



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.1.

3/23/2021

Subject:

Acceptance, Re: Binding Development Plan with 2354 Talmadge Drive, LLC (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept, and the Chairman 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 November 5, 2020, the Board approved a request for a Binding Development Plan on 2.29 acres, zoned RU-1-9 (Single-Family Residential), to limit the density to 4 units per acre.

The Developer/Owner shall limit the westerly 2.29 acres of RU-1-9 to a density of 4 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

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

March 24, 2021

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.1., Binding Development Plan with 2354 Talmadge Drive, LLC

The Board of County Commissioners, in regular session on March 23, 2021, executed Binding Development Plan with 2354 Talmadge Drive, LLC. Said Plan was recorded in BK/PG 9063/1956. 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

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Resolution 20Z00023

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

WHEREAS, 2354 Talmadge Drive, LLC has requested a change of zoning classification from RU-1-9 (Single-Family Residential) and BU-1 (General Retail Commercial) to BU-1-A (Restricted Neighborhood Commercial) (0.98 acres), and a BDP (Binding Development Plan) limited to 4 units per acre (2.29 acres +/-) on property described as follows; (See Attached); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-9 and BU-1 to BU-1-A (0.98 acres), and a BDP, recorded on March 25, 2021, in ORB 9063, Pages 1956 - 1961, limited to 4 units per acre (2.29 acres +/-) be approved. 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 March 25, 2021.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida


Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on March 25, 2021.

ATTEST:


Rachel Sadoff, CLERK

(SEAL)

Planning and Zoning Board Hearing – October 5, 2020
County Commission Zoning Hearing - November 5, 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.**

Resolution 20Z00023 (continued)

Legal Description:

Begin at the NE corner of Lot 7, Jones Ward Plat of Mims, according to the map or plat thereof, recorded in Plat Book 1, Page 4, and Plat Book 2, Page 37 of the Public Records of Brevard County, Florida. Said point also lying on the westerly right-of-way line of Harry T. Moore Avenue and the southerly right-of-way line of East Main Street. Thence run along said westerly right-of-way line of Harry T. Moore S00deg49'13"E for 292.98 ft. to a point on the northerly right-of-way line of Jefferson Street. Thence run along the northerly right of Jefferson Street S61deg53'05"E for 60.76 ft. to the SW corner of Lot 9, of said Jones Ward Plat of Mims. Thence run along the easterly line of Lots 5 & 10, of said Jones Ward Plat of Mims, N27deg56'28"W for 360.10 ft. to the southerly right-of-way line of East Main Street. Thence run along said southerly right-of-way line of East Main Street, N89deg05'28"E for 218.15 ft. to the point of beginning. **Section 17, Township 21, Range 35.** (0.98 acres); and a BDP (Binding Development Plan) limited to 4 units per acre, on property described as follows: Begin at the NW corner of Lot 1, Jones Ward Plat of Mims, according to the map or plat thereof, recorded in Plat Book 1, Page 4, and Plat Book 2, Page 37, of the Public Records of Brevard County, Florida. Said point also lying on the easterly right-of-way line of Myrtle Ave. and the southerly right-of-way of E. Main St. Thence run along said southerly right-of-way line of E. Main St. N89deg04'01"E, for 359.33 ft. to a point. Thence run S27deg56'28"E for 230.08 ft. to the NE corner of Lot 10 of said Jones Ward Plat of Mims. Thence run S62deg03'32"W for 320 ft. to the NW corner of Lot 13 of said Jones Ward Plat of Mims, said point also lying on the northeasterly right-of-way line of Myrtle Ave. Thence run along said northeasterly line of Myrtle Ave. N27deg57'41"W for 393.25 ft. to the point of beginning.

