

**F. Consent Agenda - Planning and Development
ITEM 1.**



**AGENDA REPORT
July 24, 2018**

**Acceptance, Re: Binding Development Plan - Crisafulli Enterprises, Inc.
(18PZ00018) (District 2)**

SUBJECT:

Acceptance, Re: Binding Development Plan - Crisafulli Enterprises, Inc. (18PZ00018)
(District 2)

FISCAL IMPACT:

None

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept and authorize the Chair to sign the Binding Development Plan.

SUMMARY EXPLANATION and BACKGROUND:

On May 24th, the Board of County Commissioners approved an amendment to an existing BDP (Binding Development Plan). The BDP is a voluntary agreement presented 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 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 presented to the Board in recordable form as a Consent Agenda item in order to finalize the zoning action.

The limitations in the BDP include, but are not limited to the following:

- Developer/Owner shall provide a Conservation Easement over the wetlands on the eastern portion of the Property.
- Developer/Owner shall limit density to a maximum of 34 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
- Developer/Owner shall limit ingress and egress to one (1) access point.

The property is located on the north side of E. Hall Rd., approx. 0.45 mile east of N. Courtenay Pkwy.

CLERK TO THE BOARD INSTRUCTIONS:

After recordation, please forward two certified copies to Planning and Development.

ATTACHMENTS:

Description

- **BDP Package**

RESOLUTION NO. 18PZ00018

On motion by Commissioner Smith, seconded by Commissioner Barfield, the following resolution was adopted by a unanimous vote:

WHEREAS, CRISAFULLI ENTERPRISES, INC. has requested a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential), on property described as: SEE ATTACHED

Section 35, Township 23 S, Range 36 E, and,

WHEREAS, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be denied; and,

WHEREAS, a public hearing of the Planning and Zoning Board was advertised and held, as required by law, and after considering said application and the North Merritt Island Dependent Special District Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, recommended that the application should be approved with a BDP (Binding Development Plan) limiting density to a total of 34 units, and limiting ingress and egress to one access point; now therefore,

WHEREAS, the Board, after considering said application and the North Merritt Island Dependent Special District Board’s and the Planning and Zoning Board’s recommendations, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application be Approved as recommended by the Planning and Zoning Board; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from AU to EU be APPROVED, with a BDP recorded in ORB 8222, Pages 98 – 101, dated July 26, 2018, stipulating a conservation easement over the wetlands on the eastern portion of the property, limiting density to a maximum of 34 units, and limiting ingress and egress to one (1) access point. The Planning & Development 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 26, 2018.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on July 24, 2018.

ATTEST:




SCOTT ELLIS, CLERK
(SEAL)

(NMI Hearing – May 10, 2018)
(P&Z Hearing – May 21, 2018)
(BCC Zoning Hearing – May 24, 2018)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years. 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.

Resolution 18PZ00018 (Continued)

Legal Description:

