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Stearns Weaver Miller Weissler
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Address: SunTrust Financial Centre
401 East Jackson Street
Suite 2100
Tampa, Florida 33602

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 2021 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and HKH Tropical LP, a Florida limited partnership (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, the Property is currently developed as a multifamily project with eleven buildings housing 85 units and supporting ancillary facilities;

WHEREAS, the Developer/Owner has requested the RU-2-12 zoning classification(s) and desires to develop the Property by renovating the existing multifamily buildings and incorporating recreational amenities with no additional buildings or change in the number or size of the existing multifamily buildings, 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 impact 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.
2. The Developer/Owner shall limit future development or redevelopment of the Property so as not to exceed a total of 85 units on the Property, subject to any applicable restrictions set forth in the Comprehensive Plan or the Land Development Regulations.
3. No changes are proposed to the existing ingress/egress.
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 as set forth in this agreement. 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 December 3, 2020. 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 Sadoff, Clerk
(SEAL)

Rita Pritchett, Chair
As approved by the Board on _____

WITNESSES:

TAMUN PEPPER

(Witness Name typed or printed)

Alan B...

Calina Bover

(Witness Name typed or printed)

HKH TROPICAL LP, a
Florida limited partnership

By: HKH Tropical GP LLC, a
Florida limited liability company,
its general partner

By: Kingdom Development, Inc., a
California not-for-profit corporation,
its manager

By: William Leach
William Leach, President

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2021 by William Leach, President of Kingdom Development, Inc., a California not for profit corporation, the manager of HKH Tropical GP LLC, a Florida limited liability company, the general partner of HKH Tropical LP, a Florida limited partnership. He/she is personally known to me or has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Riverside

On February 22, 2021

Date

before me,

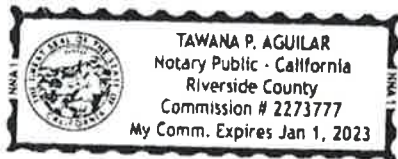
Tawana P. Aguilar, notary public

Here Insert Name and Title of the Officer

personally appeared William Leach

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Signature]

Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Binding Development Plan

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

EXHIBIT A

LEGAL DESCRIPTION

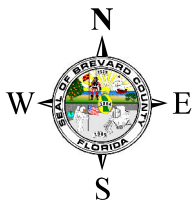
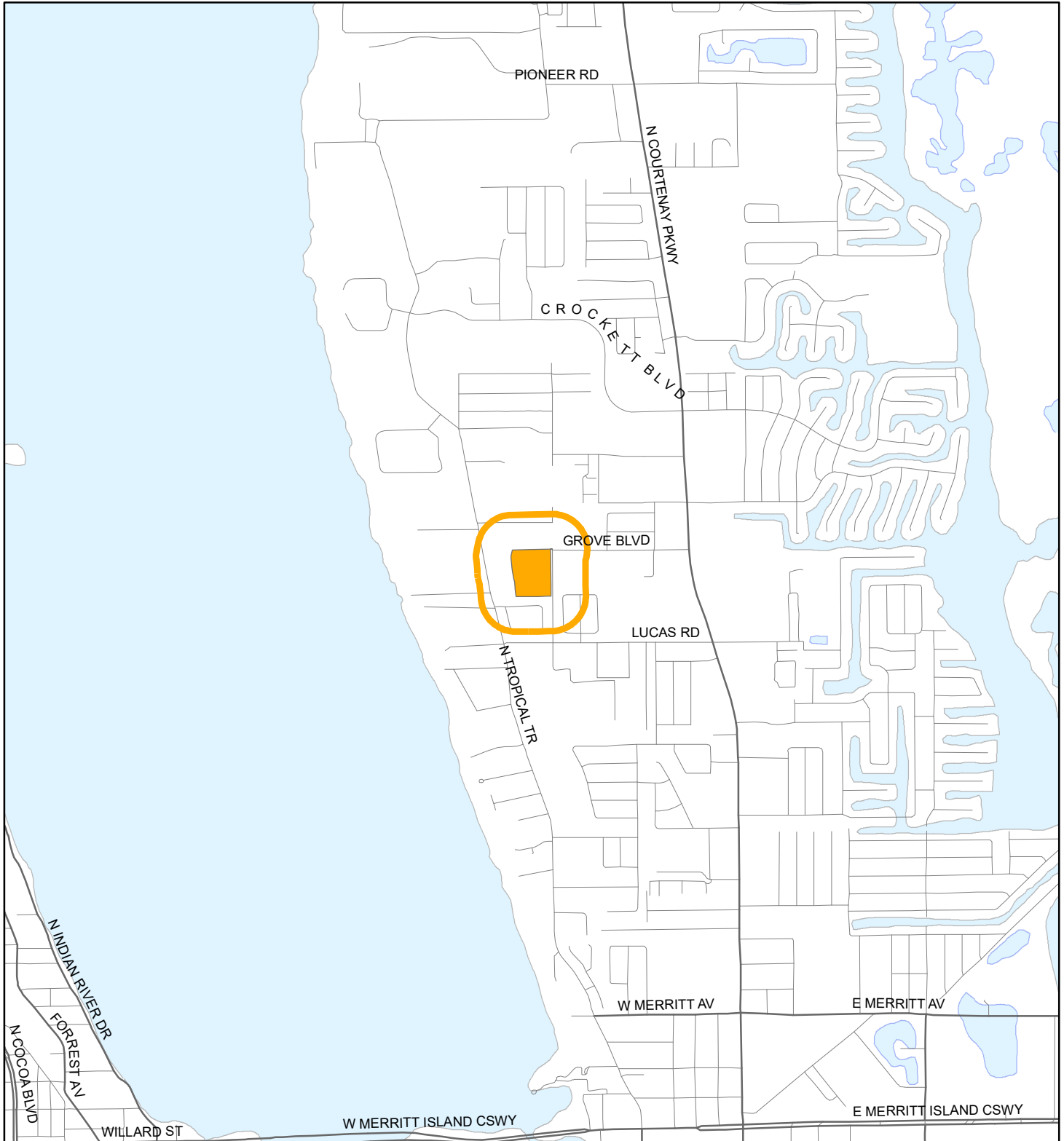
The following described parcel being the same lands as described in O.R. Book 745, pages 37 and 38 and O.R. Book 775, Page 602 and part of lands described in O.R. Book 745, page 36, Public Records of Brevard County, Florida, except the East 25 feet thereof for a county road right-of-way and being more particularly described as follows:

Commence at the Northeast corner of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, Section 22, Township 24 South, Range 36 East, Brevard County, Florida and run North $89^{\circ} 53'$ West along the North line of said Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, 25 feet to a point on the West right-of-way line of the county road, being the POINT OF BEGINNING of this description. From the point of beginning continue North $89^{\circ} 53'$ West 559.34 feet to the center line of a drainage canal; thence run along the center of said drainage canal South $11^{\circ} 59' 30''$ West 91.88 feet; thence South $04^{\circ} 0'$ East 204.70 feet; thence run South $10^{\circ} 45'$ East 122.50 feet; thence run South $09^{\circ} 52'$ East 50.77; thence run South $05^{\circ} 6' 32''$ East 205.17 feet to a point on the South line of aforesaid property; thence run South $89^{\circ} 12'$ East 512.08 feet to a point on the West right-of-way line of the county road; thence run North $0^{\circ} 11' 40''$ East along the said West right-of-way line 674.81 feet to the point of beginning.

