



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

7/12/2022

Subject:

Acceptance, Re: Binding Development Plan with Storsafe of Rockledge, LLC

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 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 May 5, 2022, the Board approved a change of zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), with a BDP containing the following conditions:

- Developer/owner shall limit the use of the property to self-storage only.
- Developer/owner agrees not to use the property for outdoor storage and, therefore, such use shall be prohibited on the property.
- Developer/owner agrees to limit the height of any buildings on the property to single-store and, therefore, no buildings shall exceed single-story height.
- Developer/owner agrees and shall ensure that no lighting elements shall face residential properties.
- Developer/owner shall provide a 20-foot landscape buffer in accordance with Code requirements.
- A finished 8-foot masonry wall shall be required along the edge of the improvements. Such wall shall be in accordance with Code requirements.

The attached agreement includes these provisions.

Clerk to the Board Instructions:

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

Resolution 22Z00004

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

WHEREAS, Storsafe of Rockledge, LLC has requested a change of zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 251, as recorded in ORB 3479, Page 585, of the Public Records of Brevard County, Florida; Tax Parcel 256, as recorded in ORB 3479, Pages 587 - 588, of the Public Records of Brevard County, Florida; and Tax Parcel 500, portion lying east of U.S. 1 only, as recorded in ORB 2279, Page 2902, of the Public Records of Brevard County, Florida. **Section 23, Township 25, Range 36.** (12.19 +/- acres) Located on the east side of U.S. Hwy 1, approx. 192 ft. north of Barnes Blvd. (Tax Parcel 251 = No assigned address. In the Rockledge area; Tax Parcel 256 = 3700 S. Hwy 1, Rockledge; Tax Parcel 500 = No assigned address. In the Rockledge area.); 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 containing the following conditions: 1.) the use of the property shall be limited to self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirements; 6.) a finished 8-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements; and

WHEREAS, the Board, after considering said application and Brevard County 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 with a BDP as recommended, containing the following conditions: 1.) the use of the property shall be limited to self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirements; 6.) a finished 8-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU and BU-1 to BU-2, be approved with a BDP, recorded on 07/14/22, in ORB 9560, Pages 520 - 5527, containing the following conditions: 1.) the use of the property shall be limited to self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirements; 6.) a finished 8-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements. 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 July 14, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission

As approved by the Board on July 12, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – April 18, 2022
Board of County Commissioners Hearing - May 5, 2022

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.**



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

July 13, 2022

MEMORANDUM

TO: Jennifer Jones, Zoning

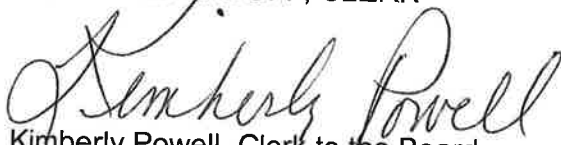
RE: Item F.3., Binding Development Plan Agreement with Storsafe of Rockledge, LLC

The Board of County Commissioners, in regular session on July 12, 2022, executed Binding Development Plan with , Storsafe of Rockledge, LLC, for property located at a tax parcel 251, as recorded in ORB 3479, page 585, of the Public Records of Brevard County, Florida, Tax Parcel 256, as recorded in ORB 3479, Pages 587 – 588, of the Public Records of Brevard County, Florida; and Tax Parcel 500, portion lying east of U.S. 1 only, as recorded in ORB 2279, Page 2902, of the Pubic Records of Brevard County, Florida. 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


Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: Kimley-Horn and Associates, Inc.

Address: 201 North Franklin Street, Suite 1400, Tampa, FL 33602

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 12 day of July, 2022 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Storsafe of Rockledge LLC, (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 Self Storage mini-warehouse, 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 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.
3. Developer/Owner shall limit the use of the Property to self-storage use only.
4. Developer/Owner agrees not to use the Property for outdoor storage and, therefore, such use shall be prohibited on the Property.
5. Developer/Owner agrees to limit the height of any buildings on the Property to single-story and, therefore, no building shall exceed single-story height.
6. Developer/Owner agrees and shall ensure that no lighting elements shall face residential properties.
7. Developer/Owner shall provide a 20 foot landscape buffer in accordance with Code requirements.
8. A finished 8-foot masonry wall shall be required along the edge of the improvements, such wall to be in accordance with Code requirements.
9. 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.
10. 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.

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 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 May 5th, 2022. 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 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.
13. Condition's 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 9 above.
14. 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.

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

(STORSAFE OF ROCKLEDGE, LLC)

WITNESSES:

as DEVELOPER/OWNER

[Signature]

[Signature]

James J Sayogh

5301 Dempster Street, Suite 300

(Witness Name typed or printed)

Skokie, IL 60077

[Signature]

[Signature]

Cheryl Fubop

(President)

Adam C Freeman

(Witness Name typed or printed)

(Name typed, printed or stamped)

STATE OF Illinois §

COUNTY OF Cook §

The foregoing instrument was acknowledged before me, by means of X physical presence or
_____ online notarization, this 6th day of June, 2022, by
Adam C Freeman, President of Star Safe of Rockledge, LLC, who is
personally known to me or who has produced _____ as identification.

[Signature]

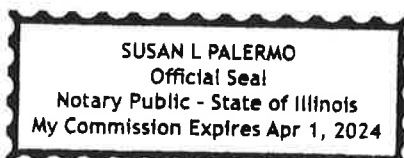
My commission expires 4.1.24

Notary Public

SEAL

Commission No.:

(Name typed, printed or stamped)



ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

2725 Judge Fran Jamieson Way

Viera, FL 32940



Rachel M. Sadoff, Clerk of Court

Kristine Zonka, Chair

(SEAL)

As approved by the Board on July 12, 2022

EXHIBIT A

Tax Parcel 251, as recorded in ORB 3479, Page 585, of the Public Records of Brevard County, Florida; Tax Parcel 256, as recorded in ORB 3479, Pages 587 - 588, of the Public Records of Brevard County, Florida; and Tax Parcel 500, portion lying east of U.S. 1 only, as recorded in ORB 2279, Page 2902, of the Public Records of Brevard County, Florida.

JOINDER IN BINDING DEVELOPMENT PLAN BY MORTGAGEE CORPORATION

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 December 20, 2021, given by Burling Bank, as mortgagor, in favor of the undersigned, Storsafe of Rockledge, LLC, as mortgagee, recorded in Official Records Book 9380, Page 1273, of the 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.

MORTGAGEE CORPORATION NAME AND ADDRESS

Burling Bank

Mortgagee Corporation Name

141 W. Jackson Blvd. Chicago IL 60604

Street

City

State

Zip Code

Adm GA

*Authorized Agent Signature

Adam Freeman, President

Authorized Agent Printed Name and Title

*Note: All others besides CEO or President require attachment of original corporate resolution of authorization to sign documents of this type.

AFFIX CORPORATE SEAL

WITNESSES

[Signature]

Signature

James Sayegh

Print Name

[Signature]

Signature

Nikki Stergiou

Print Name

STATE OF Illinois

COUNTY OF COOK

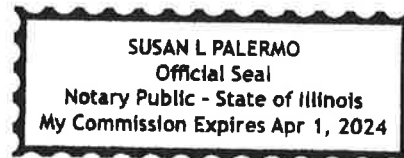
The foregoing instrument was acknowledged before me this 31 day of May, 2022,
by Adam C. Freeman, who is personally known to me or who has produced
_____ as identification.

