



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.1.

4/6/2023

Subject:

Acceptance, Re: Binding Development Plan with Jerry W. and Violet Shirley Solomon (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 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 March 2, 2023, the Board approved a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP retaining all BU-1 uses and limiting the BU-2 use to boat and RV storage only. The attached BDP includes this condition.

Clerk to the Board Instructions:

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

Resolution 22Z00065

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

WHEREAS, Jerry W. Solomon and Violet Shirley Solomon, Revocable Trust has requested a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 774, as recorded in ORB 7657, Pages 2771 - 2773, of the Public Records of Brevard County, Florida. **Section 06, Township 21, Range 35.** (2.88 acres) Located on the east side of U.S. Highway 1, approx. 0.21 mile north of Brockett Rd. (No assigned address. In the Mims area.); 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 retaining all BU-1 uses, and limiting the BU-2 use to boat and RV storage only; 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 retaining all BU-1 uses, and limiting the BU-2 use to boat and RV storage only; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1 to BU-2, be approved with a BDP, recorded on 04/07/23, in ORB 9758, Pages 1837 - 1841, retaining all BU-1 uses, and limiting the BU-2 use to boat and RV storage only. 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 April 7, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on April 6, 2023.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – February 13, 2023
Board of County Commissioners Hearing - March 2, 2023

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.**



April 7, 2023

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.1., Binding Development Plan with Jerry W. Solomon and Violet Shirley Solomon

The Board of County Commissioners, in regular session on April 6, 2023, executed Binding Development Plan Agreement with Jerry W. Solomon and Violet Shirley Solomon for Tax Parcel 774, as recorded in ORB 7657, Pages 2771 – 2773, of the Public Records of Brevard County, Florida, Section 06, Township 21, and Range 35.

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 that reads "Kimberly Powell".

Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: Richard Spangler
Address: 2068 Arnold Palmer Dr.,
Titusville, FL 32796

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 6 day of APRIL, 2023 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Jerry W. Solomon and Violet Shirley Solomon, (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the BU-2 zoning classification and desires to develop the Property as boat and RV storage, 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 agree to retain all BU-1 uses and limit the BU-2 use to boat and RV storage only.
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 03/02/23. 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

Rita Pritchett, Chair

(SEAL)

on 4-6-2023

As approved by the Board April 6, 2023

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

WITNESSES:

Richard Spangler

WITNESS SIGNATURE

Richard Spangler

WITNESS PRINTED NAME

OWNER:

Jerry W. Solomon

Jerry W. Solomon

(Name typed, printed or stamped)

Andrea Spangler

WITNESS SIGNATURE

Andrea Spangler

WITNESS PRINTED NAME

STATE OF Florida §
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of X physical presence or online notarization, this 1 day of March, 2023 by Jerry W. Solomon, Property Owner, who is personally known to me or who has produced Drivers License as identification.

Kelly B. Wineland

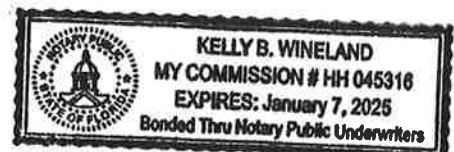
Notary Public

My commission expires

SEAL

Commission No.:

(Name typed, printed or stamped)



WITNESSES:

Richard Spangler

WITNESS SIGNATURE

Richard Spangler

WITNESS PRINTED NAME

OWNER:

Violet Shirley Solomon

Violet Shirley Solomon

(Name typed, printed or stamped)

Andrea Spangler

WITNESS SIGNATURE

Andrea Spangler

WITNESS PRINTED NAME

STATE OF Florida §
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of X physical presence or
online notarization, this 1 day of March, 2023 by Violet Shirley Solomon,
Property Owner, who is personally known to me or who has produced Drivers License as
identification.

Kelly B. Wineland

Notary Public

My commission expires

SEAL

Commission

No.:

Kelly B. Wineland

(Name typed, printed or stamped)



Exhibit "A"

Tax Parcel 774, as recorded in ORB 7657, Pages 2771 - 2773, of the Public Records of Brevard County, Florida. Section 06, Township 21, Range 35.

STATE OF FLORIDA
COUNTY OF BREVARD

Jerry W. & Violet Shirley Solomon, after being
duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

21-35-06--6-00-00774.0-0000.00 Tax account id:2102130

There are no mortgages on the above described property

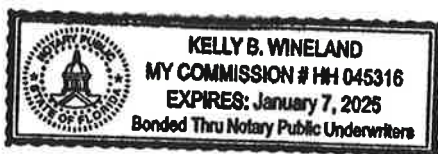
Dated this 28th day of February 2023..

