

RESOLUTION NO. R-97-1578

RESOLUTION APPROVING ZONING PETITION Z/COZ97-15  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
WITH A CONDITIONAL OVERLAY ZONE (COZ)  
PETITION OF SABITA MAHARAJ  
BY ROBERT BASEHART, AGENT  
(MAHARAJ COMMERCIAL)

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 Z/COZ97-15 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, as amended; 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 Z/COZ97-15, the petition of Sabita Maharaj by Robert Basehart, agent, for an Official Zoning Map Amendment (Z) from Agricultural Residential (AR) to Community Commercial (CC) with a CONDITIONAL OVERLAY ZONE (COZ) 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 the CONDITIONAL OVERLAY ZONE (COZ) described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 23, 1997.

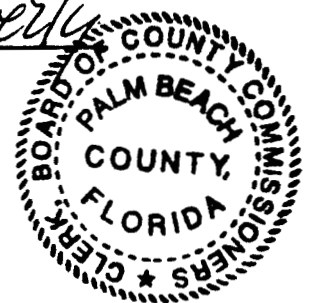
APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: [Signature]  
COUNTY ATTORNEY

BY: [Signature]  
DEPUTY CLERK



**EXHIBIT A**  
**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN LOT 1 BLOCK "K", LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT **BOOK 12**, PAGE **29**, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED **AS** FOLLOWS;

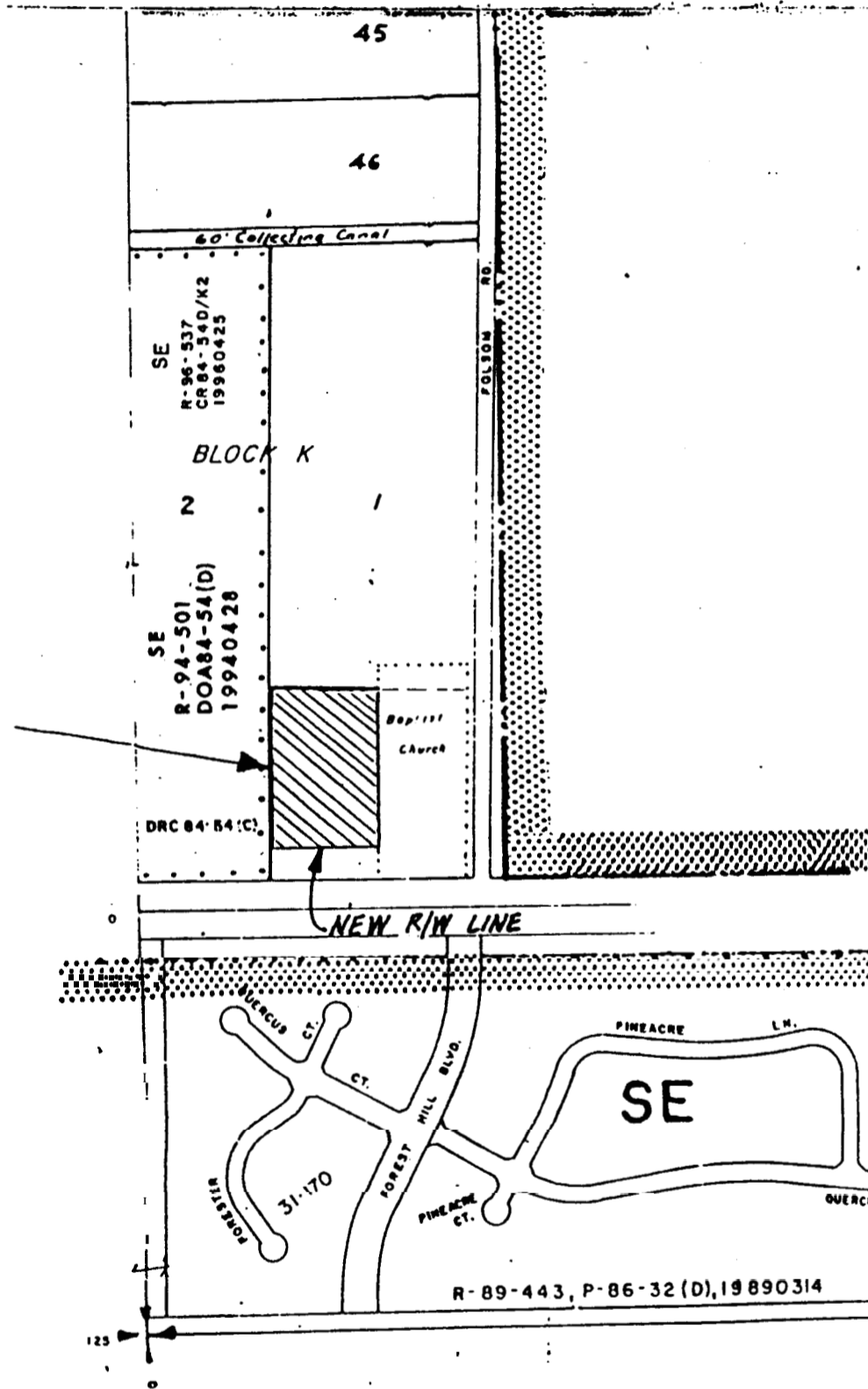
BEGINNING AT THE INTERSECTION OF THE WEST LINE OF SAID LOT 1 WITH THE NORTH RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD (STATE ROAD 80); SAID NORTH RIGHT-OF-WAY LINE IS AS SHOWN ON THE DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, SECTION **93 120-2538**; **THENCE**, NORTH **02° 16' 35"** EAST, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF **540.00'**; **THENCE** SOUTH **88° 08' 51"** EAST, PARALLEL WITH SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF **387.80'**; **THENCE** SOUTH **02° 16' 32"** WEST, **ALONG A LINE 354.99'** WEST OF, AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID LOT 1, A DISTANCE OF **540.00'** TO THE INTERSECTION THEREOF WITH THE SAID NORTH RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD; **THENCE** NORTH **88° 08' 51"** WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF **387.80'** TO THE **POINT OF BEGINNING**.

