



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.8.

8/4/2022

Subject:

DeRosa Holdings, LLC (Kim Rezanka) requests an amendment to an existing BDP in an RU-2-12 zoning classification. (22Z00022) (Tax Account 2534267) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider an amendment to an existing BDP (Binding Development Plan) in an RU-2-12 (Medium Density Multi-Family) zoning classification.

Summary Explanation and Background:

The applicant requests to amend the existing BDP to change the restriction of single-ownership of the 0.24 acre subject property. The existing BDP, approved on April 21, 2022, as submitted by the applicant, allows for the development of two detached residential units for residency or rental, and stipulates that the property shall remain under one ownership. The proposed BDP amendment adds this language as follows: *The property shall remain under one ownership, unless platted or developed as a condominium.*

The existing BDP replaced a prior BDP that was approved as part of zoning action Z-11033 in February 2005. The prior BDP, of which the 0.24 acre subject property represented only a fraction of the overall BDP area, allowed for the development of a 13-unit luxury townhouse project on 1.41 acres.

The character of the area is multi-family residential with supportive commercial establishments. While the subject property is immediately adjacent to undeveloped lots, commercial uses in the surrounding area include a self-storage mini-warehousing and a religious facility to the north. The property to the west is developed as multi-family, and to the east is undeveloped land zoned GML, owned by Brevard County.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area.

On July 18, 2022, the Planning and Zoning Board heard the request and unanimously recommended approval with an amended BDP limiting development of the property as two (2) detached residential units for residency and/or rental, and that the property shall remain under one ownership, unless platted or developed as a condominium.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning and Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 - 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 - 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;
- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
22Z00022**

Derosa Holdings, LLC

**Amendment to an Existing Binding Development Plan (BDP)
in RU-2-12 (Medium-Density Multiple-Family Residential)**

Tax Account Number: 2534267
Parcel I.D.: 25-37-26-25-H-2.01
Location: 2050 S Atlantic Ave Cocoa Beach FL 32931; West side of S. Atlantic Avenue, 96 feet north of Summer Street, Cocoa Beach (District 2)
Acreage: 0.24 acres
Planning and Zoning Board: 7/18/2022
Board of County Commissioners: 8/04/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-2-12 with BDP	RU-2-12 with amendment to existing BDP
Potential*	2-units (detached on 1-lot)	2-units (detached on 1-lot)
Can be Considered under the Future Land Use Map	YES CC	YES CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant requests to amend the existing BDP recorded in ORB 9482, Pages 763 – 768 to change the restriction of single-ownership of the 0.24 acre subject property. The existing BDP, approved under **21Z00059** on April 21, 2022, as submitted by the applicant, allows for the development of two (2) detached residential units for residency or rental, and stipulates that the property shall remain under one ownership. The proposed BDP amendment adds this language as follows: *The property shall remain under one ownership, unless platted or developed as a condominium.*

The existing BDP replaced a prior BDP that was approved as part of Zoning action **Z-11033** on February 15, 2005 and recorded in ORB 5422, Pages 5613 – 5619. The prior BDP, of which the 0.24 acre subject property represented only a fraction of the overall BDP area, allowed for the development of a 13-unit luxury townhouse project on 1.41 acres.

A prior zoning action request was denied on August 2, 2012 under **12PZ-00038**. That request attempted to change the RU-2-12 with BDP zoning to BU-1-A (Restricted Neighborhood Retail Commercial) with removal of the existing BDP.

Land Use

The subject property is currently designated as Community Commercial FLU. The RU-2-12 zoning classification can be considered consistent with the Community Commercial FLU designation. The amendment of the BDP does not impact the FLU designation and does not increase the development density of this site.

Applicable Land Use Policies

FLUE Policy 1.2 - Public Facilities and Services Requirements

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.
- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.
- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.
- F. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

As the project's intensity is 12 units per acre based on zoning, connection to centralized sewer and potable water is required under Criterion C, above. Site is currently unimproved and not connected to utilities. The subject site is within the City of Cocoa service area for potable water and within the City of Cocoa Beach service area for wastewater treatment.

FLUE Policy 2.10 - Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use

designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

a) Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neotraditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

b) Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant has stated the intent to develop two (2) detached residential units for residency or rental. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

There is a mix of multi-family and commercial zoning classifications in the general area. There are five (5) FLU designations (CC, NC, RES 30 DIR, RES 15, and REC) within 500 feet of the subject property. The most recent FLU amendment request in this area proposed to change the FLU from RES 15 to CC and was denied under 16PZ00055 (16S.05) on November 3, 2016 (Resolution 16-223). The original future land use designations in this area at the time of the 1988 adoption of the comprehensive plan was Mixed Use on the west side of S. Atlantic Avenue and Residential on the east side with a maximum density of 30 dwelling units per acre.

2. actual development over the immediately preceding three years; and

There has not been any actual development within this area in the preceding three (3) years.

3. development approved within the past three years but not yet constructed.

While there has not been any actual development within this area in the preceding three (3) years, two zoning actions have been approved within one-half mile.

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Per Policy 1.2(D) of the Future Land Use Element, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system. As the project's intensity is 12 units per acre, connection to centralized sewer and potable water is required. Site is currently unimproved and not connected to utilities. The subject site is within the City of Cocoa service area for potable water and within the City of Cocoa Beach service area for wastewater treatment.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

The character of the area is multi-family residential use with supportive commercial establishments servicing the area. While the subject property is immediately adjacent to undeveloped lots, commercial uses in the surrounding area include a self-storage mini-warehousing and a religious facility to the north. The property to the west across Atlantic Avenue is developed as multi-family and to the east, across highway A1A is undeveloped land zoned GML and owned by Brevard County.