Prepared by 2354 Talmadge Drive, LLC
Address: 2050 White Sand Drive, Titusville, Florida 32780

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 23 day of March, 2021, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and 2354 Talmadge Drive, LLC, a Florida corporation (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 a Binding Development Plan on the westerly 2.29 acres as described in Exhibit "A", of an overall 3.27-acre parcel and desires to develop the Property as residential, 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:

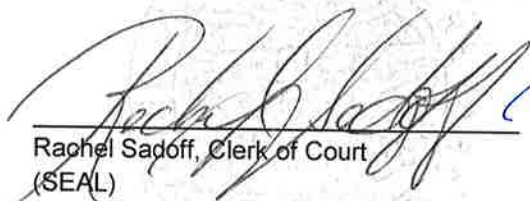
1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit the westerly 2.29 acres of RU-1-9 to a density of 4 units per acre 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. The Developer/Owner, upon execution of this Agreement, shall pay the Clerk of Court all costs 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 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 November 5, 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 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.
7. 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 6 above.
8. 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 Sadoff, Clerk of Court
(SEAL)



Rita Pritchett, Chair

As approved by the Board on 3/23/2021


(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


R. RUMBLE
(Witness Name typed or printed)

2354 Talmadge Drive LLC
2050 White Sand Trail, FL
(Address)


J. Johns
(Witness Name typed or printed)


(President)
Aldon Bookhardt, authorized member.
(Name typed, printed or stamped)

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me, by means of X physical presence or
_____ online notarization, this 8th day of MARCH, 2021, by
ALDON BOOKHARDT, AUTHORIZED member of
President of 2354 TALMADGE DR - LLC, who is
personally known to me or who has produced FLORIDA D.L. as identification.

My commission expires
SEAL
Commission No.:




Notary Public

R. RUMBLE

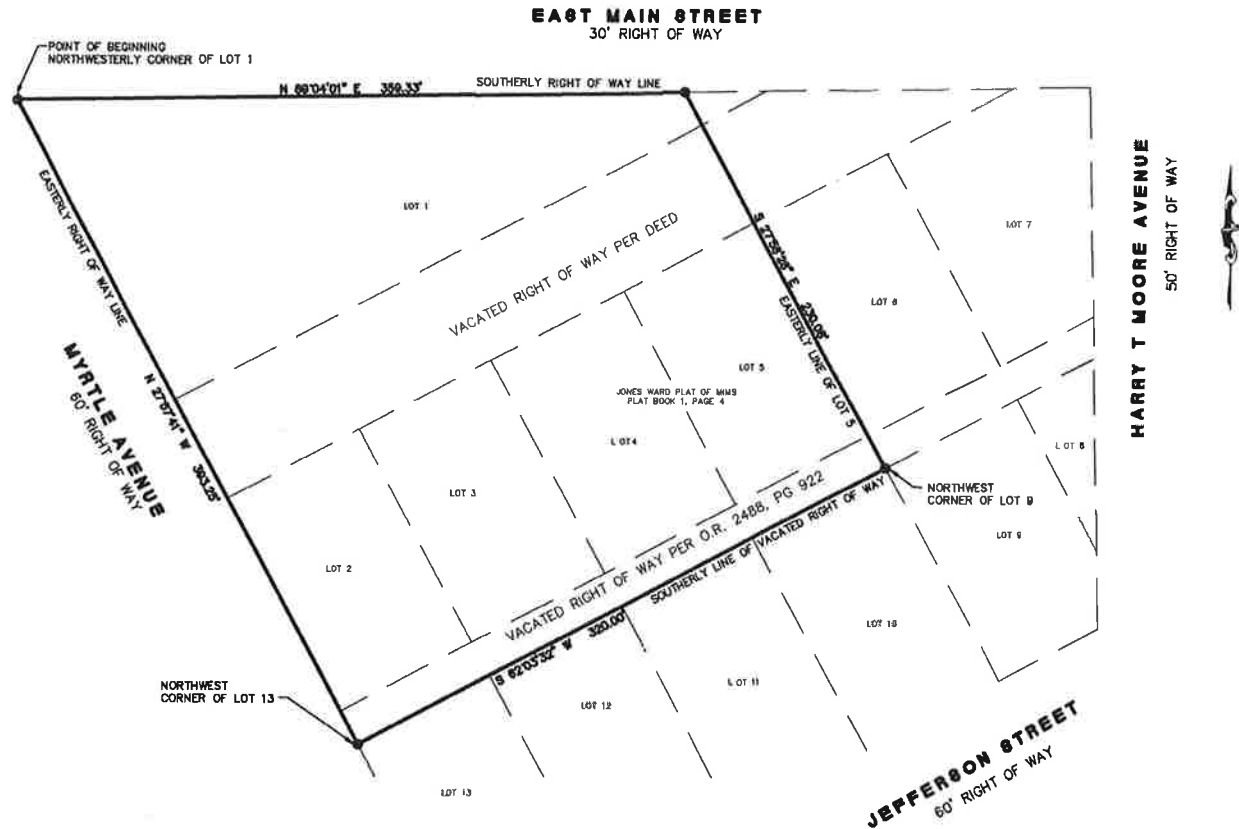
(Name typed, printed or stamped)

