



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

F.2.

7/12/2022

### Subject:

Acceptance, Re: Binding Development Plan with Rotation Holdings, LLC

### Fiscal Impact:

None

### Dept/Office:

Planning & 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 May 5, 2022, the Board approved an amendment to an existing BDP with the following conditions:

- Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet.
- Developer/owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along the east property line.
- Automotive repair shall be limited to minor automotive repair only, as defined in Section 62-1102.

The attached agreement includes these provisions.

### Clerk to the Board Instructions:

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

**Resolution 22Z00007**

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

**WHEREAS, Rotation Holdings, LLC** has requested an amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on property described as Tax Parcel 259.1, as recorded in ORB 7378, Pages 2135 - 2136, of the Public Records of Brevard County, Florida. **Section 08, Township 24, Range 36.** (1.38 acres) Located on the east side of N. U.S. Highway 1, approx. .20 miles north of Cidco Rd. (3640 N. U.S. Hwy 1, 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 with a BDP containing the following conditions: 1.) Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet; 2.) Developer/owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along the east property line.; and 3.) Automotive repair shall be limited to minor automotive repair only, as defined in Section 62-1102; 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 as recommended, containing the following conditions: 1.) Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet; 2.) Developer/owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along the east property line.; and 3.) Automotive repair shall be limited to minor automotive repair only, as defined in Section 62-1102; 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 BU-2 zoning classification, be approved with a BDP, recorded on 07/14/22, in ORB 9560, Pages 500 - 505, containing the following conditions: 1.) Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet; 2.) Developer/owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along the east property line.; and 3.) Automotive repair shall be limited to minor automotive repair only, as defined in Section 62-1102. 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 July 14, 2022.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

Kristine Zonka, Chair  
Brevard County Commission

As approved by the Board on July 12, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – April 18, 2022  
Board of County Commissioners Hearing - May 5, 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

July 13, 2022

**MEMORANDUM**

TO: Jennifer Jones, Zoning

RE: Item F.2., Binding Development Plan Agreement with Rotation Holdings, LLC

The Board of County Commissioners, in regular session on July 12, 2022, executed Binding Development Plan with Rotation Holdings, LLC, for property located at a Tax Parcel 259.1, as recorded in ORB 7378, pages 2135 – 2136, of the Public Records of Brevard County, Florida, Section 8, Township 24, and Range 36. 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

*Kimberly Powell*  
Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: Rotation Holdings, LLC  
Address: 3640 N Hwy 1, Cocoa FL, 32926

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 12 day of July, 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 Rotation Holdings, a LLC 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 the BU-2 zoning classification, 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. 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. Developer/Owner shall provide a 50-foot buffer on the East Property Line and increase vegetation by adding Bald Cypress trees every 25ft, Wax Myrtle every 5ft, and Muhly Grass every 3ft.
3. The Developer/Owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along east property line.
4. Automotive repair shall be limited to minor automotive repair only, as defined in Section 62-1102.
5. 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.

6. 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.
7. 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 9/6/22. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
8. 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.
9. 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 8 above.
10. 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. Saddoff, 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 July 12, 2022

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

WITNESSES:

Sydney Per  
Sydney Rieman  
(Witness Name typed or printed)

DEVELOPER/OWNER

Rotation Holdings, LLC

3640 N Hwy 1 Cocoa FL 32926

Rachelle Stelzer  
Rachelle Stelzer  
(Witness Name typed or printed)

[Signature]  
(President)  
Don Smith  
(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of physical presence or, this  
18 day of May, 2022, by

President of Rotation Holdings, LLC, who is personally known to me or who has

produced FL Drivers License as identification.

My commission expires

SEAL

Commission No.:



**KAREN JELLISON**  
Notary Public  
State of Florida  
Comm# HH237299  
Expires 6/28/2026

[Signature]  
Notary Public  
(Name typed, printed or stamped)

Exhibit A  
Legal Description

Tax Parcel 259.1, as recorded in ORB 7378, Pages 2135 - 2136, of the Public Records of Brevard County, Florida. Section 08, Township 24, Range 36.




## 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 5, 2017, given by Rotation Holdings, LLC a Florida limited liability company, as mortgagor, in favor of the undersigned, Community Bank of the South, as mortgagee, recorded in Official Records Book 7906, Page 2750, 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

Community Bank of the South  
Mortgagee Corporation Name


277 N. Sykes Creek Parkway	Merritt Island	FL	32953
Street	City	State	Zip Code

	William T. Taylor, President
*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

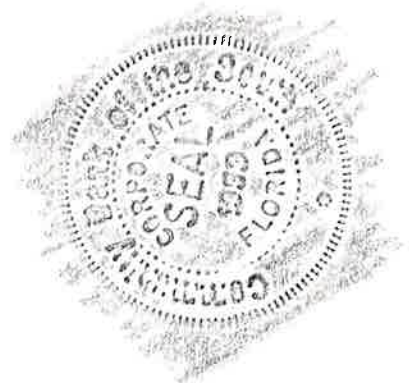
#### WITNESSES

  
Signature

Anita D. Haymes  
Print Name

  
Signature

Cathy Stewart  
Print Name



STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of X physical presense or  
\_\_\_\_\_ online notarization this 17 day of May, 2022, by William T. Taylor, President of Community  
Bank of the South, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

Anita D. Haymes  
Notary Public Signature  
Name Printed

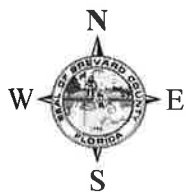
SEAL



Anita D. Haymes  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG941011  
Expires 2/13/2024

# LOCATION MAP

ROTATION HOLDINGS, LLC  
22Z00007



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.

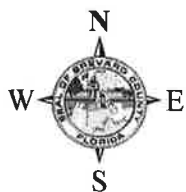
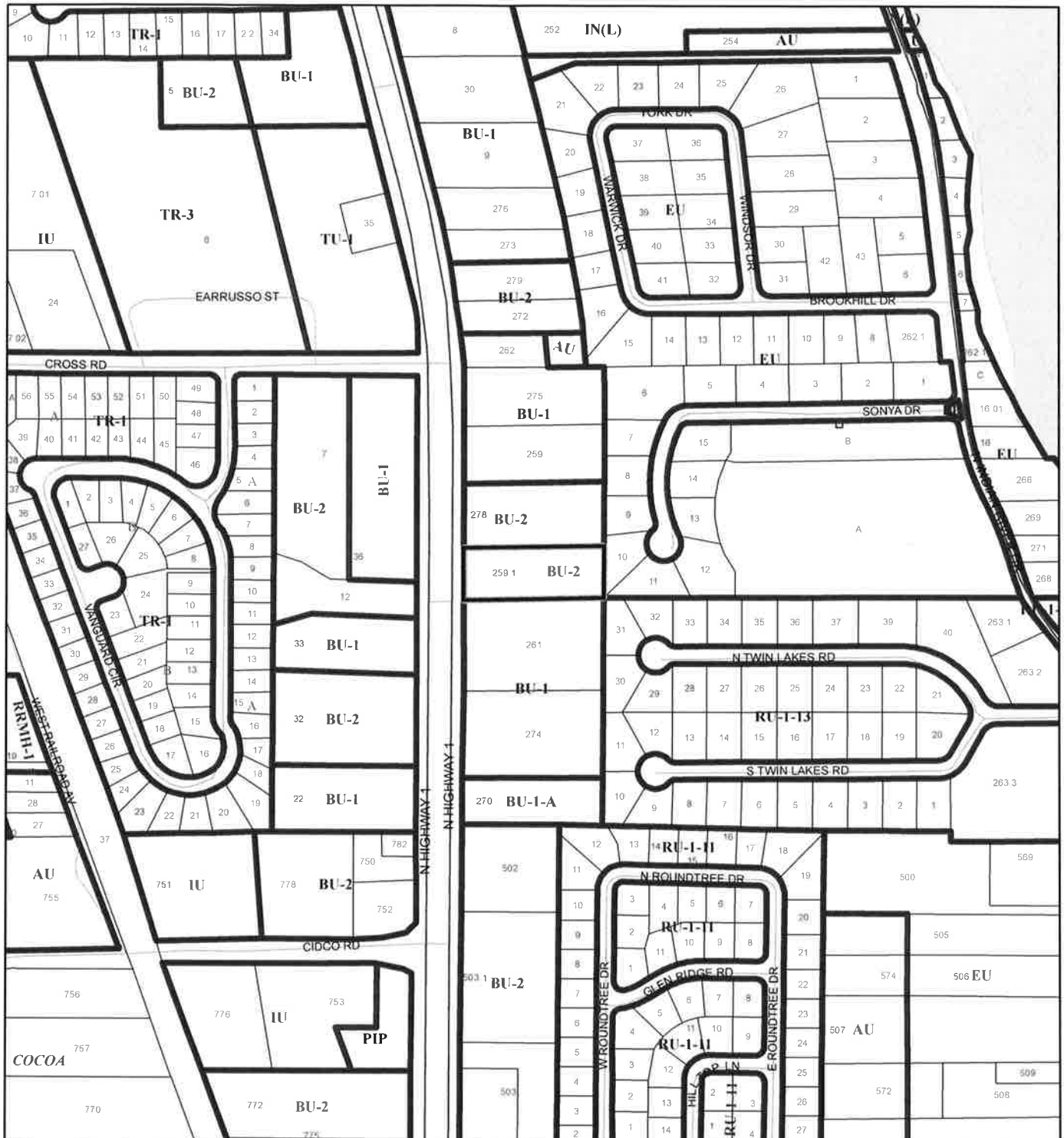
Produced by BoCC - GIS Date: 2/11/2022