A parcel of land lying in Section 35, Township 23S, Range 36E, Brevard County, Florida, and being a portion of lands as described in ORB 4760, Page 3807, of the Public Records of Brevard County, Florida, less and except lands as recorded in ORB 7936, Page 2585, of said Public Records and being more particularly described as follows: Commence at the south $\frac{1}{4}$ corner of said Section 35; thence N00deg12'24"E, along the west line of the SE $\frac{1}{4}$ of said Section 35, a distance of 750 ft. to the point of beginning; thence continue N00deg12'24"E, along said west line, a distance of 584.12 ft. to the SW corner of said lands as described in ORB 7936, Page 2585; thence along said parcel the following four (4) courses to wit: thence N45deg12'24"E, a distance of 62.93 ft.; thence N00deg12'24"E, a distance of 60.10 ft.; thence N14deg13'24"E, a distance of 265.75 ft.; thence N89deg47'36"W, a distance of 108.87 ft. to said west line; thence N00deg12'24"E, along said line, a distance of 971.69 ft.; thence N00deg14'42"E, along the west line of the NE $\frac{1}{4}$ of said Section 35, a distance of 1,331 ft. to the north line of the west $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 35; thence S89deg55'45"E, along said north line, a distance of 666.03 ft. to the east line of said west $\frac{1}{2}$; thence S89deg55'45"E, along said north line, a distance of 333.27 ft. to the east line of said west $\frac{3}{4}$; thence S00deg13'31"W, along said east line, a distance of 1,767.05 ft.; thence N89deg59'53"W, parallel with and 900 ft. north, by right angle measure, of the south line of the SE $\frac{1}{4}$ of Section 35, a distance of 495 ft.; thence S00deg13'31"W, a distance of 150 ft.; thence N89deg59'53"W, parallel with and 750 ft. north, by right angle measure, of said south line, a distance of 504.18 ft. to the point of beginning. Containing 62.12 acres, more or less, and being subject to any easements and/or rights-of-ways of record. (62.12 +/- acres) Located on the north side of E. Hall Rd., approx. 0.45 mile east of N. Courtenay Pkwy. (No assigned address. In the Merritt Island area)

Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

CFN 2018166864, OR BK 8222 PAGE 98.
Recorded 07/26/2018 at 11:31 AM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs:4

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 24 day of JULY, 2018, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and CRISAFULLI ENTERPRISES, 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, Developer/Owner has requested the EU zoning classification and desires to develop the Property as Single Family Homes and pursuant to the Brevard County Code, Section 62-1157;

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, successor 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. Developer/Owner shall provide a Conservation Easement over the wetlands on the eastern portion of the Property, as required by Brevard County or any other governmental agency,

after completion of the applicable permitting processes and excluding any approved impacts.

3. The Developer/Owner shall limit density to a maximum of 34 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. The Developer/Owner shall limit ingress and egress to one (1) access point.

5. 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 the Property.

6. 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.

7. 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 5/24/18. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

8. 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.

9. 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 8 above.

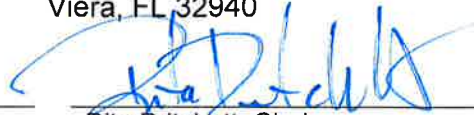
IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST

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



Scott Ellis, Clerk
(SEAL)



Rita Pritchett, Chair
As approved by the Board on

JUL 24 2018

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

WITNESSES:



Kimberly B. Rezanka

(Witness Name typed or printed)

Crisafulli Enterprises, Inc.



By: Bud Crisafulli, President

5525 N. Courtney Pkwy
(Address)

Merritt Island, FL 32953



Patricia L. Clark

(Witness Name typed or printed)

STATE OF FLORIDA)
) ss:
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 18th day of June, 2018, by Bud Crisafulli, President of Crisafulli Enterprises, Inc., who is personally known to me or who has produced _____ as identification.



Notary Public



My Commission expires:
SEAL
Commission No.:

(Name typed, printed or stamped)

DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 35, TOWNSHIP 23 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA AND BEING A PORTION OF LANDS AS DESCRIBED IN O.R. BOOK 4760, PAGE 3807 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LESS AND EXCEPT LANDS AS RECORDED IN O.R. BOOK 7936, PAGE 2585 OF SAID PUBLIC RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH 1/4 CORNER OF SAID SECTION 35; THENCE N 00°12'24" E., ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 750.00 FEET TO THE POINT-OF-BEGINNING; THENCE CONTINUE N 00°12'24" E., ALONG SAID WEST LINE, A DISTANCE OF 584.12 FEET TO THE SOUTHWEST CORNER OF SAID LANDS AS DESCRIBED IN O.R. BOOK 7936, PAGE 2585; THENCE ALONG SAID PARCEL THE FOLLOWING FOUR (4) COURSES TO WIT: THENCE N 45°12'24" E., A DISTANCE OF 62.93 FEET; THENCE N 00°12'24" E., A DISTANCE OF 60.10 FEET; THENCE N 14°13'24" E., A DISTANCE OF 265.75 FEET; THENCE N 89°47'36" W., A DISTANCE OF 108.87 FEET TO SAID WEST LINE; THENCE N 00°12'24" E., ALONG SAID LINE, A DISTANCE OF 971.69 FEET; THENCE N 00°14'42" E., ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 1331.00 FEET TO THE NORTH LINE OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE S 89°55'45" E., ALONG SAID NORTH LINE, A DISTANCE OF 666.03 FEET TO THE EAST LINE OF SAID WEST 1/2; THENCE S 00°13'24" W., ALONG SAID EAST LINE, A DISTANCE OF 1331.00 FEET TO THE NORTH LINE OF THE WEST 3/4 OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SEC. 35; THENCE S 89°55'45" E., ALONG SAID NORTH LINE, A DISTANCE OF 333.27 FEET TO THE EAST LINE OF SAID WEST 3/4; THENCE S 00°13'31" W., ALONG SAID EAST LINE, A DISTANCE OF 1767.05 FEET; THENCE N 89°59'53" W., PARALLEL WITH AND 900.00 FEET NORTH, BY RIGHT ANGLE MEASURE, OF THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 35, A DISTANCE OF 495.00 FEET; THENCE S 00°13'31" W., A DISTANCE OF 150.00 FEET; THENCE N 89°59'53" W., PARALLEL WITH AND 750.00 FEET NORTH, BY RIGHT ANGLE MEASURE, OF SAID SOUTH LINE, A DISTANCE OF 504.18 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 62.12 ACRES (2,705,801 SQUARE FEET), MORE OR LESS, AND BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAYS OF RECORD.

AFFIDAVIT OF NO MORTGAGE

I, Bud Crisafulli, President of Crisafulli Enterprises, Inc., after being duly sworn, deposes and says:

1. Crisafulli Enterprise, Inc. is the owner of the real property as more particularly described in **Exhibit "A"** attached hereto
2. There are no mortgages on the Property

Dated: June 18, 2018.

By:  AS President
Bud Crisafulli, President
Crisafulli Enterprises, Inc.

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 18th day of June, 2018, by Bud Crisafulli, President of Crisafulli, Inc., who is personally known to me or who has produced as identification _____.

