

RESOLUTION NO. R-2009- 0175

RESOLUTION APPROVING ZONING APPLICATION W/PDD/R-2008-01372
(CONTROL NO. 2008-00026)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
Application of Diwatch Intrntnal Consultants Inc
By Seminole Bay Land Company Inc., Agent
(Retreat at Palm Beach)

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, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application W/PDD/R-2008-01372 was presented to the Board of County Commissioners at a public hearing conducted on January 29, 2009; and

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

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and 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 stated purpose and intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations.
3. This official zoning map amendment (rezoning) is compatible and 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, orderly and timely development pattern.
6. This official zoning map amendment is consistent with applicable Neighborhood Plans.
7. This official zoning map amendment (rezoning) complies with Article 2.F (Concurrency) of the Palm Beach County Unified Land Development Code.

8. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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 Application PDDW/PDD/R-2008-01372, the application of Diwatch Intrtnal Consultants Inc, by Seminole Bay Land Company Inc., agent, for an Official Zoning Map Amendment to a Planned Development District to rezone from the Neighborhood Commercial (CN) and the Multi-family Residential (RM) Zoning Districts to the Mixed Use Planned Development (MXP) Zoning District in the MXP Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on January 29, 2009, 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 Vana and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 29, 2009.

Filed with the Clerk of the Board of County Commissioners on March 3rd, 2009.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

THE EAST 10 FEET OF THE SOUTH 466 FEET OF THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, ALSO THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA;

LESS THE FOLLOWING PARCELS CONVEYED TO COUNTY OF PALM BEACH, STATE OF FLORIDA, FOR ROAD AND DRAINAGE PURPOSES TO WIT; FROM THE NORTHWEST CORNER OF THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE RUN SOUTH 01°53'25" WEST, FOR 58 FEET; THENCE RUN SOUTH 86°54'01" EAST FOR 166.39 FEET TO A POINT ON THE EAST LINE OF SAID WEST 1/2 OF THE WEST 1/2 OF NORTHEAST 1/4 OF NORTHEAST 1/4 OF NORTHEAST 1/4; THENCE RUN NORTH 1°53'18" EAST, FOR 58.50 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 25; THENCE RUN NORTH 87°04'21" WEST, ALONG SAID SECTION LINE FOR 166.38 FEET TO POINT OF BEGINNING, SUBJECT TO EXISTING ROAD AND CANAL RIGHT OF WAY, ALSO FROM THE SOUTHWEST CORNER OF SAID WEST 1/2 OF WEST 1/2 OF NORTHEAST 1/4 OF NORTHEAST 1/4 OF NORTHEAST 1/4 RUN EASTERLY ALONG THE SOUTH LINE OF SAID WEST 1/2 OF WEST 1/2 OF NORTHEAST 1/4 OF NORTHEAST 1/4 OF NORTHEAST 1/4 FOR A DISTANCE OF 166.43 FEET TO THE SOUTHEAST CORNER THEREOF, THENCE RUN NORTH 1°53'18" EAST, ALONG THE EAST LINE OF SAID WEST 1/2 OF WEST 1/2 OF NORTHEAST 1/4 OF NORTHEAST 1/4 OF NORTHEAST 1/4 FOR A DISTANCE OF 30.46 FEET; THENCE RUN SOUTH 82°37'01" WEST, FOR A DISTANCE OF 168.60 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM THOSE LANDS DESCRIBED IN THAT CERTAIN AFFIDAVIT RECORDED IN OFFICIAL RECORDS BOOK 22960, PAGE 341, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 2.34 ACRES, MORE OR LESS

