

Meeting Date
September 19, 2017



AGENDA	
Section	CONSENT
Item No.	II.A.3

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	BINDING DEVELOPMENT PLAN APPROVAL, RE: JAMES H. DIXON, JR. (D1) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development

Requested Action:
In accordance with Section 62-1157, it is requested that the Board of County Commissioners approve and authorize the Chairman to sign the Binding Development Plan.

Summary Explanation & Background:
On August 3, 2017, the Board of County Commissioners approved a change of Zoning Classification from RU-2-10 to RU-2-15, contingent upon a Binding Development Plan (BDP). 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 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. The attached BDP contains the following stipulation:

- Developer/Owner shall limit density on the property to a maximum of 10 residential units.

The property is 0.83 acres and is located on the south side of Arthur Ave., approx. 305 ft. east of N. Atlantic Ave. (201 Arthur Ave., Cocoa Beach)

Reference: 17PZ00069

Staff Contact: Jennifer Jones, Ext 5-2653

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"/>
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County Manager	Interim Assistant County Manager Jim Liesenfelt	Department Director / Extension Tad Calkins Planning & Development Dept. Ext. 56363
Frank Abbate <i>[Signature]</i>	Assistant County Manager John Denninghoff	<i>[Signature]</i>



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

September 20, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

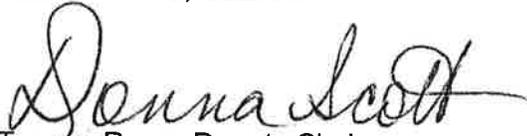
RE: Item II.A.3, Binding Development Plan with James H. Dixon, Jr.

The Board of County Commissioners, in regular session on September 19, 2017, executed Binding Development Plan with James H. Dixon, Jr., for property located on the south side of Arthur Avenue, approximately 305 feet east of North Atlantic Avenue. Said Plan was recorded in OR BK/PG 7986/1195. 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 
Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

RESOLUTION NO. 17PZ00069

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

WHEREAS, JAMES H. DIXON, JR. has requested a change of zoning classification from RU-2-10 (Medium Density Multi-Family Residential) to RU-2-15 (Medium Density Multi-Family Residential) on property described as Block 88, Lots 7 & 8; and Block 89, Lots 1 & 2; along with vacated Poinsetta Ave., Avon by the Sea, as recorded in ORB 1194, Page 315, and Orb 2428, Page 2133, both of the Public Records of Brevard County, Florida. (0.83 acres) Located on the south side of Arthur Ave., approx. 305 ft. east of N. Atlantic Ave. (201 Arthur Ave., Cocoa Beach)

Section 26, Township 24 S, Range 37 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 recommended that the application be approved with a BDP (Binding Development Plan) limited to ten (10) units; 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 change of zoning classification from from RU-2-10 to RU-2-15, be APPROVED with a BDP, recorded in ORB 7986, Pages 1195 - 1199, dated September 21, 2017, limited to ten (10) units. The zoning classification relating to the above described property shall be changed to RU-2-15, 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 September 21, 2017.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Curt Smith, Chairman
Brevard County Commission

As approved by Brevard County Commission on September 19, 2017.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – July 10, 2017)
(BCC Zoning Hearing – August 3, 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.

Prepared by: James H. Dixon, Jr.
Address: 223 Washington Avenue
Cape Canaveral, FL 32020

CFN 2017195571, OR BK 7986 PAGE 1195.
Recorded 09/21/2017 at 02:17 PM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs:5

BINDING DEVELOPMENT AGREEMENT

THIS AGREEMENT entered into this 19 day of Sept., 2017, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, a political subdivision of the State of Florida (hereinafter "the COUNTY") and JAMES HARVEY DIXON, JR., individually and as Personal Representative of the Estate of JAMES HARVEY DIXON, SR., a/k/a JAMES HARVEY DIXON, a/k/a JAMES H. DIXON, a/k/a JAMES DIXON; DONNA JANE MARTIN; GEORGE STEVEN DIXON and DAVID SCOTT DIXON (hereinafter referred to as "Developer/Owner").

RECITALS:

WHEREAS, the Developer/Owner owns property in Brevard County, Florida, and legally described as follows:

See Attached Exhibit "A" (hereinafter "the Property")

and

WHEREAS, the Developer/Owner has requested the RU- 2-15 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 any improvements on or to the Property. It is the intent of the parties that the, Developer/Owner, their grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the COUNTY shall be responsible for the maintenance of all improvements.
2. The Developer/Owner shall limit density on the Property to a maximum of 10 residential units
3. The Developer/Owner shall comply with all regulations and ordinances of the COUNTY. This Agreement constitutes the Developer/Owner agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes in the COUNTY's Comprehensive Plan or land development regulations as they may apply to the Property.
4. The 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 upon, and shall inure to the benefit of, the successors and/or assigns of the respective parties and shall run with the Property, unless or until rezoned, and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the Property, and be subject to the conditions referenced in Paragraph 2 approved by the Board of County Commissioners on August 3, 2017. In the event the 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.

