

RESOLUTION NO. R-2000- 1564

RESOLUTION APPROVING ZONING PETITION PDD89-044(A)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT(PDD)
PETITION OF BRCH CORP.
BY ROBERT MACLAREN, II, AGENT
(TOPPEL CENTER)

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 PDD89-044(A) was presented to the Board of County Commissioners at a public hearing conducted on September 28, 2000; 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; and,
7. This official zoning map amendment (rezoning) with approved conditions 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 PDD89-044(A), the petition of BRCH Corp. by Robert MacLaren, II, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD from Special Commercial (CS) to Multiple Use Planned Development (MUPD) 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 September 28, 2000, subject to the conditions of approval 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 Masilotti 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		Aye
Mary McCarty		Absent
Burt Aaronson		Absent
Tony Masilotti		Aye

The Chair thereupon declared that the resolution was duly passed and adopted on September 28, 2000.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Barbara Alt*
COUNTY ATTORNEY

BY: *Joan Harvey*
DEPUTY CLERK

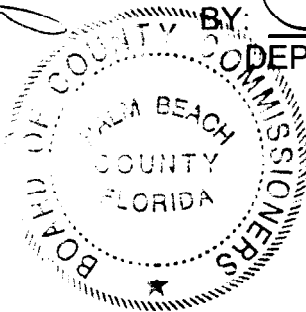


EXHIBIT A
LEGAL DESCRIPTION

Tract 92, Block 77, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", according to the plat thereof, as recorded in Plat Book 2, Page 53 of the Public Records of Palm Beach County, Florida. Less the East 130.00 feet thereof and less the South 65.00 feet thereof.'

Said lands situate in Palm Beach County, Florida.

Containing 2.73 Acres, more or less.

TOGETHER WITH:

The East 130.00 feet of Tract 92, Block 77, "PALM BEACH FARMS COMPANY PLAT NO. 3", according to the plat thereof, as recorded in Plat Book 2, Page 45 of the Public Records of Palm Beach County, Florida. Less the South 65.00 feet thereof.

Said lands situate in Palm Beach County, Florida.

Containing 1.78 Acres, more or less.

Total Containing 4.51 Acres, more or less.

Subject to Easements, Restrictions, Reservations, Covenants, and Rights-of-Way of Record.

Subject to T.I.I.F. as shown along the south side of the property as shown on D.O.T. Right-of-Way Map.

