

Meeting Date
February 21, 2017



AGENDA	
Section	CONSENT
Item No.	II.A.2

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: David B. Robertson (District 5) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development Department

Requested Action:
 It is requested that the Board approve, and the Chairman sign, the subject Binding Development Plan.

Summary Explanation & Background:
 A Binding Development Plan (BDP) is a voluntary agreement by a 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 zoning application by the Board. Following staff and legal review, a BDP is routinely presented to the Board in recordable form as a Consent agenda item in order to finalize the zoning action.

On November 3, 2016, the Board of County Commissioners approved a change from RR-1 to EU, on property located on the north side of Aurora Road, approx. 0.28 mile east of Harlock Road. (4500 Aurora Rd., Melbourne), subject to a Binding Development Plan as follows:

- The Owner shall limit density to five (5) residential lots on the Property, which may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
- In the event the property is platted and roads are dedicated to the public and accepted by Brevard County, the terms of the plat may override this binding development plan as to the roadway areas.
- Subdivision access will be established at preliminary plat/final engineering, in accordance with Public Works' requirements.
- Primary streets within the development will be curbed and guttered.

Staff Contact: Jennifer Jones

Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department

Exhibits Attached: Binding Development Plan, with exhibits, and check for recording

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	X	No	<input type="checkbox"/>	PR <input type="checkbox"/>
County Manager		Department Director / Extension Robin M. DiFabio, AICP, Director Planning & Development Dept. Ext. 56363				
Stockton Whitten						



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 22, 2017

MEMORANDUM

TO: Recording

RE: Item II.A.2, Binding Development Plan Agreement with David B. Robertson

The Board of County Commissioners, in regular session on February 21, 2017, executed Binding Development Plan Agreement with David B. Robertson for property located on the north side of Aurora Road, approximately .28 mile east of Harlock Road, at 4500 Aurora Road, Melbourne. Enclosed are original Binding Development Plan Agreement and Check Number 5997 for \$44.00. **Please record the Agreement in the Public Records and return the recorded instrument to this office**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)



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

February 22, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.2, Binding Development Plan Agreement with David B. Robertson

The Board of County Commissioners, in regular session on February 21, 2017, executed Binding Development Plan with David B. Robertson for property located on the north side of Aurora Road, approximately .28 mile east of Harlock Road at 4500 Aurora Road, Melbourne. Said Plan was recorded in OR BK/PG 7825/1664. 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

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

WHEREAS, DAVID B. ROBERTSON has applied for a change of classification from RR-1 (Rural Residential) to EU (Estate Use Residential) on property described as Tax Parcel 514, as recorded in ORB 5336, Pages 7157 – 7158, of the Public Records of Brevard County, Florida. (4.92 acres) Located on the north side of Aurora Rd., approx. 0.28 mile east of Harlock Rd. (4500 Aurora Rd., Melbourne)

Section 14, Township 27 S, Range 36 E, and,

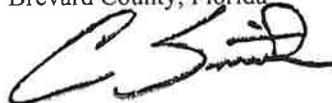
WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved with a BDP (Binding Development Plan) limited to five (5) lots; and,

WHEREAS, the Board, on November 3, 2016, after considering said application and the Brevard County Planning & 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 limited to five (5) lots; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of classification from RR-1 to EU, be APPROVED with a BDP, recorded in ORB 7825, Pages 1664 – 1668, dated February 22, 2017, limited to five (5) lots, and that the zoning classification relating to the above described property be changed, and the Planning & Zoning 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 BDP recordation date of February 22, 2017.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Curt Smith, Chairman
Brevard County Commission

As approved by Brevard County Commission on February 21, 2017.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – October 10, 2016)
(BCC Hearing – November 3, 2016)

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 (1) year of approval or if construction does not commence within two years of approval. A PUD 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 and return to:
Kimberly B. Rezanka, Esq.
Cantwell & Goldman, P.A.
96 Willard Street, Suite 302
Cocoa, FL 32922

CFN 2017037244, OR BK 7825 PAGE 1664.
Recorded 02/22/2017 at 04:13 PM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs: 5

BINDING DEVELOPMENT AGREEMENT

THIS AGREEMENT, entered into this 21 day of February, 2017, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and David B. Robertson (hereinafter referred to as "Owner").