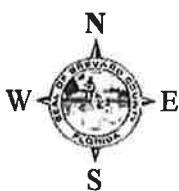
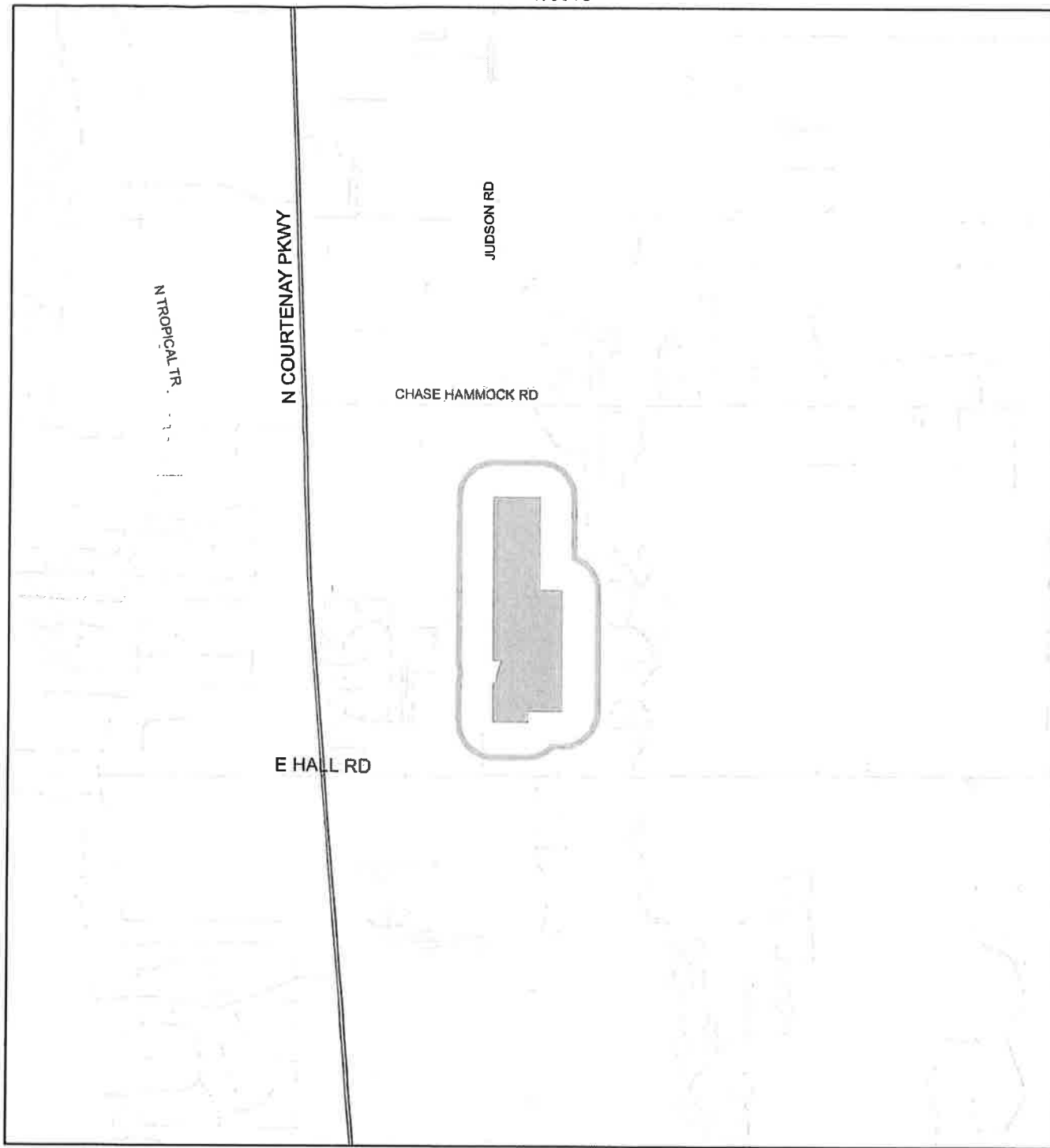

Notary Public

My commission expires
SEAL
Commission No.:

(Name typed, printed or stamped)



