

11.A.4.



**AGENDA REPORT  
May 22, 2018**

**Acceptance, Re: Binding Development Plan - Southern Self Storage  
(17PZ00148) (District 2)**



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(17PZ00148) (District 2)**

**SUBJECT:**

Acceptance, Re: Binding Development Plan - Southern Self Storage  
(17PZ00148) (District 2)

**FISCAL IMPACT:**

None

**DEPT/OFFICE:**

Planning and Development

**REQUESTED ACTION:**

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept and authorize the Chair to sign the Binding Development Plan.

**SUMMARY EXPLANATION and BACKGROUND:**

On March 1, 2018, the Board of County Commissioners approved the removal of an existing BDP (Binding Development Plan), and a change of zoning classification from RU-2-15 to BU-2, contingent upon a BDP. The BDP is a voluntary agreement presented 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 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.

The limitations in the BDP are consistent with Board action approving the zoning classification change. The limitations include, but are not limited to, the following:

- The use shall be limited to enclosed self-storage warehouse uses with the hours of operation being 6:00 a.m. - 10:00 p.m., seven days a week.
- No outdoor storage of boats, vehicles, recreational vehicles, motorcycles, campers, trailers and/or other motor vehicles, equipment, machinery, goods or materials is permitted.
- The Property shall be developed with a 1-story self-storage mini-warehouse building.
- Vehicular access shall be limited to Orlando Avenue.
- No exterior roll-up doors shall face south, west, or east.
- No unit with a self-storage mini-warehouse shall be utilized as a place of business.
- The use of generators on site is prohibited.
- The use or storage of hazardous materials is prohibited.
- Landscape buffers shall be provided.

**CLERK TO THE BOARD INSTRUCTIONS:**

After recordation, please forward two certified copies to Planning and Development.

**ATTACHMENTS:**

**Description**

- **BDP**
- **Maps and Action Agendas**



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

May 23, 2018

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.4, Binding Development Plan with Southern Self Storage, LLC

The Board of County Commissioners, in regular session on May 22, 2018, executed Binding Development Plan with Southern Self Storage, LLC. Said Binding Development Plan was recorded in OR/BK 8172/567. 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

**RESOLUTION NO. 17PZ00148**

On motion by Commissioner Smith, seconded by Commissioner Barfield, the following resolution was adopted by a unanimous vote:

**WHEREAS, SOUTHERN SELF STORAGE, LLC** – (Jake Wise) – request a change of classification from RU-2-15 (Medium Density Multi-Family Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial) and removal of an existing BDP (Binding Development Plan) on property described as the portion of property lying west of S. Orlando Ave, as described in ORB 7482, Pages 1641 – 1644, of the Public Records of Brevard County, Florida. (1.10 acres) Located on the west side of S. Orlando Ave., at the northwest corner of 20<sup>th</sup> St. and S. Orlando Ave. (6 20<sup>th</sup> St., Cocoa Beach)

**Sections 26**

**Township 25 S,**

**Range 37 E, and,**

**WHEREAS**, a public hearing of the Brevard County Planning & Zoning Board Agency was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved with a BDP (Binding Development Plan); and

**WHEREAS**, the Board, after considering said application and the Brevard County Planning & Zoning Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved as recommended; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-2-15 to BU-2, and removal of an existing BDP, be APPROVED with a BDP, recorded in ORB 8172, Pages 567 - 577, dated May 23, 2018. The zoning classification relating to the above described property shall be changed to BU-2, and the Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of May 23, 2018.

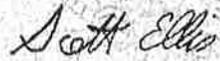
BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida



by Rita Pritchett, Chair  
Brevard County Commission

As approved by Brevard County Commission on May 22, 2018.

ATTEST:

  
  
SCOTT ELLIS, CLERK  
(SEAL)

(P&Z Hearing – February 5, 2018)  
(BCC Zoning Hearing – March 1, 2018)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

Prepared by: Managed Land Entitlements  
Address: 3710 Buckeye Street, Suite 100  
Palm Beach Gardens, Florida 33410

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 22 day of May, 2018 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and SOUTHERN SELF STORAGE, LLC, 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 and desires to develop the Property as a one-story self storage mini-warehouse, and pursuant to the Brevard County Code, Section 6-1157; 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. 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. 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.

