



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.6.

5/26/2022

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### Subject:

Acceptance, Re: Binding Development Plan with Sunil Rajan, Sudhir Rajan, and Suresh Rajan (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. 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 a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Neighborhood Commercial to Community Commercial, with a BDP stipulating the Developer/Owner shall not have a shared driveway access with the property to the south unless permission is received from the Diocese of Orlando, at which point such access may be further regulated by the Comprehensive Plan or the Land Development Regulations, as may be amended. The attached BDP includes this stipulation.

### Clerk to the Board Instructions:

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



May 27, 2022

**MEMORANDUM**

TO: Jennifer Jones, Zoning

RE: Item F.6., Binding Development Plan Agreement with Sunil Rajan, Sudhir Rajan and Suresh Rajan

The Board of County Commissioners, in regular session on May 26, 2022, executed Binding Development Plan with Sunil Rajan, Sudhir Rajan and Suresh Rajan, for property located at the South 200 feet of the N ½ of SE ¼ of SW ½, East of State Road No. 3 Right-of-Way, 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

*for Donna Scott*  
Kimberly Powell, Clerk to the Board

/dt

Encls. (2)

Prepared by: Kimberly Bonder Rezanka, Esquire  
LACEY LYONS REZANKA  
Address: 1290 U.S. Hwy 1, Ste. 201  
Rockledge, FL 32955

### **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 SUNIL RAJAN, SUDHIR RAJAN, and SURESH RAJAN ("Developer/Owner").

### **RECITALS**

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described as: The South 200 feet of the N ½ of SE ¼ of SW ½, East of State road No. 3 Right-of-Way, except land described in Official Record Book 559, page 707, Section 14, Township 24 South, Range 36 East.

WHEREAS, Developer/Owner has requested a small scale amendment to the County's Future Land Use Map from NC to CC develop the Property as restaurant with drive through aisles, 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 landowners 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 not have a shared driveway access with the property to the South unless permission is received from the Diocese of Orlando, at which point such access may be further

- regulated by the Comprehensive Plan or the Land Development Regulations, as may be amended.
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 \_\_\_\_\_, 2022. 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  
(SEAL)

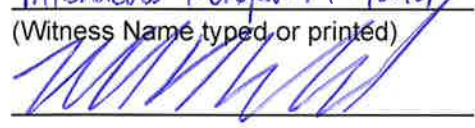
  
Kristine Zonka, Chair  
As approved by the Board on 5-26-2022

WITNESSES:

SUNIL RAJAN

  
Michaela Benson F. Gug  
(Witness Name typed or printed)


  
\_\_\_\_\_

  
Nicholas N. Rehal  
(Witness Name typed or printed)

STATE OF Florida §  
COUNTY OF Duval §

The foregoing instrument was acknowledged before me, by means of ✓ physical presence or \_\_\_\_\_ online notarization, this 13<sup>th</sup> day of May, 2022, by SUNIL RAJAN, who are personally known to me or who has produced DL as identification.

My commission expires 10/21/25  
SEAL  
Commission No.: HH 190098

  
\_\_\_\_\_  
Notary Public  
(Name typed, printed or stamped)



ROSEMARIE G. KUA  
Notary Public  
State of Florida  
Comm# HH190098  
Expires 10/21/2025



WITNESSES:

SURESH RAJAN

[Signature]

[Signature]

Michelle Bergson F. King  
(Witness Name typed or printed)

[Signature]

Nicholas N. Rahal  
(Witness Name typed or printed)

STATE OF Florida §

COUNTY OF Duval §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or  
\_\_\_\_\_ online notarization, this 13th day of May, 2022, by SURESH RAJAN, who  
are personally known to me or who has produced DL as identification.

My commission expires 10/21/25  
SEAL  
Commission No.: HH 190018

[Signature]  
Notary Public  
(Name typed, printed or stamped)



ROSEMARIE G. KUA  
Notary Public  
State of Florida  
Comm# HH190098  
Expires 10/21/2025

SK

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

2725 Judge Fran Jamieson Way  
Viera, FL 32940

  
Rachel M. Sadoff, Clerk of Court

  
Kristine Zonka, Chair

(SEAL)  
on 5/26/2022

As approved by the Board  
5-26-2022

WITNESSES:

SUNIL RAJAN

\_\_\_\_\_  
\_\_\_\_\_  
(Witness Name typed or printed)

\_\_\_\_\_  
\_\_\_\_\_  
(Witness Name typed or printed)

STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me, by means of \_\_\_\_\_ physical presence or \_\_\_\_\_  
online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by SUNIL RAJAN, who are  
personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires

\_\_\_\_\_  
Notary Public

SEAL

Commission No.:

\_\_\_\_\_  
(Name typed, printed or stamped)

WITNESSES:

SUDHIR RAJAN

  
Michelle Bengson F. Kinn  
\_\_\_\_\_  
(Witness Name typed or printed)

  
Nicholas N. Rahal  
\_\_\_\_\_  
(Witness Name typed or printed)

The foregoing instrument was acknowledged before me, by means of ✓ physical presence or online notarization, this 13<sup>th</sup> day of May, 2022, by SUDHIR RAJAN, who are personally known to me or who has produced DL as identification.

My commission expires 10/21/25

SEAL

Commission No.: HH 190098

Rosemarie G. Kua  
Notary Public

(Name typed, printed or stamped)



ROSEMARIE G. KUA  
Notary Public  
State of Florida  
Comm# HH190098  
Expires 10/21/2025

WITNESSES:

SURESH RAJAN

\_\_\_\_\_  
\_\_\_\_\_  
(Witness Name typed or printed)

\_\_\_\_\_  
\_\_\_\_\_  
(Witness Name typed or printed)

STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me, by means of \_\_\_\_\_ physical presence or \_\_\_\_\_ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by SURESH RAJAN, who are personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires  
SEAL

\_\_\_\_\_  
Notary Public



## AFFIDAVIT OF NO MORTGAGE

SUNIL RAJAN, after being duly sworn, deposes and says:

1. I am one of the owners of the real property as more particularly described as: The South 200 feet of the N ½ of SE ¼ of SW ¼, East of State road No. 3 Right-of-Way, except land described in Official Record Book 559, page 707, Section 14, Township 24 South, Range 36 East.
2. There are no mortgages on the Property.

Dated: <sup>May</sup> April 13, 2022

SUNIL RAJAN

*Sunil Rajan*

STATE OF Florida §

COUNTY OF Doral §

The foregoing instrument was acknowledged before me, by means of ✓ physical presence or \_\_\_\_\_ online notarization, this 13<sup>th</sup> day of May, 2022, by SUNIL RAJAN, who are personally known to me or who has produced DL as identification.

My commission expires 10/21/25  
SEAL  
Commission No.: HH190098

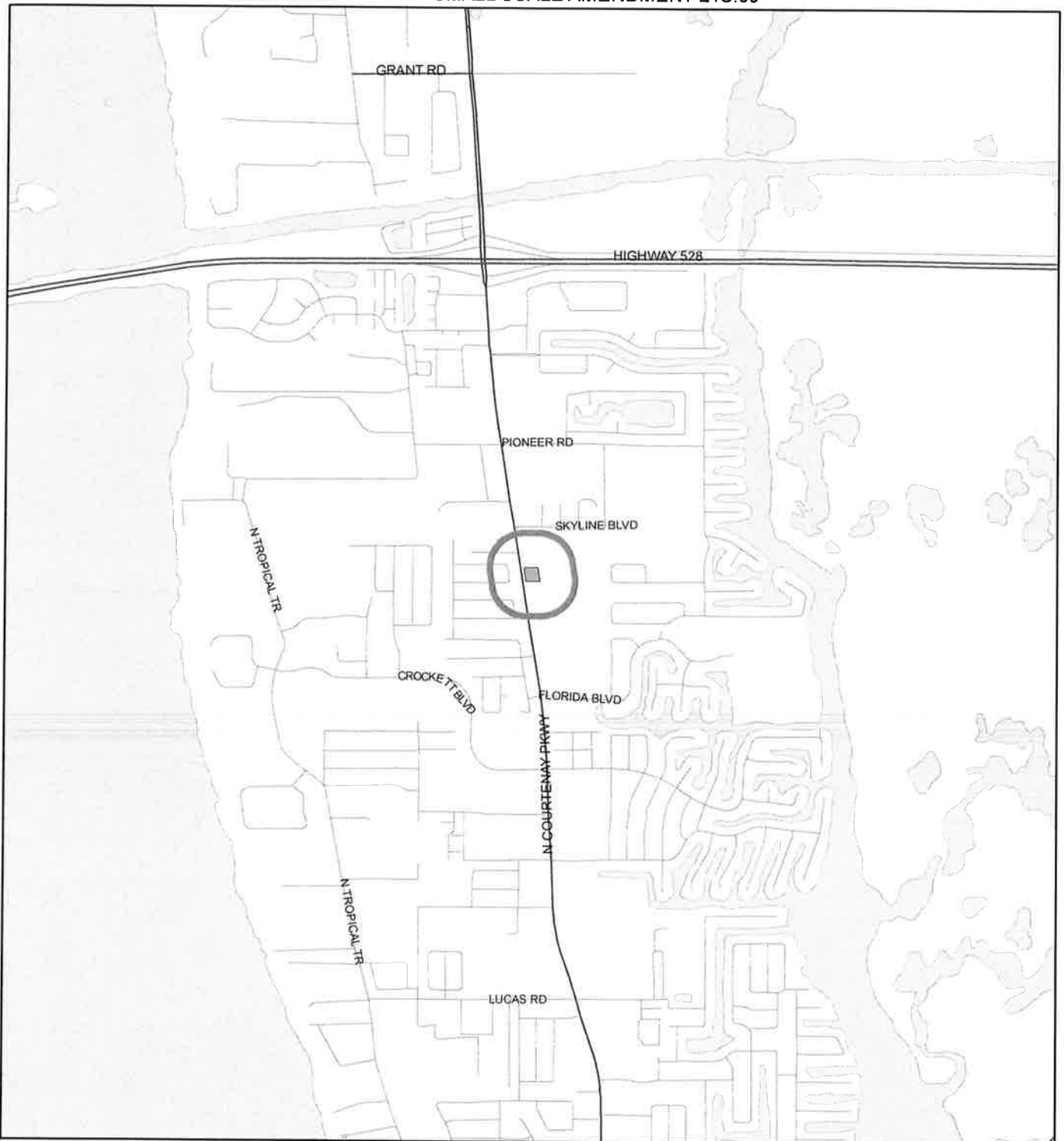
*Rosemarie G. Kua*  
Notary Public  
(Name typed, printed or stamped)



