



AGENDA REPORT
May 30, 2019

**Acceptance, Re: Binding Development Plan - John L. Jackson, Trustee
(18PZ00161) (District 1)**

SUBJECT:

Acceptance, Re: Binding Development Plan - John L. Jackson, Trustee. (18PZ00161)
(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 authorize the Chair to sign, the Binding Development Plan.

SUMMARY EXPLANATION and BACKGROUND:

On March 7, 2019, the Board approved a rezoning request from GU (General Use), BU-1 (General Retail Commercial), and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2, with a BDP (Binding Development Plan). 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.

The limitations in the attached BDP include, but are not limited to, the following:

- Developer/Owner shall limit development of the site to include the following: a.) a fast food restaurant of no more than 2,700 square feet, with drive-through; b.) a convenience store with gas station of no more than 10,300 square feet of building space and no more than 24 fueling positions; c.) a tire care center with no more than three (3) service bays; d.) a hotel with no more than 120 rooms.

CLERK TO THE BOARD INSTRUCTIONS:

Upon recordation, please return two certified copies of the Binding Development Plan to

Planning and Development.

ATTACHMENTS:

Description

- **BDP Package**



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

May 31, 2019

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item F.3., Binding Development Plan Agreement – John L. Jackson, Trustee

The Board of County Commissioners, in regular session on May 30, 2019, executed Binding Development Plan with John L. Jackson, Trustee. Said Plan was recorded in OR/BK 8454/2241. 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

Resolution 19PZ00010

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

WHEREAS, John L. Jackson, Trustee has requested a change of zoning classification from GU (General Use), BU-1 (General Retail Commercial), and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2, on property described as: See Attached.

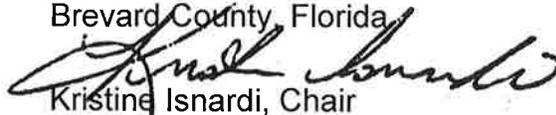
WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

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) limiting development to a fast food restaurant with drive-thru, of no more than 2,700 square feet, a convenience store of no more than 10,300 square feet, a gas station of no more than 24 fueling stations, a tire care center with a maximum of 3 bays, and a hotel with a maximum of 120 rooms; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from GU, BU-1, and BU-2 to all BU-2, be approved with a BDP (Binding Development Plan) limiting development to a fast food restaurant with drive-thru, of no more than 2,700 square feet, a convenience store of no more than 10,300 square feet, a gas station of no more than 24 fueling stations, a tire care center with a maximum of 3 bays, and a hotel with a maximum of 120 rooms. 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 June 4, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



Kristine Isnardi, Chair
Brevard County Commission

As approved by the Board on May 30, 2019.

ATTEST:



SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – February 11, 2019
Board of County Commissioners Hearing – March 7, 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.

18PZ00161 (continued)

