

Meeting Date
October 10, 2017



AGENDA	
Section	CONSENT
Item No.	II A:4

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

SUBJECT:	BINDING DEVELOPMENT PLAN APPROVAL, RE: CRISAFULLI ENTERPRISES, INC. (D2) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development Department

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 BU-1 and AU to RA-2-4, 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 stipulations:

- Developer/Owner shall provide a Conservation Easement over the wetlands on the western portion of the Property, as required by Brevard County or any other governmental agency, after completion of the applicable permitting process and excluding any approved impact.
- Developer/Owner shall limit density to a total of 48 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 two (2) access points.

The property is 12.85 acres and is located on the southwest corner of Porcher Rd. and N. Courtenay Pkwy.

Reference: 17PZ00072

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"/>
County Manager	Assistant County Manager	Department Director / Extension Tad Calkins Planning & Development Dept. Ext. 56363				
Frank Abbate	Assistant County Manager John Denninghoff					



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

October 11, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.4, Binding Development Plan with Crisafulli Enterprises, Inc.

The Board of County Commissioners, in regular session on October 10, 2017, executed Binding Development Plan with Crisafulli Enterprises, Inc. for property located on the southwest corner of Porcher Road and North Courtenay Parkway. Said Binding Development Plan was recorded in OR BK8003/PG355. 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



17PZ00072 – CONTINUED

A parcel of land lying in the NE  $\frac{1}{4}$  of Section 34, Township 23S, Range 36E, Brevard County, Florida, more particularly described as follows: commence at the NE corner of said Section 34, and run S00deg18'33"W, along the east line of said NE  $\frac{1}{4}$ , a distance of 1,333.21 ft. to a point on the south line of the N  $\frac{1}{2}$  of said NE  $\frac{1}{4}$ ; thence N89deg48'08"W, along said south line, a distance of 97.44 ft. to a point on the westerly right-of-way line of N. Courtenay Pkwy. (S.R. 3), the point of beginning; thence continue N89deg48'08"W, along said south line, a distance of 625.38 ft. to the SE corner of lands described in ORB 5386, Page 8735; thence N01deg47'45"W, along the east line of said lands, a distance of 458.88 ft. to the SE corner of lands described in ORB 5452, Page 5354; thence S89deg57'08"E, along the south line of said lands, a distance of 111.50 ft. to the SE corner thereof; thence N00deg01'21"W, along the east line of said lands a distance of 539.19 ft. to a point on the north line of the S  $\frac{1}{2}$  of the N  $\frac{1}{2}$  of said NE  $\frac{1}{4}$ ; thence S89deg57'08"E, along said north line, a distance of 497.13 ft. to a point on the aforesaid westerly right-of-way line, a distance of 999.99 t. to the point of beginning; containing 12.85 acres +/- . Located on the southwest corner of Porcher Rd. and 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

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### BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 10 day of October, 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 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 RA-2-4 zoning classification and desires to develop the Property as Townhomes 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 western 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 total of 48 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 two (2) access points.

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.

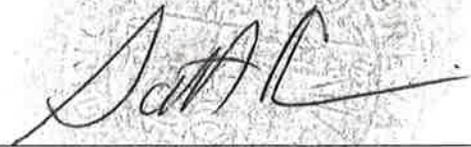
7. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on 10/10/17. 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

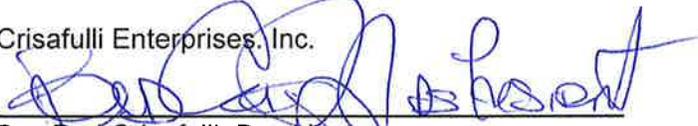
  
\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

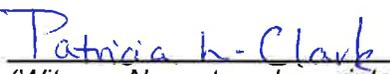
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940  
  
\_\_\_\_\_  
Curt Smith, Chairman  
As approved by the Board on 10/10/17

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

WITNESSES:

  
\_\_\_\_\_  
CHRISTINE L JACKSON  
\_\_\_\_\_  
(Witness Name typed or printed)

Crisafulli Enterprises, Inc.  
  
\_\_\_\_\_  
By: Bud Crisafulli, President  
5525 N. Courtenay Pkwy, Merritt Island, FL 32953  
(Address)

  
\_\_\_\_\_  
  
\_\_\_\_\_  
(Witness Name typed or printed)

STATE OF FLORIDA            )  
  > ss: Cocoa  
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of August, 2017, by Bud Crisafulli, President of Crisafulli Enterprises, Inc., who is personally known to me or who has produced \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
Notary Public  
  
\_\_\_\_\_  
(Name typed, printed or stamped)

My Commission expires:  
SEAL  
Commission No.:

Crisafulli Enterprises, Inc.