EXHIBIT B
VICINITY SKETCH

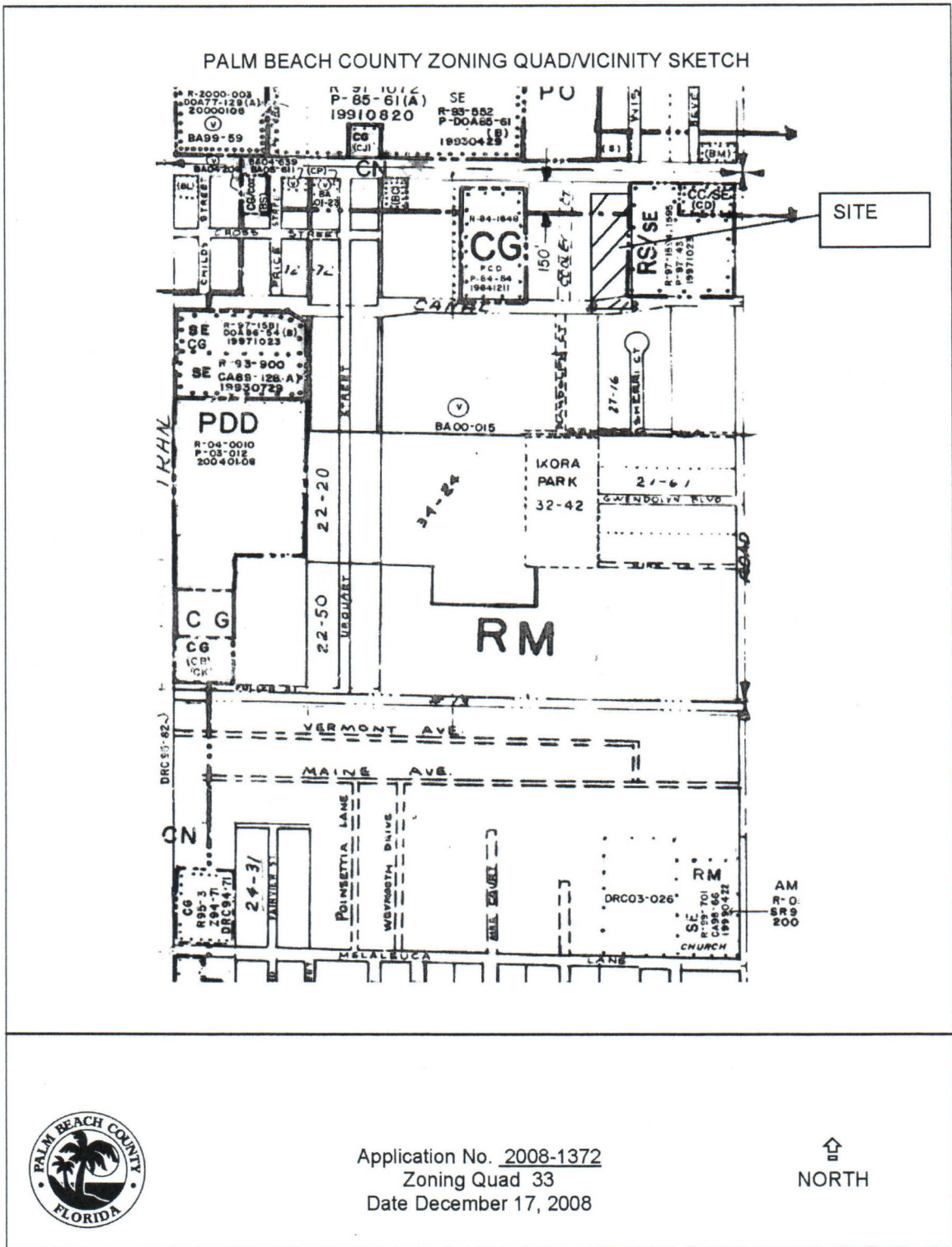


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated December 8, 2008. 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 - Zoning)

2. Prior to final approval by the Development Review Officer (DRO), the property owner shall provide proof of satisfaction of fine/lien for all Palm Beach County fines/liens in reference to Code Enforcement complaints C0603110034 and C0511290011 (DRO: Zoning - Code Enforcement)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1. The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 60 feet of right of way from centerline of Lake Worth Road prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear 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, including a topographic survey. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map. (BLDG PERMIT: MONITORING-Eng)