Susan L. Palermo
Notary Public Signature

Susan L. Palermo
Name Printed



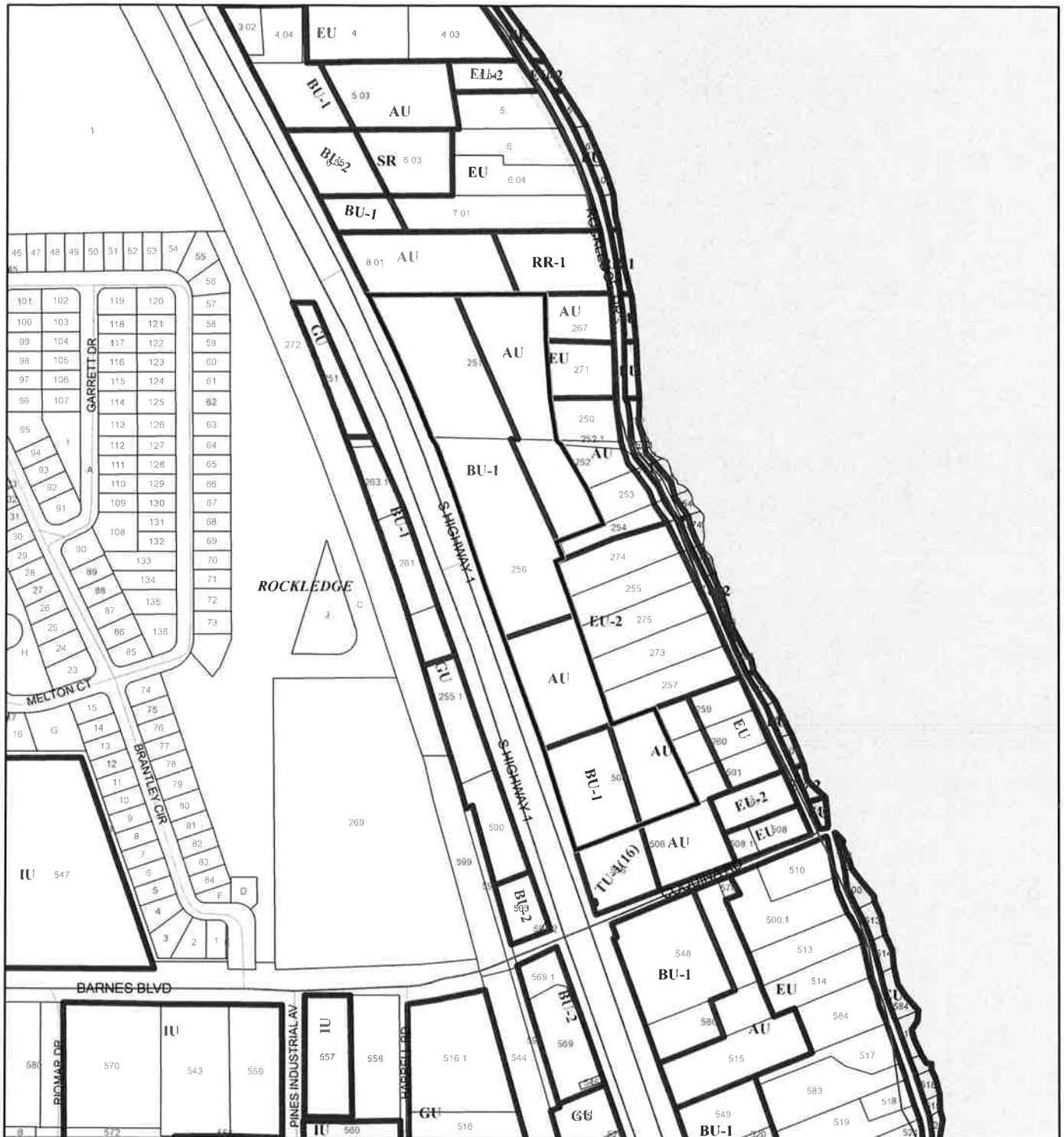
SEAL



ZONING MAP

STORSAFE OF ROCKLEDGE, LLC

22Z00004



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: 1/21/2022

- Subject Property
- Parcels
- Zoning

H. PUBLIC HEARINGS

Planning and Zoning Board / Local Planning Agency
Monday, April 18, 2022, at 3:00 p.m.

Brevard County Board of County Commissioners
Thursday, May 5, 2022, at 5:00 p.m.

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

1. **(21PZ00083) STORSAFE OF ROCKLEDGE, LLC** (Nathan Lee) requests a Small Scale Comprehensive Plan Amendment (22S.03) to change the Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC. The property is 12.19 +/- acres, located on the east side of U.S. Hwy 1, approx. 192 ft. north of Barnes Blvd. (Tax Parcel 251 = No assigned address. In the Rockledge area; Tax Parcel 256 = 3700 S. Hwy 1, Rockledge; Tax Parcel 500 = No assigned address. In the Rockledge area.) (Tax Accounts 2511096, 2511103, 2511119) (District 2) This item was from the 03/14/22 P&Z meeting.

LPA Recommendation: Alward/Moia - Approved. The vote was unanimous.

BCC ACTION: Smith/Tobia - **Approved as recommended, adopting Ordinance No. 22-14.** The vote was unanimous.

2. **(22Z00004) STORSAFE OF ROCKLEDGE, LLC** requests a change of zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 12.19 +/- acres, located on the east side of U.S. Hwy 1, approx. 192 ft. north of Barnes Blvd. (Tax Parcel 251 = No assigned address. In the Rockledge area; Tax Parcel 256 = 3700 S. Hwy 1, Rockledge; Tax Parcel 500 = No assigned address. In the Rockledge area.) (Tax Accounts 2511096, 2511103, 2511119) (District 2) This item was tabled from the 03/14/22 P&Z meeting.

P&Z Recommendation: Moia/Minneboo - Approved with a BDP containing the following conditions: 1.) the use of the property shall be limited to self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirements; 6.) a finished 8-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements. The vote was unanimous.

BCC ACTION: Smith/Pritchett - **Approved as recommended, with a BDP containing the following conditions: 1.) the use of the property shall be limited to self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirements; 6.) a finished 8-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements. The vote was unanimous. The BDP will be scheduled as a Consent Item on a subsequent County Commission agenda, per Policy BCC-52. Resolution to be completed upon receipt of recorded BDP.**

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Storsafe of Rockledge, LLC. Smith/Tobia. Adopted Ordinance No. 22-14, setting forth the eighth Small Scale Comprehensive Plan Amendment (21S.03), changing the Future Land Use designation from RES 4, NC, and CC, to all CC. (21PZ00083).
- Item H.2. Storesafe of Rockledge, LLC. Smith/Pritchett. Approved the request of a change of zoning classification from AU and BU-1 to BU-2 and recommendation of a BDP with the following conditions: 1.) the use of the property shall be for self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face the residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirement; and 6.) a finished eight-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements. (22Z00004)
- Item H.3. Rotation Holdings, LLC. Pritchett/Tobia. Approved the request of an Amendment to an existing BDP in a BU-2 zoning classification. (3640 N. U.S. Highway 1, Cocoa) (22Z00007).
- Item H.4. Michael P. Buono and Charles T. Calhoun Pritchett/Tobia. Approved the request of changing the zoning classification from GU to RR-1. (21Z00051).
- Item H.5. Robert F. Erario and Jeremy Sothea Sun. Pritchett/Tobia. Approved the request of changing the zoning classification from BU-1 and AU to all AU. (22Z00008).
- Item H.6. Tyler M. and Cristina N. Boucher. Pritchett/Tobia. Approved the request of changing the zoning classification from AU to RR-1. (2200009).
- Item H.7. Rushing Wind, LLC. Tobia/Smith. Adopted Ordinance No. 22-15, setting forth the seventh Small Scale Comprehensive Plan Amendment (22S.02) changing the Future Land Use designation from RES 1 to RES 4 (22Z00003).
- Item H.8. Rushing Wind, LLC. Tobia/Pritchett. Approved the request of changing the zoning classification from RR-1 and IN(L) to RU-1-11. (22Z00001).