



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

9/1/2022

Subject:

Acceptance, Re: Binding Development Plan with DeRosa Holdings, LLC (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 August 4, 2022, the Board approved an amendment to an existing BDP in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification stipulating 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. The attached agreement includes this provision.

Clerk to the Board Instructions:

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

September 2, 2022

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.4., Binding Development Plan Agreement with DeRosa Holdings, LLC

The Board of County Commissioners, in regular session on September 1, 2022, executed Binding Development Plan Agreement with DeRosa Holdings, LLC, for property located at 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. Enclosed for your necessary action are two certified copies of the documents.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Resolution 22Z00022

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

WHEREAS, DeRosa Holdings, LLC has requested an amendment to an existing BDP (Binding Development Plan), in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 2.01, Block H, Bruners Re-Subdivision of Burchfield & Bruners Addition to Crescent Beach, as recorded in ORB 9166, Pages 1239 - 1240, of the Public Records of Brevard County, Florida. **Section 26, Township 25, Range 37.** (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); 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 of the property as two detached residential units for residency and/or rental, and that the property shall remain under one ownership, unless platted or developed as a condominium; 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 of the property as two detached residential units for residency and/or rental, and that the property shall remain under one ownership, unless platted or developed as a condominium; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested amendment to an existing BDP, in a RU-2-12 zoning classification, be approved with a BDP, recorded on 09/08/22, in ORB 9607, Pages 731 - 737, limiting development of the property as two 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 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 September 8, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Kristine Zonka, Chair
Brevard County Commission

As approved by the Board on September 1, 2022.

ATTEST:


RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – July 18, 2022
Board of County Commissioners Hearing - August 4, 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.**

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

CFN 2022220459, OR BK 9607 PAGE 731,
Recorded 09/08/2022 at 10:13 AM, Rachel M. Sadoff,
Clerk of Courts, Brevard County
Pgs:7

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 1 day of September, 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:

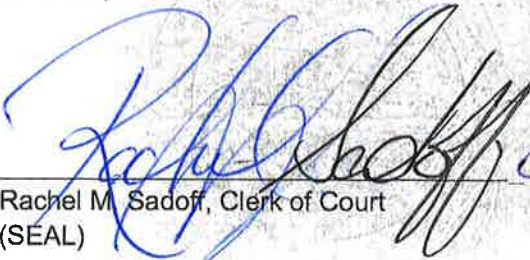
1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of 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 August 4, 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:




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 Sept. 1, 2022


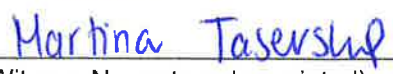
(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:



(Witness Name typed or printed)

DEROSA HOLDINGS LLC
as DEVELOPER/OWNER

1173 NE 103rd Street
Miami Shores, FL 33138



(Witness Name typed or printed)


Jamie DeRosa, Manager

STATE OF Florida §

COUNTY OF Miami-Dade §

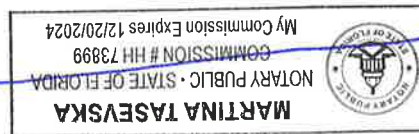
The foregoing instrument was acknowledged before me, by means of ☒ physical presence or
_____ online notarization, this 23rd day of August, 2022, by Jamie DeRosa, Manager

of DeRosa Holdings LLC, who is personally known to me or who has produced FL drivers license as
identification.

My commission expires
SEAL
Commission No.:

Wynn, Martina Tasevska
Notary Public

(Name typed, printed or stamped)



MT

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°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°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°24'04", a distance of 39.77 feet; thence leaving said West right of way line run S. 82°43'14" W., a distance of 121.86 feet; thence N. 06°49'00" W., a distance of 84.32 feet; thence N. 83°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

Street

Vero Beach

City

FL 32963

State Zip Code



*Authorized Agent Signature

Shaun Williams, SVP/Chief Lending Officer

Authorized Agent Printed Name and Title

Chief Credit Officer 08/10/2022

*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

Karen S Clothier

Print Name



Signature

Marc Moller

Print Name



STATE OF Florida

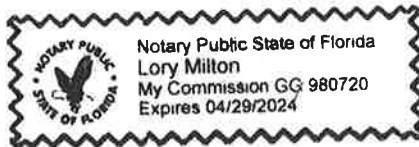
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 10th day of August, 2022,
by Brian Fowler, who is personally known to me or who has produced
_____ as identification.

