



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.2.

2/11/2020

Subject:

Acceptance, Re: Binding Development Plan with Thomas L. and Barbara S. Tofte (18PZ00098) (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 November 4, 2019, the Board approved a change of zoning classification from GU (General Use) to SR (Suburban Residential) with a BDP (Binding Development Plan) limited to one single-family residence and one unit per acre. 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.

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

February 12, 2020

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.2., Binding Development Plan Agreement – Thomas L. and Barbara S. Tofte

The Board of County Commissioners, in regular session on February 11, 2020, executed Binding Development Plan with Thomas L. and Barbara S. Tofte. Said Plan was recorded in OR/BK 8662/2523. 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:

Address:

Barbara Tofte
2679 Sylver Ridge Ln.
Sun Prairie, WI

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
THOMAS L. TOFTE and BARBARA S. TOFTE (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 **SUBURBAN RESIDENTIAL** zoning
classification(s) and desires to develop the
Property as **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 limit development to one single-family residence and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. The Developer/Owner shall limit density to one unit per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
4. 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.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
6. 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 11/7/19. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. 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.
8. 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 7 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:


CHIEF DEPUTY, LAURIE RICE

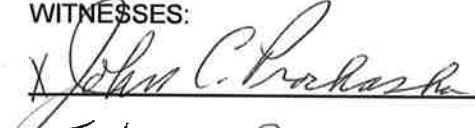
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

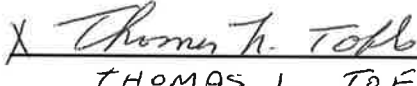

Bryan Lober, Chair
As approved by the Board on 2/11/2020


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


WITNESSES:

(Thomas L. Tofte and Barbara S. Tofte)

X 
John C. Prochaska
(Witness Name typed or printed)

X 
THOMAS L. TOFTE
(Address)

X 
Cheryl Prochaska
(Witness Name typed or printed)

X 
(President) Barb Tofte
(Name typed, printed or stamped)

STATE OF Wisconsin §

COUNTY OF Dane §

The foregoing instrument was acknowledged before me this 18th day of December, 2019, by Thomas AND BARBARA tofte, President of X X X, who is personally known to me or who has produced Wisconsin Identification as identification.

My commission expires 5/16/2023
SEAL
Commission No.: 231318


Notary Public

(Name typed, printed or stamped)

ELIZABETH MARTIN
NOTARY PUBLIC
STATE OF WISCONSIN

ELIZABETH MARTIN
NOTARY PUBLIC
STATE OF WISCONSIN

Exhibit A

Lot 7.06, Block 8, Indian River Park, as recorded in ORB 5857, Pages 1578 – 1579, of the Public Records of Brevard County, Florida; Lot 7.07, Lot 8, Indian River Park, as recorded in ORB 5859, Pages 5052 – 5053, of the Public Records of Brevard County, Florida; and Lot 6.24, Block 8, Indian River Park, as recorded in ORB 5862, Pages 1635 – 1637, of the Public Records of Brevard County.

STATE OF WISCONSIN
COUNTY OF DANE

Barbara & Thomas Tofte, after being duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

Lot 7.06, Block 8, Indian River Park, as recorded in ORB 5857, Pages 1578 – 1579, of the Public Records of Brevard County, Florida; Lot 7.07, Lot 8, Indian River Park, as recorded in ORB 5859, Pages 5052 – 5053, of the Public Records of Brevard County, Florida; and Lot 6.24, Block 8, Indian River Park, as recorded in ORB 5862, Pages 1635 – 1637, of the Public Records of Brevard County.

There are no mortgages on the above described property.

Dated this 18th day of December.

Barbara & Thomas Tofte
Signature

STATE OF WISCONSIN
COUNTY OF DANE

The foregoing instrument was sworn to before me this 18th day of December, by Thomas and Barbara Tofte, who is personally known to me or who has produced Wisconsin Identification as identification, and who did take an oath.

Notary Public:

Sarah Elizabeth Martin

State of Wisconsin at Large

My Commission Expires: 5/16/2023

(SEAL)

SARAH ELIZABETH MARTIN
NOTARY PUBLIC
STATE OF WISCONSIN

Resolution 19PZ00098

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

WHEREAS, Thomas L. and Barbara S. Tofte have requested a change of zoning classification from GU (General Use) to SR (Suburban Residential) with a BDP (Binding Development Plan) limited to one lot, on property described as Lot 7.06, Block 8, Indian River Park, as recorded in ORB 5857, Pages 1578 – 1579, of the Public Records of Brevard County, Florida; Lot 7.07, Lot 8, Indian River Park, as recorded in ORB 5859, Pages 5052 – 5053, of the Public Records of Brevard County, Florida; and Lot 6.24, Block 8, Indian River Park, as recorded in ORB 5862, Pages 1635 – 1637, of the Public Records of Brevard County, Florida. **Section 03, Township 20G, Range 34.** (1.34 acres) Located on the north side of Golden Shores Boulevard, approximately 0.44 mile west of U.S. Highway 1. (No assigned address. In the Mims area.); 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 with a BDP limited to one lot; 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, with a BDP limited to one lot; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from GU to SR, be approved with a BDP recorded on February 12, 2020, in Official Records Book 8662, Pages 2523 – 2526, limited to one lot. 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 February 12, 2020.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Chair
Brevard County Commission
As approved by the Board on February 11, 2020.

ATTEST:

Scott Ellis

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – October 7, 2019

Board of County Commissioners Zoning Hearing – November 4, 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.**