## Legal Description

A parcel of land lying in the Northeast 1/4 of Section 34, Township 23 South, Range 36 East, Brevard County, Florida. More particularly described as follows: Commence at the Northeast corner of said section 34, and run S.00°18'33"W., along the east line of said Northeast 1/4, a distance of 1333.21 feet to a point on the south line of the North 1/2 of said Northeast 1/4; Thence N.89°48'08"W., along said South line, a distance of 97.44 feet to a point on the Westerly right of way line of North Courtenay Parkway (State Road No 3), the point of beginning; Thence continue N.89°48'08"W., along said South line, a distance of 625.38 feet to the Southeast corner of lands described in O.R. Book 5386, Page 8735; Thence N.01°47'45"W., along the east line of said lands, a distance of 458.88 feet to the Southwest corner of lands described in O.R. 5452, Page 5354; Thence S.89°57'08"E. Along the South line of said lands, a distance of 111.50 feet to the Southeast corner thereof; Thence N.00°01'21"W., Along the East line of said lands, a distance of 539.19 feet to a point on the North line of the South 1/2 of the North 1/2 of said Northeast 1/4; Thence S.89°57'08"E. Along said North line, a distance of 497.13 feet to a point on the aforesaid Westerly right of way line of North Courtenay Parkway; Thence S.01°47'45"E., along said Westerly right of way line, a distance of 999.99 feet to the point of beginning

**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 August 22, 2017.

By:   
Bud Crisafulli, President  
Crisafulli Enterprises, Inc.

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of August, 2017, 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)



Crisafulli Enterprises, Inc.

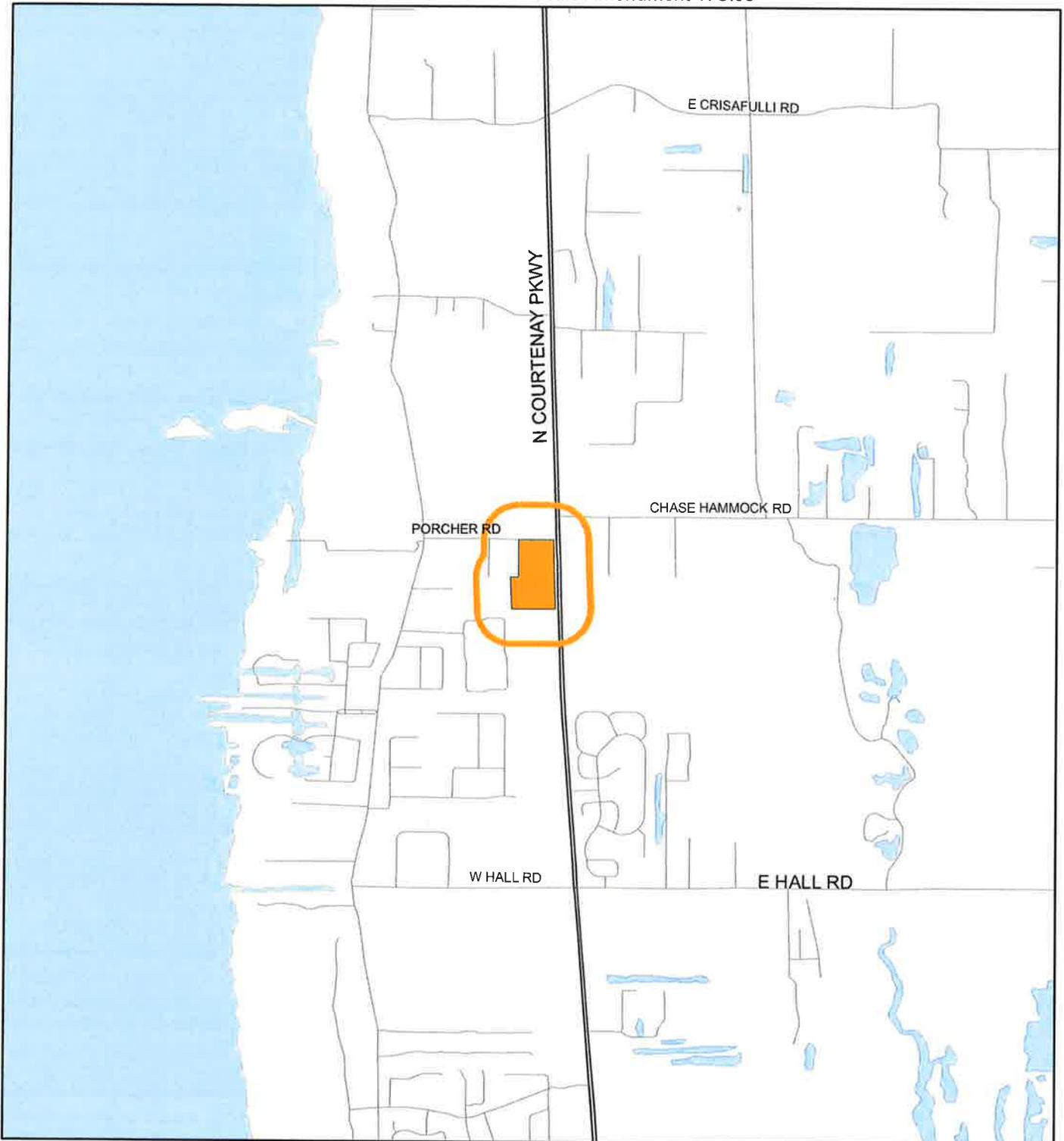
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# LOCATION MAP

