

Prepared by: Robertson and Associates  
Address: 100 Parnell Street, Merritt Island, FL 32953

### BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 5 day of May, 2009, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Jacob Aaron Corporation, BDM Financial Corporation, Florida corporations; and Michael P., Richard, Patricia, and Lori L. Melzer, and their heirs, successors and assigns (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-1 and TU-2 zoning classification(s) and desires to develop the property as commercial and tourist commercial, 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 the number of hotel rooms to a maximum of 220 rooms on the Property; and commercial square footage, excluding hotel square footage, to 335,000 square feet on the Property.

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 the Property is 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 FEBRUARY 5, 2009. The County at any time may amend or cancel this Agreement as to the Property or any part of the Property provided the Owner of that part of the Property which the amendment or cancellation addresses consents to the amendment or cancellation at that time. 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 of Circuit Court  
(SEAL)

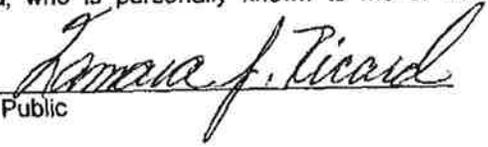
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

  
\_\_\_\_\_  
Chuck Nelson, Chairman  
As approved by the Board on 5/5/09

STATE OF FLORIDA §  
COUNTY OF BREVARD §

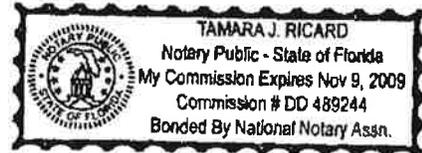
The foregoing instrument was acknowledged before me this 5 day of May, 2009 by Chuck Nelson, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires

  
\_\_\_\_\_  
Notary Public

SEAL  
Commission No.:

Tamara J. Ricard  
\_\_\_\_\_  
(Name typed, printed or stamped)



WITNESSES:

[Signature]  
Antonio Rodriguez  
(Witness Name typed or printed)

Christine Hinshelwood  
**CHRISTINE HINSHELWOOD**  
(Witness Name typed or printed)

DEVELOPER/OWNER

[Signature]  
Roger Miller, President.  
Jacob Aaron Corp & BDM Financial Corp.

STATE OF FLORIDA §

COUNTY OF MIAMI-DADE §

The foregoing instrument was acknowledged before me this 2nd day of April, 2009, by Roger Miller, President of Jacob Aaron Corp. and BDM Financial Corp., who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires May 12, 2011  
SEAL  
Commission No.: DD646127

[Signature]  
Notary Public CATHY M. RUCKER  
(Name typed, printed or stamped)



MICHAEL P. MELZER  
WITNESSES:

M.P. Melzer  
M.P. Melzer

(Witness Name typed or printed)

M.P. Melzer  
Daniel E. deFluiter

(Witness Name typed or printed)

DANIEL E. deFluiter

DEVELOPER/OWNER

Richard Melzer  
Patricia Melzer

Michael P. Melzer

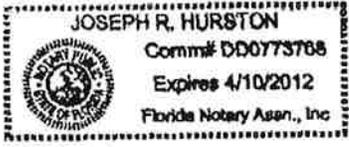
STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 9<sup>TH</sup> day of MARCH, 2009, by MICHAEL P. MELZER, RICHARD MELZER ARE President of who is personally known to me or who has produced LORI MELZER, PATRICIA MELZER as identification.

My commission expires  
SEAL  
Commission No.:

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



**LEGAL FOR JACOB AARON, BDM FINANCIAL, AND MELZER PARCELS**

**Rezoning from GU to TU-2**

The following tax parcels located in Section 27, Township 23 South, Range 35 North, Brevard County, FL

North Tax Parcels:

259, 331, 261, 330, 329, 96, 93, 92, 273, 336, 304, 309, 298, 252, 29, and W ½ of 3.

Total acreage – 7.48 acres, 9.93 acres, and 1.17 acres = 18.58

South Tax Parcels –

S ½ of 575 - .63 ac.; sw ¼ of 763 - .59 ac.; 823 – 1.93 ac., 802 – 1.25 ac.

