

Meeting Date
March 17, 2015



AGENDA	
Section	CONSENT
Item No.	II.A.4

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: John D. Haley (District 4)
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 February 5, 2015, the Board of County Commissioners approved a change of classification from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential), on property located on the east side of U.S. Hwy 1, approx. 700 ft. north of Post Road. (4131 N. Hwy 1, Melbourne), subject to a Binding Development Plan as follows:

- Developer/Owner, shall limit to three (3) lots and may further be restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

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	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension Robin M. Sobrino, AICP, Director Planning & Development Dept. Ext. 52069
Stockton Whitten	Mel Scott, AICP	<i>Robin M. Sobrino</i>



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

March 30, 2015

MEMORANDUM

TO: Jennifer Jones, Zoning

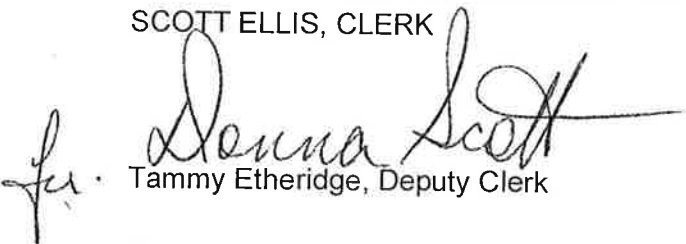
RE: Item II.A.4., Binding Development Plan Agreement with John D. Haley

The Board of County Commissioners, in regular session on March 15, 2015, executed Binding Development Plan Agreement with John D. Haley, for Lot 30 and the North 50 feet of Lot 31, unrecorded plat of Indian River Estates. Said Agreement was recorded in ORBK 7324 PGs 2659 through 2663 Enclosed for your necessary action is two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

 Tammy Etheridge, Deputy Clerk

/jl

Encl. (2)

cc: Contracts Administration



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

March 17, 2015

MEMORANDUM

TO: Recording

RE: Item II.A.4., Binding Development Plan Agreement with John D. Haley

The Board of County Commissioners, in regular session on March 17, 2015, executed Binding Development Plan Agreement John D. Haley for Lot 30 and the North 50 feet of Lot 31, unrecorded plat of Indian River Estates. Enclosed are original Binding Development Agreement and Check Number 6753 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

for 
Tammy Etheridge, Deputy Clerk

/jl

Encl. (2)

On motion by Commissioner Infantini, seconded by Commissioner Anderson, the following resolution was adopted by a unanimous vote:

WHEREAS, JOHN D. HALEY has requested a change of classification from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential), with a BDP (Binding Development Plan) limited to three (3) lots, on property described as Lot 30, Block 52, Indian River Estates Villas, as recorded in ORB 7228, Pages 256 – 257, and ORB 6246, Page 1958, of the Public Records of Brevard County, Florida (1.45 acres) Located on the east side of U.S. Hwy 1, approx. 700 ft. north of Post Rd. (4131 N. Hwy 1, Melbourne)

Section 32, Township 26 S, Range 37 E, and,

WHEREAS, a public hearing of the Brevard County Planning & 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 & Zoning Board recommended that the application be approved with a BDP limited to three (3) lots; and,

WHEREAS, the Board, after considering said application and the Brevard County Planning & 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 limited to three (3) lots; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from RU-1-9 to RU-1-7, be APPROVED with a Binding Development Plan, recorded in ORB 7324, Pages 2659 through 2663, dated 03/18/15, limited to three (3) lots, and that the zoning classification relating to the above described property be changed, and the Planning & Zoning 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 18, 2015.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

by Robin Fisher, Chairman
Brevard County Commission
As approved by Brevard County Commission on March 17, 2015.