Jerry W. & Violet Shirley Solomon
Signature

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 1 day of March
2023, by

Jerry W & Violet Shirley Solomon who is personally known to me or who has
produced Drivers License as identification, and who did take an oath.



Notary Public:

Kelly B. Wineland

State of Florida at Large
My Commission Expires:

(SEAL)

Prepared by: Richard Spangler
Address: 2068 Arnold Palmer Dr.
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 Jerry W. Solomon and Violet Shirley Solomon, (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the BU-2 zoning classification and desires to develop the Property as boat and RV storage, 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. 3/2/2023

3. Developer/Owner shall agree to retain all BU-1 uses and limit the BU-2 use to boat and RV storage only.
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 03/02/23. 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.

Exhibit "A"

Tax Parcel 774, as recorded in ORB 7657, Pages 2771 - 2773, of the Public Records of Brevard County, Florida. Section 06, Township 21, Range 35.

WITNESSES:

Richard Spangler
WITNESS SIGNATURE
Richard Spangler

WITNESS PRINTED NAME

OWNER:

Violet Shirley Solomon
Violet Shirley Solomon

(Name typed, printed or stamped)

Andrea Spangler
WITNESS SIGNATURE
Andrea Spangler

WITNESS PRINTED NAME

STATE OF Florida §
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of X physical presence or
online notarization, this 1 day of March, 2023 by Violet Shirley Solomon,
Property Owner, who is personally known to me or who has produced Drivers License as
identification.

Kelly B. Wineland
Notary Public

My commission expires

SEAL
Commission

No.:

Kelly B. Wineland
(Name typed, printed or stamped)



STATE OF FLORIDA
COUNTY OF BREVARD

Jerry W. & Violet Shirley Solomon, after being
duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

21-35-06--6-00-00774.0-0000.00 Tax account id:2102130

There are no mortgages on the above described property

Dated this 28th day of February 2023..

Jerry W. & Violet Shirley Solomon
Signature

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 1 day of March
2023, by

Jerry W & Violet Shirley Solomon who is personally known to me or who has
produced Drivers License as identification, and who did take an oath.



Notary Public:

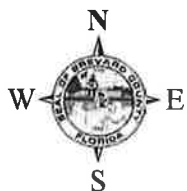
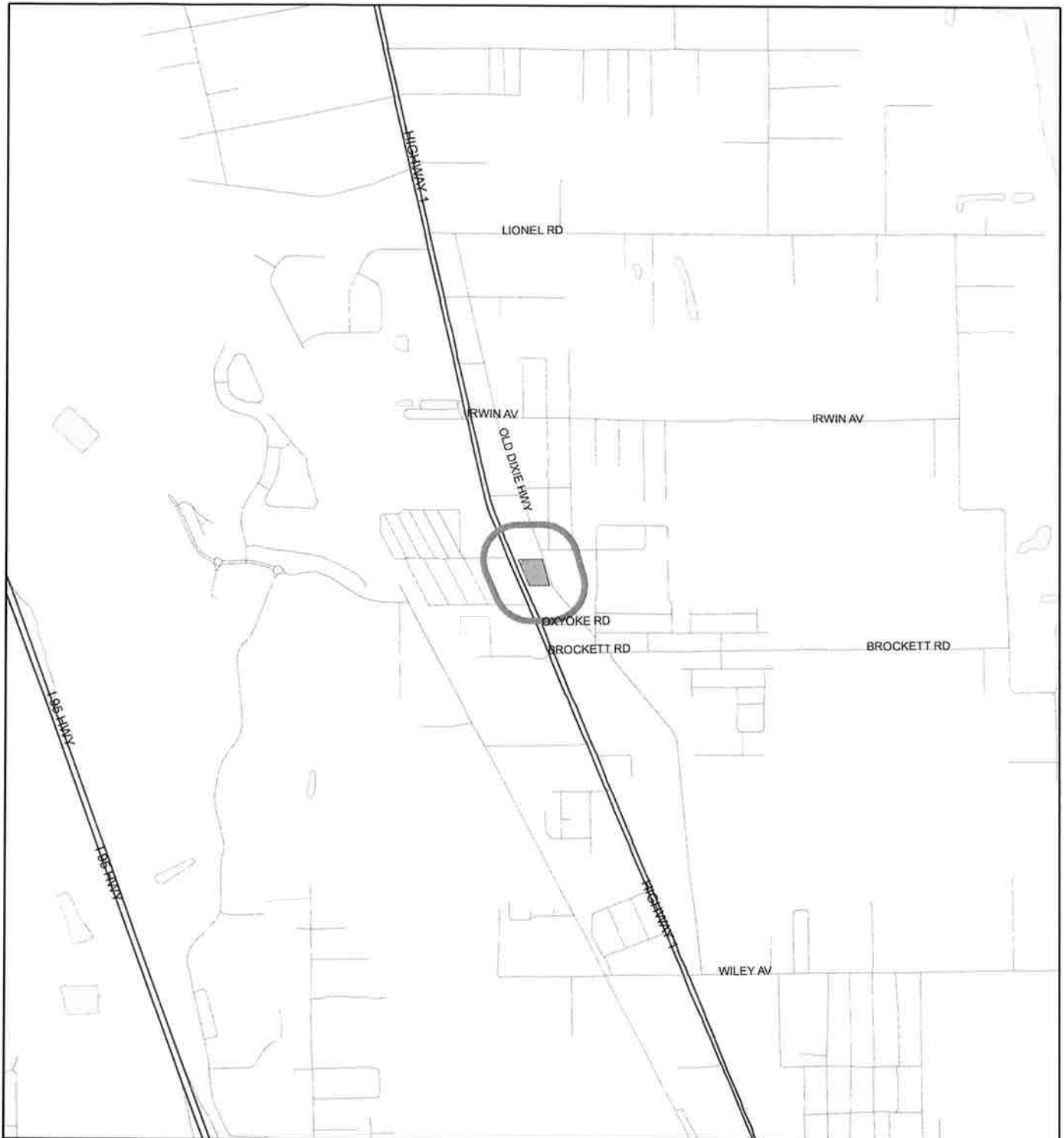
Kelly B. Wineland

