

RESOLUTION NO. R-99- 1215

RESOLUTION APPROVING ZONING PETITION Z81-024(A)  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
WITH A CONDITIONAL OVERLAY ZONE (COZ)  
PETITION OF FLORIDA GARDENS LAND DEVELOPMENT CO.  
BY DAVID CARPENTER, AGENT  
(KEY CENTERS 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 Z81-024(A) was presented to the Board of County Commissioners at a public hearing conducted on July 22, 1999; 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) with approved conditions 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) with approved conditions 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) with approved conditions 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 Z81-024(A), the petition of Florida Gardens Land Development Co. by David Carpenter, agent, for an Official Zoning Map Amendment (Z) from Specialized Commercial (CS) 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 July 22, 1999, subject to the conditions of the CONDITIONAL OVERLAY ZONE (COZ) 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 Newell and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on July 22, 1999.

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

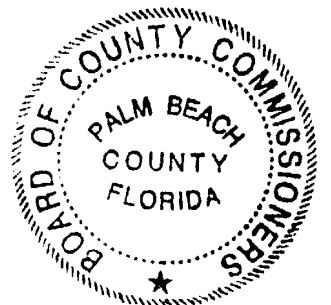


EXHIBIT A  
LEGAL DESCRIPTION

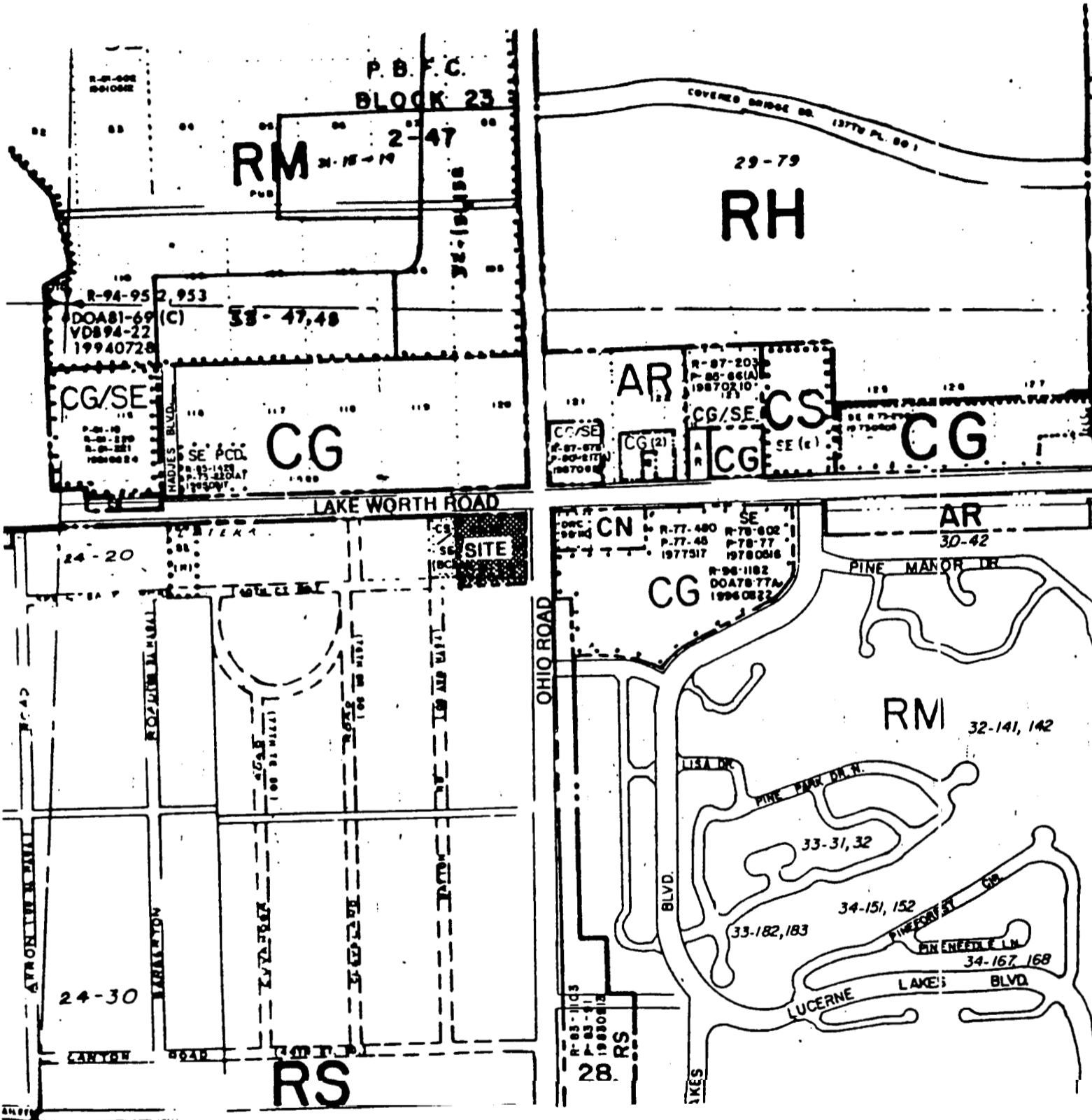
LEGAL DESCRIPTION FOR: SOUTHWEST CORNER OF LAKE WORTH ROAD  
& OHIO ROAD, LAKE WORTH (PALM BEACH CO.)

