

Meeting Date
August 22, 2017



AGENDA	
Section	CONSENT
Item No.	II.A.2

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	BINDING DEVELOPMENT PLAN APPROVAL, RE: 2620 U.S. HIGHWAY 1, LLC (D1) 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 May 4, 2017, the Board of County Commissioners approved a change of Zoning Classification from BU-1 to BU-2, 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 not allow truck maintenance/repair on the property.
- Developer/Owner shall have no access (ingress or egress) to Folsom Road.
- Developer/Owner shall not propose or allow any truck parking within 300 feet of the Folsom Road property line (rear property line).
- Developer/Owner shall include a 50-foot tree buffer along the Folsom Road property line (rear property line) meeting the Brevard County Tree Preservation requirements.
- Developer/Owner will be limited to business units which include mini-warehouse, trailer, truck, and boat storage.

The property is 3.10 acres and is located on the west side of U.S. Hwy 1, approx. 0.35 mile north of S.R. 46 (2620 U.S. Hwy 1, Mims),

Reference: 17PZ00009

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 X No PR

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

August 23, 2017

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item II.A.2, Binding Development Plan with 2620 U.S. Highway 1, LLC

The Board of County Commissioners, in regular session on August 22, 2017, executed Binding Development Plan with 2620 U.S. Highway 1, LLC for property located on the west side of U.S. Highway 1, approximately .35 mile north of S.R. 46 in Mims. Said Binding Development Plan was recorded in OR BK/PG 7968/1604. 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

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 22 day of August, 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 2620 U.S. HIGHWAY 1, LLC, a limited liability 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 BU-2 Retail, warehousing and wholesale commercial zoning classification(s), and desires to develop the Property as mini-warehouse and automobile storage areas, 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 not allow truck maintenance/repair on the property.
3. The Developer/Owner shall have no access (~~ingress~~ or egress) to Folsom Road.
4. The Developer/Owner shall not propose or allow any truck parking within 300 feet of the Folsom Road property line (rear property line).
5. The Developer/Owner shall include a 50-foot tree buffer along the Folsom Road property line (rear property line) meeting the Brevard County Tree Preservation requirements.
6. The development will be limited to business units which include mini-warehouse, trailer, truck and boat storage.
7. 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.
8. 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.
9. 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 May 4, 2017. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
10. 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.
11. 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.

EXHIBIT A

The property is described as the east 200 ft. of Tax Parcels 330 and 319, as recorded in ORB 7788, Pages 1154 – 1159, of the Public Records of Brevard County, Florida. Section 17, Township 21, Range 35. (3.10 acres) Located on the west side of U.S. Hwy 1, approx. 0.35 mile north of S.R. 46.

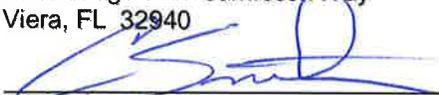
IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

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



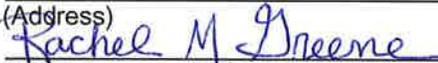
Curt Smith, Chairman
As approved by the Board on 8/22/17

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

DEVELOPER/OWNER

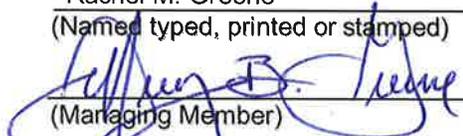
2620 US HWY 1, LLC

2405 Garden Street, Titusville, FL 32796

(Address)


(Managing Member)

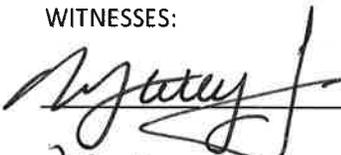
Rachel M. Greene
(Name typed, printed or stamped)



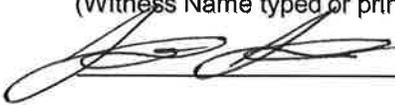
(Managing Member)

Jeffrey B. Greene
(Name typed, printed or stamped)

WITNESSES:



