

Prepared by:
Dale A. Dettmer, Esquire
KRASNY AND DETTMER
304 South Harbor City Blvd., Suite 201
Melbourne, FL 32901

**AMENDED AND RESTATED
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 ("County") and **PIONEER POINTE, LLC**, a Florida limited liability company ("Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property ("Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, being the successor in interest to SOUTHGATE INVESTMENTS, INC., a Florida corporation, by virtue of that certain Warranty Deed recorded in Official Records Book 8834, Page 1620, and Official Records Book 8834, Page 1689, both of the Public Records of Brevard County, Florida; and

WHEREAS, this instrument is intended to amend and replace in its entirety that certain Binding Development Plan for the Property recorded in Official Records Book 7620, Page 1574, Public Records of Brevard County, Florida; and

WHEREAS, Developer/Owner desires to develop the Property as a commercial development to include "automobile washing" 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. Recitals. The above recitals are true and correct and are incorporated into this Agreement by this 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 agrees to limit the uses of the Property so that none of the uses shown as ~~crossed through~~ or ~~struck through~~ in the recorded manner on attached Exhibit "B" shall be allowed as a permitted use, accessory building or use or conditional use on the Property, but instead each of those uses shown in a ~~struck through~~ manner shall be prohibited as a use on the Property. Exhibit "B" hereto includes "automobile washing" as a permitted use.
4. Automobile washing shall be permitted provided that an attendant shall be physically on site during business hours and operation shall be that of a full service car wash, the only portion of which may be self-service is the vacuum station which is available only to those customers who have paid and completed the full service car wash.
5. 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.
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 _____. 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 shall be a violation of this Agreement and constitute a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.
10. Developer/Owner owns fee simple to the Property and that all mortgagees, if any, have joined in and consented to this Agreement.
11. 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 of Court
(SEAL)

Rita Pritchett, Chair
As approved by the Board on _____

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 20____, by Rita Pritchett, Chair_of Board of County Commissioner of Brevard County, Florida, 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)

WITNESSES:

Elizabeth A. Stake

Elizabeth A. Stake

(Witness Name typed or printed)

PIONEER POINTE, LLC, a Florida limited liability company, as DEVELOPER/OWNER

By: Kim R. Welsh

Kim R. Welsh, Manager

Address: 3845 West Eau Gallie Blvd., Suite 101
Melbourne, FL 32934

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by means of X physical presence or _____ online notarization, this 15th day of March, 2021, by Kim R. Welsh, Manager of Pioneer Pointe, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification.

My commission expires 1/21/23

SEAL

Commission No.: GG287071

Elizabeth J. Lowry
Notary Public

(Name typed, printed or stamped)



Elizabeth J. Lowry
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG287071
Expires 1/21/2023

EXHIBIT "A"

LEGAL DESCRIPTION

SECTION 14, TOWNSHIP 24 SOUTH, RANGE 36 EAST
 PARCEL ID# 24-36-14-00-00536.0-0000.00

NOT A SURVEY

SHEET 1 OF 2

NOT VALID WITHOUT THE SKETCH
 ON SHEET 2 OF 2

LEGAL DESCRIPTION:

A parcel of land lying in the Southwest one-quarter of Section 14, Township 24 South, Range 36 East, Brevard County, Florida, being a portion of those lands described in Official Records Book 2456, Page 1113, of the Public Records of Brevard County, Florida and being more particularly described as follows:
 Begin at the intersection of the Easterly right-of-way line of North Courtenay Parkway (State Road No. 3), a 100 foot wide public right-of-way as presently occupied, with the South right-of-way line of Pioneer Road, a 60 foot wide public right-of-way, as presently occupied and run N 89°49'42" E along said South right-of-way line 678.09 feet; thence run S 09°13'11" E, parallel to the said Easterly right-of-way line of North Courtenay Parkway, a distance of 844.05 feet to the North line of Fairfax Subdivision, according to the Plat thereof as recorded in Plat Book 21, Page 8 of the Public Records of Brevard County, Florida; thence S 89°50'23" W along said North line and its Westerly extension 678.11 feet to the intersection with the said Easterly right-of-way line of North Courtenay Parkway; thence N 09°13'11" W along said Easterly right-of-way line 643.91 feet to the Point of Beginning. Containing 9.90 acres more or less.

