

Prepared by: Michael J and Annette Costello  
Address: 2940 Appaloosa Blvd, Melbourne, FL 32934

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the  
BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of  
the State of Florida (hereinafter referred to as "County") and  
Michael J and Annette Costello, a N/A corporation  
(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 has requested the AU zoning classification(s)  
and desires to develop the Property as  
Single Family Residence, 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 agree to the AU zoning classification with the following uses prohibited on the Property: packing, processing, and sales of commodities raised on the premises, as provided in Chapter 86, Article IV of the Brevard County Code of Ordinances ; dude ranches, with a minimum area of 40 acres, barns or stables shall be 200 feet from any property line; fowl raising and beekeeping, plant nurseries; private golf courses; private camps; foster homes; fish camps; group homes, Level One, subject to the requirement set forth in Section 62-1835.9 of the Brevard County Code of Ordinances; landscaping business; mobile home residential dwelling; power substations, telephone exchanges and transmission facilities; private parks and playgrounds; and resort dwellings.

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 insure 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 May 6, 2021. 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)

\_\_\_\_\_  
Rita Pritchett, Chair  
As approved by the Board on \_\_\_\_\_

(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

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

Annette Costello Michael J. Costello  
\_\_\_\_\_  
Annette Costello Michael J. Costello  
(Address) 2940 Appaloosa Blvd  
McLoud, FL 32934

Jennifer Jones  
\_\_\_\_\_  
Jennifer Jones  
(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 25 day of May, 2021, by  
Annette and Michael Costello, President of N/A, who is  
personally known to me or who has produced FL DR. LIC. as identification.



My commission expires  
SEAL  
Commission No.:

Michelle Adams

Notary Public

(Name typed, printed or stamped)

Exhibit "A"

Lot 21 of Lakewood Estates, Sec. One-A, according to the Plat thereof, as recorded in Plat Book 23, Page 91 and 92, of the Public Records of Brevard County, Florida.

May 11, 2021

Brevard County Board of County Commissioners

Subject: 2940 Appaloosa Boulevard, Melbourne, FL 32934

To Whom it may Concern,

The undersigned, Michael J and Annette Costello, acknowledge that the subject property of 2940 Appaloosa Boulevard, Melbourne, FL 32934 has no existing mortgage on the property. We hereby acknowledge that the statement contained in this notice is true and correct.

Witness my hand and seal this 25<sup>th</sup> day of May, 2021.



Signature

Michael J Costello, Owner  
Officer Printed Name, Title



Signature

Annette Costello, Co-owner  
Officer Printed Name, Title

STATE OF FLORIDA  
COUNTY OF BREVARD

Sworn to (or affirmed) and subscribed before me this 25 day of May, 2021,  
by Annette Costello and Michael J Costello

Personally known to me

☒ Produced the following form of identification, FL DL

(Stamp/Seal)



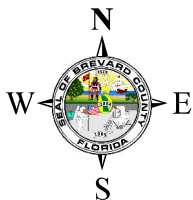
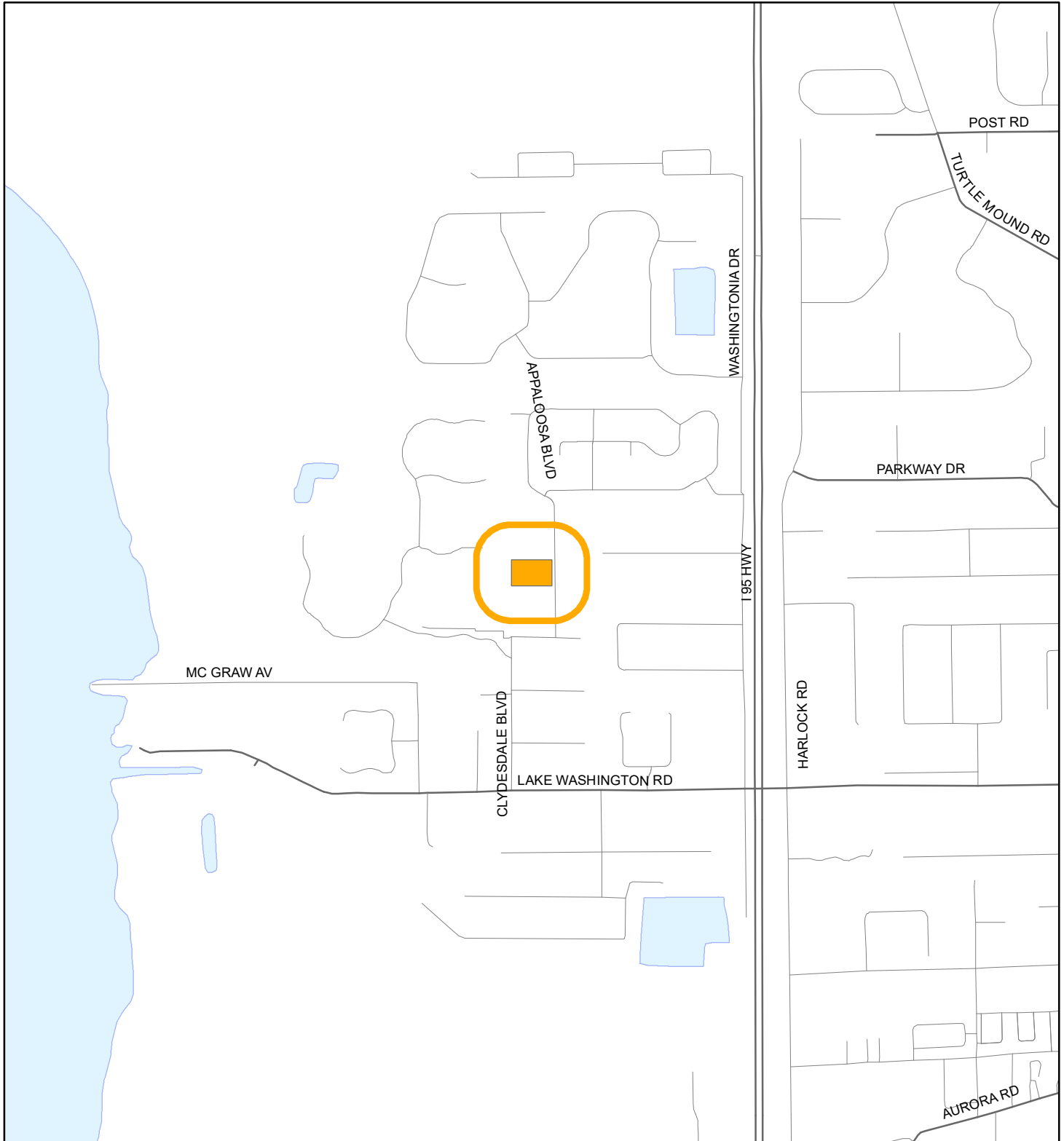
Notary Public