CONTAINING **4.81** ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B

PALM BEACH COUNTY  
VICINITY SKETCH / ZONING



Petition Number: 47-15

Zoning Quad Page \_\_\_\_\_

Date: 2/19/97



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. 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 June 16, 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)

#### B. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 18,620 square feet. (DRC: ZONING)
2. The minimum setback for all structures adjacent to the residential property line shall be fifty (50) feet. (DRC: ZONING)
3. The maximum height for all structures, measured from finished grade to highest point, shall not exceed twenty five (25) feet. (BLDG PERMIT: BLDG)
4. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure or equivalent landscape material. (CO: BLDG - Zoning)

#### C. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, and shall be confined to the areas designated on the site plan dated June 16, 1997. (DRC / ONGOING: ZONING / CODE ENF)

#### D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A recorded Conservation Easement for the 25% set-aside preserve area, subject to ERM approval, shall be submitted to Environmental Resources Management prior to DRC site plan certification. (DRC:ERM)

#### E. ENGINEERING

1. Prior to July 1, 1998 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Southern Boulevard, 220 feet north of the existing south right-of-way line of Southern Boulevard, this additional right of way shall be free of all encumbrances and encroachments. 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

2. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Southern Boulevard to **Palm Beach County**. Construction by the applicant within this easement shall conform to all Palm Beach County standards and codes. The location, legal sketches and *the* dedication documents shall be approved by the **County Engineer** prior to *final* acceptance. (BLDG PERMIT: MONITORING-Eng)
3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
  - a) **Building Permits** for the 8,620 square foot retail structure shall not be issued until construction has begun for a second westbound left turn lane and dual right turn lanes on the south approach at the intersection of Big Blue Trace and **Southern Boulevard**. (BLDG PERMIT: MONITORING - Eng)
4. Prior to DRC approval the property owner shall:
  - a) obtain a **Conceptual Permit** for the two access locations shown on the site, plan.
  - b) submit an approved **drainage** study addressing the **South Florida Water Management District's** C-51 basin requirements and compensating storage requirements for site. (DRC APPROVAL: ENG)
5. The property owner shall plat the entire 19.67 acres in accordance with provisions of **Article 8 of the Unified Land Development Code**. (ENG)
6. **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 Southern Boulevard. 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. (BLDG PERMIT: MONITORING - Eng)
  - b. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. **All** 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'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 prior to the **issuance of** a certificate of occupancy. (CO:MONITORING - Eng)

c. Declaration of Covenants and Restriction Documents shall be established or amended as required and shall be approved and recorded prior to the issuance of a certificate of occupancy. (CO:MONITORING - Eng)

7. Prior to the **issuance of** a Building Permit the property owner shall reimburse Palm West Hospital for the cost of construction of a **left turn lane east approach on Southern Boulevard at the entrance to Palms West Hospital. Funding for this left turn lane shall be in the amount of 50% of the certified cost estimate to be provided by the Palms West Hospital's Engineer and approved by the County Engineer. These funds shall then be made directly available to Palms West Hospital.** (BLDG PERMIT: MONITORING - Eng)

#### F. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval 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)

#### G. LANDSCAPING ALONG NORTH PROPERTY LINE

1. A ten (10) foot wide spatial separation strip shall be provided between the vegetation preserve area and the abutting parking spaces at the north portion of the site. Appropriate ground cover shall be planted in this strip. (CO: LANDSCAPE - Zoning)

