



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.6.

4/19/2022

Subject:

Acceptance, Re: Binding Development Plan with DeRosa Holdings, Inc. (District 2)

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 December 2, 2021, the Board approved a request to remove an existing BDP and create a new BDP restricting the property to two detached residential units. The attached agreement includes this provision, and adds that the property shall remain under one ownership.

Clerk to the Board Instructions:

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

Resolution 21Z00059

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

WHEREAS, DeRosa Holdings, LLC has requested an amendment to an existing BDP, in a RU-2-12 (Medium Density Multi-Family), on property described as Lot 2.01, Block H, Bruners Re-Subdivision of Burchfield & Bruners Addition to Crescent Beach, as recorded in ORB 9166, Pages 1239 - 1240, of the Public Records of Brevard County, Florida. **Section 26, Township 25, Range 37.** (0.24 acres) Located on the west side of S. Atlantic Ave., approx. 83 ft. south of 20th St. (2050 S. Atlantic Ave., Cocoa Beach); 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 with a BDP, limiting development of the property as two (2) detached residential units for residency and/or rental. The property shall remain under one ownership; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested amendment to an existing BDP in a RU-2-12 zoning classification, be approved with a BDP, recorded on 04/21/22, in ORB 9482, Pages 763 - 768, limiting development of the property as two (2) detached residential units for residency and/or rental. The property shall remain under one ownership. 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 April 21, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission

As approved by the Board on April 19, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – November 15, 2021

Board of County Commissioners Hearing - December 2, 2021, and January 11, 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

April 20, 2022

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item F.6., Binding Development Plan Agreement with DeRosa Holdings, Inc.

The Board of County Commissioners, in regular session on April 19, 2022, executed Binding Development Plan Agreement with DeRosa Holdings, Inc. for property on a parcel of land being a portion of Block H of A. & B. Bruners Re-Subdivision of Blocks A, H, J, K, and parts of Blocks C & I of A. L. Bruners Re-Subdivision of Burchfield & Bruners Addition to Crescent Beach, commencing at an iron rod monumenting the intersection of the West right-of-way line of Atlantic Avenue in Brevard County. 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 Denna Scott
Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 19 day of APRIL, 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 DEROSA HOLDINGS, LLC, a Florida Limited Liability Company (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 is retaining the existing RU-2-12 zoning classification(s) and desires to develop the Property as two (2) detached residential units for residency and/or rental, 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. The Developer/Owner shall develop the property as two (2) detached residential units for residency and/or rental. The property shall remain under one ownership.
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 January 11, 2022. 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:

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

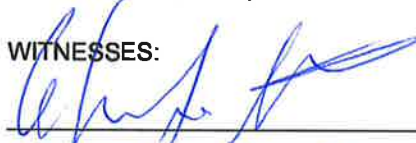

Rachel M. Sadoff, Clerk of Court
(SEAL)


Kristine Zonka, Chair

As approved by the Board on April 19, 2022

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

WITNESSES:


GLEIDISON L. SANTOS
(Witness Name typed or printed)

DEROSA HOLDINGS LLC
as DEVELOPER/OWNER

1173 NE 103rd Street
Miami Shores, FL 33138


PAULO EDUARDO BRITO FERNANDES
(Witness Name typed or printed)


Jamie DeRosa, Manager

STATE OF Florida §

COUNTY OF Miami-Dade §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☒ online notarization, this 28th day of March, 2022, by Jamie DeRosa, Manager of DeRosa Holdings LLC, who is personally known to me or who has produced drivers license as identification.

My commission expires 12/20/2024
SEAL
Commission No.: HH 73899



Notary Public
(Name typed, printed or stamped)



EXHIBIT "A"

A parcel of land being a portion of Block H of A. & B. BRUNERS RE-SUBDIVISION OF BLOCKS A, H, J, K, AND PARTS OF BLOCKS C & I OF A. L. BRUNERS RE-SUB OF BURCHFIELD & BRUNERS ADDITION TO CRESCENT BEACH, recorded in Plat Book 9, Page 4, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at an iron rod monumenting the intersection of the West right of way line of Atlantic Avenue, as presently located (a 100 foot wide right of way) with the South right of way line of Spring Street (a 42 foot wide right of way) and run S. 06°49'00" E., along said West right of way line of Atlantic Avenue, a distance of 83.62 feet to the Point of Beginning of the herein described parcel; thence continue S. 06°49'00" E., along said West right of way line of Atlantic Avenue, a distance of 43.85 feet to the point of curvature of a 5679.65 foot radius curve to the left; thence continue Southeasterly along said West right of way line and along the arc of said curve, thru a central angle of 00°24'04", a distance of 39.77 feet; thence leaving said West right of way line run S. 82°43'14" W., a distance of 121.86 feet; thence N. 06°49'00" W., a distance of 84.32 feet; thence N. 83°02'53" E., a distance of 122.00 feet to the Point of Beginning.

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 June 17, 2021, given by DeRosa Holdings LLC, as mortgagor, in favor of the undersigned, Marine Bank & Trust Company, as mortgagee, recorded in Official Records Book 9166, Page 1242, 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

Marine Bank & Trust Company

Mortgagee Corporation Name

571 Beachland Blvd Vero Beach FL 32963

Street

City

State

Zip Code



Brian Fowler, SVP/Chief Lending Officer

*Authorized Agent Signature

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

Amanda Richardson

Print Name



Signature

Karen S Clithron

Print Name



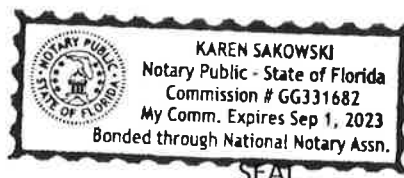
STATE OF Florida

COUNTY OF Indian River

The foregoing instrument was acknowledged before me this 8th day of MARCH, 20 22,
by BRIAN FOWLER, who is personally known to me or who has produced
_____ as identification.

Karen Sakowski
Notary Public Signature

KAREN SAKOWSKI
Name Printed



Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this day of , 20 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and DEROSA HOLDINGS, LLC, a Florida Limited Liability Company (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 is retaining the existing RU-2-12 zoning classification(s) and desires to develop the Property as two (2) detached residential units for residency and/or rental, 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.

Rev. 3/21/2022

3. The Developer/Owner shall develop the property as two (2) detached residential units for residency and/or rental. The property shall remain under one ownership.
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 January 11, 2022. 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:

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

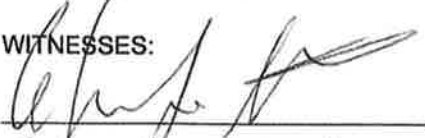

Rachel M. Sadoff, Clerk of Court
(SEAL)


Kristine Zonka, Chair

As approved by the Board on April 19, 2022


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

WITNESSES:


GLEIDISON L. SANTOS
(Witness Name typed or printed)

DEROSA HOLDINGS LLC
as DEVELOPER/OWNER

1173 NE 103rd Street
Miami Shores, FL 33138


PAULO EDUARDO BRITO FERNANDO
(Witness Name typed or printed)

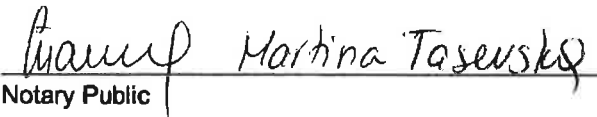

Jamie DeRosa, Manager

STATE OF Florida §

COUNTY OF Miami-Dade §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☒ online notarization, this 28th day of March, 2022, by Jamie DeRosa, Manager of DeRosa Holdings LLC, who is personally known to me or who has produced drivers license as identification.

My commission expires 12/20/2024
SEAL
Commission No.: HH 73899


Notary Public
(Name typed, printed or stamped)



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 June 17, 2021, given by DeRosa Holdings LLC, as mortgagor, in favor of the undersigned, Marine Bank & Trust Company, as mortgagee, recorded in Official Records Book 9166 Page 1242, 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

Marine Bank & Trust Company

Mortgagee Corporation Name

571 Beachland Blvd Vero Beach FL 32963

Street

City

State Zip Code



Brian Fowler, SVP/Chief Lending Officer

*Authorized Agent Signature

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

Amanda Richardson

Print Name



Signature

Karen S Clouthier

Print Name

STATE OF FLORIDA

COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 8th day of MARCH, 20 22,
by BRIAN FOWLER, who is personally known to me or who has produced
_____ as identification.