2. Prior to final site plan approval by the DRO, the property owner shall provide grading cross sections and a drainage study for the west, south and east property lines. The drainage study shall identify any historical drainage from offsite parcels. The property's stormwater management system shall then be designed to accept this historical drainage. Required Drainage easements shall then be provided to the not included parcels draining through the site and shall be shown on the plat. (DRO: ENGINEERING-Eng)

3. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

4. Prior to final site plan approval by the DRO, the property owner shall provide to Palm Beach County an approval letter from the Florida Department of Transportation for the decorative pavement area proposed within the right of way of Lake Worth Road. Should the decorative pavement not be allowed by FDOT, the property owner shall revise the site plan to remove the decorative pavement from the right of way. (DRO: ENGINEERING-Eng)

5. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2013. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE:

MONITORING-Eng)

ZONING - LANDSCAPING

1. Prior to final approval by the Development Review Officer, the property owner shall submit an Alternative Landscape Plan (ALP) to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the Lake Worth Road Commercial Corridor (LWRCCO) landscape standards for deviation for a reduction of setbacks; alternative landscaping or spacing of street trees; modification of landscaping requirements pursuant to Article 3.B.7.D.7 for an exemplary landscape design as applicable, and all landscape related conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to Platting, or the issuance of any Lake Worth Drainage District permits, the District will require that the owner convey either by warranty or exclusive easement deed the 15 feet North and adjacent to the North line described in ORB589 PG 369; bounded on the West by the southerly extension of the western property line and bounded on the East by the southerly extension of the eastern property line.

PALM TRAN

1. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (BLDG PERMIT/PLAT: MONITORING/ENG -Palm Tran)

2. Prior to the Certificate of Occupancy, the owner shall construct a Palm Tran approved mass transit shelter with appropriate access, lighting, trash receptacle and bicycle storage. The location of the shelter shall be within an approved Bus Stop Boarding and Alighting Area easement. Any and all costs associated with the construction and perpetual maintenance shall be funded by the owner. (BLDG PERMIT: MONITORING-PalmTran)

PLANNING

1. Prior to Issuance of the Building Permit the property owner shall record the cross access easement from the subject property to the northeast in locations acceptable to the Planning Division, Traffic Division and approved by the County Attorney. The proposed northeast cross access shall be paved to the property line, and all appropriate landscaping and drainage plans shall be revised and submitted, at a time when the abutting property has received a Building Permit for approved DRO Site Plan modifications. The property owner will then have 180 days to complete the cross access. (BLDG/ONGOING: Monitoring-Planning)

2. Prior to Issuance of the Building Permit the property owner shall record the cross access easement from the subject property to the northwest in locations acceptable to the Planning Division, Traffic Division and approved by the County Attorney. The Proposed northwest cross access shall be paved to the property line and completed before the first CO is issued. (BLDG/ONGOING: Monitoring-Planning)

3. Prior to Issuance of the Building Permit the property owner shall record the cross access easement from the subject property to the southeast in locations acceptable to the Planning Division, Traffic Division and approved by the County Attorney. The proposed southeast cross access shall be paved to the property line, and all appropriate landscaping and drainage plans shall be revised and submitted, at a time when the abutting property has received a Building Permit for approved DRO Site Plan modifications. The property owner will then have 180 days to complete the cross access. (BLDG/ONGOING: Monitoring-Planning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible

location in all sales offices and models with the following:

“NOTICE TO PARENTS OF SCHOOL AGE CHILDREN”

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD)

USE LIMITATIONS

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall record the approved Shared Parking Study dated December 8, 2008 in the public records of Palm Beach County, which corresponds to the Concurrency Approval for the Preliminary Site Plan date December 8, 2008. Any change in use(s) approved for concurrency or upon the finding that any conditions in the Shared Parking Study no longer exist, shall require a new Shared Parking Study or the provision of the number of spaces required for each use as if computed separately in accordance with Article 6.A.1.D.10 and LWRCCO parking Article 3.B.7.D.6. (DRO: ZONING-Zoning)

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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)