#### H. LANDSCAPING ALONG SOUTH PROPERTY LINE

1. Landscaping and buffering along the south property line shall include:
  - a. A minimum fifteen (15) foot wide landscape buffer strip;
  - b. One (1) canopy tree spaced no more than 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) or more palms or pines may supersede the requirement for a canopy tree and;
  - e. Thirty (30) inches 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)
  - f. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPING - Zoning)

**I. LANDSCAPING ALONG THE SOUTH 385 FEET OF EAST PROPERTY LINE**

1. **Landscaping and buffering** along *the* above property line shall be upgraded to include:
  - a. A minimum ten (10) foot **wide landscape buffer strip**;
  - b. A **six (6) foot high wood fence** or a **six (6) foot high black vinyl-coated chain link fence**; and
2. The following landscaping requirements **shall be installed on the exterior side of** the required fence:
  - a. **One (1) canopy tree** planted every thirty (30) feet **on center**;
  - b. **One (1) palm or pine tree** for each twenty (20) linear feet, **with a maximum spacing of sixty (60) feet on center**. A group of **three or more palm or pine trees** may **supersede the requirement for a canopy tree in that location**; and
  - c. **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 forty-eight (48) inches**. (CO: LANDSCAPE)

**J. LANDSCAPING ALONG SOUTH 385 FEET OF WEST PROPERTY LINE**

1. **Landscaping and buffering** along the above property line shall be upgraded to include:
  - a. A **minimum ten (10) foot wide landscape buffer strip**;
  - b. **One (1) canopy tree** spaced no more than **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) or more palms or pines** may **supersede the requirement for a canopy tree** and;
  - d. **Thirty (30) inches 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. **Credit may be given for existing or relocated trees provided they meet current ULDC requirements**. (CO: LANDSCAPING - Zoning)

**K. LANDSCAPING - INTERIOR**

1. **One landscape island** shall be provided for every **ten (10) parking spaces**. The maximum spacing between landscape islands shall **not exceed one hundred (100) linear feet**. (DRC: ZONING)
2. **Foundation planter strip** shall be provided **along the front and side facades of all structures**. The **minimum width of the required foundation planter strip shall be five (5) feet**. The **combined length of the required foundation planter strip shall be no less than 40% of the accumulative length** of the structure. **All required foundation planter strips shall be planted with a minimum of one (1) tree or palm every 20 feet and appropriate ground cover**. (DRC / CO: ZONING / LANDSCAPE)

**L. PLANNING**

1. **Prior to final site plan certification** by the **Development Review Committee (DRC)**, comprehensive plan **amendment 97-62 USAB 1** shall be transmitted to the **Florida Department of Community Affairs (DCA)**. (DRC: PLANNING)



2. Prior to the issuance of the first building permit, the Board of County Commissioners (BCC) shall adopt comprehensive plan amendment 97-62 USAB 1. (BLDG PERMIT: MONITORING- Planning)
3. Prior to the issuance of the first building permit, the applicant shall execute a hold harmless agreement with Palm Beach County indemnifying the County in the event Comprehensive Plan Amendment 97-62 USAB 1 is not effective. (BLDG PERMIT: MONITORING - Planning)
4. No hook-up to utilities shall be permitted until Comprehensive Plan Amendment 97-62 USAB 1 is effective. (ONGOING: PLANNING)
5. Prior to the issuance of a Certificate of Occupancy, Comprehensive Plan Amendment 97-62 **USAB** 1 shall become effective. (CO: MONITORING - Planning)

**M. SIGNS**

1. Freestanding signs fronting on Southern Boulevard 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 - one hundred (100) square feet;
  - c. Style - **monument** style only;
  - d. Maximum number of sign - one (1). (CO: BLDG)
2. Wall signs shall **be** limited to the south and east facades of the retail building and the south and west facades of the restaurant building. (CO: BLDG)

**N. UNITY**

1. Prior to site plan certification by the Development **Review** Committee (DRC), the petitioner **shall** record in the public record a unity of control/title for the entire subject property. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall **not** be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

**O. USE LIMITATIONS**

1. Use of the site **shall** be limited to 10,000 square foot, 300 seats restaurant and 8,620 square foot general retail use. (DRC / ONGOING: ZONING / CODE ENF)
2. No commercial use shall commence business activities (including deliveries and stocking operations) prior to 6:00 a.m. nor continue activities later than 11:00 p.m. Sunday to Wednesday; and 6:00 a.m. - 12:00 p.m. Thursday to Saturday (**ONGOING**: CODE ENF)
3. No outdoor retail business activities shall be permitted on site. (ONGOING: CODE ENF- Zoning)

**P. 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 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 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)**