



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.7.

5/19/2020

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### **Subject:**

Acceptance, Re: Binding Development Plan with Estrella Funeias Shouppe (19PZ00140) (District 5)

### **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 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 February 6, 2020, the Board approved a change of zoning classification from GU (General Use), RRMH-1 (Rural Residential Mobile Home), and AU (Agricultural Residential) to all AU, with a BDP limiting the density to a total of 7 lots.

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

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



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

May 20, 2020

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

**TO:** Jennifer Jones, Zoning

**RE:** Item F.7., Binding Development Plan Agreement with Estrella Funeias Shouppe

The Board of County Commissioners, in regular session on May 19, 2020, executed Binding Development Plan with Estrella Funeia Shouppe. Said Plan was recorded in OR/BK 8746/231. 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

*for Donna Scott*  
Kimberly Powell, Deputy Clerk

/dt

Encls. (2)

**Resolution 19PZ00140**

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

**WHEREAS, Estrella Funeias Shouppe** has requested a change of zoning classification from GU (General Use), RRHM-1 (Rural Residential Mobile Home), and AU (Agricultural Residential) to all AU, with a BDP (Binding Development Plan) limited to 7 lots, on property described as Lots 14 thru 32 and Lots 58 thru 76, Unit 5, Plot Plans of Sunshine Grove, according to the Plat thereof, as recorded in Plat Book 21, Page 78, of the Public Records of Brevard County, Florida. Less that 120-foot right-of-way, per ORB 3124, Page 2689 of said Public Records. **Section 26, Township 30, Range 37.** (31.04 +/- acres) Located on the north side of Willowbrook Street, approximately 0.75 miles west of Babcock Street. (550 Willowbrook Street, Palm Bay); 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 7 lots; 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 change of zoning classification from GU, RRHM-1, and AU to all AU, be approved as recommended with a BDP, recorded on May 20, 2020, in ORB 8746, Pages 231 – 236, limited to 7 lots. 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 May 20, 2020.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida

*Bryan Andrew Lober*

Bryan Lober, Chair

Brevard County Commission

As approved by the Board on May 19, 2020.

ATTEST:

*Scott Ellis*

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – January 13, 2020

Board of County Commission Hearing – February 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: \_\_\_\_\_

Address: \_\_\_\_\_

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 19 day of May, 2020 between the  
BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of  
the State of Florida (hereinafter referred to as "County") and  
ESTRELLA SHOUPPE, an INDIVIDUAL  
(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 zoning classification(s) And desires to  
develop the Property 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

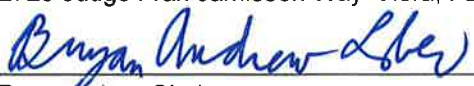
2. The Developer/Owner shall limit density to (7) lots for entire property. In the event property is divided the number of lots per parcel can be determined by Developer/ owner not to exceed (7) lots total, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
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 Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
5. 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 2/6/20. 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 8 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:

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

  
\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)


  
\_\_\_\_\_  
Bryan Lober, Chair  
As approved by the Board on May 19, 2020

(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

  
\_\_\_\_\_  
(Witness Name typed or printed)

  
\_\_\_\_\_  
(Address)

  
\_\_\_\_\_  
(Witness Name typed or printed)

\_\_\_\_\_  
(Address)

STATE OF FLORIDA §  
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of, 2020

by ESTRELLA SHOUPPE, who is personally known to me or who has

produced FL DRIVERS LICENSE as identification.

My commission expires:  
Commission No.:

  
\_\_\_\_\_  
Notary Public SEAL  
(Name typed, printed or stamped) Lynne Gowins



Exhibit "A"

Unit C of Block B, Barefoot Bay Unit 2, Part 11, as recorded in ORB 3633, Pages 923 – 924, of the Public  
Records of Brevard County, Florida




**JOINDER IN BINDING DEVELOPMENT PLAN BY MORTGAGEE CORPORATION**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated JAN 19, 2018, given by ESTRELLA FUNELAS SHOUPPE, as mortgagor, in favor of the undersigned, RICHARD FOSTER, as mortgagee, recorded in Official Records Book 8073, Page 2579, 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**

RICHARD FOSTER  
Mortgagee Name


12202 MELON ST SAN ANTONIO TX 78247  
Street City State Zip Code

 RICHARD FOSTER, INDIVIDUAL MORTGAGEE  
\*Authorized Agent Signature Authorized Agent Printed Name and Title

\*Note: if a corporation, 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

May Rose Funelas  
Print Name

  
Signature

  
Print Name

STATE OF Texas

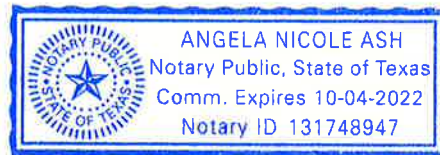
COUNTY OF Bexar

The foregoing instrument was acknowledged before me this 20 day of March, 2020,

by Richard Michael Foster, who is personally known to me or who has produced  
Texas Drivers License as identification.