ROSEMARIE G. KUA  
Notary Public  
State of Florida  
Comm# HH190098  
Expires 10/21/2025

# LOCATION MAP

SUNIL RAJAN, SUDHIR RAJAN, AND SURESH RAJAN  
21PZ00082 SMALL SCALE AMENDMENT 21S.09



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

Buffer Distance: 500 feet

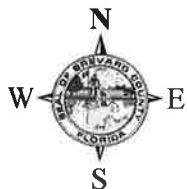
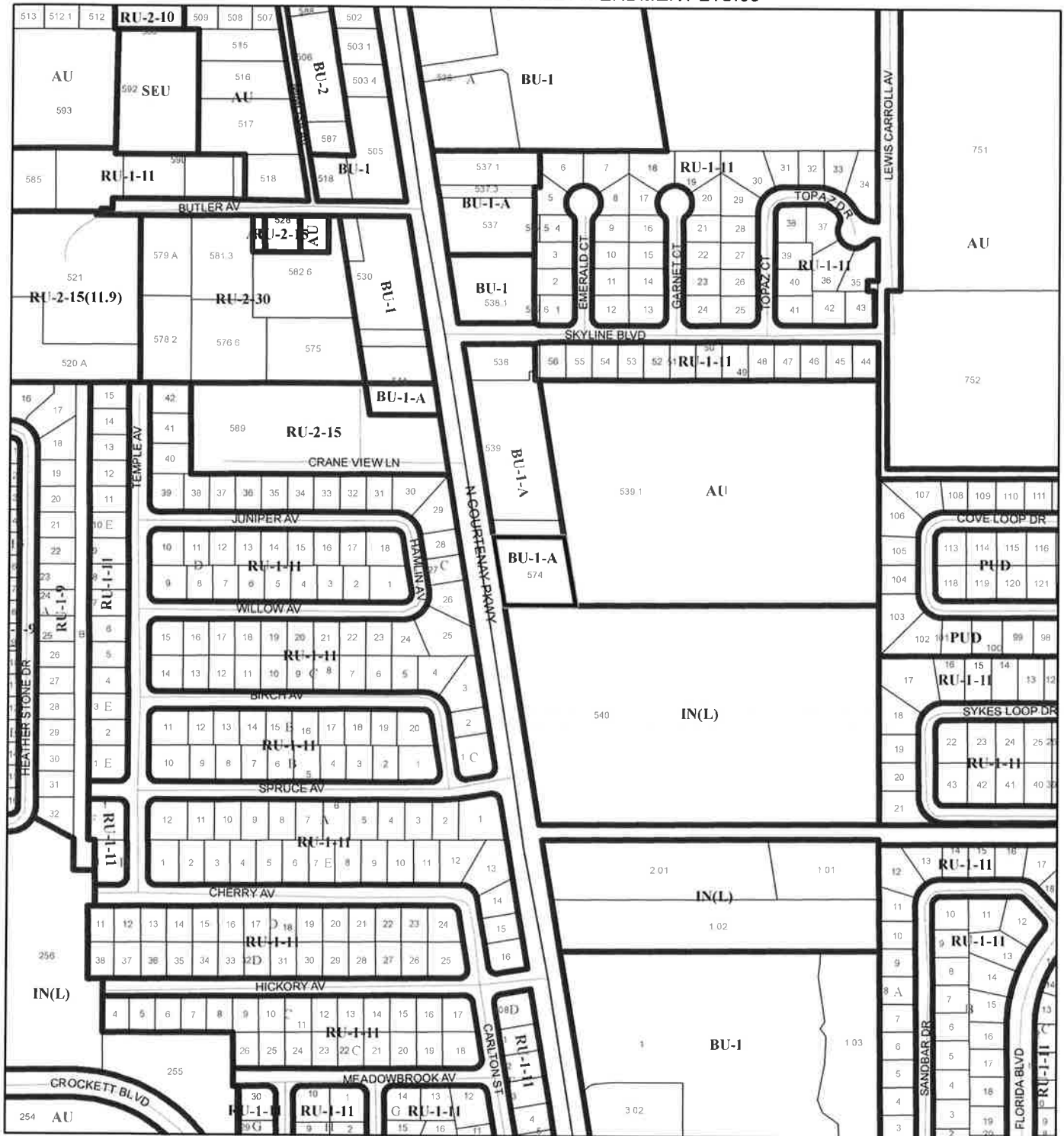
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/22/2021

