

Meeting Date
<b>December 6, 2016</b>



AGENDA	
Section	CONSENT
Item No.	<i>II.A.6</i>

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: Mike Erdman Motors, Inc. (District 4) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development Department

Requested Action:

It is requested that the Board approve, and the Chairman sign, the subject Binding Development Plan.

Summary Explanation & Background:

A Binding Development Plan (BDP) is a voluntary agreement by a property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of approval of the zoning application by the Board. Following staff and legal review, a BDP is routinely presented to the Board in recordable form as a Consent agenda item in order to finalize the zoning action.

On October 13, 2016, the Board of County Commissioners approved a change of classification from PIP to BU-2, and removed an existing BCP (Binding Concept Plan), on property located on the north side of Viera Blvd., approx. 100 ft. west of U.S. 1 (No assigned address. In the Viera area.), subject to a Binding Development Plan as follows:

- Developer/Owner shall limit ingress and egress to one (1) access at Viera Blvd.
- Developer/Owner shall limit the maximum building height to 45 feet
- Developer/Owner shall maintain a minimum 15-foot side setback, a minimum 40-foot rear setback, and a minimum 40-foot front setback for all building structures

Staff Contact: Jennifer Jones

Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department

Exhibits Attached: Binding Development Plan, with exhibits, and check for recording

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager		Department Director / Extension Robin M. DiFabio, AICP, Director Planning & Development Dept. Ext. 56363					
Stockton Whitten							



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

December 7, 2016

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.6, Binding Development Plan Agreement with Mike Erdman Motors, Inc.

The Board of County Commissioners, in regular session on December 6, 2016, executed Binding Development Plan with Mike Erdman Motors, Inc., for property located on the north side of Viera Blvd., approximately 100 feet west of U.S. 1. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

Prepared by: Mike Erdman, President/Mike Erdman Motors, Inc.  
Address: 445 E. Merritt Island Cswy., Merritt Island, FL 32952

### BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 6 day of December, 2016, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Mike Erdman Motors, Inc. a Florida corporation (hereinafter referred to as "Developer/Owner").

### RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the BU-2 zoning classification(s) and desires to develop the Property as Self Storage Facility, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW THEREFORE, the parties agree as follows:

1. This Binding Development Plan (BDP) amends, replaces and supersedes the previously approved Binding Concept Plan (BCP) per Resolution Z-6037 for a portion of the subject parcel. The approval of this BDP will render BCP Z-6037 null and void.

2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements, until such time as the improvements are constructed, approved, and platted as public streets by the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements, lying outside of the proposed public right-of-ways.

3. The Developer/Owner shall limit ingress and egress to one (1) access at Viera Boulevard. A shared access with the adjacent property owner is contemplated but not required.

4. Maximum building height is limited to 45 feet.

5. Developer/Owner agrees to maintain a minimum 15 foot side setback, a minimum 40 foot rear setback, and a minimum 40 foot front setback for all building structures.

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida, including the restrictions and minimum code requirements for the BU-2 zoning category. This Agreement constitutes Developer's/Owner's agreement to meet Brevard County Land Development Regulations in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in the Public Records of Brevard County, Florida.

8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on 10/13/16. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

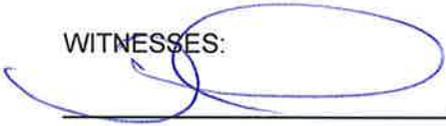
  
\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

  
\_\_\_\_\_  
CURT SMITH,  
Chairman  
As approved by the Board on 12/6/16

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

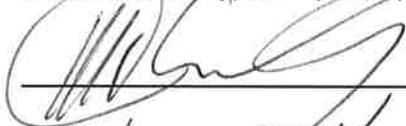
DEVELOPER/OWNER

  
\_\_\_\_\_

Mike Erdman, President/Mike Erdman Motors, Inc.

TRACY L. HOWARD  
(Witness Name typed or printed)

445 E. Merritt Island Cswy., Merritt Island, FL 32952  
(Address)

  
\_\_\_\_\_

  
\_\_\_\_\_

WILLIAM F. KENNEDY  
(Witness Name typed or printed)

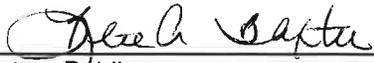
Mike Erdman, President

STATE OF FL §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of July, 2016, by Mike Erdman, President, Mike Erdman Motors, Inc., who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires  
SEAL  
Commission No.:

  
\_\_\_\_\_  
Notary Public  
Beth A. Baxter  
\_\_\_\_\_  
(Name typed, printed or stamped)



BETH A. BAXTER  
MY COMMISSION # EE 191175  
EXPIRES: July 31, 2016  
Bonded Thru Budget Notary Services

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EXHIBIT "A"

VIERA BOULEVARD SELF STORAGE PARCEL

DESCRIPTION (O.R. 7204, PAGE 1882):

