

Existing BOP

RESOLUTION NO. Z-11358

On motion by Commissioner Scarborough, seconded by Commissioner Voltz, the following resolution was adopted by a unanimous vote:

WHEREAS, MAI KRUPA, INC.

has/have applied for a Small Scale Plan Amendment (07S.9) to change the Future Land Use designation from Neighborhood Commercial to Community Commercial, and a change of classification from RU-2-10 (Medium-Density Multiple-Family Residential) to BU-1 (General Retail Commercial) on property described as Lots 4 & 5, Block 17, Sub. #AL, as recorded in ORB 5239, Pages 848 & 849, Public Records of Brevard County, Florida, Section 17, Township 20G, Range 35, on 1.18 acres. Located on the southeast corner of Aurantia Rd. and U.S. Hwy. #1

Section 17,

Township 20 G,

Range 35 E, 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 Planning and Zoning Board recommended that the application be denied (*see below); and,

WHEREAS, the Board, after considering said application and the 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, with a Binding Development Plan, limited to grocery store use only, no hard liquor sales, owner to repair culvert on abutting property owned by Ed Skarosi, and to install a six-foot fence against abutting property owned by Ed Skarosi; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested Small Scale Plan Amendment (07S.9) to change the Future Land Use designation from Neighborhood Commercial to Community Commercial be APPROVED, with a Binding Development Plan, recorded in ORB 5799, Pages 8385 through 8391, dated July 30, 2007, limited to grocery store use only, no hard liquor sales, owner to repair culvert on abutting property owned by Ed Skarosi, and to install a six-foot fence against abutting property owned by Ed Skarosi, and that the zoning classification relating to the above described property be changed to BU-1, 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 July 30, 2007.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida
As Approved by the Board on May 24, 2007.

Jackie Colon

by

JACKIE COLON,
Chairperson

ATTEST:

SCOTT ELLIS, CLERK

(SEAL)

Scott Ellis

* LPA Recommendation – Denied Small Scale Plan Amendment

(P&Z Hearing – May 7, 2007)

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.



July 31, 2007

MEMORANDUM

TO: Scott Knox, County Attorney Attn: Christine Lepore

RE: Item III.A.6, Binding Development Plan Agreement with MAI Krupa, Inc.

The Board of County Commissioners, in regular session on July 24, 2007, executed Binding Development Plan with MAI Krupa, Inc. for property located on the southeast corner of Aurantia Road and U.S.1. Said Agreement was recorded in ORB 5799, PGs 8385 through 8391. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Pusan Life

for Tamara Ricard, Deputy Clerk

/dms

Encls. (2)

cc: - Zoning – Rick Enos
Contracts Administration

Z11358

THIS INSTRUMENT PREPARED BY
JOHN H. EVANS, ESQUIRE
1702 South Washington Avenue
Titusville, Florida 32780

CFN 2007185184, OR BK 5799 Page 8385,
Recorded 07/30/2007 at 11:59 AM, Scott Ellis, Clerk of
Courts, Brevard County
Pgs:7

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 24 day of July, 2007, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and MAI KRUPA, INC., a Florida corporation, (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, 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.

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2. The condition of use of the property shall be as follows:

(a) The use of the property shall be limited to a grocery store as allowed by Brevard Zoning Code 62.1482 and all uses allowed by ~~BU-1~~ zoning as set forth in Brevard Zoning Code 62-1481.
BV-1-A

(b) There shall be no sales of Hard Liquor, pornographic materials or items associated with the taking of illegal drugs.

(c) Prior to a Certificate of Occupancy for a commercial use being issued by Brevard County, the Developer/Owner shall install a wooden 6-foot fence on the East and South property lines. In addition, the Developer/Owner shall repair the culvert located on the map on Exhibit "B".

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 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.

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

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ATTEST:



Scott Ellis, Clerk
(SEAL)

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

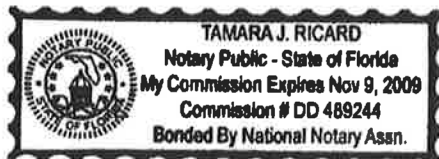
By: 

Jackie Colon, Chairperson

As approved by the Board on 7-24-07.

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 24 day of
July 2007, by, Jackie Colon, as Chairman of the Board of
County Commissioners of Brevard County, Florida, who is personally known to me or
who has produced _____ as identification.





Notary Public
My Commission Expires: _____

Tamara J. Ricard

(Name typed, printed or stamped)

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WITNESSES:

Kathryn M Miles
Kathryn M Miles
(Witness Name typed or printed)

John H Evans
(Witness Name typed or printed)

DEVELOPER/OWNER:

MAI KRUPA, INC., a Florida corporation

By: Dilip G. Patel
Dilip G. Patel as Vice President
Address: 4795 US Highway 1
Mims, Florida 32754

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 29 day of May 2007, by Dilip G. Patel as Vice President of Mai Krupa, Inc., a Florida corporation, who is personally known to me or who has produced Fla Drivers License as identification.

