

Meeting Date
March 20, 2018



AGENDA	
Section	CONSENT
Item No.	II, A.3

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan Acceptance, Re: Mark J. Flickinger, and Skidmore Trailer Park and Sales, Inc. (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 accept and authorize the Chair to sign the Binding Development Plan.

Summary Explanation & Background:
 On December 7, 2017, the Board of County Commissioners approved a change of Zoning Classification from BU-1, BU-2, and RU-1-11 to all 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 stipulations:

- Developer/Owner shall limit Sunday business hours to 8:00 a.m. to 5:00 p.m.
- Developer/Owner shall maintain gates in the closed position along River Park Blvd. except during peak hours of 6:00 a.m. to 10:00 a.m., and 3:00 p.m. to 6:00 p.m.
- Developer/Owner shall provide parking onsite to eliminate the need for on-street parking along River Park Blvd.

Reference: 17PZ00096

Staff Contact: Jennifer Jones, Ext 5-2653

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"/>
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

March 21, 2018

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.3, Binding Development Plan Agreement with Mark J. Flickinger and Skidmore Trailer Park and Sales, Inc.

The Board of County Commissioners, in regular session on March 20, 2018, approved Binding Development Plan with Mark J. Flickinger and Skidmore Trailer Park and Sales, Inc., for property located on the east 85 feet of the west 206.6 feet of Lot 1, Block 2, and the east 85 feet of the west 206.6 feet of the north ½ of Lot 2, Block 2, Map of Town of Bellwood. Said Plan was recorded in OR BK/PG 8120/2759. 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

REVISED

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

WHEREAS, MARK J. FLICKINGER, AND SKIDMORE TRAILER PARK AND SALES, INC. have requested a Small Scale Comprehensive Plan Amendment (17S.07) to change the Future Land Use designation from Residential 15 to CC (Community Commercial), and RU-1-11 (Single-Family Residential) to all BU-2, on property described as 1.) Lot 1.11, Block 2, Town of Bellwood, as recorded in ORB 7193, Pages 905 – 906, of the Public Records of Brevard County; 2.) Lot 1.12, Block 2, Town of Bellwood, as recorded in ORB 7882, Pages 2354 – 2357, of the Public Records of Brevard County, Florida. (0.71 acres total). Located on the southwest corner of River Park Blvd., and U.S. Hwy 1. (Lot 1.11 = No assigned address. Lot 1.12 = 7635 U.S. Hwy 1, Titusville)

Section 12, Township 23 S, Range 35 E, and,

WHEREAS, a public hearing of the Brevard County Planning & Zoning Board/Local Planning Agency 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) limiting Sunday business hours from 8:00 a.m. to 5:00 p.m.; maintain the gates in the closed position along River Park Blvd. except during the peak hours of 6:00 a.m. to 10:00 a.m., and 3:00 p.m. to 6:00 p.m.; and providing parking onsite to eliminate the need for on-street parking along River Park Blvd.; 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 change of zoning classification from BU-1, BU-2, and RU-1-11 to all BU-2, be APPROVED with a BDP, recorded in ORB 8120, Pages 2759 - 2763, dated March 23, 2018, limiting Sunday business hours from 8:00 a.m. to 5:00 p.m.; maintain the gates in the closed position along River Park Blvd. except during the peak hours of 6:00 a.m. to 10:00 a.m., and 3:00 p.m. to 6:00 p.m.; and providing parking onsite to eliminate the need for on-street parking along River Park Blvd. 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 March 23, 2018.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

by Rita Pritchett, Chair
Brevard County Commission

As approved by Brevard County Commission on March 20, 2018.

ATTEST:

SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – October 9, 2017)
(*) LPA Recommendation – Approved Small Scale Plan Amendment
(BCC Zoning Hearing – December 7, 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.

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 20 day of March, 2018 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County"), Skidmore Trailer Park & Sales, Inc. (hereinafter referred to as "Skidmore"), and Mark Flickinger, (hereinafter referred to as Flickinger").

