

Meeting Date
March 21, 2017



AGENDA	
Section	CONSENT
Item No.	II, A, 8.

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: G.T. Motors, Inc. (District 5) 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 February 2, 2017, the Board of County Commissioners approved a Small Scale Plan Amendment to change the Future Land Use designation from NC to CC, and a change from RU-1-9 to BU-1, on property located on the east side of Valencia Rd., approx. 400 ft. north of W. New Haven Ave. (108 Valencia Rd., Melbourne), subject to a Binding Development Plan as follows:

- Developer/Owner shall tear down and remove any existing structures and fencing on the Property, and install a six (6') foot white vinyl fence on the Property facing Valencia Road, and on the westerly portion of the north property line of the Property until it connects to the existing vegetative buffer with said fencing and landscape buffer being in accordance with Brevard County Code.
- No access shall be allowed from Valencia Road.
- Developer/Owner, who owns the real property adjacent to the south of Property ("Parcel 2"), agrees that the loading and unloading of automobiles delivered to its dealership shall not occur within the Valencia Roadway, but rather the automobiles shall be loaded and unloaded on Parcel 2 through Parcel 2's northernmost driveway on Valencia Road, which is approximately 350 ft. north of W. New Haven Ave. The carriers delivering the vehicles shall not load or unload any vehicles on the Valencia Road right-of-way.

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	X	No	<input type="checkbox"/>	PR <input type="checkbox"/>
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County Manager		Department Director / Extension Tad Calkins, 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

March 22, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.8, Binding Development Plan Agreement with G.T. Motors, Inc.

The Board of County Commissioners, in regular session on March 21, 2017, approved Binding Development Plan with G.T. Motors, Inc., for property located on the east side of Valencia Road, approximately 400 feet north of W. New Haven Avenue, Melbourne. Said Plan was recorded in OR BK/PG 7846/2781. 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

for: Danna Scott
for: Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

Prepared by: Philip F. Nohr, Esq.
Address: Gray Robinson, P.A.
P.O. Box 1870
Melbourne, FL 32902-1870

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 21 day of MARCH, 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 G.T. MOTORS, 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 a future land use change to Community Commercial ("CC") and zoning of BU-1 in order to develop its Property for parking in connection with its adjacent automotive dealership to the South, 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. Developer/Owner shall tear down and remove any existing structures and fencing on the Property, and install a six (6') foot high chain-link fencing with white slats or alternatively a six (6') foot white vinyl fence on the Property facing Valencia Road, and on the Westerly portion of the North Property line of the Property until it connects to the existing vegetative buffer with said fencing and landscape buffer being in accordance with Brevard County Code.

3. No access to the Property shall be allowed from Valencia Road.

4. Developer/Owner, who owns the real property adjacent to the South of Property ("Parcel 2"), agrees that the loading and unloading of automobiles delivered to its dealership shall not occur within the Valencia Roadway, but rather the automobiles shall be loaded and unloaded on Parcel 2 through Parcel 2's northern most driveway on Valencia Road which is approximately 350 feet North of West New Haven Avenue. The carriers delivering the vehicles shall not load or unload any vehicles on the Valencia Road right-of-way.

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 this 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 _____ . 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.

10. Per the attached Statement by Ted Serbousek, Vice President of Developer/Owner Property is free and clear of any mortgages or encumbrances.

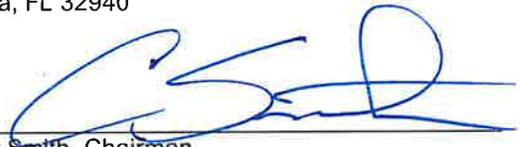
IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

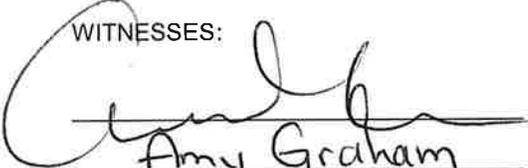
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940



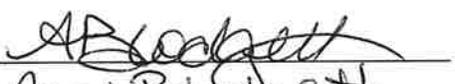
Curt Smith, Chairman
As approved by the Board on March 21, 2017

