



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.6.

11/15/2022

Subject:

Acceptance, Re: Binding Development Plan with Linda Lyles and William Dotson. (District 3)

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 September 1, 2022, the Board approved the removal of a BDP in an AU (Agricultural Residential) zoning classification, with a new BDP limiting density to two lots, with one house on each lot. The attached agreement includes this provision.

Clerk to the Board Instructions:

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

December 5, 2022

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.6., Binding Development Plan with Linda Lyles and William Dotson

The Board of County Commissioners, in regular session on November 15, 2022, accepted and executed Binding Development Plan with Linda Lyles and William Dotson, for property located from the intersection of the centerline of Fleming Grant Road, and the westerly boundary line of Sebastian River Estates, as recorded in Plat 11, Page 23, of the Public Records of Brevard County, Florida. Enclosed for your necessary action are two certified copies of the recorded documents.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, appearing to read "Kimberly Powell", is written over a horizontal line.

Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: Nita Salmon
888 U.S. Hwy 441 SE
Okeechobee FL 34974

CFN 2022282668, OR BK 9670 PAGE 943,
Recorded 12/05/2022 at 02:18 PM, Rachel M. Sadoff,
Clerk of Courts, Brevard County
Pgs:5

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this __15th day of August, 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 Linda Lyles and William Dotson, (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 desires to develop the Property as Single-Family 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 impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

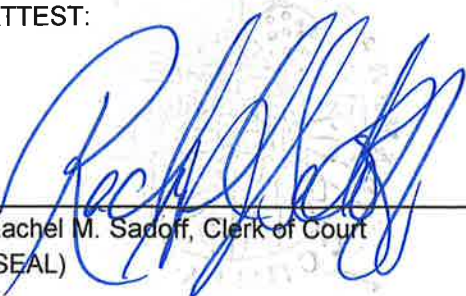
NOW, THEREFORE, the parties agree as follows:

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. Developer/Owner shall limit density to 2 lots, with one house on each lot, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. This BDP shall replace the BDP recorded on 01/29/2003, in ORB 4803, Pages 0531 - 0534, of the Public Records of Brevard County, Florida.
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 09/01/22. 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. Sadoff, Clerk of Court
(SEAL)

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



Kristine Zonka, Chair

As approved by the Board on

NOV 15 2022

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

WITNESSES:



WITNESS SIGNATURE
Hilda Maloney
WITNESS PRINTED NAME

OWNER:



Linda Lyles
(Name typed, printed or stamped)



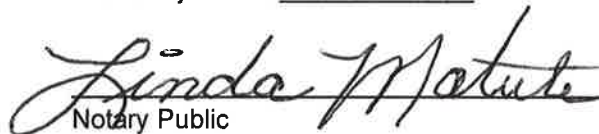
WITNESS SIGNATURE
Winston Ward
WITNESS PRINTED NAME

STATE OF Florida §

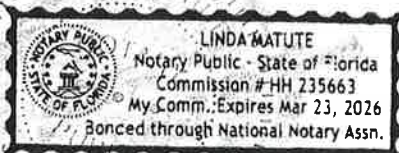
COUNTY OF Okeechobee §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or _____ online notarization, this 15th day of August, 2022, by Linda Lyles, Property Owner, who is personally known to me or who has produced Personally Known _____ as identification.

My commission expires
SEAL
Commission No.:



Notary Public
Linda Matute
(Name typed, printed or stamped)



WITNESSES:

Hilda Maloney
WITNESS SIGNATURE
_Hilda Maloney
WITNESS PRINTED NAME

Winston Ward
WITNESS SIGNATURE
Winston Ward
WITNESS PRINTED NAME

OWNER:

William Dotson
William Dotson
William Dotson
(Name typed, printed or stamped)

STATE OF Florida §

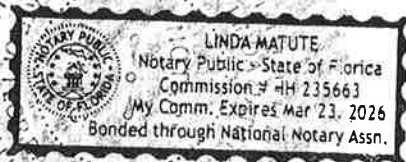
COUNTY OF _Okeechobee §

The foregoing instrument was acknowledged before me, by means of ____ physical presence or
____ online notarization, this _15th_ day of _August____, 2022____, by William Dotson, Property
Owner, who is personally known to me or who has produced _____ as identification.