There were three zoning actions within a half-mile of the subject property within the last three years. **21Z00050**, approved by the Board on April 7, 2022, was a request to change RU-2-15 (Medium Density Multi-Family) to BU-1 (General Retail Commercial) on 0.67 acres located on the west side of Highway A1A (S. Orlando Ave.), approximately 185 feet north of Crescent Beach Drive. **21PZ00091**, approved by the Board on March 22, 2022, requested the removal of a BDP in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, with a new BDP limiting development to a maximum of two units on 0.23 acres located on the southeast corner of S. Atlantic Ave. and Summer Street (2060 S. Atlantic Ave.). **21PZ00090**, approved by the Board on March 3, 2022, requested the removal of a BDP in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, with

a new BDP limiting development to a maximum of two units on 0.19 acres located at the northeast corner of Summer Street and Highway A1A (S. Orlando Ave.).
The current RU-2-12 classification permits multiple-family residential uses or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Undeveloped land	RU-2-12	CC
South	Undeveloped land	RU-2-12	CC
East	Undeveloped land (across S. Atlantic Ave.)	GML	REC
West	Undeveloped land	RU-2-12	CC

The adjacent lots to the north, south and west within this block are all undeveloped and zoned RU-2-12 with BDP restrictions. The BDP restriction requires that the development style for these lots is to be as attached luxury townhouses (fee-simple ownership). In this scenario, the BDP doesn't require all buildings to be attached in one building, only that thirteen (13) such units can be created over the property. It is unknown whether a site plan will be submitted for individual attached duplex style townhomes or whether a single 11-unit townhouse building will be proposed upon the remaining lot area.

To the east lying east of S. Atlantic Avenue is vacant property zoned Government Managed Lands (GML) and owned by Brevard County. This site is undeveloped at this time but may be utilized for its beach frontage as a passive park.

RU-2-12 classification permits multiple-family residential uses or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots.

GML zoning is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway A1A, between South end of One-way pairs to Minutemen Causeway, which has a Maximum Acceptable Volume (MAV) of 19,440 trips per day, a Level of Service (LOS) of D, and currently operates at 47.00% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel has access to public water by the City of Cocoa and centralized sewer may be available from the City of Cocoa Beach.

Environmental Constraints

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

No noteworthy land use issues were identified. The subject parcel appears to contain aquifer recharge soils and is located within the Indian River Lagoon Septic Overlay Map. Gopher tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

No formal review by the Natural Resources Management Department is required for this change to Binding Development Plan (BDP). Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

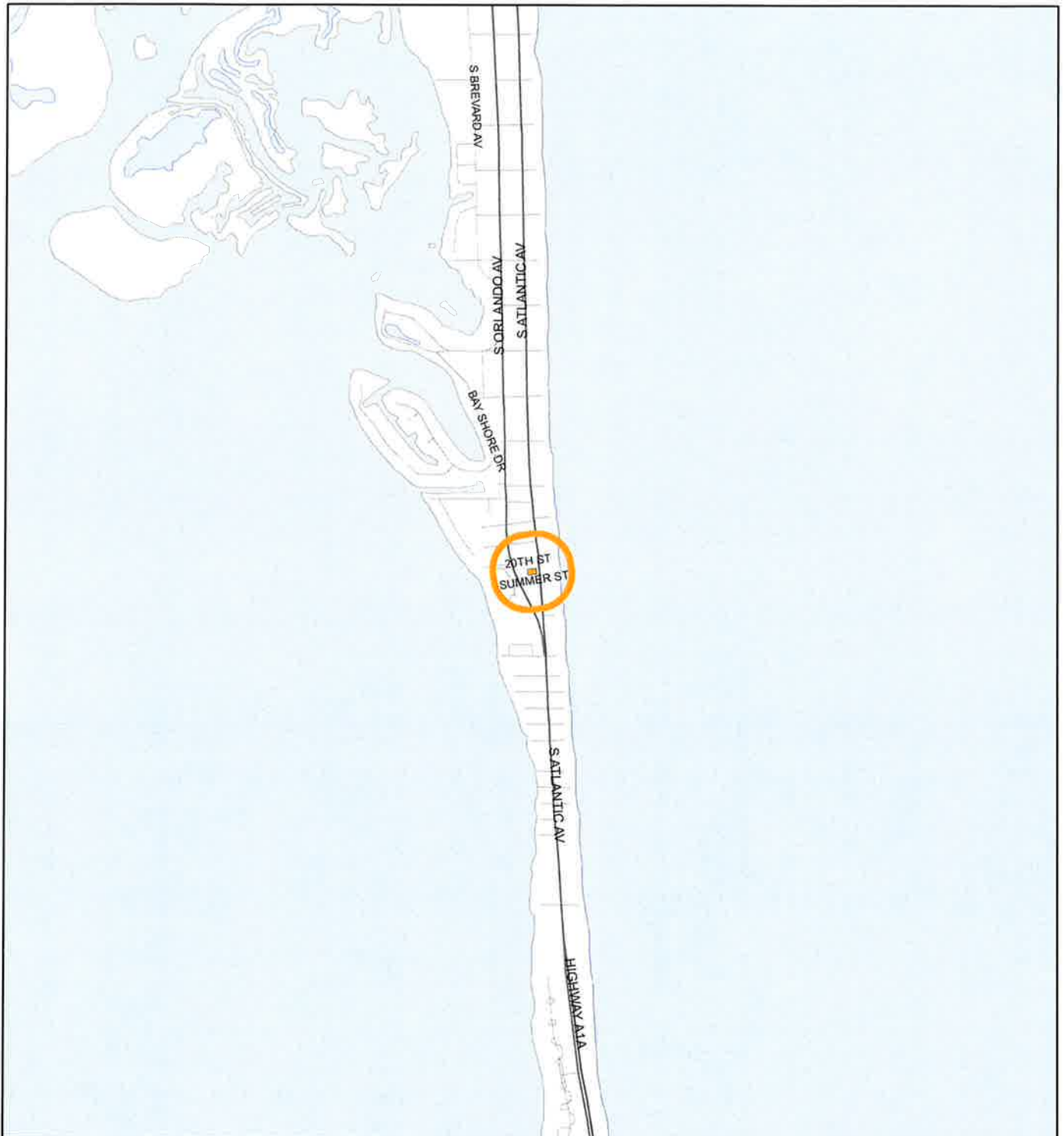
For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area.

LOCATION MAP

DeROSA HOLDINGS, LLC

22Z00022





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.