7/31/24

My Commission Expires

# LOCATION MAP

COSTELLO, MICHAEL J. AND ANNETTE  
21Z00005



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.

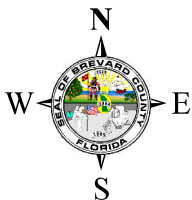
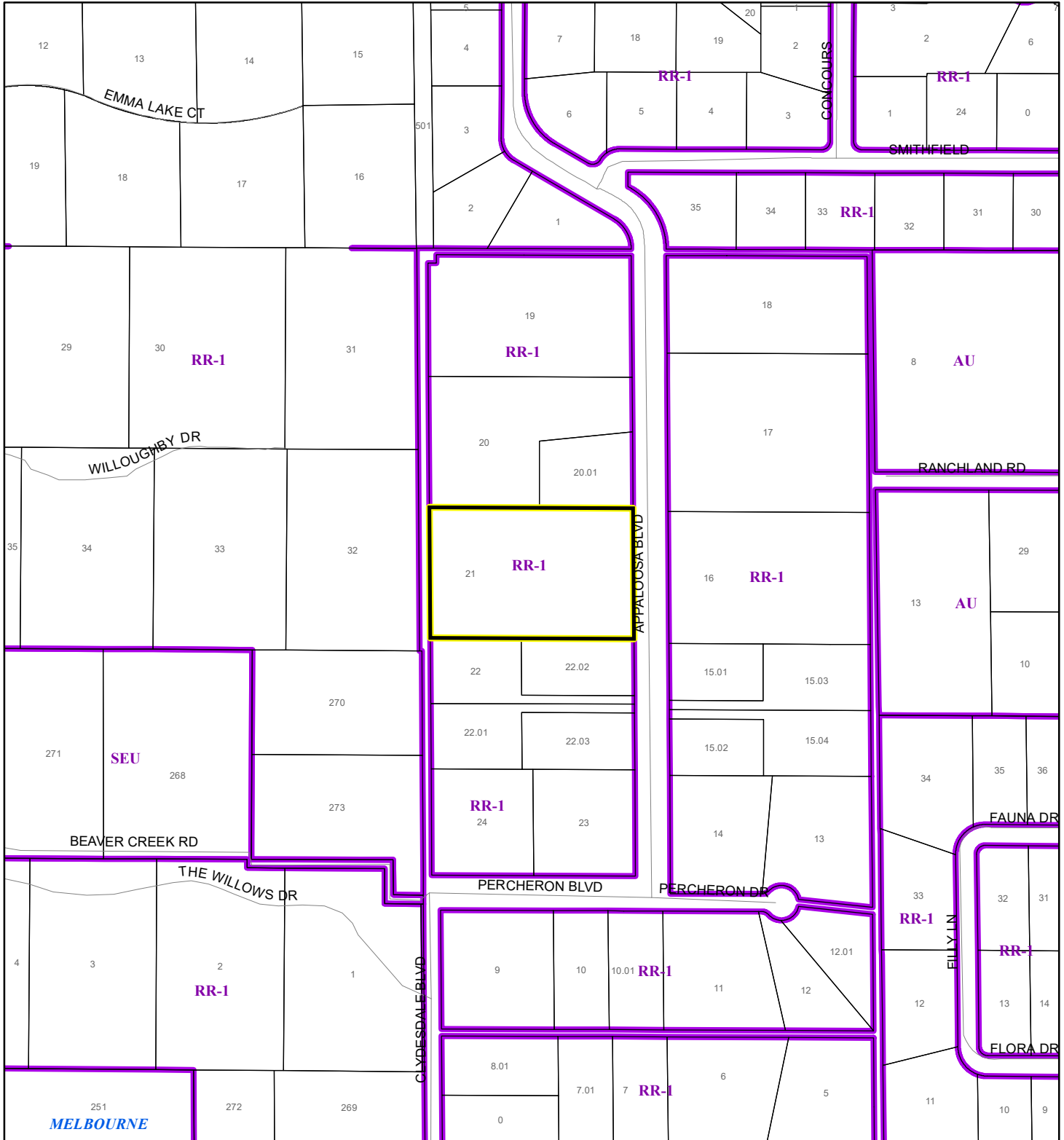
Produced by BoCC - GIS Date: 1/29/2021