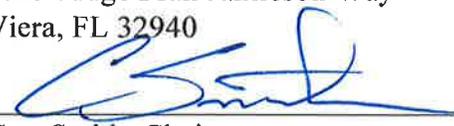
IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed, which shall be effective upon the date the last party signs.

ATTEST:



Scott, Ellis, Clerk
(SEAL)

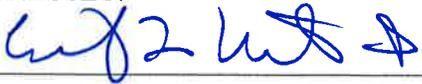
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940



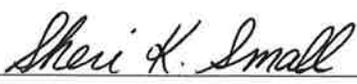
Curt Smith, Chairman

As approved by the Board on Sept, 19 2017

WITNESSES:



Elbert L Martin III
(Witness Name typed or printed)



Sheri K. Small
(Witness Name typed or printed)



JAMES HARVEY DIXON, JR., individually
and as personal representative of the Estate of
JAMES HARVEY DIXON, SR., a/k/a
JAMES HARVEY DIXON a/k/a JAMES H.
DIXON a/k/a JAMES DIXON



DONNA JANE MARTIN

James D. Cuckler

George S. Dixon
GEORGE STEVEN DIXON

JAMES D. CUCKLER
(Witness Name typed or printed)

David S. Dixon
DAVID SCOTT DIXON

Amber Meredith
(Witness Name typed or printed)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 13 day of July, 2017, by JAMES HARVEY DIXON, JR., who is personally known to me or who produced as identification.

(SEAL)



ELEANOR LUCAS
Notary Public, State of Florida
My Comm. Expires June 14, 2019
Commission No. FF 213873

Eleanor Lucas
Notary Public
Eleanor Lucas
Name typed, printed or stamped

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 12 day of July, 2017, by DONNA JANE MARTIN, who is personally known to me or who produced as identification.

(SEAL)

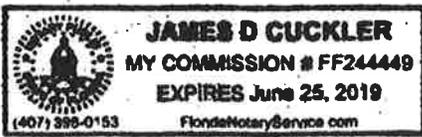


Stephanie A. Lynn
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG043622
Expires 10/31/2020

Stephanie Lynn
Notary Public
Stephanie Lynn
Name typed, printed or stamped

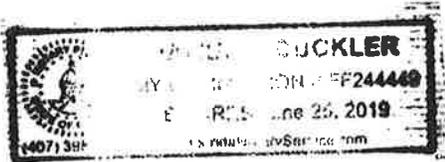
STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 19th day of July, 2017, by GEORGE STEVEN DIXON, who is personally known to me or who produced as identification.



as identification.

(SEAL)



James D. Cuckler
Notary Public
JAMES D. Cuckler
Name typed, printed or stamped

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 12 day of July, 2017, by DAVID SCOTT DIXON, who is personally known to me or who produced as identification.

(SEAL)



Stephanie A. Lynn
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG043622
Expires 10/31/2020

Stephanie Lynn
Notary Public
Stephanie Lynn
Name typed, printed or stamped

EXHIBIT "A"

Lots 1 and 2, Block Eighty-Nine (89) and Lots 7 and 8, Block Eight-Eight (88), AVON BY THE SEA, according to the Plat thereof, as recorded in Plat Book 3, Page 7, Public Records of Brevard County, Florida, together with the former Poinsetta Avenue right-of-way lying between Lot 1, Block Eighty-Nine (89) and Lot 8, Block Eighty-Eight (88), said Poinsetta Avenue right-of-way having been vacated, closed and abandoned by the Brevard County, Board of County Commissioners.

Reference: Addendum to Binding Development Plan as part of the re-zoning process
Property: 201 Arthur Ave, Cocoa Beach, FL 32931
Owner: James Harvey Dixon

To all concerned:

Lots 1 and 2, Block 89 and Lots 7 and 8, Block 88, AVON BY THE SEA, referenced in the Binding Development Plan do not have any liens or mortgages.

James H. Dixon Jr.

The foregoing instrument was acknowledged before me this 14 day of August 2017, by JAMES HARVEY DIXON JR., who is personally known to me or produced _____ as identification.

(SEAL)



ELEANOR LUCAS
Notary Public, State of Florida
My Comm. Expires June 14, 2019
Commission No. FF 213873

Eleanor Lucas

Notary Public

ELEANOR LUCAS

Name typed, printed or stamped

STATE OF FLORIDA
COUNTY OF BREVARD

LOCATION MAP

DIXON, JAMES H.