My commission expires

SEAL

Commission No.



Linda Matute
Notary Public
Linda Matute

(Name typed, printed or stamped)

Exhibit "A"

From the intersection of the centerline of Fleming Grant Rd. and the westerly boundary line of Sebastian River Estates, as recorded in Plat Book 11, Page 23, of the Public Records of Brevard County, Florida, and located in Section 20, Township 30S, Range 38E, run N.02deg15'54"W, along said westerly line, a distance of 1,388.70 ft.; thence run S89deg58'43"W, a distance of 2,678.00 ft. to a 5" x 5" concrete monument No. "Cramer 4094", said point being the point of beginning of the herein described parcel of land; thence run N.89deg58'43"E, a distance of 977.70 ft.; thence run S.02deg15'34"E, parallel with said westerly line, a distance of 398.47 ft.; thence run S.89deg58'42"W, parallel with the north line of said described parcel, a distance of 2,178.81 ft. to the easterly right-of-way line of Fleming Grant Rd.; thence N.12deg39'38"W, along said easterly right-of-way line, a distance of 408.05 ft. to a ½" Rebar No. 3863 "Mott" at the SW corner of Lot 1, Kinney's Unrecorded Subdivision of Fleming Grant; run thence, departing said right-of-way line, S.89deg58'42"E, a distance of 1,274.88 ft., more or less, to the point of beginning of the herein described parcel of real property. Recorded in ORB 5855, Pages 1341 - 1342, of the Public Records of Brevard County, Florida.

AFFIDAVIT OF NO MORTGAGE

This notarized statement is intended to notify the Planning and Development Department and the County Attorney's Office that there is no mortgage on the subject property for this BDP. We the owners, Linda Lyles and William Dotson, own the property clear of any loans or mortgages.

OWNER:


Linda Lyles

(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Okeechobee §

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this _31st_ day of _October_, 2022_, by Linda Lyles, Property Owner, who is personally known to me or who has produced _personally known_ as identification.


Notary Public

SEAL

Linda Matute
(Name typed, printed or stamped)

OWNER:


William Dotson

(Name typed, printed or stamped)

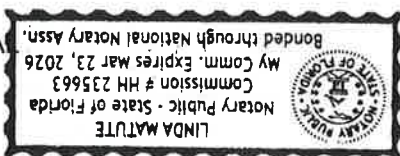
STATE OF Florida §

COUNTY OF _Okeechobee_ §

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this _31st_ day of _October_, 2022_, by William Dotson, Property Owner, who is personally known to me or who has produced _personally known_ as identification.


Notary Public

SEAL



Linda Matute
(Name typed, printed or stamped)

AFFIDAVIT OF NO MORTGAGE

This notarized statement is intended to notify the Planning and Development Department and the County Attorney's Office that there is no mortgage on the subject property for this BDP. We the owners, Linda Lyles and William Dotson, own the property clear of any loans or mortgages.

OWNER:


Linda Lyles

(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Okeechobee §

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this 31st day of October, 2022, by Linda Lyles, Property Owner, who is personally known to me or who has produced personally known as identification.


Notary Public

SEAL

Linda Matute
(Name typed, printed or stamped)

OWNER:


William Dotson

(Name typed, printed or stamped)

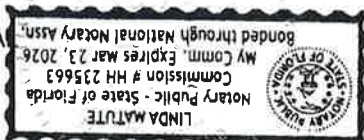
STATE OF Florida §

COUNTY OF Okeechobee §

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this 31st day of October, 2022, by William Dotson, Property Owner, who is personally known to me or who has produced personally known as identification.