[Signature]  
Notary Public Signature

Angela Ash  
Name Printed

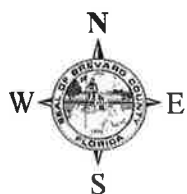
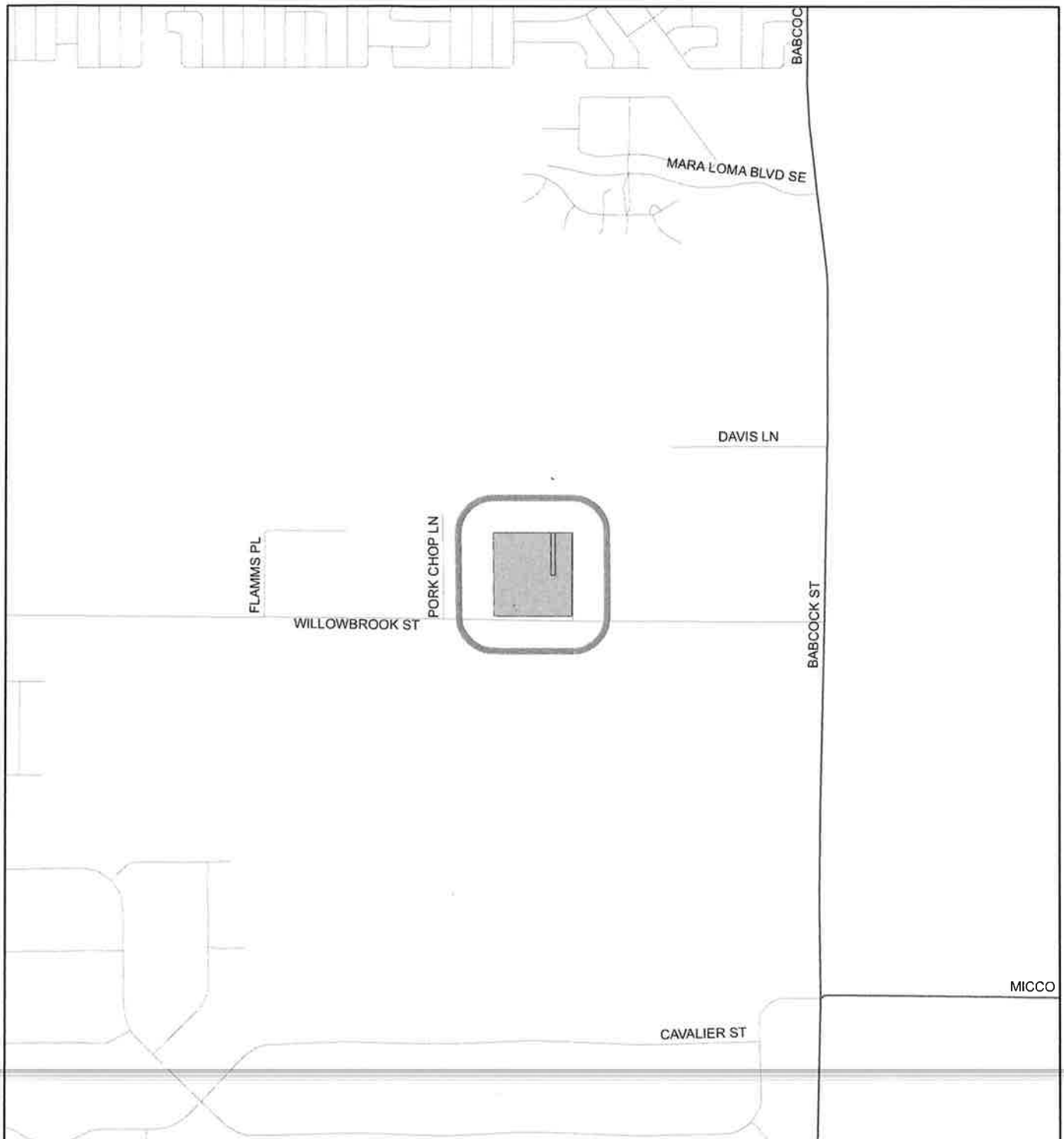