RECITALS

WHEREAS, Owner owns property located at 4500 Aurora Road, Melbourne, Florida 32934 (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, Owner has requested the EU zoning classification(s) and desires to develop the Property as a single family subdivision, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Owner wishes to mitigate potential 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. 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. In the event the property is platted and roads are dedicated to the public and accepted by Brevard County, the terms of the plat may override this binding development plan as to the roadway areas.

2. The Owner shall limit density to five (5) residential lots on the Property, which may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. Subdivision access will be established at preliminary plat/final engineering, in accordance with Public Works' requirements.

4. Primary streets within the development will be curbed and guttered.

5. The Owner shall comply with all regulations and ordinances of Brevard County, Florida, including the restrictions and minimum code requirements for the EU zoning category. 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.

6. The Owner, upon execution of this Agreement, shall pay to the County the cost 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 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 November 3, 2016. 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 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 it may be amended.

9. Conditions precedent. All mandatory conditions set forth in this Agreement that 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 8 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:

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



Scott Ellis, Clerk
(SEAL)



CURT SMITH CHAIRMAN
Chairman
As approved by the Board on 2/21/17

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

WITNESSES:


Troy Owen
(Witness Name typed or printed)

David B. Robertson, OWNER
4737 Canard Road
Melbourne, FL 32934



Amanda Seib
(Witness Name typed or printed)



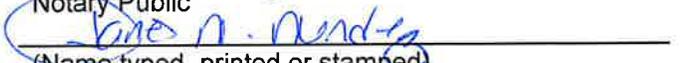
David B. Robertson

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 2nd ^{Dec} day of, 2016, by David B. Robertson, who is personally known to me or who has produced as identification.

My commission expires
SEAL
Commission No.:



Notary Public


(Name typed, printed or stamped)



Exhibit A

Beginning at a point on the boundary line of the Plat of INDIAN RIVER GROVES & GARDENS as recorded in Plat Book 6, Page 86, of the Public Records of Brevard County, Florida; which is 1980 feet North and 1198.5 feet East of the Southwest corner of Section 14, Township 27 South, Range 36 East; thence run North $0^{\circ}55'27''$ West along said boundary of Plat of Indian River Groves & Gardens 205.23 feet; thence South $89^{\circ}30'10''$ East, continuing along said boundary line 526.58 feet to the Southeast corner of Lot 68 of said plat; thence South $1^{\circ}06'45''$ West 486.95 feet to the North side of a County Road; thence South $75^{\circ}51'11''$ West along the North side of a County Road 310.74 feet; thence North $0^{\circ}29'14''$ West 356.06 feet; thence North $89^{\circ}22'46''$ West 209.14 feet; thence North $0^{\circ}29'14''$ West 3.85 feet to the Point of Beginning, said land lying in the Southwest $1/4$ of Section 14, Township 27 South, Range 36 East, Brevard County, Florida

Reservation of surface access rights for land development as shown in deed recorded in Official Records Book 2316, at Page 1342 and O.R. Book 2338, Page 2381, of the Public Records of SARASOTA, County, Florida.

JOINDER IN BINDING DEVELOPMENT AGREEMENT

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 February 15, 2006, and recorded in O.R. Book 5607, Page 6026, Public Records of Brevard County, Florida, AND that certain Mortgage Modification and Consolidation, dated April 10, 2009, and recorded in O.R. Book 5939, Page 1293, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Agreement for the purpose of consenting to the change of property use and development requirements as set forth therein.

Florida Bank of Commerce (f/k/a PRIME BANK)

WITNESSES:

Angela Copeland

Angela Copeland
(Print Name)

Chris Myers

Chris Myers
(Print Name)

By: [Signature]
Its: PRESIDENT/CEO
DANA KILBORNE
(Print Name)

STATE OF FL
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 12th day of Dec, 2016, by Dana Kilborne, as President/CEO of Florida Bank of Commerce, who (check one) is personally known to me, produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or produced other identification, to wit: N/A.

[Signature]
Print Name: Ryan Johns
Notary Public, State of Florida



IV. PUBLIC HEARINGS

**B. PLANNING & ZONING BOARD and LPA AGENDA
MONDAY, October 10, 2016 – 3:00 P.M.**

&

**BOARD OF COUNTY COMMISSIONERS
THURSDAY, November 3, 2016 – 5:00 P.M.**

**Both at the
BREVARD COUNTY GOVERNMENT CENTER
2725 Judge Fran Jamieson Way, Bldg. C, 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.