RECITALS

WHEREAS, Skidmore and Flickinger own respective 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, Skidmore and Flickinger have requested the BU-2 zoning classification(s) and desires to continue leasing their respective properties to the Tenant, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Skidmore and Flickinger wish 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 Skidmore and Flickinger, 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 on their respective properties. Under no circumstances shall Skidmore be responsible for the maintenance of any improvements on Flickinger's property and under no circumstance shall Flickinger be responsible for the maintenance of any improvements on Skidmore's property.

2. Skidmore and Flickinger shall limit Sunday business hours to 8:00 a.m. to 5:00 p.m.

3. Skidmore and Flickinger shall maintain gates in the closed position along River Park Boulevard except during peak hours of 6:00 a.m. to 10:00 a.m., and 3:00 p.m. to 6:00 p.m.

4. Skidmore and Flickinger shall provide parking on site, to eliminate the need for on street parking along River Park Boulevard.

5. Skidmore and Flickinger shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Skidmore and Flickinger'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. Skidmore and Flickinger, upon execution of this Agreement, shall pay their respective portions 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 December 7, 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. Flickinger shall in no way be obligated to renew the existing lease agreement between Flickinger and the current tenant in the event the current lease agreement expires prior to the execution of this Binding Development Plan.

10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied within 120 days of zoning change. 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.

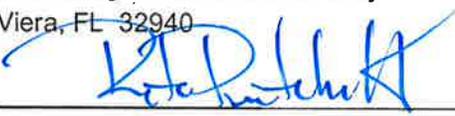
IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

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



Rita Pritchett, Chair

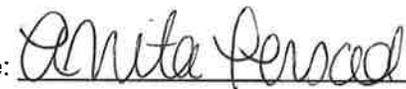
As approved by the Board on March 20, 2018

7635 S Highway 1, Titusville, FL 32780

Legal Address: Block 2, Town of Bellwood, as recorded in ORB 7882, Pages 2354 – 2357, of the Public Records of Brevard County, Florida.

WITNESSES:

Skidmore Trailer Park and Sales Inc.:

Signature: 

Anita Persad

Printed name: Anita Persad



By Kathy Arsenault, President

4507 Leona Street, Tampa, FL 33629

Signature: 

Joseph Hartman

Printed name: Joseph Hartman

STATE OF FLORIDA

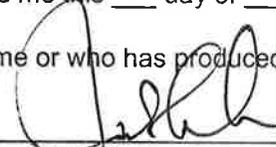
COUNTY OF Hillsborough §

The foregoing instrument was acknowledged before me this 27 day of FEBRUARY, 2018, by KATHY S. ARSENAULT, who is personally known to me or who has produced FIDL as identification.

My commission expires

SEAL

Commission No.:



Notary Public

JONATHAN ABREU

(Name typed, printed or stamped)

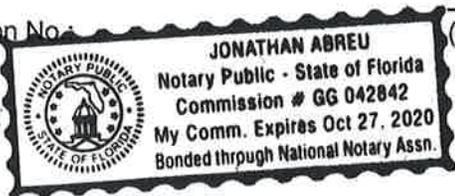


EXHIBIT A

Lot 1.11

The East 85 feet of the West 206.6 feet of Lot 1, Block 2, and the East 85 feet of the West 206.6 feet of the North ½ of Lot 2, Block 2, Map of TOWN OF BELLWOOD, according to the Plat thereof, as recorded in Plat Book 3, Page 25, of the Public Records of Brevard County, Florida.

Lot 1.12

Block 2, Town of Bellwood, as recorded in ORB 7882, Pages 2354 – 2357, of the Public Records of Brevard County, Florida.

Legal address: The East 85 feet of the West 206.6 feet of Lot 1, Block 2, and the East 85 feet of the West 206.6 feet of the North 1/2 of Lot 2, Block 2, Map of TOWN OF BELLWOOD, according to the Plat thereof, as recorded in Plat Book 3, Page 25, of the Public Records of Brevard County, Florida.

WITNESSES:

DEVELOPER/OWNER:

Signature: *D. Flickinger*

Mark Flickinger

Printed name: D. Flickinger

By Mark Flickinger
320 Townsend Road, Essex, MD 21221

Signature: *David Zeller*

Printed name: David Zeller

STATE OF Maryland §

COUNTY OF Baltimore §

The foregoing instrument was acknowledged before me this 5th day of March, 2018, by Mark James Flickinger, who is personally known to me or who has produced Passport 503248219 as identification.



My commission expires 6-30-2021
SEAL
Commission No.: none

Patricia Lynne Franz
Notary Public
Patricia Lynne Franz
(Name typed, printed or stamped)

STATE OF FLORIDA
COUNTY OF BREVARD

Kathy Arsenault after being duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

Lot 1.12

Block 2, Town of Bellwood, as recorded in ORB 7882, Pages 2354 – 2357, of the Public Records of Brevard County, Florida.

There are no mortgages on the above described property

Dated this 27th day of February

[Signature]
Signature

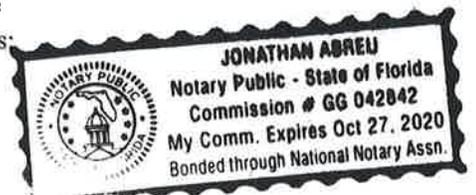
STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 27 day of FEBRUARY by

KATHY S ARSENAULT, who is personally known to me or who has produced FIDC as identification, and who did take an oath.

Notary Public
[Signature]
State of Florida at Large
My Commission Expires:

(SEAL)



STATE OF Maryland
COUNTY OF Baltimore

Mark James Flickinger after being duly sworn, deposes and says:

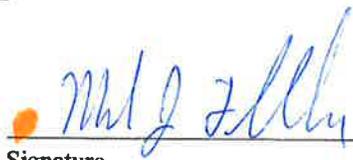
The undersigned is the owner of the real property described as follows:

Lot 1.11

The East 85 feet of the West 206.6 feet of Lot 1, Block 2, and the East 85 feet of the West 206.6 feet of the North 1/2 of Lot 2, Block 2, Map of TOWN OF BELLWOOD, according to the Plat thereof, as recorded in Plat Book 3, Page 25, of the Public Records of Brevard County, Florida.

There are no mortgages on the above described property

Dated this 5 day of March 2018

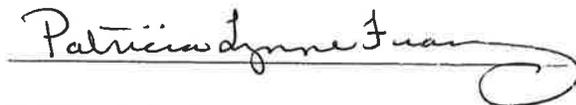

Signature

STATE OF Maryland
COUNTY OF Baltimore

The foregoing instrument was sworn to before me this 5 day of Mar 2018 by

Mark James Flickinger, who is personally known to me or who has produced Passport 503248219 as identification, and who did take an oath.

Notary Public:



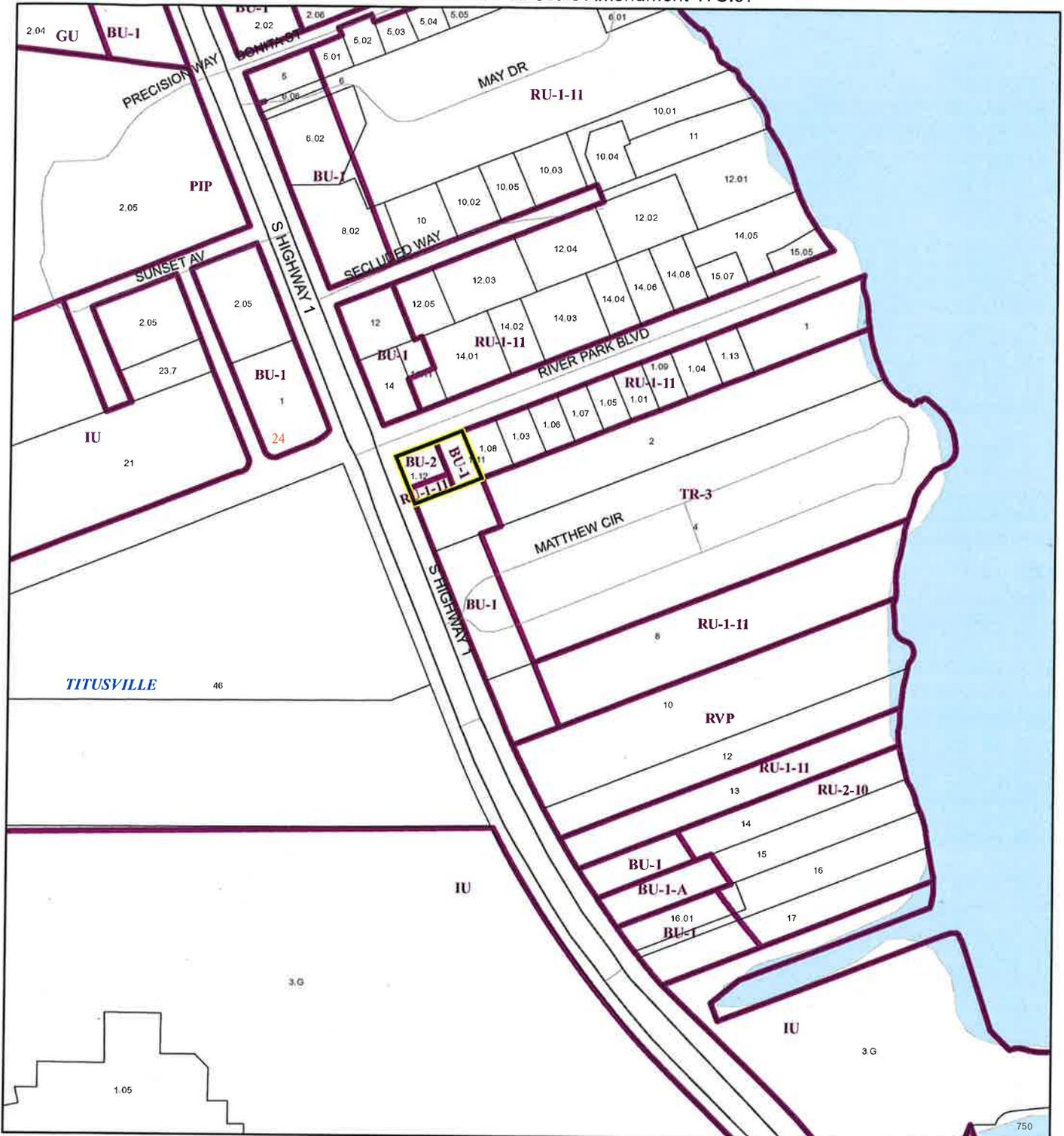
My Commission Expires:

6-30-2021

(SEAL)

ZONING MAP

FLICKINGER, MARK AND SKIDMORE TRAILER PARK & SALES, INC.
17PZ00096 and Small Scale Amendment 17S.07



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 herein.

IV. PUBLIC HEARINGS

Planning and Zoning Board/Local Planning Agency Agenda
Monday, October 9, 2017 at 3:00 p.m.

&

Board of County Commissioners
Thursday, November 2, 2017 at 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.

IV.A. (NMI Item)

IV.B. Small Scale Comprehensive Plan Amendment, Re: Residential 15 to CC – Mark J. Flickinger, and Skidmore Trailer Park and Sales, Inc. The property is 0.71 acres, and located on the southwest corner of River Park Blvd., and U.S. Hwy 1., 7635 U.S. Hwy 1, Titusville. (17PZ00096) (District 1)

P&Z Recommendation: Moia/Lawandales – Approved. The vote was unanimous.
BCC ACTION of 12/07/17: Isnardi/Smith – APPROVED. The vote was unanimous.

IV.C. Change of Zoning Classification, Re: BU-1, BU-2, and RU-1-11 to all BU-2 – Mark J. Flickinger, and Skidmore Trailer Park and Sales, Inc. The property is 0.71 acres, and located on the southwest corner of River Park Blvd., and U.S. Hwy 1., 7635 U.S. Hwy 1, Titusville. (17PZ00096) (District 1)

P&Z Recommendation: Moia/Lawandales – Approved the RU-1-11 portion of the rezoning request as BU-1, and took no action on the remaining rezoning request of BU-1 to BU-2. The vote was unanimous.
BCC ACTION of 12/07/17: Isnardi/Smith – Approved with a Binding Development Plan limiting Sunday business hours from 8:00 a.m. to 5:00 p.m.; maintain the gates in the closed position along River Park Blvd. except during the peak hours of 6:00 a.m. to 10:00 a.m., and 3:00 p.m. to 6:00 p.m.; and providing parking onsite to eliminate the need for on-street parking along River Park Blvd. The vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52.

IV.D. Conditional Use Permit, Re: Alcoholic Beverages for On-Premises Consumption – Riverview Tower, LLC (Tuan Le). The property is 1,812 sq. ft., and located at 6525 3rd St., Rockledge, Units 107 & ½ of 108. (17PZ00104) (District 4)

P&Z Recommendation: Lawandales/Glover – Approved. The vote was unanimous.
BCC ACTION: Smith/Isnardi – Approved. The vote was unanimous.

IV.E. Conditional Use Permit, Re: Bed and Breakfast (Michael K. and Maria P. Granatosky). The property is 1.02 acres and is located at 3645 Rosehaven Place, Titusville. (17PZ00106) (District 1)

P&Z Recommendation: Moia/Lawandales – Approved with the stipulation of only one (1) room for rent. The vote passed unanimously.
BCC ACTION: Barfield/Smith – Denied due to failure to meet the CUP standards and criteria as established in Section 62-1901, Code of Ordinances of Brevard County, Florida. The vote was 3:2, with Isnardi and Tobia voting nay.

IV.F. Conditional Use Permit, Re: Alcoholic Beverages for On-Premises Consumption – TAC Merritt Island, LLC (John Campbell). The property is 2,457 sq. ft. and is located approx. 470 ft. south of E. Merritt Ave., and approx. 655 ft. east of N. Courtenay Pkwy (Home Depot Plaza), Unit A-10B. (17PZ00107) (District 2)

P&Z Recommendation: Lawandales/McLellan – Approved. The vote was unanimous.
BCC ACTION: Barfield/Tobia – Approved. The vote was unanimous.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item IV.A. LTM of Florida Holding, LLC. Smith/Barfield. Tabled to January 8, 2018 P&Z/LPA meeting.
- Item IV.B. LTM of Florida Holding, LLC. Smith/Barfield. Tabled to January 8, 2018 P&Z/LPA meeting.
- Item IV.C. Larry R. Harrell. Smith/Barfield. Approved as recommended.
- Item IV.D. Donald E. and Stacy L. Clark. Smith/Isnardi. Approved as recommended.
- Item IV.E. Island Corner Group. Withdrawn by applicant.
- Item IV.F. Robert (III) and Katy Van Arsdalen. Barfield/Tobia. Approved as recommended.
- Item IV.G. Stephen Proctor Mangum; Julian Sidney Mangum, Jr.; and Sandra E. Baker. Smith/Barfield. Tabled to February 1, 2018, Board meeting.
- Item IV.H. Mark J. Flickinger and Skidmore Trailer Park and Sales, Inc. Isnardi/Smith. Approved as recommended.
- Item IV.I. Mark J. Flickinger and Skidmore Trailer Park and Sales, Inc. Isnardi/Smith. Approved with removing the fence from the BDP, including Sunday operating hours from 8:00 a.m. to 5:00 p.m., and loading and unloading peak hours defined as 6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 6:00 p.m.