

RESOLUTION NO. R-94-1309

RESOLUTION APPROVING ZONING PETITION **DOA75-68 (H)**  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF EXEL PROPERTIES LTD.

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 of the Palm Beach County Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition **DOA75-68 (H)** was presented to the Board of County Commissioners at a public hearing conducted on September 29, 1994; 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 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 relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach county 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 standards imposed on it by applicable provisions of the Palm Beach County 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 reservation and therefore complies with Art. 11 (Adequate Public Facility Standards) of the Palm Beach County 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 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 **DOA75-68 (H)**, the petition of **Exel** Properties, Ltd., for a DEVELOPMENT ORDER AMENDMENT in the Residential Estates (RE) Zoning District, to amend increase number of children in day care **(+26)** and revoke Resolution R-91-379 (indoor entertainment), **previously** approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on September 29, 1994, 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 Aaronson and, upon being put to a vote, the vote was as follows:

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

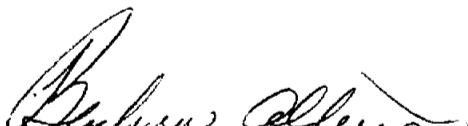
The Chair thereupon declared that the resolution was duly **passed** and adopted this 29th day of September, 1994.

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

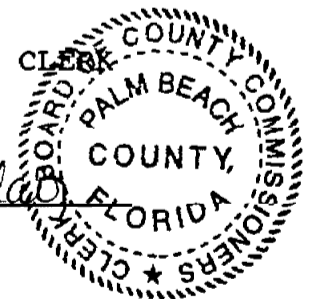


EXHIBIT A

on a parcel of land

lying in Section 14, 15, 22, 23, 26 and 35, Township 47 South, Range 41 East, Palm Beach County, Florida, being more particularly described as follows: Beginning at the Point of intcreaction of the **Northerly right-of-way line** of that **certain 260** foot wide right-of-way of the **Hillsboro Canal (so called)** with the **West line** of said **Section 26**, **said Point of Beginning** boing 1057.29 feet **Northerly** from (**as** measured along the **West line** of said Section 26) the **Southwest** corner of said Section 26 and from **said Point of Beginning** run (bearings cited herein are in a meridian assuming North **01° 19' 13" West** along the said **West line of Section 26**) run by the following numbered **courses**:

- 1) North **01° 19' 13" West**, running along the said **West line of Section 26**, a distance of 4238.34 feet, more or **less**, to the **Southwest** corner of **said Section 23**; thence...
- 2) North **01° 12' 07" Weet**, running along the **West line** of said Section 23, a distance of 5099.84 feet, more or **less**, to a Point in a line parallel **with** and 184.51 feet southerly from (**as** measured along the said **West line** of Section 23) the **South line** of said Section 15; thence..;
- 3) South **89° 44' 51" West**, running along the **just described** parallel line, a distance of 5280.50 feet, more or Icon, to a Point in the **West line** of **said Section 22**; thence...
- 4) North **01° 16' 36" West**, running along the said **West line** of Section 22, a distance of 184.51 feet, more or less, to **the Southwest** corner of said Section 15; thence...;
- 5) North **00° 55' 08" West**, running along the **Weot line** of said Section 15, a distance of 486.75 feet, more **or less**, to a Point

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TRACT 1, "LOGGER'S RUN COMMERCIAL  
REPLAT", ACCORDING TO THE PLAT THEREOF,  
AS RECORDED IN PLAT BOOK 49, PAGES 56 AND  
57, OF THE PUBLIC RECORDS OF PALM BEACH  
COUNTY, FLORIDA. SAID LANDS LYING IN PALM  
BEACH COUNTY, FLORIDA

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in the Easterly line of that certain **600**  
**foot wide** right-of-way of Central and Southern  
Florida Flood Control District Levee **L-40**  
(so called); thence...

6) North **35° 04' 09"** East, running along **the**  
said Easterly line of Levee L-40, a **distance**  
of 5458.92 feet, more or less, to a  
Point in the South line of Tract 16  
**of** the Florida Fruit Lands Company's  
Subdivision No. 2, as same is recorded  
in Plat Book 1, page 102, Public **Records**  
of Palm **Beach** County, **Florida**; thence...

