

RESOLUTION NO. R-2007-1444

RESOLUTION APPROVING ZONING APPLICATION Z2006-1678
(CONTROL NO. 2006-522)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
APPLICATION OF BP PRODUCTS
BY SIEGEL, LIPMAN, DUNAY, SHEPART, & MISKEL, AGENT
(BP AT WALLIS AND HAVERHILL)

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 applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application Z2006-1678 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2007; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant 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 has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan, contingent upon the approval of Small Scale Land Use Amendment SCA 2007-003;
2. This official zoning map amendment (rezoning) is consistent with the stated purpose and intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations.
3. This official zoning map amendment (rezoning) is compatible and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land.
4. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment.
5. 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.
6. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern.
7. This official zoning map amendment is consistent with applicable Neighborhood Plans.
8. This official zoning map amendment (rezoning) complies with Article 2.F (CONCURRENCY) of the Palm Beach County Unified Land Development Code.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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 Application Z2006-1678, the application of BP Products, by Siegel, Lipman, Dunay, Shepard, & Miskel, agent, for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Multi-family Residential Zoning District to the General Commercial Zoning District with a Conditional Overlay Zone 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 August 23, 2007.

Commissioner Marcus moved for the approval of the Resolution.

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

Addie L. Greene, Chairperson	-	Aye
John F. Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
District 3 Robert Kajian	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Absent
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that this resolution shall not become effective until Small Scale Land Use Amendment SCA 2007-003 is effective.

Filed with the Clerk of the Board of County Commissioners on 11th day of September 2007.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
COMMISSIONERS

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK


EXHIBIT A

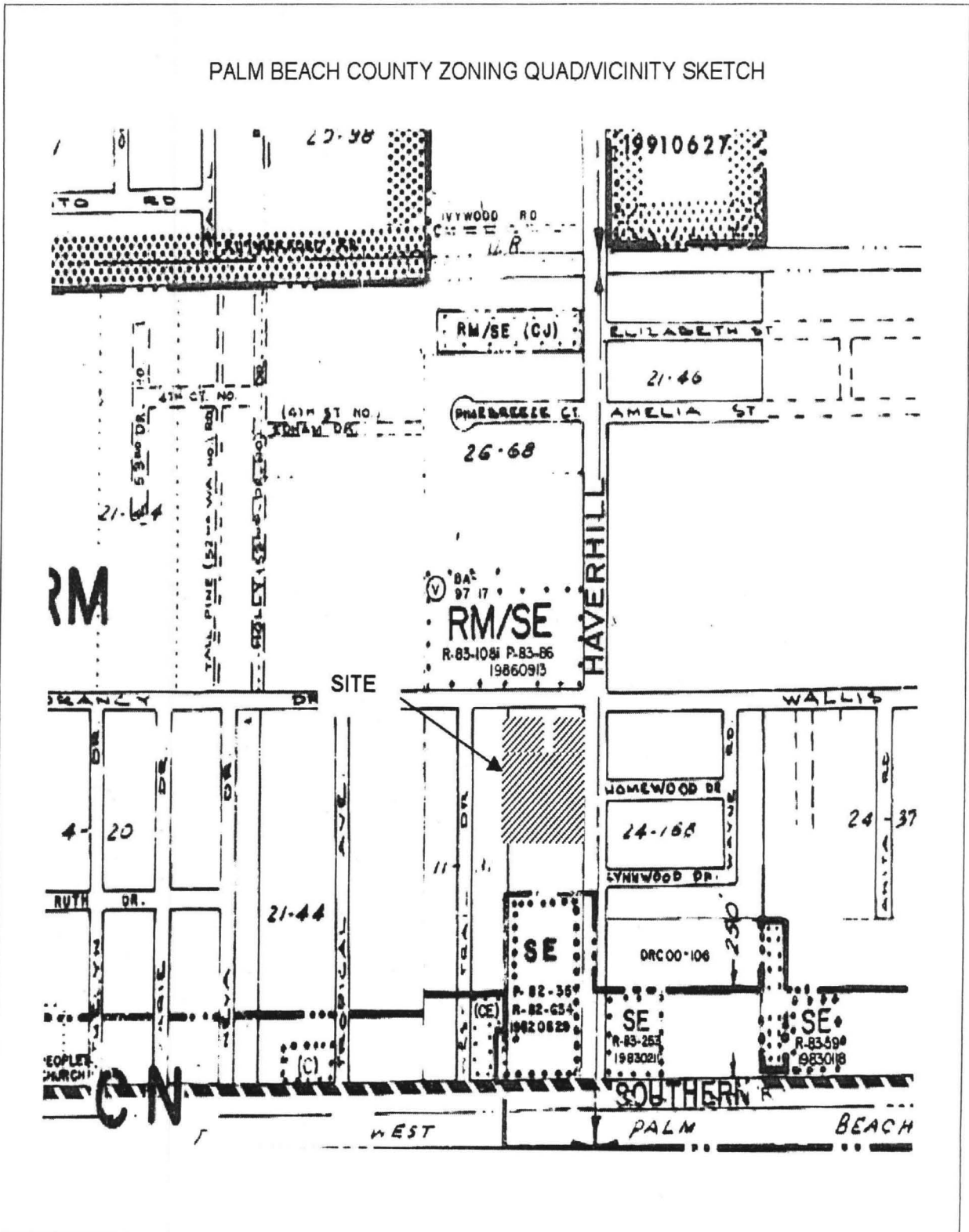
LEGAL DESCRIPTION

THE NORTHERLY 349.24 FEET OF TRACT 49, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 35, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 5, PAGE 77, IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR SAID COUNTY; LESS MODEL LAND COUNTY SUBDIVISION (LIFT STATION PARCEL) THE WEST 40 FEET OF THE EAST 158.31 FEET OF THE NORTH 100 FEET TO TRACT 49.