 **Kathryn M. Miles**
Commission # DD537371
Expires May 1, 2008
SEAL Bonded Title Plan - Insurance, Inc. 800-365-7010

Kathryn M Miles
Notary Public
My Commission Expires: _____

Kathryn M Miles
(Name typed, printed or stamped)

staciedocs/DilipPatel/9585/BindingPlan/ 5-25-07-k

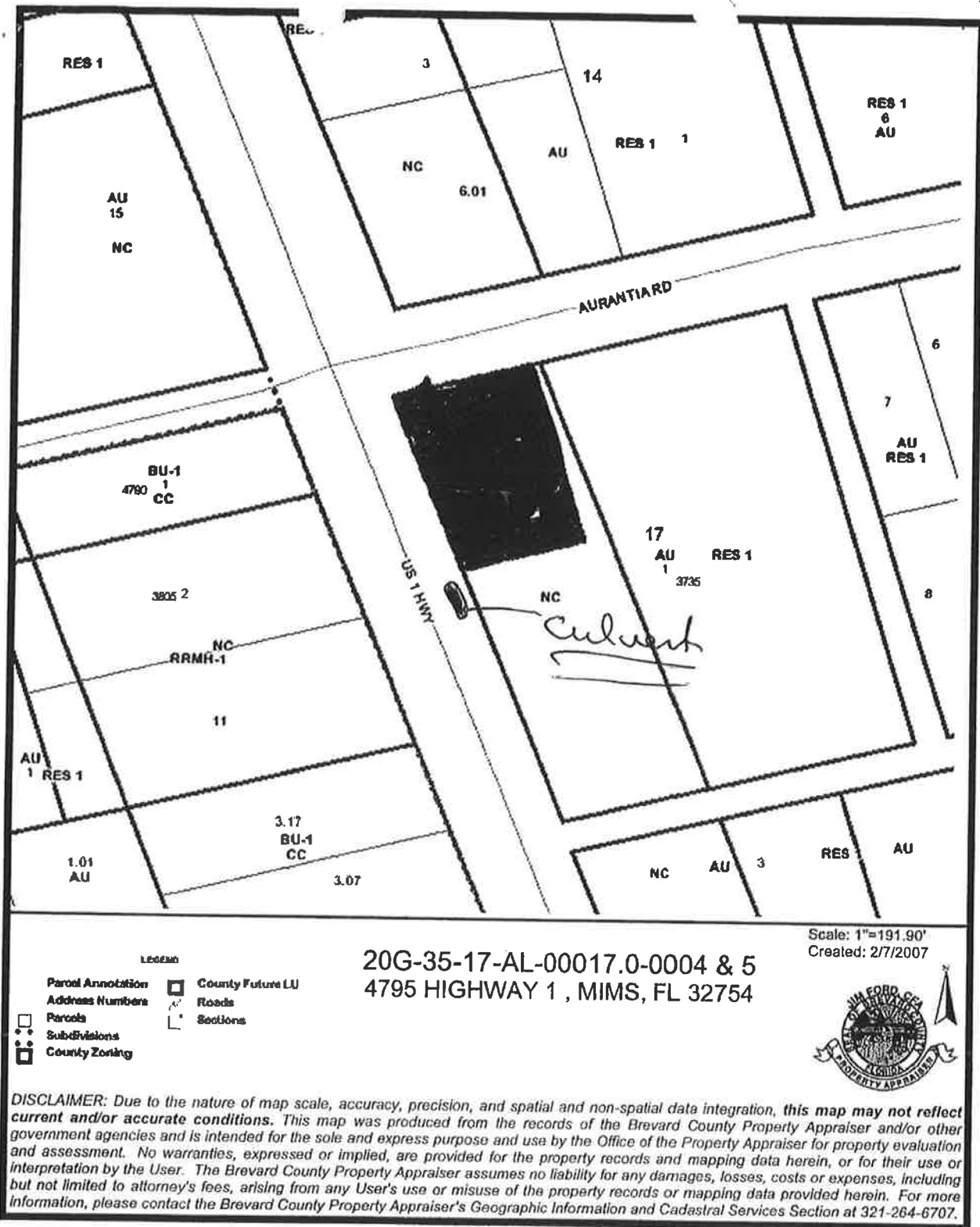
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EXHIBIT "A"

Lots 4 and 5 of Block 17, according to Replat of Section 17, INDIAN RIVER PARK recorded in Plat Book 2, Page 75, Public Records of Brevard County, Florida.

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RETURN: Clerk to the Board #27

**EXHIBIT**B

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RETURN: Clerk to the Board #27

CONSENT TO 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 April 26, 2007, given by MAI KRUPA, INC., a Florida Corporation, as mortgagor, in favor of the undersigned, WACHOVIA BANK, NATIONAL ASSOCIATION, as mortgagee, recorded in Official Records Book 5773, page 109, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby consent to the Binding Development Plan attached hereto as Exhibit "A" for the purpose of subordinating the lien of the undersigned's Mortgage to said Binding Development Plan.

WITNESSES:

Patricia Gray
Patricia Gray
 Witness Name Typed or Printed

Tom Hager
Tom Hager
 Witness name typed or printed

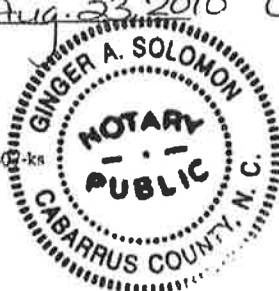
STATE OF ~~FLORIDA~~ NORTH CAROLINA
 COUNTY OF ~~DUVAL~~ CABARRUS

The foregoing instrument was acknowledged before me this 28th day of June, 2007 by John Carroll as Vice President of Wachovia Bank, National Association, who is personally known to me or who has produced _____ as _____ identification.

My Commission Expires: Aug. 23, 2010

SEAL

Staciodocs/Patch/Dilip/9585/Joinder/5-25-09-ks



WACHOVIA BANK,
 NATIONAL ASSOCIATION
8740 Research Dr.
Charlotte, NC 28262
 (Address)

By: [Signature]
 Authorized Agent's Signature

By: JOHN CARROLL - VP
 Authorized Agent

Ginger A. Solomon
 Notary Public
GINGER SOLOMON
 Name typed, printed or stamped

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