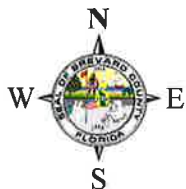
Produced by BoCC - GIS Date: 5/18/2022

-  Buffer
-  Subject Property

ZONING MAP

DeROSA HOLDINGS, LLC

22Z00022



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: 5/18/2022

Subject Property

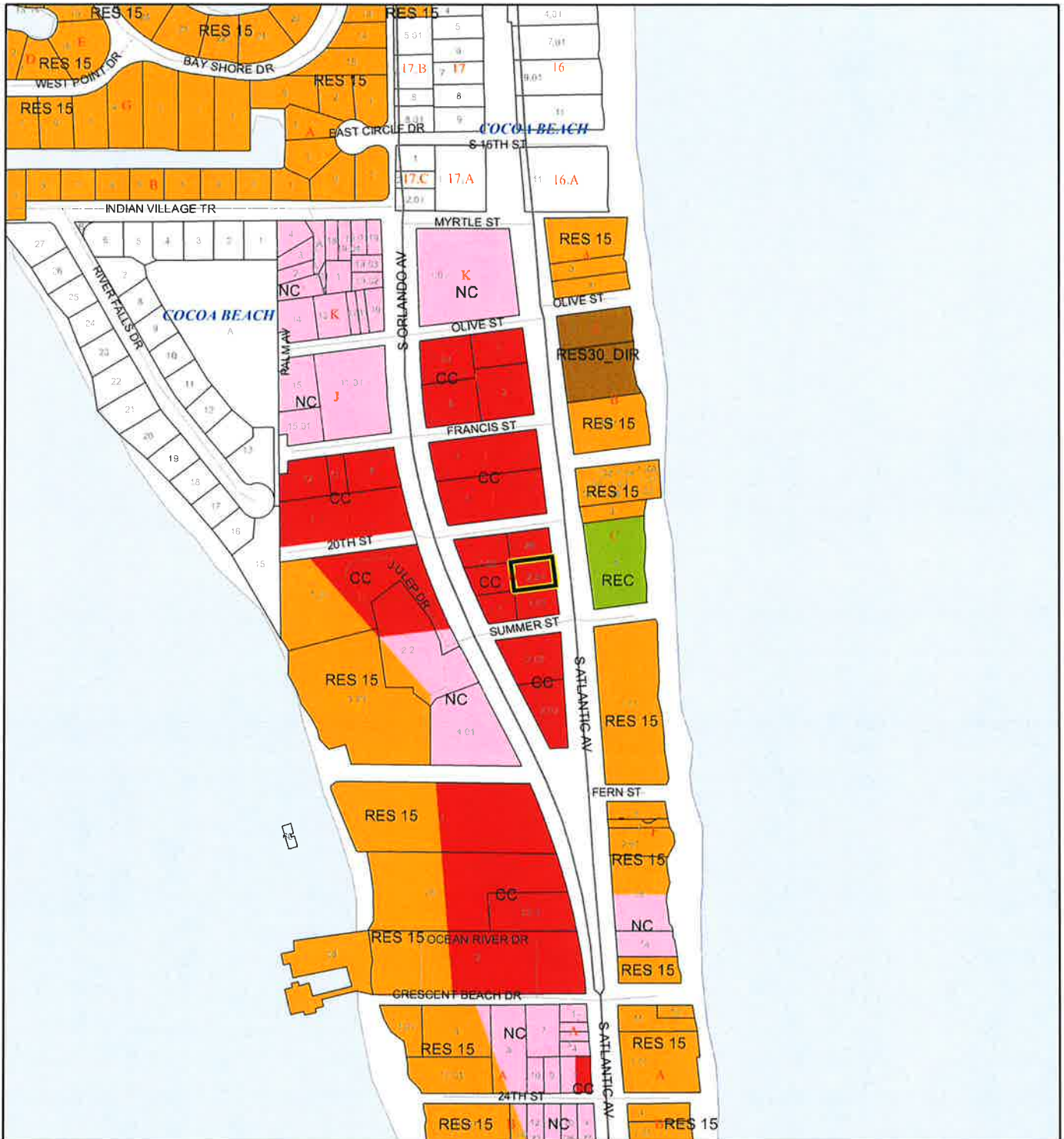
Parcels

Zoning

FUTURE LAND USE MAP

DeROSA HOLDINGS, LLC

22Z00022



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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: 5/18/2022

AERIAL MAP

DeROSA HOLDINGS, LLC

22Z00022



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2021

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: 5/18/2022

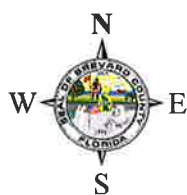
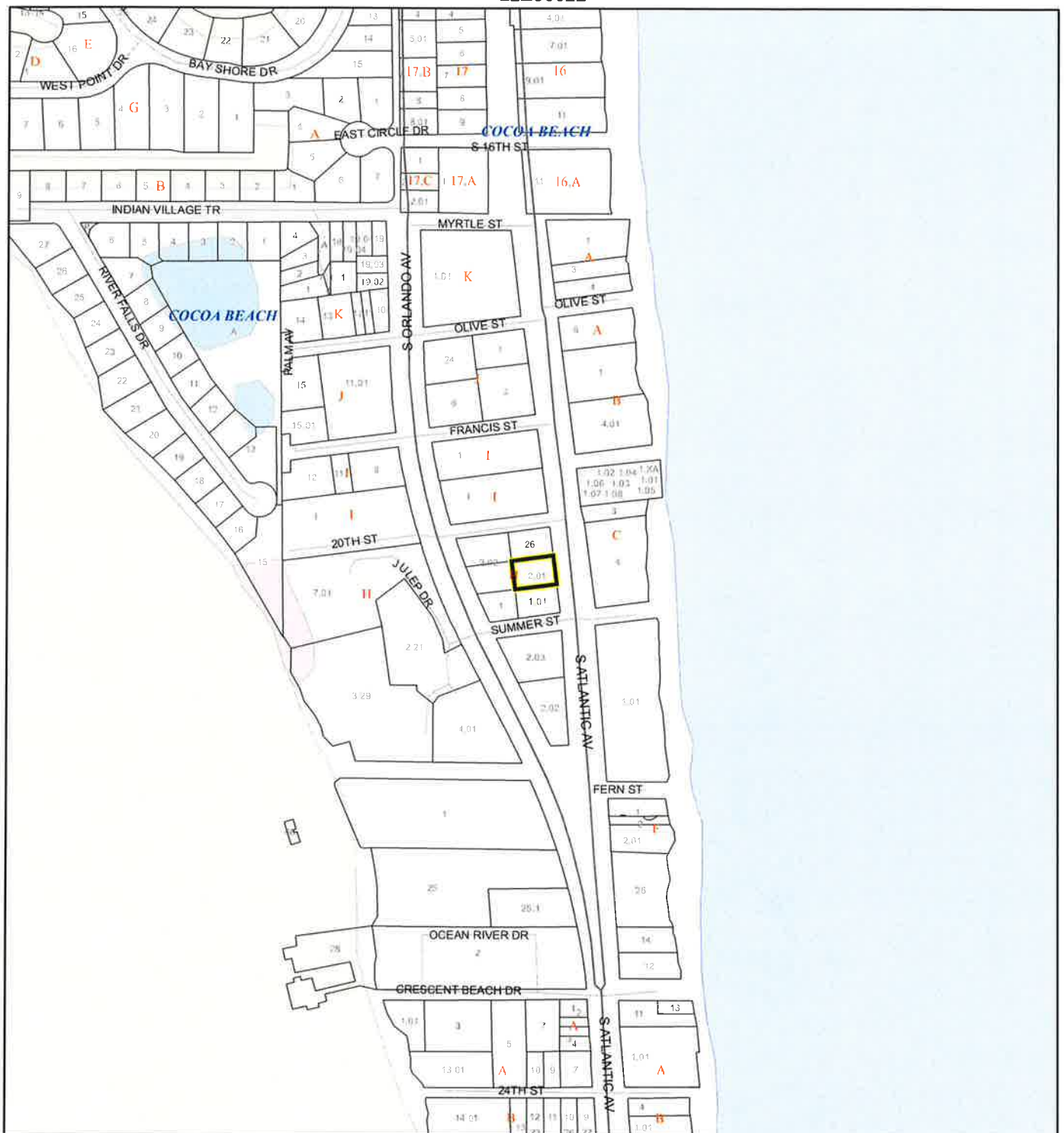
 Subject Property