— Buffer  
■ Subject Property

# ZONING MAP

ROTATION HOLDINGS, LLC

22Z00007



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: 2/11/2022

- Subject Property
- Parcels
- Zoning

3. **(22Z00007) ROTATION HOLDINGS, LLC** requests an amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 1.38 acres, located on the east side of N. U.S. Highway 1, approx. .20 miles north of Cidco Rd. (3640 N. U.S. Hwy 1, Cocoa) (Tax Account 2411214) (District 1)

**P&Z Recommendation:** Motion by Bruce Moia, seconded by Ben Glover, to recommend approval of an amendment to an existing BDP in a BU-2 zoning classification, with the following conditions: 1.) Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet; 2.) Developer/owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along the east property line.; and 3.) Automotive repair shall be limited to minor automotive repair only, as defined in Section 62-1102. The vote was unanimous.

**BCC ACTION:** Pritchett/Tobia - Approved as recommended, with a BDP containing the following conditions: 1.) Developer/owner shall provide a 50-foot buffer on the east property line and increase vegetation by adding Bald Cypress trees every 25 feet, Wax Myrtle every 5 feet, and Muhly grass every 3 feet; 2.) Developer/owner shall construct an 8-foot tall cmu black (concrete masonry unit) wall along the east property line.; and 3.) Automotive repair shall be limited to minor automotive repair only, as defined in Section 62-1102. 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.

4. **(21Z00051) MICHAEL P. BUONO AND CHARLES T. CALHOUN** request a change of zoning classification from GU (General Use) to RR-1 (Rural Residential). The property is 1.06 acres, located approx. 165 ft. north of Golden Shores Blvd., and approx. 0.22 miles east of International Ave. (No assigned address. In the Mims area.) (Tax Accounts 200791 & 200796) (District 1)

**P&Z Recommendation:** Moia/Alward - Approved. The vote was unanimous.

**BCC ACTION:** Pritchett/Tobia - Approved as recommended. The vote was unanimous.

5. **(22Z00008) ROBERT F. ERARIO AND JEREMY SOTHEA SUN** request a change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all AU, on property described as Tax Parcel 1.01, as recorded in ORB 8359, Pages 486 - 489, of the Public Records of Brevard County, Florida. **Section 17, Township 20G, Range 34.** (7.24 acres) Located on the west side of U.S. Highway 1, approx. 500 ft. south of Aurantia Road. (4740 N. U.S. Hwy 1, Mims) (Tax Account 2001826) (District 1)

**P&Z Recommendation:** Bartcher/Sullivan - Approved. The vote was unanimous.

**BCC Action:** Pritchett/Tobia - Approved as recommended. The vote was unanimous.

6. **(22Z00009) TYLER M. AND CRISTINA N. BOUCHER** request a change of zoning classification from AU (Agricultural Residential) to RR-1(Rural Residential). The property is 2.51 acres, located at the northwest corner of N. Tropical Trail and Littleton Lane. (6245 N.

## **PLANNING AND ZONING BOARD RECOMMENDATIONS**

- Item H.1. Storsafe of Rockledge, LLC. Smith/Tobia. Adopted Ordinance No. 22-14, setting forth the eighth Small Scale Comprehensive Plan Amendment (21S.03), changing the Future Land Use designation from RES 4, NC, and CC, to all CC. (21PZ00083).
- Item H.2. Storesafe of Rockledge, LLC. Smith/Pritchett. Approved the request of a change of zoning classification from AU and BU-1 to BU-2 and recommendation of a BDP with the following conditions: 1.) the use of the property shall be for self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face the residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirement; and 6.) a finished eight-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements. (22Z00004)
- Item H.3. Rotation Holdings, LLC. Pritchett/Tobia. Approved the request of an Amendment to an existing BDP in a BU-2 zoning classification. (3640 N. U.S. Highway 1, Cocoa) (22Z00007).
- Item H.4. Michael P. Buono and Charles T. Calhoun Pritchett/Tobia. Approved the request of changing the zoning classification from GU to RR-1. (21Z00051).
- Item H.5. Robert F. Erario and Jeremy Sothea Sun. Pritchett/Tobia. Approved the request of changing the zoning classification from BU-1 and AU to all AU. (22Z00008).
- Item H.6. Tyler M. and Cristina N. Boucher. Pritchett/Tobia. Approved the request of changing the zoning classification from AU to RR-1. (2200009).
- Item H.7. Rushing Wind, LLC. Tobia/Smith. Adopted Ordinance No. 22-15, setting forth the seventh Small Scale Comprehensive Plan Amendment (22S.02) changing the Future Land Use designation from RES 1 to RES 4 (22Z00003).
- Item H.8. Rushing Wind, LLC. Tobia/Pritchett. Approved the request of changing the zoning classification from RR-1 and IN(L) to RU-1-11. (22Z00001).