7) North **89° 47' 23"** East, running along **the**  
South line of said Tract 16, a distance **of**  
752.04 feet, more or less, to the South-  
west corner of Tract 1 of said Florida  
Fruit Lands Company's Subdivision No. 2;  
thence...

8) North **00° 55' 34"** West, running along the  
West line of Tract 1, a distance of 341.37  
feet, more or less, to a Point in the **North**  
line **of** said Section 15; thence...

9) North **89° 47' 32"** East, running along **the**  
said North line of Section 15, a **distance**  
of 1320 feet, more or less, to the **North-**  
west corner of said Section **14**; thence..

10) North **89° 47' 32"** East, running along **the**  
said North line of Section **14**, a distance  
of 2642.56 feet, more or less, to the  
Quarter corner in the said North line **of**  
Section 14; thence,,.

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- 11) South **00° 54' 18" East**, running along the North-South Quarter Section line of **said** Section 14, a distance of 1320.43 feet, more or less, to a Point in the North line of the South **3/4** of said Section 14; thence...
- 12) North **89° 47' 49" East**, running along the **said** North line of the South **3/4** of **said** Section 14, a **distance** of 1321.01 feet) more or less, to a Point in the East **line** of the West **3/4** of said Section 14; **thence...**
- 13) South **00° 53' 35" East**, running along the East line **of** the West **3/4** of Section 14, a distance of 3961.60 feet, more or **less**, to a Point in the North line **of** said **Section 23**; thence...
- 14) South **01° 14' 41" East**, running along the East line of **Tracts** 9 through 16, **inclusive**, and 57 through 64, inclusive, of **said** Florida Fruit Lands Company's **Subdivision** No. 2, in Section 23, a distance of 5280.12 feet, more or less, to a **Point** in the North line of said Section 26; **thence...**
- 15) South **01° 15' 24" East**, running along the East **line** of the West **3/4** of the North **1/2** of said Section 26, a distance of 2645.83 feet, more or **less**, to a Point in the North **line** of the West **3/4** of the South **1/2** of **said** Section 26; thence...
- 16) South **01° 15' 11" East**, running along the **East** line of the West **3/4** of the South **1/2** of **said** Section 26, a **distance** of **2645.62** feet, more or **less**, to a Point in the North

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line of said Section 35, and the Northeast corner of Tract **8** of the said Florida Fruit Lands Company's Subdivision No. 2 of Section 35; thence...

17) South **01° 14' 29"** East, running along the said East line of Tract No. **8**, a distance of 262.04 feet, more or **less**, to a Point in the Northerly right-of-way **line** of the Hillsboro Canal; thence...

18) North **71° 58' 41"** West, running along the said Northerly right-of-way line of the Hillsboro Canal, a distance of 833.03 feet, more or less, to a Point in the said North line **of** Section **35**; thence...

19) Continuing North **71° 58' 41"** West, running along the said Northerly right-of-way line of the Hillsboro Canal, **a distance** of 3361.06 feet, more or less, to **the** Point of Beginning; Less and **Excepting** Therefrom, Tract **49** in said Section 15 and Tract 37 in said Section 23, **as** said Tracts are shown on the aforementioned Florida Fruit Lands Company's Subdivision No. **2**.

Containing 1813.9952 acres, more or less.