 Parcels

NWI WETLANDS MAP

DeROSA HOLDINGS, LLC

22Z00022



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: 5/18/2022

National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|------------------|
| Estuarine and Marine Deepwater | Freshwater Pond |
| Estuarine and Marine Wetland | Lake |
| Freshwater Emergent Wetland | Other |
| Freshwater Forested/Shrub Wetland | Riverine |
| | Subject Property |
| | Parcels |

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

DeROSA HOLDINGS, LLC

22Z00022



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: 5/18/2022

SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

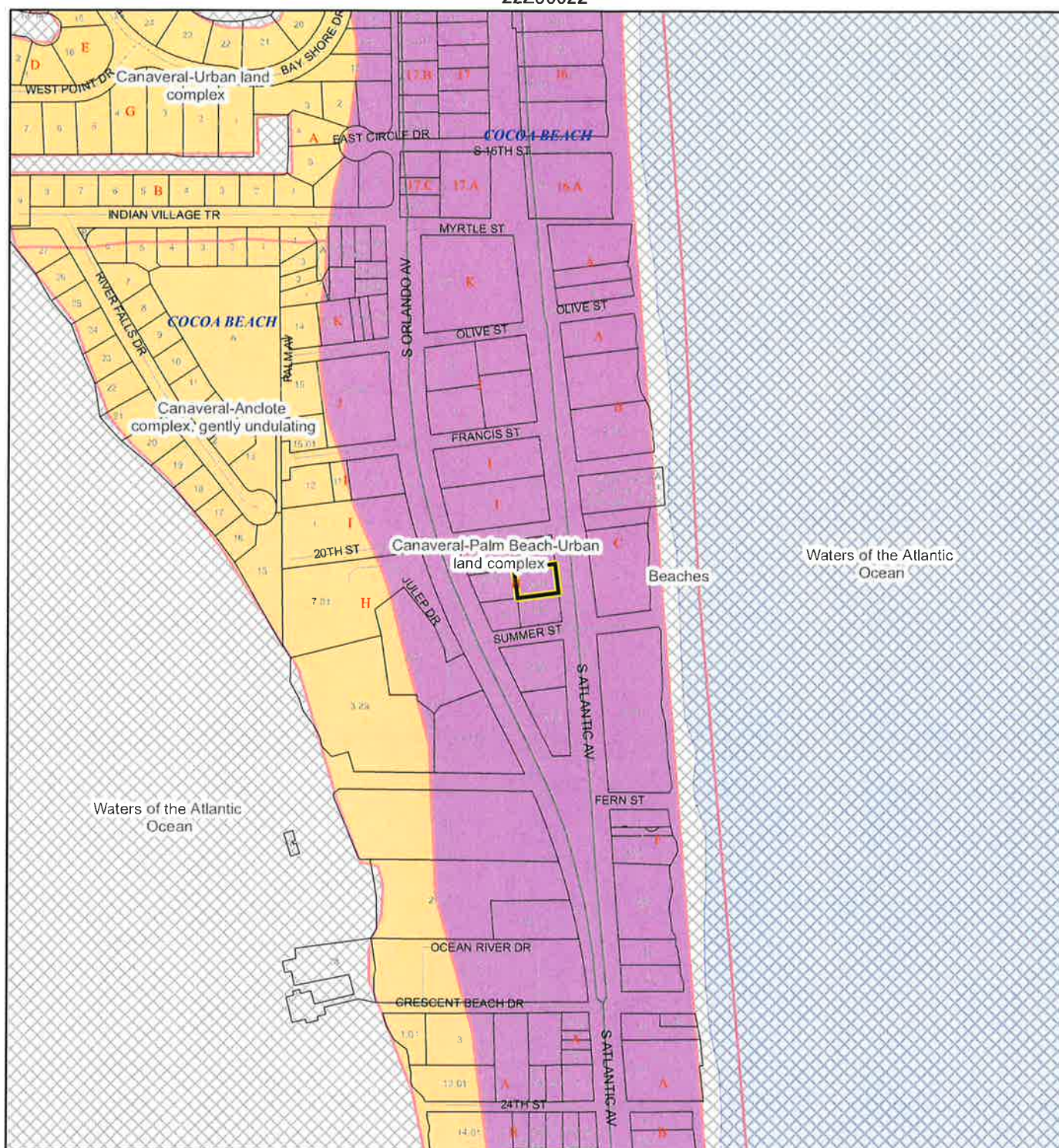
Subject Property

Parcels

USDA SCSSS SOILS MAP

DeROSA HOLDINGS, LLC

22Z00022



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

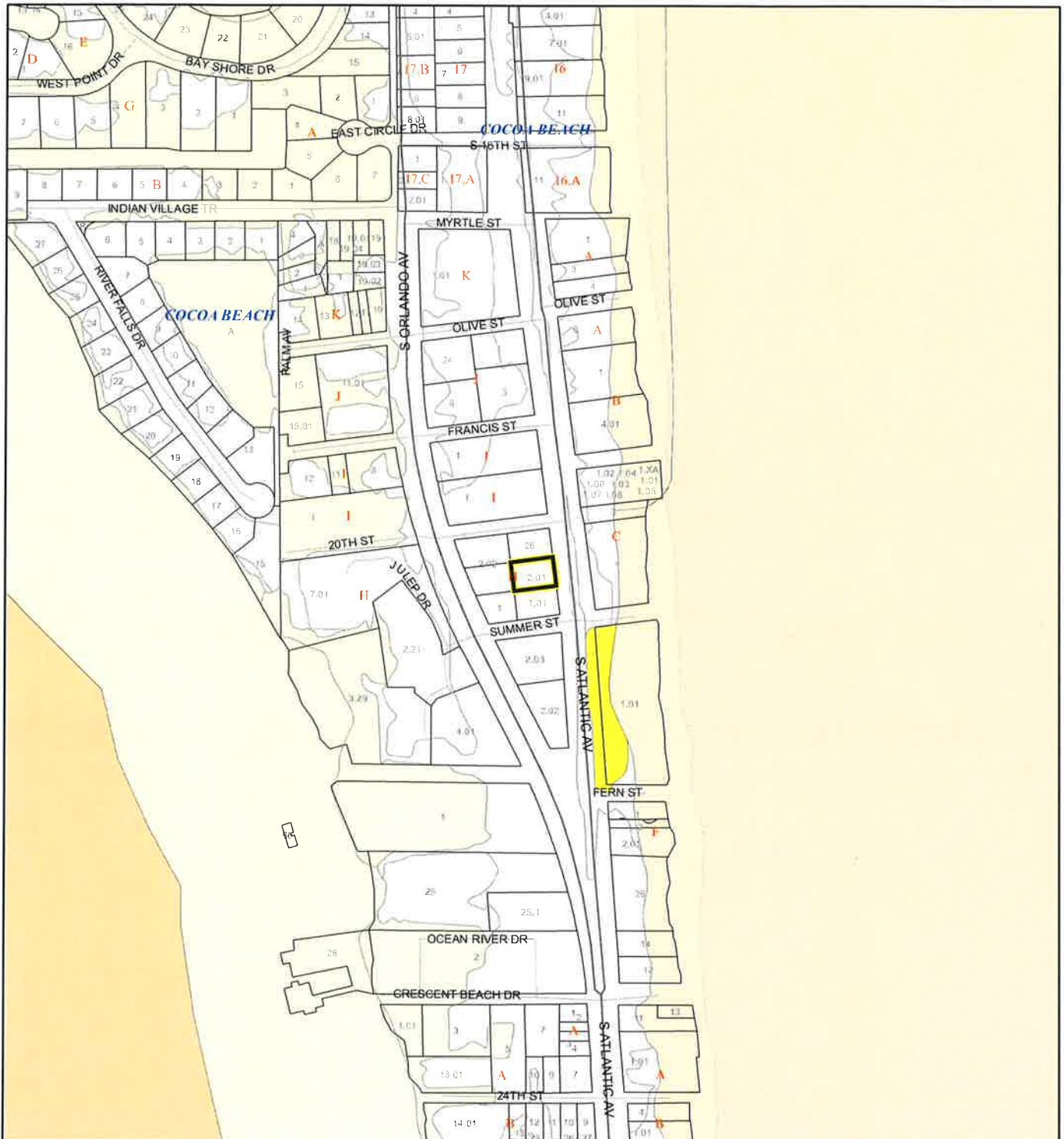
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/18/2022

FEMA FLOOD ZONES MAP

DeROSA HOLDINGS, LLC

22Z00022



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.

