

Meeting Date
January 10, 2017



AGENDA	
Section	CONSENT
Item No.	II, A.1,

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: Albert Heredia & Susan Kadlac Heredia (District 2) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development Department

Requested Action:  
 It is requested that the Board approve, and the Chairman sign, the subject Binding Development Plan.

Summary Explanation & Background:

A Binding Development Plan (BDP) is a voluntary agreement by a property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of approval of the zoning application by the Board. Following staff and legal review, a BDP is routinely presented to the Board in recordable form as a Consent agenda item in order to finalize the zoning action.

On December 1, 2016, the Board of County Commissioners approved a change of classification from RU-1-11 (Single-Family Residential) to RU-2-4 (Low-Density Multi-Family Residential) on property located on the west side of S. Tropical Trail, approx. 550 ft. north of Cone Rd. (110, 160, 120, and 140 Kadlac Dr., Merritt Island), subject to a Binding Development Plan as follows:

- Developer/Owner shall limit density to four (4) units

Staff Contact: Jennifer Jones

Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department

Exhibits Attached: Binding Development Plan, with exhibits, and check for recording

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager		Department Director / Extension Robin M. DiFabio, AICP, Director Planning & Development Dept. Ext. 56363					
Stockton Whitten							



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

January 11, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A. Binding Development Plan Agreement with Albert Heredia & Susan Kadlac Heredia

The Board of County Commissioners, in regular session on January 10, 2017, executed Binding Development Plan with Albert Heredia and Susan Kadlac Heredia for property located on the west side of S. Tropical Trail, approximately 550 feet north of Cone Road. Said Plan was recorded in OR BK/PG 7797/1665. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

**BrevardClerk.US**

Scott Ellis, Clerk of Court

700 South Park Avenue, Bldg. B  
 P.O. Box 2767  
 Titusville, FL 32781-2767  
 (321) 637-2006

DBLIVE Transaction  
 #: 1832008  
 Receipt #: 61797118  
 Cashier Date: 1/13/2017  
 9:08:01 AM



**Print Date:**  
 1/13/2017 9:08:03 AM

Customer Information	Transaction Information	Payment Summary
( ) ALBERT HEREDIA 160 KADLAC DR MERRITT ISLAND, FL 32952	DateReceived: 01/13/2017 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$27.00 Total Payments \$27.00

1 Payments
CHECK 5654 <span style="float: right;">\$27.00</span>

1 Recorded Items
(A) ASSIGNMENT BK/PG: 7797/1665 CFN:2017008194 Date: 1/13/2017 9:08:00 AM From: To:
Recording @ 1st=\$10 Add'l=\$8.50 ea. <span style="float: right;">3 \$27.00</span>
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea. <span style="float: right;">3 \$0.00</span>

0 Search Items
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0 Miscellaneous Items
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Prepared by: Albert Heredia  
Address: 160 Kadlac Dr. Merritt Island, FL 32952

### BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 10 day of January, 2017 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Albert Heredia & Susan Kadlac Heredia, (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 RU-2-4 zoning classification(s) and desires to develop the Property as multi-family residential, 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 density to 4 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

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 the Public Records of 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 12/1/16. 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:

*Scott Ellis*

Scott Ellis, Clerk  
(SEAL)

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

*Curt Smith*

Curt Smith, Chairman

As approved by the Board on 1/10/17

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

WITNESSES:

*Susan M. Mock*  
SUSAN M. Mock  
(Witness Name typed or printed)

*Paul Body*  
Paul Body  
(Witness Name typed or printed)

DEVELOPER/OWNER

Albert & Susan Heredia

160 Kadlac Dr. Merritt Island, FL. 32952

*Albert Heredia*  
Albert Heredia Susan Heredia  
(President) *Susan Heredia*  
(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 9th day of December, 2016, by Albert Heredia, <sup>Owner</sup> President of \_\_\_\_\_, who is personally known to me or who has produced FL DL as identification.

