



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

2/25/2020

Subject:

Acceptance, Re: Binding Development Plan with Kim Fischer and Brian Scott Hall (19PZ00113) (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 BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP (Binding Development Plan) to all BU-2, with a BDP limiting outdoor storage to the south 200 feet of the property. The BDP submitted by the applicants prohibits outdoor storage on the north 100 feet of the property. The property is 300 feet deep; therefore, prohibiting outdoor storage on the north 100 feet accomplishes limiting outdoor storage to the south 200 feet.

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

February 26, 2020

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.4., Binding Development Plan Agreement with Kim Fischer and Brian Scott Hall

The Board of County Commissioners, in regular session on February 25, 2020, executed Binding Development Plan with Kim Fischer and Brian Scott. The property is E ½ for a point of beginning commence at the intersection of the east line of the NW 1/4 of the NE ¼ of Section 34, Township 24S, Range 35E and the south right-of-way line of S.R. 520. Said Plan was recorded in OR BK/PG 8676/2605. 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 19PZ00113

On motion by Commissioner Smith, seconded by Commissioner Tobia, the following resolution was adopted by a unanimous vote (Commissioner Isnardi absent):

WHEREAS, Kim Fischer and Brian Scott Hall have requested a change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP (Binding Development Plan) to all BU-2 and removal of BDP, on property described as Tax Parcel 45, recorded in ORB 8018, Pages 1628 – 1629, of the Public Records of Brevard County, Florida. Section 34, Township 24, Range 35. (1.12 acres) Located on the south side of S.R. 520, approx. 0.24 miles west of Lake Poinsett Road. (No assigned address. In the Cocoa area.); 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 limiting outdoor storage to the south 200 feet of the property; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1 to BU-2, be approved with a BDP recorded on February 25, 2020, in Official Records Book 8676, Pages 2605 – 2608, of the Public Records of Brevard County, Florida, prohibiting outdoor storage on the front 100 feet of the property. 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 February 27, 2020.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Chair
Brevard County Commission
As approved by the Board on February 25, 2020.

ATTEST:

Scott Ellis

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – November 4, 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: _____
Address: _____

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 25 day of FEBRUARY, 2020 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and _____ Kim Fischer and Brian Scott Hall _____, individuals (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 office/warehouse, 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 not provide any outdoor storage in the front 100' feet of the property as measured from SR 520.

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 Clerk of Court 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 12/05/19. 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 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:

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

Scott Ellis
Scott Ellis, Clerk
(SEAL)

Bryan Lober
Bryan Lober, Chair
As approved by the Board on FEB. 25, 2020

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

WITNESSES:

Kim Fischer and Brian Scott Hall
as DEVELOPER/OWNER

Steve Fehr
Steve Fehr
(Witness Name typed or printed)

Brian Scott Hall
Brian Scott Hall

Kim Fischer
Kim Fischer

James Nelson
James Nelson
(Witness Name typed or printed)

1614 White Dove Drive, Winter Springs, FL 32708
(Address)

STATE OF Florida §

COUNTY OF Orange §

The foregoing instrument was acknowledged before me this 14th day of January, 2020, by Kim Fischer and Brian Scott Hall, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Nicole Martin
Notary Public
(Name typed, printed or stamped)



NICOLE MARTIN
Commission # GG 204196
Expires August 5, 2022
Bonded Thru Budget Notary Services

Exhibit "A"

The E ½ of the following legal description:

For a point of beginning commence at the intersection of the east line of the NW ¼ of the NE ¼ of Section 34, Township 24S, Range 35E, and the south right-of-way line of S.R. 520, a presently located; thence run West on said South right-of-way line of S.R. 520, a distance of 840 ft. to a point; thence run south and parallel with the west line of said NW ¼ of the NE ¼ a distance of 300 ft. to a point; thence run east and parallel to said first course a distance of 840 ft. to said east line of the NW ¼ of the NE ¼; thence run north of said east line, a distance of 300 ft. to the point of beginning;

Less and Except the east 510 ft. thereof.

