

| |
|---------------|
| Meeting Date |
| July 12, 2016 |



| | |
|----------|---------|
| AGENDA | |
| Section | CONSENT |
| Item No. | II.A.12 |

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

| | |
|--------------|---|
| SUBJECT: | Binding Development Plan, Re: Elinor Garrison (Father Edward Sorin Real Estate Trust) (District 2) FISCAL IMPACT: NONE |
| DEPT/OFFICE: | Planning & Development Department |

Requested Action:
 It is requested that the Board approve, and the Chairman sign, the subject Binding Development Plan.

Summary Explanation & Background:
 A Binding Development Plan (BDP) is a voluntary agreement 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 Section 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.

On May 5, 2016, the Board of County Commissioners approved a change of classification from RU-2-15 to IN(L), on property located on the southwest corner of Winslow Circle and Azure Lane (No assigned address. In the Cape Canaveral area), subject to a Binding Development Plan as follows:

- Developer/Owner agrees that the Property shall be used for retired and/or semi-retired priests and brothers, and that there will be no services conducted on the Property that are opened to the Public. Further, Developer/Owner agrees that no Group Homes or Substance Abuse Rehabilitation Facility including, but not limited to, Residential Facilities shall be allowed on the Property.

Staff Contact: Jennifer Jones

Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department
 Exhibits Attached: Binding Development Plan, with exhibits, and check for recording

| | | | | | | | |
|-----------------------------------|--|-----|-------------------------------------|----|--------------------------|----|--------------------------|
| Contract /Agreement (If attached) | Reviewed by County Attorney | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | PR | <input type="checkbox"/> |
| County Manager | Department Director / Extension Robin M. DiFabio, AICP, Director Planning & Development Dept. Ext. 56363 | | | | | | |
| Stockton Whitten | | | | | | | |



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

July 13, 2016

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.12, Binding Development Plan Agreement with Elinor Garrison

The Board of County Commissioners, in regular session on July 12, 2016, executed Binding Development Plan with Elinor Garrison for property located on the southeast corner of Winslow Circle and Azure Lane in the Cape Canaveral area. Said Plan was recorded in OR BK/PG 7662/2372. 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: Philip F. Nohrr, Esq.
Address: GrayRobinson, P.A.
P.O. Box 1870
Melbourne, FL 32902-1870

CFN 2016136682, OR BK 7662 PAGE 2372,
Recorded 07/14/2016 at 01:32 PM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs:4

THIS AGREEMENT, entered into this 12 day of July, 2016 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as ("County")) and FATHER EDWARD SORIN REAL ESTATE TRUST, a 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 IN(L) zoning classification(s) and desires to develop the Property as a Monastery, 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 agrees that the Property shall be used for retired and/or semi-retired priest and brothers, and that there will be no services conducted on the

Property that are opened to the Public. Further, Developer/Owner agrees that no Group Homes or Substance Abuse Rehabilitation Facility including but not limited to Residential Facilities shall be allowed on the Property.

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.

6. 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.

7. 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 7/12/16, 2016. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

8. 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.

9. 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 8 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:



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

[Signature]
Scott Ellis, Clerk
(SEAL)

[Signature]
Jim Barfield, Chairman
As approved by the Board on July 12, 2016

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

WITNESSES:

[Signature]
JAMES LACKMANIA
(Witness Name typed or printed)

[Signature]
BRIAN GROPPE
(Witness Name typed or printed)

DEVELOPER/OWNER:

FATHER EDWARD SORIN REAL ESTATE TRUST
P.O. BOX 774 NOTRE DAME IN 46556

[Signature]
1105 Starling Way Viera, FL 32951
(Address)

[Signature]
R. Bradley Beaupre
(President)
Trustee
(Name typed, printed or stamped)

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 20 day of April, 2016,
by, President of Fr. Edward Sorin Real Estate Trust, who is personally known to me or who has produced as
identification.

