



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3

9/15/2020

Subject:

Acceptance, Re: Binding Development Plan with McD Family Trust, LLC (20Z00004) (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 the Chairman to 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 6, 2020, the Board approved an amendment to an existing BDP to allow for mini warehouse not to exceed 20,000 square feet, an office building not to exceed 1,200 square-foot, and recreational vehicle storage only in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 2.14 acres, located on the easterly side of Plantation Drive, approximately 50 feet north of Hospitality Way, Titusville.

Clerk to the Board Instructions:

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



September 16, 2020

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.3., Binding Development Plan Agreement with McD Family Trust, LLC

The Board of County Commissioners, in regular session on September 15, 2020, executed Binding Development Plan with McD Family Trust, LLC. Said Plan was recorded in OR/BK 8859/2647. 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

Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Resolution 20Z00004

On motion by Commissioner Pritchett, seconded by Commissioner Lober, the following resolution was adopted by a unanimous vote:

WHEREAS, McD Family Trust has requested an amendment to an existing BDP (Binding Development Plan) to allow a 1,200 square-foot office building in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on property described as Tax Parcel 281.3, as recorded in ORB 7763, Pages 2420 – 2421, of the Public Records of Brevard County Florida.

Section 06, Township 23, Range 35. (2.14 acres) Located on the easterly side of Plantation Drive, approximately 50 feet north of Hospitality Way, Titusville. (885 Plantation Dr. Unit W-H/RV, Titusville); 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; 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 as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested amendment to an existing BDP, to allow a 1,200 square-foot office building in a BU-2 zoning classification be APPROVED with a BDP, recorded on September 18, 2020, in ORB 8859, Pages 2647 – 2650. 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 September 18, 2020.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Bryan Andrew Lober
Bryan Andrew Lober, Chair
Brevard County Commission

As approved by the Board on September 15, 2020.

ATTEST:

Scott Ellis
SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – July 6, 2020

Board of County Commissioners Zoning Hearing – August 6, 2020

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.

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 15 day of September, 2020 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred as "County") and MCD FAMILY TRUST, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property in Brevard County, Florida, (hereinafter referred to as the "Property") as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner desires to develop the Property as Mini Warehouse, Office Building & RV Storage pursuant to the Brevard County Code, Section 62-1483(1)(c) & 62-1845; and

WHEREAS, the County is authorized to regulate future 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 limit the use of said property for mini warehouse not to exceed 20,000 square feet, office building not to exceed 1,200 square feet & RV storage only.

Additional uses will require an application by the Developer/Owner.

3. The Developer/Owner shall restrict patrons of the mini warehouse, office building & RV storage units to those parties leasing/owning units within the Great Outdoor Resort. The Developers/Owners shall not lease any unit to parties not owning/leasing property within the Great Outdoors.

4. The 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.
5. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in 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 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 8/6/2020. 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 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.
8. Conditions precedent. All mandatory conditions set forth in the 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 7 above.
9. The terms of this agreement shall supersede and replace any and all previous agreements, whether written or oral, between the County and Developers/Owner.

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


Bryan Lober, Chair
As approved by the Board on 9/15/2020

WITNESSES:

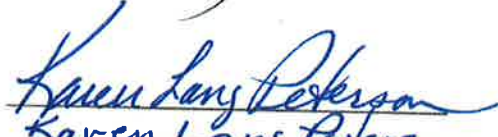

Diane Keener


Diane Keener

(Witness Name typed or printed)

WITNESSES:


Karen Lang Peterson


Karen Lang Peterson
(Witness Name typed or printed)

STATE OF North Carolina

COUNTY OF Macon §

The foregoing instrument was acknowledged before me this 10th day of August, 2020, by Larry R. McDaniel Manager of MCD Family Trust LLC who is personally known to me or who has produced _____ as identification.