2. Developer/Owner, its grantees, successors or assigns in interest, shall comply with the following provisions as its relates to the development and use of the Property:

- a. The use of the Property shall be limited to enclosed self-storage warehouse uses with the hours of operation being, at a maximum, 6am – 10pm, seven days a week.
- b. No outdoor storage of boats, vehicles, recreational vehicles, motorcycles, campers, trailers and/or other motor vehicles, equipment, machinery, goods or materials is permitted.
- c. The Property shall be developed with a one-story self-storage mini-warehouse building with a height not to exceed 15 feet to the mean height of any pitched roof or to the top of the parapet of a flat roof.
- d. The building included in the Proposed Improvements shall be designed with a tower feature along the east elevation with a pitched metal roof and windows, whether real or false, facing south and east, with a height not to exceed 23 feet to the top of the pitched roof.
- e. Vehicular access shall be limited to Orlando Avenue, subject to approval by FDOT.
- f. No exterior roll-up doors shall face south, west or east.
- g. No unit within a self-storage mini-warehouse shall be utilized as a place of business.
- h. The use of generators on site is prohibited. The generation of loud and raucous noise, loudspeakers, sound amplifying equipment or electrically amplified music

is prohibited. Any activities declared public nuisances under Brevard County Code are prohibited.

- i. The use or storage of hazardous materials is prohibited.
- j. A landscape buffer and screening strip shall be provided along the west and south sides of the Property. The landscape buffer along the south property line shall include trees and shrubs which exceed the minimum required by the County's Code of Ordinances by 50% and which create an opaque screen to a height of six (6) feet within one year of planting. The landscape buffer along the entire west property line at the time of Certificate of Occupancy shall be a Type A buffer as defined by Brevard County Code §62-4342 to a height of at least six (6) feet and as close to opaque as reasonably possible from six (6) feet to a height of ten (10) feet. The landscape buffer shall be plantings similar in size and type to the landscape buffer depicted on the Betterment Plan for the Magnolia Bay Condominium Association of Brevard, Inc. (the "Magnolia Bay Association") property, which is located immediately south of the subject property (see Exhibit A). A landscape buffer along the east side of the Property facing Orlando Avenue and along the north side of the Property abutting the existing commercial uses shall be provided to meet the County's minimum landscape buffer requirements. The Developer/Owner shall maintain said landscaping after issuance of the Certificate of Occupancy for the improvements on the Property, replanting as needed to ensure viability and function of the visual buffer. Additionally, the Developer/Owner shall provide either (1) a one year landscape maintenance bond in favor of the Magnolia Bay Association and the River Falls Estates Association,

Inc., (the "River Falls Association") to ensure the establishment and viability of the landscaping on site or (2) a one year, pre-paid contract with the landscape installer for maintenance and replacement as needed of the landscaping materials purchased and installed, so as to ensure that the landscaping is established and remains alive and in good condition for the term of the contract.

- k. No surface water run off or drainage shall be allowed from the Property to the River Falls Association property retention pond or the retention ponds of the Magnolia Bay Association property. All stormwater runoff on site will be conveyed to the proposed dry retention areas surrounding the building and to the west adjacent to the west wall. Overflow from the stormwater treatment dry detention areas during significant storm events will discharge via a control structure to the existing storm structure southwest of the property, as permitted by the St. Johns River Water Management District (SJRWMD). Any discharge into the existing stormwater structure will not exceed current discharge from the existing conditions for the vacant site.
- l. No building or structure shall be located on the Property closer than 75 feet from the existing wall of River Falls Association subdivision or closer than 55 feet from the existing north wall of the Magnolia Bay Association property, both measured from the vertical wall of the storage building.
- m. No dumpster shall be placed or maintained on the Property.
- n. The Developer/Owner agrees to maintain the entire landscaped area between the southernmost fence on the Property and the existing concrete wall on the

Magnolia Bay Association property, including that portion of landscaped area on the Magnolia Bay Association property on the north side of the existing wall.