EXHIBIT B

VICINITY SKETCH

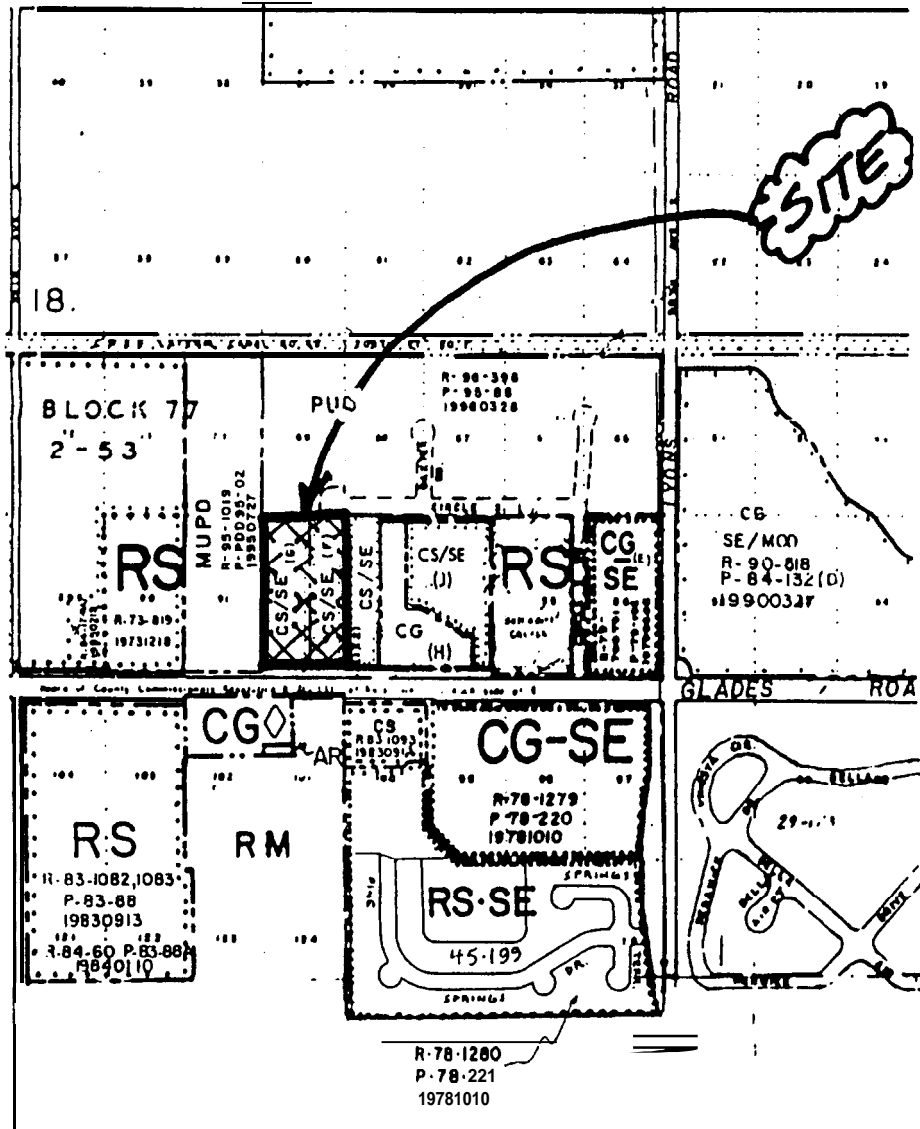


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Resolution R-89-1623 adopted September 12, 1989 approving a special exception to permit a Planned Office Business Park is hereby repealed. (1.78 acre parcel) (MINUTES-Zoning)
2. Resolution R-89-2214 adopted December 12, 1989 approving a special exception to permit a Planned Office Business Park is hereby repealed. (2.73 acre parcel) (MINUTES-Zoning)
3. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved plan is dated July 28, 2000. 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. ARCHITECTURAL CONTROL

1. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the building. (BLDG PERMIT: BLDG - Zoning)
2. Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations to the Zoning Division for review. Development shall be consistent with the approved architectural elevations. (DRC: BLDG PERMIT - Zoning)

C. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 60,637 s.f. square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division or DRC. (DRC: ZONING)
2. The maximum height for all structures, including air conditioning, mechanical equipment, and satellite dishes shall not exceed forty-five (45) feet. All heights shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
3. All air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)

D. LANDSCAPING - STANDARD

1. Fifty percent (50%) of the canopy trees required to be planted in the perimeter buffers, except the west property line, 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;

- 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; and,
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval shall be Booted Sabal Palms and 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. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

1. 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 Glades 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 latest revision to the Streetscape Standards. The property owner shall also be responsible for supplementing 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 landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner’s Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All 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. If the County does not assume maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance 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 GLADES 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 cutouts within the concrete median of Glades Road Right-of-Way. As part of this permit process, the property owner shall enter into an Indemnification Agreement. When landscape cutouts and plantings are permitted, the Landscape Material within the concrete cutouts shall be approved by the County Engineer. All new landscape material shall be consistent with any 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, the cost of Cutting out the concrete median and the installation of the Landscape material shall be funded at the property owners expense. All 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 within 90 days of the Permit issued from Palm Beach County. (ENGINEERING)

- C. Declaration of Covenants and Restriction 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. HEALTH

- 1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF)
- 2. Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 64E-16FAC. (ONGOING: HEALTH/CODE ENF)

3. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENF)

G. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (GLADES ROAD FRONTAGE)

1. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip;
 - b. a continuous two and half (2.5) foot high berm measured from top of curb;
 - c. one (1) canopy tree planted every thirty (30) feet on center;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - e. twenty-four (24) 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)

H. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ADJACENT TO RESIDENTIAL)

1. Landscaping and buffering along the north property line shall be consistent with the Variance approval, BA200027 and shall include:
 - a. a minimum five (5) foot wide landscape buffer strip;
 - b. a six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
 - c. along the exterior and interior sides of the wall, twenty-four (24) 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)

I. LANDSCAPING ALONG THE WEST PROPERTY LINE (ADJACENT TO COMMERCIAL)

1. Landscaping and buffering along the west property line shall be consistent with the alternative buffer (variance approval, BA200027) and shall include:
 - a. a minimum five (5) foot wide landscape buffer strip;
 - b. Sabal Palms with staggered heights planted in clusters of three (3) and at thirty (30) feet on center;
 - c. twenty-four (24) 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)

J. LANDSCAPING - INTERIOR (AFFECTED AREA ONLY)

1. A minimum of one (1) 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. All foundation planting shall be consistent with the variance approval BA200027 dated May 18, 2000. (DRC: ZONING)

K. LANDSCAPE ALTERNATIVE PLAN

1. Prior to final Development Review Committee (DRC) certification, an Alternative Landscape Plan shall be submitted showing landscaping consistent with the Variance approval, BA 200027 dated May 18, 2000. (DRC: LANDSCAPE-Zoning)

L. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets and the minimum necessary to satisfy the Palm Beach County Security Code. (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. All outdoor lighting shall be extinguished no later than 10:00 p.m. excluding security lighting only. (ONGOING: CODE ENF)
4. The lighting conditions above shall not apply to proposed security lights or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

M. MASS TRANSIT

1. a. Prior to final certification of the site plan by the Development Review Committee, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)
- b. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (BLDG PERMIT: MONITORING - Eng)

N. MUPD

1. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, **signage** and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner

acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

2. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

0. SIGNS

1. No new freestanding signs shall be permitted on the site. (CO: BLDG)
2. No new wall signs shall be permitted except for directional signs. (CO: BLDG)

P. UNITY OF CONTROL

1. Prior to Site Plan Certification by the Site Plan Review Committee the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney. (ONGOING: COUNTY ATTY)

Q. USE LIMITATIONS

1. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)

R. 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; 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)