

ADD ON

Meeting Date
August 18, 2015



AGENDA	
Section	UNFINISHED BUSINESS
Item No.	V.B.

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: Earl W. Colvard and Patricia B. Colvard (BBC Investments) (District 1)
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 7, 2015, the Board of County Commissioners approved a change of classification from AU (Agricultural Residential) to BU-1-A (Restricted Neighborhood Commercial), on property located on the east side of U.S. Hwy 1, approx. 0.19 mile north of Roundtree Dr. (No assigned address. In the Cocoa area), subject to a Binding Development Plan as follows:

- Developer/Owner shall limit the use to drainage, on-site and off-site parking uses, solid waste receptacles and enclosure(s), driveway access, aisle and driveway connection to U.S. Hwy 1.
- Developer/Owner shall maintain the current vegetative buffer on the east side of 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	X	No	<input type="checkbox"/>	PR <input type="checkbox"/>
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County Manager		Department Director / Extension Robin M. Sobrino, AICP, Director Planning & Development Dept. Ext. 52069
Stockton Whitten		



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

August 19, 2015

MEMORANDUM

TO: Recording

RE: Item V.B, Binding Development Plan for Earl W. and Patricia B. Colvard (BBC Investments)

The Board of Commissioners, in regular session on August 18, 2015, executed Binding and Development Plan Agreement with Earl W. Colvard and Patricia B. Colvard, for property located on the east side of U.S. Highway 1, approximately 0.19 mile north of Roundtree Drive. (No assigned address. In the Cocoa area). Enclosed are the original Binding Development Plan Agreement and Check Number 6338 in the amount of \$44.00. **Please record the Agreement in the Public Records and return the recorded instrument to this office.**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/kg

Encls. (2)

Prepared by and Return to:
Timothy F. Pickles, Esq.
WATSON, SOILEAU, DELEO,
BURGETT & PICKLES, PA
3490 N US Highway 1
Cocoa, FL 32926
(321) 631-1550
Our File No. 14-0395

CFN 2015167262, OR BK 7436 PAGE 763,
Recorded 08/21/2015 at 04:25 PM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs:5

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 18 day of August, 2015, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and EARL W. COLVARD and PATRICIA B. COLVARD, husband and wife (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-1-A zoning classification(s) and desires to develop the Property for off-site Drainage and Parking, solid waste receptacles and enclosures, driveway access, aisle and driveway connection to US Highway 1, in support of the BU-2 zoned property to the South, 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 only be utilized for drainage, on-site and off-site parking uses, solid waste receptacles and enclosure(s), driveway access, aisle and driveway connection to US Highway 1, to serve/supplement the future commercial development on the property to the South (Tax Parcel ID: 24-36-08-00-00502.0). The location of the drainage system, parking spaces and driveway access points shall be included in the Final Site Plan. The location of the driveway access points shall be subject to FDOT approval.

3. Developer/Owner shall maintain the current vegetative buffer on the east side of the property.

4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida, except in those circumstances where a valid waiver or variance is granted for the proposed development by the appropriate government entity. 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 County 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

RETURN: Clerk to the Board #27


approved by the Board of County Commissioners on August 18, _____, 2015. 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 8 above.

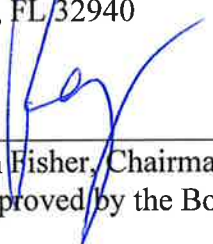
IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

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



Robin Fisher, Chairman
As approved by the Board on 8/18/15

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

WITNESSES:

X S. Laverne Stone
Print Name: S. LAVERNE STONE

X Jacqueline Wardwell
Print Name: Jacqueline Wardwell

X S. Laverne Stone
Print Name: S. LAVERNE STONE

X Jennifer Johnson
Print Name: Jennifer Johnson

DEVELOPER/OWNER

Earl W. Colvard
Earl W. Colvard

Patricia B. Colvard
Patricia B. Colvard

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 17 day of July, 2015, EARL W. COLVARD and PATRICIA B. COLVARD, husband and wife, who are personally known to me or who have produced _____ as identification.

(Seal)



Tina Gilmer
Notary Public
Name: Tina Gilmer
My commission expires: 10-15-2018

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL ID: 24-36-08-00-00270.0

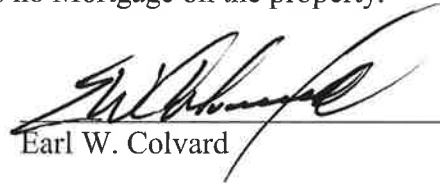
The South 143 feet of the following described parcel lying and being in Section 8, Township 24 South, Range 36, Brevard County, Florida:

Begin at the point of intersection of the East right of way of State Road 5, as located on June 21, 1956, with a line equidistant between the North and South lines of Government Lot 2, of Section 8, Township 24 South, Range 36 East, and from the said point of intersection run East on a line parallel with the North and South lines of Government Lot 2, a distance of 400 feet; thence run South and parallel with and 400 feet East from the East line of the right of way of State Road No. 5 as located on June 21, 1956, a distance of 650 feet, more or less, to the North line of the land conveyed by Susan H. Drinkwater to Samuel B. Blethen, deed recorded in Deed Book K, Page 198, thence run Westerly on the North line of the lands conveyed to Samuel B. Blethen aforesaid to a point on the East line of the right of way of State Road No. 5 as located on June 21, 1956, which is 16.5 feet North from the South line of Government Lot 2 aforesaid; thence run North on the East line of the right of way of State Road No. 5 as located on June 21, 1956 a distance of 643.5 feet, more or less, to the Point of Beginning.