Martin J. Wolf Jr.
(Witness Name typed or printed)



Tabitha Sisler
(Witness Name typed or printed)

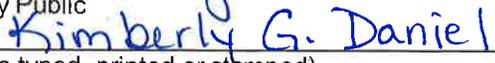
STATE OF Florida §

COUNTY OF Brevard §

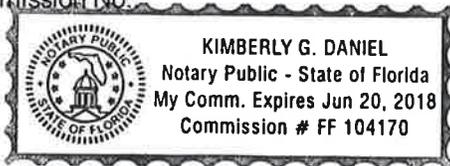
The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Rachel M. Greene and Jeffrey B. Greene, Managing Member of 2620 U.S. Highway 1, LLC, who are is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No. _____



Notary Public


(Name typed, printed or stamped)



RESOLUTION NO. 17PZ00009

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

WHEREAS, 2620 U.S. HIGHWAY 1, LLC, has requested a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as the east 200 ft. of Tax Parcels 330 and 319, as recorded in ORB 7788, Pages 1154 – 11559, of the Public Records of Brevard County, Florida. **Section 17, Township 21, Range 35.** (3.10 acres) Located on the west side of U.S. Hwy 1, approx. 0.35 mile north of S.R. 46. (Tax Parcel 330 = 2620 U.S. Hwy 1, Mims; Tax Parcel 319 = No assigned address. In the Mims area.)

Section 17, Township 21 S, Range 35 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 business units, trailer/truck/boat storage, maintenance of rear buffer, no access to Folsom Rd., and that there be no idling of engines and/or generators after 10:00 p.m.; and

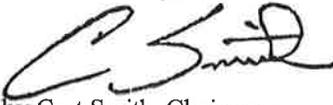
WHEREAS, the Board, after considering said application and the Brevard County Planning & Zoning Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved with a BDP limited to business units, trailer/truck/boat storage 300 ft. from the rear property line, maintenance of 50-ft. rear buffer, and no access to Folsom Rd.; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from from BU-1 to BU-2 be APPROVED with a BDP, recorded in ORB 7968, Pages 1604 – 1608, dated August 24, 2017, limited to business units, trailer/truck/boat storage 300 ft. from the rear property line, maintenance of 50-ft. rear buffer, and no access to Folsom Rd. The zoning classification relating to the above described property shall be changed to BU-2, 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 August 24, 2017.


ATTEST:

SCOTT ELLIS, CLERK
(SEAL)

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

by Curt Smith, Chairman
Brevard County Commission
As approved by Brevard County Commission on August 22, 2017.

(P&Z Hearing – April 17, 2017)
(BCC Zoning Hearing – May 4, 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.

IV. PUBLIC HEARINGS

B. PLANNING & ZONING BOARD AGENDA
MONDAY, April 17, 2017 – 3:00 P.M.

&

BOARD OF COUNTY COMMISSIONERS
THURSDAY, May 4, 2017 – 5:00 P.M.

Both at the

BREVARD COUNTY GOVERNMENT CENTER
2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida

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

DISTRICT 4

IV.B.1. (17PZ00025) – AGRO-IRON, INC. – (Jeffrey Campbell) – requests a CUP for Heavy Industry, in an IU-1 zoning classification, on 5.50 acres +/-, located on the east side of Korbin Ave., approx. 617 ft. south of Ansin Rd. (5050 Korbin Ave., Rockledge)

P&Z Recommendation: Barber/Cannon – Approved. Vote was unanimous.

BCC ACTION: Barfield/Isnardi – Approved. Vote was unanimous. (Commissioner Tobia absent)
17PZ00025.

DISTRICT 5

IV.B.2. (17PZ00015) – JESSICA & DARYL WILLIAMS – request a change of classification from GU to AU, with a BDP limited to two units, on 11.82 acres, located on the north side of Willowbrook St., approx. 1 mile west of Babcock St. (Address confidential, per F.S. 119.071(f))

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

BCC ACTION: Isnardi/Barfield – Approved. Vote was unanimous. (Commissioner Tobia absent)
17PZ00015.

