

Chapter 62 Article VI, Division 2, Section 62-1157, "Submission of binding development plan in support of request for change of zoning or conditional use permit"

An applicant for a change of zoning or a conditional use permit may voluntarily submit a binding development plan in support of such change of zoning or conditional use permit, exclusive and separate from development agreements governed by Chapter 163, Part II, Florida Statutes, as may be amended.

(1) Basic requirements for a binding development plan are as follows:

- a. The plan shall provide a legal description of the land subject to the restriction.
- b. The application shall identify all legal and equitable owners of the subject property, as well as any entity with an interest in the property.
- c. Where a concurrency issue is addressed by the binding development plan, the plan shall specify a time certain for performance by the property owner.
- d. The plan shall provide a written description of the particular conditions, restrictions, or requirements placed on the property prior to development.
- e. The binding development plan shall also include a conceptual graphic representation, when applicable, of the proposed development, depicting all restrictions stipulated in subsection (1)d of this section.
- f. Where a binding development plan is submitted, approval of the zoning action shall be contingent upon the presentation of a final and complete binding development plan and acceptance of the plan by the board of county commissioners.
- g. If appropriate, the document should state the level of development permitted. The document shall specify that no further development shall be permitted without a waiver or release of the restrictions by the county. Any restriction stipulated in the binding development plan shall not be less restrictive than requirements of existing codes and regulations.
- h. All persons or entities with a legal or equitable interest in the subject property shall be a party to the binding development plan, as well as any entity with an interest in the property including, but not limited to, any lienor(s). This requirement may be satisfied by either being a signatory to the binding development plan or through an instrument that binds all such owners and interest-holders to the agreement. All legal and equitable owners of the subject property, as well as any entity with an interest in the property, must consent to the binding development plan prior to its approval by the Board of County Commissioners.
- i. (1) The document shall be recorded in the public records of the county, and a certified copy of the recorded document shall be supplied to the zoning division within 120 (one hundred twenty) days of approval by the board of county commissioners at the public hearing held pursuant to

section 62-1151(d) or, where there is no associated rezoning application, at the public hearing held in accordance with Section 62-1157(2). Approval of the zoning action is not effective until such criteria are satisfied. Unless an extension is approved pursuant to Section 62-1157(1)(i)(2), if the applicant fails to record the binding development plan prior to the expiration of 120 (one hundred twenty) days from the date of approval by the board of county commissioners, then the application will be considered to have been withdrawn.

(2) The applicant may make a request of a 60 (sixty) day extension for good cause to the Board of County Commissioners. Such a request must be made within 90 (ninety) days of approval by the Board of County Commissioners at the public hearing held pursuant to section 62-1151(d) or, where there is no associated rezoning application, at the public hearing held in accordance with section 62-1157(2). Upon receiving such a request, staff will present the extension request to the Board of County Commissioners for approval prior to the expiration of 120 (one hundred twenty) days. In no event shall an extension exceed 60 (sixty) days. If the applicant fails to record the binding development plan prior to the expiration of the extension, then the application will be considered to have been withdrawn.

- (2) Before entering into, amending or revoking a binding development plan, or amending, revoking or removing an existing binding site plan where rezoning is not also under consideration, two public hearings shall be held. The first public hearing shall be held by the local planning agency, and the second public hearing shall be held by the board of county commissioners. The notice requirements for rezoning of property contained in section 62-1151 shall apply. However, the notice shall describe generally the proposed binding development plan or the proposed amendment to the binding development plan rather than the proposed amendment to the official zoning map which is referenced in section 62-1151.
- (3) The public hearings described in subsection (2) of this section shall be conducted and the item considered as required in section 62-1151 and the 1988 county comprehensive plan, as amended. However, the review shall be of the proposed binding development plan or the proposed amendment to the binding development plan rather than the proposed zoning classification referenced in section 62-1151.
- (4) Existing binding site plans shall be treated as binding development plans insofar as they are consistent with the 1988 county comprehensive plan, as amended, and more restrictive ordinances of the county, and the plans shall continue to be binding on the applicant and his assigns, heirs and successors in title or possession of the lot, tract or parcel of land. However, at the time such binding site plans are amended, the plan shall be converted to the form of the binding development plans required under this section.