Being a parcel of land located in Section 13, Township 21S, Range 34 East, Brevard County, Florida, and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr., Trustee, et al, as recorded in Deed Book 6133, Page 2745, of the Public Records of Brevard County, Florida, being more particularly described as follows: Begin at the east $\frac{1}{4}$ corner of Section 13, thence westerly along the $\frac{1}{4}$ section S88deg33'57"W, a distance of 2,344.11 ft.; thence leaving said $\frac{1}{4}$ section line N01deg26'03"W, a distance of 59.52 ft. to a point on the northerly right-of-way of S.R. 46 as shown on the right-of-way map for S.R. 9 (I-95), Brevard County, Section 70225, FED Project No. 0953-11-1, said point being the point of beginning and being more particularly described as follows: Thence along the north right-of-way of S.R. 46 the following three (3) courses: 1.) S88deg33'22"W, a distance of 114.08 ft.; 2.) S01deg26'38"E, a distance of 26.02 ft.; 3.) S88deg32'35"W, a distance of 346.42 ft.; thence leaving the right-of-way of S.R. 46 N00deg26'59"W, a distance of 1,034.89 ft., to the south line of Florida Department of Transportation (FDOT) drainage pond property; thence along the south line of said FDOT property the following two (2) courses: 1.) N88deg23'24"E, a distance of 287.39 ft.; 2.) S58deg03'46"E, a distance of 618.08 ft. to the east line of described property; thence S00deg58'29"E, a distance of 317 ft.; thence S89deg05'30"W, a distance of 352.21 ft.; thence S00deg26'59"E, a distance of 355.76 ft., to the point of beginning. AND further described as follows: Being a parcel of land located in Section 13, Township 21S, Range 34 E, Brevard County, Florida, and being a portion of a parcel of land conveyed by deed to John L. Jackson, Jr., Trustee, et al, as recorded in Deed Book 6133, Page 2745, of the Public Records of Brevard County, Florida, being more particularly described as follows: Begin at the east $\frac{1}{4}$ corner of Section 13, thence westerly along the $\frac{1}{4}$ section S88deg33'57"W, a distance of 2,188.63 ft.; thence leaving said $\frac{1}{4}$ section line N01deg26'03"W, a distance of 59.54 ft. to a point on the northerly right-of-way of S.R. 46 as shown on the right-of-way map for S.R. 9 (I-95), Brevard County, Section 70225, FED Project No. 0953-11-1, said point being the point of beginning and being more particularly described as follows: Thence along the north right-of-way of S.R. 46 S88deg33'22"W, a distance of 155.48 ft.; thence leaving the right-of-way of S.R. 46 N00deg26'59"W, a distance of 355.76 ft.; thence N89deg05'30"E, a distance of 352.21 ft.; thence south 00deg58'29"E, a distance of 152.42 ft. to the north line of property owned by East Coast Petro, Inc.; thence along said north line S88deg33'22"W, a distance of 200 ft. to the west line of said property; thence leaving said north line S00deg58'29"E, a distance of 200 ft. to the point of beginning. 16.4 +/- acres. Located on the north side of S.R. 46, approx. 0.2 mile west of the I-95 and S.R. 46 interchange. (No assigned address. In the Mims area.)

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd. Unit L, Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 7 day of March, 2019 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and John L. Jackson, Jr., as trustee of the Jackson Family Land Trust (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 BU-2 zoning classification(s) and desires to develop the Property as a truck stop and hotel, 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 of the site to include the following:
 - a. A fast food restaurant of no more than 2,700 square feet, with drive-through.

b. A convenience store with gas station of no more than 10,300 square feet of building space and no more than 24 fueling positions.

c. a tire care center with no more than three (3) service bays.

d. A hotel with no more than 120 rooms.

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.

4. 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.

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 3/7/19. 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 it may be amend

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

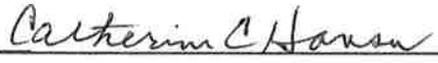


Kristine Isnardi
Chairman

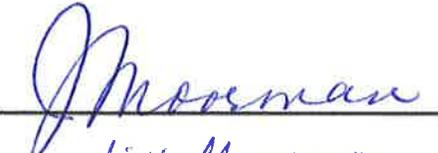
As approved by the Board on May 30, 2019

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

WITNESSES:



Catherine C Hanson
(Witness Name typed or printed)



Jill Moorman
(Witness Name typed or printed)

DEVELOPER/OWNER



(Address)

(President)

(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Lake §

The foregoing instrument was acknowledged before me this 3rd day of May, 2019, by John L. Jackson, President of _____, who is personally known to me or who has produced personally known as identification.

My commission expires
SEAL
Commission No.:



Notary Public
Catherine C. Hanson

(Name typed, printed or stamped)



Catherine C. Hanson
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG004903
Expires 7/2/2020

EXHIBIT A

LEGAL DESCRIPTION

(AS-SURVEYED)

