

**F. Consent Agenda - Planning and Development
ITEM 1.****AGENDA REPORT
August 14, 2018****Acceptance, Re: Binding Development Plan - Grand Lake Estates, LLC (18PZ00022) (District 2)****SUBJECT:**

Acceptance, Re: Binding Development Plan - Grand Lake Estates, LLC (18PZ00022) (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 May 24th, the Board of County Commissioners approved a rezoning request from RR-1 to SR, with a Binding Development Plan (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 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 shall allow appropriate pedestrian and equestrian access from Joseph's Court.
- Developer shall not permit vehicular traffic from or to Joseph's Court.
- Developer shall leave the existing vegetative buffer adjacent to the canal on the north end of the property.
- Developer shall maintain its water detention to direct the water flow away from the north end of the property's boundary, and maintain its water detention system to appropriately detain the 100-year storm.
- All onsite stormwater detention facilities shall be maintained by the developer.
- The west bank of the drainage canal, on the west side of the property, shall be preserved.
- Developer shall maintain the flat, drivable service road as is necessary to service and maintain the retention/detention facilities.
- Minimum lot size shall be .5 acre, and the maximum number of lots shall be 40 lots.
- Minimum house size shall not be less than 2,300 square feet.
- Developer shall be required to meet the building line setbacks as prescribed by the land development code.
- Developer shall install septic systems that reduce nitrogen by 65% or install any system that removes a higher amount of nitrogen if mandated by County Ordinance.

The property is located on the north side of Chase Hammock Road, approximately 1.14 mile east of N. Courtenay Parkway.

CLERK TO THE BOARD INSTRUCTIONS:

After recordation, please forward two certified copies 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

August 15, 2018

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.1., Binding Development Plan Agreement with Grand Lake Estates, LLC

The Board of County Commissioners, in regular session on August 14, 2018, executed Binding Development Plan with Grand Lakes Estates, LLC, for property located on the north side of Chase Hammock Road, approximately 1.14 mile east of North Courtenay Parkway, Merritt Island. Said Plan was recorded in OR 8239/1713. 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: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

CFN 2018184474, OR BK 8239 PAGE 1713.
Recorded 08/16/2018 at 01:14 PM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs:6

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 14 day of August, 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 Grand Lake Estates, LLC, a Florida Limited Liability Company, whose office address is 5174 Ambrosia Lane, Merritt Island, Florida 32953 (hereinafter referred to as "Developer").

RECITALS

WHEREAS, Developer owns property by virtue of a Warranty Deed recorded in the Office of the Clerk of Brevard County, Florida in Official Records Book 6616, Page 161, that certain parcel of property, which is more particularly described in **Exhibit "A"**, which is attached hereto and is incorporated by reference herein (hereinafter referred to as the "Property"). The Property is also known as Parcel I.D. 23-36-25-00-501; and

WHEREAS, Developer has requested the SR zoning classification and desires to develop the Property as Single Family Homes 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 and the Developer desire to enter into a Binding Development Plan for the purpose of assuring both the County and the Developer that the proposed development will be built in accordance with the representations of the Developer; 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, its grantees, successor 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. The Developer shall comply with the following in its development of the Property;
- (A) The Developer shall allow appropriate pedestrian and equestrian access from Joseph Court; and
 - (B) The Developer shall not permit vehicular traffic from or to Joseph Court; and
 - (C) The Developer shall leave the existing vegetative buffer adjacent to the canal on the north end of the Property. Provided however, that if the applicable authorities require the Developer to remove any of the vegetative buffer as part of the development process, then the Developer shall replace the removed plants with new native vegetation, thereby creating an opaque buffer; and
 - (D) The Developer shall maintain its water detention to direct the water flow water away from the north end of the Property's boundary. This design will be consistent with the most current storm water master plans, as approved by the appropriate review agencies; and
 - (E) The Developer shall maintain its water detention system to appropriately detain the 100 year storm; and
 - (F) All onsite storm-water detention facilities shall be maintained by the Developer. The Developer shall maintain these facilities until such time as the Plan has achieved the level of 70% build out. At such time, the Developer shall have the right to turn its maintenance responsibilities over to the Homeowner's Association; and
 - (G) The west bank of the drainage canal, on the west side of the Property, shall be preserved. Provided however, that if the appropriate review agencies require the Developer to install critical drainage features in such areas, then the Developer shall have the right to remove the existing vegetation, as necessary. If the Developer performs such removal, then the Developer shall replace the removed vegetation with native vegetation, thereby creating an opaque buffer in said area; and
 - (H) The Developer shall maintain the flat, drivable service road as is necessary to service and maintain the retention\detention facilities. This road has been installed on the west side of the Property's boundary line and is not less than fifteen (15) feet in width. The existing opaque buffer on the west side of the Property's boundary line shall also be maintained.