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

WITNESSES:



Amy Graham
(Witness Name typed or printed)



April Blodgett
(Witness Name typed or printed)

DEVELOPER/OWNER
G.T. MOTORS, INC.
4340 W. New Haven Avenue
West Melbourne, FL 32904

(Address)

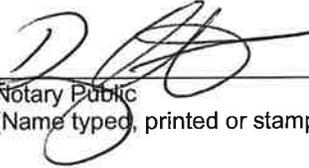


(Vice President)
Ted Serbousek
(Name typed, printed or stamped)

STATE OF Florida §
COUNTY OF VOIUSIG §

The foregoing instrument was acknowledged before me this March 1 day of, 2017 by Ted Serbousek, Vice President of G.T. Motors, Inc., who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.



Notary Public
(Name typed, printed or stamped)

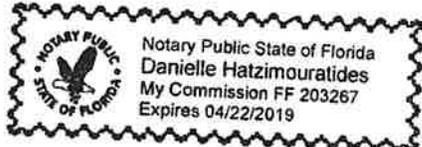


EXHIBIT "A"

Lot 3, VALENCIA ACRES, a subdivision of Lots 22 and 27, Section 2, Township 28 South, Range 36 East, plat filed in Deed Book 339, at Page 146, of the Public Records of Brevard County, Florida.

**STATEMENT BY TED SERBOUSEK, VICE PRESIDENT
OF G.T. MOTORS, INC.**

The undersigned, Ted Serbousek, Vice President of G.T. Motors, Inc., a Florida corporation, Owner of the real property, the legal description of which is attached hereto as Exhibit "A", hereby certifies that G.T. Motors, Inc. is the Owner of said property and that it is free and clear of any mortgages or encumbrances.

This statement is submitted in conjunction with the Binding Development Plan being provided to Brevard County as part of the Rezoning Request by G.T. Motors, Inc..

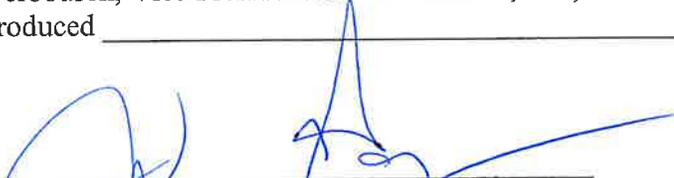
IN WITNESS WHEREOF, the undersigned has executed this Statement this 31 day of Jan, 2017.

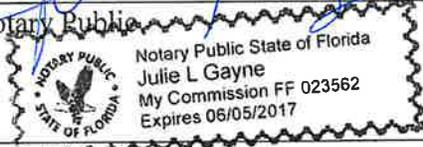


Ted Serbousek, Vice President of
G.T. Motors, Inc.

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 31 day of January, 2017, by Ted Serbousek, Vice President of G.T. Motors, Inc., and he is personally known to me or has produced _____ as identification.



Notary Public


(Name typed, printed or stamped)