DISTRICT 1

IV.B.3. (17PZ00009) 2620 U.S. HIGHWAY 1, LLC – (Woody Rice) – requests a change of classification from BU-1 to BU-2, on 3.10 acres, located on the west side of U.S. Hwy 1, approx. 0.35 mile north of S.R. 46. (Tax Parcel 330 = 2620 U.S. Hwy 1, Mims; Tax Parcel 319 = No assigned address. In the Mims area.)

P&Z Recommendation: Moia/Lawandales – Approved with a BDP limited to business units, trailer/truck/boat storage, maintenance of rear buffer, no access to Folsom Road, and that there be no idling of engines and/or generators after 10:00 p.m. Vote was unanimous. (Ron Bartcher abstained)

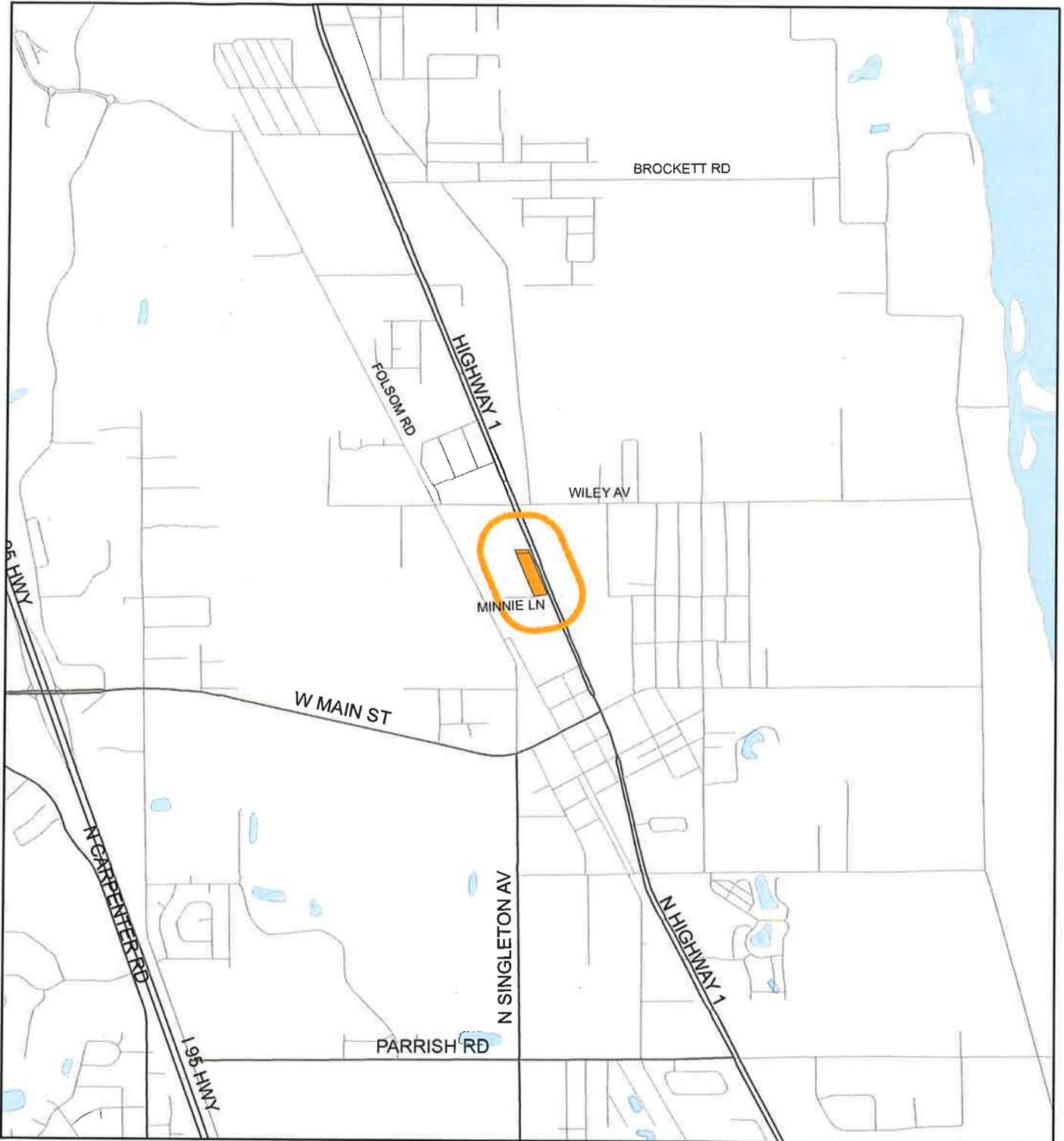
BCC ACTION: Pritchett/Isnardi – Approved with a BDP limited to business units, trailer/truck/boat storage 300 ft. from the rear property line, maintenance of 50-ft. rear buffer, and no access to Folsom Rd. Vote was unanimous. (Commissioner Tobia absent). BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