SECTION 28, TOWNSHIP 44, RANGE 42

LOTS 49, 50 AND 51 OF THE UNRECORDED PLAT OF FLORIDA GARDENS NO. 3, BEING DESCRIBED AS FOLLOWS: THE SOUTH 300 FEET OF THE NORTH 330.20 FEET OF TRACT 9, BLOCK 29, LESS THE EAST 40 FEET THEREOF, TOGETHER WITH THE SOUTH 300 FEET OF THE NORTH 330.20 FEET OF THE EAST 10 FEET OF TRACT 10, BLOCK 29, OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK NO. 2, PAGES 45-54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE RIGHT-OF-WAY FOR LAKE WORTH ROAD AS RECORDED IN ROAD PLAT BOOK NO. 5, PAGES 125-138, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA;

CONTAINING 88,029 SQUARE FEET OR 2.02 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. All conditions of approval contained in Resolution R-81-462, Petition E 1-24, are hereby repealed. Resolution R-81-462, granting approval of Petition 81-24, is hereby revoked. (MONITORING)
2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated May 25, 1999. 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. (ONGOING: ZONING)

#### B. DRUGSTORE

1. Hours of business operation shall be limited to 7:00 a.m. to 11:00 p.m. daily. The drive thru lane adjacent to the building may be open twenty-four (24) hours daily and for the sale of pharmaceutical items only. (ONGOING: ZONING/CODE ENF)

#### C. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINE (ABUTTING LAKE WORTH AND OHIO ROAD)

1. Landscaping and buffering along the north and east property line shall be upgraded to include:
  - a. A minimum twenty (20) foot wide landscape buffer strip;
  - b. A minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
  - c. One (1) canopy tree planted every thirty (30) feet on center. A group of three (3) or more palm or pine trees may supersede the requirement for twenty-five (25%) percent of the canopy trees in that location;
  - d. One (1) additional palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and,
  - e. 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 thirty-six (36) inches. (CO: LANDSCAPE)

#### D. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL AND SPRINGDALE ROAD)

1. Landscaping and buffering along the south property line shall be upgraded to include:
  - a. A ten (10) foot wide landscape buffer strip; and
  - b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development; and,
  - c. The six (6) foot wall shall be setback a minimum of twenty-five (25) feet from Ohio Road
  - d. No vehicular access to Springdale Road shall be provided from the south property line. (CO: LANDSCAPE)

2. The following landscaping requirements shall be installed on the exterior side of the required wall:
  - a. One (1) canopy tree planted every twenty-five (25) feet on center. A group of three (3) or more palm or pine trees may supersede the requirement for a canopy tree in that location. A maximum twenty-five (25%) percent of the required canopy trees within the buffer may be replaced by the palm or pine tree clusters;
  - b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet between clusters; 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;
  - d. Credit may be given for existing or relocated trees provided they meet current ULDC standards of Section 7.3.E. (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 forty-eight (48) inches. (CO: LANDSCAPE)
4. The petitioner shall incorporate or relocate native vegetation from the developed area in accordance with ULDC tree and landscape material standards of Section 7.3.E. (CO: LANDSCAPE)

E. ENGINEERING

1. Prior to the issuance of the first Building Permit, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for a "Corner Clips" at the intersection of Lake Worth Road and Ohio Road. 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. 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 Lake Worth Road abutting Florida Department of Transportation 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 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 new and 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'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. Property Owners Documents or other restrictive covenant documents, evidencing this 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)

2. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF LAKE WORTH ROAD

- 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 provide for landscape cutouts within the concrete median of Lake Worth Road Right-of-Way contiguous to the frontage abutting Florida Department of Transportation Road Right-of-way. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. When landscape plantings and the installation of paver blocks or similar materials are permitted by the Florida Department of Transportation, the property owner shall enter into a Right of Way Concrete Median Cutout; Landscape and Paver Block Installation including appropriate Maintenance, Removal, and Indemnification agreements.

The landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. Alternative species and paver block material 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, the cost of cutting out the concrete median and the installation of all landscape material, and paver block or similar materials shall be funded at the property owners expense. All landscape material, and paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assignees or duly established Property Owner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation system to the cut out areas. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (ENG)

- c. Property Owners Documents or other restrictive covenant documents, evidencing this 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.)

#### F. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/ CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. 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)
4. Lighting shall be provided to mark all perimeter driveways or access bays. (CO/ONGOING: BLDG/CODE ENF - Zoning)

#### G. SIGNS

1. Freestanding point of purchase signs fronting on Lake Worth 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 - 100 square feet;
  - c. Maximum number of signs - two (2); and
  - d. Style - monument style only. (CO: BLDG)
2. Freestanding point of purchase signs fronting on Ohio Road shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - four (4) feet;
  - b. Maximum sign face area per side - 50 square feet;
  - c. Maximum number of signs - one (1) and
  - d. Style - monument style only. (CO: BLDG)

#### H. TREE PRESERVATION

1. Prior to final site plan approval by the DRC the petitioner shall provide a tree survey. The petitioner shall preserve or relocate significant native trees as indicated on the tree survey and incorporate into the site to the maximum extent possible. (DRC / CO: ZONING / LANDSCAPE)

#### I. 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 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)