DISTRICT 5

IV.B.1. (16PZ00081) – DAVID B. ROBERTSON – (Kim Rezanka) - requests a change of classification from RR-1 to EU, with a BDP limited to 8 units, on 4.92 acres, located on the north side of Aurora Rd., approx. 0.28 mile east of Harlock Rd. (4500 Aurora Rd., Melbourne)

P&Z Recommendation: Barber/McLellan – Denied. Vote was 6:1, with Moia voting nay.

BCC ACTION: Anderson/Fisher – Approved with a BDP limited to five lots. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

DISTRICT 1

IV.B.2. (16PZ00079) – DARRAYL MINCEY – requests a change of classification from GU to AU on property 2.16 acres, located on the south side of Areca Palm St., approx. 0.37 mile west of Pine St. (5345 Areca Palm St., Cocoa)

P&Z Recommendation: McLellan/Cannon – Approved. Vote was unanimous.

BCC ACTION: Infantini/Fisher – Approved. Vote was unanimous. Commissioner Anderson absent. 16PZ00079.

DISTRICT 2

IV.B.3. (16PZ00080 – GRAHAM D. (JR.) & JOANNE C. LYLE – request a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Restaurant, in a BU-1 zoning classification, on 0.57 acres, located on the northeast corner of Hwy A1A and Wilson Ave. (6006 N. Atlantic Ave., Cocoa Beach.)

P&Z Recommendation: McLellan/Aydelotte – Approved. Vote was unanimous.

BCC ACTION: Infantini/Smith – Approved. Vote was unanimous. Commissioner Anderson absent. 16PZ00080.

THE FOLLOWING ITEM WAS TABLED FROM THE 09/12/16 P&Z AND 10/06/16 BCC MEETINGS

IV.B.5. (16PZ00077) - VIOLETA V. WELSH – (Diane Nagel) – requests a change of classification from RU-1-9 to AGR, on 9.68 acres, located on the south side of Parrish Rd., approx. 0.42 mile west of Burnett Rd. At terminus of Robeson Rd. on south end. (No assigned address. In the Cocoa area.)

P&Z Recommendation: Moia/McLellan – Denied. Vote was unanimous.

BCC ACTION: Fisher/Infantini – Denied. Vote was unanimous. Commissioner Anderson absent. 16PZ00077.

