



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

---

F.3.

2/11/2020

---

### Subject:

Acceptance, Re: Binding Development Plan with Laura Kimberley Miller (19PZ00099) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept, and the Chair to sign, the Binding Development Plan.

### Summary Explanation and Background:

On December 5, 2019, the Board approved a change of zoning classification from RR-1 (Rural Residential) to AU(L) (Agricultural Residential Low Intensity) with a BDP (Binding Development Plan). The BDP 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 approval of the rezoning request by the Board. Following staff and legal review, a BDP is presented to the Board in recordable form as a Consent Agenda Item in order to finalize the zoning action.

The conditions of the BDP include, but are not limited to the following:

- The selling of agricultural products on the property shall be prohibited
- No outdoor events without a Special Event Permit
- No camping or overnight stays for commercial purposes
- No resort or tenant dwellings on the property.

### Clerk to the Board Instructions:

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



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

February 12, 2020

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

TO: Jennifer Jones, Zoning

RE: Item F.3., Binding Development Plan Agreement – Laura Kimberley Miller

The Board of County Commissioners, in regular session on February 11, 2020, executed Binding Development Plan with Laura Kimberley Miller. Said Plan was recorded in OR/BK 8662/2547. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

Prepared by: Laura Kimberley Miller  
Address: 4200 Eola Ave.  
Titusville, FL 32796

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Laura Kimberley Miller, Owner, (hereinafter referred to as "Developer/Owner").

### **RECITALS**

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the AU(L) zoning classification(s) and desires to develop the Property as an Organic, Hydroponic, Microgreen, and Lettuce Greenhouse Farm, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall comply with this Binding Development Plan prohibiting the selling of agricultural products on the property, no outdoor events (per Section 10-27 of Brevard County Code)

without a Special Event Permit, no camping or overnight stays for commercial purposes, and no resort or tenant dwellings on the property.


3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.
4. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on December 5, 2019. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.
7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the zoning classification and is subject to enforcement action as described in Paragraph 6 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

  
CHIEF DEPUTY, LAURIE RICE

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


  
Bryan Lober, Chair  
As approved by the Board on 2/11/2020


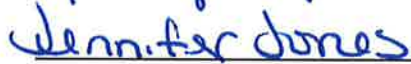
(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

Laura Kimberley Miller  
as DEVELOPER/OWNER

  
  
(Witness Name typed or printed)

  
4200 EOLA Ave. Titusville, FL 32796  
(Address)

  
  
(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF Florida §

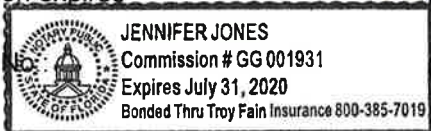
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 15th day of January, 2020, by Laura Kimberley Miller, owner 4200 Eola Ave., who is personally known to me or who has produced FLDL Titusville FL 32796 as identification.

My commission expires

SEAL

Commission



  
Notary Public

(Name typed, printed or stamped)

Exhibit "A"

A part of the W ½ of the SW ¼ of Section 30, Township 21S, Range 35E, and a part of the E ½ of the SW ¼ of Section 25, Township 21S, Range 34E, all in Brevard County, Florida, described as follows: Beginning at the NW corner of Lot 12, Block F, Lakeview Hills Unit 2 Section "C", as recorded in Plat Book 21, Page 127, of the Public Records of Brevard County, Florida; run thence N2deg03'37"W, along the westerly boundary of said Lakeview Hills Unit 2 Section "C" and along the northerly extension of said westerly boundary 990.00 ft.; thence S89deg33'13"W, 375 ft.; thence run southerly the following four courses and distances: S 17deg32'11"E, 250.99 ft.; S33deg53'18"E, 299.48 ft.; S28deg17'50"E, 225.11 ft.; S2deg03'37"E, 300 ft., run thence N89deg33'13"E, 50 ft. to the point of beginning. AND a part of the W ½ of the SW ¼ of Section 30, Township 21S, Range 35E, and a part of the E ½ of the SE ¼ of Section 25, Township 21S, Range 34E, all in Brevard County, Florida, described as follows: Commence at the NW corner of Lot 12, Block "F", Lakeview Hills Unit 2 Section "C", as recorded in Plat Book 21, Page 127, of the Public Records of Brevard County, Florida, run thence N2deg03'37"W, along the westerly boundary of said Lakeview Hills Unit 2 Section "C" and along the northerly extension of said westerly boundary 990.00 ft. to the point of beginning of the lands described herein: thence S89deg33'13"W, 375 ft. thence N51deg23'44"W, 263.68 ft., thence N13deg27'48"E, 346.29 ft.; thence S72deg12'48"E, 512.63 ft. to a point on the aforesaid northerly extension of the westerly boundary of Lakeview Hills Unit 2 Section "C", thence S2deg03'37"E, along said northerly extension, 342 ft. to the point of beginning.

