



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

10/22/2019

Subject:

Acceptance, Re: Binding Development Plan - Blue Star Shoreview, LLC (19PZ00060) (District 4)

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 August 1, 2019, the Board approved an amendment to an existing BDP (Binding Development Plan) to increase the number of units from 19 units per acre to 23 units per acre, limited to a total of 188 units. The BDP is a voluntary agreement presented by the 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 rezoning request by the Board. Following staff and legal review, a BDP is presented to the Board in recordable form as a Consent Agenda Item in order to finalize the zoning action.

The limitations in the BDP include, but are not limited to, the following:

- Developer/Owner shall limit density to 23 residential units per acre, for a total of 188 units, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

Clerk to the Board Instructions:

Upon recordation, please return two certified copies of the BDP to Planning and Development.



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

October 23, 2019

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.4., Binding Development Plan Agreement – Blue Star Shoreview, LLC

The Board of County Commissioners, in regular session on October 22, 2019, executed Binding Development Plan with Blue Star Shoreview, LLC. Said Plan was recorded in OR/BK 8572/318. 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

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 22 day of October, 2019 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Blue Star Shoreview, LLC., a Florida Limited Liability Company (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 RU-2-30 zoning classification in order for the existing development on the Property to be in conformity for density purposes 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. 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 at the Property.

2. The Developer/Owner shall limit density to twenty-three (23) units residential per acre, for a total of 188 units, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. 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 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 August 1, 2019. 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.

EXHIBIT A
LEGAL DESCRIPTION

Commencing at the Northwest corner of Government Lot 1, Section 26, Township 26 South, Range 37 East, Brevard County, Florida, run thence S 0 degrees 53'30" E along the West line of Said Government Lot 1 a distance of 484 70 feet to the Point of Beginning, said point being also the Southwest corner of SEA PARK HOMES, FIRST ADDITION, according to the Plat thereof recorded in Plat Book 12, Page 59, of the Public Records of Brevard County, Florida, thence continue S 0 degrees 53'30" E along said West line of Government Lot 1 a distance of 528 79 feet to a point, thence N 89 degrees 14'40" E, parallel to the North line of said Government Lot 1, a distance of 741 70 feet to a point on the Westerly right of way line of State Road A1A, thence N 9 degrees 55'42" W along said right of way line of State Road A1A a distance of 514 35 feet to the point of curvature of a circular curve concave southwesterly, having a radius of 25 feet, thence Northwesterly along the arc of said curve, and along the southerly boundary line of said SEA PARK HOMES, FIRST ADDITION, through a central angle of 80 degrees 49'38" a distance of 35 27 feet, thence S 89 degrees 14'40" W along the south boundary of said SEA PARK HOMES, FIRST ADDITION, said line also being the south right of way line of BERKELEY STREET, a distance of 636 28 feet to the Point of Beginning

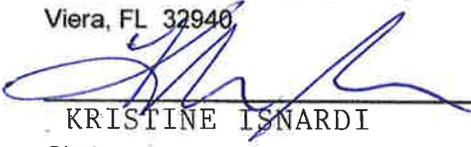
IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

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



KRISTINE ISNARDI
Chair
As approved by the Board on 10/22/19

WITNESSES:



Juliana Blasini-Telley
(Witness Name typed or printed)

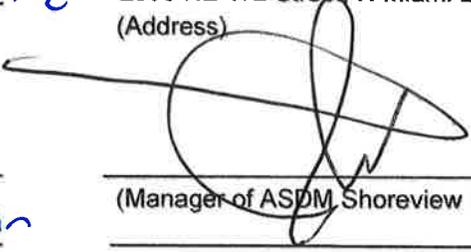
DEVELOPER/OWNER

Blue Star Shoreview, LLC

2390 NE 172 Street, N Miami Beach, FL 33160
(Address)



Teresa Montalban
(Witness Name typed or printed)



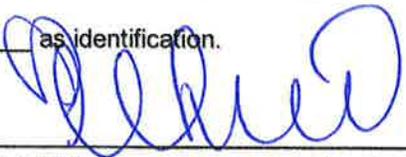
(Manager of ASDM Shoreview LLC)

Moshe Schwartz

STATE OF Florida
COUNTY OF deade

The foregoing instrument was acknowledged before me this 27th day of August
2019, by Moshe Schwartz, President of _____, who is personally
known to me or who has produced pic as identification.

