

Meeting Date
March 21, 2017



AGENDA	
Section	CONSENT
Item No.	II. A. 7

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: Gerald Crayton, Trustee (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 February 2, 2017, the Board of County Commissioners approved an amended BDP to retain all BU-1 and BU-2 uses, in a BU-2 zoning classification, on 6.07 acres located on the west side of N. Courtenay Pkwy., approx. 560 ft. north of Crisafulli Rd. (6025 N. Courtenay Pkwy., Merritt Island), subject to the following:

- Developer/Owner shall retain 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 Facilities, Seafood Processing Plants, Substations and Transmission Facilities, Dry Cleaning Plants, and Fertilizer Storage and Sales.
- Developer/Owner agrees that any future development of the property shall comply with the October 2005 North Courtenay Parkway Corridor Study draft, provided, however, that the LU-3 (Land Use Recommendation No. 3) dealing with visibility of sheet metal buildings from North Courtenay Parkway shall not apply to the existing sheet metal building on the property.
- Developer/Owner shall provide a six (6') foot high opaque fence 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 fence. Stacking of boats and trailers over one another so that they may be visible from S.R. 3 shall be prohibited. Further, Owner shall provide additional vegetative planting on the east side of the fence to restrict the visibility from S.R. 3.

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

March 22, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.7, Binding Development Plan Agreement with Gerald Crayton, Trustee

The Board of County Commissioners, in regular session on March 21, 2017, approved Binding Development Plan with Gerald Crayton, Trustee, for property located on the west side of North Courtenay Parkway, approximately 560 feet north of Crisafulli Road, Merritt Island. Said Plan was recorded in OR BK/PG 7846/2775. 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: Denna Scott
Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

Prepared by: Antron Cotman
253 Pebble Hill Way
Rockledge FL 32955

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 Gerald Crayton, Trustee, (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 removal of an existing BDP and desires to develop the Property as Retail, Warehousing, and Wholesale Commercial, 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 retain 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 Facilities, Seafood Processing Plants, Substations and Transmission Facilities, Dry Cleaning Plants, and Fertilizer Storage and Sales.

3. The Developer/Owner agrees that any future development of the property shall comply with the October 2005 North Courtenay Parkway Corridor Study draft, provided, however, that the LU-3 (Land Use Recommendation No. 3) dealing with visibility of sheet metal buildings from North Courtenay Parkway shall not apply to the existing sheet metal building on the Property.

4. The Developer/Owner shall provide a six (6') foot high opaque fence 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 fence. Stacking of boats and trailers over one another so that they may be visible from S.R. 3 shall be prohibited. Further, Owner shall provide additional vegetative planting on the east side of the fence to restrict the visibility from S.R. 3.

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 02/02/2017. 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.

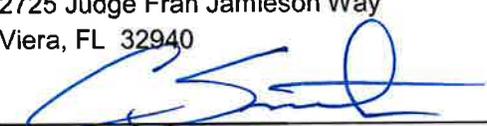
9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of 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


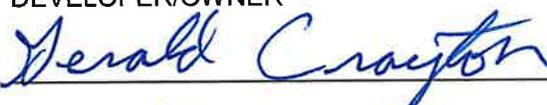
Curt Smith, Chairman
As approved by the Board on March 21, 2017

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

WITNESSES:



Jennifer Jones
(Witness Name typed or printed)

DEVELOPER/OWNER


253 Pebble Hill way
(Address) Rockledge FL, 32926



Bessie Grivas Pereno
(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF Florida §
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 14th day of February, 2017, by Gerald Crayton, President of _____, who is personally known to me or who has produced FLD as identification.

My commission expires
SEAL
Commission No.:



Notary Public
Bessie Grivas Pereno.

(Name typed, printed or stamped)



EXHIBIT "A"
Legal Description

Tax Parcels 751.1, 758, 798, all recorded in ORB 7683, Pages 933 – 935, of the Public Records of Brevard County. **Section 22, Township 23, Range 36.** (6.07 acres) Located on the west side of N. Courtenay Pkwy., approx. 560 ft. north of Crisafulli Rd. (No assigned address for Parcels 751.1 & 798. Parcel 758 = 6025 N. Courtenay Pkwy, Merritt Island.)