LOCATION MAP
CRISAFULLI ENTERPRISES, INC.
18PZ00018



1:24,000 or 1 inch = 2,000 feet
Buffer Distance: 500 feet

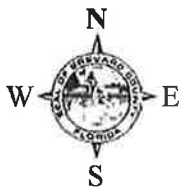
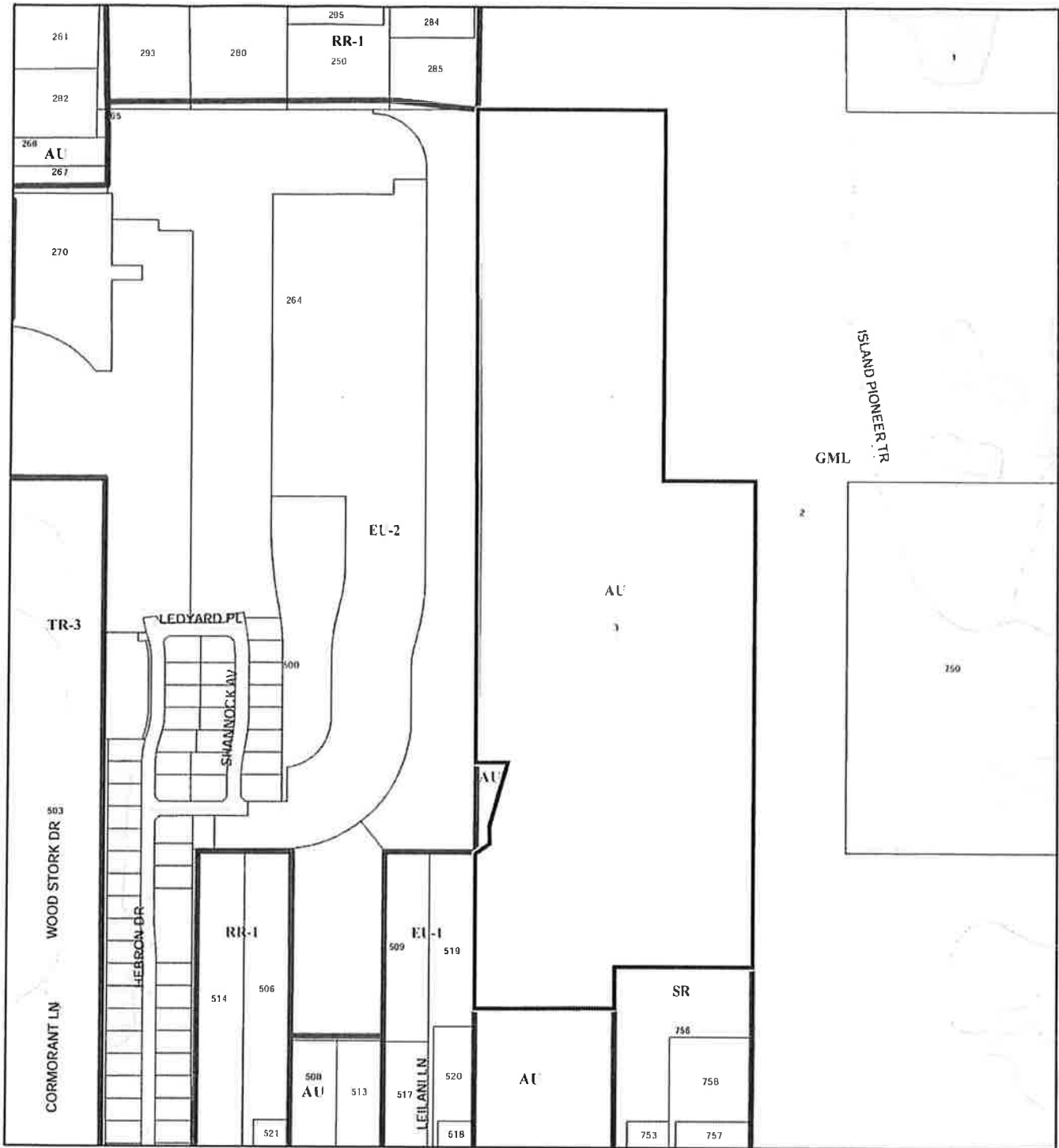
— Buffer
■ Subject Property

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.




Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 3/6/2018

ZONING MAP

CRISAFULLI ENTERPRISES, INC.
18PZ00018



1:6,000 or 1 inch = 500 feet

-  Subject Property
-  Parcels
-  Zoning

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.

IV. PUBLIC HEARINGS
NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT BOARD

Thursday, May 10, 2018 – 6:00 P.M.
Merritt Island Service Complex
2575 N. Courtenay Pkwy., 2nd Floor, Merritt Island, Florida

PLANNING & ZONING BOARD
Monday, May 21, 2018 – 3:00 P.M.
Brevard County Government Center
2725 Judge Fran Jamieson Way, Bldg. C, Viera, FL

BOARD OF COUNTY COMMISSIONERS
Thursday, May 24, 2018 – 5:00 P.M.
Brevard County Government Center
2725 Judge Fran Jamieson Way, Bldg. C, Viera, FL

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

- IV.J. Crisafulli Enterprises, Inc. (Kim Rezanka) requests a change of zoning classification from AU to EU. property is 62.12 +/- acres, located on the north side of E. Hall Rd., approx. 0.45 mile east of N. Courtenay Pkwy. (18PZ00018) (District 2)

NMI Recommendation: Carbonneau/Balke – Denied. The vote was unanimous.

