



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.6.

3/24/2020

Subject:

Acceptance, Re: Binding Development Plan with Ray L.Colgin (19PZ00118) (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:

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 December 5, 2019, the Board approved a change of zoning classification from AU (Agricultural Residential) to RU-1-7 (Single-Family Residential) with a BDP limited to two units per acre.

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

March 25, 2020

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.6., Binding Development Plan Agreement with Ray L. Colgin

The Board of County Commissioners, in regular session on March 24, 2020, executed Binding Development Plan with Ray L. Colgin. Said Plan was recorded in OR/BK 8700/2844. 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

Resolution 19PZ00118

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

WHEREAS, Ray L. Colgin has requested a change of zoning classification from AU (Agricultural Residential) to RU-1-7 (Single-Family Residential) with a BDP (Binding Development Plan) limiting density to two units per acre, on property described as Tax Parcel 501, as recorded in ORB 5558, Pages 4793 – 4794, of the Public Records of Brevard County, Florida. (52.53 acres) Section 21, Township 24, Range 35. Located on the north side of S.R. 520, approx. 0.63 mile west of the intersection of S.R. 520 and S.R. 524. (6500 S.R. 520, Cocoa) (District 1); 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 as recommended, with a BDP limited to two units per acre; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to RU-1-7, be approved with a BDP recorded on March 25, 2020, in Official Records Book 8700, Pages 2844 – 2849, of the Public Records of Brevard County, Florida, limiting density to two units per acre. 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 25, 2020.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Chair

Brevard County Commission

As approved by the Board on March 24, 2020.

ATTEST:

Scott Ellis

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – November 18, 2019

Board of County Commissioners Zoning Hearing – December 5, 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.**

Prepared by: Charles B. Genoni
Beachland Managers, LLC
4760 N. US1 #201
Melbourne FL 32935

**BINDING
DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 24 day of March, 2020 between the BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Ray L. Colgin, (hereinafter referred to as 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 RU 1-7 zoning classification and desire to develop the Property as a Single-Family Subdivision, 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. The Developer/Owner shall limit the project density to 2 units per acre

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

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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 Clerk of Courts the cost of recording this Agreement in the Public Records of Brevard County, Florida.

5. This Agreement shall be binding and shall insure 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 December 5, 2019. 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/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:



Scott Ellis, Clerk
(SEAL)

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



Bryan Lober, Chair
As approved by the Board on 3/24/20

RC

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

WITNESSES:

Mel Colgin
Mel Colgin
(Witness Name typed or printed)

Jonathan L. Patsch
Jonathan L. Patsch
(Witness Name typed or Printed)

OWNER

Ray L. Colgin

Ray L. Colgin

6500 Highway 520 Cocoa FL 32926

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 27 day of Dec, 2019,
by Ray L. Colgin, as owner of Circle C Ranch,
who is personally known or produced FLDL (425.732.63.281.0 as identification.
et 8/1/21

My commission expires 8/28/21

Commission no GG 128707

SEAL

[Signature]
Notary Public

(Name typed, printed or stamped)

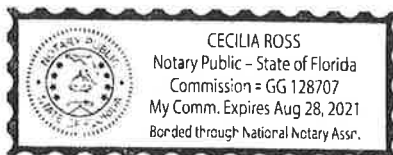


Exhibit "A"

PARCEL I

The West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 21, Township 24 South, Range 35 East, and a portion of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of Section 28, Township 24 South, Range 35 East lying North of State Road No. 520, less the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ thereof, all lying in Brevard County, Florida, the same being more particularly described as follows:

Begin at the Northwest corner of said Southwest $\frac{1}{4}$ of Section 21; thence N $89^{\circ} 25'24''$ E along the North line of said West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 21, a distance of 332.37 feet to the Northeast corner of said West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 21; thence S $00^{\circ} 02'00''$ W along the East line of said West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of Southwest $\frac{1}{4}$ of Section 21, a distance of 2646.50 feet to the Southeast corner of said West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 21; thence S $89^{\circ} 20'32''$ W along the South line of said West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 21, a distance of 331.58 feet to the Southwest corner of said Section 21; thence N $00^{\circ} 00'59''$ E along the West line of said Southwest $\frac{1}{4}$ of Section 21, a distance of 2646.10 feet to the Northwest corner of the Southwest $\frac{1}{4}$ of Section 21 and the POINT OF BEGINNING, together with the following described parcel of land: Commence at the Northwest corner of said Section 28; thence S $00^{\circ} 05'00''$ W along the West line of the Northwest $\frac{1}{4}$ of said Section 28, a distance of 326.44 feet to the Southwest corner of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28 and the POINT OF BEGINNING; thence N $00^{\circ} 35'20''$ E along the South line of said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28, a distance of 331.72 feet to the Southeast corner of said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28; thence S $00^{\circ} 03'27''$ E, a distance of 3915.28 to the Northerly right of way line of State Road No. 520, a 200 foot wide right of way; thence N $74^{\circ} 04'00''$ W along said Northerly right of way line, a distance of 354.56 feet to the West line of said Southwest $\frac{1}{4}$ of Section 28; thence N $00^{\circ} 03'26''$ E along said West line, a distance of 1530.40 feet to the Northwest corner of said Southwest $\frac{1}{4}$ of Section 28; thence N $00^{\circ} 05'40''$ E along said West line of the Northwest $\frac{1}{4}$ of Section 28, a distance of 2285.09 feet to the Southwest corner of said Northwest $\frac{1}{4}$ of Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28 and the POINT OF BEGINNING.