CRISAFULLI ENTERPRISES, INC.

17PZ00072 and Small Scale Amendment 17S.06



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: 5/17/2017

# ZONING MAP

CRISAFULLI ENTERPRISES, INC.  
17PZ00072 and Small Scale Amendment 17S.06



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. PUBLIC HEARINGS  
NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT BOARD

Thursday, July 13, 2017 – 6:00 P.M.  
Merritt Island Service Complex  
2575 N. Courtenay Pkwy., 2<sup>nd</sup> Floor, Merritt Island, Florida  
&  
LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD  
Monday, July 24, 2017 – 3:00 P.M.  
&  
BOARD OF COUNTY COMMISSIONERS  
THURSDAY, August 3, 2017 – 5:00 P.M.  
Both at the  
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.F. Small Scale Comprehensive Plan Amendment (**LPA**), Re: PLNIP to Residential 1 – Kenneth J. & Kiela R. Frank (17PZ00067) (District 2)  
NMI Recommendation: Ratterman/Testa – Approved. The vote was unanimous.  
LPA Recommendation: Lawandales/McLellan – Approved. The vote was unanimous.  
BCC ACTION: Barfield/Isnardi – APPROVED as recommended, and adopted Ordinance No. 17-18, setting forth Small Scale Plan Amendment, 17S.04. The vote was unanimous. 17PZ00067.
- IV.G. Change of Zoning Classification, Re: PIP to AU – Kenneth J. & Kiela R. Frank (17PZ00067) (District 2)  
NMI Recommendation: Lindhorst/Testa – Approved. The vote was unanimous.  
P&Z Recommendation: Lawandales/McLellan – Approved. The vote was unanimous.  
BCC ACTION: Barfield/Pritchett – APPROVED as recommended. The vote was unanimous. 17PZ00067.
- IV.K. Small Scale Comprehensive Plan Amendment (**LPA**), Re: Residential 2 to Residential 4 – Crisafulli Enterprises, Inc. (Kim Rezanka) (17PZ00072) (District 2)  
NMI Recommendation: Ratterman/Cook – Denied. The vote was unanimous.  
LPA Recommendation: Lawandales/LaMarr – APPROVED. The vote was unanimous.  
BCC ACTION: Barfield/Isnardi – APPROVED as recommended, and adopted Ordinance No. 17-19, setting forth Small Scale Plan Amendment 17S.06. The vote was unanimous. 17PZ00072.
- IV.L. Change of Zoning Classification, Re: BU-1 & AU to RA-2-4 – Crisafulli Enterprises, Inc. (Kim Rezanka) (17PZ00072) ( District 2)  
NMI Recommendation: Ratterman/Lindhorst – Denied. The vote was unanimous.  
P&Z Recommendation: Lawandales/McLellan – Approved with a BDP stipulating the following: 1.) A Conservation Easement shall be provided over the wetlands on the western portion of the property; 2.) Density shall be limited to 48 units; and 3.), Ingress/egress shall be limited to two access points. The vote was unanimous.  
BCC ACTION: Barfield/Pritchett – 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.

## 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..