

Meeting Date
November 21, 2017



AGENDA	
Section	CONSENT
Item No.	II, A, 3.

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan Approval, Re: Re: NAJJAD, 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 October 5, 2017, the Board of County Commissioners approved a change of Zoning Classification from SEU to EU, 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 limit density to forty (40) single-family 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 Smith Road.
- Developer/Owner will not share access with the north parcel, 24-36-11-00-250 (a.k.a. Harvey's property).
- Developer/Owner shall provide an approximately 200-ft. long landscape berm at the east side of the entrance. If constructing a landscape berm is not feasible, a 6-ft. high, 200-ft. long wall will be constructed instead of the landscape berm.
- Developer/Owner to construct a retention pond at the south side of the property to provide buffer to the south parcels.
- Each house shall be a minimum of 2,500 square feet.
- Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida, including the restrictions and minimum code requirements for the EU zoning classification. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property, and are as follows: 1.) all streets shall be curbed and guttered; 2.) all streets shall have sidewalks; 3.) all utilities shall be underground.

The property is 26.11 acres and is located on the north side of Smith Rd., approx. 0.12 mile east of N. Courtenay Pkwy.

Reference: 17PZ00005

Clerk to the Board instruction: After recordation, please 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	Assistant County Manager John Denninghoff	Department Director / Extension Tad Calkins Planning & Development Dept. Ext. 56363
Frank Abbate	Interim Assistant County Manager Jim Liesenfelt	



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

November 22, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.3, Binding Development Plan with NAJJAD, INC.

The Board of County Commissioners, in regular session on November 21, 2017, executed Binding Development Plan with NAJJAD, INC. for property located on the north side of Smith Road approximately .12 mile east of north Courtenay Parkway. Said Binding Development Plan was recorded in OR BK 8032/2265. 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. 17PZ00005

On motion by Commissioner Barfield, seconded by Commissioner Isnardi, the following resolution was adopted by a 3:2 vote, with Barfield and Smith voting nay:

WHEREAS, NAJJAD, INC. has requested a change of classification from SEU (Suburba Estate Residential Use), with an existing BDP (Binding Development Plan) to EU-2 (Estate Use Residential) on property described as: Tax Parcels 253 & 294, as recorded in ORB 5408, Pages 4794 – 4796, of the Public Records of Brevard County, Florida, less and except an easement for private roadway purpose over the west 25 ft. and the north 40.33 ft. of the west 330 ft. of the SW ¼ of the SW ¼ of the NE ¼ of Section 11, Township 24S, Range 36E. (26.11 Acres) Located on the north side of Smith Rd., approx. 0.12 mile east of N. Courtenay Pkwy. (No assigned address. In the Merritt Island area.)

Sections 11,

Township 24 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 Denied; and,

WHEREAS, a public hearing of the Planning and Zoning Board was advertised and held, as required by law, and after hearing all interesting parties and considering the adjacent areas, the Planning and Zoning Board recommended that the application be Denied; and

WHEREAS, the Board, after considering said application and the North Merritt Island Dependent Special District Board's, and the Planning and Zoning 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 with as EU with a BDP limited to 40 units.

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested classification from SEU, with an existing BDP, to EU-2, be APPROVED as EU with a BDP, recorded in ORB 8032, Pages 2265 through 2271, dated 11/22/17, limited to 40 units. The zoning classification relating to the above described property shall be changed to EU, 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 November 22, 2017.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on November 21, 2017.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(NMI Hearing – March 9, 2017)

(P&Z Hearing – August 21, 2017)

(BCC Zoning Hearing – October 5, 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: Noel Droor, NAJJAD, Inc.
Address: 580 N. Wickham Rd, #E, Melbourne, FL 32935

BINDING DEVELOPMENT AGREEMENT

THIS AGREEMENT, entered into this 21 day of Nov., 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 NAJJAD, 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, EU zoning classification(s) and desires to develop the Property as a single-family subdivision, 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. NOWHEREFORE, 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, until such time as the improvements are

and platted as public streets by the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY. 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, lying outside of the proposed public right-of-ways.

2. The Developer/Owner shall limit density to Forty (40) single family units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. The Developer/Owner shall limit ingress and egress to Smith Road.

4. Developer will not share access with the north parcel 24-36-11-00-250 (AKA Harvey's property). For North parcel legal description see exhibit "B".

5. Developer shall provide an approximately 200 feet long landscape berm at the east side of the entrance. If constructing a landscape berm is not feasible, 6' high, 200 feet long wall will be constructed instead of the landscape berm.