LOVE'S PARCEL

BEING A PARCEL OF LAND LOCATED IN SECTION 13, TOWNSHIP 21 SOUTH, RANGE 34 EAST, BREVARD COUNTY, FLORIDA AND BEING A PORTION OF A PARCEL OF LAND CONVEYED BY DEED TO JOHN L. JACKSON JR TRUSTEE ETAL AS RECORDED IN DEED BOOK 6133, PAGE 2745, OF THE PUBLIC RECORDS IN BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE EAST QUARTER CORNER OF SECTION 13, THENCE WESTERLY ALONG THE QUARTER SECTION S-88°57'W, A DISTANCE OF 2344.11 FEET; THENCE LEAVING SAID QUARTER SECTION LINE N01°26'03"W, A DISTANCE OF 59.52 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY OF STATE ROUTE 46 AS SHOWN ON THE RIGHT OF WAY MAP FOR STATE ROAD 9 (INTERSTATE 95), BREVARD COUNTY, SECTION 70225, FED PROJECT NUMBER 0953-11-1, SAID POINT BEING THE POINT OF BEGINNING AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THENCE ALONG THE NORTH RIGHT OF WAY OF STATE ROUTE 46 THE FOLLOWING THREE (3) COURSES: 1) S88°33'22"W, A DISTANCE OF 114.08 FEET; 2) S01°26'38"E, A DISTANCE OF 26.02 FEET; 3) S88-32'35"W, A DISTANCE OF 346.42 FEET; THENCE LEAVING THE RIGHT OF WAY OF STATE ROUTE .46 N00-26,'59"W, A DISTANCE OF 1034.89 FEET, TO THE SOUTH LINE OF FLORIDA DEPARTMENT OF TRANSPORTATION DRANAGE POND PROPERTY; THENCE ALONG THE SOUTH LINE OF SAID FLORIDA DEPARTMENT OF TRANSPORTATION PROPERTY THE FOLOWWING TWO (2) COURSES: 1) N88° 23'24"E, A DISTANCE OF 287.39 FEET; 2) S58°03'46"E, A DISTANCE OF 618.08 FEET, TO THE EAST LINE OF DESCRIBED PROPERTY; THENCE S00°58'29"E, A DISTANCE OF 317.00 FEET; THENCE S89°05'30"W, A DISTANCE OF 352.21 FEET; THENCE S00-26'59"W, A DISTANCE OF 355.76 FEET, TO THE POINT OF BEGINNING.

HOTEL PARCEL

BEING A PARCEL OF LAND LOCATED IN SECTION 13, TOWNSHIP 21 SOUTH, RANGE 34 EAST, BREVARD COUNTY, FLORIDA AND BEING A PORTION OF A PARCEL OF LAND CONVEYED BY DEED TO JOHN L. JACKSON JR TRUSTEE ETAL AS RECORDED IN DEED BOOK 6133, PAGE 2745, OF THE PUBLIC RECORDS IN BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE ALONG THE NORTH RIGHT OF WAY OF STATE ROUTE 46 S88° 33'22"W, A DISTANCE OF 155.48'; THENCE LEAVING THE RIGHT OF WAY OF STATE ROUTE 46 N00-26'59"W, A DISTANCE OF 355.76 FEET; THENCE N89°05'30"E, A DISTANCE OF 352.21 FEET; THENCE SOUTH 00°58'29"E, A DISTANCE OF 152.42 FEET, TO THE NORTH LINE OF PROPERTY OWNED BY EAST COAST PETRO, INC; THENCE ALONG SAID NORTH LINE S88'33'22"W, A DISTANCE OF 200.00 FEET, TO THE WEST LINE OF SAID PROPERTY; THENCE LEAVING SAID NORTH LINE S00'58'29"E, A DISTANCE OF 200.00', TO THE POINT OF BEGINNING.

This instrument prepared by and return to:
William P. Weatherford, Jr., Esq./ddd
1150 Louisiana Avenue, Suite 4
Winter Park, Florida 32789

Affidavit of No Mortgages

STATE OF FLORIDA
COUNTY OF LAKE

John Jackson, after being duly sworn, deposes and says:

The undersigned, John L Jackson, Jr., as Trustee of The Jackson Family Land Trust, UTD
September 11, 2009, is the owner of the real property described on Exhibit A (the "Property")
which property is located in Brevard County, Florida.

There are no mortgages on the Property.

Dated this 10th day of May, 2019.


John Jackson

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was sworn to before me this 10th day of May, 2019, by

John Jackson, who is personally known to me or who has produced ___ as identification, and
who did take an oath.

Notary Public:



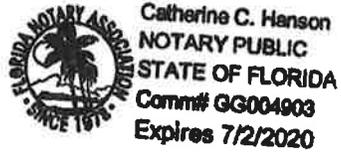
Catherine C. Hanson
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG004903
Expires 7/2/2020

Catherine C. Hanson

State of Florida at Large

My Commission Expires:

(SEAL)



Deborah Thomas

From: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Sent: Thursday, June 13, 2019 11:39 AM
To: Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe
Subject: Zoning Resolution
Attachments: 11. 18PZ00161 Resolution Signed.docx

Good morning,

Attached is a zoning resolution for an item that had a BDP with it.

Thank you,
Jennifer

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."