



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.5

12/10/2019

Subject:

Acceptance, Re: Binding Development Plan with Rojo Holdings of Florida, LLC, and MDP Properties, LLC (19PZ00079) (District 1)

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 the Chair to sign, the Binding Development Plan.

Summary Explanation and Background:

On September 5, 2019, the Board approved a change of zoning classification from RU-2-10 (Medium Density Multi-Family Residential) and RU-1-13 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential) with a BDP (Binding Development Plan) requiring onsite sewage treatment disposal systems (OSTDS) that meet or exceed 70% reduction in total nitrogen (TN). Alternatively, the project may connect to sanitary sewer system.

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

December 11, 2019

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item F.5., Binding Development Plan Agreement with Rojo Holdings of Florida, LLC, and MDP Properties, LLC

The Board of County Commissioners, in regular session on December 10, 2019, executed Binding Development Plan with Rojo Holdings of Florida, LLC, and MDP Properties, LLC. Said Plan was recorded in OR/BK 8613/793. 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: Robi Roberts
Address: 2255 S Tropical Trail
Merritt Island, FL 32952

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and ROJO Holdings of FL LLC and MDP Properties LLC, (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-2-12 zoning classification(s) and desires to develop the Property as Multi-Family Residential, 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.

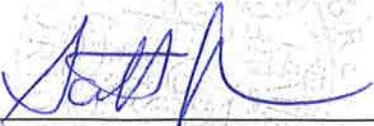
NOW, THEREFORE, the parties agree as follows:

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.

2. Developer/Owner shall provide onsite sewage treatment disposal systems (OSTDS) that meet or exceed 70% reduction in total nitrogen (TN). Alternatively, the project may connect up to sanitary sewer system.
3. The 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 Clerk of Court the cost of recording this Agreement in 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 9/05/19. 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 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)

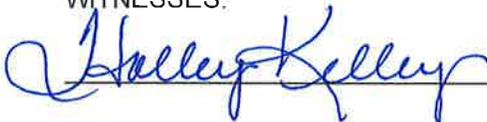
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940



Bryan Lober, Chair
As approved by the Board on 12/10/19

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

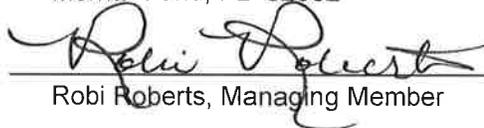
WITNESSES:



Holley Kelley
(Witness Name typed or printed)

ROJO Holdings of FL LCC
as DEVELOPER/OWNER

2255 S Tropical Trail
Merritt Island, FL 32952

 MANAGER

Robi Roberts, Managing Member

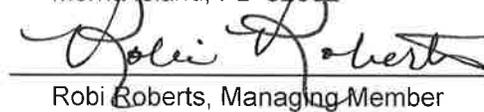
WITNESSES:



Holley Kelley
(Witness Name typed or printed)

MDP Properties LCC
as DEVELOPER/OWNER

2255 S Tropical Trail
Merritt Island, FL 32952

 MANAGER

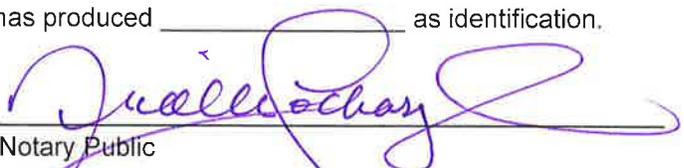
Robi Roberts, Managing Member

STATE OF FLORIDA §

COUNTY OF BREVARD§

The foregoing instrument was acknowledged before me this 23rd day of November,
2019, by ROBI ROBERTS of ROJO Holdings of Florida LLC, MDP Properties LLC, both Managing
Member, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:



Notary Public
(Name typed, printed or stamped)

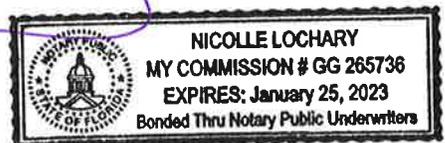


Exhibit A

Lot 6, Block 2, of D N Seelys Replat of Hardeeville, as recorded in ORB 8126, Pages 2070 – 2071, of the Public Records of Brevard County, Florida; Lot 4, Block 2, of D N Seelys Replat of Hardeeville, as recorded in ORB 6574, Page 365, of the Public Records of Brevard County, Florida; Lot 5, Block 2, of D N Seelys Replat of Hardeeville, as recorded in ORB 5852, Pages 5417 – 5419, of the Public Records of Brevard County, Florida; Tax Parcel 777, as recorded in ORB 6598, Pages 1179 – 1180, of the Public Records of Brevard County, Florida.

Resolution 19PZ00079

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

WHEREAS, MDP Properties, LLC, and Rojo Holdings of Florida, LLC, have requested a change of zoning classification from RU-2-10 (Medium Density Multi-Family Residential) and RU-1-13 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), on property described as follows: Lot 6, Block 2, of D N Seelys Replat of Hardeeville, as recorded in ORB 8126, Pages 2070 – 2071, of the Public Records of Brevard County, Florida; Lot 4, Block 2, of D N Seelys Replat of Hardeeville, as recorded in ORB 6574, Page 365, of the Public Records of Brevard County, Florida; Lot 5, Block 2, of D N Seelys Replat of Hardeeville, as recorded in ORB 5852, Pages 5417 – 5419, of the Public Records of Brevard County, Florida; Tax Parcel 777, as recorded in ORB 6598, Pages 1179 – 1180, of the Public Records of Brevard County, Florida. **Section 30, Township 23, Range 36.** (5.04 acres) Located on the east side of N. U.S. Highway 1, approx. 213 ft. south of Mac Arthur Circle. (5080, 5090, 5094, 5130, 5140, 5150, and 5160 N. U.S. Highway 1, Cocoa.; 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 application 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 with a BDP (Binding Development Plan) requiring onsite sewage treatment disposal systems (OSTDS) that meet or exceed a 70% reduction in total nitrogen (TN). Alternatively, the project may connect up to sanitary sewer system; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-2-10 and RU-1-13 to RU-2-12, be approved with a BDP recorded on December 13, 2019, in Official Records Book 8613, Pages 793 – 796, requiring onsite sewage treatment disposal systems (OSTDS) that meet or exceed a 70% reduction in total nitrogen (TN). Alternatively, the project may connect up to sanitary sewer system. 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 December 13, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Chair
Brevard County Commission

As approved by the Board on December 10, 2019.

ATTEST:



SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – August 5, 2019
Board of County Commissioners Zoning Hearing – September 5, 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.**