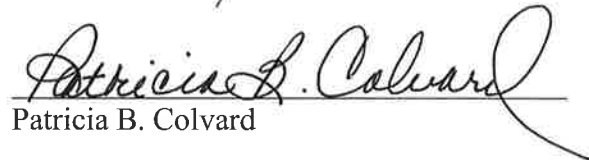
STATEMENT OF NO MORTGAGE

STATE OF FLORIDA
COUNTY OF _____

The undersigned, EARL W. COLVARD and PATRICIA B. COLVARD, husband and wife, owners of property in Brevard County, Florida, having Property Identification No. 24-36-08-00-00270.00, which property is the subject of a Binding Development Plan executed of even date herewith, and further undersigned state that there is no Mortgage on the property.



Earl W. Colvard




Patricia B. Colvard

ACKNOWLEDGMENT

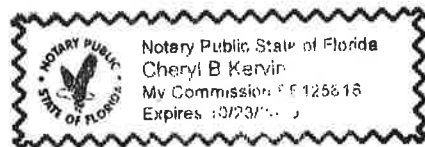
STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 29 day of May, 2015, by EARL W. COLVARD and PATRICIA B. COLVARD, husband and wife, who are personally known to me or who have produced _____ as identification.



Notary Public
Name: Cheryl B Kervin
My commission expires: 10/23/2015

(Seal)



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
 #: 1569210
 Receipt #: 61538847
 Cashier Date: 8/21/2015
 4:25:50 PM



Print Date:
 8/21/2015 4:25:51 PM

Customer Information	Transaction Information	Payment Summary
(334) WATSON SOILEAU DELEO BURGETT & PICKLES P O BOX 236007 COCOA, FL 32923	DateReceived: 08/21/2015 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$44.00 Total Payments \$44.00

1 Payments	
CHECK 6338	\$44.00

1 Recorded Items	
(AG) AGREEMENT	BK/PG: 7436/763 CFN:2015167262 Date:8/21/2015 4:25:49 PM From: To:
Recording @ 1st=\$10 Add'l=\$8.50 ea.	5 \$44.00
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	3 \$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL

III.B.4. (15PZ00015) – BBC INVESTMENTS IV, LLC – (Steve Stevens) – requests a change of classification from AU to BU-1-A on 1.31 acres, located on the east side of U.S. Hwy 1, approx. 0.19 mile north of Roundtree Dr. (No assigned address. In the Cocoa area.)

P&Z Recommendation: Reed/Lawandales – Approved with a Binding Development Plan, limiting the use to drainage, on-site and off-site parking uses, solid waste receptacles and enclosure(s), driveway access, aisle and driveway connection to U.S. Hwy. 1, and maintaining the current vegetative buffer on the east side of the property. Vote was unanimous.

BCC ACTION: Infantini/Anderson – APPROVED with a BDP, limiting the use to drainage, on-site and off-site parking uses, solid waste receptacles and enclosure(s), driveway access, aisle and driveway connection to U.S. Hwy 1, and maintaining the current vegetative buffer on the east side of the property. Vote was unanimous. Commissioner Fisher absent. 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.

DISTRICT 3

III.B.5. (15PZ00016) – PENCE LAND MATERIALS II, INC. – (Bill Alcock) – requests a Small Scale Plan Amendment (15S.04) to change the Future Land Use Map from Residential 1 to CC, and a CUP for Land Alteration on 9.87 acres +/-, located on the northeast corner of SE Babcock St. and Micco Rd. (No assigned address. In the Palm Bay area.)

LPA Recommendation: McLellan/Reed – Approved. Vote was 8:2, with Barber and Charbonneau voting nay.
P&Z Recommendation: McLellan/Reed – Approved, with the condition that the use be limited to a borrow pit. Vote was unanimous.

BCC ACTION: Infantini/Anderson – APPROVED, with the condition that the use be limited to a borrow pit. Vote was unanimous. Commissioner Fisher absent. 15PZ00016.

