

RESOLUTION NO. R-90-834

RESOLUTION APPROVING ZONING PETITION NO. 73-219(B)
SPECIAL EXCEPTION PETITION OF
BREAKERS WEST DEVELOPMENT CORPORATION
BY RUSSELL C. SCOTT, AGENT

WHEREAS, the Board of County Commissioners, as the governing body, 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 Chapter 402.5 of the Palm Beach County Zoning Code have been satisfied; and

WHEREAS, Petition No. 73-219(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on December 28, 1989; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to Zoning Code Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, 402.5 of the Zoning Code requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 73-219(B), the petition of BREAKERS WEST DEVELOPMENT CORPORATION, BY RUSSELL C. SCOTT, AGENT, for a SPECIAL EXCEPTION TO AMEND AND EXPAND THE MASTER PLAN FOR BREAKERS WEST PLANNED UNIT DEVELOPMENT TO (1) INCREASE THE LAND AREA, AND (2) ELIMINATE THE CIVIC SITE, (THIS PETITION EXTINGUISHES PETITION NOS. 76-50 AND 80-119), on:

Parcel A

A parcel of land in Sections 29, 30, 31, and 32, Township 43 South, Range 42 East, being a portion of Blocks 1 and 2 of "Palm Beach Farms Co. Plat No. 3", Plat Book 2 at Pages 45 through 54, inclusive, and a portion of Block 1 of "Palm Beach Farms Co. Plat No. 9", Plat Book 5 at Page 58, as follows:

Commencing at the northwest corner of Lot 1 of Block 1 of said "Palm Beach Farms Co., Plat No. 3", thence along the north line of said Lot 1 South 89 Degrees 55' 48" East, a distance of 150.15 feet to a point in the east right-of-way line of Lake Worth Drainage District E-1 Canal right-of-way, said point being the

Point of Beginning; From said Point of Beginning: Thence continuing along the north line of said Lot 1 South 89 Degrees 55' 48" East a distance of 1559.85 feet to a southerly extension of the west line of Lot 4, Block 1, "Palm Beach Farms Co. Plat No. 9"; Thence North 00 Degrees 54' 38" East, along the west line of said Lot 4, a distance of 1434.62 feet; Thence South 87 Degrees 46' 19" East, a distance of 602.08 feet to the east line of said Lot 4; Thence North 00 Degrees 34' 14" East, a distance of 64.76 feet to the northeast corner of said Lot 4; Thence South 87 Degrees 44' 55" East along the north line of Lot 5 "Palm Beach Farms Plat No. 9", a distance of 308.63 feet; Thence South 00 Degrees 29' 50" West, a distance of 64.63 feet; Thence South 87 Degrees 46' 08 " East, a distance of 1380.57 feet to the east line of Lot 7 "Palm Beach Farms Plat No. 9"; Thence South 00 Degrees 04' 15" West along said east line of Lot 7, a distance of 1348.11 feet to a point in the north line of Lot 2 of the aforementioned Block 2, "Palm Beach Farms Plat No. 3"; Thence South 89 Degrees 56' 49" East along the north line of said Lot 2, Block 2, a distance 1979.63 feet to the northeast corner of said Lot 2, Block 2; Thence South 00 Degrees 02' 11" West along the east line of said Lot 2 and the southerly extension thereof, Lot 4 and the southerly extension thereof, and Lot 9, of said Block 2 of "Palm Beach Farms Co. Plat No. 3", a distance of 3358.54 feet to the southeast corner of said Lot 9; Thence North 89 Degrees 57' 49" West, along the south line of said Lot 9, a distance of 228.17 feet to the southeast corner of "O-S" Tract 4 of "Breakers West Plat No. 2", as shown in Plat Book 36 at Pages 31 - 35, said point lying on a curve in the westerly line of "Rubin Road" shown as being an 80.00 foot wide right-of-way on said "Breakers West Plat No. 2", now "Sansbury's Way", said curve being concave to the northwest, having a radius of 1105.92 feet and a chord which bears South 33 Degrees 05' 53" West; Thence southwesterly along the arc of said curve, subtending a central angle of 10 Degrees 15' 15", a distance of 3.30 feet to the end of said curve; Thence South 33 Degrees 11' 01" West along a line 40.00 feet northwest of and parallel with the centerline of said "Sansbury's Way", as shown on "Breakers West Plat No. 13" Plat Book 55 at Pages 145 through 150, a distance of 502.90 feet to the beginning of a curve concave to the southeast having a radius of 1185.92 feet; Thence southerly along the arc of said curve, subtending a central angle of 33 Degrees 07' 27", a distance of 685.61 feet; Thence South 00 Degrees 03' 34" West, a distance of 202.87 feet to a point in the north line of the Lake Worth Drainage District Canal L-3 right-of-way, 75.00 feet in width, "Breakers West Plat No. 13"; Thence North 89 Degrees 57' 56" West along said canal north right-of-way line, a distance of 1991.82 feet to the east line of Lot 11, Block 1 of "Palm Beach Farms Co. Plat No. 3"; Thence South 0 Degrees 03' 01" West, a distance of 75.00 feet to the southeast corner of said Lot 11, Block 1; Thence North 89 Degrees 57' 57" West along the south line of Lot 11 and Lot 12 of Block 1, a distance of 2309.90 feet to the southwest corner of said Lot 12; Thence North 00 Degrees 02' 21" East along the west line of said Lot 12, a distance of 75.00 feet to the north line of the aforementioned Lake Worth Drainage District L-3 Canal right-of-way; Thence North 89 Degrees 57' 57" West along said canal North right-of-way line, a distance of 223.10 feet; Thence North 00 Degrees 02' 21" East, parallel with and 223.10 feet west of the east line of said Lot 13, Block 1, a distance of 585.78 feet to the north line of said Lot 13; Thence North 89 Degrees 57' 43" West, along the north line of said Lot 13, a distance of 809.18 feet to a point in the east line of the Lake Worth Drainage District E-1 Canal right-of-way, 150.00 feet in width; Thence North 02 Degrees 36' 21" East along said canal east right-of-way line, a distance of 4054.49 feet to the Point of Beginning. Less a portion of the west 1/2 of Lot 5 of Block 1, "Palm Beach Farms Co. Plat No. 9"; Commencing at the southwest corner of "Breakers West Plat No. 1", Plat Book 32 at