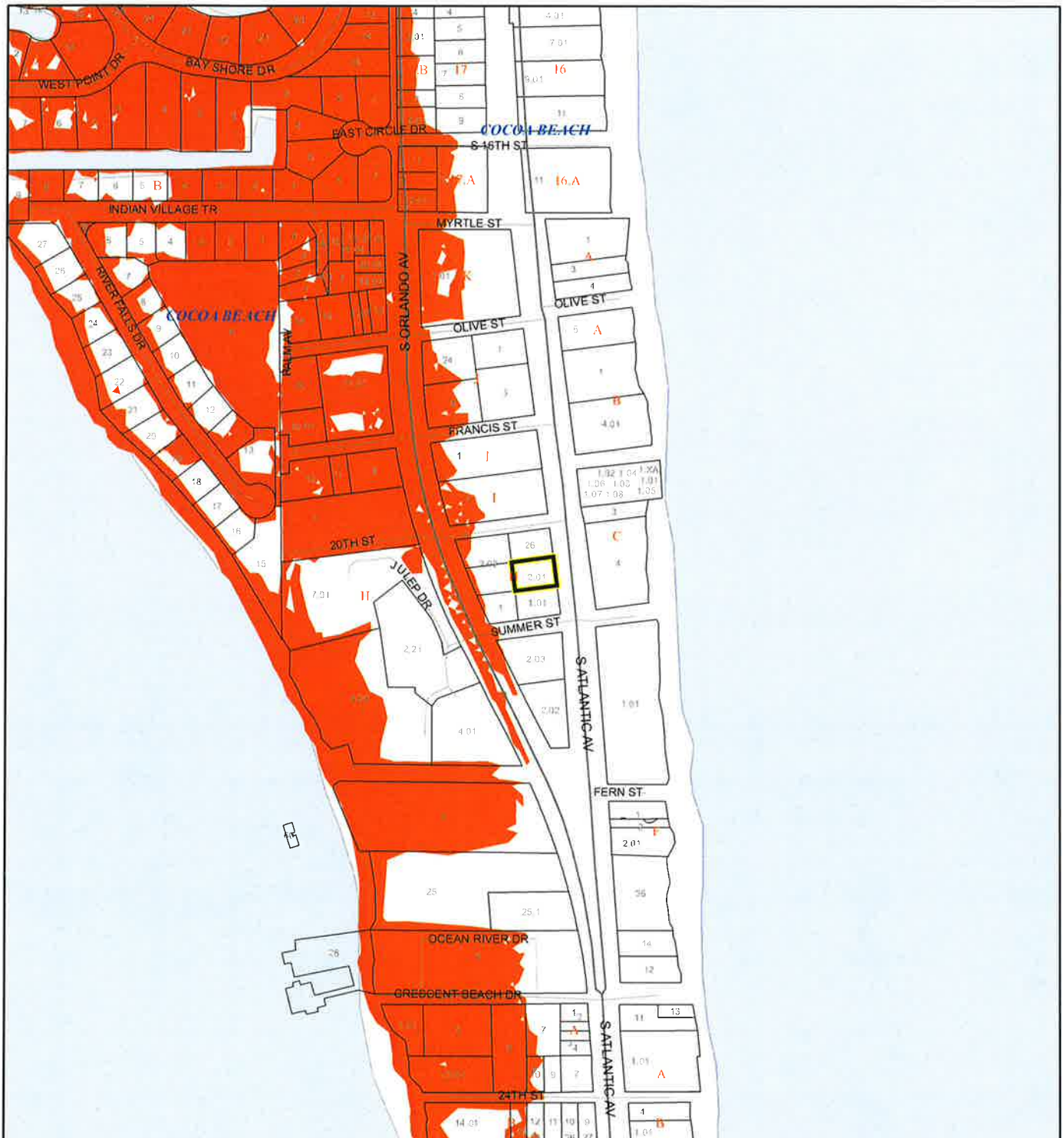
Produced by BoCC - GIS Date: 5/18/2022

FEMA Flood Zones		
A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

DeROSA HOLDINGS, LLC

22Z00022



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: 5/18/2022

— Subject Property

□ Parcels

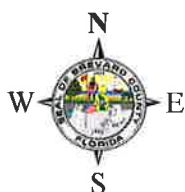
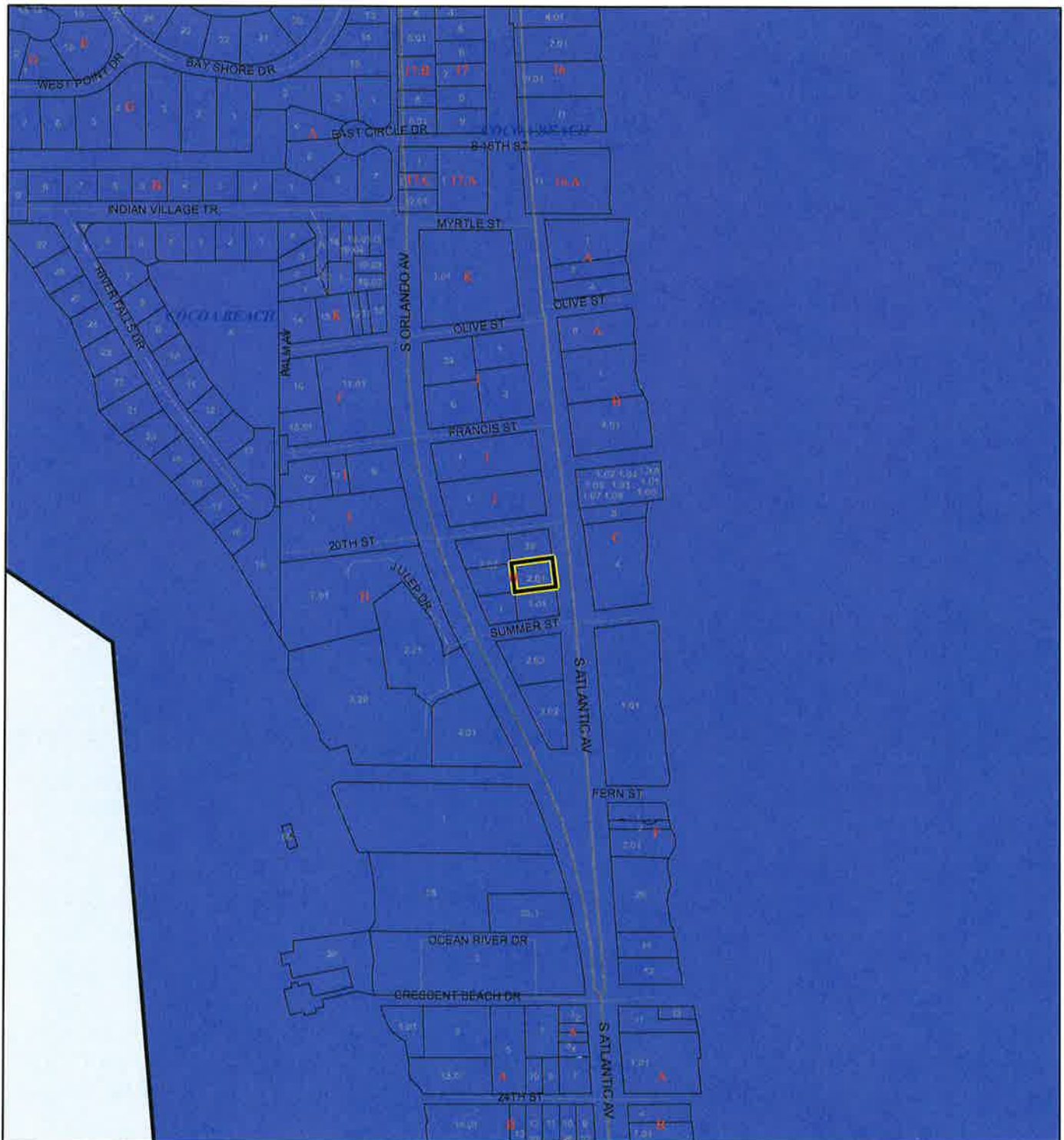
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DeROSA HOLDINGS, LLC

22Z00022



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: 5/18/2022

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

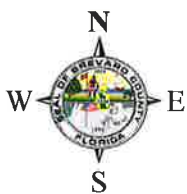
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

DeROSA HOLDINGS, LLC

22Z00022



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: 5/18/2022

 Subject Property

 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

DeROSA HOLDINGS, LLC




22Z00022



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.

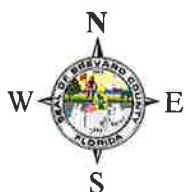
Produced by BoCC - GIS Date: 5/18/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DeROSA HOLDINGS, LLC

22Z00022



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: 5/18/2022

SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

Existing BDP
22Z00022
DeRosa Holdings

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

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 DEROSA HOLDINGS, LLC, a Florida Limited Liability Company (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 is retaining the existing RU-2-12 zoning classification(s) and desires to develop the Property as two (2) detached residential units for residency and/or rental, 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.

