

**F. Consent Agenda - Planning and Development
ITEM 2.**



**AGENDA REPORT
July 24, 2018**

**Acceptance, Re: Binding Development Plan - Indian River Behavioral
Health, LLC (18PZ00025) (District 1)**

SUBJECT:

Acceptance, Re: Binding Development Plan - Indian River Behavioral Health
(18PZ00025) (District 1)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept and authorize the Chair to sign the Binding Development Plan.

SUMMARY EXPLANATION and BACKGROUND:

On May 24th, the Board of County Commissioners approved an amendment to an existing BDP (Binding Development Plan). 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 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 presented to the Board in recordable form as a Consent Agenda item in order to finalize the zoning action.

The limitations in the BDP include, but are not limited to the following:

- Developer/Owner shall construct all portions of the 12-foot fence at least 40 feet from the property line.
- Developer/Owner shall construct a 6-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, along the property line abutting the residential zoning classification as required by Brevard County Code, Section 62-3202(h)(10).
- Developer/Owner shall provide a continuous Type A landscape buffer, including trees with a mature height of at least 20 feet, along the property line abutting the residential zoning classification.
- Developer/Owner shall provide an additional, continuous landscape buffer, including

trees with a mature height of at least 20 feet, along the 12-foot high fenced enclosure, as approved by Natural Resources Management. At planting, trees shall meet large tree specifications of 12 feet tall with a 2-1/2 inch diameter (caliper) minimum. Shrubs shall be a minimum of 3 feet in height and spaced at a minimum of 4 feet on center. The landscape buffer will not be planted in a way to create a security risk.

The property is located at 2355 Truman Scarborough Way, Titusville.

CLERK TO THE BOARD INSTRUCTIONS:

After recordation, please forward two certified copies to Planning and Development.

ATTACHMENTS:

Description

- **BDP Package**



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

July 25, 2018

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.2., Binding Development Plan Agreement with Indian River Behavioral Health

The Board of County Commissioners, in regular session on July 24, 2018, executed Binding Development Plan with Indian River Behavioral Health, for property located at 2355 Truman Scarborough Way, Titusville. 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

RESOLUTION NO. 18PZ00025

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

WHEREAS, INDIAN RIVER BEHAVIORAL HEALTH, LLC, has requested a BDP (Binding Development Plan) to allow for a wall/fence 12 feet in height, in a BU-1 (General Retail Commercial) zoning classification, on property described as Tax Parcel 258, as recorded in ORB 7948, Pages 2885 – 2888, of the Public Records of Brevard County, Florida. (10.11 acres) Located on the southeast corner of Truman Scarborough Way and U.S. Hwy 1 (2355 Truman Scarborough Way, Titusville)

Sections 28,

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 stipulating the following conditions: 1.) Developer/Owner shall construct all portions of the 12-foot fence at least 40 feet from the property line; 2.) Developer/Owner shall construct a 6-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, along the property line abutting the residential zoning classification as required by Section 62-3202(h)(10); 3.) Developer/Owner shall provide a continuous Type A landscape buffer, including trees with a mature height of at least 20 feet, along the property line abutting the residential zoning classification; 4.) Developer/Owner shall provide an additional, continuous landscape buffer, including trees with a mature height of at least 20 feet, along the 12-foot high fenced enclosure, as approved by Natural Resources Management. At planting, trees shall meet large tree specifications of twelve (12) feet tall with a two and one-half (2-1/2) inch diameter (caliper) minimum. Shrubs shall be a minimum of three (3) feet in height and spaced at a minimum of four (4) feet on center. The landscape buffer will not be planted in a way to create a security risk; and

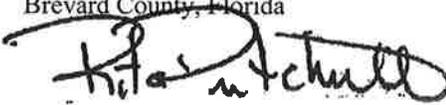
WHEREAS, the Board, after considering said application and the Brevard County Planning & Zoning Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested BDP to allow for a wall/fence 12 feet in heights, be APPROVED with a BDP, recorded in ORB 8222, Pages 326 - 329, dated July 26, 2018, including, but not limited to, the following conditions: 1.) Developer/Owner shall construct all portions of the 12-foot fence at least 40 feet from the property line; 2.) Developer/Owner shall construct a 6-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, along the property line abutting the residential zoning classification as required by Section 62-3202(h)(10); 3.) Developer/Owner shall provide a continuous Type A landscape buffer, including trees with a mature height of at least 20 feet, along the property line abutting the residential zoning classification; 4.) Developer/Owner shall provide an additional, continuous landscape buffer, including trees with a mature height of at least 20 feet, along the 12-foot high fenced enclosure, as approved by Natural Resources Management. At planting, trees shall meet large tree specifications of twelve (12) feet tall with a two and one-half (2-1/2) inch diameter (caliper) minimum. Shrubs shall be a minimum of three (3) feet in height and spaced at a minimum of four (4) feet on center. The landscape buffer will not be planted in a way to create a security risk. 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 July 26, 2018.