[Signature]

SEAL

# LOCATION MAP

SHOUPPE, ESTRELLA FUNEIAS  
19PZ00140



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

Buffer Distance: 500 feet

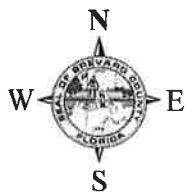
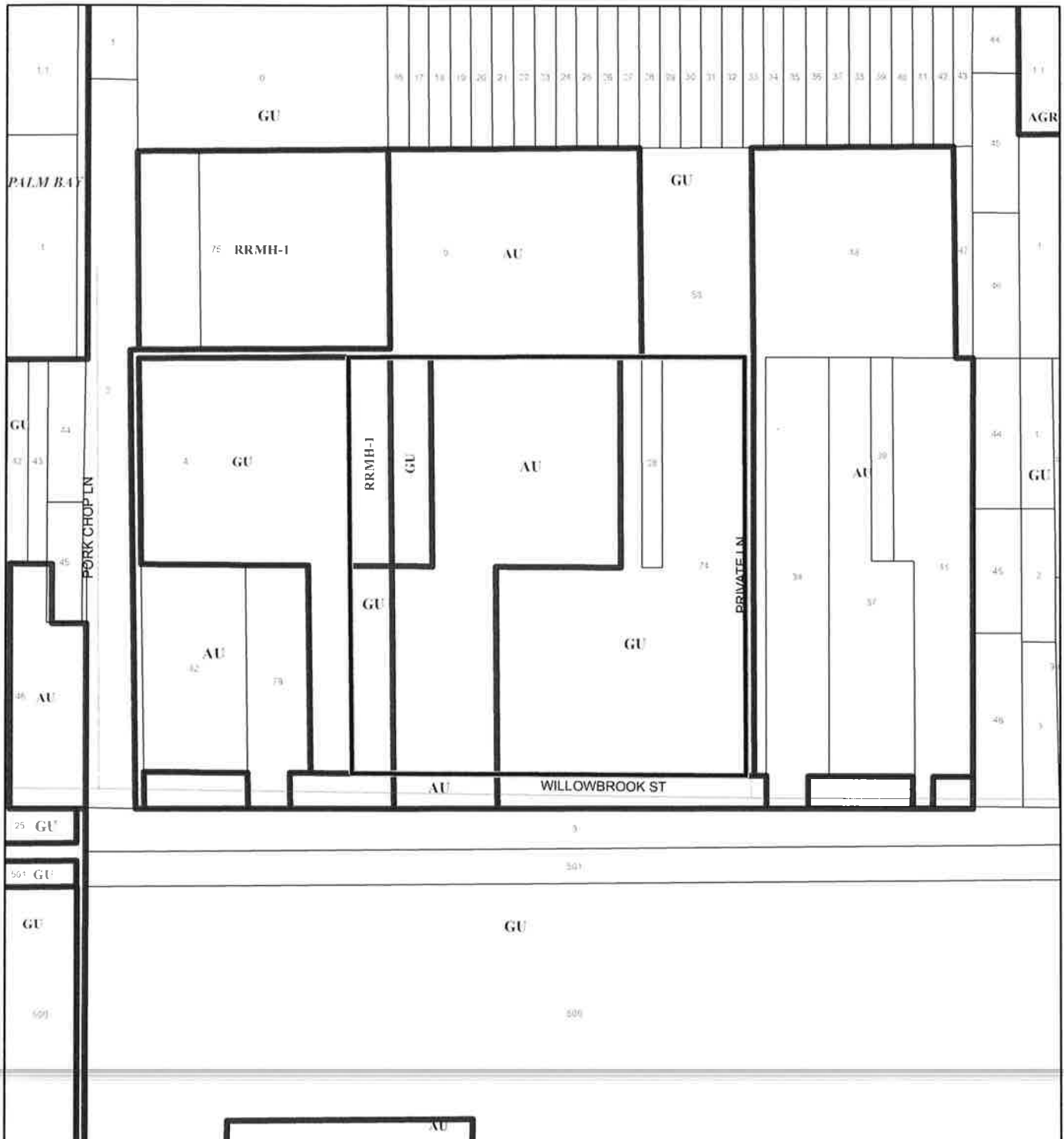
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/8/2019