P&Z Recommendation: Moia/Lawandales – Approved with a Binding Development Plan limiting density to a total of 34 single-family units, and limited ingress and egress to one access point. The vote was unanimous.

BCC ACTION: Barfield/Smith – Approved as recommended by the Planning and Zoning Board. BDP to be scheduled as a consent item on a subsequent BCC Agenda, per Policy BCC-52. Resolution to be assigned upon receipt of recorded BDP.

- IV.K. Grand Lake Estates (Kim Rezanka) requests a change of zoning classification from RR-1 to SR. The property is 40.42 acres, located on the north side of Chase Hammock Rd., approx. 1.14 mile east of N. Courtenay Pkwy. (18PZ00022) (District 2)

NMI Recommendation: Carbonneau/Testa – Denied. The vote was unanimous.

P&Z Recommendation: Moia/Lawandales – Approved an amendment to an existing Binding Development Plan as submitted, with an additional stipulation requiring the Developer/Owner to install higher-functioning septic systems at a minimum of 65% total nitrogen reduction, or per adoption of a septic system ordinance, whichever is more restrictive. The vote was 7:2, with Minneboo and McLellan voting nay.

BCC ACTION: Tobia/Isnardi – Approved as recommended by the Planning and Zoning Board. The vote was unanimous. BDP to be scheduled as a consent item on a subsequent BCC Agenda, per Policy BCC-52. Resolution to be assigned upon receipt of recorded BDP.

PUBLIC COMMENT

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item IV.A. Watermark Investors, LLC, and Diocese of Orlando, John G. Noonan, Bishop. Isnardi/Barfield. Approved as recommended with a PDP.
- Item IV.B. Michael N. Malegiannakis. Tobia/Barfield. Approved as recommended.
- Item IV.C. Panorama Mobile Home Park. Barfield/Smith. Approved as recommended; and adopted Ordinance No. 18-14, Small Scale Comprehensive Plan Amendment 18S.01.
- Item IV.D. Panorama Mobile Home Park. Barfield/Smith. Approved as recommended with BDP limiting the use of property to a self-storage mini-warehouse, limiting building coverage to 40 percent of the site, and providing a 25-foot wide landscape buffer and public sidewalk easement along the west property line of the subject parcel adjacent to the right-of-way of S. Tropical Trail.
- Item IV.E. Praxair, Inc. Barfield/Isnardi. Approved as recommended; and adopted Ordinance No. 18-15, Small Scale Comprehensive Plan Amendment 18S.02.
- Item IV.F. Praxair, Inc. Barfield/Isnardi. Approved as recommended with a BDP that seeks to preserve the property in its natural state in perpetuity.
- Item IV.G. Indian River Behavioral Health. Isnardi/Barfield. Approved BDP for allowance of a 12-foot fence and include small trees to obscure the fence with applicant to submit an engineering revision to the approved Site Plan to incorporate the fence into the current construction project.
- Item IV.H. Schacht Family Holding Company, Inc. Smith/Isnardi. Approved as recommended with a BDP limited to the BU-2 use of self-storage mini-warehouses.
- Item IV.I. Carmine Ferraro, Trustee. Isnardi/Barfield. Tabled to the July 10, Zoning Meeting.
- Item IV.J. Crisafulli Enterprises, Inc. Barfield/Smith. Approved with BDP to limit development to 34 single-family lots and to limit the ingress and egress to one access point.
- Item IV.K. Grand Lake Estates. Tobia/Isnardi. Approved with BDP for minimum lot size to one-half acre in size, the maximum number of lots shall be limited to 40 lots with minimum home size not less than 2,300 square feet.
- Item IV.L. Horizon Title Company, Inc. Barfield/Smith. Approved the PDP which consists of 182 single-family home lots, including those with 100' x150', 80' x 130', and 50 x 130' lot size dimensions, and various amenities.