Also known as: Tax Parcel 506, as recorded in ORB 8390, Pages 907 – 909, of the Public Records of Brevard County, Florida.

JOINDER IN BINDING DEVELOPMENT PLAN BY MORTGAGEE CORPORATION

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory

for the owner and holder of that certain Mortgage dated August 3, 2018, given by

LAURA KIMBERLEY MILLER, as mortgagor, in favor of the undersigned,

DARROLL W. HIGGINBOTHAM AND PAULA RAE HIGGINBOTHAM, as mortgagee, recorded in Official Records Book 8235

Page 939, 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

DARROLL W. HIGGINBOTHAM AND PAULA RAE HIGGINBOTHAM

Mortgagee Corporation Name

1874 N. CARPENTER RD TINNSVILLE FLORIDA 32796  
Street City State Zip Code

[Signature]  
\*Authorized Agent Signature

DARROLL W. HIGGINBOTHAM  
Paula Rae Higgin botham  
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

Shelley Sullivan  
Print Name

[Signature]  
Signature

Kimberley J Durnin  
Print Name

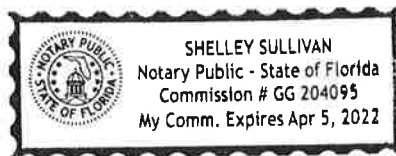
STATE OF FL

COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of Jan, 2020,  
by Darroll Higginbotham  
Paula Higginbotham, who is personally known to me or who has produced  
FDL and  
FLDL as identification.

SSullivan  
Notary Public Signature

Shelley Sullivan  
Name Printed

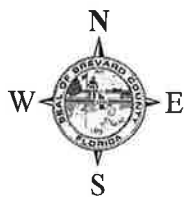
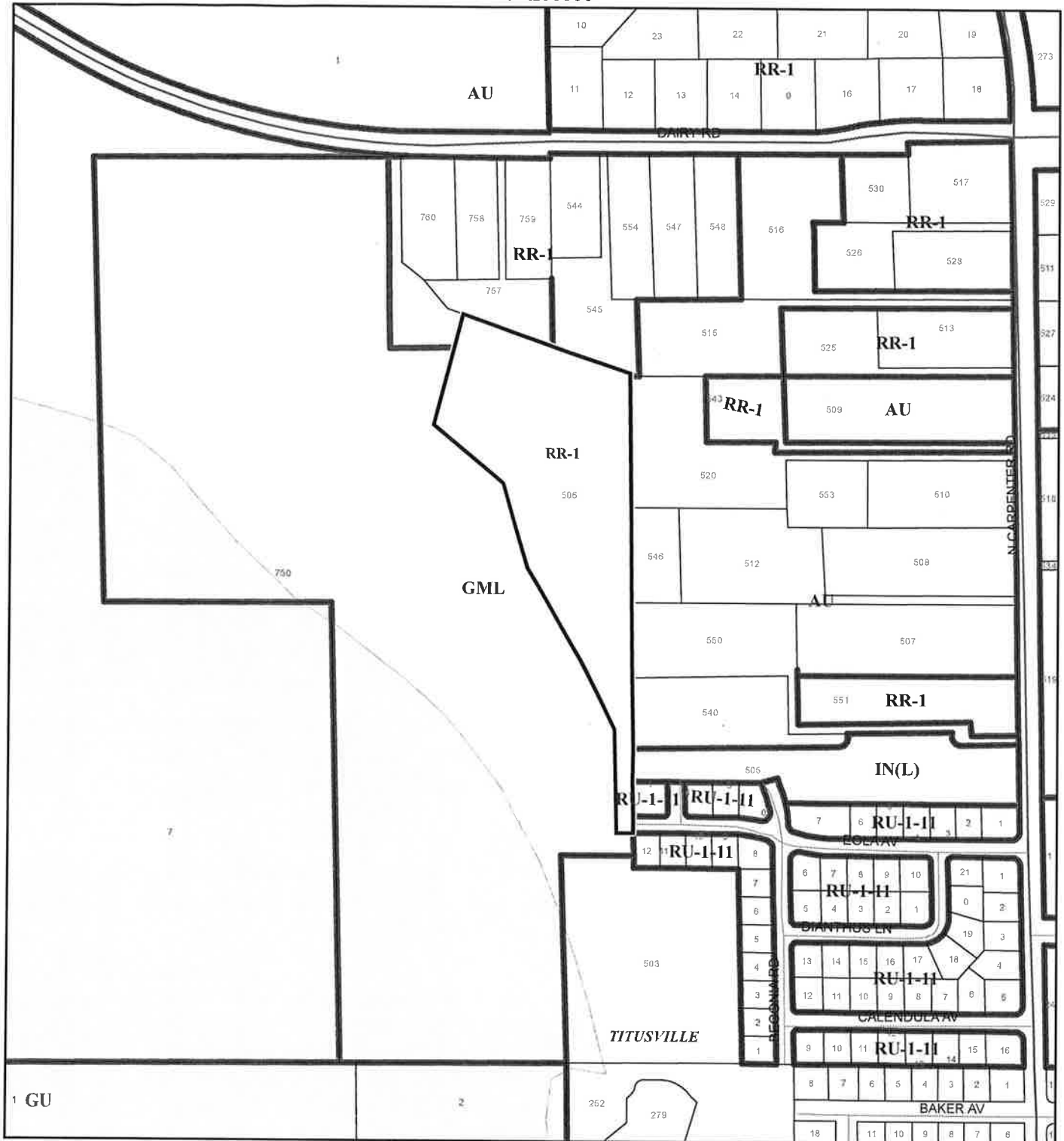