DEPUTY CLERK, per F.S. 695.03/92.50
Rachel M. Sadoff, Clerk
Brevard County, Florida

"Exhibit A"

LEGAL DESCRIPTION:

Begin at the Northwest corner of Lot 1 Jones Ward Plat of Mims, according to the map or plat thereof recorded in Plat Book 1, Page 4 and Plat Book 2, Page 37 of the Public Records of Brevard County, Florida. Said point also lying on the Easterly right of way line of Myrtle Avenue and the Southerly right of way line of East Main Street. Thence run along said Southerly right of way line of East Main Street N 89°04'01" E for 359.33' to a point. Thence run S 27°56'28" E for 230.08' to the Northeast corner of Lot 10. of said Jones Ward Plat of Mims. Thence run S 62°03'32" W for 320.00' to the Northwest corner of Lot 13 of said Jones Ward Plat of Mims said point also lying on the Northeasterly right of way line of Myrtle Avenue. Thence run along said Northeasterly line of Myrtle Avenue N 27°57'41" W for 393.25' to the Point of Beginning. Containing: 99,749 sq. ft. or 2.29 acres±



P.O. Box 568891 Orlando, Florida 32856
phone (407) 306-0904 fax (407) 277-5482

civil and environmental
engineering consultants
surveying
Certified DSE and WSE

We hereby certify this sketch of survey to be true and correct to the best of our knowledge and belief as prepared under our direction. We also certify this sketch meets the minimum technical standards of Florida Administrative Code Rule 5J-17, adopted by the Florida Board of Professional Surveyors & Mappers, pursuant to Florida Chapter 2009-66, effective, October 1, 2009.

Russell A. Brach
Russell A. Brach
Professional Surveyor
Florida License No. 35209
Florida and Business #6939

SKETCH--&--DESCRIPTION

SCALE:	1"=100'
DRAWN BY:	RAB
FILE NAME:	MIMS-RES
DRAWN DATE:	02/05/21
JOB No.	RB-27

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 OCTOBER 11, 2019, given by

2354 TALMADGE DRIVE, LLC, as mortgagor, in favor of the undersigned,
JACQUELINE BOYCE MELLOR, TRUSTEE OF THE
JACQUELINE BOYCE MELLOR LIVING TRUST, DTD 9/5/18, as mortgagee, recorded in Official Records Book 8543,

Page 749, 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 ^{NAME}~~CORPORATION NAME~~ AND ADDRESS

JACQUELINE BOYCE MELLOR LIVING TRUST, DTD 9/5/18

Mortgagee Corporation Name

P.O. BOX 152 EDGEWATER FL 32132
Street City State Zip Code

Jacqueline D. Mellow JACQUELINE BOYCE MELLOR, TRUSTEE
*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

Jim R
Signature

Aldon Bookhardt
Print Name

Debbie Joyce
Signature

Debbie Joyce
Print Name

STATE OF FLORIDA

COUNTY OF VOLUSIA

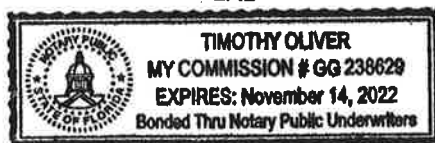
The foregoing instrument was acknowledged before me this 6th day of AUGUST, 20 20,
by Jacqueline Boyce Mellor, Trustee, who is personally known to me or who has produced
_____ as identification.

