

Yacht Club by Luxcom, LLC v. Village of Palmetto Bay Council, 316 So. 3d 748 (Fla. 3d DCA 2021).

Third DCA Affirms Circuit Court's Decision on Zoning Amendment Challenge Alleging Reverse Spot Zoning

The Village of Palmetto Bay (the "Village") proposed an amendment to its zoning map after learning that Yacht Club by Luxcom (the "Club") wanted to develop a large-scale hospital campus on a 71-acre parcel in the Village. The Club petitioned for certiorari to challenge this amendment, alleging the changes constituted "impermissible reverse spot zoning." After the Circuit Court denied the petition, the Club sought second-tier certiorari review from the Third DCA. The Club argued that the circuit court did not apply the correct legal standard in deciding that the challenged zoning ordinance did not qualify as impermissible reverse spot zoning. It also argued that the Third DCA should give no deference to the circuit court's decision. However, the Third DCA recognized that this proposed standard of review did not acknowledge the undeniable limits placed on reviewing an issue on second-tier certiorari. It stated that "second-tier certiorari should not be used simply to grant a second appeal; rather, it should be reserved for those situations when there has been a violation of a clearly established principle of law resulting in a miscarriage of justice."

Further, the Third DCA examined whether there was a violation of the applicable legal standard by the circuit court and ultimately determined that the circuit court had applied the correct legal standard to its review. The Club also argued that the circuit court had violated the precedent established by the Third DCA in *Palmer Trinity Private School v. Village of Palmetto Bay*, 31 So. 3d 260 (Fla. 3d DCA 2010). In that case, the Third DCA found "no record justification for [the Village's] refusal to rezone the property to a classification consistent with the properties surrounding [it] thereby rendering the underlying decision of the Village counsel [a]s a matter of law . . . arbitrary, discriminatory, [and] unreasonable." However, the Third DCA then distinguished *Palmer* from the instant case, reasoning that the Village did not treat the Club differently because of the proposed use of the property. Instead, the circuit court held that substantial evidence supported the reverse spot zoning determination made by the Village Council. Thus, the Third DCA denied the Club's petition.