LOCATION MAP

TROPICAL MANOR HOLDINGS, LLC

20Z00033





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

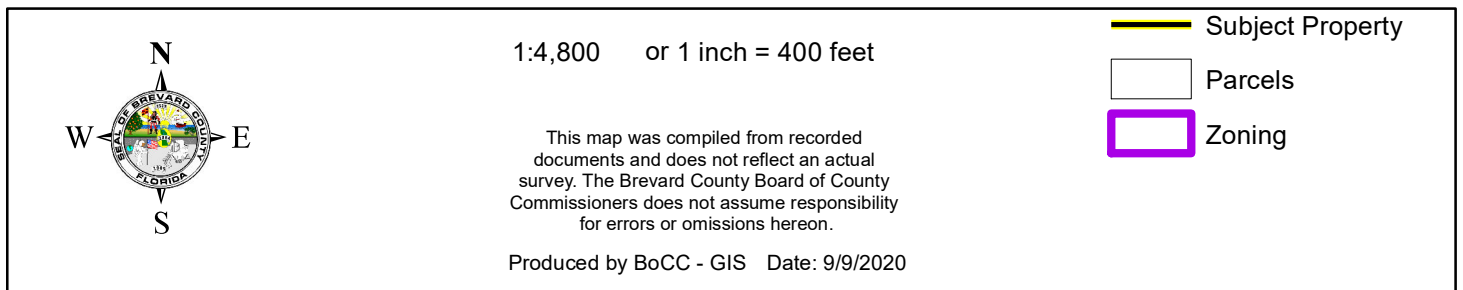
Buffer Distance: 500 feet

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: 9/9/2020

-  Buffer
-  Subject Property

TROPICAL MANOR HOLDINGS, LLC
20Z00033



PUBLIC HEARINGS

Planning and Zoning Board/Local Planning Agency
Monday, November 9, 2020, at 3:00 p.m.

and

Thursday, December 3, 2020, at 5:00 p.m.
Both at the
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, Commission Room, 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.

1. **Flor-Ohio** (Jack Spira) requests a Small Scale Comprehensive Plan Amendment (20S.08) to change the Future Land Use designation from RES 4 (Residential 4) to NC (Neighborhood Commercial). The property is 3.32 acres, located on the southwest corner of Eber Blvd. and Hollywood Blvd. (No assigned address. In the West Melbourne area) (20PZ00089) (Tax Account 2851597) (District 3)

Local Planning Agency Recommendation: Filiberto/McLellan – Approved. The vote was unanimous.

Board of County Commissioners Action: Tobia/Lober – Approved as recommended, and adopted Ordinance No. 20-22. The vote was unanimous.

2. **John Haley** requests a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential). The property is 0.99 acres, located on the east side of N. U.S. 1, approx. 200 ft. south of E. Elm St. (4147 N. U.S. 1, Melbourne) (20Z00025) (Tax Account 2611673) (District 4)

Planning and Zoning Board Recommendation: Filiberto/McLellan – Approved. The vote was unanimous.

Board of County Commissioners Action: Smith/Tobia – Approved as recommended. The vote was unanimous.

3. **Jason A. and Christina N. Spina** request a change of zoning classification from GU (General Use) and AU (Agricultural Residential) to all AU. The property is 4.76 acres, located on the east side of Pine St., approx. 630 ft. north of Areca Palm St. (5035 Pine St., Cocoa) (20Z00026) (Tax Account 2314129) (District 1)

Planning and Zoning Board Recommendation: McLellan/Glover – Approved. The vote was unanimous.

Board of County Commissioners Action: Lober/Zonka – Approved as recommended. The vote was unanimous.

4. **Reid B. Hart and Gail A. Skinner-Hart** request a change of zoning classification from GU (General Use) to RR-1 (Rural Residential). The property is 2.02 acres, located on the north side of Simpson Place, approx. 760 ft. west of Jake Ave. (Lot 9 = No assigned address. In the Cocoa area. Lot 10 = 5530 Simpson Place, Cocoa). (20Z00027) (Tax Accounts 2402986 and 2402987) (District 1)

Planning and Zoning Board Recommendation: Buchanan/McLellan – Approved. The vote was unanimous.

Board of County Commissioners Action: Lober/Zonka – Approved as recommended. The vote was unanimous.

5. **Donald Minnick** requests a change of zoning classification from AU (Agricultural Residential) and EU-2 (Estate Use Residential) with a BDP (Binding Development Plan) to all EU-2 and removal of BDP. The property is 0.24 acres, located on the east side of Arnold Palmer Dr., approx. 120 ft. north of London Town Rd. (1989 Arnold Palmer Dr., Titusville) (20Z00028) (Tax Account 2112241) (District 1)

Planning and Zoning Board Recommendation: Buchanan/Glover – Approved. The vote was unanimous.

Board of County Commissioners Action: Lober/Zonka – Approved as recommended. The vote was unanimous.

6. **Lazy River Investments** (Laura Young) requests a change of zoning classification from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential, Low-Intensity). The property is 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane. (No assigned address. In the Micco area.) (20Z00030) (Tax Account 3008729) (District 3)

Planning and Zoning Board Recommendation: Glover/Buchanan – Approved. The vote was unanimous.