[Signature]
FL Driver License
My commission expires 6/14/2018
SEAL

[Signature]
Notary Public
BRIAN R. GROPPE
(Name typed, printed or stamped)

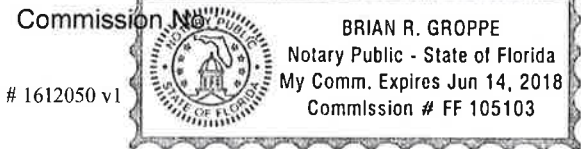


EXHIBIT "A"

LEGAL DESCRIPTION

For a point beginning, commence at the intersection of the North line of Winslow Reserve as recorded in Plat Book 10, Page 21, of the Public Records of Brevard County, Florida, and the West right of way line of Azure Lane, as presently located; thence North 11 degrees 57 minutes 58 seconds East, 100.0 feet to the South right of way line of Winslow Circle as presently located; thence West along said right of way line 75.00 feet; Thence South 11 degrees 57 minutes 56 seconds West, 100.00 feet to the North line of said Winslow Reserve; thence East along said North line of Winslow Reserve 75.0 feet to the Point of Beginning.

Less

A triangular parcel of land beginning at the intersection of the west right of way line of Azure Lane with the south right of way line of Winslow Circle, thence run southerly along said west right of way line a distance of 10 feet; thence run northwesterly along a straight line to the said south right of way line at a point 10 feet westerly from the point of beginning; thence run easterly along said south right of way line a distance of 10 feet to the point of beginning.

BrevardClerk.US

Scott Ellis, Clerk of Court

700 South Park Avenue, Bldg. B
 P.O. Box 2767
 Titusville, FL 32781-2767
 (321) 637-2006

DBLIVE Transaction
 #: 1736918
 Receipt #: 61703689
 Cashier Date: 7/14/2016
 1:32:44 PM



Print Date:
 7/14/2016 1:32:45 PM

| Customer Information | Transaction Information | Payment Summary |
|--|--|--|
| () GRAY & ROBINSON ATTORNEYS AT LAW PO BOX 3068 ORLANDO, FL 32802 | DateReceived: 07/14/2016 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num: | Total Fees \$35.50 Total Payments \$35.50 |

| 1 Payments | |
|--------------|---------|
| CHECK 441778 | \$35.50 |

| 1 Recorded Items | |
|---|--|
| (AG) AGREEMENT | BK/PG: 7662/2372 CFN:2016136682 Date: 7/14/2016 1:32:43 PM From: To: |
| Recording @ 1st=\$10 Add'l=\$8.50 ea. | 4 \$35.50 |
| Indexing @ 1st 4 Names Free, Addt'l=\$1 ea. | 2 \$0.00 |

| 0 Search Items |
|----------------|
|----------------|


| 1 Miscellaneous Items |
|--------------------------|
| (AGTR) AGENT TRANSMITTAL |

STATEMENT BY BRADLEY BEAUPRE, TRUSTEE

The undersigned, BRADLEY BEAUPRE, Trustee of the Father Edward Sorin Real Estate Trust Owner of the real property, the legal description of which is attached hereto, hereby certifies that the Trust is the Owner of said property and that it is free and clear of any mortgages or encumbrances.

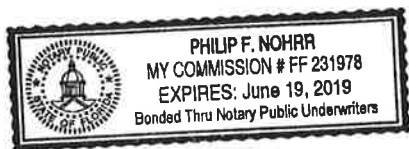
This statement is submitted in conjunction with the Binding Development Plan being provided to Brevard County as part of the Rezoning Request by Father Edward Sorin Real Estate Trust.

IN WITNESS WHEREOF, the undersigned has executed this Statement this 19th day of May, 2016.


BRADLEY BEAUPRE, Trustee of the
Father Edwin Sorin Real Estate Trust

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 19th day of May, 2016, by Bradley Beaupre, Trustee of the Father Edwin Sorin Real Estate Trust, and he is personally known to me or has produced US Passport 528984840 as identification.




Notary Public

(Name typed, printed or stamped)

My commission expires
Commission No.