— Buffer  
■ Subject Property

# ZONING MAP


SHOUPPE, ESTRELLA FUNEIAS  
19PZ00140



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: 11/8/2019

 Subject Property

 Parcels

 Zoning

9. **Reagen & McKinley, LLC** (Carmine Ferraro) requests a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant, in a PUD (Planned Unit Development) zoning classification. The property is .06 acres / 2,800 square feet, located at 2348 Citadel Way, Unit 105, Melbourne. (19PZ00138) (Tax Account 2626895) (District 4)

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

**Board of County Commissioners Action:** Pritchett/Isnardi – Approved as recommended. The vote was unanimous. (Smith absent)

10. **Beatrice A. Akman** (Corey Lancaster) requests a CUP (Conditional Use Permit) for a Guesthouse, in an RU-1-11 (Single-Family Residential) zoning classification. The property is 0.96 acres, located at 1291 Newfound Harbor Drive, Merritt Island. (19PZ00139) (Tax Account 2514604) (District 2)

**Planning and Zoning Board Recommendation:** Moia/Filiberto – Tabled to the 2/10/20 Planning and Zoning Board meeting as the applicant failed to appear. The vote was unanimous.

**Board of County Commissioners Action:** Pritchett/Lober – Tabled to the 03/05/20 Commission meeting. The vote was unanimous. (Smith absent)

11. **Estrella Funeias Shouppe** (Frederick Bertolotti) requests a change of zoning classification from GU (General Use), RRHM-1 (Rural Residential Mobile Home), and AU (Agricultural Residential) to all AU, with a BDP (Binding Development Plan) limited to 7 lots. The property is 31.04 +/- acres, located at 550 Willowbrook Street, Palm Bay) (19PZ00140) (Tax Accounts 3000537, 3000560) (District 5)

**Planning and Zoning Board Recommendation:** Filiberto/Moia – Approved with a BDP (Binding Development Plan) limited to 7 lots. The vote was unanimous.

**Board of County Commissioners Action:** Isnardi/Lober – Approved as recommended, with a BDP limited to 7 lots. The vote was unanimous. (Smith absent) 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. **Barefoot Bay Recreation District** (Ninette Ierome) request a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant in a BU-1-A zoning classification. The property is 1,500 square feet, located at 937 C Barefoot Boulevard, Micco. (19PZ00141) (Tax Account 3004299) (District 3)

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

**Board of County Commissioners Action:** Tobia/Lober – Approved as recommended. The vote was unanimous. (Smith absent)

## **PLANNING AND ZONING BOARD RECOMMENDATIONS**

- Item H.1. Zamira and Gezim Doci. Isnardi/Pritchett. Denied a change of zoning classification from RU-1-7 to RU-2-12. Commissioner Smith was absent.
- Item H.2. Timothy D. and Rebecca F. Reaves. Pritchett/Lober. Approved as recommended for a Small Scale Comprehensive Plan Amendment, (19S.12), Ordinance No. 20-03. Commissioner Smith was absent.
- Item H.3. Timothy D. and Rebecca F. Reaves. Pritchett/Lober. Approved as recommended with BDP limited to one single-family residence. Commissioner Smith was absent.
- Item H.4. Charles and Lindsey Michell. Pritchett/Isnardi. Approved as recommended. Commissioner Smith was absent.
- Item H.5. Robert and Donna Murico. Withdrawn by applicant. Letter received 01/13/2020.
- Item H.6. John Vogt. Pritchett/Lober. Approved as recommended. Commissioner Smith was absent.
- Item H.7. Thomas P. and Shannon Harmony. Isnardi/Tobia. Approved as recommended. Commissioner Smith was absent.
- Item H.8. Holly Enterprises of Brevard, Inc. Isnardi/Tobia. Approved as recommended. Commissioner Smith was absent.
- Item H.9. Reagen & McKinley, LLC. Pritchett/Isnardi. Approved as recommended. Commissioner Smith was absent.
- Item H.10. Beatrice A. Akman. Pritchett/Lober. Continued to March 5, 2020, BOCC Meeting. Commissioner Smith was absent.
- Item H.11. Estrella Funeias Shouppe. Isnardi/Lober. Approved as recommended with a BDP, limited to seven lots. Commissioner Smith was absent.
- Item H.12. Barefoot Bay Recreation District. Tobia/Lober. Approved as recommended. Commissioner Smith was absent.
- Item H.13. Port St. John Station, LLC. Pritchett/Lober. Approved as recommended. Commissioner Smith was absent.
- Item H.14. Bonnie E. Douglas, Trustee. Tobia/Lober. Approved as recommended with a BDP limited to 173 mobile homes sites. Commissioner Smith was absent.