Notary Public

SEAL

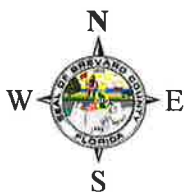
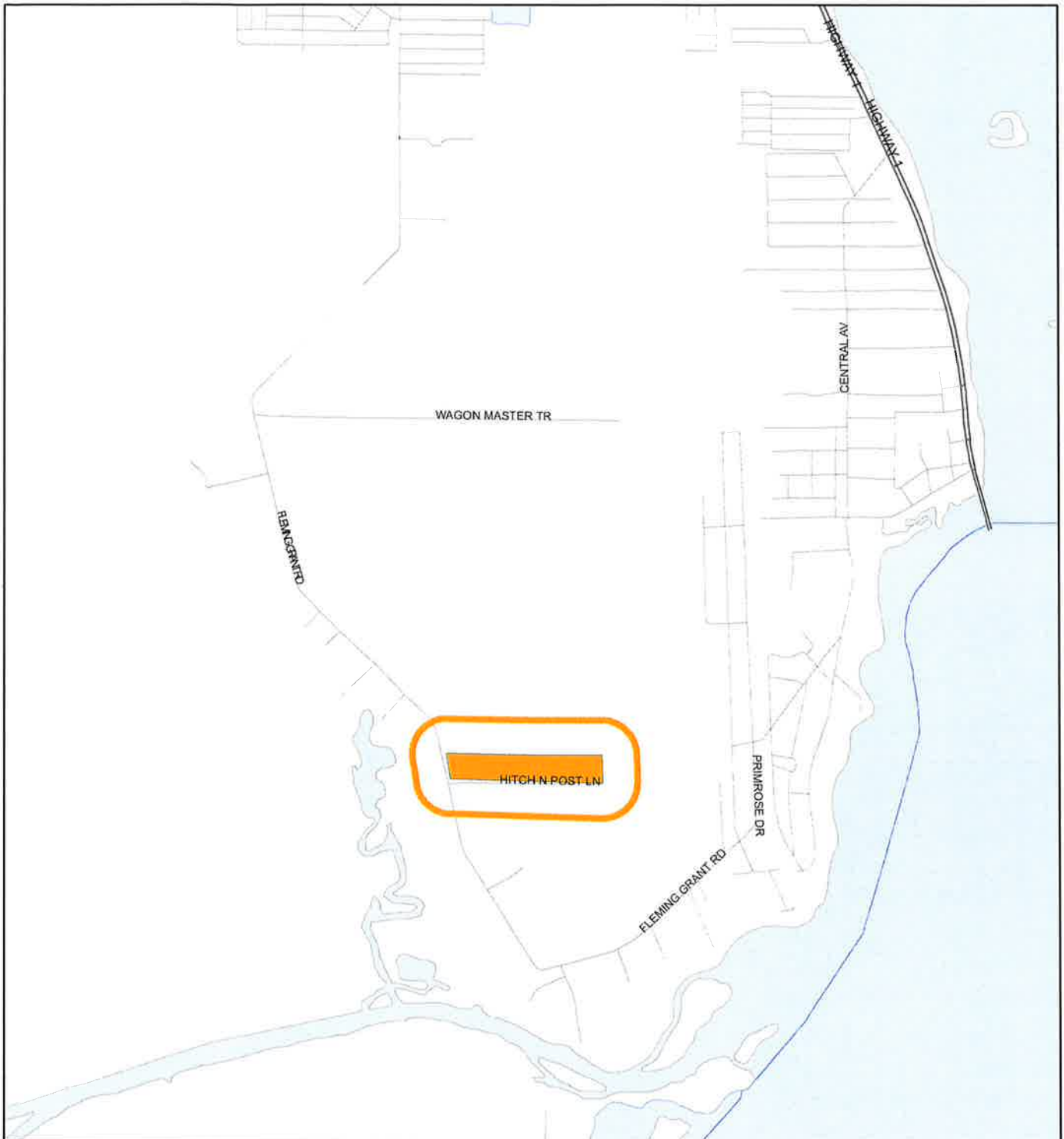