ATTEST:

SCOTT ELLIS, CLERK
(SEAL)

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


by Rita Pritchett, Chair
Brevard County Commission
As approved by Brevard County Commission on July 24, 2018.

(P&Z Hearing – May 21, 2018)
(BCC Zoning Hearing – May 24, 2018)

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: BSE Consultants

Address: 312 South Harbor City Blvd., Suite 4, Melbourne, FL 32903

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 24 day of JULY, 2018 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and PALM POINT BEHAVIORAL HEALTH, a Florida 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 is developing the Property as a behavioral health facility; and desires to construct a security fence, internal to the site, 12 feet in height; and the site is in a commercial (BU-1) zoning classification located adjacent to a residential (TR-3) zoning classification; and pursuant to the Brevard County Code, Section 62-2109 and 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. The Developer/Owner shall construct all portions of the 12-foot fence at least 40 feet from the property line.

3. The Developer/Owner shall construct a 6-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, along the property line abutting the residential zoning classification as required by Brevard County Code, Section 62-3202(h)(10).

4. The Developer/Owner shall provide a continuous Type A landscape buffer, including trees with a mature height of at least 20 feet, along the property line abutting the residential zoning classification.

5. The Developer/Owner shall provide an additional, continuous landscape buffer, including trees with a mature height of at least 20 feet, along the 12-foot high fenced enclosure, as approved by Natural Resources Management. At planting, trees shall meet large tree specifications of twelve (12) feet tall with a two and one-half (2-½) inch diameter (caliper) minimum. Shrubs shall be a minimum of three (3) feet in height and spaced at a minimum of four (4) feet on center. The landscape buffer will not be planted in a way to create a security risk.

6. 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.

7. 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.

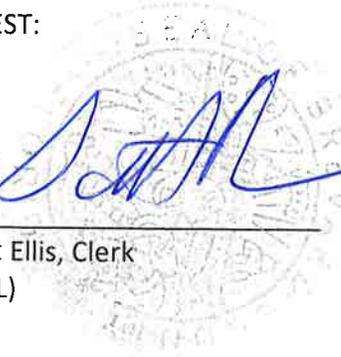
8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 24, 2018. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. 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.

10. 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 9 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:


[Signature]
Scott Ellis, Clerk
(SEAL)

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

[Signature]
Rita Pritchett, Chair
As approved by the Board on JUL 24 2018

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

WITNESSES:

[Signature]
Carolyn P. Esch
(Witness Name typed or printed)

[Signature]
Krysta Memis
(Witness Name typed or printed)

DEVELOPER/OWNER

2355 Truman Scarborough Way
Titusville, FL 32796
(Address)

[Signature]
(Vice President)
Steve Filton
(Name, typed, printed or stamped)