ITEMS TABLED FROM APRIL 16, 2017, BOARD OF COUNTY COMMISSIONERS MEETING, PLANNING AND ZONING BOARD RECOMMENDATIONS OF APRIL 17 AND APRIL 24, 2017; PORT ST. JOHN BOARD RECOMMENDATIONS OF APRIL 12, 2017; AND NORTH MERRITT ISLAND BOARD RECOMMENDATIONS OF APRIL 13, 2017

- Item IV.A.1. NAJJAD, Inc. Barfield/Isnardi, tabled to August 3, 2017, Board meeting. Commissioner Tobia was absent.
- Item IV.B.1. AGRO-IRON, Inc. Barfield/Isnardi, approved as recommended. Commissioner Tobia was absent.
- Item IV.B.2. Jessica and Daryl Williams. Isnardi/Barfield, approved as recommended. Commissioner Tobia was absent.
- Item IV.B.3. 2620 U.S, Highway 1, LLC. Pritchett/Isnardi, approved with BDP limited to business units, trailer/truck/boat storage, maintenance of a 50 foot buffer, no access to Folsom Road, and the truck parking will not be less than 300 feet from Folsom Road. Commissioner Tobia was absent.
- Item IV.B.4. T&M United Corporation. Pritchett/Barfield, approved as recommended. Commissioner Tobia was absent.
- Item IV.B.5. Douglas O. Jenkins. Barfield/Pritchett, approved as recommended. The Board adopted Ordinance No. 17-08, Small Scale Plan Amendment (17S.01), Barfield/Isnardi. Commissioner Tobia was absent.
- Item IV.B.6. Florida Power and Light Company. Pritchett/Isnardi, approved as recommended. Commissioner Tobia was absent.
- Item IV.B.7. Granite Property Development, Inc. Pritchett/Isnardi, approved as recommended. Commissioner Tobia was absent.
- Item IV.B.8. Light Findings, LLC. and John G. Noonan, as Bishop of the Diocese of Orlando. Barfield/Pritchett, approved as recommended. Commissioner Tobia was absent.

LOCATION MAP

2620 U.S. HWY 1, LLC
17PZ00009



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: 2/7/2017

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
 #: 1960676
 Receipt #: 61923457
 Cashier Date: 8/24/2017
 9:43:10 AM



Print Date:
 8/24/2017 9:43:25 AM

Customer Information	Transaction Information	Payment Summary
() LINWOOD RICE 505 INDIAN RIVER AVE TITUSVILLE, FL 32796	DateReceived: 08/24/2017 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 1327	\$44.00

1 Recorded Items	
(AG) AGREEMENT	BK/PG: 7968/1604 CFN:2017178055 Date: 8/24/2017 9:43:09 AM From: To:
Recording @ 1st=\$10 Add'l=\$8.50 ea.	5 \$44.00
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	2 \$0.00

0 Search Items

0 Miscellaneous Items