TABLED ITEMS

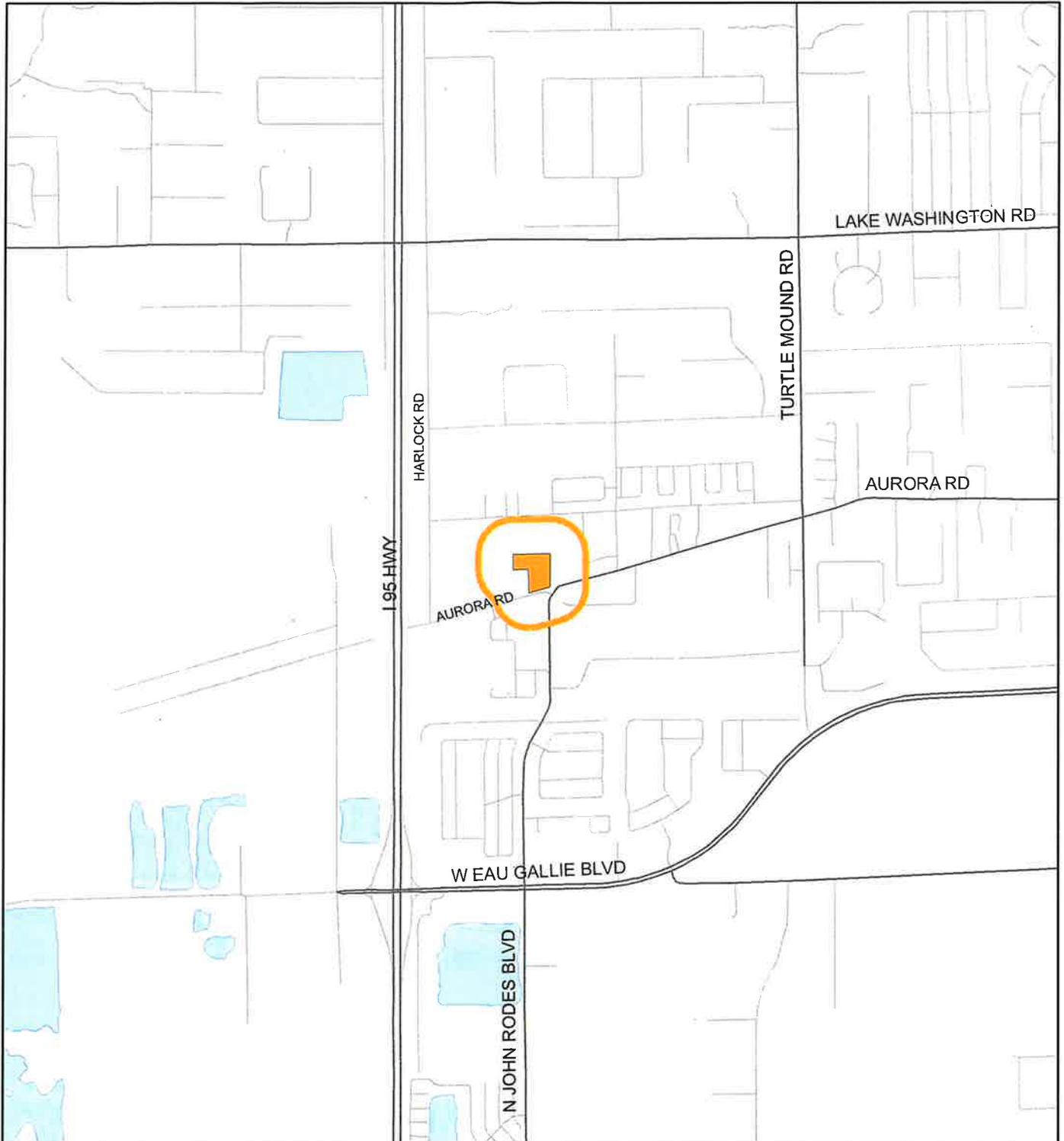
- Item IV.A.1. Janice Renk. Infantini/Fisher, denied due to incompatibility in the area; and directed the County Attorney's Office to prepare Findings of Fact for the December 20, 2016, Board meeting.
- Item VI.A.2. Banana Riverfront, LLC. Barfield/Infantini, denied request for Small Scale Plan Amendment (16S.05) to change the Future Land Use from Residential 15 and CC to all CC; denied request for a change of classification from RU-2-15 to BU-1, due to incompatibility; and denied request for a Conditional Use Permit for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with a Restaurant, on 2.44 Acres (Expansion of Deck); and directed the County Attorney's Office to prepare Findings of Fact for the December 20, 2016, Board meeting. Commissioner Anderson voted nay.

PLANNING AND ZONING BOARD RECOMMENDATIONS OF OCTOBER 10, 2016; AND NMI RECOMMENDATION OF OCTOBER 13, 2016

- Item IV.B.1. David B. Robertson. Anderson/Fisher, approved with EU Zoning with a Binding Development Plan limiting to five lots.
- Item VI.B.2. Darrayl Mincey. Infantini/Fisher, approved as recommended. Commissioner Anderson was absent.
- Item VI.B.3. Graham D. (Jr.) and Joanne C. Lyle. Infantini/Smith, approved as recommended. Commissioner Anderson was absent.
- Item IV.B.4. Gerald Crayton, Trustee. Tabled to the November 10, 2016 NMI Meeting. (December 1, 2016, Board meeting)
- Item IV.B.5. Violeta V. Welsh. Fisher/Infantini, denied as recommended. Commissioner Anderson was absent.