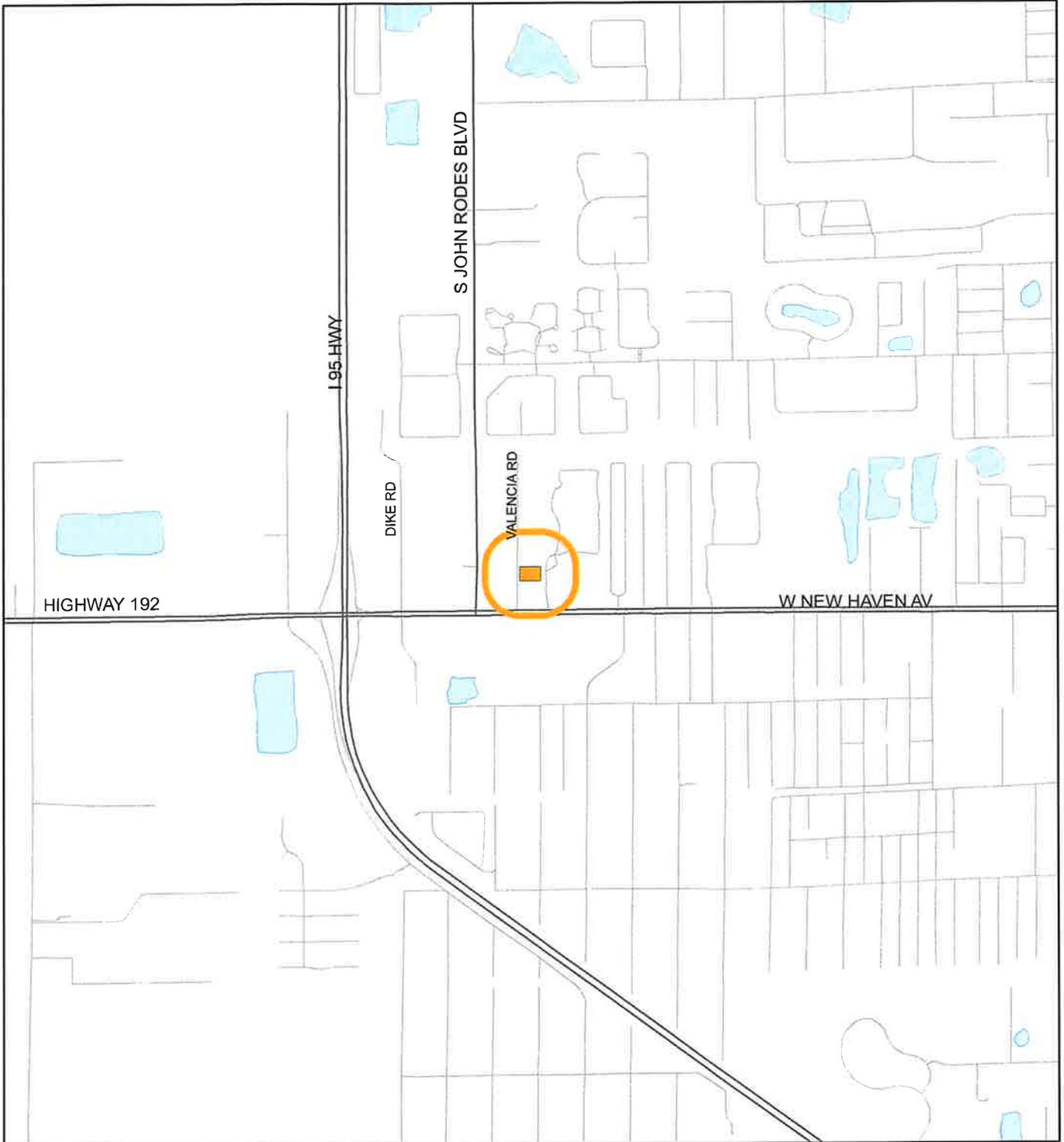
SEAL

My commission expires
Commission No.