State of Florida at Large
My Commission Expires:

(SEAL)

LOCATION MAP

JERRY W SOLOMON & VIOLET SHIRLEY SOLOMON REVOCABLE TRUST
22Z00065



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.

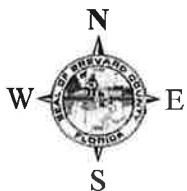
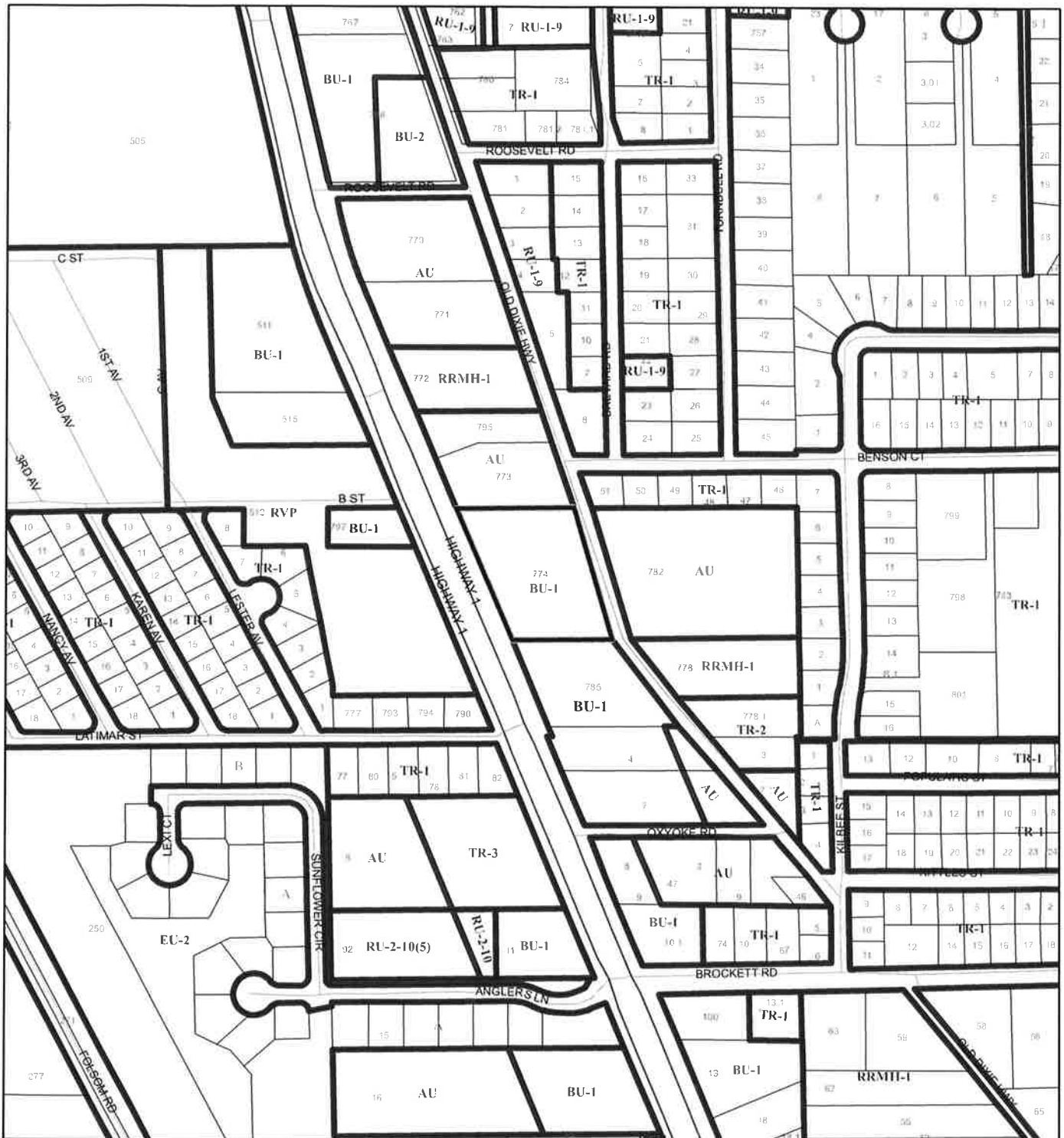
Produced by BoCC - GIS Date: 12/9/2022