Rev. 3/21/2022

- 3 The Developer/Owner shall develop the property as two (2) detached residential units for residency and/or rental. The property shall remain under one ownership.
- 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 January 11, 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:

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

Rachel M. Sadoff, Clerk of Court
(SEAL)

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:

DEROSA HOLDINGS LLC
as DEVELOPER/OWNER

1173 NE 103rd Street
Miami Shores, FL 33138

GLEIDISON L. SANTOS
(Witness Name typed or printed)

PAULO EDUARDO BEITO FERNANDES
(Witness Name typed or printed)

Jamie DeRosa, Manager

STATE OF Florida s
COUNTY OF Miami-Dade s

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or
☒ online notarization, this 28th day of March, 2022, by Jamie DeRosa, Manager
of DeRosa Holdings LLC, who is personally known to me or who has produced drivers license as
Identification.

My commission expires 12/20/2024
SEAL
Commission No.: HH 73899

Martina Tasevski
Notary Public
(Name typed, printed or stamped)

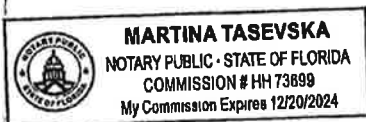


EXHIBIT "A"

A parcel of land being a portion of Block H of A. & B. BRUNERS RE-SUBDIVISION OF BLOCKS A, H, J, K, AND PARTS OF BLOCKS C & I OF A. L. BRUNERS RE-SUB OF BURCHFIELD & BRUNERS ADDITION TO CRESCENT BEACH, recorded in Plat Book 9, Page 4, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at an iron rod monumenting the intersection of the West right of way line of Atlantic Avenue, as presently located (a 100 foot wide right of way) with the South right of way line of Spring Street (a 42 foot wide right of way) and run S. $06^{\circ}49'00''$ E., along said West right of way line of Atlantic Avenue, a distance of 83.62 feet to the Point of Beginning of the herein described parcel; thence continue S. $06^{\circ}49'00''$ E., along said West right of way line of Atlantic Avenue, a distance of 43.85 feet to the point of curvature of a 5679.65 foot radius curve to the left; thence continue Southeasterly along said West right of way line and along the arc of said curve, thru a central angle of $00^{\circ}24'04''$, a distance of 39.77 feet; thence leaving said West right of way line run S. $82^{\circ}43'14''$ W., a distance of 121.86 feet; thence N. $06^{\circ}49'00''$ W., a distance of 84.32 feet; thence N. $83^{\circ}02'53''$ E., a distance of 122.00 feet to the Point of Beginning.

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 17, 2021, given by DeRosa Holdings LLC, as mortgagor, in favor of the undersigned, Marine Bank & Trust Company, as mortgagee, recorded in Official Records Book 9166 Page 1242, 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

Marine Bank & Trust Company

Mortgagee Corporation Name

571 Beachland Blvd Vero Beach FL 32963
Street City State Zip Code

[Signature]

Brian Fowler, SVP/Chief Lending Officer

*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]
Signature

Amanda Richardson
Print Name

[Signature]
Signature

Karen S Cloutier
Print Name



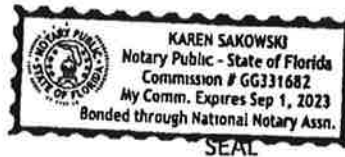
STATE OF FLORIDA

COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 8th day of MARCH, 2022,
by BRIAN FOWLER, who is personally known to me or who has produced
_____ as Identification.

Karen Sakowski
Notary Public Signature

KAREN SAKOWSKI
Name Printed



Prepared by: Kimberly B. Rezanka, Esq.
Address: Lacey Lyons Rezanka
1290 Rockledge Blvd. Ste 201
Rockledge, FL 32955

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 DEROSA HOLDINGS, LLC, a Florida Limited Liability Company (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 is retaining the existing RU-2-12 zoning classification(s) and desires to develop the Property as two (2) detached residential units for residency and/or rental, 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 shall develop the property as two (2) detached residential units for residency and/or rental. The property shall remain under one ownership, unless platted or developed as a condominium.
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. The Binding Development Plan modifies the Binding Development Plan dated April 21, 2022, recorded in OR Book 9482, Page 763, Public Records of Brevard County, Florida.
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 January 11, 2022. 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 9 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:

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

Rachel M. Sadoff, Clerk of Court
(SEAL)

Kristine Zonka, Chair
As approved by the Board on _____

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

WITNESSES:

DEROSA HOLDINGS LLC
as DEVELOPER/OWNER

(Witness Name typed or printed)

1173 NE 103rd Street
Miami Shores, FL 33138

(Witness Name typed or printed)

Jamie DeRosa, Manager

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 2022, by Jamie DeRosa, Manager

of DeRosa Holdings LLC, 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)

EXHIBT "A"

A parcel of land being a portion of Block H of A. & B. BRUNERS RE-SUBDIVISION OF BLOCKS A, H, J, K, AND PARTS OF BLOCKS C & I OF A. L. BRUNERS RE-SUB OF BURCHFIELD & BRUNERS ADDITION TO CRESCENT BEACH, recorded in Plat Book 9, Page 4, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at an iron rod monumenting the intersection of the West right of way line of Atlantic Avenue, as presently located (a 100 foot wide right of way) with the South right of way line of Spring Street (a 42 foot wide right of way) and run S. $06^{\circ}49'00''$ E., along said West right of way line of Atlantic Avenue, a distance of 83.62 feet to the Point of Beginning of the herein described parcel; thence continue S. $06^{\circ}49'00''$ E., along said West right of way line of Atlantic Avenue, a distance of 43.85 feet to the point of curvature of a 5679.65 foot radius curve to the left; thence continue Southeasterly along said West right of way line and along the arc of said curve, thru a central angle of $00^{\circ}24'04''$, a distance of 39.77 feet; thence leaving said West right of way line run S. $82^{\circ}43'14''$ W., a distance of 121.86 feet; thence N. $06^{\circ}49'00''$ W., a distance of 84.32 feet; thence N. $83^{\circ}02'53''$ E., a distance of 122.00 feet to the Point of Beginning.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 18, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Bruce Moia (D5); Peter Filiberto (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jane Hart, Planner III; Alex Esseeesse, Assistant County Attorney; and Tonya Parker, Administrative Secretary.