Total acreage -- 4.40

Total Rezoning to TU-2 – 22.98 acres

**Rezoning from GU to BU-1**

The following tax parcels located in Section 27, Township 23 South, Range 35 North, Brevard County, FL

North Tax Parcels:

E ½ of 3 - .96 ac; 45 - 1.93 ac.; 33, 43, 91, 75, 76, 56, 55, 94 – 12.44 ac.

Total Rezoning to BU-1 - 15.33 acres

**Existing TU-2**

The following tax parcels located in Section 27, Township 23 South, Range 35 North, Brevard County, FL:

568, 782, 804, 816, 824, , 801, 800, N ½ of 575, and 763 less the SW ¼ consisting of 10.4 acres.

**TOTAL ACRES: 48.71**

**Exhibit A**

**PORT ST. JOHN BOULEVARD PROPERTIES  
BUILDING SQUARE FOOTAGES BY USE**

**September 18, 2008**

**Hotels**

1 - 45,864 square feet - 110 Rooms  
2 - 45,864 square feet - 110 Rooms  
**91,700 square feet - 220 Rooms**

**Retail**

105,864 square feet  
66,600 square feet  
19,080 square feet  
**191,544 square feet**

**Office**

28,000 square feet  
14,274 square feet  
**42,274 square feet**

**Restaurants**

1,850 square feet  
1,170 square feet  
6,750 square feet  
**9,770 square feet**

**Total Square Footage = 335,288**

Z11493

(6b)

**THE B.D.M. FINANCIAL CORPORATION.; JACOB AARON CORPORATION.; MICHAEL P. & LORI L. MELZER; RICHARD & PATRICIA MELZER** – (Doug Robertson) – request a Small Scale Plan Amendment (08S.17) to change the Future Land Use designation from Res. 4 & Neighborhood Commercial to Community Commercial on property described as Tax Parcel 309, as recorded in ORB 3118, Page 4609; Tax Parcel 252, as recorded in ORB 3118, Page 4611; Tax Parcel 802, as recorded in ORB 3811, Page 720; and Tax Parcel 823, as recorded in ORB 3043, Page 2518, of the Public Records of Brevard County, Florida, (8.46 acres); AND a change of classification from GU (General Use) & RU-1-11 (Single-Family Residential) to TU-2 (Transient Tourist Commercial) with a Binding Development Plan, limiting hotel units to 475 on property described as Tax Parcel 259, as recorded in ORB 3063, Page 3785; Tax Parcel 261, as recorded in ORB 2982, Page 3435; Tax Parcels 329, 330, 331 and 336, as recorded in ORB 3116, Page 4917; Tax Parcel 96, as recorded in ORB 3192, Page 3801; Tax Parcel 93, as recorded in ORB 3043, Page 2518; Tax Parcel 92, as recorded in ORB 3116, Page 4917; Tax Parcel 273, as recorded in ORB 2910, Page 2612; Tax Parcel 304, as recorded in ORB 2932, Page 1060; Tax Parcel 309, as recorded in ORB 3118, Page 4609; Tax Parcel 298, as recorded in ORB 3051, Page 466; Tax Parcel 252, as recorded in ORB 3118, Page 4611; Tax Parcel 29, as recorded in ORB 4013, Page 1961; Tax Parcel 3, as recorded in ORB 3063, Page 3779; Tax Parcel 575, as recorded in ORB 3043, Page 2518; Tax Parcel 763, as recorded in ORB 3116, Page 4930; Tax Parcel 802, as recorded in ORB 3811, Page 720, of the Public Records of Brevard County, Florida, (22.98 acres); AND a change of classification from RU-1-11 (Single-Family Residential) to BU-1 (General Retail Commercial) on property described as Tax Parcel 45, as recorded in ORB 3043, Page 425; Tax Parcel 33 & 43, as recorded in ORB 3450, Page 4286, Tax Parcels 91 & 94, as recorded in ORB 3116, Page 4917; Tax Parcels 75 & 76, as recorded in ORB 3025, Page 30; Tax Parcels 55 & 56 as recorded in ORB 3116, Page 4915, (15.33 acres). **Section 27, Township 23, Range 35.** Total acreage for rezoning 38.31 acres. Located on both sides of Port St. John Pkwy., between 1-95 and Grissom Parkway. The following ordinance will also be considered in conjunction with the small scale plan amendment: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth the Seventeenth Small Scale Plan Amendment of 2008, 08S.17, amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled the Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

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