— Buffer  
■ Subject Property

# ZONING MAP

SUNIL RAJAN, SUDHIR RAJAN, AND SURESH RAJAN  
21PZ00082 SMALL SCALE AMENDMENT 21S.09



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: 11/22/2021

- Subject Property
- Parcels
- Zoning

## H. PUBLIC HEARINGS

Local Planning Agency / Planning and Zoning Board  
Monday, February 14, 2022, at 3:00 p.m.

Brevard County Board of County Commissioners  
Thursday, March 3, 2022, at 5:00 p.m.

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

1. **(21PZ00082) SUNIL RAJAN, SUDHIR RAJAN, AND SURESH RAJAN** (Kim Rezanka) request a Small Scale Comprehensive Plan Amendment (21S.09) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.92 acres, located on the east side of N. Courtenay Pkwy., approx. 0.11 mile south of Skyline Blvd. (No assigned address. In the Merritt Island area.) (Tax Account 2412234) (District 2) This item was tabled from the 01/10/22 meeting.

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

**BCC Action:** Lober/Tobia - **Approved with a BDP requiring permission from the Diocese of Orlando for shared access with the property to the south, and adopted Ordinance 22-05. The vote was unanimous.**

2. **(21Z00035) ROBERT GRIFFITH** requests a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to TR-1 (Single-Family Mobile Home). The property is 1 acre, located on the east side of Old Dixie Hwy., approx. 100 ft. north of Roosevelt Rd. (3435 Old Dixie Hwy., Mims) (Tax Account 2102136) (District 1) This item was tabled from the 01/10/22 meeting.

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

**BCC Action:** Pritchett/Lober - **Approved as recommended. The vote was unanimous.**

3. **(21Z00025) SCOTT MINNICK** requests a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 1.15 acres, located on the northwest corner of U.S. Hwy. 1 and Glenn Rd. (3510 Glenn Rd., Mims) (District 1) This item was tabled from the 11/15/21 and 01/10/22 meetings.

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

**BCC Action:** Pritchett/Lober - **Approved as recommended. The vote was unanimous.**

4. **(21Z00046) LANCE C. BONCEK** requests a change of zoning classification from GU (General Use) to AU(L) (Agricultural Residential, Low-Intensity). The property is 1.08 acres, located on the south side of Angelica St., approx. 200 ft. east of Alan Shepard Ave. (3375 Angelica St., Cocoa) (Tax Account 2403955) (District 1)

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

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

## 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. **Adopted Ordinance No. 22-05, setting forth Small Scale Comprehensive Plan Amendment 21S.09, changing the Future Land Use designation from NC to CC, with approval of a Binding Development Plan for any shared driveway use requires the Diocese of Orlando's permission.** (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).