Lory Milton
Notary Public Signature

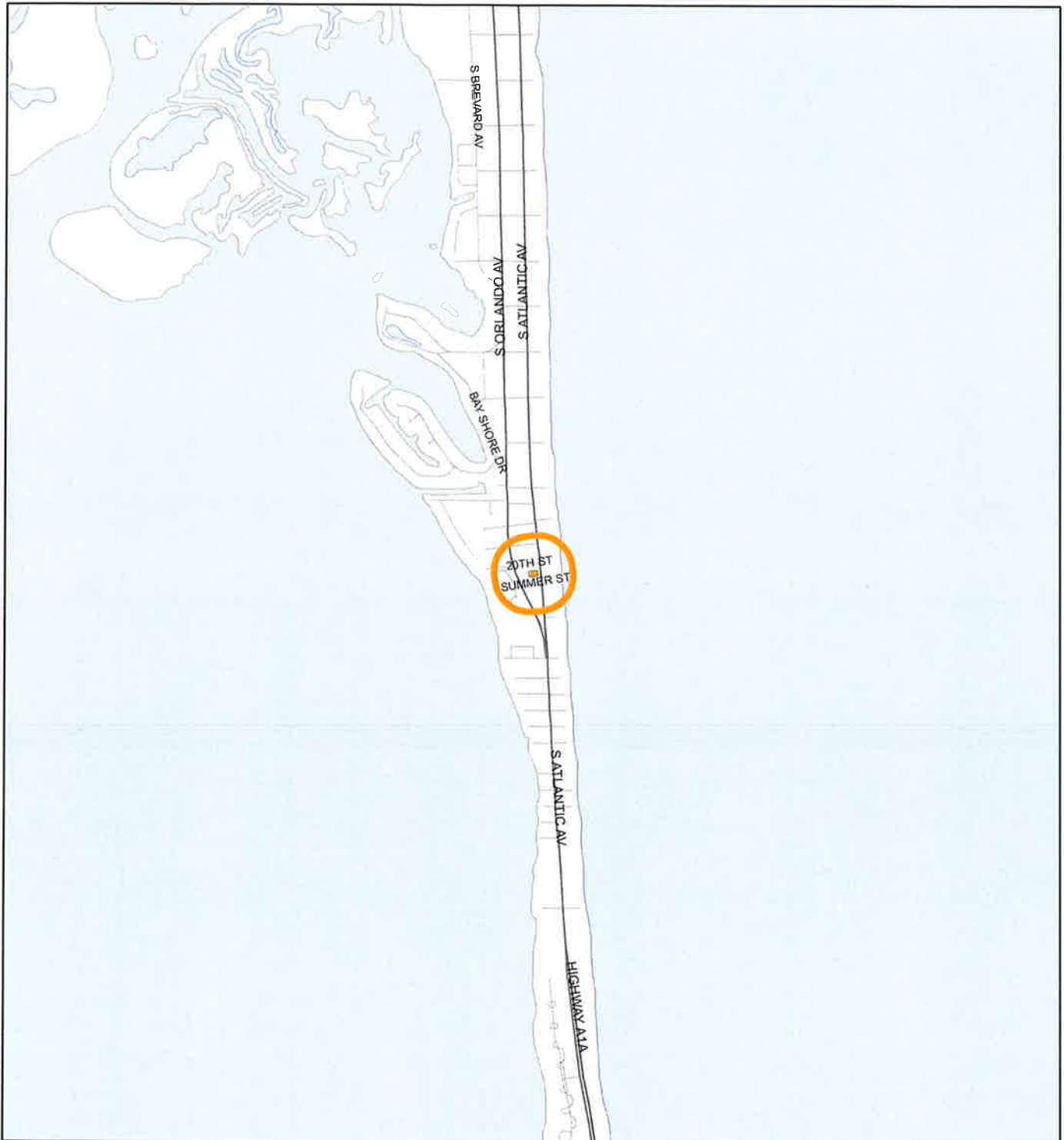
Lory Milton
Name Printed

SEAL



LOCATION MAP

DeROSA HOLDINGS, LLC
22Z00022



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

Buffer Distance: 500 feet

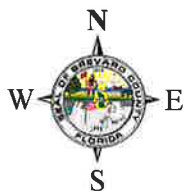
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

2)

LPA Recommendation: Filiberto/Alward - Denied. The vote was unanimous.

THIS ITEM WAS WITHDRAWN BY THE APPLICANT. LETTER RECEIVED 07/27/22.

5. **(22Z00015) Andrea Bedard and Nicholas Boardman** (Ronald Treharne) request a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial). The property is 1.02 acres, located on the north side of Coquina Rd., approx. 214 ft. east of U.S. Highway 1. (23 Coquina Rd., Rockledge) (Tax Account 2511124) (District 2) **THE APPLICANT AMENDED THE REQUEST TO RU-2-4. LETTER RECEIVED 07/27/22.**

P&Z Recommendation: Alward/Minneboo - Denied. The vote was unanimous.

BCC ACTION: Pritchett/Tobia - Returned to P&Z meeting of 09/12/22, and BCC meeting of 10/06/22. The vote was unanimous.

6. **(22SS00005) James A. and Vikki P. Dean** request a Small Scale Comprehensive Plan Amendment (22S.08), to change the Future Land Use designation from RES 1:2.5 (Residential 1:2.5) to RES 1 (Residential 1). The property is 2.50 acres, located on the southwest corner of Canton St. and Alan Shepard Ave., Cocoa. (3525 Canton St., Cocoa) (Tax Account 2442557) (District 1)

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

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

7. **(22Z00019) James A. and Vikki P. Dean** request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 2.50 acres, located on the southwest corner of Canton St. and Alan Shepard Ave., Cocoa. (3525 Canton St., Cocoa) (Tax Account 2442557) (District 1)

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

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

8. **(22Z00022) DeRosa Holdings, LLC** (Kim Rezanka) requests 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) (Tax Account 2534267) (District 2)