Tim Oliver

Notary Public Signature

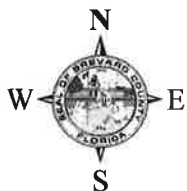
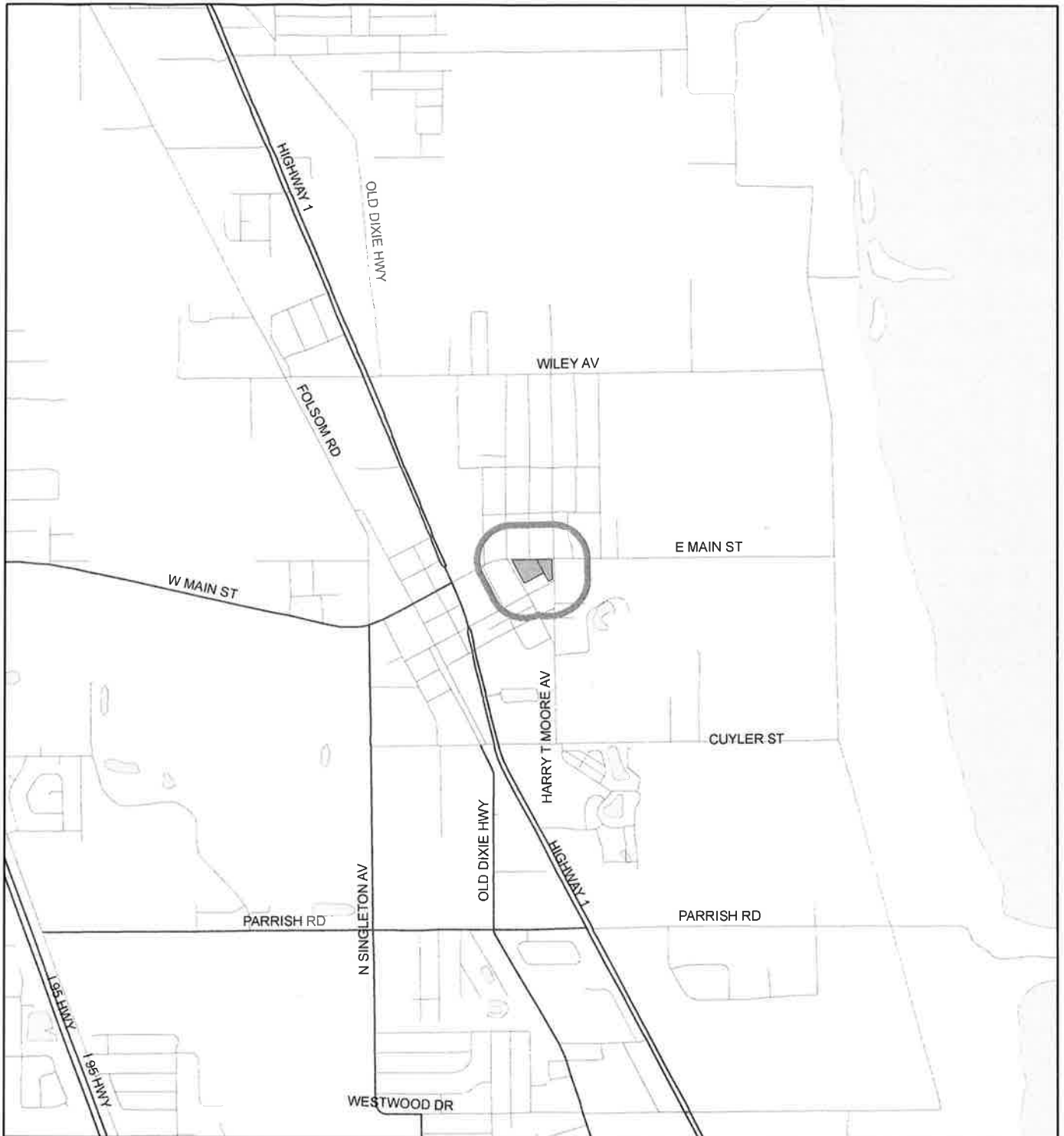
TIMOTHY OLIVER
Name Printed