LOCATION MAP

G T MOTORS INC

16PZ00094 and Small Scale Amendment 16S.09



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

Buffer Distance: 500 feet

-  Buffer
-  Subject Property

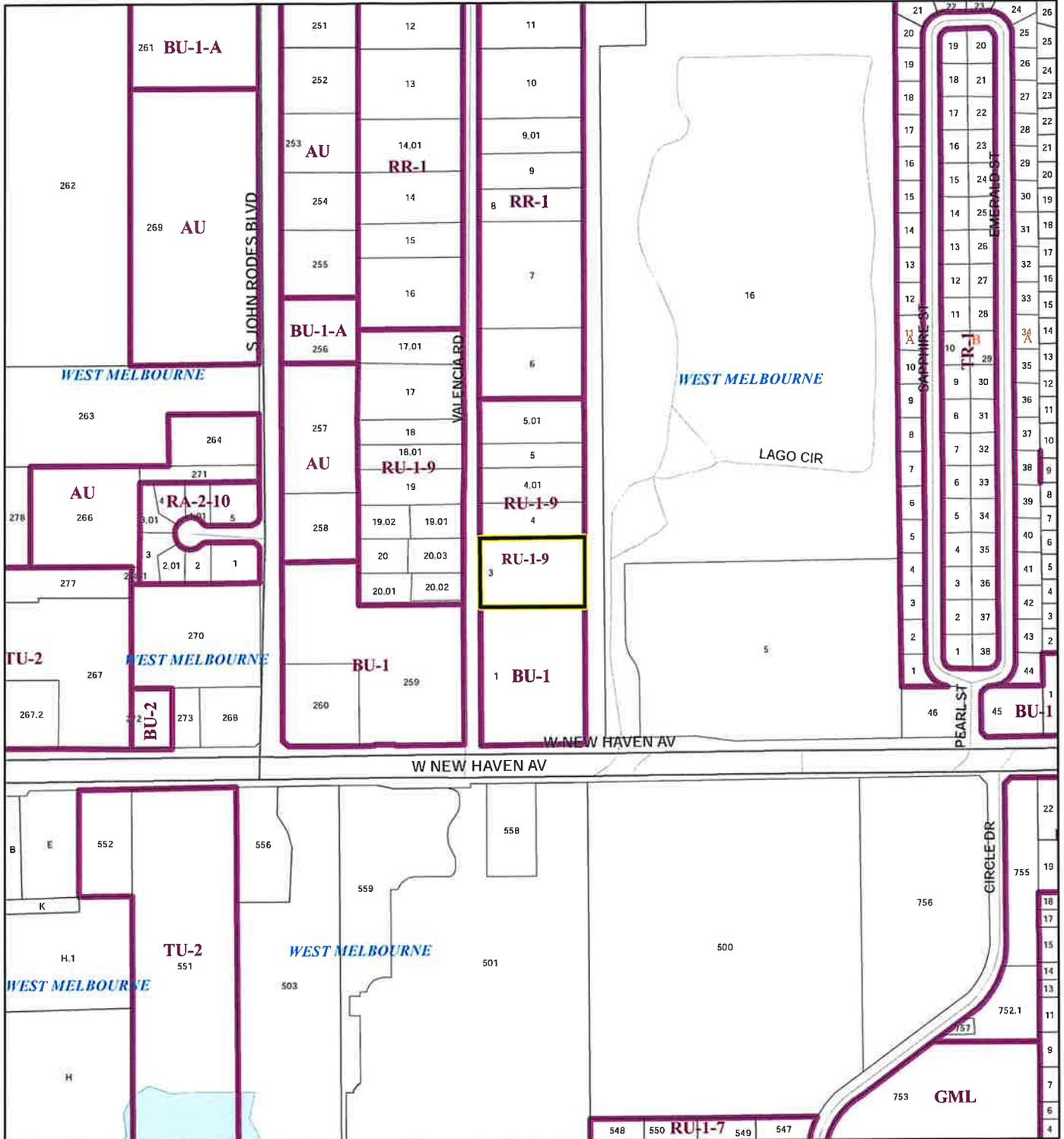
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 10/11/2016

ZONING MAP

G T MOTORS INC

16PZ00094 and Small Scale Amendment 16S.09



1:4,800 or 1 inch = 400 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.B.6. (16PZ00109) ALL SPACE STORAGE – (Vaheed Teimouri) – requests a change of classification from PIP to BU-2 on 6.27 acres, located on the west side of N. U.S. Hwy 1, approx. 0.34 miles south of Canaveral Groves Blvd. (Tax Parcel 30 = No assigned address. In the Cocoa area; Tax Parcel 39 = 3855 N. U.S. Hwy 1, Cocoa)

P&Z Recommendation: McLellan/Moia – Approved. Vote was unanimous.

BCC ACTION: Pritchett/Barfield – APPROVED. Vote was unanimous. 16PZ00109.

DISTRICT 4

IV.B.7. (16PZ00104) C&L BAYTREE, LLC – (Jim Bartoe) – requests a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with Restaurant Use, in a BU-1 zoning classification, on 7.53 acres, located on the north side of Wickham Rd., approx. 220 ft. east of Baytree Dr. (No assigned address. In the Melbourne area)

P&Z Recommendation: McLellan/Moia – Approved. Vote was unanimous.

