



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.5

9/15/2020

Subject:

Acceptance, Re: Binding Development Plan with Theodore Goodenow. (19PZ00158) (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 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 6, 2020, the Board approved a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential) with a BDP. The attached BDP contains all of the stipulations presented at the aforementioned meeting.

In accordance with Policy BCC-52, staff reviewed the BDP and determined it meets the conditions agreed upon by the applicant and the Board. Therefore, the BDP is being presented to the Board in recordable form as a Consent Agenda item in order to finalize the zoning action.

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

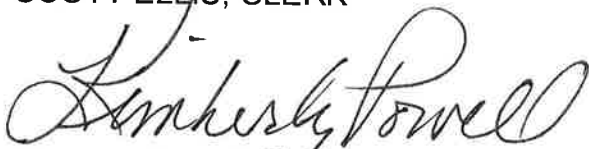
RE: Item F.5., Binding Development Plan Agreement with Theodore Goodenow

The Board of County Commissioners, in regular session on September 15, 2020, executed Binding Development Plan with Theodore Goodenow. Said Plan was recorded in OR/BK 8859/2698. 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 19PZ00158

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

WHEREAS, Theodore Goodenow has requested a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), with a BDP (Binding Development Plan) limited to 62 units, on property described as follows: Parcel 1: the north ½ of the NE ¼ of the SW ¼ of Section 21, Township 21S, Range 35E, Brevard County, Florida, lying west of Hammock Rd. Together with Parcel 2: the south ½ of the NE ¼ of the SW ¼ of Section 21, Township 21S, Range 35E, Brevard County, Florida, lying west of Hammock Rd. Together with Parcel 3: the south ½ of the NE ¼ of the SW ¼ of Section 21, Township 21S, Range 35E, Brevard County Florida, lying east of Hammock Rd. (31.43 acres) Located at 1930 Hammock Rd., Titusville, Florida; 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 limited to 62 units; a 25-foot perimeter undisturbed vegetative buffer; and a 25-foot buffer on the west property line of the west 26.328-acre parcel with a 6-foot opaque fence; 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 the project density to 62 units; the Developer/Owner will hook up to Titusville Water and Sewer services; the total maximum density for the project will include the 4.845 acres of land on the east side of Hammock Road and the 26.328 acres of land on the west side of Hammock Road, and shall be limited to a cumulative 62 units; the land on the east side of Hammock Road shall be limited to one-half acre or larger lot. Any lots allowed by the zoning category on the eastern portion of the Property can be recaptured on western portion of the Property so that the average density of the east side and west side combined is 2 units per acre or 62 units total; the minimum lot size shall be 9,000 square feet for lots on the west side of Hammock Road; there shall be a 25-foot buffer on the west property line of the west 26.328-acre parcel that will include landscaping or a fence. There shall be a 25-foot buffer that will include landscaping on the north property line of the east 4.845-acre parcel. The pepper trees along the north property line of the east 4.845-acre parcel shall be cleared at the time of site development, provided they are not in wetlands that would require mitigation; the Developer/Owner will provide adequate right-of-way (if needed to make it 50 feet), drainage, and utilities easements to facilitate the existing drainage swales and roadway along the west or east side of Hammock Road; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to RU-1-9 be APPROVED with a BDP, recorded on September 18, 2020, in ORB 8859, Pages 2698 - 2703, limiting the project density to 62 units; the Developer/Owner will hook up to Titusville Water and Sewer services; the total maximum density for the project will include the 4.845 acres of land on the east side of Hammock Road and the 26.328 acres of land on the west side of Hammock Road, and shall be limited to a cumulative 62 units; the land on the east side of Hammock Road shall be limited to one-half acre or larger lot. Any lots allowed by the zoning category on the eastern portion of the Property can be recaptured on western portion of the Property so that the average density of the east side and west side combined is 2 units per acre or 62 units total; the minimum lot size shall be 9,000 square feet for lots on the west side of Hammock Road; there shall be a 25-foot buffer on the west property line of the west 26.328-acre parcel that will include landscaping or a fence. There shall be a 25-foot buffer that will include landscaping on the north property line of the east 4.845-acre parcel. The pepper trees along the north

property line of the east 4.845-acre parcel shall be cleared at the time of site development, provided they are not in wetlands that would require mitigation; the Developer/Owner will provide adequate right-of-way (if needed to make it 50 feet), drainage, and utilities easements to facilitate the existing drainage swales and roadway along the west or east side of Hammock Road. 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.**

Prepared by: Charles B. Genoni
Beachland Managers, LLC
4760 N. US1 #201
Melbourne FL 32935

ICFN 2020204221, OR BK 8859 PAGE 2698,
Recorded 09/18/2020 at 03:24 PM, Scott Ellis, Clerk of
Courts, Brevard County
Pgs:6

**BINDING
DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 15 day of Sept., 2020 between the BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Theodore C. Goodenow, (hereinafter referred to as 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 RU 1-9 zoning classification and desire to develop the Property as a Single-Family Subdivision, 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 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 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 following conditions shall apply:
 - a. The Developer/Owner shall limit the project density to 62 Units with the current Future Land Use Designation of RES 2.

- b. The Developer/Owner will hook up to Titusville Water and Sewer services.
- c. The total maximum density for the project will include the 4.845 acres of land on the east side of Hammock Rd. and the 26.328 acres of land on the west side of Hammock Rd. and shall be limited to a cumulative 62 units.
- d. The land on East side of Hammock Rd. shall be limited to one ½ acre or larger lot . Any lots allowed by the zoning category on the eastern portion of the Property can be recaptured on western portion of the Property so that the average density of the east side and west side combined is 2 units per acre or 62 units total.
- e. The minimum lot size shall be 9,000 sq. ft. for lots on the west side of Hammock Rd.
- f. There shall be a 25' buffer on the west property line of the west 26.328-acre parcel that will include landscaping (see Exhibit B) or a fence. There shall be a 25' buffer that will include landscaping (see Exhibit B) on the north property line of the east 4.845-acre parcel. The pepper trees along the north property line of the east 4.845-acre parcel shall be cleared at the time of site development, provided they are not in wetlands that would require mitigation.
- g. The Developer/Owner will provide adequate right-of-way (if need to make it 50'), drainage, and utilities easements to facilitate the existing drainage swales and roadway along the west or east side of Hammock Rd

3. 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.

4. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Courts the cost of recording this Agreement in the Public Records of Brevard County, Florida.

5. This Agreement shall be binding and shall insure 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.

6. 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.

7. Conditions precedent. All mandatory conditions set forth in this 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 6 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 Jamison Way
Viera, FL 32940



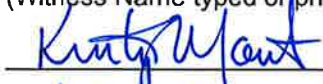
Bryan Andrew Lober, Chairman
As approved by the Board on 9/15/2020

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

WITNESSES:



Denise M. Sellers
(Witness Name typed or printed)



Kristy Mount
(Witness Name typed or Printed)

OWNER

Theodore C. Goodenow



605 Sugartown St Port St. John FL 32927

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 17th day of August 2020.

by Theodore C. Goodenow as _____ of _____,

who is personally known or produced FL drivers license as identification.

My commission expires _____

Commission no _____

SEAL

Kristy A Mount
Notary Public

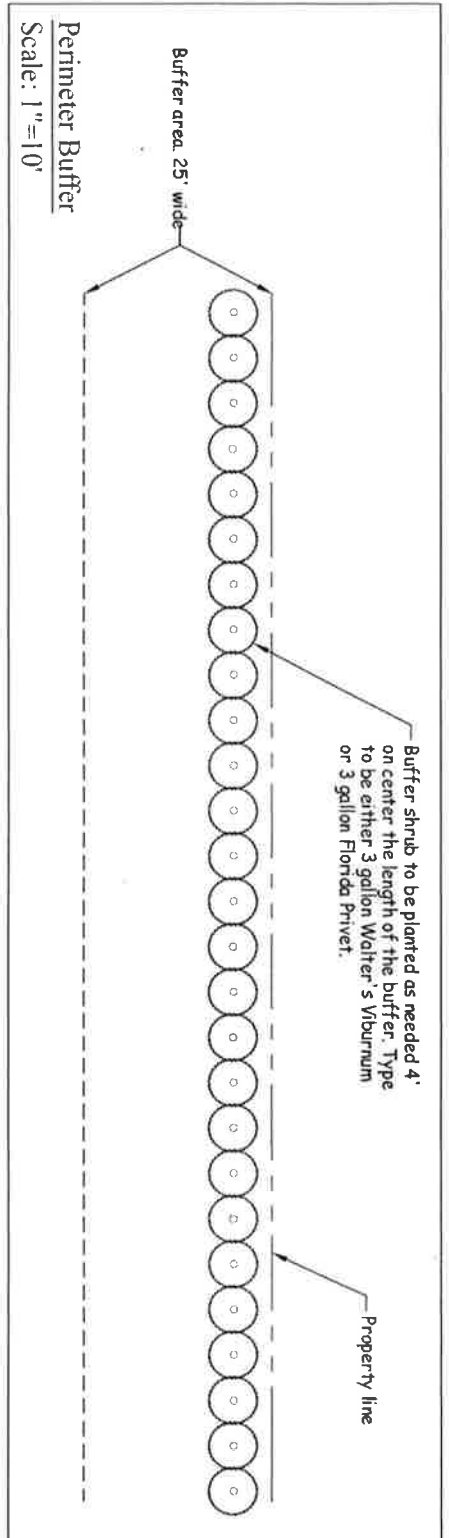
(Name typed, printed or stamped)