Linda Matute
(Name typed, printed or stamped)

LOCATION MAP

LYLES, LINDAL

22Z00035



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

Buffer Distance: 500 feet

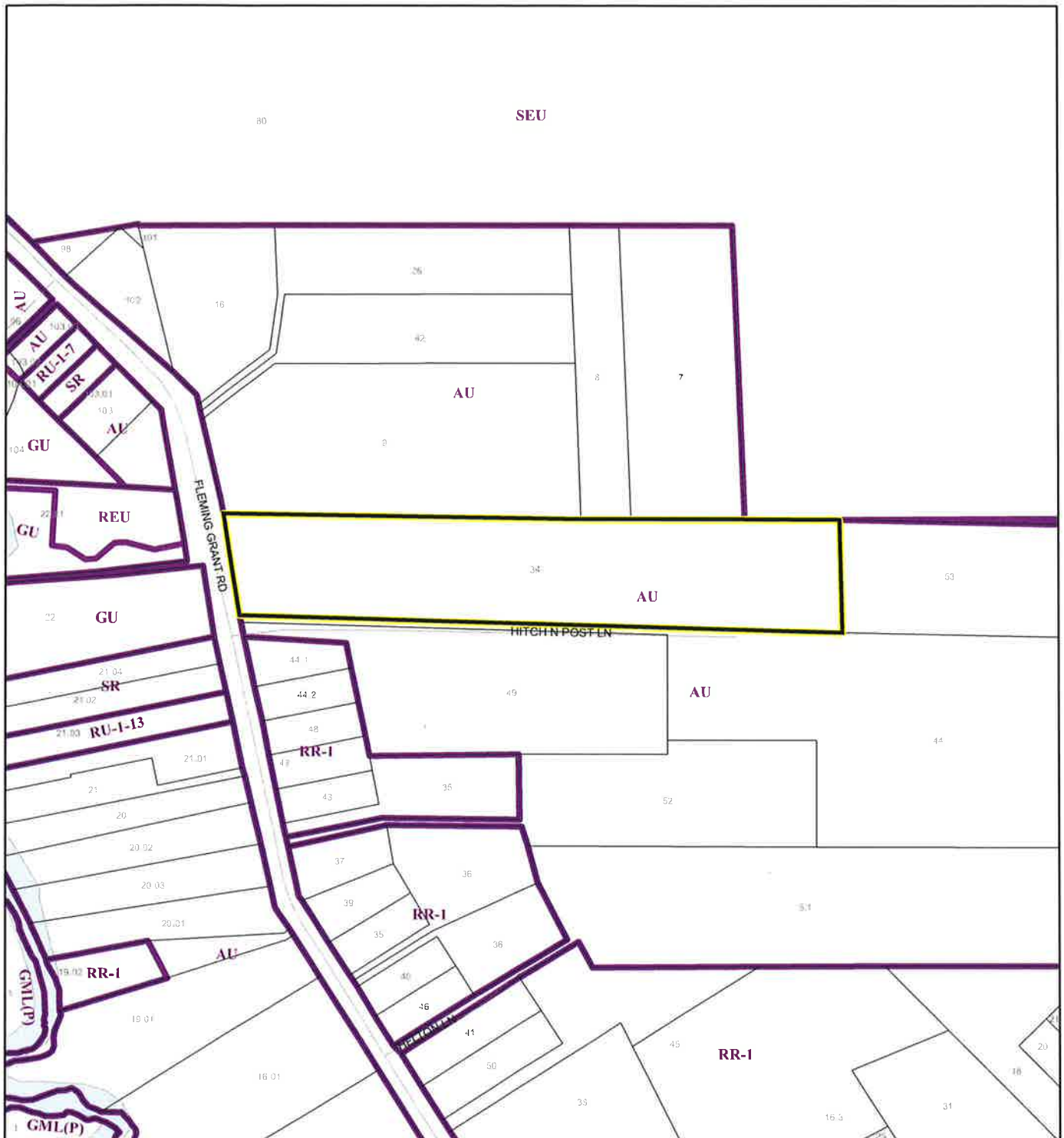
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/17/2022