Page 83, said corner bring also the southeast corner of the said west 1/2 of Lot 5, Block 1; Thence along the west line of said "Breakers West Plat No. 1", North 00 Degrees 29' 50" East, a distance of 239.00 feet to the Point of Beginning; From the Point of Beginning: Thence North 89 Degrees 35' 00" West, a distance of 135.02 feet; Thence South 0 Degrees 32' 03" West, a distance of 239.83 feet to the south line of the aforesaid Lot 5, Block 1, "Palm Beach Farms Co. Plat No. 9"; Thence North 89 Degrees 56' 07" East along said south line of Lot 5, a distance of 175.18 feet to the south corner of said Lot 5; Thence North 0 Degrees 34' 14" East along the west line of said Lot 5, a distance of 302.83 feet; Thence South 88 Degrees 59' 00 " East, a distance of 309.58 feet to the west line of the aforesaid "Breakers West Plat no. 1"; Thence South 00 Degrees 29' 50" West along said line of said "Breakers West Plat No. 1", a distance of 358.68 feet to the Point of Beginning; Less, also, the right-of-way for Rubin Road (Sansbury's Way), as described in Right-Of-Way Warranty Deed in official Record Book 2615 at Page 510. Less, also, that portion of Parcel A lying in the Lake Worth Drainage District canal right-of-ways as described in Quit Claim Deed in official Record Book 2698 Page 1825 and **right-of-way reservation** recorded in official Record Book 1994 at Page 1573, being: The north 70.00 feet of Lots 4, 5, 6, and 7, and the north 70.00 feet of the platted road right-of-way lying between said Lots 6 and 7, of Block 1 of "Palm Beach Farms Co. Plat No. 9", and the south 75.00 feet of Lots 12 and 13 of Block 1 of "Palm Beach Farms Co. Plat No. 3"; Less, also, the additional right-of-way for Sansbury's Way as described in official Record Book 4723 at Page 1638. Less a portion beginning at the southwest corner of "Breakers West Plat No. 1", as shown in Plat Book 32 Page 83, said corner being the southeast corner of the west 1/2 of Lot 5, Block 1, "Palm Beach Farms Plat No. 9", Thence North 89 Degrees 56' 07" West, a distance of 135.17 feet, Thence North 00 Degrees 32' 03" East, a distance of 239.83 feet, Thence South 89 Degrees 35' 00" East, a distance of 135.02 feet, Thence South 0 Degrees 29' 50" West, a distance of 239.00 feet to the Point of Beginning.

Parcel B

Land situated in Sections 28 and 29, Township 43 South, Range 42 East, Being Lot 8, Lot 9, and the west 1/2 of Lot 10 of Block 1 of "Palm Beach Farms Co. Plat No. 9", less and except, the north 32 feet of the east 1/2 of Lot 9 and the west 1/2 of Lot 10 conveyed to Lake Worth Drainage District in official Record Book 67 at Page 419 and Page 451.