I Gerald Crayton Trustee declare I do not have mortgage AT 6025 N. COURTENAY PKWY .

Gerald Crayton
Print Name

Gerald Crayton
Signature

2-14-17
Date

State of County of _____

The foregoing instrument was acknowledge before me this _____ day of _____ 201__ by

Bessie G. Grivas-Pereno
Signature of notary public

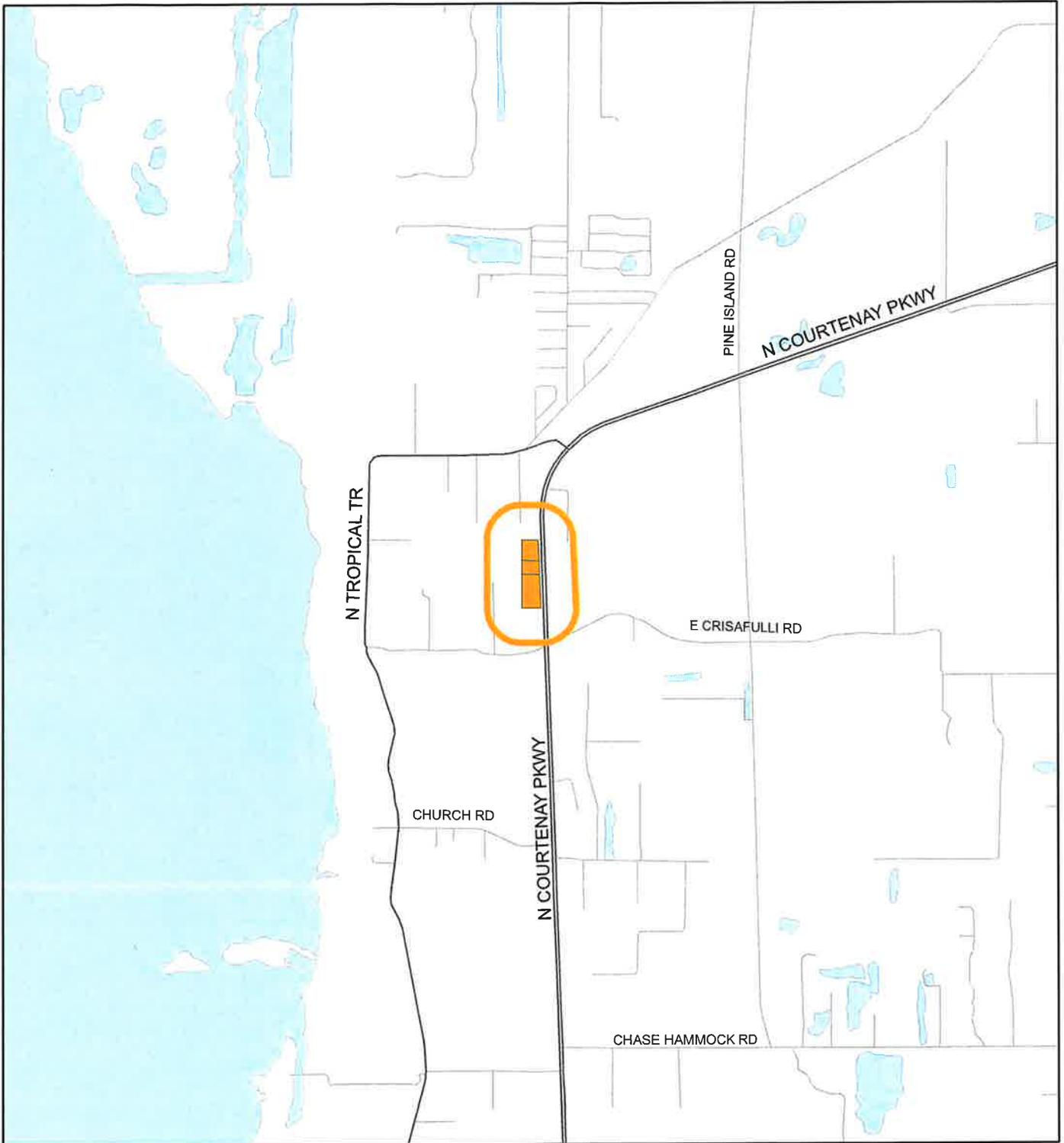
Bessie Grivas-Pereno
Printed name of notary