LOCATION MAP

ROBERTSON, DAVID B
16PZ00081



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

Buffer Distance: 500 feet

-  Buffer
-  Subject Property

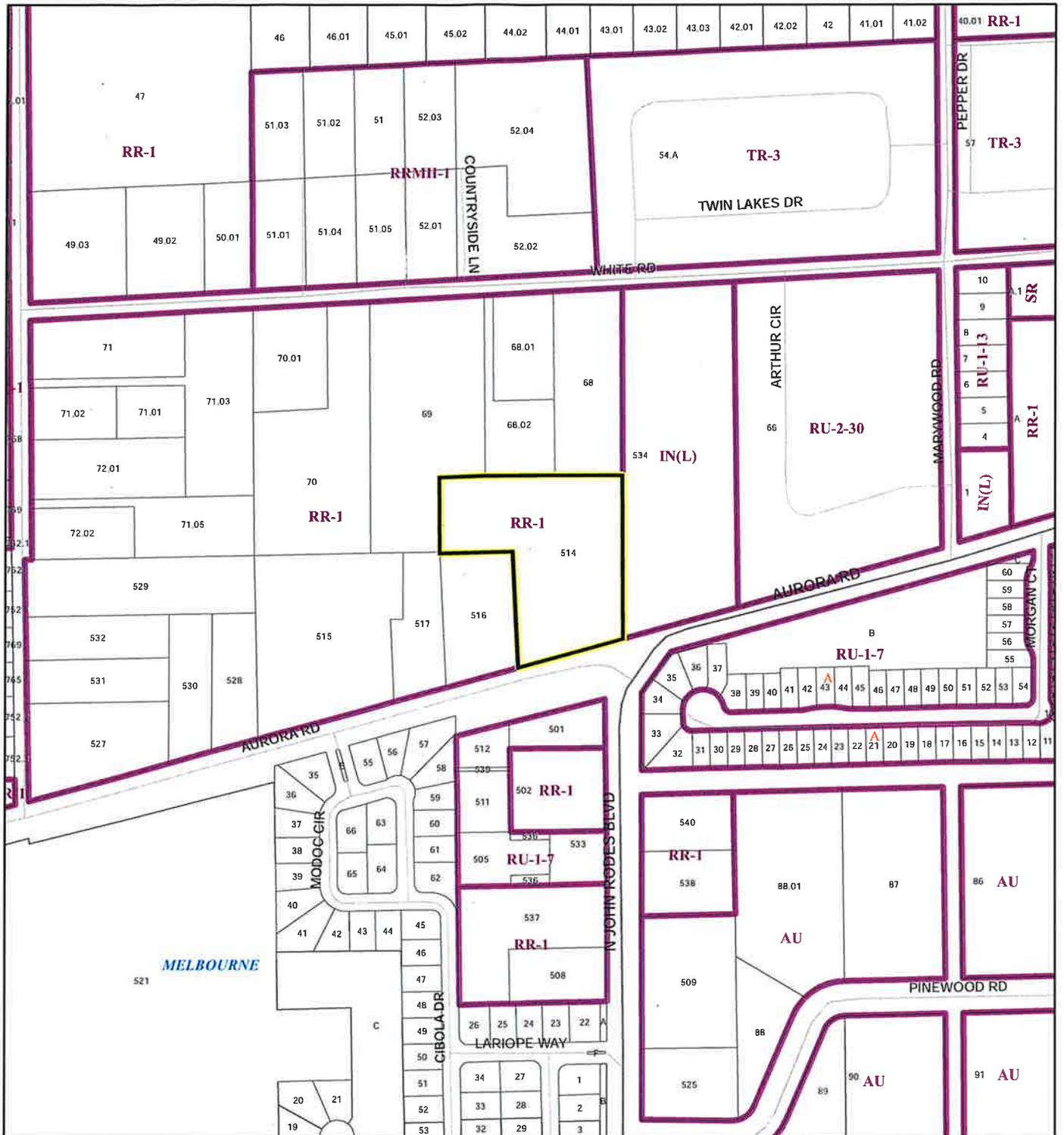
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 8/23/2016

ZONING MAP

ROBERTSON, DAVID B

16PZ0081



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels
- Zoning

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.

BrevardClerk.US

Scott Ellis, Clerk of Court

700 South Park Avenue, Bldg. B
 P.O. Box 2767
 Titusville, FL 32781-2767
 (321) 637-2006

DBLIVE Transaction
 #: 1854244
 Receipt #: 61818963
 Cashier Date: 2/22/2017
 4:19:13 PM



Print Date:
 2/22/2017 4:19:15 PM

Customer Information	Transaction Information	Payment Summary
() CANTWELL & GOLDMAN PA 96 WILLARD ST STE 302 COCOA, FL 32922	DateReceived: 02/22/2017 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Mail (U.S. Return Code:Postal Service) Trans Type: Recording Agent Ref Num:	Total Fees \$44.00 Total Payments \$44.00

1 Payments	
CHECK 5997	\$44.00

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7825/1664 CFN:2017037244 Date:2/22/2017 4:19:13 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	5	\$44.00
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	2	\$0.00

0 Search Items

0 Miscellaneous Items