My commission expires  
SEAL  
Commission No.:

*Jennifer Jones*  
Jennifer Jones  
Notary Public  
(Name typed, printed or stamped)



STATE OF FLORIDA  
COUNTY OF BREVARD

Albert Heredia, after being duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

Lot 15 lying west of the County Road, according to Moore & Cantine Plat, as recorded in Plat Book 1, Page 63, of the Public Records of Brevard County, Florida.

There are no mortgages on the above described property

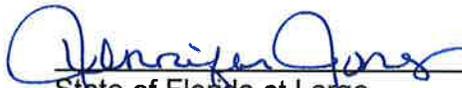
Dated this 9 day of December.

  
\_\_\_\_\_  
Signature

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 9<sup>th</sup> day of December, 2016, by Albert Heredia, who is personally known to me or who has produced FL ID as identification, and who did take an oath.

Notary Public:

  
\_\_\_\_\_  
State of Florida at Large  
My Commission Expires:

(SEAL)



**IV.B.4. (16PZ00086) – ALBERT HEREDIA & SUSAN KADLAC HEREDIA** – request a change of classification from RU-1-11 to RU-2-4 on 1.20 acres, located on the west side of S. Tropical Trail, approx. 550 ft. north of Cone Rd. (110, 160, 120, and 140 Kadlac Dr., Merritt Island)

P&Z Recommendation: Moia/Barber – Approved with a BDP limited to four (4) units. Vote was unanimous.  
**BCC ACTION: Barfield/Pritchett – APPROVED with a BDP limited to four (4) units. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.**

#### **DISTRICT 4**

**IV.B.5. (16PZ00092) FLORIDA PREMIER PROMENADE, LLC** – (Tim Loomer) – requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Restaurant in a BU-1 zoning classification, on 2,800 sq. ft., located on the west side of N. Wickham Rd., approx. 463 ft. north of Jordan Blass Dr. (6450 N. Wickham Rd., Units 111 – 112, Melbourne)

P&Z Recommendation: Aydelotte/Moia – Approved. Vote was unanimous.  
**BCC ACTION: Pritchett/Isnardi – APPROVED. Vote was unanimous. 16PZ00092.**

#### **VII. PUBLIC COMMENT**

**PLANNING AND ZONING BOARD RECOMMENDATIONS OF NOVEMBER 7, 2016;  
AND NORTH MERRITT ISLAND RECOMMENDATION OF NOVEMBER 10, 2016**

Item IV.B.1. Melbourne Suites, LLC. Barfield/Isnardi, approved as recommended.

Item IV.B.2. Home Depot USA, Inc. Barfield/Pritchett, tabled to the February 2, 2017, Zoning meeting.

Item IV.B.3. Gregory D. Taylor and Rachael J. Fitzpatrick. Barfield/Isnardi, approved as recommended; and approved the hours of business being 11:00 a.m. to 11:00 p.m. five days a week, having landscape buffering on the north and east sides with Lemon Bamboo, and for the CUP to be in conjunction with retail.

Item IV.B.4. Albert Heredia & Susan Kadlac Heredia. Barfield/Pritchett. Approved as recommended.

Item IV.B.5. Florida Premier Promenade. Pritchett/Isnardi. Approved as recommended.

Item IV.B.6. Seasons in the Sun, LLC. Pritchett/Barfield. **Approved with a BDP limiting density to 232 sites, and allowing all types of recreational vehicles with a minimum length of 22 feet**