A PARCEL OF LAND LYING IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 35 AND THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 36, ALL IN TOWNSHIP 25 SOUTH, RANGE 36 EAST AND BEING A PORTION OF PARCEL NUMBER 31 OF O.R. BOOK 2507, PAGE 2711 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, SAID SUBJECT PARCEL BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SOUTHEAST 1/4 OF SECTION 35 (AS MONUMENTED BY A 4"x4" H.H. WILSON CONCRETE MONUMENT AS SHOWN ON FLORIDA DEPARTMENT OF NATURAL RESOURCES CERTIFIED CORNER RECORD NUMBER 0005727), THENCE NORTH 00 DEGREES 18 MINUTES 20 SECONDS EAST, ALONG THE WEST LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 1321.00 FEET TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SOUTHEAST 1/4; THENCE NORTH 89 DEGREES 16 MINUTES 33 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 1967.89 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SCHENCK DRIVE (A 60.00 FOOT WIDE RIGHT OF WAY AS DESCRIBED IN O.R. BOOK 3539, PAGE 2097), SAID POINT ALSO BEING ON THE ARC OF A 1633 FOOT RADIUS CIRCULAR CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 00 DEGREES 20 MINUTES 25 SECONDS, A DISTANCE OF 9.70 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 15 DEGREES 43 MINUTES 10 SECONDS WEST AND A CHORD DISTANCE OF 9.70 FEET, TO THE POINT OF BEGINNING OF LANDS HEREIN DESCRIBED; THENCE DEPARTING SAID CURVE, NORTH 89 DEGREES 21 MINUTES 34 SECONDS EAST, A DISTANCE OF 688.52 FEET; THENCE NORTH 00 DEGREES 13 MINUTES 19 SECONDS EAST, ALONG THE EASTERLY LINE OF THE LESS AND EXCEPT PARCEL OF PARCEL NUMBER 31 (AS DESCRIBED IN O.R. BOOK 2507, PAGE 2711), A DISTANCE OF 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILROAD RIGHT OF WAY (AS EXISTING 100 FEET WIDE RIGHT OF WAY); THENCE SOUTH 18 DEGREES 49 MINUTES 51 SECONDS EAST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 424.07 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF VIERA BOULEVARD (A 150.00 FOOT WIDE RIGHT OF WAY AS DESCRIBED IN O.R. BOOK 3539, PAGE 2097); THENCE SOUTH 71 DEGREES 07 MINUTES 42 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE OF VIERA BOULEVARD, A DISTANCE OF 104.55 FEET TO THE POINT OF CURVATURE OF A 825.00 FOOT RADIUS CIRCULAR CURVE CONCAVE NORTHERLY; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE AND ALONG SAID NORTHERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 46 DEGREES 33 MINUTES 31 SECONDS, A DISTANCE OF 670.40 FEET TO THE POINT OF TANGENCY; THENCE NORTH 62 DEGREES 18 MINUTES 47 SECONDS WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 200.01 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT OF WAY LINE OF SCHENCK DRIVE (A 60.00 FOOT WIDE RIGHT OF WAY AS DESCRIBED IN O.R. BOOK 3539, PAGE 2097), SAID POINT BEING ON THE ARC OF A 1633.00 FOOT CIRCULAR CURVE CONCAVE NORTHWESTERLY; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 09 DEGREES 56 MINUTES 30 SECONDS, A DISTANCE OF 283.35 FEET, SAID CURVE HAVING A CHORD BEARING OF NORTH 20 DEGREES 51 MINUTES 38 SECONDS EAST AND A CHORD DISTANCE OF 282.99 FEET TO THE POINT OF BEGINNING;

LESS AND EXCEPT LAND DESCRIBED IN O.R. BOOK 5409, PAGE 8517 AND O.R. BOOK 5480, PAGE 6790 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated August 23, 2014, given by Mike Erdman Motors, Inc. as mortgagor, in favor of the undersigned, Paradise Bank, as mortgagee, recorded in Official Records Book 7204, page 1885, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

Susan Ann Cass

Paradise Bank

Witness Signature

Mortgagee Name

Susan Ann Cass

2420 N. Federal Highway

Witness Printed Name

Mortgagee Address

[Signature]

Boca Raton, FL 33431

Witness Signature

Mortgagee Address

Corissa Rauth

Ann Hendon, SVP

Witness Printed Name

Authorized Agent Signature

Ann Hendon, SVP

Authorized Agent Printed Name

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of October, 2016 by  
who is personally known to me or who has produced known to me as  
identification.

My commission expires

Susan Ann Cass

Notary Public

Susan Ann Cass

SEAL

Commission No.:

(Name typed, printed or stamped)



**BrevardClerk.US**  
 Scott Ellis, Clerk of Court

700 South Park Avenue, Bldg. B  
 P.O. Box 2767  
 Titusville, FL 32781-2767  
 (321) 637-2006

DBLIVE Transaction  
 #: 1813955  
 Receipt #: 61779386  
 Cashier Date: 12/8/2016  
 4:46:30 PM



Print Date:  
 12/8/2016 4:46:31 PM

Customer Information	Transaction Information	Payment Summary
( ) MIKE ERDMAN TOYOTA 1545 E MERRITT ISLAND CSWY MERRITT ISLAND, FL 32952	DateReceived: 12/08/2016 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$52.50 Total Payments \$52.50

1 Payments	
CHECK 52383	\$52.50

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7772/1079 CFN:2016240996 Date:12/8/2016 4:46:29 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	6	\$52.50
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	2	\$0.00

0 Search Items
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1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL



**Tammy Rowe**, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

December 7, 2016

MEMORANDUM

TO: Recording

RE: Item II.A.6, Binding Development Plan Agreement with Mike Erdman Motors, Inc.

The Board of County Commissioners, in regular session on December 6, 2016, executed Binding Development Plan Agreement with Mike Erdman Motors, Inc., for property located on the north side of Viera Blvd., approximately 100 feet west of U.S. 1. Enclosed are original Binding Development Plan Agreement and Check Number 52383 for \$52.50. **Please record the Agreement in the Public Records and return the recorded instrument to this office**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)