LESS AND EXCEPT:

A portion of those lands described in Official Records Book 2456, Page 1113 of the Public Records of Brevard County, Florida and being described as follows:

A parcel of land lying in the Southwest one-quarter of Section 14, Township 24 South, Range 36 East, Brevard County, Florida and being more particularly described as follows: Commence at the West one-quarter corner of said Section 14 and run N 89°49'42" E along the North line of the said Southwest one-quarter, a distance of 1240.59 feet to the intersection with the Easterly right-of-way line of North Courtenay Parkway (State Road No. 3); thence S 09°13'11" E along said Easterly right-of-way line 30.38 feet to the intersection with the Southerly right-of-way line of Pioneer Road and to the Point of Beginning of the herein described parcel; thence N 89°49'42" E along said Southerly right-of-way line 246.01 feet; thence S 00°10'18" E 186.49 feet; thence S 89°49'42" W 30.00 feet; thence N 00°10'18" W 10.70 feet; thence S 80°46'49" W 185.68 feet to the intersection with the aforementioned Easterly right-of-way line of North Courtenay Parkway; thence N 09°13'11" W along said Easterly right-of-way line 207.57 feet to the Point of Beginning. Containing 1.01 acres more or less.

SURVEYOR'S NOTES:

1. BEARINGS BASED ON THE N. LINE OF THE SW 1/4 BEING N89°49'42"E AS PER ASSUMED DATUM.
2. THIS IS NOT A SURVEY.
3. THIS SKETCH AND DESCRIPTION CONTAINS TWO SHEETS EACH SHEET IS NOT FULL OR COMPLETE WITHOUT THE OTHER.
4. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER WHICH CAN BE FOUND ON SHEET 1 OF 2.

LEGEND:

BLDG = BUILDING
 BRG = BEARING
 C/L = CENTERLINE
 ESMT = EASEMENT
 FT = FEET
 P.B. = PLAT BOOK
 P.C. = POINT OF CURVATURE
 P.O.B. = POINT OF BEGINNING
 P.O.C. = POINT OF COMMENCEMENT
 P.U.D. = PUBLIC UTILITY AND PRIVATE DRAINAGE EASEMENT
 REF = REFERENCE
 R/W = RIGHT OF WAY

PREPARED FOR:
 DON SPURLOCK

PROJECT NO.

DRAWN BY: JAS

CERTIFICATION:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND DESCRIPTION WAS DONE UNDER MY DIRECTION AND MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

DATE: 5/26/2020

JOEL A SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER
 STATE OF FLORIDA No. LS 6133

Kane Surveying, Inc.