6. Developer/Owner to construct the retention pond at the South side of the property to provide buffer to the South parcels.

7. Each house constructed shall be minimum of 2,500 square feet.

8. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida, including the restrictions and minimum code requirements for the EU zoning category. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property, and are as follows:

- All streets shall be curbed and guttered.
- All streets shall have sidewalks.
- All utilities shall be underground.

9. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

10. Developer/Owner, upon execution of this Agreement, shall pay to the County the

10. 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.

11. 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 . In the event the subject Property Is annexed into a municipality and rezoned, this Agreement shall be null and void.

12. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 17 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

13. 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 12 above.

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

[Signature]
Scott Ellis, Clerk
(SEAL)

[Signature]
RITA PRITCHETT CHAIRWOMAN
As approved by the Board on 11/21/17

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

WITNESSES:
[Signature]
Frank Moayer
(Witness Name typed or printed)

DEVELOPER/OWNER
NAJJAD, INC.
580 N. Wickham Road, Suite E, Melbourne, FL 32935
(Address)

[Signature]
DOROTHY WADDILL
(Witness Name typed or printed)

[Signature]
President
Noel Droor, President
(Name typed or printed)

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 1 day of November, 2017, by Noel Droor, as President of NAJJAD, INC., a Florida corporation, who is personally know to me.

My commission expires
SEAL
Commission No.:

[Signature]
(Name typed, printed, or stamped)

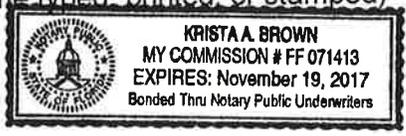


EXHIBIT 'A'

PARCEL ONE

All of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 24 South, Range 36 East, excepting the South 630 feet thereof:

The west 330 feet of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 11, Township 24 South, Range 36 East, all in Brevard County, Florida; ~~TOGETHER WITH an easement for private roadway purpose over the West 25 feet and the North 40.33 feet of the West 330 feet of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 11, Township 24 South, Range 36 East;~~ Also an easement for private roadway purposes over the North 66 feet of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 24 South, Range 36 East, lying East of State Road Number 3, as described in Deed Book 375, Pages 440 and 441, Public Records of Brevard County, Florida. TOGETHER WITH an easement for pumping water in the drainage ditch along the northern boundary line of the east 330 feet of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 11, Township 24 South, Range 36 East.

TOGETHER WITH:

PARCEL TWO

A parcel of land lying in the Southeast quarter of the Northwest quarter of Section 11, Township 24 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of the Northwest quarter and run S.89° 41' 35" W., a distance of 900.00 feet; thence run N.00° 18' 32" W., parallel with the East line of said Southeast quarter of the Northwest quarter, 25.00 feet to a point on the North right of way line of Smith Road; thence run S.89° 41' 35" W. along said right of way line a distance of 183.40 feet to the Point of Beginning; Thence continue S.89° 41' 35" W., a distance of 85.00 feet; thence run N.00° 18' 32" W., a distance of 604.98 feet to a point on the South line of that certain parcel of land as described in Official Records Book 2482, Pages 0999 and 1000, of the Public Records of Brevard County, Florida; thence run N.89° 41' 35" E., along said South line a distance of 85.00 feet; thence run S.00° 18' 32" E., a distance of 604.98 feet to the Point of Beginning. Said parcel containing 1.181 acres more or less. [Which is the same property as conveyed in deed recorded in O.R. Book 4701, Page 2602, Public Records of Brevard County, Florida.]



CFN 2005012153

OR Book/Page: 5408 / 4795

EXHIBIT "B"

LEGAL DESCRIPTION OF PROPERTY LOCATED TO THE NORTH

The Northeast one-quarter (NE 1/4) of the Northwest one-quarter (NW 1/4) of Section 11, Township 24 South, Range 36 East, Brevard County, Florida.

AND

The North 100 feet of that portion of the Northwest 1/4 of the Northwest 1/4 of Section 11, Township 24 South, Range 36 East, Brevard County, Florida, lying East of the East right-of-way line of State Road# 3.