If the Developer is required to remove this buffer as part of its development, then the Developer shall replace the removed vegetation with native vegetation, thereby creating an opaque buffer; and

- (I) The minimum lot size shall be one-half (.5) acre, and the maximum number of lots shall be forty (40) lots. This density may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
- (J) The minimum home size shall not be less than 2,300 sq. feet;
- (K) The Developer shall be required to meet the building line setbacks as prescribed by the land development code. Provided however, that the Developer agrees that the minimum building setback from the west subdivision boundary line is one-hundred (100) feet. No temporary or permanent structures shall be permitted within the one-hundred (100) foot building setback line from the west subdivision boundary line; and
- (L) The Developer shall install septic systems that reduce nitrogen by 65%, or install any system that removes a higher amount of nitrogen if mandated by County Ordinance.

3. Developer shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer'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 the Property.

4. Developer, 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 5/24/18. 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 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 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 8/14/18

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

WITNESSES:



Mark Kirschbaum
(Witness Name typed or printed)



Diane Kirschenbaum
(Witness Name typed or printed)

Grand Lake Estates, LLC

By: Ronald E. Dimenna, Manager

(Address)

STATE OF FLORIDA)
COUNTY OF Brevard) ss:

The foregoing instrument was acknowledged before me this 9th day of July, 2018, by Ronald E. Dimenna, Manager, Grand Lake Estates, LLC, who is personally known to me or who has produced _____ as identification.

Notary Public

My Commission expires:
SEAL
Commission No.:



EXHIBIT "A"

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN THE EAST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 23 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF TRACT C AS SHOWN ON THE PLAT OF OTTER TRACE AS RECORDED IN PLAT BOOK 38, PAGE 28 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, THENCE N.00°10'55"W., ALONG THE EAST LINE OF SAID PLAT OF OTTER TRACE AND THE WEST LINE OF THE EAST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 25, A DISTANCE OF 2628.90 FEET TO THE NORTHWEST CORNER OF SAID EAST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 25; THENCE N.89°33'42"E., ALONG THE NORTH LINE OF SAID EAST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 25, A DISTANCE OF 669.77 FEET TO A POINT LYING ON THE WEST LINE OF CHASE HAMMOCK LAKES AS RECORDED IN PLAT BOOK 50, PAGE 43 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AS MONUMENTED AND OCCUPIED; THENCE S.00°10'35"E., ALONG SAID LINE, 2629.75 FEET TO A POINT LYING ON THE NORTH RIGHT OF WAY LINE OF CHASE HAMMOCK ROAD, SAID RIGHT OF WAY LINE LYING PARALLEL WITH AND 30.00 FEET NORTH OF THE SOUTH LINE OF SAID EAST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 25; THENCE S.89°38'01"W., ALONG SAID RIGHT OF WAY LINE 669.51 FEET TO THE POINT OF BEGINNING.

CONTAINING 40.42 ACRES MORE OR LESS.

AFFIDAVIT OF NO MORTGAGE

Ronald E. Dimenna, Manager of Grand Lake Estates, LLC, after being duly sworn, deposes and says:

1. I am the owner of the real property as more particularly described in **Exhibit "A"** attached hereto

2. There are no mortgages on the Property

Dated: July 9, 2018.