My commission expires: 6-21-2027

SEAL

KAREN LANG PETERSON
NOTARY PUBLIC
MACON COUNTY, NC

Commission No.:

DEVELOPER/OWNER

MCD Family Trust LLC
516 Battery Cove
Titusville, FL 32780

(Address)


(Manager)

LARRY R. McDANIEL

(Name typed, printed or stamped)


Notary Public


(Name typed, printed or stamped)

EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 23 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 6, THENCE N.89°30'44"E., ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 1350.30 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF A 170.00 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 730, PAGE 237 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S.49°10'00"E., ALONG SAID LINE, 908.29 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.49°10'00"E., ALONG SAID LINE 238.34 FEET; THENCE N.14°07'26"E., 249.51 FEET; THENCE N.07°43'59"W., 48.35 FEET; THENCE N.14°07'26"E., 66.94 FEET; THENCE N.81°44'22"W., 75.72 FEET; THENCE N.08°15'38"E., 120.75 FEET; THENCE S.53°34'00"W., 59.10 FEET; THENCE S.46°39'46"W., 201.53 FEET; THENCE S.00°14'54"E., 155.92 FEET TO THE POINT OF BEGINNING. CONTAINING 1.67 ACRES MORE OR LESS.

AND:

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 23 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 6, THENCE N.89°30'44"E., ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 1350.30 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF A 170.00 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 730, PAGE 237 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S.49°10'00"E., ALONG SAID LINE, 933.29 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.49°10'00"E., ALONG SAID LINE 213.34 FEET; THENCE N.14°07'26"E., 41.86 FEET; THENCE S.52°30'23"E., 39.24 FEET; THENCE S.12°54'02"E., 9.24 FEET; THENCE S.21°17'06"W., 142.17 FEET; THENCE N.43°34'37"W., 177.23 FEET; THENCE N.12°52'22"W., 139.38 FEET TO THE POINT OF BEGINNING. CONTAINING 0.47 ACRES MORE OR LESS.

TO WHOM IT MAY CONCERN

RE: ZONING/BINDING DEVELOPMENT AMENDMENT REQUEST 20Z00004

THERE IS NO MORTGAGE ON TAX ACCOUNT # 2323791/PARCEL ID 23-35-06-00-281.3 ADDRESS 885
PLANTATION DRIVE UNIT W-H/RV, TITUSVILLE, FLORIDA 32780.

DEVELOPER/OWNER:

LARRY R MCDANIEL, MANAGER
516 BUTTERFLY COVE
TITUSVILLE, FL 32780

DATE August 13, 2020

State of ~~Florida~~ NC

County of ~~Brevard~~ Macon

The foregoing instrument was acknowledged before me this 13th day of August (month),
2020 (year), by Larry R McDaniel (name of person acknowledging).

Ariana Marshall (signature of Notary) (seal of Notary)

Ariana Marshall
NOTARY PUBLIC
Macon County
State of North Carolina
My Comm. Expires January 1, 2024

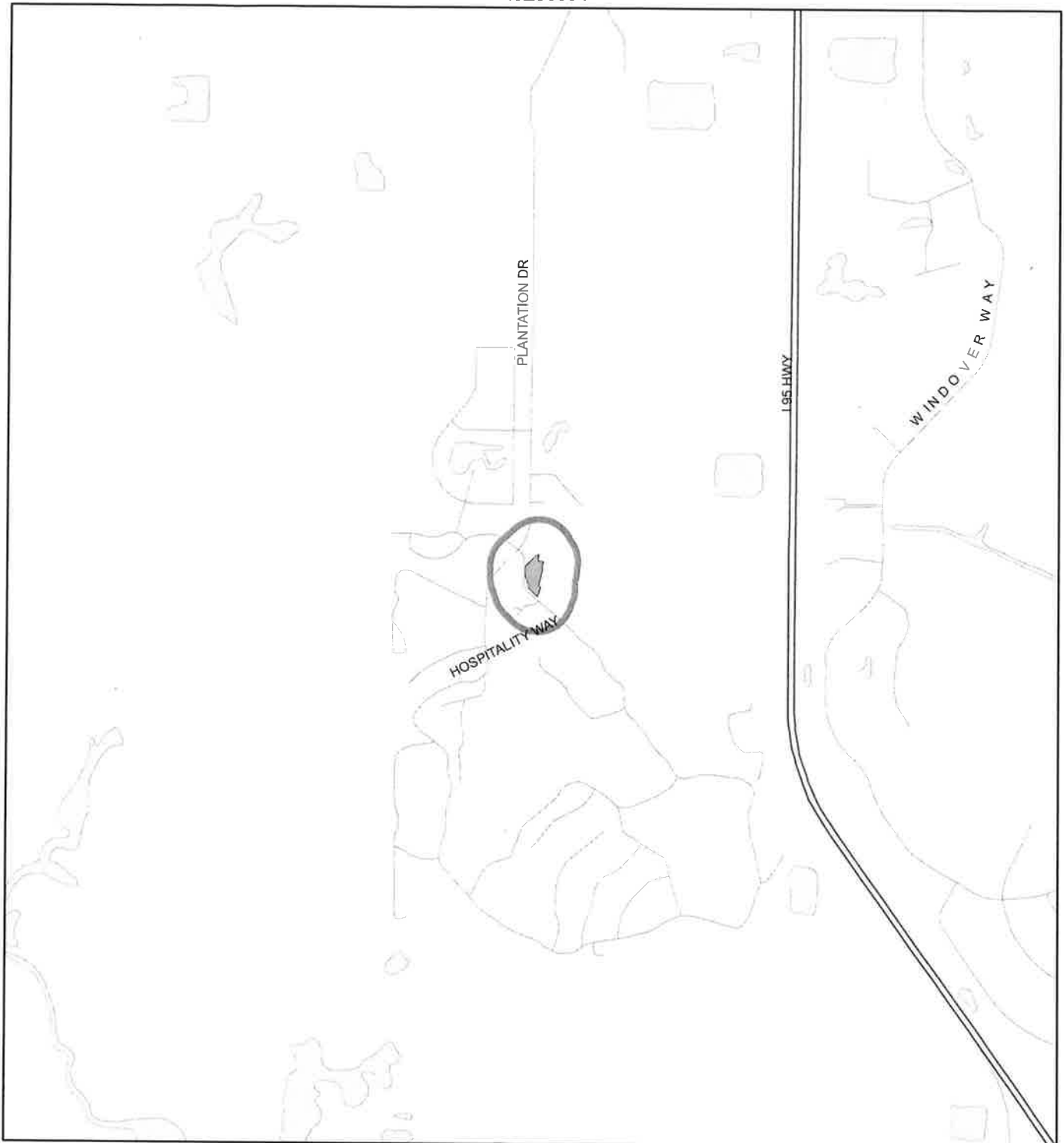
Ariana Marshall (Name of Notary, printed, typed or stamped)

Personally known _____ OR produced identification ✓

Type of identification produced FL Drivers License

LOCATION MAP

McD FAMILY TRUST, LLC
20Z00004



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.