SEAL

IV. PUBLIC HEARINGS

**B. PLANNING & ZONING BOARD and LPA AGENDA
MONDAY, April 11, 2016 – 3:00 P.M.
&
BOARD OF COUNTY COMMISSIONERS
THURSDAY, May 5, 2016 – 5:00 P.M.**

**Both at the
BREVARD COUNTY GOVERNMENT CENTER
2725 Judge Fran Jamieson Way, Bldg. C, 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.

DISTRICT 1

IV.B.2. (16PZ00008) – BRAVEHEART PROPERTIES OF BREVARD, INC. – requests a change of classification from TR-3 to AU, on 5 +/- acres, located on the west side of Sandpiper Dr., approx. 0.11 mile south of Tucker Ln. (222 Flamingo Dr., Cocoa)

P&Z Recommendation: McLellan/Thodey – Approved with a Binding Development Plan limited to four (4) horses. Vote was unanimous.

BCC ACTION: Fisher/Infantini – APPROVED with a Binding Development Plan limited to four (4) horses. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

IV.B.3. (16PZ00017) – RONALD W. & WANDA F. MASEK, TRUSTEES – request a change of classification from RU-1-7 to RR-1, on 1 acre, located on the north side of Ricard St., between Railroad Ave. and Kentucky Ave. (3180 Ricard St., Mims)

P&Z Recommendation: McLellan/LaMarr – Approved. Vote was unanimous.

BCC ACTION: Fisher/Anderson – APPROVED. Vote was unanimous.

DISTRICT 2

IV.B.4. (16PZ00018) – ROBERT G. MILLIKEN, TRUSTEE – (Anthony Rumbaugh) – requests a change of classification from AU to RR-1 on 1.4 acres, located on the south side of N. Tropical Trail, approx. 0.17 mile east of Tanglewood Lane. (No assigned address. In the Merritt Island area.)

P&Z Recommendation: Thodey/McLellan – Approved. Vote was unanimous.

BCC ACTION: Fisher/Anderson – APPROVED. Vote was unanimous.

IV.B.5. (16PZ00019) – ELINOR R. GARRISON – (Father Edward Sorin Real Estate Trust) – requests a change of classification from RU-2-15 to IN(L), on 0.17 acres, located on the southwest corner of Winslow Circle and Azure Lane (No assigned address. In the Cape Canaveral area)

P&Z Recommendation: McLellan/Lawandales – Approved with a Binding Development Plan limited to a monastery for retired and/or semi-retired priests and brothers. Vote was unanimous.

BCC ACTION: Fisher/Anderson – APPROVED with a Binding Development Plan limited to a monastery for retired and/or semi-retired priests and brothers. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

PLANNING AND ZONING BOARD AND PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD RECOMMENDATIONS OF APRIL 11 & 13, 2016, AND LPA RECOMMENDATIONS OF APRIL 25, 2016

- Item IV.B.1. Scott O. Green. Fisher/Anderson, approved as recommended. The Board adopted Ordinance No. 16-05, Small Scale Plan Amendment 16S.01. Smith/Infantini.
- Item IV.B.2. Braveheart Properties of Brevard, Inc. Fisher/Infantini, approved as recommended, with a Binding Development Plan limited to four horses.
- Item IV.B.3. Ronald W. & Wanda F. Masek, Trustees. Fisher/Anderson, approved as recommended.
- Item IV.B.4. Robert G. Milliken, Trustee. Fisher/Anderson, approved as recommended.
- Item IV.B.5. Elinor R. Garrison. Fisher/Anderson, approved as recommended, with a Binding Development Plan limited to a monastery for retired and/or semi-retired priests and brothers.
- Item IV.B.6. Mark & Kathleen Nathan. Barfield/Fisher, denied. The Board approved Findings of Fact to come back to the Board for its consideration at the July 12, 2016, Board meeting.