17PZ00069



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

Buffer Distance: 500 feet

-  Buffer
-  Subject Property

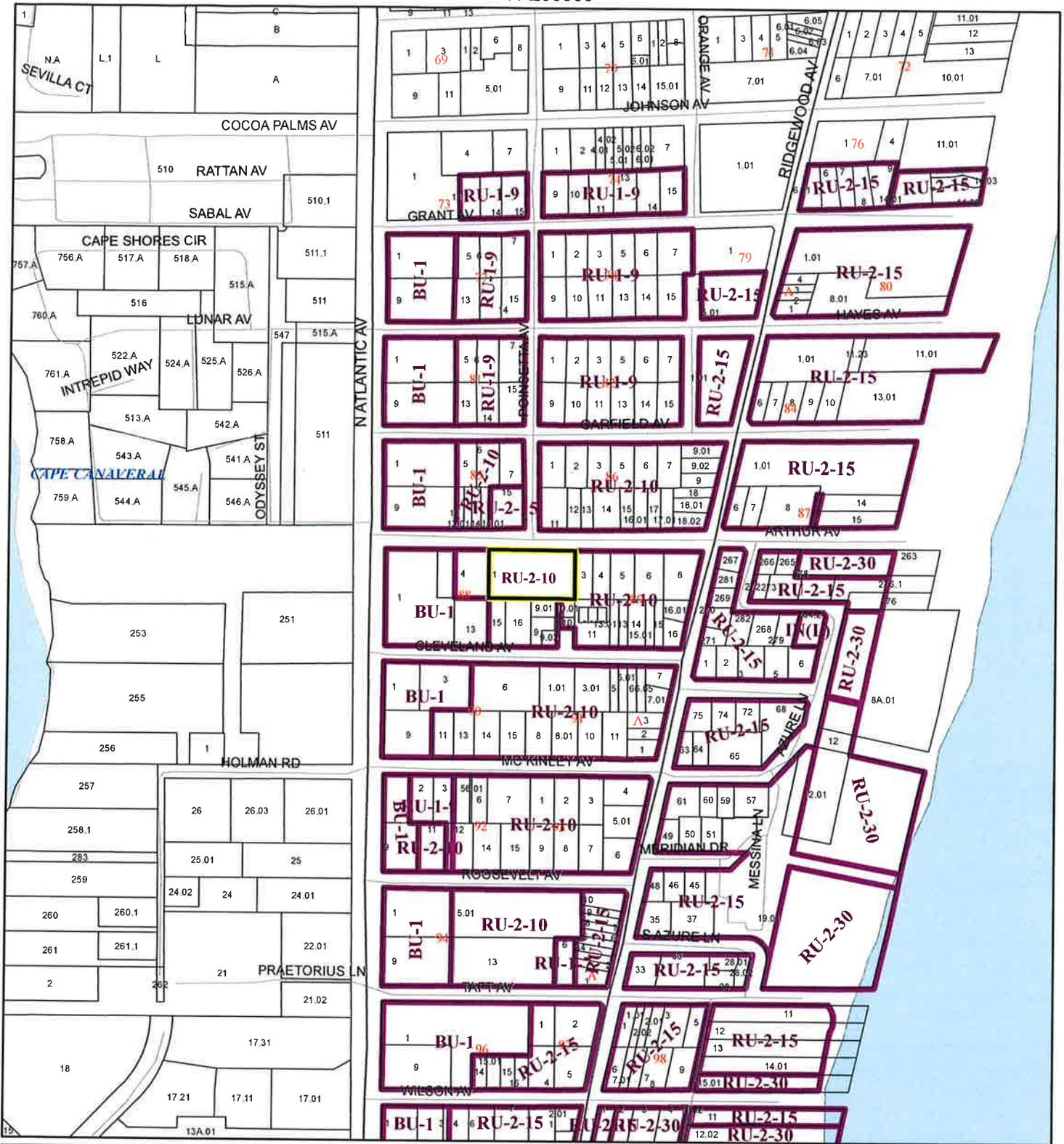
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/5/2017

ZONING MAP

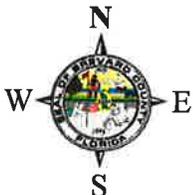
DIXON, JAMES H.