All lying and being situate in Brevard County, Florida

A/k/A:

Tax Parcel 45, recorded in ORB 8018, Pages 1628 – 1629, of the Public Records of Brevard County, Florida.

Kim Fischer

1614 White Dove Drive

Winter Springs, FL 32708

kim@cycorpengineers.com

January 13, 2020

To whom it may concern:

There is no mortgage on the property located on SR 520 with parcel ID number 24-35-34-00-45.



Kim Fischer

owner

Nicole Martin 1/14/2020

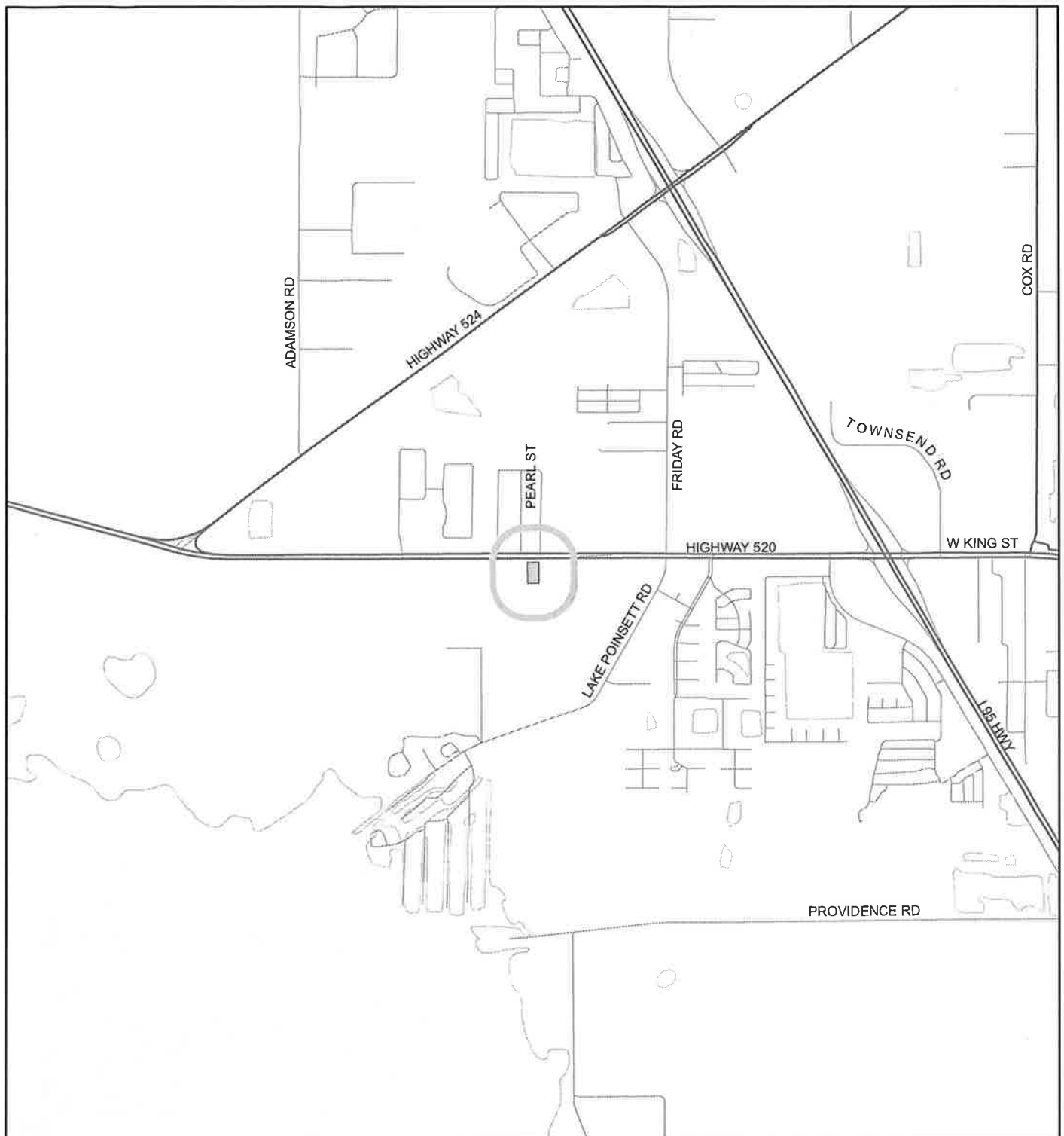


NICOLE MARTIN
Commission # GG 204196
Expires August 5, 2022
Bonded Thru Budget Notary Services

✓ *Kim Fisher is personally known to me.*

LOCATION MAP

FISCHER, KIM AND HALL, BRIAN SCOTT
19PZ00113



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

Buffer Distance: 500 feet

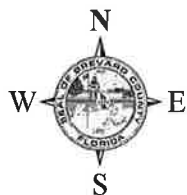
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2019

Buffer
Subject Property

ZONING MAP

FISCHER, KIM AND HALL, BRIAN SCOTT
19PZ00113



1:4,800 or 1 inch = 400 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: 9/10/2019

- Subject Property
- Parcels
- Zoning

PUBLIC HEARINGS

Planning and Zoning Board / Local Planning Agency
Monday, November 4, 2019 at 3:00 p.m.

and

Brevard County Board of County Commissioners
Thursday, December 5, at 5:00 p.m.
(Item 1 on LPA Agenda will be heard 11/12/19 & 12/05)
Both at the

Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

1. **Think Green Brevard, LLC (Stuart Buchanan)** request a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant and wedding venue, in an IU (Industrial Use) zoning classification. The property is 7.86 acres, located on the northwest corner of Parrish Road and U.S. Highway 1. (2030 U.S. Highway 1; 2900 Parrish Road; and 2920 Parrish Road, Titusville) (Tax Account 2104639) (19PZ00066) (District 1)

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