ALSO LESS THE FOLLOWING DESCRIBED PARCEL: (O.R.B. 13019, PAGE 92)

A portion of tract 49, model land company, according to the plat thereof, as recorded in plat book 5, page 77 of the public records of palm beach county, Florida, lying in section 35, township 43 south, range 42 east, Palm Beach County, Florida, being more particularly described as follows: commence at a found palm beach county disc in cut out marking the northeast corner of the southeast $\frac{1}{4}$ of said section 35, (said point being the baseline of survey of Haverhill road as shown on the florida department of transportation right-of-way map for Section No. 93120-2553; thence south 01'22'32" west along the east line of the southeast $\frac{1}{4}$ of said section 35 and said baseline of survey a distance of 407.540 meters (1,337.07 feet); thence south 88'37'28" west along a line at a right angle to the last described course, a distance of 12.192 meters (40.00 feet) to a point on the westerly existing right of way line for said Haverhill Road and the point of beginning; thence south 01'22'32" west along said westerly existing right of way line, a distance of 106/579 meters (349.67 feet); thence north 88'36'46" west a distance of 11.834 meters (38.83 feet); thence north 06'57'41 " east, a distance of 10.025 meters (32.89 feet) to a point on a curve concave to the west having a chord bearing of north 06'51'08" east; thence northwesterly along said curve, having a radius of 1,242.500 meters (4,076.44 feet), through a central angle of 03'00'58", an arc distance of 65.612 meters (215.26 feet) to the end of said curve; thence north 36'57'00" west, a distance of 16.990 meters (55.74 feet) to a point on the southerly existing right-of-way line for Wallis Road; thence south 88'50'30" east along said southerly existing right of way line, a distance of 24.346 meters (79.88 feet) to the point of beginning.

EXHIBIT B
VICINITY SKETCH



Application No. 2006-1678
Zoning Quad 31
Date Aug 2, 2007



EXHIBIT C

CONDITIONS OF APPROVAL REZONING

ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved preliminary site plan is dated May 25, 2007. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within forty (40) feet of the south and east property lines and shall be confined to the areas designated on the site plan. (DRO: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
A) No Building Permits for the site may be issued after August 23, 2010. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)
2. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for Wallis Road 30 feet from centerline. All right of way deed(s) and associated documents shall be provided and approved prior to January 1, 2009 or prior to the issuance of a Building Permit whichever shall first occur. Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. 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. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING-Eng)

3. Prior to issuance of a building permit the property owner shall provide a temporary roadway construction easement along Wallis Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG. PERMIT: MONITORING-Eng)
4. Landscape Within the Median of Haverhill Road
 - A. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Haverhill Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING -Eng)
 - B. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
 - C. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
 - D. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING - Eng)
 - E. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Haverhill Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING -Eng)
5. The Property Owner shall extend the concrete median within Haverhill Road from Homewood Drive to a point 100 feet south of the projects south entrance of Haverhill Road subject to final approval of the County Engineer.
 - A) This construction shall be concurrent with the paving and drainage improvements for the site. 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)

ZONING - LANDSCAPING

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of sixty-five (65%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. tree height: fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
3. All palms required to be planted on the property 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. (BLDG PERMIT: LANDSCAPE - Zoning)
4. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
5. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
6. Prior to final approval by the Development Review Officer (DRO), the plans shall be amended to indicate special planting treatment in the following locations: 1) On the northeast, -northwest and southeast corners of the site. Planting shall consist of the following:
 - a. a minimum of three (3) Royal Palms, or other specimen palm that is acceptable to the Landscape Section. Palm height shall be a minimum of twenty (20) feet with a minimum of eight (8) feet of greywood; and,
 - b. a minimum of three (3) Roebellini palms to be installed at the northeast corner of the site. (DRO: LANDSCAPE - Zoning)

7. Prior to final approval by the Development Review Officer (DRO), the plans shall be amended to indicate the code required Compatibility buffer on the south, east and west property lines abutting the lift station parcel. Hedge materials shall be three (3) foot in height at installation, and shall be perpetually maintained at six (6) feet in height. (DRO: LANDSCAPE - Zoning)
8. An architectural focal point (fountain) shall be provided at the intersection of Haverhill Road and Wallis Road. The architectural focal points shall be subject to review and approval by the Architectural Review Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer (DRO). (DRO: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL PARCELS)

9. In addition to code requirements, landscaping along the south and west property lines shall be upgraded to include:
 - a. a continuous two (2) foot high berm;
 - b. a six (6) foot high opaque concrete block wall. Wall shall be placed on the plateau of the berm. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
 - c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters.(BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five(25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
2. All outdoor, freestanding lighting fixtures be setback a minimum of fifty(50) feet from the south property line. (BLDG PERMIT: BLDG - Zoning)
3. The lighting conditions above shall not apply to proposed low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

SIGNS

1. Freestanding signs fronting on Haverhill Road 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 - sixty (60) square feet;
 - c. maximum number of signs - one (1); and,
 - d. style - monument style only. (BLDG PERMIT: BLDG - Zoning)

UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING:PBCWUD-PBCWUD)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners 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 Board of County Commissioners 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, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Board of County Commissioners decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)