

RETURN: Clerk to the Board #27

Brevard Ventures, Inc./KEW LLC
Prepared by: Rochelle W. Lawandales, AICP
Lawandales Planning Affiliates
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Melbourne, Florida 32901
Phone: 321.757.3197
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Scott Ellis
Clerk Of Courts, Brevard County
#Pgs: 5 #Names: 2
Trust: 3.00 Rec: 41.00 Serv: 0.00
Excise: 0.00
Mtg: 0.00 nt Tax: 0.00

CFN: 2006052338 02-22-2006 11:04 am
OR Book/Page: 5607 / 5085

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 21 day of February, 2006, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Brevard Ventures, Inc./KEW LLC, owners of real property located at 505 Fortenberry Road, Merritt Island, Florida (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 commercial, with office and mini-storage uses 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 BU-2 zoning to the portion of the land described as Tax parcel #547 on the sketch of legal description dated 10/7/05 by Packard Surveying, containing 2.636 acres more or less. (copy attached)



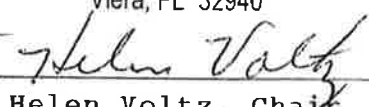
3. The Developer/owner shall limit the uses under the BU2 zoning district classification to only that of "mini warehouse (self storage)". No other BU-2 uses shall be permitted. Any other uses of the subject property shall be limited to those identified within the Brevard County Land Development Code under the BU1 Commercial Zoning category as "Permitted Uses".
4. No businesses shall be allowed to be conducted from within the storage units.
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 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 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 11/3/05. 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 it may be amended.

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 Jamieson Way
Viera, FL 32940


Helen Voltz, Chair

As approved by the Board on February 21, 2006

↑ RETURN: Clerk to the Board #27

STATE OF FLORIDA §
COUNTY OF BREVARD §

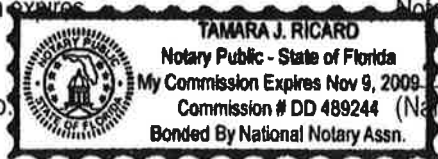
The foregoing instrument was acknowledged before me this 21 day of February, 2006 by Helen Voltz, Chair of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced _____ as identification.

My commission expires _____

Notary Public

SEAL

Commission No.:



Tamara J. Ricard

(Name typed, printed or stamped)

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

WITNESSES:

DEVELOPER/OWNER

Signature

Paula Darby
(Witness Name typed or printed)

Signature

Jill M. Veltri
(Witness Name typed or printed)

Signature

P.O. BOX 541682
Meritt Island, FL 32954-1682
(Address)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 24 day of January, 2006, by _____, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires _____

SEAL

Commission No.:

Notary Public

Carol A. Chermanski
(Name typed, printed or stamped)



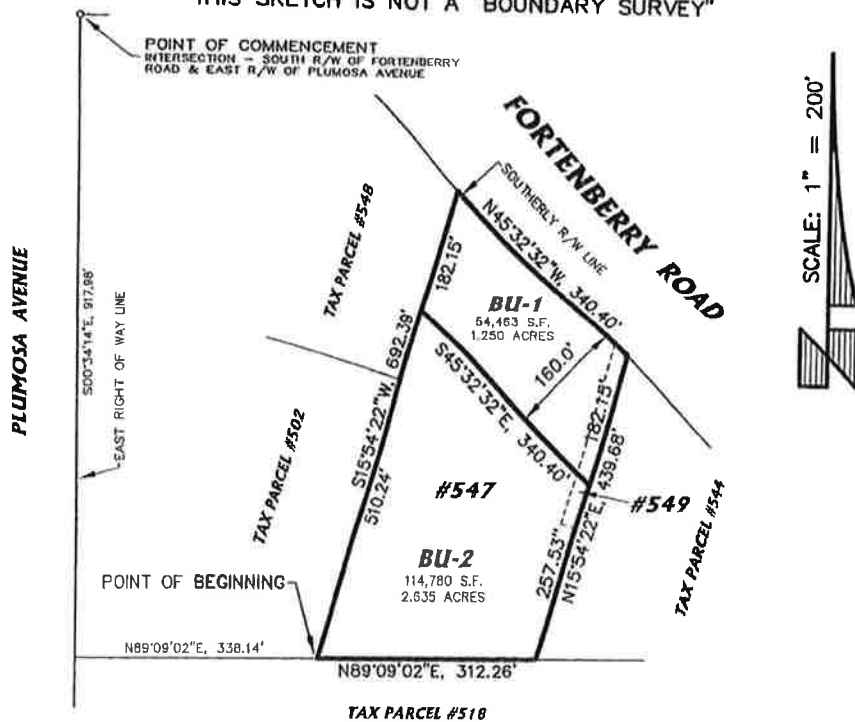
CAROL A. CHERMANSKI
MY COMMISSION # DD 377694
EXPIRES: January 24, 2009
Bonded Thru Budget Notary Services