Board of County Commissioners Action: 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 alcoholic beverage consumption be limited to the chapel, reception hall, patio bar, and tasting bar. The vote was unanimous.

2. **Bonnie E. Douglas, Trustee (Connie Douglas)** requests a change of zoning classification from RU-1-9 (Single-Family Residential), BU-1 (General Retail Commercial), and TR-3 (Mobile Home Park) to all TR-3, with a BDP (Binding Development Plan) limiting the number of mobile home sites to the current number of 173. The property is 31.36 acres, located on the west side of U.S. Highway 1, approximately 250 feet south of Garrett's Road. (8440 U.S. Highway 1, Micco) (19PZ00108) (Tax Accounts 3006458 and 3010260) (District 3)

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

Board of County Commissioners Action: Isnardi/Pritchett – Tabled to the February 6, 2020, meeting. The vote was unanimous.

3. **Kim Fischer and Brian Scott Hall** requests a change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP (Binding Development Plan), to all BU-2 and removal of BDP. The property is 1.12 acres, located on the south side of State Road 520, approximately 0.24 miles west of Lake Poinsett Road. (No assigned address. In the Cocoa area.) (Tax Account 2444757) (19PZ00113) (District 1)

Planning and Zoning Board Recommendation: Moia/Hodgers – Approved. The vote was unanimous.

Board of County Commissioners Action: Pritchett/Isnardi – Approved with a BDP (Binding Development Plan) limiting outdoor storage to the south 200 feet of the property. 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.

LPA Agenda

1. An ordinance amending Floodplain Protection and Land Alteration

Local Planning Agency Recommendation: Theodore/Glover – Approved with the added phrase, “from stormwater” in paragraph 4(b), after ‘adverse impact’. The vote passed 5:3, with Filiberto, Moia, and Wadsworth voting nay.

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.