BCC ACTION: Isnardi/Barfield – APPROVED. Vote was unanimous. 16PZ00104.

DISTRICT 5

IV.B.8. (16PZ00094) – G.T. MOTORS – (Phil Nohrr) – requests a Small Scale Plan Amendment (16S.09) to change the Future Land Use designation from NC to CC, and a change of classification from RU-1-9 to BU-1, on 1.4 acres, located on the east side of Valencia Rd., approx. 400 ft. north of W. New Haven Ave. (108 Valencia Rd., Melbourne)

LPA Recommendation: Barber/Lawandales – Approved. Vote was 8:2, with Holleran and Cannon voting nay.

P&Z Recommendation: Lawandales/LaMarr – Approved with a Binding Development Plan restricting deliveries to the existing service entrance for the existing dealership approximately 350 ft. north of W. New Haven Ave., and no use of Valencia Rd., including the loading and unloading of inventory. Vote was 8:2, with Holleran and Cannon voting nay.

BCC ACTION: Isnardi/Barfield – APPROVED as recommended, and adopted Ordinance No. 17-01, Small Scale Plan Amendment 16S.09. 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.

THE APPLICANT FOR THE FOLLOWING ITEM HAS MODIFIED REQUEST FROM RU-1-7 TO RU-1-11

IV.B.9. (16PZ00107) – ROBERT C. & MARION L. BAUMAN – (Joseph Kilmer) – request a change of classification from RR-1 and RU-1-7 to all RU-1-7, on 1.52 acres, located on the east side of Washington St., approx. 0.17 mile south of Milwaukee Ave. (Lot 12 = No assigned address. In the Melbourne area. Lot 15 = 2685 Washington St. Melbourne)

P&Z Recommendation: Lawandales/McLellan – Approved as RU-1-11. Vote was unanimous.

BCC ACTION: Isnardi/Barfield – APPROVED. Vote was unanimous. 16PZ00107.

PLANNING AND ZONING BOARD RECOMMENDATIONS OF JANUARY 9, 2017; PSJ RECOMMENDATION OF JANUARY 11, 2017; NMI RECOMMENDATION OF JANUARY 12, 2017, AND LPA RECOMMENDATION OF JANUARY 23, 2017

- Item IV.B.1. Lukas J. and Annelise Kammerman. Pritchett/Barfield, denied.
- Item IV.B.2. David and Michelle Murphy. Pritchett/Barfield, approved as recommended.
- Item IV.B.3. Jamie and Jolly K. Bunnell. Pritchett/Barfield, approved as recommended.
- Item IV.B.4. Gary R. Smith. Pritchett/Barfield, approved as recommended; and adopted Ordinance No. 17-02, approving Small Scale Plan Amendment (16S.10).
- Item IV.B.5. Mobile World of Brevard. Withdrawn by Applicant.
- Item IV.B.6. All Space Storage. Pritchett/Barfield, approved as recommended.
- Item IV.B.7. C&L Baytree, LLC. Isnardi/Barfield, approved as recommended.
- Item IV.B.8. G.T. Motors. Isnardi/Barfield, approved with a Binding Development Plan restricting deliveries to the existing service entrance for the existing dealership; and adopted Ordinance No. 17-01, approving Small Scale Plan Amendment (16S.09).
- Item IV.B.9. Robert C. and Marion L. Bauman. Isnardi/Barfield, approved as recommended.
- Item IV. B.10. Home Depot USA, Inc. Pritchett/Barfield, approved with conditions agreed to with the MIRA Board. 1.) To park all rental equipment with the rental trucks in the area designated on the approved site plan that is to be clearly marked with signage or striping; 2.) No more than 10 rental trucks at any given time on the property; 3.) After-hour drop-off of vehicles must be in the designated area and any outside of the area will be moved to the approved location at the start of Home Depot business; and 4.) No trailers.
- Item IV.B.11. Gerald Crayton, Trustee. Barfield/Isnardi, approved with an Amendment to existing Binding Development Plan (BDP) as follows: 1.) Retaining all BU-1 and BU- 2 uses, with the exception of cemeteries, mausoleums, crematoriums, railroad motor truck, water freight, passenger stations, testing laboratories, recovered materials processing facility, seafood processing plant, substation/transmission facility, dry cleaning plant, and fertilizer storage/sales. 2.) Amended provision that any future development of the property shall comply with the October 2005 North Courtenay Parkway Corridor Study draft, except that the LU-3 dealing with visibility of sheet metal buildings from North Courtenay Parkway shall not apply to the existing sheet metal building on the property; 3.) Retain provision that a six (6)' foot high opaque fence shall be placed on the property 25 feet west of the right-of-way line of S.R. 3, and there shall be no storage of boats and trailers on the 20 feet immediately west of the opaque buffer; stacking of boats and trailers over one another so that they may be visible from S.R. 3 shall be prohibited; and that the Owner shall provide additional vegetation planting on the east side of the fence to restrict the visibility from S.R. 3.