P&Z Recommendation: Alward/Glover - Approved with a BDP limiting development of the property as two 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 vote was unanimous.

BCC ACTION: Smith/Tobia - Approved as recommended, with an amended BDP limiting development of the property as two 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 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. **(22Z00023) Island Bluff, LLC** (Kim Rezanka) requests a change of zoning classification from BU-1 (General Retail Commercial) and IN(L) (Institutional Use, Low-Intensity), with an existing BDP (Binding Development Plan), to SR (Suburban Residential), removing the existing BDP, and adding a new BDP. The property is 2.12 acres, located on the west side of N. Tropical Trail, approx. 362 ft. south of Merritt Ave. (495 W. Merritt Ave., Merritt Island) (Tax Account 2426893) (District 2)

P&Z Recommendation: Alward/Moia - Approved, removing the existing BDP and adding a new BDP limiting density to one unit per acre, for a total of two units. The vote was unanimous.
BCC ACTION: Smith/Tobia - Approved as recommended, removing the existing BDP and adding a new BDP limiting density to one unit per acre, for a total 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. **(22SS00003) Sunshine Petro, Inc.; Jacob Aaron Corporation; and Alice Elaine Tisthammer** (John Rosenthal) requests a Small Scale Comprehensive Plan Amendment (22S.06), to change the Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial) and CC (Community Commercial) to all CC. The property is 17.70 +/- acres, located on the north side of Port St. John Parkway, approx. 570 ft. west of Grissom Parkway. (No assigned address. In the Cocoa area.) (Tax Accounts 2312189, 2312249, 2312191, 2312201, 2312205, 2312203, 2312233, 2312234, 2312213, & 2312214) (District 1)

LPA Recommendation: Alward/Moia - Approved. The vote was unanimous.
BCC ACTION: Smith/Tobia - Approved, and adopted Ordinance 22-??. The vote was unanimous.