211 144

(42)

EXHIBIT A
LEGAL DESCRIPTION OF PARCEL

SKETCH TO ACCOMPANY DESCRIPTION
THIS SKETCH IS NOT A "BOUNDARY SURVEY"



TAX PARCELS #547 & #549
DESCRIPTION - "BU-1":

THE NORTHEASTERLY 160 FEET OF THE FOLLOWING DESCRIBED PARCEL:

A PARCEL OF LAND LYING IN SECTION 36, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF FORTENBERRY ROAD WITH THE EAST RIGHT OF WAY LINE OF PLUMOSA AVENUE, AND RUN S.00°34'14"E., ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 917.98 FEET; THENCE N.89°09'02"E., A DISTANCE OF 338.14 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°09'02"E., A DISTANCE OF 312.26 FEET; THENCE N.15°54'22"E., A DISTANCE OF 439.68 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF FORTENBERRY ROAD; THENCE N.45°32'32"W., ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 340.40 FEET; THENCE S.15°54'22"W., A DISTANCE OF 692.39 FEET TO THE POINT OF BEGINNING; CONTAINING 1.250 ACRES.

DESCRIPTION - "BU-2":

A PARCEL OF LAND LYING IN SECTION 36, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF FORTENBERRY ROAD WITH THE EAST RIGHT OF WAY LINE OF PLUMOSA AVENUE, AND RUN S.00°34'14"E., ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 917.98 FEET; THENCE N.89°09'02"E., A DISTANCE OF 338.14 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°09'02"E., A DISTANCE OF 312.26 FEET; THENCE N.15°54'22"E., A DISTANCE OF 439.68 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF FORTENBERRY ROAD; THENCE N.45°32'32"W., ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 340.40 FEET; THENCE S.15°54'22"W., A DISTANCE OF 692.39 FEET TO THE POINT OF BEGINNING; LESS AND EXCEPT THE NORTHEASTERLY 160 FEET THEREOF; CONTAINING 2.635 ACRES.

DRAWN BY: RMP

CHK'D BY:

DATE: 10/7/05

JOB #: 05-204

SHEET 1 OF 1

PREPARED FOR AND CERTIFIED TO:

SKETCH / DESCRIPTION FOR:
BREVARD VENTURES, INC.



1013 ROCKLEDGE DRIVE
ROCKLEDGE, FLORIDA 32955
TEL.: (321) 632-6335

711 144



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 11/21/2005, given by , as mortgagor, in favor of the undersigned, RBC Centura Bank, as mortgagee, recorded in Official Records Book 5568, page 7795, 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 subordinating the lien of the undersigned's Mortgage to said Binding Development Plan.

WITNESSES:

Vicki L. Ray
Vicki L. Ray
(Witness name typed or printed)

Connie Delosa
Connie Delosa
(Witness name typed or printed)

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 24 day of January, 2006 by Rebecca Collura, who is personally known to me or who has produced _____ as identification.

My commission expires

SEAL

Commission No.:



Ann Leighton
Commission #DD296631
Expires: Mar 05, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

(Name typed, printed or stamped)

Notary Public



Ann Leighton
Commission #DD296631
Expires: Mar 05, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

211144
1/22/2006