STATE OF Pennsylvania §

COUNTY OF Montgomery §

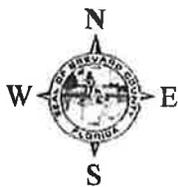
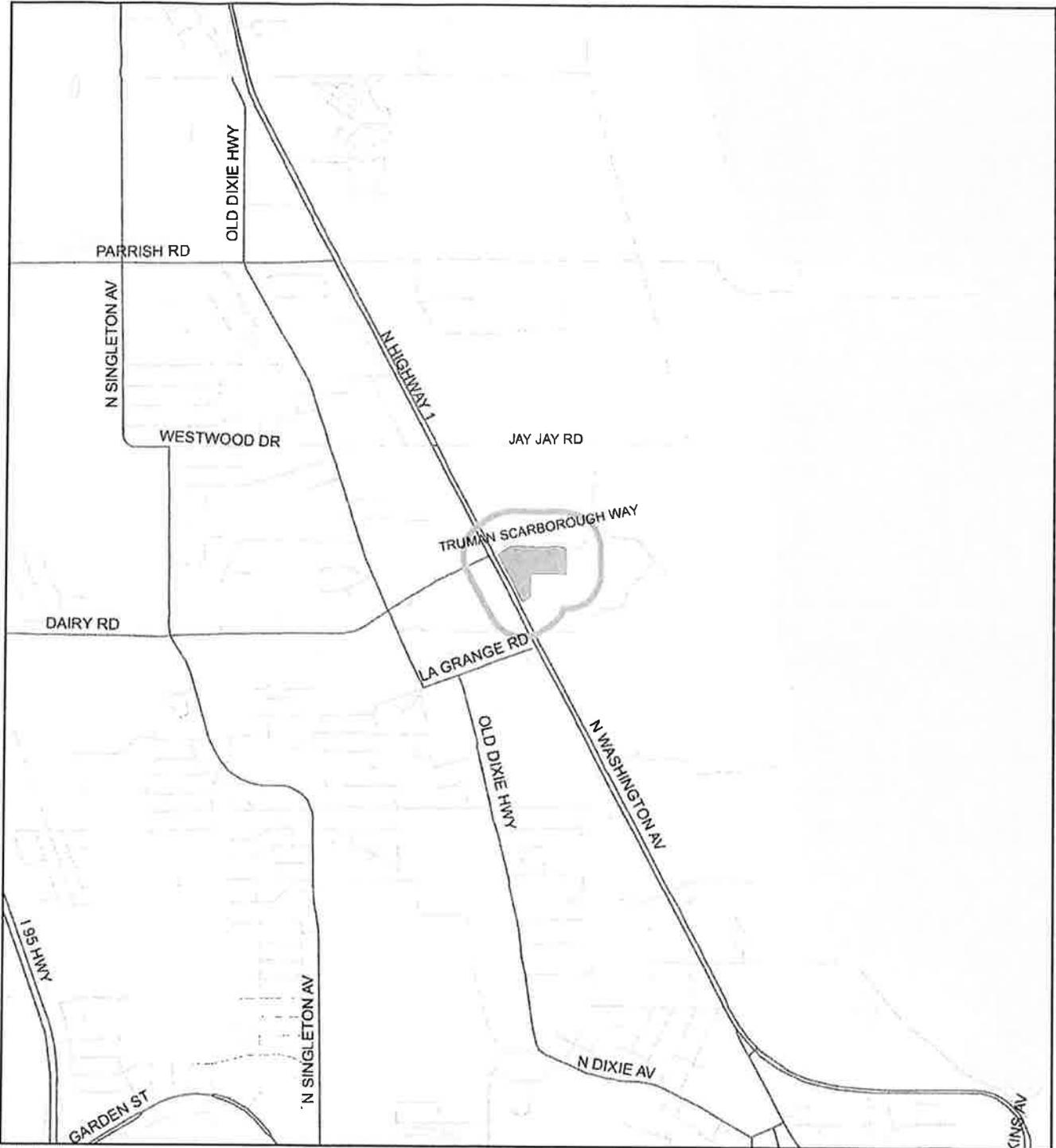
The foregoing instrument was acknowledged before me this 18th day of June, 2018, by Steve Filton, Vice President of Palm Point Behavioral Health, LLC who is personally known to me or has produced N/A as identification.

My commission expires 10/25/20
SEAL
Commission No.: 1301489

[Signature]
Douglas R. Tewksbury
(Name typed, printed or stamped)

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
DOUGLAS R. TEWKSBURY, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires October 25, 2020