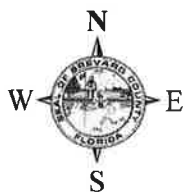
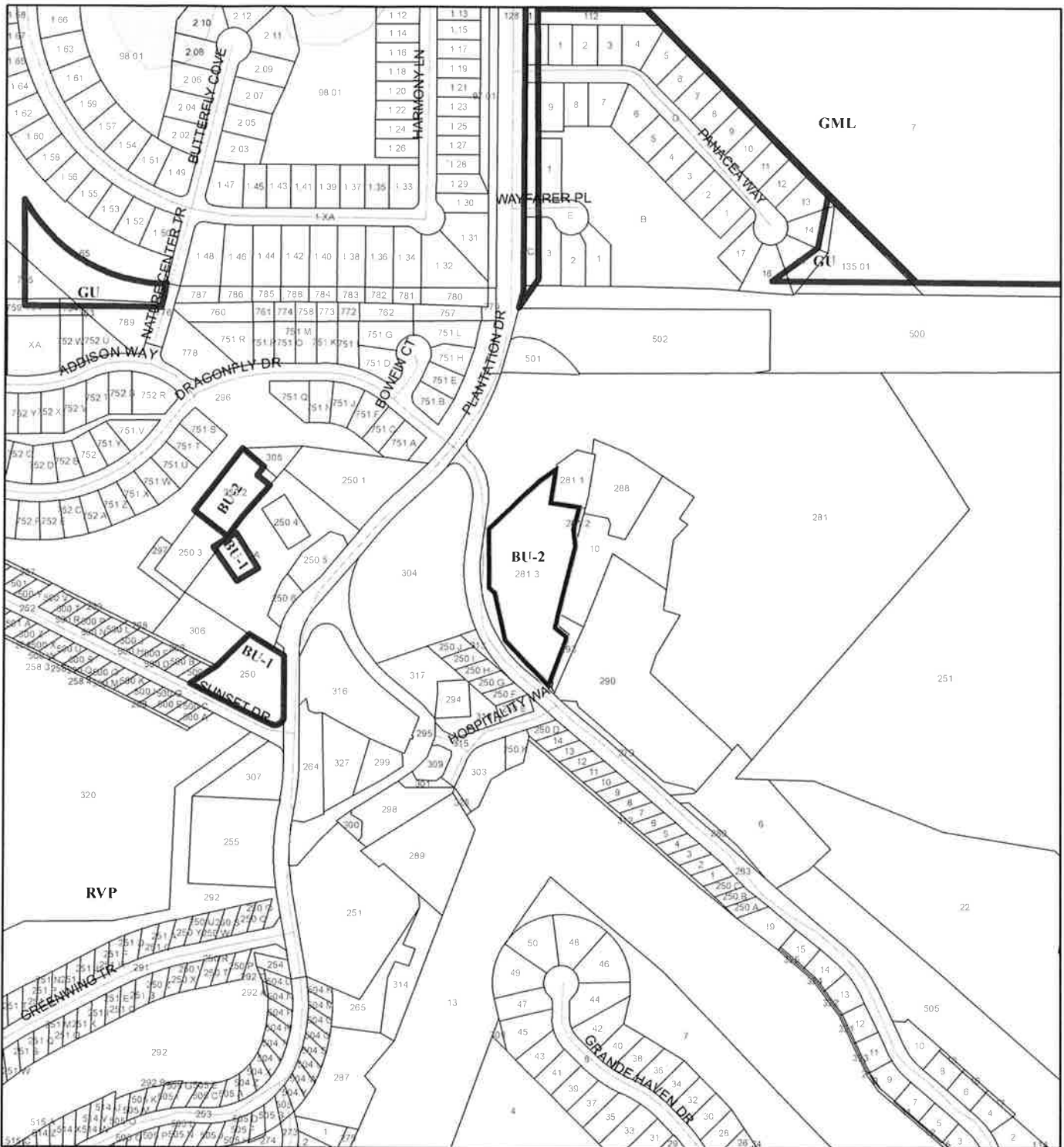
Produced by BoCC - GIS Date: 5/5/2020

— Buffer
■ Subject Property

ZONING MAP

McD FAMILY TRUST, LLC

20Z00004



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: 5/5/2020

- Subject Property
- Parcels
- Zoning

Board of County Commissioners Action: Pritchett/Lober – Approved as recommended. The vote was unanimous.

4. **McD Family Trust, LLC** (Rodney Honeycutt) requests an amendment to an existing BDP (Binding Development Plan) to allow a 1,200 square-foot office building in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 2.14 acres, located on the easterly side of Plantation Drive, approximately 50 feet north of Hospitality Way, Titusville. (885 Plantation Dr. Unit W-H/RV, Titusville) (20Z00004) (Tax Account 2323791) (District 1)

Planning and Zoning Board Recommendation: Bartcher/Moia – Approved. The vote was unanimous.

Board of County Commissioners Action: Pritchett/Lober – Approved with BDP as recommended. 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.

5. **Canaveral Landing, LLC** (Kim Rezanka) requests a change of zoning classification from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) and a CUP (Conditional Use Permit) for Cluster Development of Mobile Homes, with a BDP (Binding Development Plan) limited to 100 units. The property is 33.80 acres, located on the north side of Canaveral Groves Boulevard, approximately 675 feet east of Grissom Parkway. (No assigned address. In the Cocoa area). (20Z00006) (Tax Account 2314846) (District 1)

Planning and Zoning Board Recommendation: Filiberto/Buchanan – Approved the CUP for Cluster Development of Mobile Homes, with the additional condition that Fountain Palm Road be used as an ingress/egress if accessible, and a BDP limited to 100 units. The vote was 6:1, with Bartcher voting nay.

Board of County Commissioners Action: Pritchett/Isnardi – Approved as recommended, with the additional conditions of expanding the 10-foot buffer on the site plan to 20 feet, and providing a conservation easement over the wetlands. The vote was unanimous.

6. **3101 Gannett Plaza, LLC** (Kevin Saltman) requests a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with an Indoor Family Entertainment Center, in the BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classifications. The property is 28.23 acres, located on the southwest corner of Gannett Plaza Avenue and U.S. Highway 1. (1 Aar Way, Rockledge) (20Z00007) (Tax Accounts 2602422 & 2602423) (District 4)

Planning and Zoning Board Recommendation: Buchanan/Moia – Approved. The vote was unanimous.

Board of County Commissioners Action: Smith/Isnardi – Approved as recommended. The vote was unanimous.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Theodore Goodenow. Pritchett/Lober. Adopted Ordinance No. 20-12, approving the Small Scale Comprehensive Plan Amendment (20S.02) changing Future Land Use from Planned Industrial to Residential 2 as recommended.
- Item H.2. Theodore Goodenow. Pritchett/Lober. Approved the change of Zoning Classification from AU to RU-1-9; and approved the BDP as submitted, with the added stipulation that the applicant provide adequate right-of-way, drainage, and utilities easements to facilitate the existing drainage swales and roadway.
- Item H.3. Richard R. Jr., and Gina M. Wrubel, Trust. Pritchett/Lober. Adopted Ordinance No. 20-11, approving the Small Scale Comprehensive Plan Amendment (20S.04) changing Future Land Use from NC to CC as recommended.
- Item H.4. Richard R. Jr., and Gina M. Wrubel, Trust. Pritchett/Lober. Approved change of Zoning Classification from AU to BU-1 as recommended.
- Item H.5. McD Family Trust, LLC. 4090 U.S. 1., LLC. Pritchett/Lober. Approved amendment to an existing Binding Development Plan in a BU-2 Zoning Classification as recommended.
- Item H.6. Canaveral Landing, LLC. Pritchett/Isnardi. Approved a change of Zoning Classification from TR-1 to TRC-1 as recommended with a BDP limiting to 100 units, and additional conditions on the CUP to expand the 10-foot buffer on the site plan to 20 feet, and provide a conservation easement over the wetlands.
- Item H.7. 3101 Gannett Plaza, LLC. Smith/Isnardi. Approved a CUP for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with an Indoor Family Entertainment Center, in the BU-1 and BU-2 Zoning Classifications as recommended.
- Item H.8. Daren T. Dempsey Revocable Trust. Pritchett/Lober. Approved change of Zoning Classification from RR-1 to AU as recommended; and include to a Binding Development Plan waiving any and all claims to agritourism and only using it as a plant nursery insofar as business is concerned.
- Item H.9. Marker 24 Marina, LLC. Smith/Lober. Approved a CUP for Commercial/Industrial Marina in the RU-1-11 and BU-2 Zoning classification on 7.08 acres, located on both sides of South Banana River Drive., approximately 160 feet north of West Virginia Avenue; and approved all existing conditions approved under 19PZ00080, with the exception of a revised Condition 19, and the additions of Conditions 22 and 23. Condition