My commission expires
SEAL
Commission No.:



Notary Public
Liliana Rodriguez
(Name typed, printed or stamped)



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 September 7, 2018, given by Blue Star Shoreview, LLC, as mortgagor, in favor of the undersigned, Banesco USA, as mortgagee, recorded in Official Records Book 8262, page 1151, 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

Banesco USA

[Handwritten Signature]

(Address)

150 Alhambra Circle, Coral Gables

Authorized Agent Signature

MERCEDES ESCOTET

EVP, Chief Financial Officer

Corporate Secretary

(Name/title typed, printed or stamped)

[Handwritten Signature]

Aurilia Rodriguez

(Witness name typed or printed)

[Handwritten Signature]

Ana M. Lorenzo

(Witness name typed or printed)

STATE OF FLORIDA §

COUNTY OF DADE §

The foregoing instrument was acknowledged before me this 1st day of October, 2019, by _____, who is personally known to me or who has produced _____ as identification.

My commission expires

[Handwritten Signature]

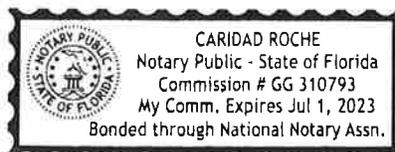
Notary Public

CARIDAD Roche

(Name typed, printed or stamped)

SEAL

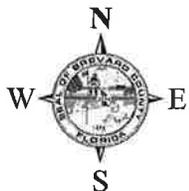
Commission No.:



LOCATION MAP

BLUE STAR SHOREVIEW, LLC

19PZ00060



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/9/2019

-  Buffer
-  Subject Property

Resolution 19PZ00060

On motion by Commissioner Lober, seconded by Commissioner Pritchett, the following resolution was adopted by a unanimous vote:

WHEREAS, Blue Star Shoreview, LLC have requested an amendment to an existing BDP (Binding Development Plan) to increase the number of units from 19 units per acre to 23 units per acre, limited to a total of 188 units, on property described as Tax Parcel 6, as recorded in ORB 7026, Pages 2196 – 2198, of the Public Records of Brevard County, Florida. **Section 26, Township 26, Range 37.** (8.49 acres) Located on the southwest corner of Berkeley Street and Highway A1A. (50 Berkeley Street, Satellite Beach); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the amendment to an existing BDP to increase the number of units from 19 units per acre to 23 units per acre, limited to a total of 188 units, be approved; and

WHEREAS, the Board, after considering said application and Brevard County Planning and 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 amendment to an existing BDP to increase the number of units from 19 units per acre to 23 units per acre, limited to a total of 188 units, be approved with a BDP recorded on October 25, 2019, in Official Records Book 8572, Pages 318 – 322, of the Public Records of Brevard County. The Planning and 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 October 25, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



Kristine Isnardi, Chair
Brevard County Commission

As approved by the Board on October 22, 2019.

ATTEST:



SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – July 8, 2019

Board of County Commissioners Zoning Hearing – August 1, 2019

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 year of approval or if construction does not commence within two years of approval. A Planned Unit Development

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.**

**CERTIFICATE OF RESOLUTIONS
BANESCO USA**

I, Maria Mercedes Escotet, as Corporate Secretary of BANESCO USA, a Florida banking corporation, do hereby CERTIFY that the Board of Directors of the Corporation duly adopted the following resolutions as of May 20, 2016, which resolutions were duly and regularly adopted, and are, as of this date, in full force and effect as follows:

“RESOLVED, to authorize, as hereby authorized, that either of the individuals named below so that they may, on behalf and as an Officer of this Corporation (a) sign, subscribe, accept and execute deeds of sale and any type of deed, instruments, mortgage documents and contracts b) subscribe warranty deeds, mortgages deeds, accept mortgages executed in favor of this Corporation or as a guarantee of obligations property of, or being held by this Corporation, c) execute documents and deeds for receipts or payments, redemption, partial or full cancellation of mortgages, security, pledge, agricultural, commercial or construction lien and any other type of bond or guarantee which may be made out in favor of this Corporation or as guarantee of obligations issued in favor of this Corporation d) consent to the registration of the contracts, deeds, documents and instruments mentioned above in the registries, bureaus and offices which are deemed convenient and necessary to protect the interest of this Corporation, and (e) execute and accept deeds of judicial sale:

Alina D. Garcia-Duany, Executive Vice President, Chief Lending Officer
Maria Mercedes Escotet, Executive Vice President, Chief Financial Officer and Corporate Secretary

RESOLVED, that either of the individuals named below may, on behalf and as an Officer of this Corporation, sign and execute:

1. Plat/Mylar
2. Declaration of Condominium:

Alina D. Garcia-Duany, Executive Vice President, Chief Lending Officer
Maria Mercedes Escotet, Executive Vice President, Chief Financial Officer and Corporate Secretary
Martha S. Tabio, Senior Vice President

FURTHER RESOLVED, that the foregoing resolution shall remain in full force and effect until written notice or rescission or modifications of any thereof be properly given by this Corporation.”