PLANNING AND ZONING BOARD RECOMMENDATIONS OF APRIL 6, 2015

- III.B.1. FMKT Mel Owner, LLC. Anderson/Smith, approved as recommended. Commissioner Fisher absent.
- III.B.2. Brevard County. Anderson/Smith, approved with a Binding Development Plan, limiting the use to a thrift store. Infantini voted nay. Commissioner Fisher absent.
- III.B.3. EMCORP, Inc. and Donald W. Renfroe Sr., Trustee. Withdrawn by applicant.
- III.B.4. BBC Investments IV, LLC. Infantini/Anderson, approved with a Binding Development Plan limiting the use to drainage, on-site and off-site parking uses, solid waste receptacles and enclosure(s), driveway access, aisle and driveway connection to U.S. Hwy. 1, and maintaining the current vegetative buffer on the east side of the property. Commissioner Fisher absent.
- III.B.5. Pence Land Materials II, Inc. Infantini/Anderson, approved as recommended. Commissioner Fisher absent.

LOCATION MAP

BBC INVESTMENTS IV LLC

15PZ00015



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

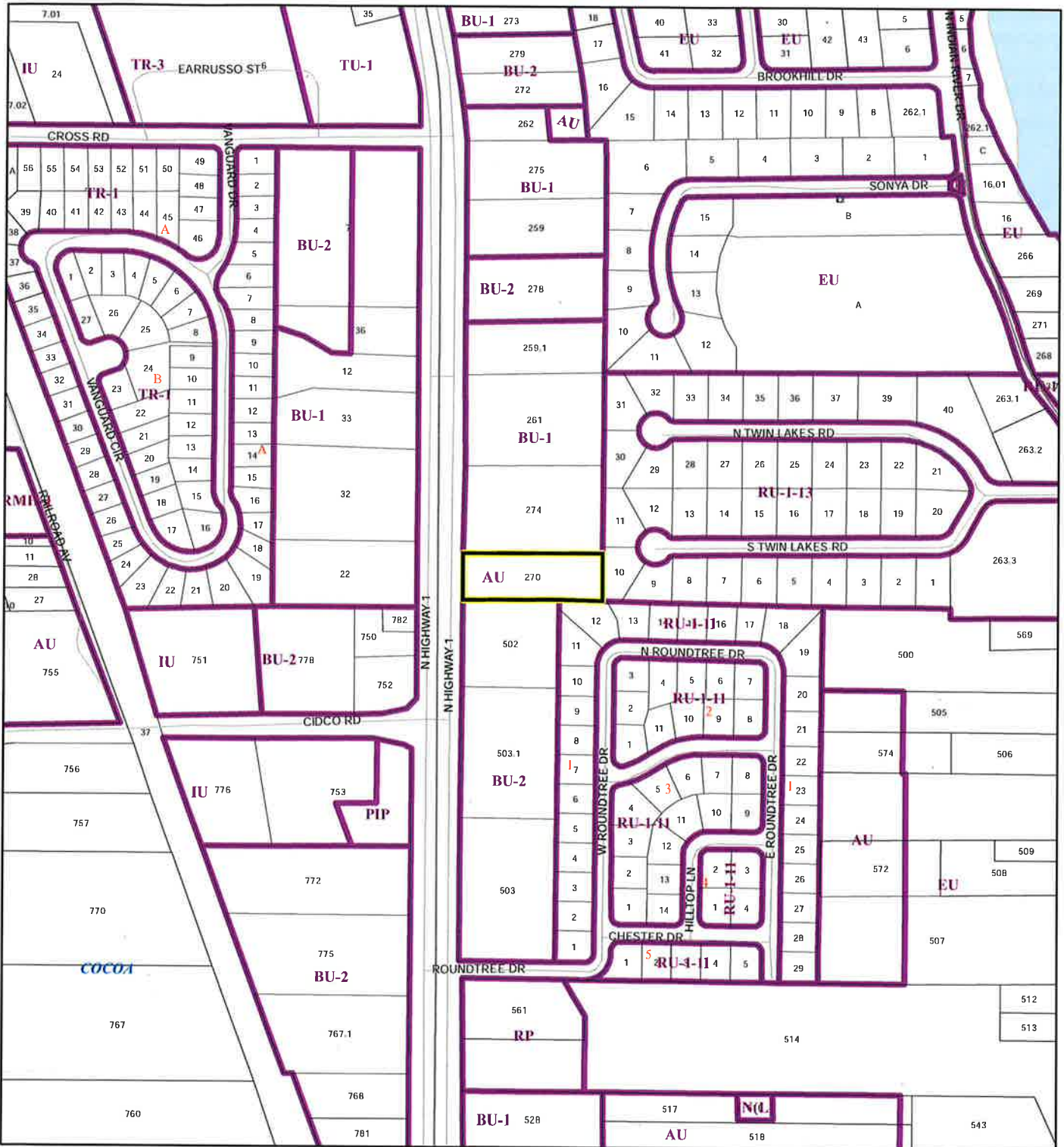
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 2/24/2015

ZONING MAP

BBC INVESTMENTS IV LLC

15PZ0015



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 herein.