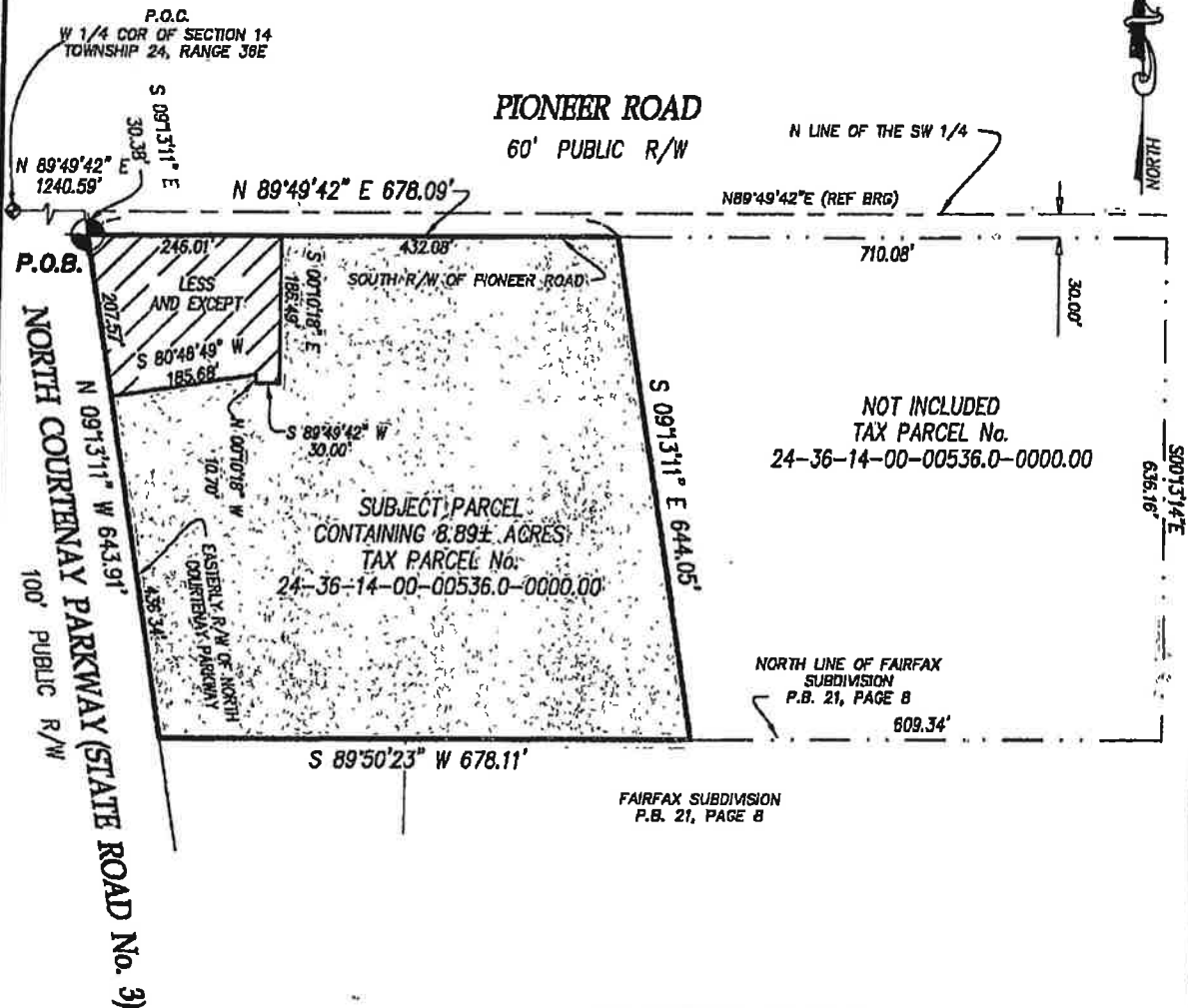
FLORIDA LICENSED BUSINESS No. LB 7838
 805 DISTRIBUTION DRIVE
 MELBOURNE, FLORIDA 32904
 (321) 678-0427 FAX (321) 684-1448

SKETCH OF DESCRIPTION

SECTION 14, TOWNSHIP 24 SOUTH, RANGE 36 EAST
 PARCEL ID# 24-36-14-00-00536.0-0000.00

NOT A SURVEY**SHEET 2 OF 2**

NOT VALID WITHOUT THE LEGAL
 DESCRIPTION ON SHEET 1 OF 2

**GRAPHIC SCALE****(IN FEET)****1 inch = 200 ft.****Kane Surveying, Inc.**

FLORIDA LICENSED BUSINESS No. LB 7838
 505 DISTRIBUTION DRIVE
 MELBOURNE, FLORIDA 32904
 (321) 676-0427 FAX (321) 984-1448

SCALE 1 INCH = 200 FEET**DATE: 5/26/2020****PROJECT NO.**

Sec. 62-1482. General retail commercial, BU-1.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. Where this zoning classification is presently located or is proposed to be located adjacent to the lagoonal water edge or fronts on the ocean, water-dependent uses such as fish, shellfish and wildlife production, recreation, water-dependent industry and utilities, marinas and navigation shall have the highest priority. The next highest priority for uses along the waterfront include water-related uses such as utilities, commerce and industrial uses. Water-enhanced uses such as restaurants and tourist attractions shall have the next highest use priorities. Of lowest priority are those uses which are nonwater-dependent and nonwater-enhanced, and those which result in an irretrievable commitment of coastal resources.

(1) Permitted uses.

- a. *All business uses and all material and products shall be confined within substantial buildings completely enclosed with walls and a roof; however, retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the buildings. Such retail items include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, and boats.*
- b. *The following uses, or other uses of a similar nature compatible with the character of the uses specifically described in this subsection, are permitted, and shall be limited to retail only:*

Administrative, executive and editorial offices.

Antique shops.

~~*Aquariums.*~~

Art goods and bric-a-brac shops.

Artists' studios.

~~*Auditoriums.*~~

Automobile hire.

~~*Automobile parts, if confined within a structure.*~~

~~*Automobile repairs, minor (as defined in section 62-1102).*~~

~~*Automobile sales and storage, provided sales are from a permanent structure and the storage area meets the requirements of article VIII of this*~~

~~chapter, pertaining to site plans, and article XIII, division 2, of this chapter, pertaining to landscaping.~~

~~Automobile tires and mufflers (new), sales and service.~~

Automobile washing.

~~Bait and tackle shop.~~

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bed and breakfast inn.

Bicycle sales and service.

~~Billiard rooms and electronic game arcades (soundproofed).~~

Bookstores.

~~Bowling alleys (soundproofed).~~

~~Cafeterias.~~

~~Ceramics and pottery; finishing and sales; no production or firing except accessory to on-site sales only.~~

~~Civic, philanthropic or fraternal organizations.~~

~~Coin laundromats.~~

~~Colleges and universities.~~

~~Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts.~~

Confectionery and ice cream stores.

~~Conservatories.~~

Contractors' offices, with no outside storage.

Convenience stores, with or without gasoline sales.

Curio shops.

~~Dancing halls and academies (soundproofed).~~

Child or adult day care centers.

Display and sales rooms.

~~Dog and pet hospitals and beauty parlors, with no outside kennels or runs.~~

Drug and sundry stores.

~~Dyeing and carpet cleaning.~~

Electrical appliance and lighting fixtures.

Employment agencies.

~~Fraternities and sororities.~~

Florist shops.

~~Foster homes.~~

~~Fruit stores (packing on premises).~~

~~Funeral homes and mortuaries.~~

Furniture stores.

~~Furriers.~~

Gift shops.

Grocery stores.

~~Group homes, levels I and II.~~

Hardware stores.

~~Hat cleaning and blocking.~~

Hobby shops.

~~Hospitals.~~

Interior decorating, costuming and draperies.

Jewelry stores.

~~Laboratories.~~

~~Laundries.~~

~~Lawn mower sales.~~

Leather good stores.

Luggage shops.

Mail order offices.

~~Meat, fish and seafood markets.~~

Medical buildings and clinics, and dental clinics.

Messenger offices.

Millinery stores.

~~*Motorcycle sales and service.*~~

Music, radio and television shops and repairs.

Newsstands.

~~*Non-overnight commercial parking.*~~

~~*Nursing homes.*~~

Optical stores.

Paint and wallpaper stores.

Parks and public recreational facilities.

~~*Parking lots (commercial)*~~

~~*Pawnshops.*~~

~~*Pet shops, with property enclosed to prevent any noxious odors.*~~

Photograph studios and galleries.

~~*Plant nurseries (no outside bulk storage of mulch, topsoil, etc.).*~~

Post offices.

Printing services.

Professional offices and office buildings.

~~*Resort dwellings.*~~

Restaurants.