Karen Sakowski
Notary Public Signature

KAREN SAKOWSKI
Name Printed

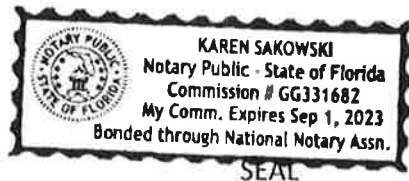


EXHIBIT "A"

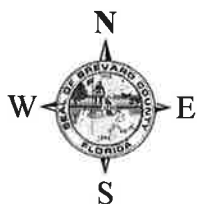
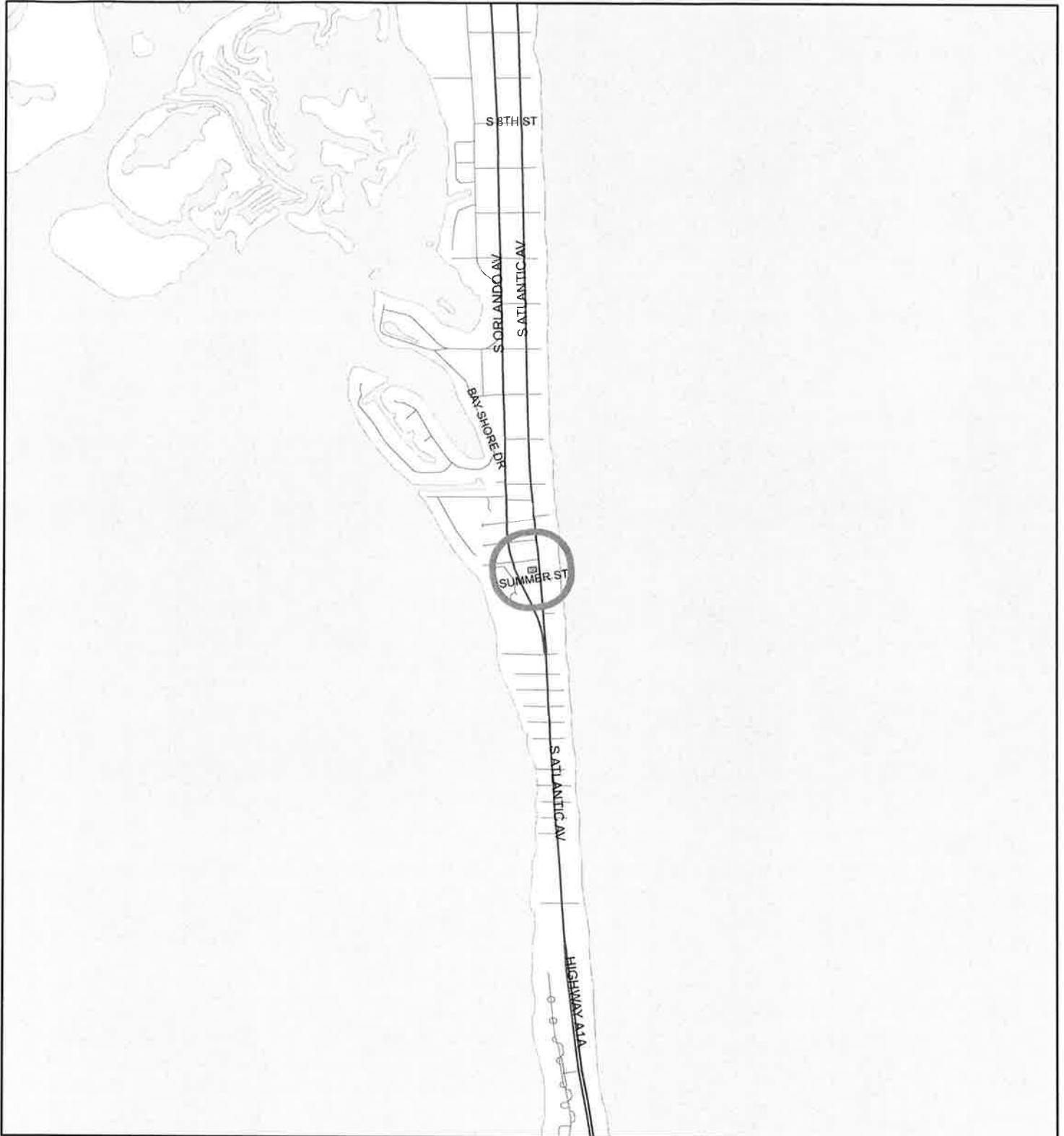
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LOCATION MAP

DeROSA HOLDINGS, LLC

21PZ00059



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.

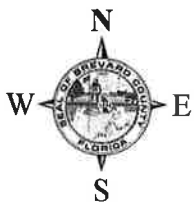
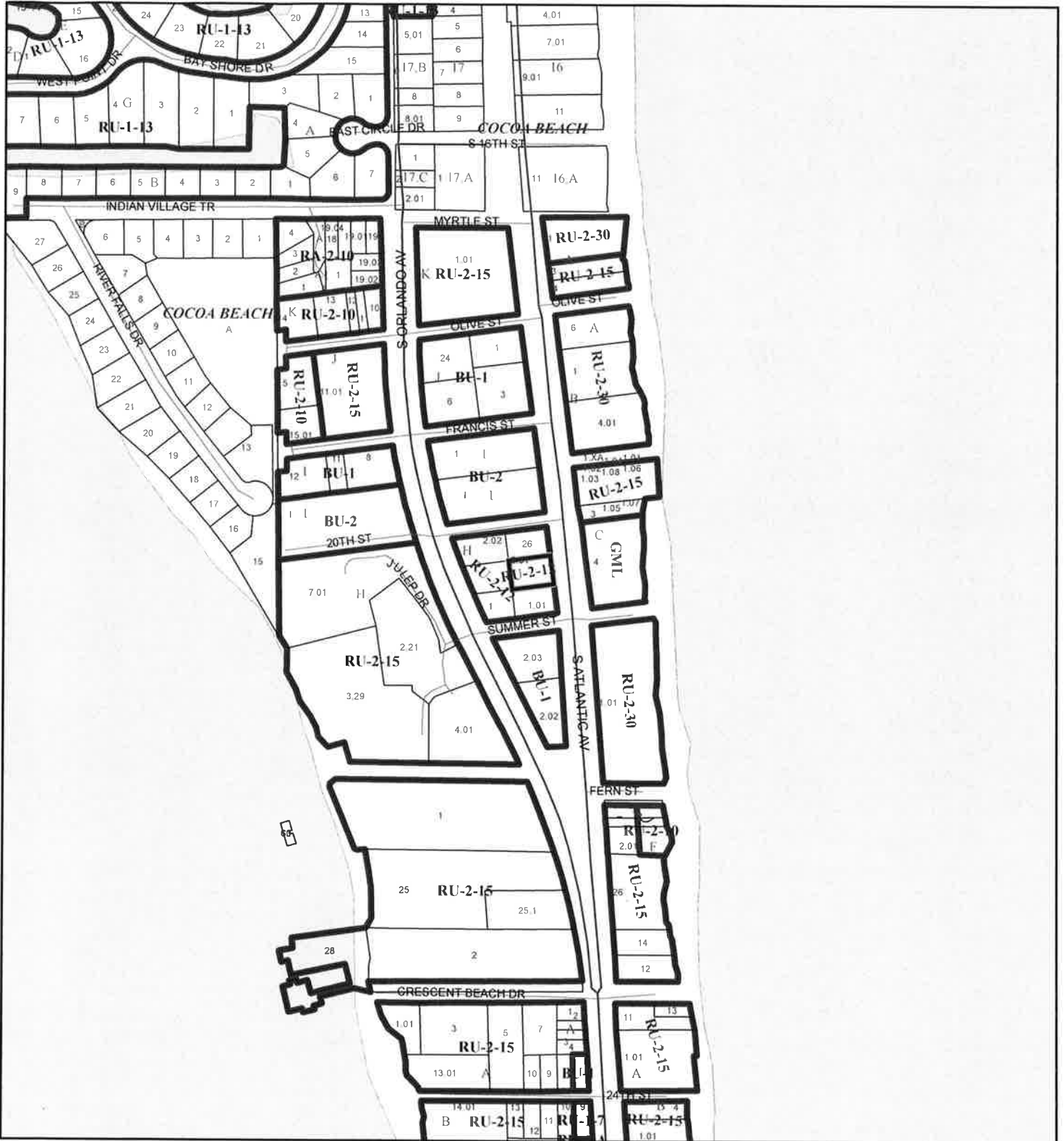
Produced by BoCC - GIS Date: 8/31/2021

— Buffer
■ Subject Property

ZONING MAP

DeROSA HOLDINGS, LLC

21PZ00059



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: 8/31/2021

Subject Property

Parcels

Zoning

H. PUBLIC HEARINGS

Local Planning Agency / Planning and Zoning Board
Monday, November 15, 2021, at 3:00 p.m.

Brevard County Board of County Commissioners
Thursday, December 2, 2021, at 5:00 p.m.

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

1. **Comprehensive Plan Text Amendment to include a Property Rights Element as required by House Bill 59, requiring all local governments to create a Property Rights Element; and to amend the Glossary Chapter Number from XV to XVI.**

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

2. **(21Z00025) SCOTT MINNICK** requests a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 1.15 acres, located on the northwest corner of U.S. Highway 1 and Glenn Rd. (3510 Glenn Rd., Mims) (Tax Account 2102550) (District 1)

P&Z Recommendation: Hodgers/Filiberto - Tabled to the 01/10/2022 meeting, as the applicant failed to appear. The vote was unanimous.

BCC ACTION: Pritchett/Lober - Tabled to the 02/03/22 BCC meeting. The vote was unanimous.

3. **(21PZ00059) DEROSA HOLDINGS, LLC** (Bruce Moia) an amendment to an existing BDP, in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification. The property is 0.24 acres, located on the west side of S. Atlantic Ave., approx. 83 ft. south of 20th St. (2050 S. Atlantic Ave., Cocoa Beach) (Tax Account 2534267) (District 2)

P&Z Recommendation: Glover/Filiberto - Approved. The vote was unanimous.

BCC ACTION: Lober/Smith - Tabled to the 01/11/22 BCC Regular meeting. The vote was unanimous.

BCC ACTION of 01/11/22: Lober/Smith - Approved with a BDP limited to two detached residential units for residency or rental, with the property remaining under one ownership. 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 complete upon receipt of recorded BDP.

4. **(21Z00029) DONALD WHITE AND TREVANTAY RAYMOND CURRY** request a change of zoning classification from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential). The property is 0.55 acres, located on the south side of Warren St., approx. 200 ft. east of Harry T. Moore Ave. (No assigned address. In the Mims area.) (Tax Account 2103419) (District 1)



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

January 12, 2022

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

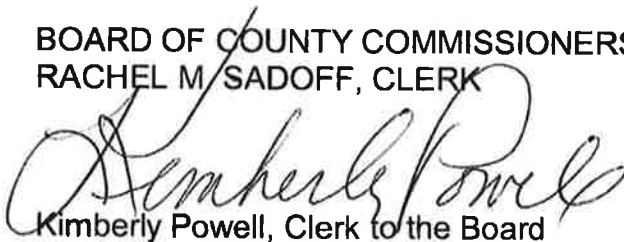
RE: Item H.1., DeRosa Holdings, LLC (Bruce Moia) Requests an Amendment to an Existing Binding Development Plan (BDP) in a RU-2-12 Zoning Classification (21PZ00059) (Tax Account 2534267)

The Board of County Commissioners, in regular session on January 11, 2022, conducted the public hearing and approved amending an existing BDP in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification for DeRosa Holdings, LLC, requested by Bruce Moia (21PZ00059) (Tax Account 2534267).

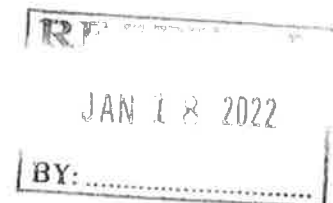
Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/ds





Corporate Resolution

Of

Marine Bank & Trust Company

RESOLUTION GRANTING SIGNING AND AUTHORITY TO CONDUCT BUSINESS

WHEREAS, the Corporation desires to grant signing and authority to certain person(s) described hereunder.

RESOLVED, that the Board of Directors is hereby authorized and approved to grant signing and authority to conduct business to any one of the following person(s): **Brian Fowler and Shaun Williams**. The foregoing signing and authority granted shall include, but shall not be limited to, the execution of Deeds, powers of attorney, transfers, assignments, contracts, obligations, certificates, and other instruments of whatever nature entered into by this Corporation.

The undersigned hereby certifies that he/she is the duly elected and qualified Secretary and the custodian of the books and records and seal of Marine Bank & Trust, a corporation duly formed pursuant to the laws of the state of Florida and that the foregoing is a true record of a resolution duly adopted at a meeting on March 27, 2019 and that said meeting was held in accordance with state law and the Bylaws of the above-named Corporation on March 27, 2019, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Secretary and have hereunto affixed the corporate seal of the above-named Corporation this March 27 of 2019.

Charles J. Gisler, Jr.
Secretary

571 Beachland Boulevard
Vero Beach, FL 32963
Toll Free 1-888-231-6621
Phone: 772-231-6611

1450 U.S. Highway 1
Vero Beach, FL 32960
Phone: 772-778-6713

1020 U.S. Highway 1
Sebastian, FL 32958
Phone: 772-589-4494

3303 Suntree Boulevard
Melbourne, FL 32940
Phone: 321-775-1880