— Buffer
■ Subject Property

ZONING MAP

JERRY W SOLOMON & VIOLET SHIRLEY SOLOMON REVOCABLE TRUST

22Z00065



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: 12/6/2022

- Subject Property
- Parcels
- Zoning

H. PUBLIC HEARINGS

Planning and Zoning Board / Local Planning Agency
Monday, February 13, 2023, at 3:00 p.m.

Brevard County Board of County Commissioners
Thursday, March 2, 2023, at 5:00 p.m.

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

1. **(22Z00066) Lori Ann Halbert** (Jason Steele) requests a change of zoning classification from RU-1-13 (Single-Family Residential) to RU-2-15 (Medium Density Multi-Family Residential), on 0.57 acres, located on the north side of Coral Way, approx. 685 ft. west of Highway A1A. (124 E. Coral Way, Indialantic) (Tax Account 2716292) (District 5)

P&Z Recommendation: Glover/Thomas - Approved. The vote was 9:1, with Sullivan voting nay.

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

2. **(22Z00064) Brian and Dana Scholz** (Stuart Buchanan) request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on 3.91 acres, located on the north side of Orlando Ave., approx. 0.25 mile east of U.S. Highway 1 (3620 Orlando Ave., Mims) (Tax Account 2004785) (District 1)

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

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

3. **(22SS00014) Norman Leigh Sherman, Jr., and Karen Denise Turowski** request a *Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1), on 4.40 acres, located on the southeast corner of Pine Needle St. and Hog Valley Rd. (4791 Pine Needle St., Mims) (Tax Account 2002089) (District 1)*

LPA Recommendation: Moia/Hodgers - Approved. The vote was unanimous with John Hopengarten abstaining.

BCC ACTION: Zonka/Tobia - Tabled to future P&Z and BCC meetings in order for the applicant to provide an appropriate description of the subject property. The vote was unanimous.

4. **(22Z00065) Jerry W. Solomon and Violet Shirley Solomon, Revocable Trust** (Richard Bartley Spangler) request a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on 2.88 acres, located on the east side of U.S. Highway 1, approx. 0.21 mile north of Brockett Rd. (No assigned address. In the Mims area.) (Tax Account 2102130) (District 1)

P&Z Recommendation: Bartcher/Hopengarten - Approved with a BDP retaining all BU-1 uses and limiting the BU-2 use to boat and RV storage only. The vote was unanimous.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. **Lori Ann Halbert.** Zonka/Tobia. Approved the request of changing the zoning classification from RU-1-13 to RU-2-15 as recommended. (22Z00066)
- Item H.2. **Brian and Dana Scholz.** Zonka/Tobia. Approved the request of changing the zoning classification from AU to RR-1 as recommended. (22Z00064)
- Item H.3. **Norman Leigh Sherman, Jr. and Karen Denise Turowski.** Continued the request of a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC to RES 1, until an appropriate description of the property is obtained. (22SS00014)
- Item H.4. **Jerry W. Solomon and Violet Shirley Solomon, Revocable Trust.** Tobia/Zonka. Approved the request of changing the zoning classification from BU-1 to BU-2 with a BDP limiting to BU-1 uses and RV and boat storage. The P&Z board recommended approval of all BU-1 uses and the use of recreational vehicle and boat storage only. (22Z00065)
- Item H.5. **Edita Realty.** Tobia/Feltner. Approved the request of changing the zoning classification from BU-1 to RU-2-10 as recommended. (22Z00049)
- Item H.6. **Lake Geneva Group, LLC.** Withdrawn by the applicant. Letter received February 28, 2023. (22Z00063)