Buffer  
Subject Property

# ZONING MAP

COSTELLO, MICHAEL J. AND ANNETTE


21Z00005



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: 1/29/2021

 Subject Property

 Parcels

 Zoning



## H. PUBLIC HEARINGS

Local Planning Agency / Planning and Zoning Board  
Monday, April 5, 2021, at 3:00 p.m.

Brevard County Board of County Commissioners  
Thursday, May 6, 2021, at 5:00 p.m.

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

1. **JOHN AND TERRI KROBOTH, AND JOHN BRADLEY KROBOTH** request a CUP (Conditional Use Permit) for a Private Boat Dock Accessory to Adjacent Single-Family Residential Lot, in an RU-1-13 (Single-Family Residential) zoning classification. The property is .10 acres, located on the south side of Ross Avenue, approximately 475 feet west of Lakeview Drive. (No assigned address. In the Melbourne Beach area) (21PZ00004) (Tax Account 2953088) (District 3)

**Planning Agency Recommendation:** Capote/Moia - Approved. The vote was unanimous.

**Board of County Commissioners Action:** Tobia/Lober - **Approved as recommended. The vote was unanimous.**

2. **MICHAEL J. AND ANNETTE COSTELLO** request a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 5 acres, located on the west side of Appaloosa Boulevard, approximately 0.19 mile north of Percheron Drive. (2940 Appaloosa Boulevard, Melbourne) (21Z00005) (Tax Account 2700924) (District 5)

**Planning and Zoning Board Recommendation:** Capote/Buchanan - Approved with a BDP limiting the use on the property to horse-related activities only, and limiting the number of horses to a maximum of six. The vote was 6:1, with Bruce Moia voting nay.

**Board of County Commissioners Action:** Zonka/Smith - **Approved with a BDP prohibiting the following uses: the packing, processing, and sales of commodities raised on the premises, as provided in Chapter 86, Article IV; dude ranches, with a minimum area of 40 acres, barns or stables shall be 200 feet from any property line; fowl raising and beekeeping, plant nurseries; private golf courses; private camps; foster homes; fish camps; group homes, Level One, subject to the requirement set forth in Section 62-1835.9; landscaping business; mobile home residential dwelling; power substations, telephone exchanges and transmission facilities; private parks and playgrounds; and resort dwellings. The vote passed 4:1, with Lober voting nay. 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.**

3. **THE SUNTREE BUSINESS CENTER** (Melissa Impallomeni) requests a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a pet kennel, in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 0.09 acres, located on the on the west side of the FECRR, approximately 495 feet north of Suntree Boulevard (3290 Suntree Blvd., Ste 102, Melbourne) (21PZ00012) (Tax Account 2602736) (District 4)

## **PLANNING AND ZONING BOARD RECOMMENDATIONS**

- Item H.1. John and Terri Kroboth, and John Bradley Kroboth. Tobia/Lober. Approved a Conditional Use Permit (CUP) for a private boat dock adjacent to a single-family residence in an RU-1-13 zoning classification as recommended. (21PZ00004) (Tax Account 2953088).
- Item H.2. Michael J. and Annette Costello. Zonka/Smith, with Lober voting Nay. Approved changing zoning classification from RR-1 to AU, with a Binding Development Plan exclusionary of packing, processing, and sales of commodities raised on the premises provided in Chapter 86, Article IV; dude ranches with a minimum area of 40 acres, barns or stables shall be 200 feet from any property line; fowl raising and beekeeping; plant nurseries; private golf courses; private camps; foster homes; fish camps; group homes, level one, subject to the requirement set forth in Section 62-1835.9; landscaping business; mobile home residential dwelling; power substations, telephone exchanges and transmission facilities; private parks and playgrounds; and resort dwellings. (21Z00005) (Tax Account 2700924).
- Item H.3. The Suntree Business Center, LLC. Smith/Lober. Approved a CUP for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with a dog park, in a BU-2 zoning classification as recommended. (21Z00012) (Tax Account 2602736).