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated JANUARY 12, 2005,

given by FLORIDA BUSINESS BANK as mortgagor, in favor of the undersigned, NAJJAD, INC., as mortgagee, recorded in Official Records Book 5409, page

4220, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS
FLORIDA BUSINESS BANK
340 N. HARBOR CITY BLVD.
MELBOURNE, FL 32935
(Address)

[Signature]

[Signature]

Authorized Agent Signature

TERRY Z. GABBARD
(Witness name typed or printed)

WILLIAM R. NORRIS, PRESIDENT/CEO
(Name/title typed, printed or stamped)

Patricia L Carroll

Patricia L Carroll
(Witness name typed or printed)

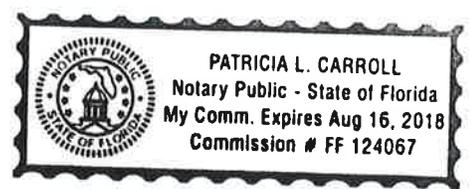
STATE OF Florida
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this day 10th of October, 2017, by William R Norris who is personally known to me or who has produced _____ as identification

My commission expires

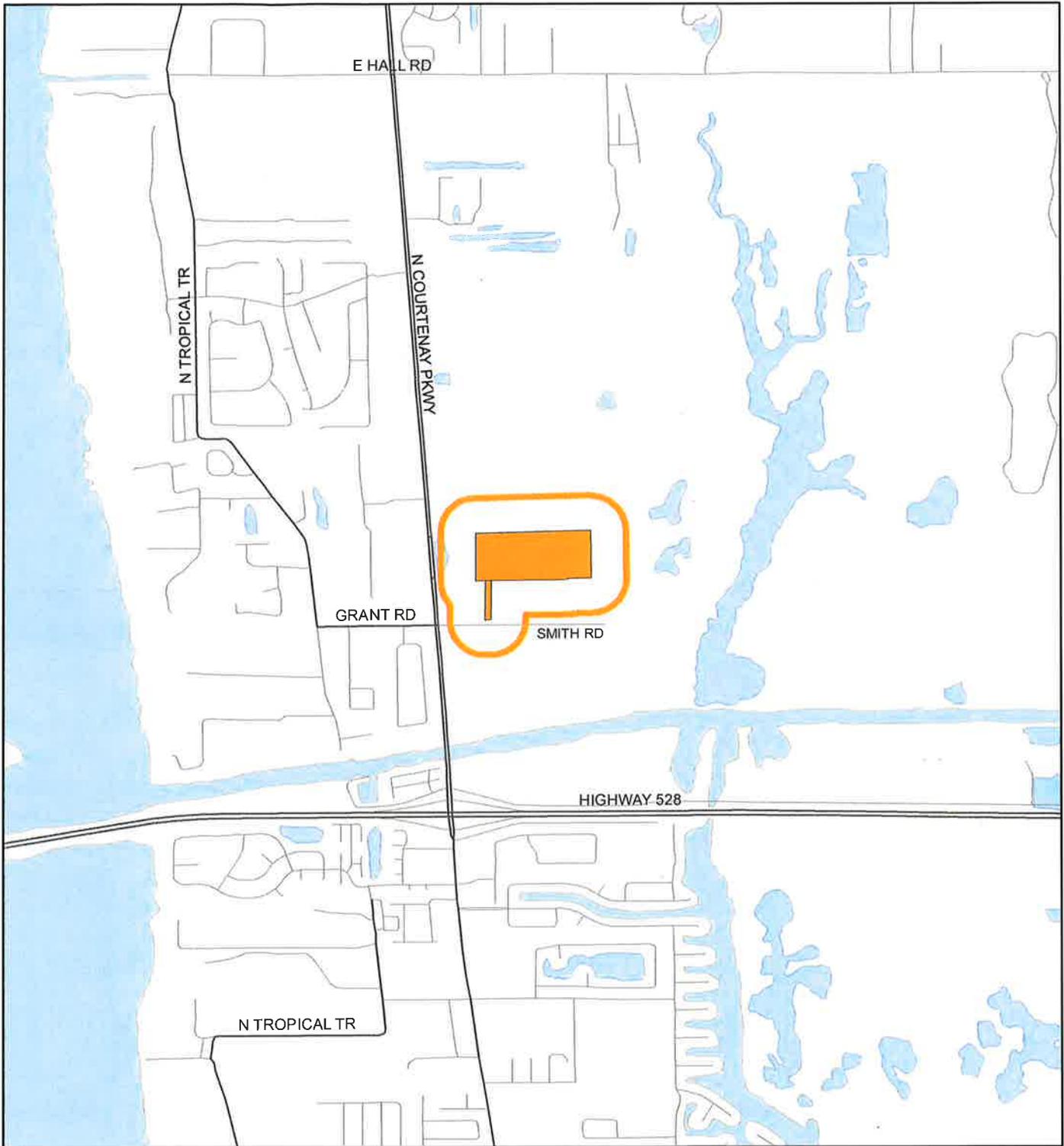
Patricia L Carroll

SEAL



LOCATION MAP

NAJJAD, Inc.
17PZ00005



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: 1/24/2017

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

Thursday, March 9, 2017 – 6:00 P.M.
Merritt Island Service Complex
2575 N. Courtenay Pkwy., 2nd Floor, Merritt Island, Florida

&

BOARD OF COUNTY COMMISSIONERS
THURSDAY, April 6, 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.