Excerpt of Complete Agenda

DeRosa Holdings, LLC (Kim Rezanka)

An amendment to an existing BDP (Binding Development Plan), in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification. The property is 0.24 acres, located on the west side of S. Atlantic Ave., approx. 83 ft. south of 20th St. (2050 S. Atlantic Ave., Cocoa Beach) (22Z00022) (Tax Account 2534267) (District 2)

Kim Rezanka, Law Firm of Lacy Lyons Rezanka, stated the board has seen this property before, and also two or three others of the 12 units together that were to be built. She said her client was before the board previously requesting two or three residences, but then realized he would like the ability to sell one of the units. That request was approved, but the old BDP entangled everyone together. She said they are asking for a new BDP that will allow him to either condominium or plat the .24 acres. The request is for the removal of the old BDP and a small change to a new BDP, which is that the property shall remain under one ownership unless platted or developed as a condominium. The request only changes the ownership and the ability to sell.

No public comment.

Motion by Liz Alward, seconded by Ben Glover, to recommend approval of an amendment to an existing BDP, limiting development of the property as two (2) detached residential units for residency and/or rental, and that the property shall remain under one ownership, unless platted or developed as a condominium. The motion passed unanimously.

From: [Griffin, Lorena](#)
To: [Iliff, Bethany](#)
Subject: FW: Conference call with Commissioner John Tobia to review Service Center presentation
Date: Wednesday, August 3, 2022 4:25:26 PM
Attachments: [image004.png](#)

Thank you,

Lorena Griffin
Director of Community Affairs
County Commissioner John Tobia, District 3
PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Commissioner, D3 <>
Sent: Monday, August 1, 2022 10:39 AM
To: Rosenthal, Jon <Jon.Rosenthal@fpl.com>; Commissioner, D3 <d3.commissioner@brevardfl.gov>
Cc: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Subject: RE: Conference call with Commissioner John Tobia to review Service Center presentation

Good Morning,

The Commissioner has prior commitments this week but I will revert back with possible dates at a later time.

Thank you,

Lorena Griffin
Director of Community Affairs
County Commissioner John Tobia, District 3
PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Rosenthal, Jon <Jon.Rosenthal@fpl.com>
Sent: Friday, July 29, 2022 2:53 PM
To: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>
Cc: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Subject: RE: Conference call with Commissioner John Tobia to review Service Center presentation

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good Afternoon Commissioner Tobia and Ms. Griffin:

Our deepest apologies on missing the meeting earlier this week. It would be wonderful if we could squeeze in a brief call sometime next week.

The attached document contains an overview of the proposed service center at the northwest corner of Port Saint John Parkway and Grissom Parkway we are pursuing, and the activities anticipated to be brought before the County Commission for approval in the months ahead. This is the material we will be reviewing if we are able to get another call scheduled. On July 18, the P&Z Commission did vote unanimously to recommend to the County Commission to approve the rezoning, comp plan amendment and removal of the two Binding Development Plans (BDP).

Thank you and if you have any questions, please feel free to contact Bart or myself.

Jon

Jon Rosenthal | Project Director, Construction & Project Management
Florida Power & Light Company
Telephone: 561-694-4274 | Cellular: 561-310-1165
Email: Jon.Rosenthal@FPL.com

From: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>
Sent: Friday, July 15, 2022 3:19 PM
To: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Cc: Rosenthal, Jon <Jon.Rosenthal@fpl.com>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Griffin, Lorena <Lorena.Griffin@brevardfl.gov>
Subject: RE: Conference call with Commissioner John Tobia to review Service Center presentation

Bart,

I have scheduled your call with Commissioner Tobia for 10am on Monday July 25th. Please call our office at 321-633-2075. Feel free to send any attachments to my email or the d3.commissioner@brevardfl.gov.

Let me know if you have any questions.

Thank you,

Lorena Griffin
Director of Community Affairs
County Commissioner John Tobia, District 3

PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Sent: Friday, July 15, 2022 2:57 PM
To: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>
Cc: Rosenthal, Jon <Jon.Rosenthal@fpl.com>; Commissioner, D3 <d3.commissioner@brevardfl.gov>
Subject: FW: Conference call with Commissioner John Tobia to review Service Center presentation

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Lorena- let's schedule for July 25th please.

We are both available all day with an exception from 1 to 1:30 so please schedule at your convenience.

Please advise if there is a specific number we should call. Also in advance of the meeting, Jon Rosenthal, our project manager (copied) will be sending Commissioner Tobia a copy of the presentation. Should we send it to the D3 email address?

Thank you for all of your assistance!

Bart Gaetjens | External Affairs Manager
Florida Power & Light Company | 9001 Ellis Road | West Melbourne, FL | 32904
Office: 321-383-7269 | **E-mail:** bart.gaetjens@fpl.com | **Website:** <http://www.fpl.com>

Connect with Us: [Facebook](#) | [Twitter](#) | [YouTube](#)



From: Griffin, Lorena <Lorena.Griffin@brevardfl.gov>
Sent: Wednesday, July 13, 2022 4:40 PM
To: Gaetjens, Bart <Bart.Gaetjens@fpl.com>
Subject: Conference call with Commissioner John Tobia to review Service Center presentation

Hi Bart,

As discussed, we can set up a conference call with Commissioner Tobia to discuss the proposed service center prior to the 8/4 meeting. His availability is as follows:

Monday July 18th – open

Wed July 20th – 9-10am

Thurs July 21th 9-12pm

Monday July 25th & 26th – open

Let me know if any of the above dates work for you. Please email us any documents for his review and let me know who will be attendance.

Please call me with any questions.

Thank you,

Lorena Griffin

Director of Community Affairs

County Commissioner John Tobia, District 3

PH: (321) 633-2075 * Fax: (321) 633-2196

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."



**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
COMMISSIONER JOHN TOBIA, DISTRICT 3**

2539 Palm Bay Rd NE, Suite 4
Palm Bay, FL 32905
www.Brevardfl.gov

Phone: (321) 633-2075
Fax: (321) 633-2196
John.Tobia@Brevardfl.gov

August 3, 2022

To: Jennifer Jones
From: John Tobia, Brevard County Commissioner, District 3
Re: Phone Disclosure

Ms. Jones,

In regard to the upcoming agenda items H.4, H.5, H.7, H.8, H.12 and H.13, for the Brevard County Zoning meeting on August 4, 2022, please be advised in advance that I spoke twice with the following party via telephone on August 3, 2022.

Kim Rezanka, Esq.

The phone calls lasted approximately ten minutes and five minutes, during which the above individual provided information regarding the aforementioned items.

Sincerely,

John Tobia
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

District 3 Includes:

Palm Bay, Melbourne Beach, Melbourne, Malabar, Grant-Valkaria, West Melbourne, Micco