17PZ00069



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.H. Conditional Use Permit, Re: Cement, Concrete, and Concrete Building Products - Preferred Materials, Inc. (Mark Marine) (17PZ00068) (District 4)
P&Z Recommendation: Lawandales/Barber – Approved. The vote was unanimous.
BCC ACTION: Barfield/Pritchett – APPROVED as recommended. The vote was 4:1, with Tobia voting nay. 17PZ00068.
- IV.I. Change of Zoning Classification, Re: RU-2-10 to RU-2-15 - James H. Dixon, Jr. (Donna or Elbert Martin) (17PZ00069) (District 2)
P&Z Recommendation: Barber/Moia – Approved with a BDP limited to 10 units. The vote was unanimous.
BCC ACTION: Barfield/Isnardi – APPROVED as recommended. The vote was unanimous.
- IV.J. Conditional Use Permits, Re: Alcoholic Beverages for On-Premises Consumption - Viera Development Corporation, and Brevard County (Hassan Kamal) (17PZ00073) (District 4)
P&Z Recommendation: Lawandales/Moia – Approved, minus the impact areas indicated in the sketch provided by BSE Consultants, Inc., entitled, “Exhibits to Show 300-Foot Setbacks.” The vote was unanimous.
BCC ACTION: Pritchett/Barfield – APPROVED as recommended. The vote was unanimous. 17PZ00073.
- IV.K. NMI Item
- IV.L. NMI Item
- IV.M. Change of Zoning Classification, Re: TR-1 to TR-1-A – Morris Ave Mobile Home Park, LLC (Tim Sanders) (17PZ00074) (District 1)
P&Z Recommendation: Moia/Lawandales – Approved with a BDP limited to 14 lots. The vote was 7:1, with Barber voting nay.
BCC ACTION: Pritchett/Isnardi – APPROVED as recommended. The 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.
- IV.N. Change of Zoning Classification, Re: AU to RR-1 – Pamela Childers (17PZ00075) (District 1)
P&Z Recommendation: Barber/Moia – Approved. The vote was 8:3, with Minneboo, Bartcher, and Langston, voting nay.
BCC ACTION: Pritchett/Tobia – APPROVED as recommended. The Vote was 4:1, with Barfield voting nay. 17PZ00075.

LPA AGENDA:

1. An Ordinance Implementing the Regulatory Authority Provided in 2017 House Bill 687, The Advanced Wireless Infrastructure
LPA Recommendation: Barber/Lawandales – Approved. The vote was unanimous.
BCC ACTION OF 07/11/17: Tobia/Barfield – APPROVED as recommended. The vote was unanimous.

PUBLIC COMMENT

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item IV.A. LTM of Florida Holding, LLC. Pritchett/Isnardi, continued to the December 7, 2017, Zoning Meeting.
- Item IV.B. LTM of Florida Holding, LLC. Pritchett/Isnardi, continued to the December 7, 2017, Zoning Meeting.
- Item IV.C. RJJAC Homes, LLC. Pritchett/Barfield, approved as recommended.
- Item IV.D. Stephen Proctor Magnum, Julian Sydney Magnum, Jr., and Sandra E. Baker. Barfield/Isnardi, continued to September 7, 2017, Zoning Meeting.
- Item IV.E. I Markoyiannis Management, LLC. Isnardi/Barfield, approved as recommended.
- Item IV.F. Kenneth J. and Kiela R. Frank. Barfield/Isnardi, approved as recommended, and adopted Ordinance No. 17-18. (17S.04)
- Item IV.G. Kenneth J. and Kiela R. Frank. Barfield/Pritchett, approved as recommended.
- Item IV.H. Preferred Materials, Inc. Barfield/Pritchett, approved as recommended. Commissioner Tobia voting nay.
- Item IV.I. James H. Dixon, Jr. Barfield/Isnardi, approved as recommended with a Binding Development Plan (BDP) limited to 10 units.
- Item IV.J. Viera Development Corporation, and Brevard County. Pritchett/Barfield, approved as recommended.
- Item IV.K. Crisafulli Enterprises, Inc. Barfield/Isnardi, adopted Ordinance No. 17-19, setting forth Small Scale Plan Amendment. (17S.06)
- Item IV.L. Crisafulli Enterprises, Inc. Barfield/Pritchett, approved with a Binding Development Plan (BDP) limited to a maximum of 48 units.
- Item IV.M. Morris Ave Mobile Home Park, LLC. Pritchett/Isnardi, approved as recommended with a Binding Development Plan (BDP) limited to 14 lots.
- Item IV.N. Pamela Childers. Pritchett/Tobia, approved as recommended. Commissioner Barfield voting nay.
- Item IV.O. NAJJAD, Inc. Barfield/Pritchett, tabled to September 7, 2017, Zoning Meeting.
- Item IV.P. Eric and Amanda Obloy. Barfield/Isnardi, denied the recommendation of a change in Zoning Classification from SR to AU..