DISTRICT 2

IV.B.1. (17PZ00006) – LUTHERAN CHURCH EXTENSION FUND – MISSOURI SYNOD – (Blain Nelson) – requests a change of classification from IN(L) to BU-1-A on 8 acres, located on the west side of N. Courtenay Pkwy., approx. 200 ft. south of Church Rd. (5455 N. Courtenay Pkwy., Merritt Island)

NMI Recommendation: Balke/Testa – Approved. Vote was unanimous.

BCC ACTION: Barfield/Isnardi – APPROVED. Vote was unanimous. 17PZ00006.

THE FOLLOWING ITEM WAS AUTOMATICALLY TABLED TO THE 05/04/17 BCC MEETING AT THE REQUEST OF THE APPLICANT; TABLED BY BCC AT 05/04/17 MEETING TO THE 08/03/17 MEETING; DIRECTED BY BCC AT THE 08/03/17 MEETING TO THE P&Z BOARD MEETING OF 08/21/17; AND MOVED FROM 09/07/17 BCC MEETING DUE TO HURRICANE IRMA

IV.B.2. (17PZ00005) NAJJAD, INC. – (Noel Droor) – requests a change of classification from SEU with an existing BDP, to EU-2 with an amended BDP limited to two (2) units per acre, on 26.11 acres, located on the north side of Smith Rd., approx. 0.12 mile east of N. Courtenay Pkwy. (No assigned address. In the Merritt Island area.)

NMI Recommendation: Lindhorst/Balke – Denied. The vote was unanimous.

P&Z Recommendation of 08/21/17: Lawandales/Moia – Denied. The vote was unanimous.

BCC ACTION of 10/05/17: Tobia/Isnardi – Approved as EU with a Binding Development Plan limited to 40 units. The vote was 3:2, with Barfield and Smith voting nay. 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.

PUBLIC COMMENT

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item IV.A. Kaydenlew, LLC. Barfield/Isnardi, approved as recommended.
- Item IV.B. Gaich/Maun Groves Partnership. Barfield/Isnardi, adopted Ordinance No. 17-23, setting forth Small Scale Plan Amendment (17S.05).
- Item IV.C. Gaich/Maun Groves Partnership. Barfield/Isnardi, approved as recommended.
- Item IV.D. Stephen Proctor Magnum, Julian Sydney Magnum, Jr., and Sandra E. Baker. Barfield/Isnardi, continued to November 2, 2017, Zoning Meeting.
- Item IV.E. NAJJAD. Inc. Tobia/Isnardi, approved change of Zoning Classification from SEU to EU with a Binding Development Plan limited to 40 units. Barfield/Smith voting nay.
- Item IV.F. Redfish Ranch, LLC. Withdrawn by applicant.
- Item IV.G. Joseph Taylor Jenses; Allison Stedman Folds; Donald W. Jensen; and Carol J. Jensen. Isnardi/Tobia, approved as recommended.
- Item IV.H. Zunella B. Creamer and Allen R. Price. Isnardi/Tobia, approved as recommended.
- Item IV.I. A. Chester and Dorothy V. Pranka. Isnardi/Tobia, approved as recommended.
- Item IV.J. Florida Power and Light Company. Isnardi/Tobia, approved as recommended.
- Item IV.K. Groves Industrial Park J.V., Inc. Smith/Barfield, approved as recommended.

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

#: 2009457

Receipt #: 61971379

Cashier Date: 11/22/2017

9:13:50 AM

Print Date:

11/22/2017 9:13:51 AM

Customer Information	Transaction Information	Payment Summary
() DROOR & ASSOC INC 580 N WICKHAM RD STE E MELBOURNE, FL 32935 Attention: CLERK TO THE BOARD	DateReceived: 11/22/2017 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$61.00 Total Payments \$61.00

1 Payments	
CHECK 12016	\$61.00

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 8032/2265 CFN:2017243111 Date:11/22/2017 9:13:49 AM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	7	\$61.00
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	2	\$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL