



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

3/22/2022

Subject:

Acceptance, Re: Binding Development Plan with Michael and Malena Stewart. (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept, and the Chair sign, the Binding Development Plan.

Summary Explanation and Background:

A BDP (Binding Development Plan) 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 the Board's approval of the zoning request. Following staff and legal review, the BDP is presented to the Board in recordable form as a Consent Agenda item in order to finalize the zoning action.

On March 3, 2022, the Board approved the removal of a BDP in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification), with a new BDP limiting development to a maximum of two units.

Clerk to the Board Instructions:

Upon recordation, please return two certified copies of the BDP to Planning & Development.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

March 23, 2022

MEMORANDUM

TO: Jennifer Jones, Zoning

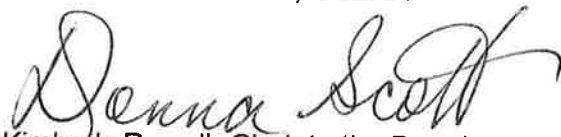
RE: Item F.3., Binding Development Plan Agreement with Michael and Malena Stewart

The Board of County Commissioners, in regular session on March 22, 2022, executed Binding Development Plan with Michael and Malena Stewart, for property located on a parcel of land being a portion of Block H of A.&B. Bruners resubdivision of Blocks A, H, J, K, and parts of Blocks C & I of A.L. Bruners resubdivision of Burchifeld & Bruners Addition to Crescent Beach. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


for: Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

cc: Contracts Administration

Resolution 21PZ00091

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

WHEREAS, Michael R. and Malena C. Steward have requested the removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 1.01, Block H, as recorded in ORB 9134, Pages 2615 - 2616, of the Public Records of Brevard County, Florida. **Section 26, Township 25, Range 37.** (0.23 acres) Located on the southeast corner of S. Atlantic Ave. and Summer St. (2060 S. Atlantic Ave., Cocoa Beach); and

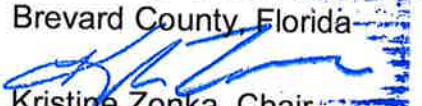
WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

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 limited to a BDP limiting development of the Property to a maximum of two dwelling units; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the removal of an existing BDP be approved with a BDP, recorded on 03/23/22, in ORB 9452, Pages 848 - 853, limiting development of the Property to a maximum of two dwelling units. 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 March 23, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Kristine Zonka, Chair
Brevard County Commission

As approved by the Board on March 22, 2022.

ATTEST:


RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – February 14, 2022
Board of County Commissioners Hearing - March 3, 2022

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs 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.**

Deborah Thomas

From: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Sent: Tuesday, March 29, 2022 10:54 AM
To: Clerk to the Board
Subject: Zoning Resolution
Attachments: 21PZ00091 Resolution.docx

Good morning,

Attached is a zoning Resolution 21PZ00091, Michael and Malena Stewart, from the March 3rd Zoning meeting.

Thank you,
Jennifer

Jennifer Jones
Special Projects Coordinator
Brevard County
Planning and Development Department
Phone: 321-350-8300
Extension: 58300
jennifer.jones@brevardfl.gov

Brevard County is currently in the process of implementing changes to increase the accessibility of information and documents on its website. If you require assistance to better access this document or information contained therein, please contact Brevard County's A.D.A Coordinator by phone at 321-637-5347, or by email at ADACompliance@brevardfl.gov

"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."

This email was scanned by Bitdefender

Prepared by: Michael & Malena Stewart
Address: 2060 S. Atlantic Ave.
Cocoa Beach, FL 32931

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 10 day of March, 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 Michael R. and Malena C. Stewart (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 desires to develop the Property as Single-Family 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 impacts 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. 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. Developer/Owner shall limit development of the Property to a maximum of two dwelling units.


4. This BDP shall replace the BDP recorded on 02/15/05, in ORB 5422, Pages 5613 - 5619, of the Public Records of Brevard County, Florida.
5. 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.
6. 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.
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 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 March 3, 2022. 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 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.
9. 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 8 above.
10. 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:


Rachel M. Sadoff, Clerk of Court
(SEAL)

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

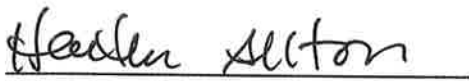

Kristine Zonka, Chair
As approved by the Board on 3/22/22

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

WITNESSES:


Geoffrey Limoge

(Witness Name typed or printed)


Heather Allton

(Witness Name typed or printed)

STATE OF FLORIDA §

COUNTY OF BREVARD §

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

Michael R Stewart & Malena C Stewart

537 Royal Palm Blvd

(Address) Satellite Beach FL 32937


(Owner)
Michael R Stewart
(Name typed, printed or stamped)

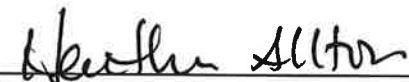
Malena Stewart
Malena C Stewart

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or
_____ online notarization, this 10 day of March, 2022 by
Michael R & Malena C Stewart, Owner of 20605 Atlantic Av, who is
Cocoa Beach FL 32931
personally known to me or who has produced _____ as identification.

My commission expires

SEAL

Commission No.:


Notary Public

(Name typed, printed or stamped)



Heather Allton
Comm #GG987795
Expires: Sept. 5, 2024
Bonded Thru Aaron Notary

JOINDER IN BINDING DEVELOPMENT PLAN BY MORTGAGEE CORPORATION

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated May 25, 2021, given by MICHAEL R STEWART and MALENA C STEWART, husband and wife, as mortgagor, in favor of the undersigned, SEACOAST NATIONAL BANK, as mortgagee, recorded in Official Records Book 9134, Page 2617, of the Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

MORTGAGEE CORPORATION NAME AND ADDRESS

SEACOAST NATIONAL BANK

Mortgagee Corporation Name

815 COLORADO AVENUE

Street

STUART

City

FL

State

34994

Zip Code

Patti Loomis

***Authorized Agent Signature**

PATTI LOOMIS, VICE PRESIDENT

Authorized Agent Printed Name and Title

***Note:** All others besides CEO or President require attachment of original corporate resolution of authorization to sign documents of this type.

AFFIX CORPORATE SEAL

WITNESSES

Keri D Churchwell

Signature

Keri D Churchwell

Print Name

Christin C Gavel

Signature

CHRISTIN C. GAVEL

Print Name

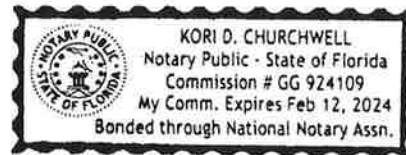
STATE OF Florida

COUNTY OF Martin

The foregoing instrument was acknowledged before me this 10th day of March, 2022,
by Patti Coomis, Vice President, who is personally known to me or who has produced
_____ as identification.

Kori D. Churchwell
Notary Public Signature

Kori D. Churchwell
Name Printed



SEAL

EXHIBIT "A"

A parcel of land being a portion of Block H of A.&B. Bruners Re-Subdivision of Blocks A, H, J, K, and parts of Blocks C & I of A.L. Bruners Re-sub of Burchfield & Bruners Addition to Crescent Beach, recorded in Plat Book 9, Page 4, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at an iron rod monumenting the intersection of the westerly right of way line of Atlantic Avenue, as presently located (a 100-ft. wide right of way) with the south right of way line of Sprint Street (a 42-ft. wide right of way)(and run S06deg49'00"E, along said west right of way line of Atlantic Avenue, a distance of 127.47 ft. to the point of curvature of a 5,679.65-ft. radius curve to the left; thence continue southeasterly along said west right of way line and along the arc of said curve, thru a central angle of 00deg24'04", a distance of 39.77 ft. to the Point of Beginning of the herein described parcel; thence continue southeasterly along said West right of way line and along the arc of said curve thru a central angle of 00deg50'40", a distance of 83.70 ft. to the north right of way line of Summer Street (a 50-ft. wide right of way); thence S82deg23'26"W, along the north right of way line, a distance of 120.67 ft., thence N06deg49'00"W, a distance of 84.32 ft.; thence N82deg43'14"E, a distance of 121.86 ft. to the Point of Beginning.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Brad A. Lange. Lober/Tobia. Approved changing zoning classification from BU-1 and RU-2-30 to RU-2-4 as recommended. (21Z00047).
- Item H.2. Sunil Rajan, Sudhir Rajan, and Suresh Rajan. Lober/Tobia. Approved changing zoning classification from NC to CC, with a Binding Development Plan for any shared driveway use requires the Diocese of Orlando's permission; and adopted Ordinance No. 22-05, setting forth Small Scale Comprehensive Plan Amendment 21S.09, changing the Future Land Use designation from NC to CC. (21PZ00082).
- Item H.3. Robert Griffith. Pritchett/Lober. Approved changing zoning classification from RRMH-1 to TR-1 as recommended. (21P00035).
- Item H.4. Scott Minnick. Pritchett/Lober. Approved changing zoning classification from AU to RR-1. (21Z00025).
- Item H.5. Lance C. Boncek. Pritchett/Tobia. Approved changing zoning classification from GU to AU. (21Z00046).
- Item H.6. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Lober. Adopted Ordinance No. 22-06, approving a Small Scale Comprehensive Plan Amendment (21S.08) to change the Future Land Use designation from NC to CC, as recommended. (21PZ00081).
- Item H.7. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Smith. Approved changing zoning classification from GU to BU-1. (21Z00044).
- Item H.8. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Smith. Adopted Ordinance No. 22-07, approving a Small Scale Comprehensive Plan Amendment (21S.10) to change the Future Land Use designation from RES 2 to RES 4. (21PZ00089).
- Item H.9. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Smith. Approved changing zoning classification from AU, GU, BU-1, and BU-2 to RU-1-7, with a Binding Development Plan. (21Z00043).
- Item H.10. John Louis Freeman. Lober/Pritchett. Approved the removal of an existing Binding Development Plan in an RU-2-12 zoning classification; and approved the addition of a new Binding Development Plan to remove condition two, and limited to two units. (21PZ00090).
- Item H.11. Michael R. and Malena C. Stewart. Lober/Smith. Approved the removal of an existing Binding Development Plan in an RU-2-12 zoning classification; and approved the addition of a new Binding Development Plan to remove condition two, and limited to two units. (21PZ00091).

RACHEL M. SADOFF
CLERK OF THE CIRCUIT COURT & COMPTROLLER
BREVARD COUNTY, FLORIDA

POST OFFICE BOX 2767
TITUSVILLE, FLORIDA 32781-2767
(321) 637-2006
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Transaction #: 3109611
Receipt #: 62958732
Cashier Date: 03/23/2022 09:21:08 AM
Cashier Branch: Titusville - Six Story

Print Date:
03/23/2022 09:21:12 AM

CUSTOMER INFORMATION	TRANSACTION INFORMATION		PAYMENT SUMMARY	
MICHAEL STEWART 1501 GEORGE ST ORLANDO, FL 32806	Date Received:	03/23/2022	Total Fees:	\$52.50
	Source Code:	Titusville - Six Story	Total Payments:	\$52.50
	Return Code:	Hand Carried	Balance Due:	\$0.00
	Trans Type:	Recording		

1 Payments

CHECK #365	\$52.50
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1 Recorded Items

AGREEMENT	BK/PG: 9452/848 CFN: 2022071653 Date: 03/23/2022 09:21:07 AM
From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	6 \$52.50

1 Miscellaneous Items

AGENT TRANSMITTAL