LOCATION MAP
INDIAN RIVER BEHAVIORAL HEALTH
18PZ00025



1:24,000 or 1 inch = 2,000 feet
 Buffer Distance: 500 feet

 Buffer
 Subject Property

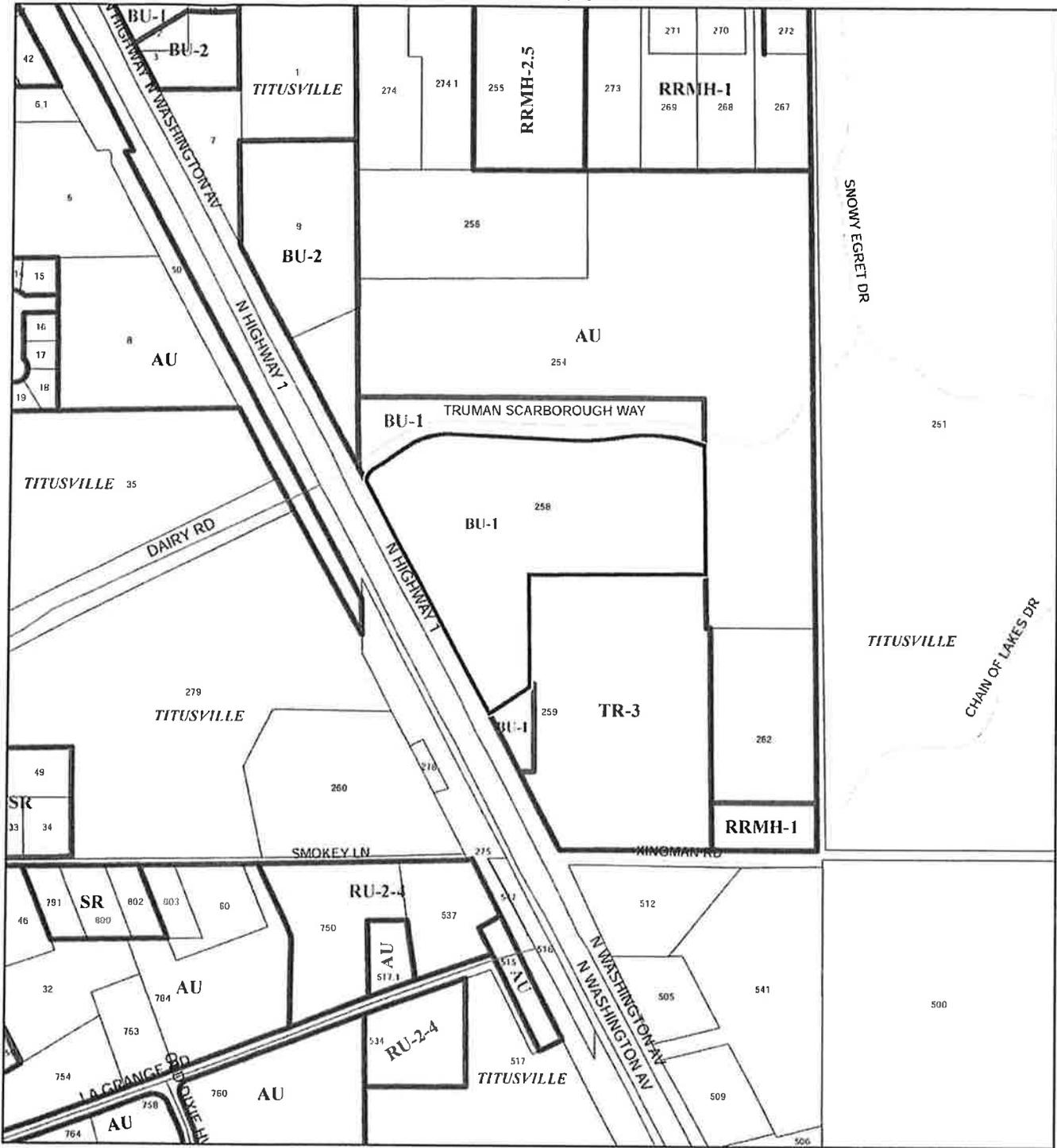
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 3/9/2018

