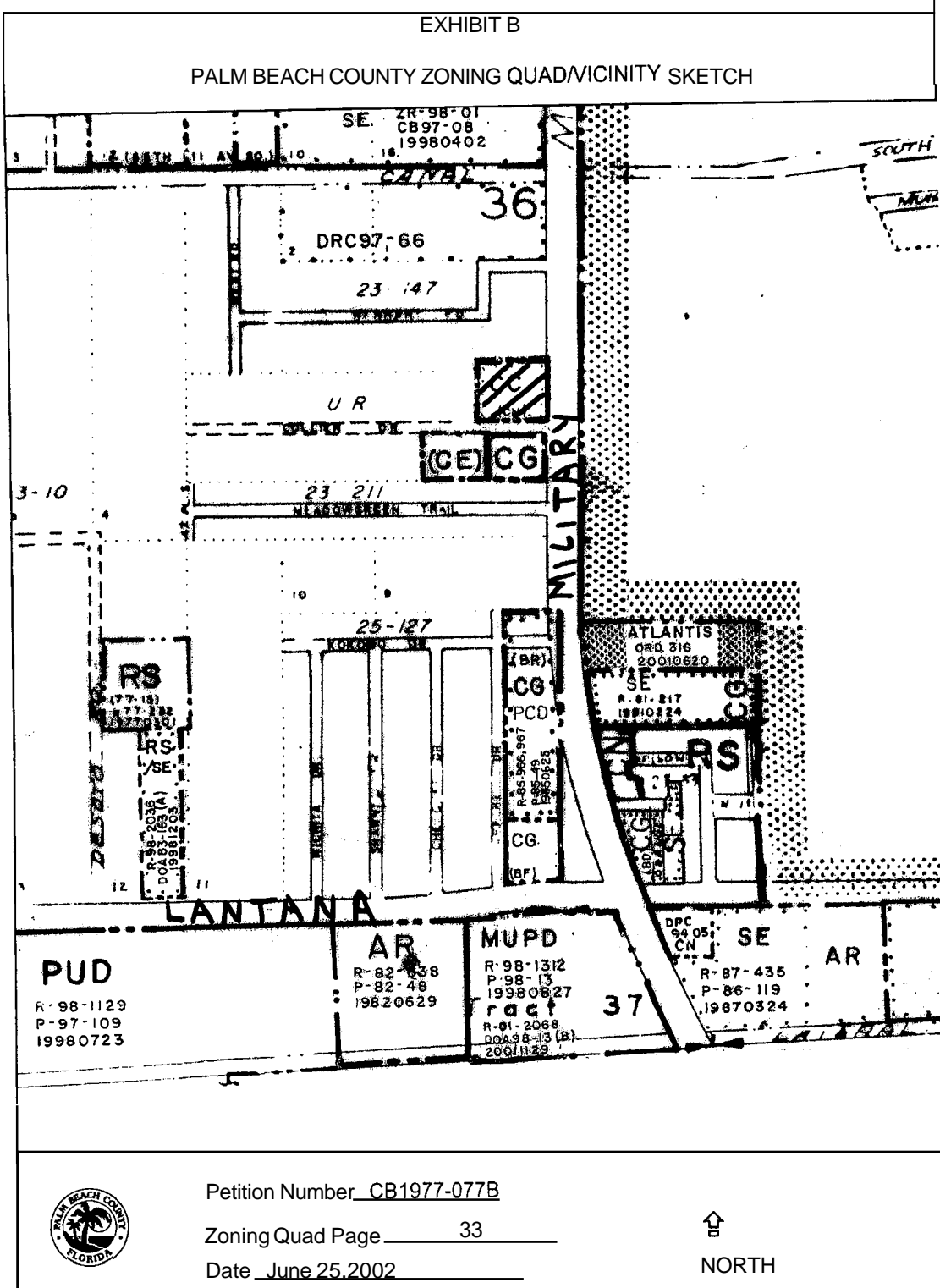


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. All voluntary commitments contained in Resolution R-99-1216, Petition 77-77A, and R-77-628, Petition 77-77, are hereby revoked. (MONITORING)
2. Development of the site is limited to the uses and site design as approved by the Zoning Commission. The approved site plan is dated April 30, 2002. All modifications must be approved by the Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. ARCHITECTURAL CONTROL