LOCATION MAP



GARRISON, ELINOR R

16PZ00019



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

Buffer Distance: 500 feet

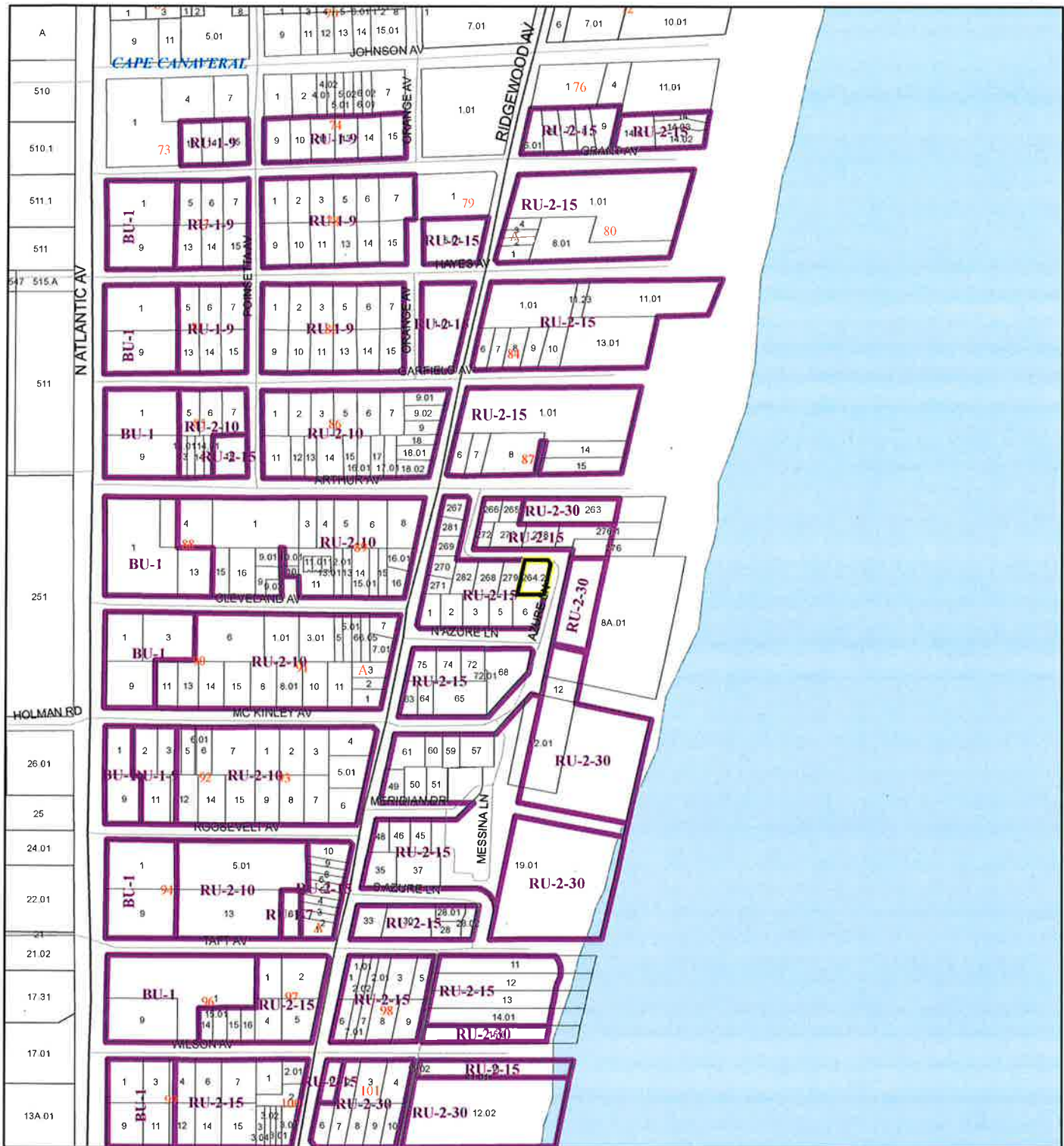
-  Buffer
-  Subject Property

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.




ZONING MAP

GARRISON, ELINOR R

16PZ00019



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Zoning

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.