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Corporation in Miami, Florida this 20 of May, 2016.



Maria Mercedes Escotet, Corporate Secretary

State of Florida

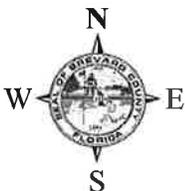
County of Miami-Dade

On 20 of May, 2016, before me, Lourdes Escarza a Notary Public in and for said State, personally appeared Maria Mercedes Escotet, personally known to me to be the person whose name is subscribed to the within instrument and who executed the instrument

ZONING MAP

BLUE STAR SHOREVIEW, LLC

19PZ00060



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/9/2019

- Subject Property
- Parcels
- Zoning

H. PUBLIC HEARINGS

Planning and Zoning Board
Monday, July 8, 2019, at 3:00 p.m.
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, **Florida Room**, Viera, Florida
and
Brevard County Board of County Commissioners
Thursday, August 1, 2019, at 5:00 p.m.
At the
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

Item 1 is on the July 11, 2019, North Merritt Island Dependent Special District Board Agenda.

- 2. James W. and Catherine Brown** request a change of zoning classification from GU (General Use) to AU(L) (Agricultural Residential, Low-Intensity). The property is 1.01 acres, located on the south side of Blair Street, approximately 496 feet west of Knoxville Avenue. (3227 Blair Street, Cocoa) (19PZ00054) (District 1)

Planning and Zoning Board Recommendation: Lawandales/Filiberto – Approved. The vote was unanimous.

Board of County Commissioners Action: Pritchett/Smith – Approved as recommended. The vote was unanimous.

- 3. Daniel Bandish** requests a change of zoning classification from SEU (Suburban Estate Use) to RR-1 (Rural Residential). The property is 3.29 acres, located approximately 350 feet north of the intersection of Clydesdale Boulevard and Percheron Boulevard. (5290 Percheron Boulevard, Melbourne) (19PZ00055) (District 4)

Planning and Zoning Board Recommendation: Lawandales/Wadsworth – Approved. The vote was unanimous.

Board of County Commissioners Action: Smith/Lober – Approved as recommended. The vote was unanimous.

- 4. Blue Star Shoreview, LLC** (Bruce Moia) requests an amendment to an existing BDP (Binding Development Plan) to increase the number of units from 19 units per acre to 23 units per acre, limited to a total of 188 units. The property is 8.49 acres, located on the southwest corner of Berkeley Street and Highway A1A. (50 Berkeley Street, Satellite Beach) (19PZ00060) (District 4)

Planning and Zoning Board Recommendation: Filiberto/Hodgers – Approved. The vote was 6:1, with Lawandales voting nay.

Board of County Commissioners Action: Smith/Lober – Approved an amendment to an existing BDP limited to a total of 188 units. The vote was unanimous. The BDP will be scheduled as a Consent Item on a subsequent County Commission agenda, per Policy BCC-52. Resolution to be completed upon receipt of recorded BDP.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. John Thomas and Cassie Ann Joyner. Lober/Smith. Approved as recommended.
- Item H.2. James W. and Catherine Brown. Pritchett/Smith. Approved as recommended.
- Item H.3. Daniel Bandish. Smith/Lober. Approved as recommended.
- Item H.4. Blue Star Shoreview, LLC. Smith/Pritchett. Approved amending the existing BDP to increase the number of units from 19 units per acre to 23 units per acre, limited to a total of 188 units.
- Item H.5. Sunshine State Wildlife Conservation, LLC. Pritchett/Lober. Approved as recommended.
- Item H.6. JSFS Land Trust, Jacob and Faye Shapiro (Trustees). Pritchett/Lober. Continued to September 5, 2019, BCC meeting.
- Item H.7. JSFS Land Trust, Jacob and Faye Shapiro (Trustees). Pritchett/Lober. Continued to September 5, 2019, BCC meeting.
- Item H.8. Casa Loma Estates Co-op, Inc. Smith/Lober. Approved as recommended.
- Item H.9. Barbara J. and Joseph J. Tulske, Jr. Lober/Smith. Continued to September 5, 2019, BCC meeting.
- Item H.10. M&R United, Inc. Pritchett/Lober. Continued to October 3, 2019, BCC meeting.