SEAL



# ZONING MAP

MILLER, LAURA KIMBERLEY  
19PZ00099



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: 7/30/2019

- Subject Property
- Parcels
- Zoning

**Resolution 19PZ00099**

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

**WHEREAS, Laura Kimberley Miller** has requested a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) and removal of an existing BDP (Binding Development Plan), on property described as Tax Parcel 506, as recorded in ORB 8390, Pages 907 – 909, of the Public Records of Brevard County, Florida. **Sections 25 & 30, Township 21, Ranges 34 & 35.** (9 acres) Located at the westerly end of Eola Avenue. (4200 Eola Avenue, Titusville); and

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

**WHEREAS,** the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as AU(L) (Agricultural Residential, Low-Intensity), with a BDP prohibiting the selling of agricultural products on the property, no outdoor events without a Special Event Permit, no camping or overnight stays for commercial purposes, and no resort or tenant dwellings on the property; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RR-1 to AU, be approved as AU(L), with a BDP recorded on February 12, 2020, in Official Records Book 8662, Pages 2547 – 2552, prohibiting the selling of agricultural products on the property, no outdoor events (per Section 10-27 of Brevard County Code) without a Special Event Permit, no camping or overnight stays for commercial purposes, and no resort or tenant dwellings on the property. 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 February 12, 2020.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

*Bryan Andrew Lober*

Bryan Lober, Chair  
Brevard County Commission  
As approved by the Board on February 11, 2020.

ATTEST:

*Scott Ellis*

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – October 7, 2019

Board of County Commissioners Zoning Hearing – December 5, 2019

Please note: A Conditional Use Permit will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits 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.**

## PUBLIC HEARINGS

Planning and Zoning Board  
Monday, October 7, 2019, at 3:00 p.m.  
and

Brevard County Board of County Commissioners  
Thursday, November 4, 2019, at 5:00 p.m.

Both at the  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

1. **Frances P. and Thomas A. Spina, Co-Trustees** request a change of zoning classification from GU (General Use) and RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 4.72 acres, located on the west side of Adamson Road, approximately 0.50 mile north of Saratoga Lane. (1470 Adamson Road, Cocoa.) (Tax Account 2406818) (19PZ00095) (District 1)

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

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

2. **Thomas L. and Barbara S. Tofte** (Anjelika Teynor) request a change of zoning classification from GU (General Use) to SR (Suburban Residential) with a BDP (Binding Development Plan) limited to one lot. The property is 1.34 acres, located on the north side of Golden Shores Boulevard, approximately 0.44 mile west of U.S. Highway 1. (No assigned address. In the Mims area.) (Tax Accounts 2000804, 2000810, 2000811) (19PZ00098) (District 1)

**Planning and Zoning Board Recommendation:** Moia/Lawandales – Approved with a BDP limited to one lot. The vote was unanimous.

**Board of County Commissioners Action:** Pritchett/Tobia – Approved as recommended with a BDP limited to one lot. The vote was unanimous. Chair Isnardi absent. The BDP will be scheduled as a Consent Item on a subsequent County Commission agenda, per Policy BCC-52. Resolution to be completed upon receipt of recorded BDP.

