



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.7.

5/26/2022

Subject:

Acceptance, Re: Binding Development Plan with John Louis Freeman (District 2)

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 March 3, 2022, the Board approved 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.

Clerk to the Board Instructions:

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

Resolution 21PZ00090

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

WHEREAS, John Louis Freeman has requested removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 1, Block H, as recorded in ORB 9062, Page 1205, of the Public Records of Brevard County, Florida. **Section 26, Township 25, Range 37.** (0.19 acres) Located on the southwest corner of S. Orlando Ave. and Summer Street. (2031 S. Orlando Ave., Cocoa Beach); 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 with a BDP limiting development to a maximum of two units; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested removal of a BDP in an RU-2-12 zoning classification, be approved with a BDP, recorded on May 31, 2022, in ORB 9520, Pages 160 - 165, limiting development to a maximum of two units. 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 May 31, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission
As approved by the Board on May 26, 2022.

ATTEST:


RACHEL SADOFF, CLERK

(SEAL)

P&Z Hearing – February 14, 2022
BCC Hearing - March 3, 2022

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**



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

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

May 27, 2022

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item F.7., Binding Development Plan Agreement with John Louis Freeman

The Board of County Commissioners, in regular session on May 26, 2022, executed Binding Development Plan with John Louis Freeman, for property located at a parcel of land in Section 26, Township 25S, Range 37E, in Brevard County.

Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

RACHEL M. SADOFF, CLERK

Donna Scott
for Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: John Louis Freeman
Address: 2031 S. Orlando Ave
Cocoa Beach, FL 32931

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 26 day of May, 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 John Louis Freeman (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 development of the Property to a maximum of two dwelling units.

Rev. 3/4/2022

4. This BDP shall replace the BDP recorded on 02/15/05, in ORB 5422, Pages 5613 - 5619, 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 March 3, 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 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:

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

Rachel M. Sadoff
Rachel M. Sadoff, Clerk of Court
(SEAL)

Kristine Zonka
Kristine Zonka, Chair

As approved by the Board on 5-26-2022

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

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

Maverick Schmitt
Maverick Schmitt
(Witness Name typed or printed)

John L. Freeman
2012 Jupiter Dr, Cocoa Bch, FL 3293
(Address)

Tonya L Parker
Tonya L Parker
(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or
_____ online notarization, this 20th day of May, 2022 by
John Louis Freeman, President of N/A, who is
personally known to me or who has produced FL DL as identification.

My commission expires
SEAL

Commission No.:

Jennifer Jones
Notary Public

(Name typed, printed or stamped)



EXHIBIT "A"

A parcel of land located in Section 26, Township 25S, Range 37E, Brevard County, Florida, and being more particularly described as follows:

Commence at the intersection of the west r/w line of Atlantic Avenue and the south r/w line of 20th Street and thence run S83deg22'56"W, along said south r/w line, a distance of 122 ft., thence run S06deg49'00"E, a distance of 168.68 ft. to the Point of Beginning. Thence continue S06deg49'00"E, a distance of 84.32 ft. to the north r/w line of 21st Street. Thence run S82deg23'26"W along said north r/w line, a distance of 82.02 ft. to the east r/w line of South Brevard Street (aka Highway A1A) and a point on a curve concave to the east with a radius of 1,860.08 ft. Thence run northerly along the arc, along the said east r/w line, a distance of 88.72 ft. (with a chord of 88.71 ft., a delta of 02deg43'55", and a chord bearing of N24deg19'40"). Thence run N82deg43'14"E, a distance of 108.72 ft. 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 March 28, 2022, given by John Louis Freeman, as mortgagor, in favor of the undersigned, U.S. Bank National Association, as mortgagee, recorded in Official Records Book 9461 Page 474, 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

U.S. Bank National Association

Mortgagee Corporation Name


4801 Frederica Street Owensboro, KY 42301
Street City State Zip Code

 April Ferguson / 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

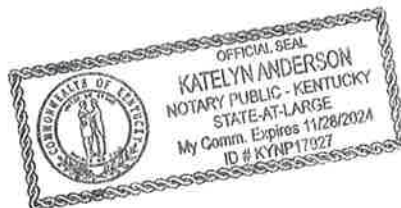
WITNESSES


Signature

Sarah Westerfield
Print Name


Signature

Katelyn Anderson
Print Name



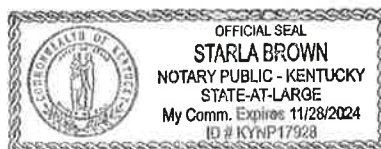
STATE OF Kentcky

COUNTY OF Daviess

The foregoing instrument was acknowledged before me this 18th day of May, 20 22,
by April Ferguson / Officer, who is personally known to me or who has produced
Self as identification.