ATTEST:

SCOTT ELLIS, CLERK
(SEAL)

(P&Z/LPA Hearing – January 5, 2015)
(BCC Zoning Hearing – February 5, 2015)

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 (1) year of approval or if construction does not commence within two years of approval. A PUD 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: BSE Consultants, Inc.
Address: 312 South Harbor City Blvd, #4
Melbourne, FL 32901

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 17th day of March, 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 John D. Haley (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 RU-1-7 zoning classification(s) and desires to develop the Property as residential with three (3) single-family lots, 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 to three (3) lots and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

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 2/5/15. 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 6 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:

[Signature]
Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940
[Signature]
Robin Fisher, Chairman
As approved by the Board on 3-17-15

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

WITNESSES:

[Signature]
Mary Maniscalco
(Witness Name typed or printed)

[Signature]
Jennifer Conrad
(Witness Name typed or printed)

DEVELOPER/OWNER

P.O. Box 410558
MELBOURNE, FL 32941
(Address)

[Signature]
John D. Haley
(Name typed, printed or stamped)

STATE OF Florida §
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 12th day of February, 2015, by John Haley, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires 6-11-18
SEAL
Commission No.:

[Signature]
Notary Public
Mary Maniscalco
(Name typed, printed or stamped)



Exhibit A

Parcel 1: Lot 30 of unrecorded Plat of Indian River Estates, North Eau Gallie, Florida, which said lot is more particularly described as follows: Begin at a point on East side of US No. 1 Highway, 1960 feet North of South line of Section 32, Township 26 South, Range 37 East, Brevard County, Florida, and 608.52 feet, more or less, East of West line US Lot 3; thence South $22^{\circ}51'$ East on East side of US No. 1, a distance of 1200 feet for the point of beginning; thence North $67^{\circ}09'$ East perpendicular to US No. 1 to the waters of Indian River; thence Southeasterly in the waters of Indian River to a point 100 feet southeasterly from point of beginning and at right angles to East side US No. 1; thence South $67^{\circ}09'$ West perpendicular to US No. 1 to the East side US No. 1; thence North $22^{\circ}51'$ West on East side of US No. 1, a distance of 100 feet to point of beginning.

Parcel2: The North 50 feet of Lot 31, unrecorded plat of Indian River Estates North Eau Gallie, Florida, more particularly described as follows: Begin at a point on the East side of US No. 1 Highway 1960 feet North of South line Section 32, Township 26 South, Range 37 East Brevard County, Florida and 608.52 feet, more or less, East of West line of US Lot 3, thence South $22^{\circ}51'$ East on East side US No. 1 Highway a distance of 1300 feet for a point of beginning, thence North $67^{\circ}09'$ East perpendicular to US No. 1 Highway to the waters of Indian River; thence southeasterly in the waters of Indian River to a point 50 feet southeasterly from the point of beginning and at right angles to US No. 1; thence South $67^{\circ}09'$ West perpendicular to East side US No. 1; thence North $22^{\circ}51'$ West on East side of US No. 1, a distance of 50 feet to point of beginning.

JOINDER IN BINDING DEVELOPMENT PLAN

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 October 16, 2014, given by Florida Business Bank, 340 North Harbor City Boulevard, Melbourne, FL 32935 as mortgagee, in favor of the undersigned, John D. Haley, as mortgagor, recorded in Official Records Book 7231, Page 321, 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.

WITNESSES:

MORTGAGEE NAME/ADDRESS

Florida Business Bank
340 North Harbor City Boulevard
Melbourne, FL 32935

Kristen L. Turcone

Kristen L. Turcone

(Witness name typed or printed)

William R. Norris

Authorized Agent Signature

William R. Norris

Matt Mulvania

Matt Mulvania

(Witness name typed or printed)

STATE OF FL §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 12th day of February, 2015, by John D. Haley, who is personally known to me or who has produced _____ as identification.

My commission expires

Kristen L. Turcone

Notary Public

Kristen L. Turcone

SEAL

Commission No.:

(Name typed, printed or stamped)



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
 #: 1484527
 Receipt #: 61455711
 Cashier Date: 3/18/2015
 4:10:32 PM



Print Date:
 3/18/2015 4:10:42 PM

Customer Information	Transaction Information	Payment Summary
() JH DEVELOPMENT LLC P O BOX 410558 MELBOURNE, FL 32941	DateReceived: 03/18/2015 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 6753	\$44.00

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7324/2659 CFN:2015053702 Date:3/18/2015 4:10:31 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	5	\$44.00
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	2	\$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL