



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.6.

11/7/2024

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### **Subject:**

Acceptance, Re: Binding Development Plan with KMM-FL, LLC. (24Z00024) (District 4)

### **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 the Vice Chair sign, the Binding Development Plan.

### **Summary Explanation and Background:**

A BDP (Binding Development Plan) is a voluntary agreement presented by the 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 the Board's approval of the zoning request. Following staff and legal review, the BDP is presented to the Board in recordable form as a Consent Agenda item in order to finalize the zoning action.

On August 01, 2024, the Board approved a change of zoning classification from RU-2-10(6) to BU-2, with conditions in a Binding Development Plan (BDP) prohibiting certain uses and other restrictions. The attached BDP includes these stipulations.

### **Clerk to the Board Instructions:**

Upon recordation, please return two certified copies of the BDP to Planning and Development.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

November 8, 2024

**M E M O R A N D U M**

TO: Desiree Jackson, Zoning

RE: Item F.6., Binding Development Plan with KMM-FL, LLC.

The Board of County Commissioners, in regular session on November 7, 2024, accepted and executed Binding Development Plan with KMM-FL, LLC for the property lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 40, Plan of Town of Pineda, as recorded in Plat Book 1, Page 41 of the Public Records of Brevard County, Florida and the West ½ of the vacant road right-of-way, as recorded in Official Records Book 7304, page 1587, otherwise known as Seventh Street, adjacent to said lots. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*for: [Signature]*  
Kimberly Powell, Clerk to the Board

Encls. (2)

## Resolution 24Z00024

On motion by Commissioner Tobia, seconded by Commissioner Goodson, the following resolution was adopted by a unanimous vote:

**WHEREAS, KMM-FL, LLC** requests a change of zoning classification from RU-2-10 (Medium-Density Multiple-Family Residential) to to BU-2 (Retail, Warehousing and Wholesale Commercial) on property described as Lots 1 through 9, Block 40, Plan of Town of Pineda; as recorded in ORB 10040, Page 164, of the Public Records of Brevard County, Florida. Section 12, Township 26, Range 36. (1.31 acres) Located on the east side of Waelti Dr., approx. 1,367 ft. north of Wickham Rd. (7235 Waelti Dr., Melbourne); and

**WHEREAS**, a public hearing of the Brevard County Planning and 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 and Zoning Board recommended that the application be approved with a BDP; and

**WHEREAS**, the Board, after considering said application and the Planning and 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 RU-2-10 to BU-2 with a BDP, be approved. The Planning and 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 13, 2024

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida



Rita Pritchett, Vice Chair  
Brevard County Commission  
As approved by the Board on November 7, 2024.



ATTEST:  
RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – July 22, 2024

BOCC Hearing – August 1, 2024

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development 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.**



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Kimberly.Powell@brevardclerk.us

November 8, 2024

**M E M O R A N D U M**

**TO:** Recording

**RE:** Item F.6., Binding Development Plan with KMM-FL, LLC.

The Board of County Commissioners, in regular session on November 7, 2024, accepted and executed Binding Development Plan with KMM-FL, LLC for the property lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 40, Plan of Town of Pineda, as recorded in Plat Book 1, Page 41 of the Public Records of Brevard County, Florida and the West ½ of the vacant road right-of-way, as recorded in Official Records Book 7304, page 1587, otherwise known as Seventh Street, adjacent to said lots. Enclosed are original Binding Development Plan Agreement and Check No. 11938 for \$44.00.

**Please record the Agreement in the Public Records and return the recorded instrument to this office.**

Your continued cooperation is always appreciated.

Sincerely,  
BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*for: Donna Scott*  
Kimberly Powell, Clerk to the Board

Encls. (2)

**RACHEL M. SADOFF**  
CLERK OF THE CIRCUIT COURT & COMPTROLLER  
BREVARD COUNTY, FLORIDA



POST OFFICE BOX 2767  
TITUSVILLE, FLORIDA 32781-2767  
(321) 637-2006  
WWW.BREVARDCLERK.US

Transaction #: 3756139  
Receipt #: 63538907  
Cashier Date: 11/13/2024 12:32:13 PM  
Cashier Branch: Titusville - Six Story

Print Date:  
11/13/2024 12:32:16 PM

CUSTOMER INFORMATION		TRANSACTION INFORMATION		PAYMENT SUMMARY	
KMM-FL LLC 7285 WAELTI DR MELBOURNE, FL 32940	Date Received:	11/13/2024	Total Fees	\$44.00	
	Source Code:	Titusville - Six Story	Total Payments	\$44.00	
	Return Code:	Mail (U.S. Postal Service)	Balance Due:	\$0.00	
	Trans Type:	Recording			

1 Payments

CHECK #11938

\$44.00

1 Recorded Items

AGREEMENT

BK/PG: 10199/1673 CFN: 2024226748 Date: 11/13/2024 12:32:12 PM

From: To:

Recording @ 1st=\$10 Add'l=\$8.50 ea.

5

\$44.00

1 Miscellaneous Items

AGENT TRANSMITTAL

Prepared by: Bryan Moffit  
Address: 7235 Waelti Dr.  
Melbourne, FL 32940

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 7<sup>th</sup> day of November, 2024 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and KMM-FL, LLC, 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 has requested the BU-2 zoning classification(s) and desires to develop the Property as one story building and warehouse storage facility, 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 impacts 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. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The developer/owner shall limit land use as follows:
  - a) The following uses shall be prohibited

auditoriums; automobile hire, automobile paint and body repair; automobile repairs;  
automobiles sales; automobile tires and mufflers sales and service, automobile washing-  
mechanized; boat service; building materials and supplies; cabinetmaking and carpentry,

commercial entertainment and amusement enterprises; contractors outdoor storage yards, engine service; farm machinery sales and service; feed and hay for animals and stock; fertilizer stores; flea markets, gasoline service stations; hotels; lumber sales; motels; motorcycle sales and service; outside sale of mobile homes; pet kennels, plant nurseries; recovered materials processing facility; restaurant outdoor seating; seafood processing plants; service station for automobile vehicles and U-Haul service, sharpening and grinding shops; theaters; towers and antennas; trailer and truck service; treatment and recovery facility; welding repairs and metal fabrication. Outdoor storage or display of large items or material which may require forklift, front-loader, tractor, or similar machinery to move shall be prohibited.

b) Freestanding sign shall be limited to not exceed ten feet in height.

c) The gross floor area ratio (FAR) shall not exceed 0.75, consistent with the Neighborhood Commercial Comprehensive Plan category „

d) Outdoor intercoms and public address systems shall be prohibited.

e) Digital or electronic signs and billboards whether static, animated, or intermittent shall be prohibited.

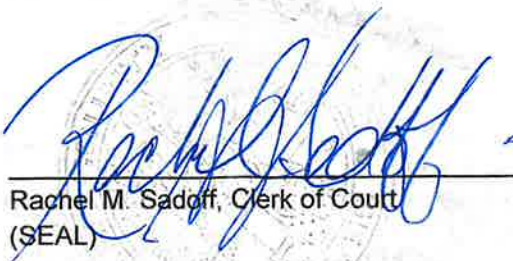
3. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
4. 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 Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.



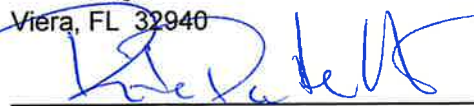
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on 11/7/2024. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 7 above.
9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

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

ATTEST:

  
Rachel M. Sadoff, Clerk of Court  
(SEAL)


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

  
Jason Steele, Chair  
As approved by the Board on

NOV 07 2024


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


WITNESSES:

  
Chris Romandetti  
(Witness Name typed or printed)

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))  
as DEVELOPER/OWNER

KMM - FI LLC  
7235 Waelki Dr Melbourne FL 32940  
(Address)

  
Kerin Hartman  
(Witness Name typed or printed)

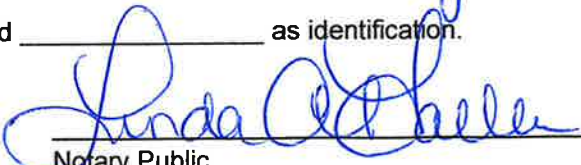
  
(President)  
BRYAN MOFFITT MAN.  
(Name typed, printed or stamped)

STATE OF Florida §  
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or  
\_\_\_\_\_ online notarization, this 4 day of October, 2024, by

Bryan Moffitt, President of Advantage Concrete of Florida Inc, who is  
personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires 4/14/28  
SEAL  
Commission No.: HH479501

  
Notary Public  
(Name typed, printed or stamped)



LINDA A GALLION  
Notary Public  
State of Florida  
Comm# HH479501  
Expires 4/14/2028

## **Exhibit A**

### **Legal description: 7235 Waelty Dr., Melbourne, FL**

Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Block 40, Plan of Town of Pineda, according to the plat thereof, as recorded in Plat Book 1, Page 41, of the Public Records of Brevard County, Florida and the West 1/2 of the vacated road right-of-way, as recorded in Official Records Book 7304, Page 1567, otherwise known as Seventh Street, adjacent to said lots.

KMM- FL LLC  
Bryan Moffitt

To whom it may concern at Brevard County zoning.

I Bryan Moffitt as the owner as the owner hereby is representing that the property located at 7235  
Waelty Dr. that has an application in process is in front of Brevard County for approval of a BDP to be put  
in place on the property does not have a mortgage on it.

  
Bryan Moffitt

09/09/24  
Date

Notary: 



LINDA A GALLION  
Notary Public  
State of Florida  
Comm# HH479501  
Expires 4/14/2028

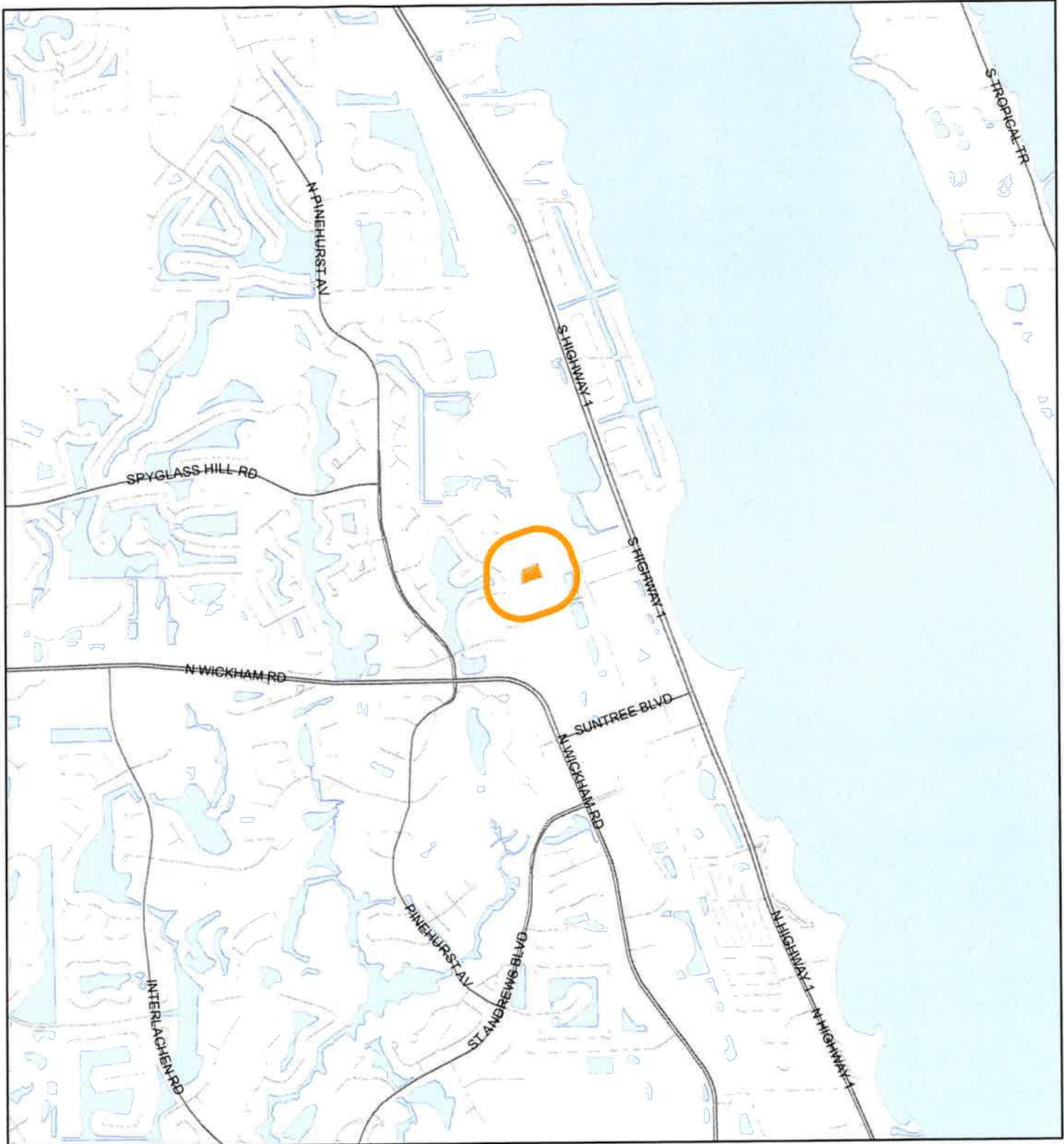
Witness:   
Lucan Carrigan

  
KEVIN HARTMAN

# LOCATION MAP

KMM FL, LLC

24Z00024



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

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 BoCC - GIS Date: 5/7/2024

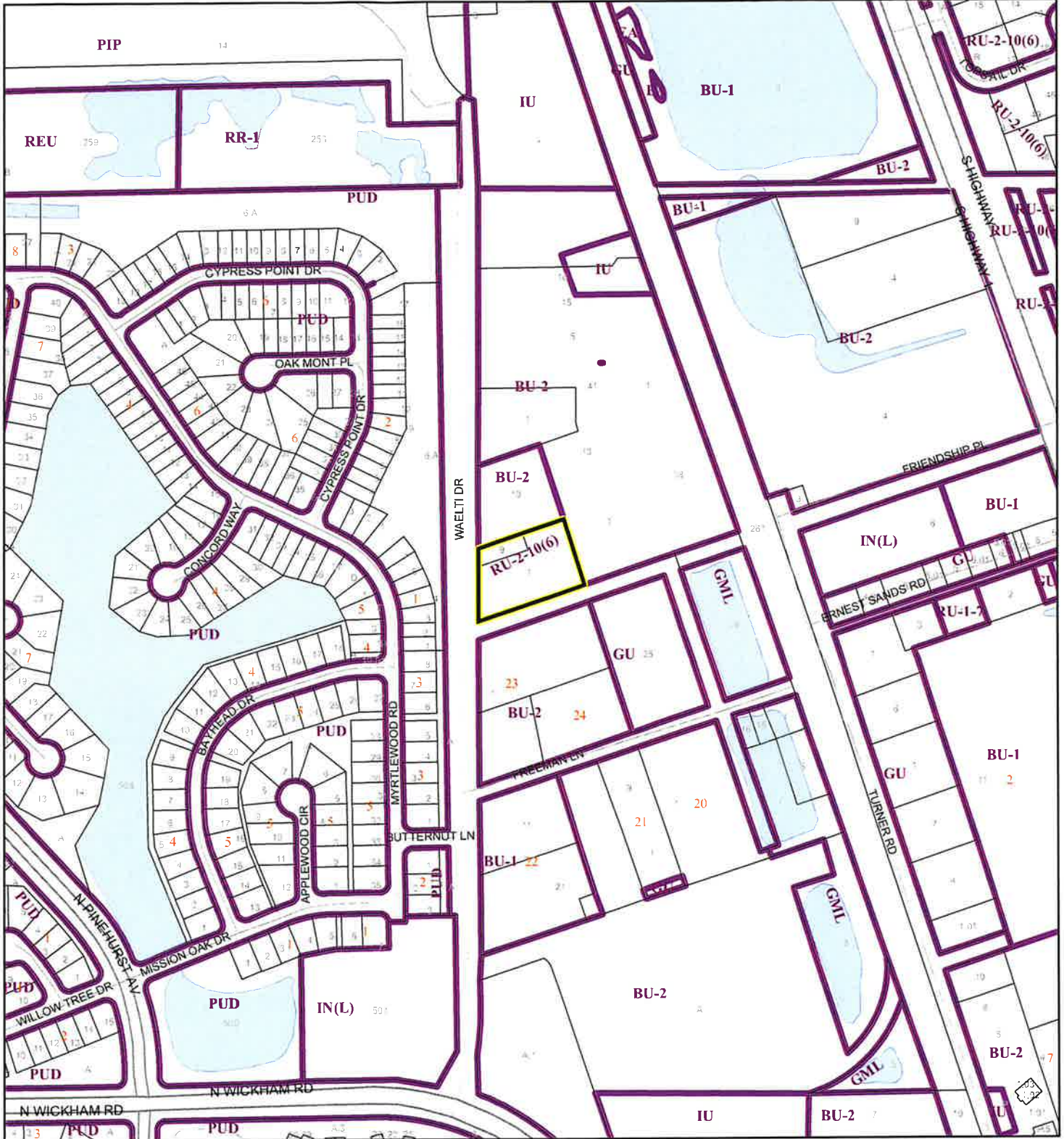
— Buffer  
— Subject Property



# ZONING MAP

KMM FL, LLC

24Z00024



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 5/7/2024

 Subject Property

 Parcels

 Zoning

## H. PUBLIC HEARINGS

Planning and Zoning Board / Local Planning Agency  
Monday, July 22, 2024, at 3:00 p.m.

Brevard County Board of County Commissioners  
Thursday, August 01, 2024, at 5:00 p.m.

Both at the  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, Florida

**(24Z00024) KMM-FL, LLC (Chris Romandetti)** requests a change in zoning classification from RU-2-10(6) (Medium-Density Multiple-Family Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial), on 1.31 acres, located on the east side of Waelti Dr., approx. 1,367 ft. north of Wickham Rd. (7235 Waelti Dr., Melbourne) (Tax Accounts 2601612 & 2617260) (District 4)

P&Z Recommendation: Bartcher/Hodgers – Approved with the BDP consistent with the north property. The vote was unanimous.

**BCC ACTION:** Feltner/Tobia, with Steele absent. Approved the request for a change in zoning classification from RU-2-10(6) to BU-2, with conditions in a Binding Development Plan prohibiting the following uses: auditoriums, automobile hire, automobile paint and body repair, automobile repairs, automobile sales, automobile tires and mufflers sales and service, automobile washing-mechanized, boat service, building materials and supplies, cabinetmaking and carpentry, commercial entertainment and amusement enterprises, contractors outdoor storage yards, engine service, farm machinery sales and service, feed and hay for animals and stock, fertilizer stores, flea markets, gasoline service stations, hotels, lumber sales, motels, motorcycle sales and service, outside sale of mobile homes, pet kennels, plant nurseries, recovered materials processing facility, restaurant outdoor seating, seafood processing plants, service station for automobile vehicles and U-Haul service, scarpering and grinding shops, theatres, towers and antennas, trailer and truck service, treatment and recovery facility, welding repairs and metal fabrication, outdoor storage or display of large items or material which may require forklift, front-loader, tractor or similar machinery to move shall be prohibited, outdoor intercoms and public address systems shall be prohibited, digital or electronic signs and billboards whether static, animated, or intermittent, shall be prohibited, freestanding signs shall be limited to not exceed ten feet in height, and the gross Floor Area Ratio (FAR) shall not exceed 0.75, consistent with the Neighborhood Commercial Comprehensive Plan category.