Notary Public Signature



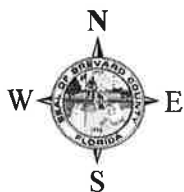
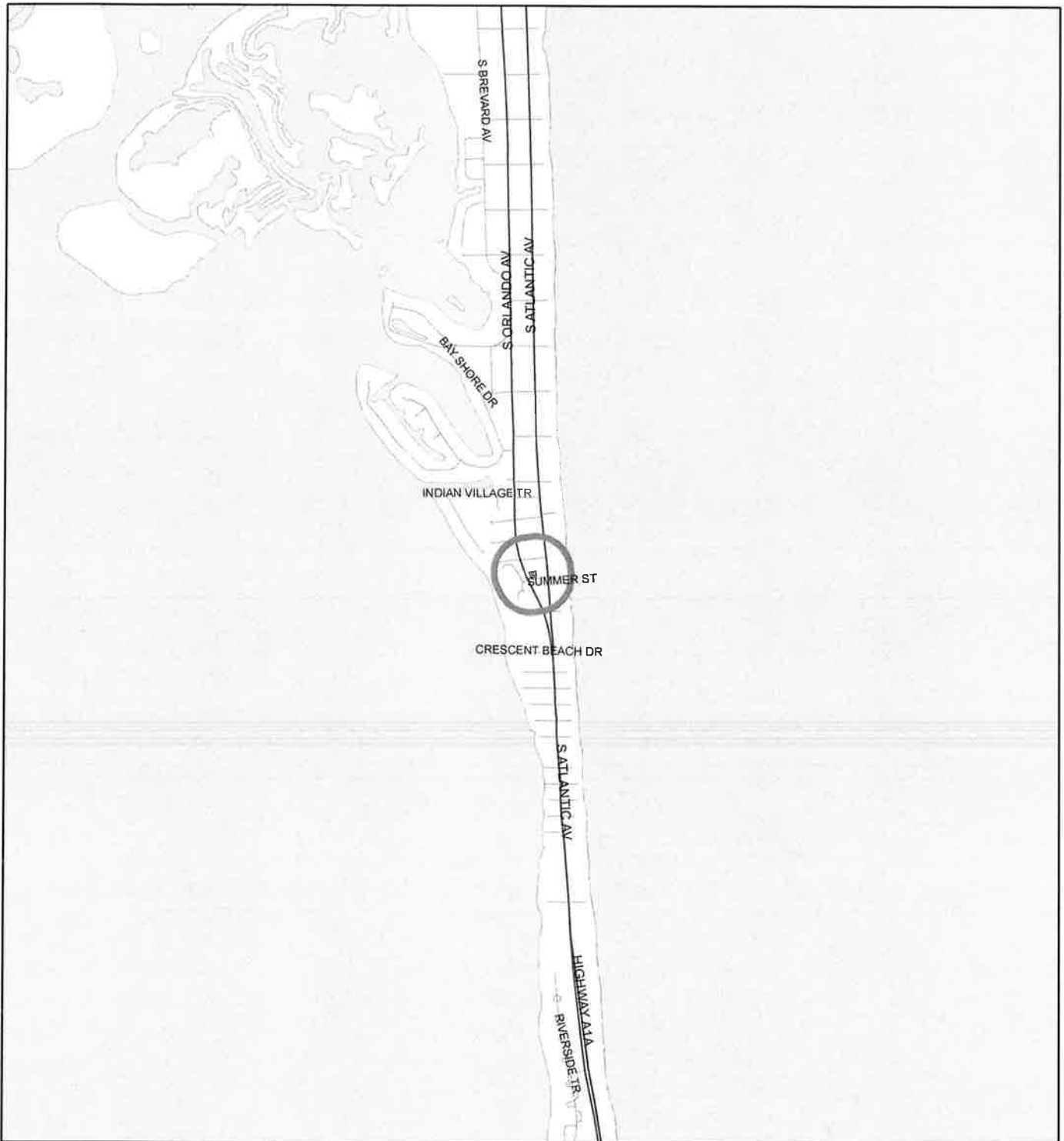
Starla Brown
Name Printed KYNP: 17928

SEAL

LOCATION MAP

FREEMAN, JOHN LOUIS

21PZ00090



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.