- o. The Developer/Owner will provide a permanent stabilized access through the Property to the gate that presently exists at the northwest boundary of the Magnolia Bay Association property for use by the Magnolia Bay Association, the River Falls Association and the owner of the vacant lot at 86 River Falls Dr. Access by the Magnolia Bay Association, the River Falls Association and the owner of 86 River Falls Dr. shall be for maintenance and emergency purposes only and shall be memorialized by recorded easement.
- p. The Developer/Owner shall provide a fence with a double gate that connects to the existing north wall on the Magnolia Bay Association property to restrict access between the properties as depicted on the preliminary site plan, which is annexed hereto as Exhibit B and incorporated by reference into this Agreement.
- q. The Developer/Owner shall seek (1) approval by the Board of County Commissioners for the vacation of the portion of the 20<sup>th</sup> street right-of-way extending from the west right-of-way line of Orlando Avenue to the west boundary of the Property;; and (2) a waiver from the Board of County Commissioners of the requirement to install a six (6) foot tall concrete wall along the south boundary of the Property, and in lieu as part of mitigation for the waiver request, provide a Type "A" landscape buffer along the south property line according to the Brevard County Code of Ordinances and the additional landscaping stipulated in Paragraph 2.j. above.

3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions 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.

4. 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.

5. 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 3-1-18. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

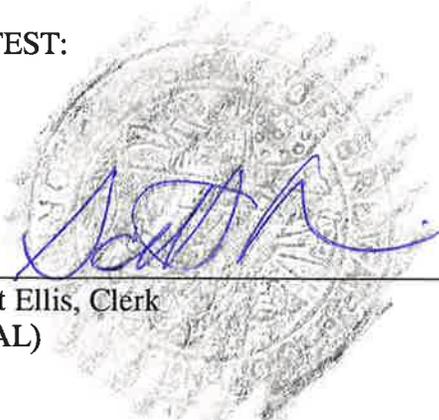
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62.5, Code of Ordinances of Brevard County, Florida, as it may be amended.

7. Conditions precedent. All mandatory conditions set forth in this agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all

as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk  
(SEAL)

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

Rita Pritchett, Chair  
As approved by the Board on 5-22-18

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

WITNESSES:

(Witness Name typed or printed)

(Witness Name typed or printed)

DEVELOPER/OWNER

3300 P.G.A. BLVD

(Address)

STE. 350  
PALM BEACH GARDENS  
FL 33413

SOUTHERN SELF STORAGE LLC

(President)

PETER COWIE

Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Palm Beach §

The foregoing instrument was acknowledged before me this 10 day of April, 2018, by Peter Cowie, President of Southern Self Storage who is personally known to me or who has produced \_\_\_\_\_ as identification.

*[Handwritten Signature]*

\_\_\_\_\_  
Notary Public

My commission expires  
SEAL  
Commission No.:

TRESHA MCMILLAN

\_\_\_\_\_  
(Name typed, printed or stamped)



Exhibit "A"

Portion west of S. Orlando Ave., as described in ORB 7482, Pages 1641 – 1644, of the Public Records of Brevard County. The south 130 ft. of Block I, Resubdivision of Blocks D, G, E, and H, and Tracts I, J, and K of Burchfield & Bruner's Addition to Crescent Beach, according to the plat thereof, as recorded in Plat Book 3, Page 5, of the Public Records of Brevard County, Florida, less and except road right-of-way and together with vacated Palm Avenue as described in Resolution recorded in ORB 5565, Page 7949, 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 DECEMBER 11, 2015, given by SOUTHERN SELF STORAGE, LLC, as mortgagor, in favor of the undersigned, NORTHERN TRUST, as mortgagee, recorded in Official records Book 7512, page 2706 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

Dreier

Daniela Dreier

Steph

Madha Maroney  
(Witness name typed or printed)

NORTHERN TRUST COMPANY  
11301 U.S. HIGHWAY ONE  
NORTH PALM BEACH, FL 33408  
(Address)

Jeffrey White  
Authorized Agent Signature  
JEFFREY WHITE  
S.V.P.  
(Name/title typed, printed or stamped)

STATE OF Florida §

COUNTY OF Palm Beach §

The foregoing instrument was acknowledged before me this 12 day of April, 2018 by Jeffrey White, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires April 13 2020  
SEAL  
Commission No.:



Clara P. Rocchetta  
Notary Public

Clara P. Rocchetta  
(Name typed, printed or stamped)