Board of County Commissioners Action: Tobia/Lober – Tabled to the 02/04/21 Commission meeting. The vote was unanimous.

7. **Watermark Investors, LLC** (Bruce Moia) requests an amendment to an existing PUD (Planned Unit Development). The property is 129 +/- acres, located on the west side of U.S. Hwy 1, approx. 0.22 mile south of Broadway Blvd. (Tax parcel 251 = 5082 & 5083 Persimmon Ln., Cocoa; Tax Parcels 252 & 510 = No assigned address. In the Cocoa area.) (20Z00032) (Tax Accounts 2317197, 2317198, and 3017165) (District 1)

Planning and Zoning Board Recommendation: Filiberto/McLellan – Approved third access, with two additional waivers to reduce the active open space acreage requirement, and partial waiver of the subdivision code's 15-foot perimeter landscape/buffer tract requirement with the previously approved waivers to lot width and lot area. The vote was unanimous.

Board of County Commissioners Action: Lober/Zonka – Approved as recommended. The vote was unanimous.

8. **Tropical Manor Holdings, LLC** (Kenneth Metcalf) requests a change of zoning classification from RU-1-7 (Single-Family Residential) and RU-2-30 (High Density, Multi-Family Residential) to RU-2-12 (Medium Density, Multi-Family Residential) with a BDP (Binding Development Plan) limited to a maximum of 85 units. The property is 8.47 acres, located on the west side of Jordan Rd., at the end of Grove Blvd., and approx. 727 ft. north of Lucas Rd. (1165 Jordan Rd., Merritt Island) (20Z00033) (Tax Account 2417034) (District 2)

Planning and Zoning Board Recommendation: Filiberto/Glover – Approved with a BDP limited to a maximum of 85 units. The vote was unanimous.

Board of County Commissioners Action: Lober/Tobia – Approved as recommended, with a BDP limited to a maximum of 85 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.

Public Comment

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Flor-Ohio. Tobia/Lober. Adopted Ordinance No. 20-22, approving the Small Scale Comprehensive Plan Amendment (20S.08) changing Future Land Use from RES 4 to NC as recommended.
- Item H.2. John Haley. Smith/Tobia. Approved changing zoning classification from RU-1-9 to RU-1-7 as recommended.
- Item H.3. Jason A. and Christina N. Spina. Lober/Zonka. Approved changing zoning classification from GU and AU to all AU as recommended.
- Item H.4. Reid B. Hart and Gail Skinner-Hart. Lober/Zonka. Approved changing zoning classification from GU to RR-1 as recommended.
- Item H.5. Donald Minnick. Lober/Zonka. Approved changing zoning classification from AU and EU-2 with a BDP, to all EU-2 and removal of BDP as recommended.
- Item H.6. Lazy River Investments. Tobia/Lober. Continued to February 4, 2021, Zoning meeting.
- Item H.7. Watermark Investors, LLC. Lober/Zonka. Approved amendment to an existing PUD as recommended.
- Item H.8. Tropical Manor Holdings, LLC. Lober/Tobia. Approved changing zoning classification from RU-1-7 and RU-2-30 to RU-2-12 with a BDP limited to a maximum of 85 units as recommended.
- Item H.9. Clarence Coomer. Smith/Lober. Adopted Ordinance No. 20-23, approving the Small Scale Comprehensive Plan Amendment (20S.07) to change Future Land Use from AG to RES 1:2.5 as recommended.
- Item H.10. Clarence Coomer. Lober/Zonka. Approved changing zoning classification from GU to RRMH-2.5 as recommended.
- Item H.11. 4725 Fay Blvd Land Trust. Lober/Zonka. Adopted Ordinance No. 20-24, approving the Small Scale Comprehensive Plan Amendment (20S.10) changing Future Land Use from NC to CC as recommended.
- Item H.12. 4725 Fay Blvd Land Trust. Lober/Smith. Approved changing zoning classification from BU-1-A with a BDP, to BU-1, and approved amendment of the existing BDP authorizing there be no use of Adams Place for truck deliveries one hour before or after school.