SEAL



LOCATION MAP

2354 TALMADGE DRIVE, LLC
20Z00023



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: 8/12/2020

Buffer

Subject Property

ZONING MAP

2354 TALMADGE DRIVE, LLC

20Z00023



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: 8/12/2020

- Subject Property
- Parcels
- Zoning
- RU-1-9- and BU-1 To BU-1-A
- Add BDP

- 4. 2354 Talmadge Drive, LLC** (Aldon Bookhardt) requests a change of zoning classification from RU-1-9 (Single-Family Residential) and BU-1 (General Retail Commercial) to BU-1-A (Restricted Neighborhood Commercial) on 0.98 acres; and a BDP (Binding Development Plan) limited to 4 units per acre on 2.29 acres. The property is located on the southwest corner of East Main Street and Harry T. Moore Avenue. (No assigned address. In the Mims area.) (20Z00023) (Tax Account 2103831) (District 1)

Planning and Zoning Board Recommendation: Bartcher/Filiberto – Approved a change of zoning classification from RU-1-9 and BU-1 to BU-1-A on 0.98 acres; and a BDP limited to 4 units per acre on 2.29 acres. The vote was unanimous.

Board of County Commissioners Action: Pritchett/Lober – Approved as recommended, with a BDP limited to 4 units per acre on 2.29 acres. 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.

Local Planning Agency Agenda:

1. Extension of Temporary Moratorium on New Applications of Biosolids to Lands within Brevard County.

Local Planning Agency Recommendation: Filiberto/Bartcher – Approved. The vote was unanimous.

Public Comment

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Jennifer Robbins. Pritchett/Lober. Approved changing zoning classification from GU to RR-1 as recommended.
- Item H.2. Christine Ruggiero and Michael A. Sollecito. Pritchett/Lober. Approved changing zoning classification from RR-1 to RRMH-1 as recommended.
- Item H.3. 2354 Talmadge Drive, LLC. Pritchett/Lober. Adopted Ordinance No. 20-20, approving the Small Scale Comprehensive Plan Amendment (20S.06) changing Future Land Use from RES 4 to NC as recommended.
- Item H.4.** 2354 Talmadge Drive, LLC. Pritchett/Lober. Approved changing zoning classification from RU-1-9 and BU-1 to BU-1-A on 0.98 acres, with a Binding Development Plan limited to four units per acre on 2.29 acres on the RU-1-9 portion as recommended.
- Item H.5. St. Luke's Episcopal Church of Courtenay FL, Inc. Pritchett/Lober. Adopted Ordinance No. 20-21, approving the Small Scale Comprehensive Plan Amendment (20S.05) changing Future Land Use from RES 1:2.5 to RES 1 as recommended.
- Item H.6. St. Luke's Episcopal Church of Courtenay FL, Inc. Pritchett/Lober. Approved changing zoning classification from IN(L) to RR-1 as recommended.
- Item H.7. Brevard Tower Communications, Inc. Isnardi/Smith. Approved Transmittal of the 2020-2.1 Large Scale Plan Amendment changing Future Land Use from RES 2 and NC to CC as recommended.