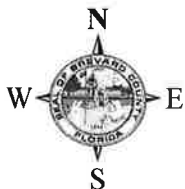
Produced by BoCC - GIS Date: 12/8/2021

— Buffer
■ Subject Property

ZONING MAP

FREEMAN, JOHN LOUIS

21PZ00090



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: 12/8/2021

- Subject Property
- Parcels
- Zoning

5. **(21PZ00081) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST** (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (21S.08) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 4 acres, located on the north side of S.R. 46, approx. 0.25 mile west of I-95. (No assigned address. In the Mims area.) (Tax Account 2100183) (District 1)

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

BCC Action: Pritchett/Lober - **Approved as recommended, and adopted Ordinance 22-06. The vote was unanimous.**

6. **(21Z00044) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST** (Kim Rezanka) requests a change of zoning classification from GU (General Use) to BU-1 (General Retail Commercial). The property is 4 acres, located on the north side of S.R. 46, approx. 0.25 mile west of I-95. (No assigned address. In the Mims area.) (Tax Account 2100183) (District 1)

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

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

7. **(21PZ00089) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST** (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (21S.10) to change the Future Land Use designation from RES 2 (Residential 2) to RES 4 (Residential 4). The property is 49.72 +/- acres, located on the north side of S.R. 46, approx. .25 mile west of I-95. (No assigned address. In the Mims area.) (Tax Account 2100183) (District 1)

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

BCC ACTION: Pritchett/Smith - **Approved as recommended, and adopted Ordinance 22-07. The vote was unanimous.**

8. **(21Z00043) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST** (Kim Rezanka) request a change of zoning classification from AU (Agricultural Residential), GU (General Use), BU-1 (General Retail Commercial), and BU-2 (Retail, Warehousing, and Wholesale Commercial), to RU-1-7 (Single-Family Residential) with a BDP (Binding Development Plan). The property is 73.59 +/- acres, located on the north side of S.R. 46, approx. 0.25 mile west of I-95. (No assigned address. In the Mims area.) (Tax Account 2100183) (District 1)

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

BCC ACTION: Pritchett/Smith - **Approved as recommended, with a BDP limiting density to 180 units, and limiting ingress and egress to S.R. 46. 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.**

9. **(21PZ00090) JOHN LOUIS FREEMAN** (Pamela McCarty) requests removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification. The property is 0.19 acres, located on the southwest corner of S. Orlando Ave. and Summer Street. (2031 S. Orlando Ave., Cocoa Beach) (Tax Account 2520101) (District 2)

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

BCC ACTION: Lober/Pritchett - **Approved with a BDP limiting development to a maximum of two 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.**

- 10. (21PZ00091) MICHAEL R. AND MALENA C. STEWART** (Pamela McCarty) request removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification. The property is 0.23 acres, located on the southeast corner of S. Atlantic Ave. and Summer St. (2060 S. Atlantic Ave., Cocoa Beach) (Tax Account 2521132) (District 2)

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

BCC ACTION: Lober/Smith - **Approved with a BDP limiting development to a maximum of two 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.**

- 11. Florida in the Sunshine Review**

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Brad A. Lange. Lober/Tobia. Approved changing zoning classification from BU-1 and RU-2-30 to RU-2-4 as recommended. (21Z00047).
- Item H.2. Sunil Rajan, Sudhir Rajan, and Suresh Rajan. Lober/Tobia. Approved changing zoning classification from NC to CC, with a Binding Development Plan for any shared driveway use requires the Diocese of Orlando's permission; and adopted Ordinance No. 22-05, setting forth Small Scale Comprehensive Plan Amendment 21S.09, changing the Future Land Use designation from NC to CC. (21PZ00082).
- Item H.3. Robert Griffith. Pritchett/Lober. Approved changing zoning classification from RRMH-1 to TR-1 as recommended. (21P00035).
- Item H.4. Scott Minnick. Pritchett/Lober. Approved changing zoning classification from AU to RR-1. (21Z00025).
- Item H.5. Lance C. Boncek. Pritchett/Tobia. Approved changing zoning classification from GU to AU. (21Z00046).
- Item H.6. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Lober. Adopted Ordinance No. 22-06, approving a Small Scale Comprehensive Plan Amendment (21S.08) to change the Future Land Use designation from NC to CC, as recommended. (21PZ00081).
- Item H.7. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Smith. Approved changing zoning classification from GU to BU-1. (21Z00044).
- Item H.8. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Smith. Adopted Ordinance No. 22-07, approving a Small Scale Comprehensive Plan Amendment (21S.10) to change the Future Land Use designation from RES 2 to RES 4. (21PZ00089).
- Item H.9. Jackson Family Trust; and C.B. Davis Family Trust. Pritchett/Smith. Approved changing zoning classification from AU, GU, BU-1, and BU-2 to RU-1-7, with a Binding Development Plan. (21Z00043).
- Item H.10. John Louis Freeman. Lober/Pritchett. Approved the removal of an existing Binding Development Plan in an RU-2-12 zoning classification; and approved the addition of a new Binding Development Plan to remove condition two, and limited to two units. (21PZ00090).
- Item H.11. Michael R. and Malena C. Stewart. Lober/Smith. Approved the removal of an existing Binding Development Plan in an RU-2-12 zoning classification; and approved the addition of a new Binding Development Plan to remove condition two, and limited to two units. (21PZ00091).