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
#: 1871052
Receipt #: 61835458
Cashier Date: 3/22/2017
3:55:48 PM



Print Date:
3/22/2017 3:55:49 PM

Customer Information	Transaction Information	Payment Summary
() GRAY ROBINSON PO BOX 3068 ORLANDO, FL 32802	DateReceived: 03/22/2017 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$35.50 Total Payments \$35.50

1 Payments

CHECK 455801	\$35.50
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1 Recorded Items

(AG) AGREEMENT	<i>BK/PG: 7846/2781 CFN:2017059058</i> <i>Date:3/22/2017 3:55:47 PM</i> <i>From: To:</i>
Recording @ 1st=\$10 Add'l=\$8.50 ea.	4 \$35.50
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	2 \$0.00

0 Search Items

1 Miscellaneous Items

(AGTR) AGENT TRANSMITTAL

II A 8

RESOLUTION NO. 16PZ00094

On motion by Commissioner Isnardi, seconded by Commissioner Pritchett, the following resolution was adopted by a unanimous vote:

WHEREAS, G.T. MOTORS has requested a Small Scale Plan Amendment (16S.09) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), and a change of zoning classification from RU-1-9 (Single-Family Residential) to BU-1 (General Retail Commercial), on property described as Lot 3, Valencia Acres, a subdivision of Lots 22 & 27, plat filed in Deed Book 339, Page 146, of the Public Records of Brevard County, Florida. (1.4 acres) Located on the east side of Valencia Rd., approx. 400 ft. north of W. New Haven Ave. (108 Valencia Rd., Melbourne)

Section 02, Township 28 S, Range 36 E, and,

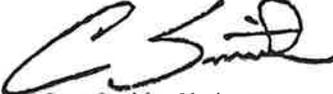
WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board/Local Planning Agency recommended that the application be approved(*) with a BDP (Binding Development Plan) restricting deliveries to the existing service entrance for the existing dealership approximately 350 ft. north of W. New Haven Ave., and no use of Valencia Rd., including the loading and unloading of inventory; and,

WHEREAS, the Board, after considering said application and the Brevard County Planning & 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 as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested Small Scale Plan Amendment to change the Future Land Use designation from NC to CC, and a change of classification from RU-1-9 to BU-1, be APPROVED with a BDP, recorded in ORB 7846, Pages 2781 – 2784, dated March 22, 2017, restricting deliveries to the existing service entrance for the existing dealership approximately 350 ft. north of W. New Haven Ave., and no use of Valencia Rd., including the loading and unloading of inventory, and that the zoning classification relating to the above described property be changed to BU-1, and 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 March 22, 2017.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Curt Smith, Chairman
Brevard County Commission
As approved by Brevard County Commission on March 21, 2017.

ATTEST:

SCOTT ELLIS, CLERK
(SEAL)



(P&Z Hearing – January 9, 2017)
(*) LPA Recommendation – Approved Small Scale Plan Amendment
(BCC Zoning Hearing – February 2, 2017)

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.