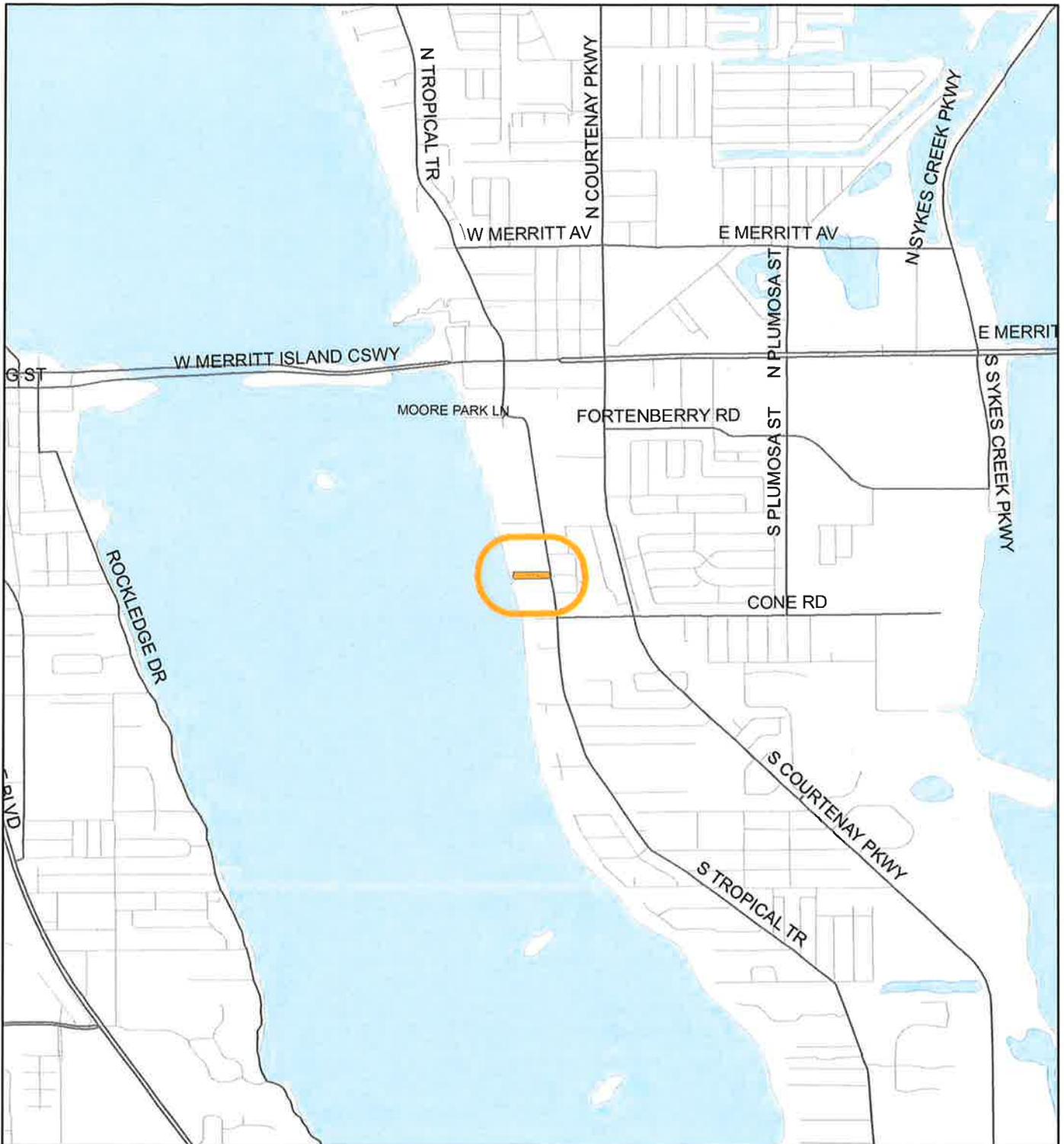
Item IV.B.7. Sharpes Executive Golf Course, Inc. Pritchett/Barfield. Approved as recommended.

**THE FOLLOWING ITEM WAS TABLED FROM THE OCTOBER 13, 2016, AND NOVEMBER 10, 2016, NORTH MERRITT ISLAND MEETINGS**

Item IV.B.8. Gerald Crayton, Trustee. Barfield/Pritchett, tabled to the February 2, 2017, Zoning meeting.

# LOCATION MAP

HEREDIA, ALBERT AND HEREDIA, SUSAN KADLAC  
16PZ00086



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

-  Buffer
-  Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