EXHIBIT B

VICINITY SKETCH

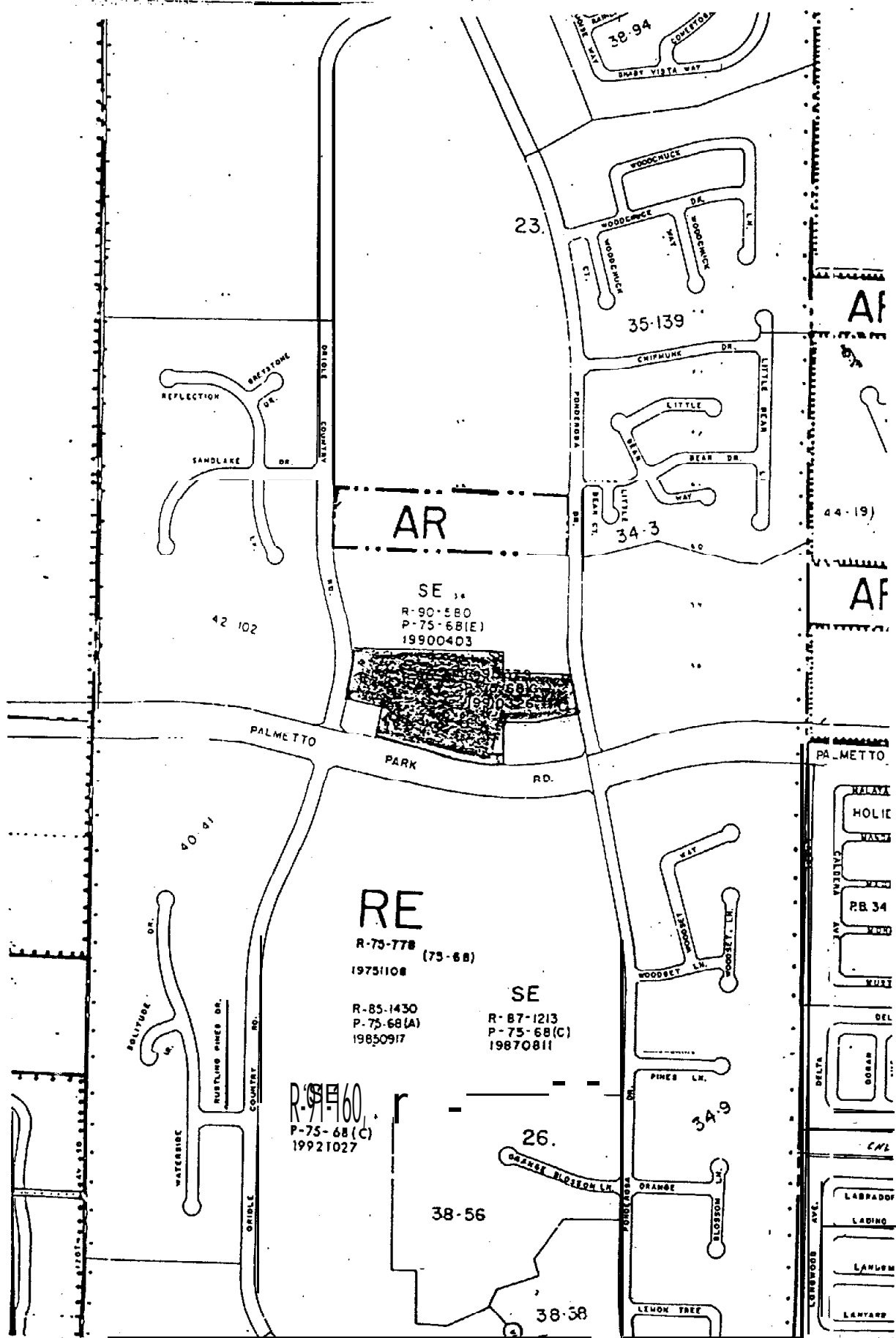




EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. The petitioner shall comply with all previous conditions of approval unless expressly modified herein. (CODE ENF.) Previously Condition 1 of Petition 75-68(E).
2. Resolution R-91-379, a special exception for **indoor** entertainment (Petition 75-68(G), is hereby **revoked**. (ZONING)

B. DAY CARE

1. Condition 2 of Petition 75-68(E), which currently states:  
  
The center shall be limited to a maximum of fifty-four (54) students and a minimum of 1,990 square feet of usable building area.  
  
Is hereby amended to state:  
  
