



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.1.

2/2/2023

Subject:

Approval, Re: Extension of 60 days from the 120-Day Requirement to Record a Binding Development Plan in the Public Records. (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners grant a 60-day extension to the 120-day requirement to have a Binding Development Plan (BDP) recorded, as provided in Section 62-1157.

Summary Explanation and Background:

On October 6, 2022, the Board approved a change of zoning classification from AU (Agricultural Residential) to RA-2-4 (Low Density Attached Residential) and RA-2-6 (Low Density Attached Residential) for Nicholas Boardman and Andrea Bedard, with a BDP limiting the development to four homes, which would be two single-level duplexes with advanced septic.

The applicants have experienced unexpected delays relating to stipulations for obtaining the mortgager signoff of the BDP. Section 62-1157(1)g., requires the BDP to be recorded in the Public Records within 120 days of approval by the Board of County Commissioners. The code also states that the zoning action is not effective until the BDP is recorded, and if the BDP is not recorded within the 120-day timeframe it shall be considered withdrawn.

Pursuant to the Local Planning Agency recommendation of January 9, 2023, staff is in the legislative process of revising the aforementioned code to include provision for a 60-day extension to the 120-day deadline. This amendment will be presented to the Board in February, unfortunately after the Boardman/Bedard application would have expired.

Granting the 60-day extension would allow the applicants until April 3, 2023, to have the BDP recorded in the Public Records. If the BDP is not recorded by April 3, 2023, the application will be considered withdrawn and the applicant would need to re-apply for the zoning change.

Clerk to the Board Instructions:

None



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February 3, 2023

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item F.1., Extension of 60 days from the 120-Day Requirement to Record a Binding Development Plan (BDP) in the Public Records

The Board of County Commissioners, in regular session on February 2, 2023, granted a 60-day extension to the 120-day requirement to have a BDP recorded, as provided in Section 62-1157.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ns

Prepared by: Kimberly B. Rezanka
Address: Lacey Lyons Rezanka
1290 U.S. Highway 1, Suite 201
Rockledge, FL 32940

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 2022, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and NICHOLAS BOARDMAN and ANDREA BEDARD, (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-2-4 and RU-2-6 zoning classification(s) and desires to develop the Property as multi-family residential units, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, Developer/Owner and the County recognize the existing single-family home on the property as a buffer between the single-family residence to the east and the proposed development; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting landowners 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. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
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. 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.
3. The Developer/Owner shall limit the Property to two (2) new duplexes and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
 4. The Developer/Owner agrees to install a high nutrient reduction septic system for any new residential units.
 5. Duplexes' height shall be restricted to one story.
 6. 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 Brevard County 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 Clerk of Court all costs 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 shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on October 6, 2022. 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 shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
 10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9, above.

11. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

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

Rachel M. Sadoff, Clerk of Court
(SEAL)

_____, Chair
As approved by the Board on _____

WITNESSES:

NICHOLAS BOARDMAN
DEVELOPER/OWNER

(Witness Name typed or printed)

26 Park Avenue, Rockledge, FL 32955

(Witness Name typed or printed)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by Nicholas Boardman, 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)

WITNESSES:

ANDREA BEDARD
DEVELOPER/OWNER

(Witness Name typed or printed)

26 Park Avenue, Rockledge, FL 32955

(Witness Name typed or printed)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by Andrea Bedard, 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" - LEGAL DESCRIPTION

LOT A (RU-2-6)

FROM SAID POINT OF BEGINNING COMMENCE N 68°10'00" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 150.87 FEET; THENCE, CONTINUE N 21°59'58" WEST A DISTANCE OF 199.97 FEET; THENCE, CONTINUE S 68°10'00" WEST A DISTANCE OF 142.43 FEET; THENCE, CONTINUE S 19°25'00" EAST TO THE POINT OF BEGINNING FOR LOT A.

LOT B (RU-2-4)

FROM SAID POINT OF BEGINNING COMMENCE N 68°10'00" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 150.87 FEET TO THE POINT OF BEGINNING FOR LOT B; THENCE, CONTINUE N 68°10'00" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 81.14 FEET; THENCE, CONTINUE N 25°37'00" WEST A DISTANCE OF 200.42 FEET; THENCE, CONTINUE S 68°10'00" WEST A DISTANCE OF 68.38 FEET; THENCE, CONTINUE S 21°59'58" EAST A DISTANCE OF 199.87 FEET TO THE POINT OF BEGINNING FOR LOT B.

LOCATION MAP

BEDARD, Andrea and BOARDMAN, Nicholas
22Z00015



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: 8/22/2022

Buffer
Subject Property

F.2

District 2 Disclosures
2/2/2023 BOCC Zoning Meeting

F.1. Approval, Re: Extension of 60 days from the 120-Day Requirement to Record a Binding Development Plan in the Public Records. (District 2)

- On 1/23/2023, Commissioner Goodson discussed this item with Kim Rezanka, who advocated for the extension

H.8. NDA Merritt Project Zenith, LLC; and SES Merritt Project Zenith, LLC (Ross Abramson / Kim Rezanka) request a change of zoning classification from BU-1 and BU-2 with two existing BDP's, to PUD and removal of two existing BDP's. (22Z00062) (Tax Accounts 2428002, 2428157, 2428161, & 2428163) (District 2)

- On 1/15/2023, Laurie Savas emailed her concerns and is hesitant about this project
- On 1/18/2023, received emails from the following:
 - Daniel Snyder and Christiana Sgarbossa opposing the project as proposed:
 - Laurie Savas expressing her concerns and is hesitant about this project
- On 1/23/2023:
 - Received email from Chris Wallace opposing the project as proposed
 - Commissioner Goodson met with Kim Rezanka, who represents the applicant
- Week of January 23, 2023, Commissioner Goodson spoke with Robin Fisher who expressed support for the project on behalf of the applicant
- On 1/24/2023, received email from Maureen and Larry Fallon opposing the project as proposed
- On 1/25/2023, received emails from the following with opposition to the project as proposed:
 - Carol Waxman
 - Sebastian Perin
 - Carol Ball
- On 1/26/2023, received emails from the following with opposition to the project as proposed:
 - Mike Yetman
 - Carol Waxman
 - Colleen Pierson
- On 1/30/2023, received emails from the following with opposition to the project as proposed:
 - Brian Bell
 - Laura Ficker
- On 1/31/2023, received email from Curtis Herrin opposing the project as proposed