By: [Signature] Power of attorney
Ronald E. Dimenna, Manager
Grand Lake Estates, LLC

STATE OF FLORIDA

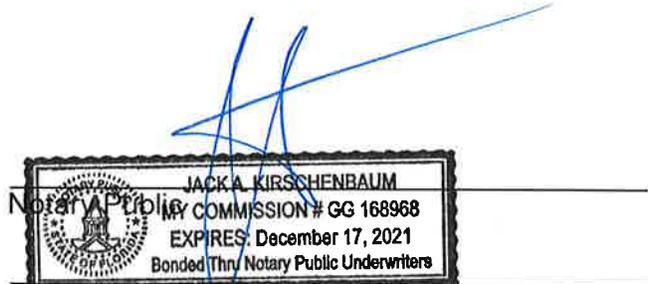
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 9th day of July, 2018, by Ronald E. Dimenna, Manager of Grand Lake Estates, LLC, who is personally known to me or who has produced as identification

My commission expires

SEAL

Commission No.:



(Name typed, printed or stamped)

RESOLUTION NO. 18PZ00022

On motion by Commissioner Barfield, seconded by Commissioner Tobia, the following resolution was adopted by a 4:1 vote, with Commissioner Barfield voting nay:

WHEREAS, GRAND LAKE ESTATES, LLC has requested a change of zoning classification from RR-1 (Rural Residential) to SR (Suburban Residential), on property described as: SEE ATTACHED

Section 25, Township 23 S, Range 36 E, and,

WHEREAS, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be denied; and,

WHEREAS, a public hearing of the Planning and Zoning Board was advertised and held, as required by law, and after considering said application and the North Merritt Island Dependent Special District Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, recommended that the application should be approved with a BDP (Binding Development Plan) requiring the developer/owner to install higher-functioning septic systems at a minimum of 65% total nitrogen reduction, or per adoption of a septic system ordinance, whichever is more restrictive; now therefore,

WHEREAS, the Board, after considering said application and the North Merritt Island Dependent Special District Board’s and the Planning and Zoning Board’s recommendations, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application be Approved as recommended by the Planning and Zoning Board; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from RR-1 to SR be APPROVED, with a BDP recorded in ORB 8239, Pages 1713 – 1718, dated August 16, 2018, requiring the developer/owner to install higher-functioning septic systems at a minimum of 65% total nitrogen reduction, or per adoption of a septic system ordinance, whichever is more restrictive. 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 August 16, 2018.

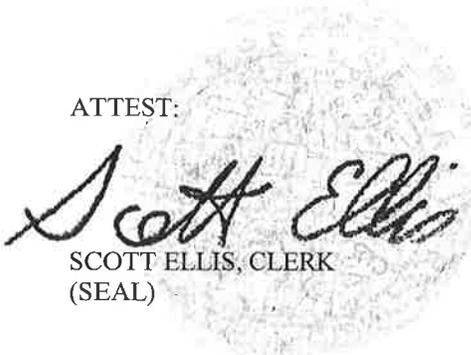
BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on August 14, 2018.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(NMI Hearing – May 10, 2018)
(P&Z Hearing – May 21, 2018)
(BCC Zoning Hearing – May 24, 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.

Resolution 18PZ00022 (Continued)

Legal Description:

A parcel of land lying in the east $\frac{1}{2}$ of the west $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 25, Township 23S, Range 36E, Brevard County, Florida, being more particularly described as follows: Beginning at the SW corner of Tract C as shown on the Plat of Otter Trace as recorded in Plat Book 38, Page 28, of the Public Records of Brevard County, Florida, thence N00deg10'55"W, along the east line of said Plat of Otter Trace and the west line of the east $\frac{1}{2}$ of the west $\frac{1}{2}$ of the SW $\frac{1}{4}$ of said Section 25, a distance of 2,628.90 ft. to the NW corner of said east $\frac{1}{2}$ of the west $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 25; thence N89deg33'42"E, along the north line of said east $\frac{1}{2}$ of the west $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 25, a distance of 669.77 ft. to a point lying on the west line of Chase Hammock Lakes, as recorded in Plat Book 50, Page 43, of the Public Records of Brevard County, Florida, as monumented and occupied; thence S00deg10'35"E, along said line, 2,629.75 ft. to a point lying on the north right-of-way line of Chase Hammock Rd., said right-of-way line lying parallel with and 30 ft. north of the south line of said east $\frac{1}{2}$ of the west $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 25; thence 89deg38'01"W, along said right-of-way line, 669.51 ft. to the point of beginning. (40.42 acres) Located on the north side of Chase Hammock Rd., approx. 1.14 mile east of N. Courtenay Pkwy. (No assigned address. In the Merritt Island area.)