Parcel C

Situated in Sections 29 and 30, Township 43 South, Range 42 East, being a portion of a right-of-way, 30.00 feet in width, situated in Block 1 of "Palm Beach Farms Co. Plat No. 9"; All of that certain right-of-way, 30.00 feet in width, as shown on said Plat, bounded as follows: On the north, by the south lines of Lot 8, Lot 9, and the west 1/2 of Lot 10, of said Block a; On the south, by the south line of Block 1 of said "Palm Beach Farms Co. Plat No. 9; On the west, by a southerly projection of the west line of said Lot 8; On the east by a southerly projection of the east line of said west 1/2 of Lot 10, Block 1, and being located on the South side of Okeechobee Boulevard (SR 704) and on the East side of U.S. 441 (SR 7), bounded on the South by Belvedere Road in a RS-Single Family Residential Zoning District, was approved on December 28, 1989 as advertised, subject to the following conditions:

1. Prior to Site Plan Review Committee application for Parcel "W" (50.66 acre parcel in the northeast corner of the PUD), the petitioner shall:

- A. Designate a minimum of ten percent (10%) of Parcel "W" as open space, landscape buffer and preserve area. Lakes and water bodies shall not be included in this calculation. No trenching, grade changes or other development activity shall take place in the preserve area except as approved by the Zoning Division staff. This provision shall not restrict selective clearing, additional planting of new or relocated material, pruning or eradication of prohibited species within the preserve nor the creation of earth berms within the buffer area except where same may threaten preservation of desired species.
- B. Submit a tree survey drawn to the same scale as the site plan of parcel "W".
- C. Submit a preservation, relocation and removal program which corresponds to the tree survey. This program shall demonstrate how significant native vegetation is to be incorporated into the site design. At a minimum this program shall specify:
1. The preservation or relocation of all oak trees greater than twenty-four inches (24") in diameter. Removal of oak trees greater than twenty-four inches (24") in diameter shall be allowed upon presentation to the Zoning Division that relocation or preservation is not feasible.
 2. The preservation or relocation of all oak trees less than twenty-four inches (24") in diameter unless the condition or location of the tree is an impediment to development of the property.
 3. The preservation within the preserve and buffer areas of all healthy native plant material (oaks, pines, sabal palms and cypress, if any).
 4. The preservation or relocation of native plant material (oaks, pines, sabal palms and cypress, if any) within the designated preserve and/or buffer areas and/or the installation of new native plant material into such areas so as to create a density of one tree per seven hundred fifty (750) square feet is achieved throughout the buffer/preserve system.
2. Prior to the issuance of a Vegetation Removal Permit for Parcel "W", the following shall be achieved:
- a. All trees to be relocated, preserved or removed shall be identified in the field and tagged and numbered according to the tree survey.
 - b. Trees to be preserved shall receive appropriate protection during site development. Protection devices shall be in place and approved by the Zoning Division prior to commencing any clearing activity.

- c. Tree relocation shall occur prior to construction activity except as approved by the Zoning Division upon submission of a development phasing plan.
3. The petitioner may exchange the required on-site dedication of land for civic uses either by conveying fee simple title for a parcel of land off-site equal in acreage or cash of equal value. In addition, in the event that the off-site land dedication is of less cash value than the on-site dedication, petitioner shall also contribute an amount in cash equal to the difference between the value of the on-site and off-site land dedications. The value of the land shall be based upon its value as a civic site. This contribution shall be used to offset the identifiable impacts directly attributable to this project. If an off-site land or cash contribution is accepted by Palm Beach County, the petition shall be deemed to have satisfied the intent of Zoning Code Section **500.21.H**.

The value for this release shall be determined by the Department of Property and Real Estate Management, and be approved and accepted by the Board of County Commissioners prior to master plan certification. This agreement shall be clearly noted by the applicant on the approved master plan.

4. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
5. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
6. The **1.8** acre commercial site shall have no more than **4,000** square feet of building area and shall be limited to the use as a real estate office.
7. The property owner shall construct dual left turn lanes east approach on Okeechobee Boulevard at the project's entrance road. This construction shall be concurrent with **4** laning of Okeechobee Boulevard from State Road **7** to Golden Lakes Boulevard. This property owner shall also be responsible for any and all Change Orders associated with this construction.
8. The Developer shall install signalization if warranted as determined by the County Engineer at:
 - a. Project's entrance and Belvedere Road
 - b. project's entrance and Okeechobee Boulevard.

Should signalization not be warranted after **12** months of the final Certificate of Occupancy this property owner shall be relieved from this condition.

9. The property owner shall convey to the Lake Worth Drainage District the north **70** feet of the West **1/2** of Tract **5**, all of Tract **8**, all of Tract **9**, (less the north **32** feet) thereof, and the West **1/2** of Tract **10** (less the North **32** feet thereof) all in Block **1** according to the plat of Palm Beach Farms No. **9** for the required right-of-way for Lateral Canal No. **1**, by Quit Claim Deed or an Easement Deed in the by said District within ninety (**90**) days of the approval of the Resolution approving this project.

- 10. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended.
- 11. Parcel "W" shall not be permitted direct access onto Sansbury Way or Okeechobee Boulevard.
- 12. 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.

Commissioner Marcus moved for approval of the Resolution.

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

Carol J. Elmquist, Chair	--	AYE
Karen T. Marcus	--	AYE
Carol Roberts	--	AYE
Ron Howard	--	AYE
Carole Phillips	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 22nd day of May, 1990.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK