



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.4.

4/19/2022

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### **Subject:**

Acceptance, Re: Binding Development Plan with Justin M. Falscroft (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 February 3, 2022, the Board approved a change of zoning classification from RR-1 (Rural Residential) to AU (L) (Agricultural Residential, Low Intensity) with a BDP prohibiting any agritourism activity, as defined by Section 570.86, F.S., as may be amended, on the Property. The attached agreement includes this provision.

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

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

**Resolution 21Z00039**

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

**WHEREAS, Justin M. Falscroft** has requested a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Lot 6, Pine Lake Ranch Subdivision, as recorded in ORB 8705, Page 2660, of the Public Records of Brevard County, Florida. **Section 11, Township 24, Range 35.** (3.96 acres) Located at the north end of Friday Road, on the south side of S.R. 528. (3000 Friday Road, Cocoa); 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, prohibiting any agritourism activity, as defined by Section 570-86, F.S., as may be amended, on the Property; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RR-1 to AU, be approved with a BDP, recorded on 04/21/22, in ORB 9482, Pages 729 - 733, prohibiting any agritourism activity, as defined by Section 570-86, F.S., as may be amended, on the Property. 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 – January 10, 2022  
Board of County Commissioners Hearing - February 3, 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

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

**TO:** Jennifer Jones, Zoning

**RE:** Item F.4., Binding Development Plan Agreement with Justin M. Falscroft

The Board of County Commissioners, in regular session on April 19, 2022, executed Binding Development Plan Agreement with Justin M. Falscroft for property on 3.96 acres, located at the north end of Friday Road, on the south side of S.R. 528, Cocoa. 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 Deanna Scott*  
Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: Justin Falscroft  
Address: 3000 Friday Lane, Cocoa, 32926

CFN 2022100077, OR BK 9482 PAGE 729,  
Recorded 04/21/2022 at 10:18 AM, Rachel M. Sadoff,  
Clerk of Courts, Brevard County  
# Pgs:6

## 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 Justin Falscroft, (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 AU(L) zoning classification(s) and desires to develop the Property as a single-family residence, 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:

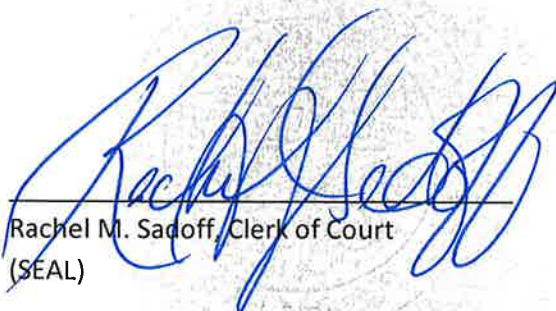
1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of 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 agrees not to conduct any agritourism activity, as defined by Section 570.86, F.S., as may be amended, on the Property and, therefore, is prohibited from conducting such activity.
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 February 3, 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:

  
Rachel M. Sadoff, Clerk of Court  
(SEAL)

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

  
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:

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

[Signature]

SCOTT RAYN  
(Witness Name typed or printed)

3000 FRIDAY LANE  
COCOA, FL 32926  
(Address)

Chloe Bramlett

Chloe Bramlett  
(Witness Name typed or printed)

[Signature]

(President)

JUSTIN M. FALSCROFT  
(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 16 day of March, 2022, by Justin M. Falscroft  
, President of \_\_\_\_\_, who is personally known to me or who has produced  
as identification.

My commission expires

SEAL

Commission No.:

[Signature]  
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 2/10/2022, given by  
Space Coast Credit Union, as mortgagor, in favor of the undersigned,  
Justin Falscroft, as mortgagee, recorded in Official Records Book 8705

Page 2661, 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

Space Coast Credit Union  
Mortgagee Corporation Name

8045 N. Wickham Rd. Melbourne FL 32940  
Street City State Zip Code

[Signature]  
\*Authorized Agent Signature

Nicole Lhenisse, Manager Loan Servicing  
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

Diyanna Douglas  
Print Name

[Signature]  
Signature

Marcie Sanders  
Print Name



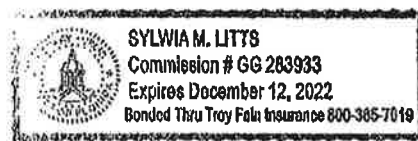
STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of March, 20 22,  
by Nicole Lherisse, who is personally known to me or who has produced  
FL DL as identification.

  
Notary Public Signature

Sylvia Litts  
Name Printed



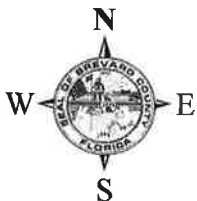
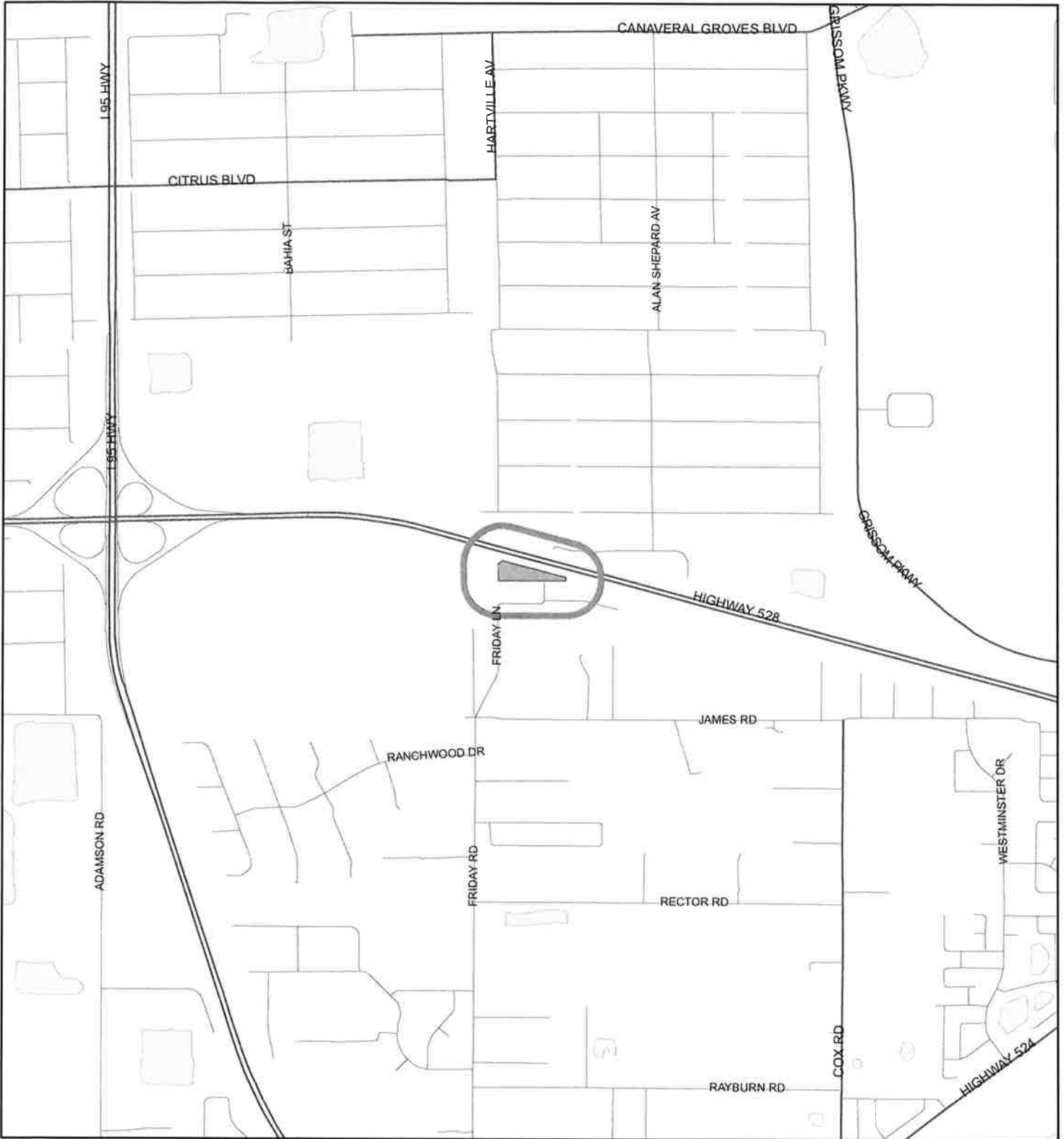
SEAL



# LOCATION MAP

FALSCROFT, JUSTIN M.

21Z00039



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: 11/4/2021

Buffer  
Subject Property

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 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 Justin Falscroft, (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 AU(L) zoning classification(s) and desires to develop the Property as a single-family residence, 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:

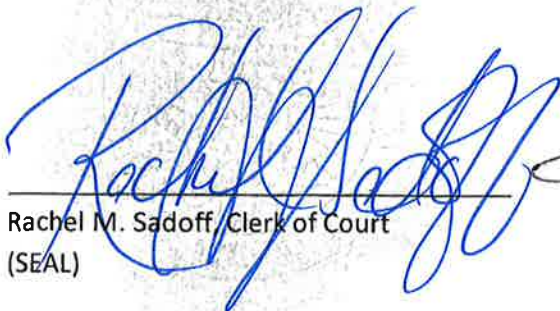
1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of 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 agrees not to conduct any agritourism activity, as defined by Section 570.86, F.S., as may be amended, on the Property and, therefore, is prohibited from conducting such activity.
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 February 3, 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:

  
Rachel M. Sadoff, Clerk of Court  
(SEAL)


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

  
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:

  
SCOTT RAWN  
(Witness Name typed or printed)

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))  
as DEVELOPER/OWNER  
3000 FRIDAY LANE  
COCOA, FL 32926  
(Address)

  
Chloe Bramlett  
(Witness Name typed or printed)

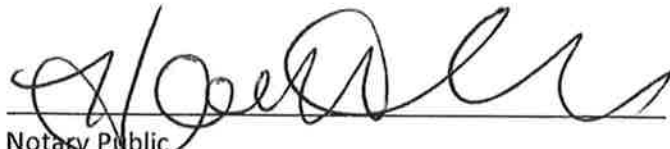
  
(President)  
JUSTIN M. FALCROFT  
(Name typed, printed or stamped)

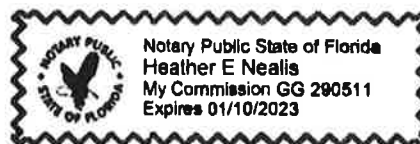
STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or  
\_\_\_\_\_ online notarization, this 16 day of March, 2022, by Justin M. Falcroft  
, President of \_\_\_\_\_, who is personally known to me or who has produced  
as identification.

My commission expires  
SEAL  
Commission No.:

  
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 2/10/2022, given by

Space Coast Credit Union

as mortgagor, in favor of the undersigned,

Justin Falscroft

as mortgagee, recorded in Official Records Book 8705

Page 2661 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

Space Coast Credit Union

Mortgagee Corporation Name

8045 N. Wickham Rd. Melbourne FL 32940  
Street City State Zip Code

[Signature]  
\*Authorized Agent Signature

Nicole Lherisse, Manager Loan Servicing  
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

Trishanna Douglas  
Print Name

[Signature]  
Signature

Marcie Sanders  
Print Name

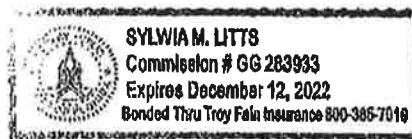
STATE OF Florida

COUNTY OF Brevard

The foregoing Instrument was acknowledged before me this 2<sup>nd</sup> day of March, 20 22,  
by Nicole Lherisse, who is personally known to me or who has produced  
FL DL as identification.

[Signature]  
Notary Public Signature

Sylvia Litts  
Name Printed

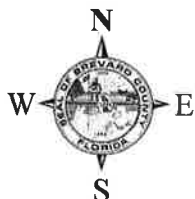
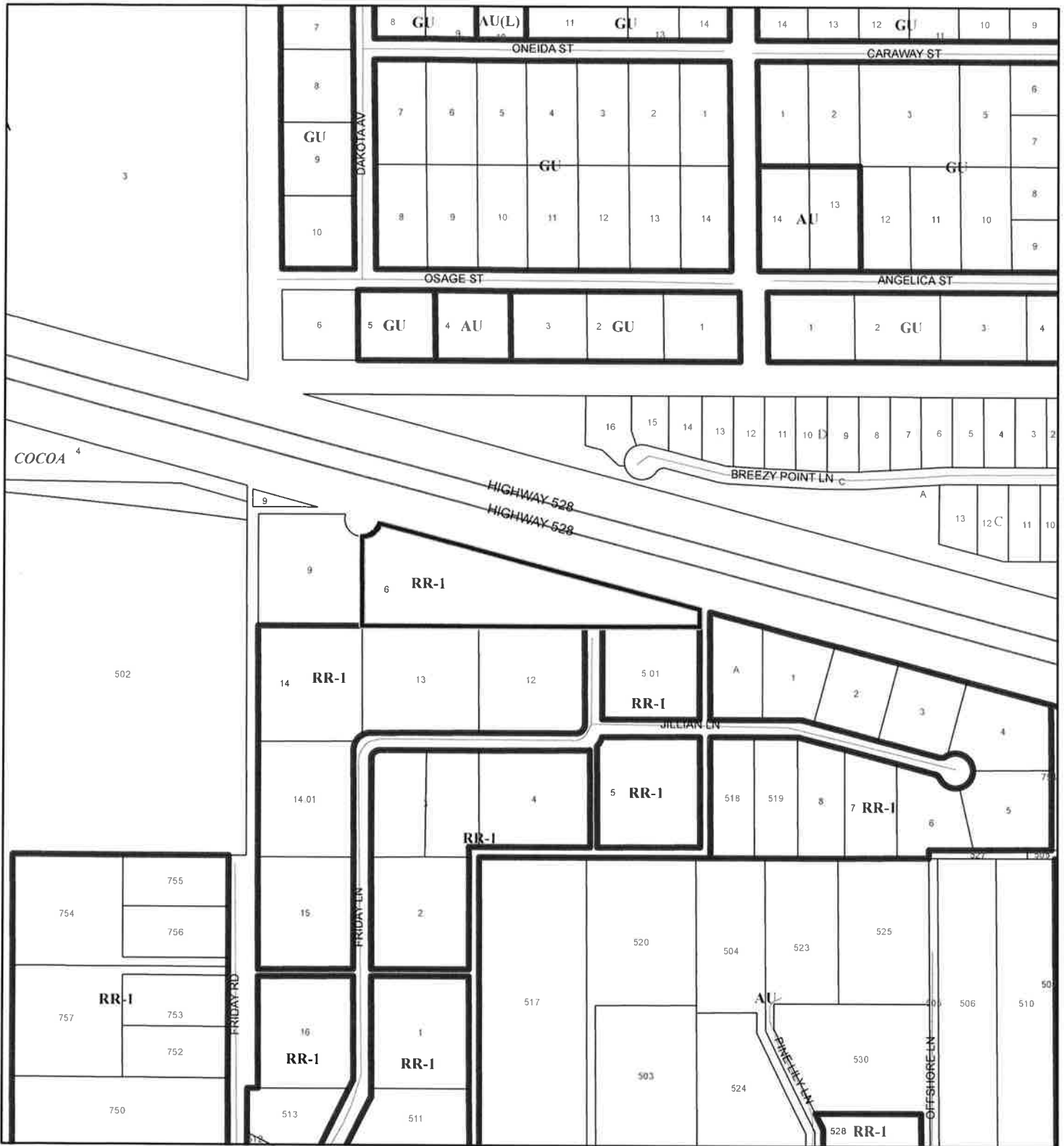


SEAL

# ZONING MAP

FALSCROFT, JUSTIN M.

21Z00039



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: 11/4/2021

**Subject Property**

Parcels

Zoning



**NMI Recommendation:** Ratterman/Carbonneau - approved as SR (Suburban Residential), with a BDP (Binding Development Plan) limited to two units per acre. The vote was unanimous

**P&Z Recommendation:** Glover/Capote - approved, with a BDP limiting density to three units per acre. The vote was 7:2, with Alward and Hopengarten voting nay.

**BCC ACTION: Lober/Pritchett - Approved with a BDP containing the following conditions: short-term rentals shall be prohibited; development shall be limited to two duplexes; mandatory sewer connection to each structure on the property; 160-foot natural buffer on the westernmost portion of the property, including the wetlands; and removal of Brazilian pepper trees in the buffer. The vote was 4:1, with Tobia voting nay. 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.**

- 11. (21Z00039) JUSTIN M. FALSCROFT** requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 3.96 acres, located at the north end of Friday Rd., on the south side of S.R. 528. (3000 Friday Rd., Cocoa) (Tax Account 2404081) (District 1)

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

**BCC ACTION: Pritchett/Lober - Approved as AU(L) (Agricultural Residential, Low-Intensity), with a BDP prohibiting Agritourism. 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.**

- 12. (21Z00041) EDIC AND ASHLEY MORENO** request a change of zoning classification from GU (General Use) to RR-1 (Rural Residential). The property is 1.11 acres, located at the west end of Sue Dr., approx. 0.15 mile west of Clearlake Rd. (1640 Sue Dr., Cocoa) (Tax Account 2423907) (District 1)

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

**BCC ACTION: Pritchett/Lober - Approved. The vote was unanimous.**

- 13. (21PZ00082) SUNIL RAJAN, SUDHIR RAJAN, AND SURESH RAJAN** (Kim Rezanka) request a Small Scale Comprehensive Plan Amendment (21S.09) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.92 acres, located on the east side of N. Courtenay Pkwy., approx. 0.11 mile south of Skyline Blvd. (No assigned address. In the Merritt Island area.) (Tax Account 2412234) (District 2)

**LPA Recommendation:** Glover/Filiberto - Tabled to the 02/14/22 P&Z meeting in order for the request to go before the MIRA board. The vote was 7:2 with Minneboo and Hopengarten voting nay.

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

## PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Scott Minnick. Pritchett/Lober. Tabled to the March 3, 2022 Zoning meeting. (21Z00025) (Tax Account 2102550)
- Item H.2. Robert Griffith. Pritchett/Lober. Tabled to the March 3, 2022 Zoning meeting. (21Z00035) (Tax Account 2102136)
- Item H.3. Sunil Rajan, Sudhir Rajan, and Suresh Rajan. Lober/Pritchett. Tabled to the March 3, 2022 Zoning meeting. (21PZ00082) (Tax Account 2412234)
- Item H.4. KJ Group FL, LLC. Pritchett/Lober. Approved a CUP for alcoholic beverages (full liquor) for on-premises consumption in conjunction with a private club, in a BU-1 zoning classification. (21PZ00074) (Tax Account 2315967)
- Item H.5. Steven H. Long. Pritchett/Lober. Approved a change of zoning classification from GU to AU. (21Z00038) (Tax Account 2538150)
- Item H.6. Bruce Fernandez. Pritchett/Lober. Adopted Ordinance 22-02, small scale comprehensive plan amendment (21S.07) to change the future land use designation from RES 1:2.5 to RES 1. (21PZ00032) (Tax Account 2005100)
- Item H.7. Bruce Fernandez. Pritchett/Lober. Approved a change of zoning classification from RRMH-2.5 to RRMH-1. (21Z00019) (Tax Account 2005100)
- Item H.8. Cobb 192, LLC. Zonka/Lober. Approved a change of zoning classification from BU-1 to BU-2. (21Z00040) (Tax Account 2800098)
- Item H.9. David C. and Cynthia R. Ramage. Pritchett/Lober. Approved a change of zoning classification from AU to RR-1. (21Z00036) (Tax Accounts 2101027 and 3020477)
- Item H.10. Howard Gasman. Pritchett/Lober. Approved a change of zoning classification from GU to AU. (21Z00045) (Tax Account 2402174)
- Item H.11. Carter and Jessica Hayes. Lober/Pritchett with nay from Tobia. Approved a change of zoning classification from AU to RU-2-4 with a BDP to include conditions: no short-term rentals, mandatory connection to sewer, limit to two duplexes, 160 foot natural buffer on the westernmost portion of the property which includes the wetlands, and removal of Brazilian pepper trees in the buffer. (21Z00042) (Tax Accounts 2318403 and 2318404)
- Item H.12. Justin M. Falscroft.** Pritchett/Lober. Approved a change of zoning classification from RR-1 to AU-L with a BDP restricting agri-tourism. (21Z00039) (Tax Account 2404081)
- Item H.13. Edic and Ashley Moreno. Pritchett/Lober. Approved a change of zoning classification from GU to RR-1. (21Z00041) (Tax Account 2423907)
- Item H.14. Public hearing, re: adoption of EAR based amendments, 2017-2.2 DEO #17-3ER. Lober/Pritchett. Adopted Ordinance No. 22-03, amending Article III, Chapter 62 of the Code of Ordinance of Brevard County, entitled, "The Comprehensive Plan", setting forth Plan Amendment 2017-2.2; approved staff's recommendations of Chapter 10: Coastal Management Element, adding a new objective for new policies 14.1 through 14.13, developed specifically to comply with Section 163.3178(2)(f), F.S. (Perils of Flood); and approved the following changes to Policy 14.6 and 14.9 of the EAR-based Amendments:

Policy 14.6 The County must develop mechanisms to evaluate and recommend new