3. **Laura Kimberley Miller** requests a change of classification from RR-1 (Rural Residential) to AU (Agricultural Residential) and removal of an existing BDP (Binding Development Plan). The property is 9 acres, located at the westerly end of Eola Avenue. (4200 Eola Avenue, Titusville) (Tax Account 2106652) (19PZ00099) (District 1)

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

**Board of County Commissioners Action:** Pritchett/Tobia – Tabled to the 12/05/19 Commission meeting. The vote was unanimous. Chair Isnardi absent.

**Board of County Commissioners Action of 12/05/19:** Pritchett/Lober – Approved as AU(L) (Agricultural Use – Low Intensity) with a BDP prohibiting the selling of agricultural products on the property, no outdoor events without a Special Event Permit, no camping or overnight stays

for commercial purposes, and no resort or tenant dwellings on the property. The vote was unanimous. The BDP will be scheduled as a Consent Item on a subsequent County Commission agenda, per Policy BCC-52. Resolution to be completed upon receipt of recorded BDP.

4. **Tanya C. Knowles and Daisy Knowles** request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 3.56 acres total, located on the east side of Brown Road, approximately 488 feet south of Marlin Circle. (8302 & 8303 Brown Road, Micco.) (Tax Accounts 3006678 & 3006686) (19PZ00100) (District 3)

**Planning and Zoning Board Recommendation:** Glover/Theodore – Approved. The vote was unanimous.

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

5. **Wayne R. Friedrich and Adam J. Saab** (Andrew Bader) request a change of zoning classification from BU-1 (General Retail Commercial) to RU-2-15 (Medium Density Multi-Family Residential). The property is 0.52 acres, located on the west side of Highway A1A, approximately 680 feet south of Ocean Boulevard. (272 Highway A1A, Satellite Beach.) (Tax Account 2607205) (19PZ00103) (District 4)

**Planning and Zoning Board Recommendation:** Lawandales/Filiberto – Approved. The vote was unanimous.

**Board of County Commissioners Action:** Smith/Pritchett – Denied. The vote was unanimous. Chair Isnardi absent.

6. **Heck Enterprises of Brevard, Inc.** (James Heck) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 2.26 acres, located on the south side of Barefoot Boulevard, approximately 0.27 mile west of U.S. Highway 1. (307 & 311 Barefoot Boulevard, Barefoot Bay.) (Tax Account 3009175) (19PZ00104) (District 3)

**Planning and Zoning Board Recommendation:** Theodore/Lawandales – Approved with a BDP (Binding Development Plan) limiting the location of outdoor storage to be behind the main building (311 Barefoot Boulevard), the BU-2 use on the property shall be limited to a contractor storage yard, and any other uses of the subject property shall be limited to those within the BU-1 zoning classification. The vote was unanimous.

**Board of County Commissioners Action:** Tobia/Pritchett – Denied. The vote was unanimous. Chair Isnardi absent.

7. **Corey Nail** requests a change of zoning classification from PUD (Planned Unit Development) and AU (Agricultural Residential) to all AU. The property is 2.5 acres, located on the west side of Turtle Mound Road, approximately 0.26 mile north of Post Road. (No assigned address. In the Melbourne area.) (Tax Account 2605311) (19PZ00106) (District 4)

**Planning and Zoning Board Recommendation:** Moia/Lawandales – Approved. The vote

## PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Think Green Brevard, LLC. Pritchett/Isnardi. Approved with the condition that the developer/owner provide documentation as to the site meeting County parking standards, per Section 62-3206 of the Brevard County Code, prior to the approval of the Alcoholic Beverage License, and that the alcoholic beverage consumption be limited to the chapel, reception hall, patio bar, and tasting bar.
- Item H.1.b. Waiver Request, Re: Waiver of Wall Requirement for Think Green Brevard Business Complex 19WV00017. Pritchett/Isnardi. Approved as recommended. (on the Agenda as F.2.)
- Item H.2. Bonnie Douglas, Trustee. Isnardi/Pritchett. Continued to the February 6, 2020, meeting.
- Item H.3. Kim Fischer and Brian Scott Hall. Pritchett/Isnardi. Approved with a BDP limiting outdoor storage to the south 200 feet of the property.
- Item H.4. Laura Kimberley Miller. Pritchett/Lober. Approved as AU(L) with a BDP to include no selling of agricultural products on the property, no outdoor events without a Special Event Permit, no camping or over-night stays for commercial purposes, and no resort or tenant dwellings on the property.
- Item H.5. Ray L. Colgin. Pritchett/Isnardi. Approved as recommended **and adopted Ordinance No. 19-25.**
- Item H.6. Ray L. Colgin. Pritchett/Isnardi. Approved as recommended with a BDP limited to two units per acre.
- Item H.7. Lazy River Investments, LLC. Isnardi/Pritchett. Motion failed due to lack of support with Tobia, Smith, and Lober voting Nay.