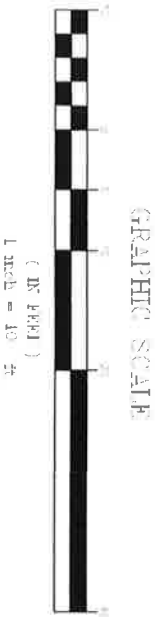
Exhibit A

Parcel 1: The north $\frac{1}{2}$ of the northeast $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 21, Township 21S, Range 35E, Brevard County, Florida, lying west of Hammock Road. Together with Parcel 2: The south $\frac{1}{2}$ of the northeast $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 21, Township 21S, Range 35E, Brevard County, Florida, lying west of Hammock Road. Together with Parcel 3: The south $\frac{1}{2}$ of the northeast $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 21, Township 21S, Range 35E, Brevard County Florida, lying east of Hammock Road.

Exhibit "B"



Parrish Landing proposed landscaping for 25' buffers for west property line and north property line of parcel east of Hammock Rd.



FNGLA Florida Native Gardeners' Association
Florida Native Plant Society
Florida Native Plant Society
Brian K. Alderfer
HCO 02184

L-1

Project No. 000000
Drawn By: BKA
Checked By: BKA
Drawing Scale: 1"=10'

Sheet 1 of 1

Landscape
Buffer Plan

REVISIONS:

No.	Date	Description
1		
2		
3		
4		
5		
6		
7		

**Environmental
Design
Services**
Landscape Architecture, Design and Construction
141 East 15th Street
Suite 200, Miami, FL 33133
Phone: (305) 260-6141
Fax: (305) 260-6142

STATE OF FLORIDA
COUNTY OF BREVARD

Theodore C. Goodenow after being duly sworn, deposes and says:

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

Account 2105262

See exhibit A

There are no mortgages on the above described property

Dated this 17 day of August, 2020.

Theodore C. Goodenow
Signature

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 17 day of August, 2020 by
Theodore C. Goodenow, who is personally known to me or who has
produced FL drivers license as identification, and who did take an oath.



Notary Public:

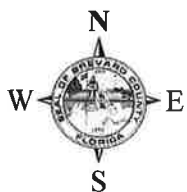
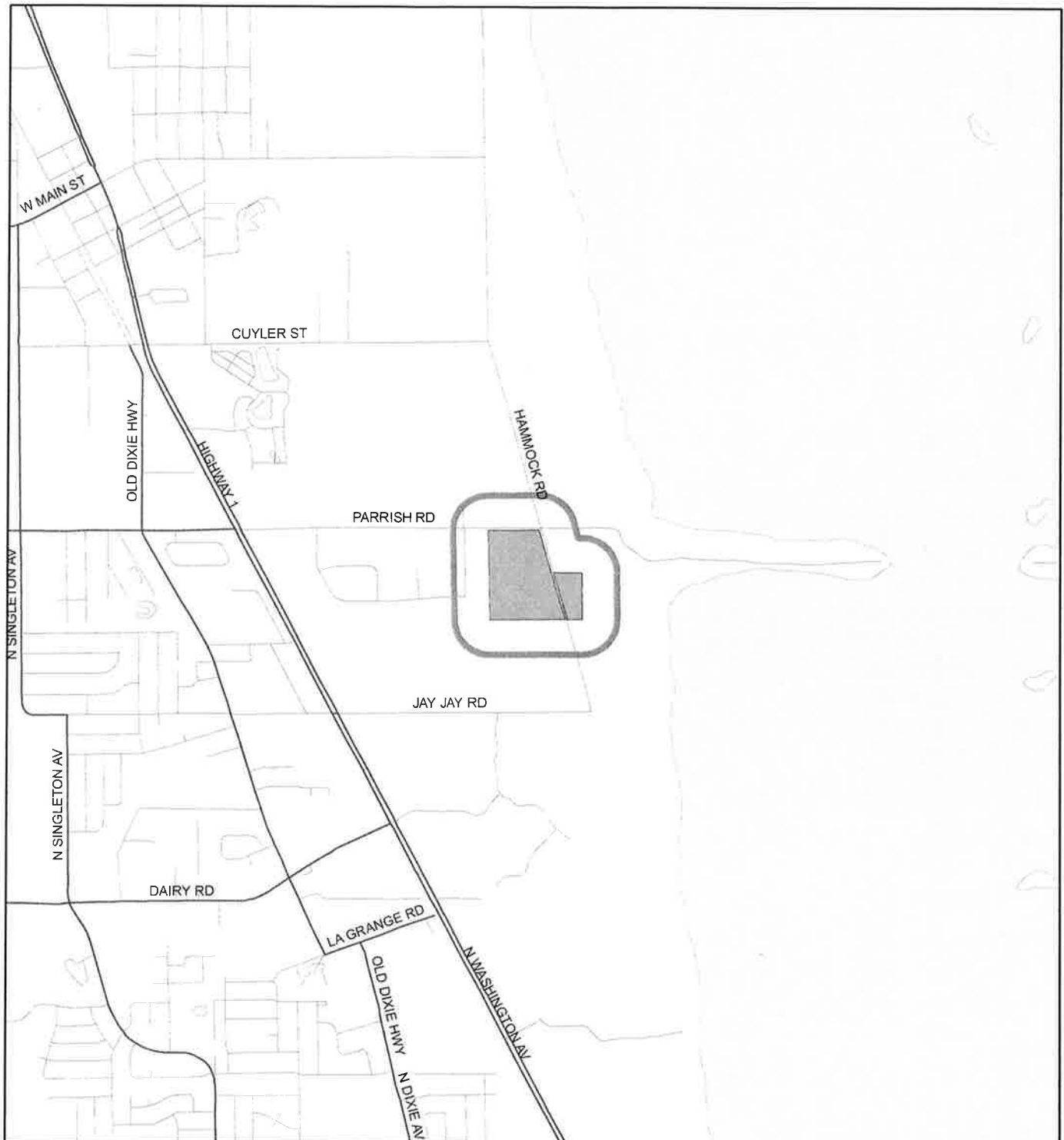
Kristya A. Mount
State of Florida at Large
My Commission Expires:

(SEAL)

LOCATION MAP

GOODENOW, THEODORE C.

19PZ00158



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

Buffer Distance: 500 feet

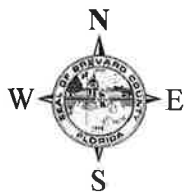
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/6/2020

— Buffer
■ Subject Property

ZONING MAP

GOODENOW, THEODORE C.
19PZ00158



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: 1/6/2020

- Subject Property
- Parcels
- Zoning

PUBLIC HEARINGS

Planning and Zoning Board
Monday, July 6, 2020, at 3:00 p.m.

and

Thursday, August 6, 2020, at 5:00 p.m.
Both at the
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, Commission Room, 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.

1. **Theodore Goodenow** (Chad Genoni) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), with a BDP (Binding Development Plan) limited to 62 units. The property is 31.43 acres, located on the west side of Hammock Road, approximately 650 feet south of Parrish Road. (1930 Hammock Road, Titusville) (19PZ00158) (Tax Account 2105262) (District 1) (This item was tabled by P&Z from the 06/15/20 P&Z meeting)

Planning and Zoning Board Action: Moia/Buchanan – Approved with a BDP limited to 62 units; a 25-foot buffer on the north property line of the east 4.845-acre parcel, to be a continuation of the 15-foot perimeter undisturbed vegetative buffer; and a 25-foot buffer on the west property line of the west 26.328-acre parcel with a 6-foot opaque fence. The vote passed 5:1 with Bartcher voting nay.

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

2. **Richard R. Jr., and Gina M. Wrubel** request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.32 acres, located on the northwest corner of McCullough Road and U.S. Highway 1. (No assigned address. In the Mims area) (20PZ00051) (Tax Account 2000354) (District 1)

Local Planning Agency Recommendation: Moia/Buchanan – Approved. The vote was unanimous.

Board of County Commissioners Action: Pritchett/Lober – Approved as recommended, and adopted Ordinance 20-11. The vote was unanimous.

3. **Richard R. Jr., and Gina M. Wrubel** request a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial). The property is 1.32 acres, located on the northwest corner of McCullough Road and U.S. Highway 1. (No assigned address. In the Mims area) (20Z00003) (Tax Account 2000354) (District 1)

Planning and Zoning Board Recommendation: Moia/Bartcher – Approved. 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