11. **(22Z00020) Sunshine Petro, Inc.; Jacob Aaron Corporation; and Alice Elaine Tisthammer** (John Rosenthal) requests a change of zoning classification from GU (General Use), BU-1-A (Restricted Neighborhood Commercial), and BU-1 (General Retail Commercial), with existing BDPs (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of existing BDP's (Binding Development Plan). The property is 17.70 +/- acres, located on the north side of Port St. John Parkway, approx. 570 ft. west of Grissom Parkway. (No assigned address. In the Cocoa area.) (Tax Accounts 2312189, 2312249, 2312191, 2312201, 2312205, 2312203, 2312233, 2312234, 2312213, & 2312214) (District 1)

P&Z Recommendation: Alward/Moia - Approved. The vote was unanimous.
BCC ACTION: Pritchett/Smith - Approved as recommended. The vote was unanimous.

12. **(22SS00006) Jacob Aaron Corporation; Gigi II, LLC; The BDM Financial Corporation; and Michael P. and Lori L. Melzer** (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (22S.09) to change the Future Land Use designation from NC

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Daniel P. and Amber N. Allen. Pritchett/Smith, with Commissioner Tobia voting Nay. Approved the request of CUP for Farm Animals limited to (2 pot-bellied pigs and 4 chickens) and Fowl for Medical Hardship in an RR-1 zoning classification. (22Z00017).
- Item H.2. Evan Bales and Kelsey Godfrey. Pritchett/Tobia. Approved the request of CUP for Guesthouse with the condition of a kitchen being prohibited in a RU-1-11 Zoning Classification as recommended. (22Z00024).
- Item H.3. William and Jeanette Gonedridge. Pritchett/Tobia. Approved the request of change of zoning classification from AU to RR-1, with a BDP limiting development to a total of two separate lots. (22Z00018).
- Item H.4. Andrea Bedard and Nicholas Boardmen. Withdrawn by applicant. Letter received 07/27/2022.
- Item H.5. Andrea Bedard and Nicholas Boardmen. Pritchett/Tobia. Approved staff's recommendation to remand the request to change zoning classification from AU to BU-1 to the September 12, 2022, Planning and Zoning meeting for applicant to amend the request. (22Z00015).
- Item H.6. James A. and Vikki P. Dean. Pritchett/Tobia. Adopted Ordinance No. 22-22, setting forth the twelfth Small Scale Comprehensive Plan Amendment (22S.08), to change the Future Land Use designation from RES 1:2.5 to RES 1 as recommended. (22SS00005).
- Item H.7. James A. and Vikki P. Dean. Pritchett/Tobia. Approved the request of changing of zoning classification from AU to RR-1 as recommended. (22Z00019).
- Item H.8.** DeRosa Holdings, LLC. Smith/Tobia. Approved the request of amending an existing BDP in an RU-2-12 zoning classification as recommended. (22Z00022).
- Item H.9. Island Bluff, LLC. Smith/Tobia. Approved the request of changing zoning classification from BU-1 and IN(L) with an existing BDP, to SR, removing the existing BDP, and adding a new BDP as recommended. (22Z00023).
- Item H.10. Sunshine Petro, Inc.; Jacob Aaron Corporation; and Alice Elaine Tisthammer. Smith/Pritchett. Adopted Ordinance No. 22-23, setting forth the eleventh Small Scale Comprehensive Plan Amendment (22S.06), to change the Future Land Use Designation from RES 4, NC, and CC, to all CC as recommended. (22SS00003).