ZONING MAP

INDIAN RIVER BEHAVIORAL HEALTH

18PZ00025



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.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item IV.A. Watermark Investors, LLC, and Diocese of Orlando, John G. Noonan, Bishop. Isnardi/Barfield. Approved as recommended with a PDP.
- Item IV.B. Michael N. Malegiannakis. Tobia/Barfield. Approved as recommended.
- Item IV.C. Panorama Mobile Home Park. Barfield/Smith. Approved as recommended; and adopted Ordinance No. 18-14, Small Scale Comprehensive Plan Amendment 18S.01.
- Item IV.D. Panorama Mobile Home Park. Barfield/Smith. Approved as recommended with BDP limiting the use of property to a self-storage mini-warehouse, limiting building coverage to 40 percent of the site, and providing a 25-foot wide landscape buffer and public sidewalk easement along the west property line of the subject parcel adjacent to the right-of-way of S. Tropical Trail.
- Item IV.E. Praxair, Inc. Barfield/Isnardi. Approved as recommended; and adopted Ordinance No. 18-15, Small Scale Comprehensive Plan Amendment 18S.02.
- Item IV.F. Praxair, Inc. Barfield/Isnardi. Approved as recommended with a BDP that seeks to preserve the property in its natural state in perpetuity.
- Item IV.G. Indian River Behavioral Health. Isnardi/Barfield. Approved BDP for allowance of a 12-foot fence and include small trees to obscure the fence with applicant to submit an engineering revision to the approved Site Plan to incorporate the fence into the current construction project.
- Item IV.H. Schacht Family Holding Company, Inc. Smith/Isnardi. Approved as recommended with a BDP limited to the BU-2 use of self-storage mini-warehouses.
- Item IV.I. Carmine Ferraro, Trustee. Isnardi/Barfield. Tabled to the July 10, Zoning Meeting.
- Item IV.J. Crisafulli Enterprises, Inc. Barfield/Smith. Approved with BDP to limit development to 34 single-family lots and to limit the ingress and egress to one access point.
- Item IV.K. Grand Lake Estates. Tobia/Isnardi. Approved with BDP for minimum lot size to one-half acre in size, the maximum number of lots shall be limited to 40 lots with minimum home size not less than 2,300 square feet.
- Item IV.L. Horizon Title Company, Inc. Barfield/Smith. Approved the PDP which consists of 182 single-family home lots, including those with 100' x150', 80' x 130', and 50 x 130' lot size dimensions, and various amenities.

LOCAL PLANNING AGENCY/
PLANNING AND ZONING BOARD
Monday, May 21, 2018 at 3:00 p.m.
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.

Items IV.A. – IV.D., & IV.H. were heard by P&Z on May 7, 2018.

The following item was tabled by staff from the May 7, 2018, P&Z meeting in order to stay on same agenda schedule as companion item IV.F.

- IV.E. Praxair, Inc. (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment from Res 2 and Res 1:2.5 to PI. The property is 7.76 +/- acres, located at 2801 Hammock Rd., Mims. (18PZ00019) (District 1)

P&Z Recommendation: Lawandales/Moia – Approved. The vote was unanimous.

BCC ACTION of 05/24/18: Barfield/Isnardi – Approved as recommended, and adopted Ordinance No. 18-15, Small Scale Plan Amendment 18S.02. The vote was unanimous.

The following item was tabled by staff from the May 7, 2018, P&Z meeting for re-advertising

- IV.F. Praxair, Inc. (Kim Rezanka) requests a change of zoning classification from AU to PIP. The property is 9.48 +/- acres, located at 2801 Hammock Rd., Mims. (18PZ00020) (District 1)

P&Z Recommendation: Lawandales/Moia – Approved with a Binding Development Plan stipulating that the Developer/Owner maintain the property in its natural state. The vote was unanimous.

BCC ACTION of 05/24/18: Barfield/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 to be assigned upon receipt of recorded BDP.

The following item was tabled from the 05/07/18 P&Z meeting in order to obtain owner authorization

- IV.G. Indian River Behavioral Health (Scott Glaubitz) requests a Binding Development Plan to allow for a wall 12 ft. in height in a BU-1 zoning classification. The property is 10.11 acres, located at 2355 Truman Scarborough Way, Titusville. (18PZ00025) (District 1)

P&Z Recommendation: Lawandales/Bartcher – Approved with a Binding Development Plan as submitted, with an additional stipulation that the Developer/Owner provide an additional, continuous landscape buffer, including trees with a mature height of at least 20 feet, along the 12-foot high fenced enclosure, as approved by Natural Resources Management. At planting, trees shall meet large tree specifications of twelve (12) feet tall with a two and one-half (2.5) inch diameter (caliper) minimum. Shrubs shall be a minimum of three (3) feet in height and spaced at a minimum of four (4) feet on center. The landscape buffer will not be planted in a way to create a security risk. The vote was unanimous.

BCC ACTION of 05/24/18: Isnardi/Barfield – 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 to be assigned upon receipt of recorded BDP.