Personally Known _____ or Produced Identification FLDL

Type of Identification Produced FDL



LOCATION MAP
CRAYTON, GERALD, TRUSTEE
16PZ00082



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: 8/24/2016

ZONING MAP

CRAYTON, GERALD, TRUSTEE

16PZ00082



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.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 8/25/2016

IV. PUBLIC HEARINGS
B. NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT BOARD

Thursday, January 12, 2017 – 6:00 P.M.
Merritt Island Service Complex
2575 N. Courtenay Pkwy., 2nd Floor, Merritt Island, Florida

&

BOARD OF COUNTY COMMISSIONERS
THURSDAY, February 2, 2017 – 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.

THE FOLLOWING ITEM WAS TABLED FROM THE 10/13/16 & 11/10/16 NMI and 11/03/16 & 12/01/16 BCC MEETINGS

DISTRICT 2

IV.B.11. (16PZ00082) – GERALD CRAYTON, TRUSTEE – (Antron Cotman) – requests removal of an existing BDP, to retain all BU-1 & BU-2 uses, in a BU-2 zoning classification, on 6.07 acres, located on the west side of N. Courtenay Pkwy., approx. 560 ft. north of Crisafulli Rd. (No assigned address for Parcels 751.1 & 798. Parcel 758 = 6025 N. Courtenay Pkwy, Merritt Island.)

NMI Recommendation: Ratterman/Lindhorst – Approved an amendment to the current Binding Development Plan 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 plan, 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. Vote was unanimous.

BCC ACTION: Barfield/Isnardi – APPROVED as recommended. 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.

V. Presentation by County Attorney's Office, Re: Government in the Sunshine/Florida's Public Meetings Law

VII. PUBLIC COMMENT

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 plan, 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
 #: 1871046
 Receipt #: 61835454
 Cashier Date: 3/22/2017
 3:50:15 PM



Print Date:
 3/22/2017 3:50:16 PM

Customer Information	Transaction Information	Payment Summary
() TRON'S AUTO & TOWING INC 435 SOUTH RANGE ROAD COCOA, FL 32926	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 \$44.00 Total Payments \$44.00

1 Payments	
CHECK 4762	\$44.00

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7846/2775 CFN:2017059056 Date:3/22/2017 3:50:13 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	5	\$44.00
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	2	\$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL

RESOLUTION NO. 16PZ00082

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

WHEREAS, GERALD CRAYTON, TRUSTEE has requested removal of an existing BDP (Binding Development Plan) to retain all BU-1 (General Retail Commercial) & BU-2 (Retail, Warehousing, and Wholesale Commercial) uses, in a BU-2 zoning classification on property described as Tax Parcels 751.1, 758, 798, all recorded in ORB 7683, Pages 933 – 935, of the Public Records of Brevard County. (6.07 acres) Located on the west side of N. Courtenay Pkwy., approx. 560 ft. north of Crisafulli Rd. (No assigned address for Parcels 751.1 & 798. Parcel 758 = 6025 N. Courtenay Pkwy, Merritt Island.)

Sections 22

Township 23 S,

Range 36 E, and,

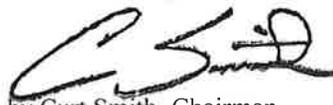
WHEREAS, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be Approved with an amendment to the current Binding Development Plan 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.; and,

WHEREAS, the Board, after considering said application and the North Merritt Island Dependent Special District Board's recommendations, 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 removal of an existing BDP to retain all BU-1 & BU-2 uses, in a BU-2 zoning classification be APPROVED as recommended by the North Merritt Island Dependent Special District Board, with a BDP, recorded in ORB 7846, Pages 2775 through 2779, dated 03/22/17, and that the zoning classification relating to the above described property remain unchanged, 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)

(NMI Hearings – October 13, 2016; November 10, 2016; and January 12, 2017)
(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.