1. At time of submittal for final DRC certification, the architectural elevations shall be submitted for final architectural review and approval. Elevations and the site plan shall be designed to be consistent with Sec. 6.6.E and 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and DRC certified site plan. (DRC: ARCH REVIEW - Zoning)
2. All roof top mechanical and electrical equipment, including satellite dishes, shall be screened from view on all sides by the parapet or roof treatment, consistent with the color, character and architectural style of the principal structure. (ARCH. REVIEW/BLDG PERMIT: ZONING – Zoning)
3. Design of gutters and downspouts shall be architecturally integrated into the architectural design of the building. Painting of the gutters and downspout shall not constitute architectural integration. (ARCH. REVIEW/BLDG PERMIT: ZONING – Zoning)

C. LANDSCAPING - STANDARD

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet. Sixteen (16) feet for the north property line per Board of Adjustment condition 7.;
 - b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length;
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on site by this approval 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)

3. All shrub or hedge material shall be planted in overlapping, continuous masses, consisting of a minimum of two (2) or three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. these heights shall be continuously maintained to achieve the hierarchical effect. This does not apply to condition where a single row of shrub or hedge material is required. (CO: LANDSCAPE – Zoning)
4. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
5. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE - Zoning)

D. LANDSCAPING - INTERIOR

1. Prior to final DRC certification of the site plan, the petitioner shall revise the foundation planting to meet code requirements. (DRC/CO:ZONING/LANDSCAPE-Zoning)

E. ENGINEERING

1. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed additional right of way for:
 - a. a twenty five foot "Corner Clip" at Military Trail and Collier Drive.
 - b. 25 feet from center-line for Collier Drive

Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDG PERMIT: MONITORING-Eng)

2. The Property owner shall construct Collier Drive from the current paved terminus west of Military Trail west to the projects west property line, including a 4 foot pedestrian pathway along the north right of way of Collier Driver from the west property line to Military Trail. (BLDG PERMIT: MONITORING-Eng)
3. The Property owner shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)
4. LANDSCAPE WITHIN MEDIAN OF STATE ROADS
 - 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 the adjacent median of Road Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of

Way, Landscape Maintenance, Removal, and Indemnification Agreement. 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 latest revision to the Streetscape Standards. The property owner shall also be responsible for supplementing 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. (BLDG PERMIT: MONITORING - Eng)

- b. All required median landscaping, including an irrigation system if required, shall be installed at the property owner's expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing 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' 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 prior to the issuance of a certificate of occupancy. (CO: MONITORING-Eng)
- c. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate property owner's documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)

- 5. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits shall be issued until the contract is awarded for the 6 lane widening of Lantana Road from Jog Road to Military Trail plus the appropriate paved tapers. (BLDG PERMIT: ENG)

F. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (FRONTAGES OF MILITARY TRAIL AND COLLIER DRIVE)

- 1. Landscaping and buffering along the south and east property lines shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip;
 - b. one (1) canopy tree for each twenty (20) feet of the property line;

- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
- e. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation;
- f. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE-Zoning)

G. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES
(ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north and west property lines shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip;
 - b. a minimum two (2) foot high berm, measured from the top of the curb of the parking lot;
 - c. a six (6) foot high opaque concrete panel wall to be placed on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
 - d. one (1) canopy tree for each twenty (20) linear feet of the property line, alternating on both sides of the wall;
 - e. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the wall. (CO: LANDSCAPE-Zoning)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
 - a. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
 - b. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty four (24) inches at installation. (CO: LANDSCAPE-Zoning)
3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE-Zoning)

H. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed thirty (30) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)

3. All outdoor, freestanding lighting fixtures be setback thirty (30) feet from the south property line. (CO: BLDG - Zoning)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning)

I. SIGNS

1. Freestanding point of purchase signs fronting on Military Trail 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 - 100 square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only; and,
 - f. Signs shall be limited to identification of tenants only. (CO: BLDG-Zoning)
2. Wall signs shall be limited to the east facade of the building, and individual lettering size shall be limited to twenty four (24) inches high. Wall signs shall be limited to only identification of tenants only. (CO: BLDG-Zoning)

J. COMPLIANCE

1. In granting this approval, the Zoning Commission relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Zoning Commission for review under the compliance condition of this approval. (ONGOING: MONITORING- Zoning)
2. 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 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.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master 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. (ONGOING: MONITORING-Zoning)