PARCEL 2

The Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28, Township 24 South, Range 35 East, Brevard County, Florida, the same being more particularly described as follows:

Begin at the Northwest corner of said Section 28; thence N $89^{\circ} 29'32''$ E along the North line of said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28, a distance of 331.58 feet to the Northeast corner of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28; thence S $00^{\circ} 04'11''$ E along the East line of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28, a distance of 327.00 feet to the Southeast corner of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28; thence S $89^{\circ} 35'20''$ W along the South line of said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 28, a distance of 331.72 feet to the West line of said Northwest $\frac{1}{4}$ of Section 28; thence N $00^{\circ} 05'40''$ E along said West line, a distance of 326.44 feet to said Northwest corner of Section 28 and the POINT OF BEGINNING ("Property").

JOINDER IN BINDING DEVELOPMENT PLAN BY MORTGAGEE

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 September 14, 2006, given by Ray L. Colgin, as mortgagor, in favor of the undersigned, Farm Credit of Central Florida, ACA, as mortgagee, recorded in Official Records Book 5702, Page 3548, 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 NAME AND ADDRESS

Farm Credit of Central Florida, ACA

57 East Third Street

Street

Apopka

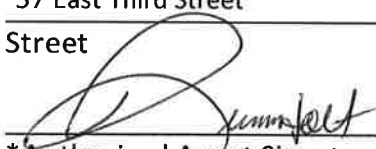
City

FL

State

32703

Zip Code


*Authorized Agent Signature

Reginald T. Holt President and CEO
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

A. Dawn Tuton
Signature

A. Dawn Tuton
Print Name


Signature

Janet L. Harrison
Print Name

STATE OF Florida

COUNTY OF Polk

The foregoing instrument was acknowledged before me this 6th day of March, 2020,
by Reginald T. Holt, President & CEO of Farm Credit of Central Florida, ACA
who is personally known to me or who has produced
_____ as identification.


Notary Public Signature

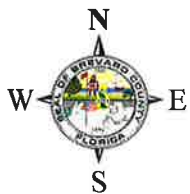
Janet L. Harrison
Name Printed



SEAL

LOCATION MAP

COLGIN, RAY L.
19PZ00118



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

Buffer Distance: 500 feet

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.

Produced by BoCC - GIS Date: 9/20/2019

— Buffer
— Subject Property

ZONING MAP

COLGIN, RAY L.

19PZ00118



1:12,000 or 1 inch = 1,000 feet

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.

Produced by BoCC - GIS Date: 9/20/2019

Subject Property

Parcels

Zoning

H. PUBLIC HEARINGS

Local Planning Agency/Planning and Zoning Board
Monday, November 18, 2019, at 3:00 p.m.

Brevard County Board of County Commissioners
Thursday, December 5, 2019, at 5:00 p.m.

Both at the
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, Florida

1. An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, Florida, entitled The Comprehensive Plan, setting forth the adoption of Large Scale Plan Amendment 2019-2; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions which require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date.

Plan Amendment 2019-2.1, a proposal initiated by Ray L. Colgin, to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from RES 1 (Residential 1) to RES 2 (Residential 2). The property is 52.53 acres, located on the north side of State Road 520, approximately 0.64 mile west of the intersection of State Road 524 and State Road 520. (6500 State Road 520, Cocoa)

Local Planning Agency Recommendation: Glover/Filiberto – Approved. The vote was unanimous.

Board of County Commissioners Action: Pritchett/Isnardi – Approved as recommended. The vote was unanimous.

2. Ray L. Colgin (Chad Genoni) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-7 (Single-Family Residential), with a BDP (Binding Development Plan) limited to two units per acre, on 52.53 acres, located on the north side of State Road 520, approximately 0.63 miles west of the intersection of State Road 520 and State Road 524. (6500 State Road 524, Cocoa) (Tax Account 2441237) (19PZ00118) (District 1)

Planning and Zoning Board Recommendation: Glover/Filiberto – Approved. The vote was unanimous.

Board of County Commissioners Action: Pritchett/Isnardi – Approved as recommended, with a BDP limited to two units per acre. The vote was unanimous. The BDP will be scheduled as a Consent Item on a subsequent County Commission agenda, per Policy BCC-52. Resolution to be completed upon receipt of recorded BDP.

Public Comment

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Think Green Brevard, LLC. Pritchett/Isnardi. Approved with the condition that the developer/owner provide documentation as to the site meeting County parking standards, per Section 62-3206 of the Brevard County Code, prior to the approval of the Alcoholic Beverage License, and that the alcoholic beverage consumption be limited to the chapel, reception hall, patio bar, and tasting bar.
- Item H.1.b. Waiver Request, Re: Waiver of Wall Requirement for Think Green Brevard Business Complex 19WV00017. Pritchett/Isnardi. Approved as recommended. (on the Agenda as F.2.)
- Item H.2. Bonnie Douglas, Trustee. Isnardi/Pritchett. Continued to the February 6, 2020, meeting.
- Item H.3. Kim Fischer and Brian Scott Hall. Pritchett/Isnardi. Approved with a BDP limiting outdoor storage to the south 200 feet of the property.
- Item H.4. Laura Kimberley Miller. Pritchett/Lober. Approved as AU(L) with a BDP to include no selling of agricultural products on the property, no outdoor events without a Special Event Permit, no camping or over-night stays for commercial purposes, and no resort or tenant dwellings on the property.
- Item H.5. Ray L. Colgin. Pritchett/Isnardi. Approved as recommended **and adopted Ordinance No. 19-25.**
- Item H.6. Ray L. Colgin. Pritchett/Isnardi. Approved as recommended with a BDP limited to two units per acre.
- Item H.7. Lazy River Investments, LLC. Isnardi/Pritchett. Motion failed due to lack of support with Tobia, Smith, and Lober voting Nay.