



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of County Commissioners

FROM: Tad Calkins, Director

Cc: Frank Abbate, County Manager
John Denninghoff, P.E., Assistant County Manager

DATE: July 23, 2020

SUBJECT: **19PZ00158 (Theodore Goodenow) Addendum to Staff Comments**

The purpose of this memo is to provide the Board an updated analysis of the third draft of the Binding Development Plan (BDP). During the June 15, 2020, public hearing the Planning and Zoning Board (PZ) tabled the zoning application due to concerns relating to the number of lots allowed on the eastern side of Hammock Road. At the July 6, 2020 PZ meeting, the applicant submitted the copy of the third draft BDP. On July 22, 2020, the applicant submitted the 4th draft of the BDP, containing the following special conditions. (*Staff comments in italics*):

- a. The Developer/Owner shall limit the project density to 62 Units with the current Future Land Use Designation of RES 2. *RES 2 Future Land Use designation is consistent with the west side of Hammock Rd.*
- b. The Developer/Owner will hook up to Titusville Water and Sewer services. *Comp plan does not require water & sewer services for 2 units to the acre.*
- c. The total maximum density for the project will include the 4.845 acres of land on the east side of Hammock Rd. and the 26.328 acres of land on the west side of Hammock Rd. and shall be limited to a cumulative 62 units. *This is not a reduction or restriction on the number of units; 62 units is the maximum number of units that RES 2 will allow on the property.*
- d. The land on the East side of Hammock Rd. shall be limited to half-acre or larger lots. Any lots allowed by the zoning category on the eastern portion of the Property can be recaptured on western portion of the Property so that the average density of the east side and west side combined are 2 units per acre or 62 units total. *While this condition appears to restrict the number of units, it allows the applicant to allocate 8 units from the east side to the west side of Hammock Rd. The west could be developed with a total of 60 instead of 52 units.*
- e. The minimum lot size is 9,000 sq. ft. for lots on the west side of Hammock Rd. *Requires the minimum lot size in the development to be larger than the 6,600 sq. ft. minimum size of the zoning classification.*

- f. There shall be a 25' buffer on the west property line of the west 26.328-acre parcel that will include landscaping or a fence. There shall be a 25' buffer that will include landscaping on the north property line of the east 4.845-acre parcel. The pepper trees along the north property line of the east 4.845-acre parcel shall be cleared at the time of site development, provided they are not in wetlands that would require mitigation. *At the July 6, 2020, the Planning and Zoning Board to recommend the following inclusion:*

A 25-foot buffer on the north property line of the east 4.845-acre parcel, to be a continuation of the 15-foot perimeter undisturbed vegetative buffer; and a 25-foot buffer on the west property line of the west 26.328-acre parcel with a 6-foot opaque fence. The board should note the Subdivision Code requires a 15-foot natural buffer tract along the perimeter of the subdivision.

The Board may wish to consider whether these stipulations within the proposed BDP mitigate potential impacts of the requested zoning classification with the existing development within the surrounding area.

Attachment: 4th Draft Binding Development Plan, revised July 22, 2020.

Prepared by: Charles B. Genoni
Beachland Managers, LLC
4760 N. US1 #201
Melbourne FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Theodore C. Goodenow, (hereinafter referred to as 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 RU 1-9 zoning classification and desire to develop the Property as a Single-Family Subdivision, 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 following conditions shall apply:
 - a. The Developer/Owner shall limit the project density to 62 Units with the current Future Land Use Designation of RES 2.

- b. The Developer/Owner will hook up to Titusville Water and Sewer services.
 - c. The total maximum destiny for the project will include the 4.845 acres of land on the east side of Hammack Rd. and the 26.328 acres of land on the west side of Hammock Rd. and shall be limited to a cumulative 62 units.
 - d. The land on East side of Hammock Rd. shall be limited to one ½ acre or larger lot . Any lots allowed by the zoning category on the eastern portion of the Property can be recaptured on western portion of the Property so that the average density of the east side and west side combined is 2 units per acre or 62 units total.
 - e. The minimum lot size shall be 9,000 sq. ft. for lots on the west side of Hammock Rd.
 - f. There shall be a 25' buffer on the west property line of the west 26.328-acre parcel that will include landscaping or a fence. There shall be a 25' buffer that will include landscaping on the north property line of the east 4.845-acre parcel. The pepper trees along the north property line of the east 4.845-acre parcel shall be cleared at the time of site development, provided they are not in wetlands that would require mitigation.
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 Courts the cost of recording this Agreement in the Public Records of Brevard County, Florida.
5. This Agreement shall be binding and shall insure 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 _____ 20____. 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 Jamison Way
Viera, FL 32940

Scott Ellis, Clerk
(SEAL)

As approved by the Board on _____ Chair

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

WITNESSES:

OWNER

Theodore C. Goodenow

(Witness Name typed or printed)

605 Sugartown St Port St. John FL 32927

(Witness Name typed or Printed)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,

by _____, as _____ of _____,

who is personally known or produced _____ as identification.

My commission expires _____

Commission no _____

SEAL

Notary Public

(Name typed, printed or stamped)

Exhibit "A"

Account 2105262

N 1/2 of NE ¼ of SW ¼ lying W of Hammock Rd & S ½ of NE ¼ of SW ¼ Exc RD R/W Pars 502,506 & 543