— Buffer
— Subject Property

ZONING MAP

LYLES, LINDA L
22Z00035



1:6,000 or 1 inch = 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: 6/17/2022

- Subject Property
- Parcels
- Zoning

Resolution 22Z00035

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

WHEREAS, Linda L. Lyles has requested removal of an existing BDP (Binding Development Plan), in an AU (Agricultural Residential) zoning classification, on property described as (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 with a BDP limiting development to a total of two lots; and

WHEREAS, the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved with a BDP limiting development to two lots, with one single-family residence on each lot; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested removal of an existing BDP, in an AU zoning classification, be approved with a BDP, recorded on 12/05/22, in ORB 9670, Pages 943 - 947, limiting development to a total of two lots, with one single-family residence on each lot. 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 December 5, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission

As approved by the Board on November 15, 2022.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Hearing – August 15, 2022
BCC Hearing - September 1, 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.**

22Z00035 (cont.)

Legal Description

From the intersection of the centerline of Fleming Grant Rd. and the westerly boundary line of Sebastian River Estates, as recorded in Plat Book 11, Page 23, of the Public Records of Brevard County, Florida, and located in Section 20, Township 30S, Range 38E, run N.02deg15'54"W, along said westerly line, a distance of 1,388.70 ft.; thence run S89deg58'43"W, a distance of 2,678.00 ft. to a 5" x 5" concrete monument No. "Cramer 4094", said point being the point of beginning of the herein described parcel of land; thence run N.89deg58'43"E, a distance of 977.70 ft.; thence run S.02deg15'34"E, parallel with said westerly line, a distance of 398.47 ft.; thence run S.89deg58'42"W, parallel with the north line of said described parcel, a distance of 2,178.81 ft. to the easterly right-of-way line of Fleming Grant Rd.; thence N.12deg39'38"W, along said easterly right-of-way line, a distance of 408.05 ft. to a ½" Rebar No. 3863 "Mott" at the SW corner of Lot 1, Kinney's Unrecorded Subdivision of Fleming Grant; run thence, departing said right-of-way line, S.89deg58'42"E, a distance of 1,274.88 ft., more or less, to the point of beginning of the herein described parcel of real property. Recorded in ORB 5855, Pages 1341 - 1342, of the Public Records of Brevard County, Florida. **Section 20, Township 30G, Range 38.** (20.25 acres) Located on the northeast corner of Fleming Grant Rd. and Hitchin Post Lane (9385 Fleming Grant Rd., Micco)

BCC ACTION: Pritchett/Tobia - Approved, and adopted Ordinance 22-26. The vote was unanimous.

5. (22SS00008) **Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk** (Chad Genoni) request a Small Scale Comprehensive Plan Amendment (22S.11), to change the Future Land Use designation from RES 2 (Residential 2) to RES 4 (Residential 4). The property is 35.36 acres, located approx. 385 ft. south of Brockett Rd., and approx. 0.72 mile east of U.S. Highway 1. (No assigned address. In the Mims area.) (Tax Accounts 2102878 & 2102882) (District 1)

LPA Recommendation: Filiberto/Moia - Approved. The vote was unanimous.

BCC ACTION: Pritchett/Tobia - Approved, and adopted Ordinance 22-27. The vote was unanimous.

6. (22Z00029) **Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk** (Chad Genoni) request a change of zoning classification from AU (Agricultural Residential), SR (Suburban Residential), RU-1-11 (Single-Family Residential), and GML (Government Managed Lands), with an existing BDP (Binding Development Plan) on SR and RU-1-11 portions, to RU-1-7 with removal of existing BDP and adding a new BDP. The property is 76.52 acres, located on the south side of Brockett Rd., approx. 0.60 mile east of U.S. Highway 1. (No assigned address. In the Mims area.) (Tax Accounts 2102878, 2102918, 2102919, 2102882, 3018268, & 2113544) (District 1)

LPA Recommendation: Filiberto/Sullivan - Approved with a BDP limiting development to 197 units. The vote was unanimous.