The day care center shall be limited to a maximum of eighty (80) students and 3,600 square feet of **usable** building area. (BUILDING/HEALTH-Zoning)
2. The perimeter of the outdoor activity area shall be fenced with a solid six (6) **foot** tall visually **opaque** fence. Architecturally maintained compatible **with** the shopping center (painted/stained). **Signage** shall be affixed to the fence indicating no **trespassing** or loitering. (BUILDING-Zoning) Previously Condition 3 of Petition 75-68(E).
3. Landscaping around the exterior perimeter of the **outdoor** activity area shall be upgraded to include fifteen (15) foot tall canopy trees, fifteen (15) feet on **center**; and a minimum of three (3) fifteen (15) foot canopy **trees** planted on the interior, in compliance with **HRS** requirements. ((BUILDING-Zoning) Previously **Condition** 4 of Petition 75-68(E).
4. Travel in front of the center and drop-off area shall be limited to one-way (south to north). **"One-way"** and **"Do Not Enter"** signs shall be appropriately installed. (BUILDING-Zoning) Previously Condition 5 of Petition 75-68(E).
5. Maximum speed in front of the facility shall be **limited** to 5 mph with appropriate **signage** installed. (BUILDING-Zoning) Previously Condition 6 of Petition 75-68(3).
6. Pavement in front of the facility shall be striped **yellow** and marked with caution signs. (BUILDING-Zoning) Previously Condition 7 of Petition 75-68(E).
7. Sufficient asphalt pavement located in the **interior** (along the eastern side) of the expanded play area shall be removed and replaced or covered with material **suicable** for a play area, subject to approval by the Palm Beach County Public Health Unit. Prior to site plan certification by the Development Review Committee, the petitioner shall amend the site plan for the day care to indicate the extent of asphalt pavement to be removed or covered and material to be used. (ZONING/HEALTH-Buildinal

8. Bollards shall be installed every ten (10) feet on **center** in the landscape strip around the outdoor play **area**, adjacent to all vehicular use areas.
9. Landscaping around the north and east exterior perimeters of the outdoor activity area shall be upgraded to **include** twenty four (24) inch high shrub material planted **twenty** four (24) inches on center, to be maintained at a **minimum** height of thirty six (36) inches.

C. **HEALTH**

1. Condition 8 of Petition 75-68(E), which currently **states:**  
**Sewer** service is available to the property. **Therefore**, no **septic** tank shall be permitted on the site.

Is hereby amended to state:

Sewer service is available to the property, therefore, no septic tank shall be permitted on this site. All existing **onsite** sewage disposal systems must be **abandoned** in accordance with Chapter **10D-6**, PAC., and Palm Beach County ECR-I. (HEALTH)

2. Condition 9 of Petition 75-68(E), which currently **states:**  
Water service is available to the property. **Therefore**, no well shall be permitted on the site to provide **potable** water.

Is hereby amended to state:

Water service is available to the property, therefore, no well shall be permitted on the site to provide **potable** water. All existing **onsite** potable water supply **systems** must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

D. **BUILDING AND SITE DESIGN**

1. Prior to Site Plan approval the property owner **shall** indicate interior access from the shopping center **to** all the **"not included parcels"**, no additional access **points** other than those shown on the Plaster Plan will be permitted. (ZONING) Previously Condition 10 of **Petition** 75-68(E).
2. Condition 12 of Petition 75-68(E), which states:  
The petitioner shall relocate all dumpsters a **minimum** of one hundred (100) feet from the outdoor activity area.  
Is hereby amended to state:  
The petitioner shall relocate all dumpsters a **minimum** of seventy five (75) feet from the outdoor activity **area**. (ZONING/BUILDING)
3. The adjacent retail bay to the south **of** the proposed **day** care shall not be used for any **business** primarily **engaged** in the sale or use **of** flammable materials, for **example**, restaurants and paint sales. This condition shall not preclude the use **of** normally accessory **cleaning materials** and other products customarily used in the operation of **a retail** business. (BUILDING-Zoning) Previously **Condition** 13 of Petition 75-68(E).

4. **Prior to occupancy of the day care center the facility shall be modified to meet all applicable building and life safety codes.** (BUILDING) Previously Condition 4 of Petition 75-68(E).
5. Prior to final site plan certification one (1) landscape island shall be provided along both the northern and the western parking areas (designated for the day care center). (BUILDING/ZONING)

E. ENGINEERING

1. Condition 11 of Petition 75-68(E), which states:

**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 the day care center presently is \$1,540.00 (28 trips X \$55.00 per trip).**

Is hereby amended to state:

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 day care expansion project to be paid at the time of issuance of the Building Permit presently is \$2,970 (54 trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)

F. COMPLIANCE

1. Condition 15 of Petition 75-86(E), which currently states:

**Failure to comply with any conditions of approval may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.**

Is hereby amended to state:

Failure to comply with any of these conditions of approval at any time may result in:

- a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer; owner, commercial-owner, lessee, or user of the subject property; and/or
- b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the conditional Use;
- c. A requirement of the development to conform with updated standards of development, applicable 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;

- 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 Conditional Use, Rezoning, 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)