BCC ACTION: Pritchett/Tobia - Approved with a BDP limiting development to 197 units. 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.

7. (22Z00035) **Lynda L. Lyles** (Nita Salmon) requests removal of an existing BDP (Binding Development Plan), in an AU (Agricultural Residential) zoning classification. The property is 20.25 acres, located on the northeast corner of Fleming Grant Rd. and Hitchin Post Lane. (9385 Fleming Grant Rd., Micco) (Tax Account 3010233) (District 3)

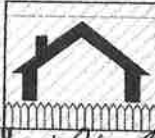
P&Z Recommendation: Moia/Alward - Approved the removal of an existing BDP, and adding a new BDP limiting development to a total of two lots. The vote was unanimous.

BCC ACTION: Tobia/Smith - Approved with a BDP limiting development to a total of two lots, with one single-family residence on each lot. 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.

8. *A Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.*

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Laura and Earl McCullough. Pritchett/Tobia. Approved the request of changing the zoning classification from SR, with an existing BSP, to RR-1, retaining the existing BSP. (22Z00026).
- Item H.2. 2354 Talmadge Drive, LLC. Pritchett/Smith. Approved the request of changing the zoning classification from AU to RU-1-11. (22Z00028).
- Item H.3. Carla Theadora Reece. Pritchett/Tobia. Approved the request of changing the zoning classification from RR-1 to AU. (22Z00032).
- Item H.4. Daren T. and Regina M. Dempsey. Pritchett/Tobia. Approved the request of changing the zoning classification from AU to RU-1-13, with a BDP limiting one house on each lot. (22Z00033).
- Item H.5. Robert Clay and EthylMay Kirk. Pritchett/Tobia. Adopted Ordinance No. 22-26, setting forth the fourteenth Small Scale Comprehensive Plan Amendment (22S.10), to change the Future Land Use designation from REC to RES 4. (22SS00007).
- Item H.6. Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk. Pritchett/Tobia. Adopted Ordinance No. 22-27, setting forth the fifteenth Small Scale Comprehensive Plan Amendment (22S.11), to change the Future Land Use designation from RES 2 to RES 4. (22SS00008).
- Item H.7. Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk. Pritchett/Tobia. Approved the request of changing the zoning classification from AU, SR, RU-1-11, and GML, with an existing Binding Development Plan on SR and RU-1-11 portions, to RU-1-7, removing the existing Binding Development Plan, and adding a new Binding Development Plan. (22Z00029).
- Item H.8.** Lynda L. Lyles. Tobia/Smith. Approved the request of removing an existing Binding Development Plan; and approved adding a new Binding Development Plan, limiting development to two lots with one house on each lot in AU zoning classification. (22Z00035).
- Item H.10. Brian G. and Debra S. Lawson; and David and Alicia McCabe. Pritchett/Tobia. Approved the request of changing of zoning classification from GU to RR-1 with a Binding Development Plan, limiting the property that is not Homesteaded, which is Tax Account 2314737, that it would apply to the remaining acreage there, and limiting the development of that to three units. (22Z00005).



Remington Real Estate LLC
888 Hwy 441 SE
Okeechobee, FL 34974

1199
63-215/631

PAY to the
Order of

11/17 2022
Planning & Development \$ 44⁰⁰
Forty Four & 00/100 Dollars

SunTrust Sebastian, FL
ACH RT 061000104

For

Dotson

A. Salomon

Security
Features
Details on
Back.

Pinstripe Maroon



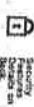
Remington Real Estate LLC
888 Hwy 441 SE
Okeechobee, FL 34974

1198
63-215/631

Pay to the
Order of

Clark of the Court
forty thousand + 00 / 4 \$44,000.00

SunTrust Sebastian, FL
ACH RT 061000104



For Kyle Dotson AS Salmon

Payable Amount