Sale of alcoholic beverage, package only.

Schools for business training.

~~*Schools, private or parochial.*~~

Shoe repair shops.

Shoe stores.

Single-family residence.

~~*Soft drink stands.*~~

Souvenir stores.

Stationery stores and bookstores.

Tailor shops.

Tearooms.

~~*Telephone and telegraph stations and exchanges.*~~

~~*Television and broadcasting stations, including studios, transmitting stations and towers and other incidental uses usually pertaining to such stations.*~~

~~*Theaters, but no drive-ins.*~~

~~*Ticket offices and waiting rooms for common carriers.*~~

Tobacco stores.

~~*Upholstery shops.*~~

Wearing apparel stores.

Worship, places of.

- c. *Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):*

Assisted living facility.

~~*Automobile and motorcycle repair (major) and paint and body work.*~~

~~*Boat sales and service.*~~

~~*Cabinetmaking and carpentry.*~~

~~*Dry cleaning plants, accessory to pickup stations.*~~

~~*Farm machinery sales and service.*~~

Gasoline service stations.

~~*Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.*~~

Outdoor restaurant seating.

~~*Outside sale of mobile homes.*~~

Preexisting use.

~~*Substations, and transmission facilities.*~~

~~*Security mobile home.*~~

Self storage mini-warehouses.

Tourist efficiencies and hotels and motels.

~~*Treatment and recovery facility.*~~

(2) *Accessory buildings or uses. Accessory buildings and uses customary to commercial and residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5). Additional accessory uses are as follows:*

a. ~~*Completely enclosed lumber sales are permitted as an accessory use to hardware and supply stores.*~~

b. ~~*A roadside stand used as provided in chapter 86, article IV, is permitted as an accessory use.*~~

(3) *Conditional uses. Conditional uses are as follows:*

Alcoholic beverages for on-premises consumption.

~~*Change of nonconforming agricultural use.*~~

~~*Commercial entertainment and amusement enterprises (small scale and large scale).*~~

~~*Commercial/recreational and commercial/industrial marinas.*~~

Land alteration (over five acres and up to ten acres).

~~*Overnight commercial parking lot.*~~

~~*Performance overlay districts.*~~

~~*Plant nurseries (with outside bulk storage of mulch, topsoil, etc.)*~~

~~*Security mobile home.*~~

~~*Substantial expansion of a preexisting use.*~~

~~*Trailer and truck rental.*~~

~~*Wireless telecommunication facilities and broadcast towers.*~~

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 August 19, 2020, given by Pioneer Pointe, LLC, as mortgagor, in favor of the undersigned, Southgate Investments, Inc. 8834, as mortgagee, recorded in Official Records Book 8834, Page 1694, 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

Southgate Investments, Inc.

Mortgagee Corporation Name

4909 SW 105th Avenue Gainesville FL 32608
Street City State Zip Code

[Signature]
*Authorized Agent Signature

J.T. MILLER, PRES.
Authorized Agent Printed Name and Title

*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]
Signature

SUZANNE BALDWIN

Print Name

[Signature]
Signature

TARA R. LANGFORD

Print Name

STATE OF FLORIDA

COUNTY OF ALACHUA

/by physical presence

The foregoing instrument was acknowledged before me this _____ day of March, 2021,

by JT Miller, President Southgate Investments, Inc., a Florida corporation, who is personally known to me or who has produced

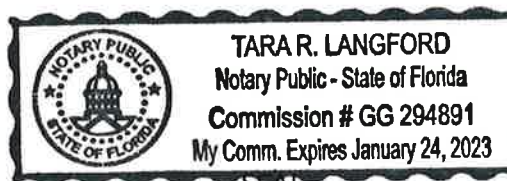
_____ as identification.



Notary Public Signature

TARA R. LANGFORD

Name Printed

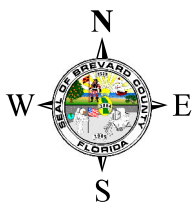
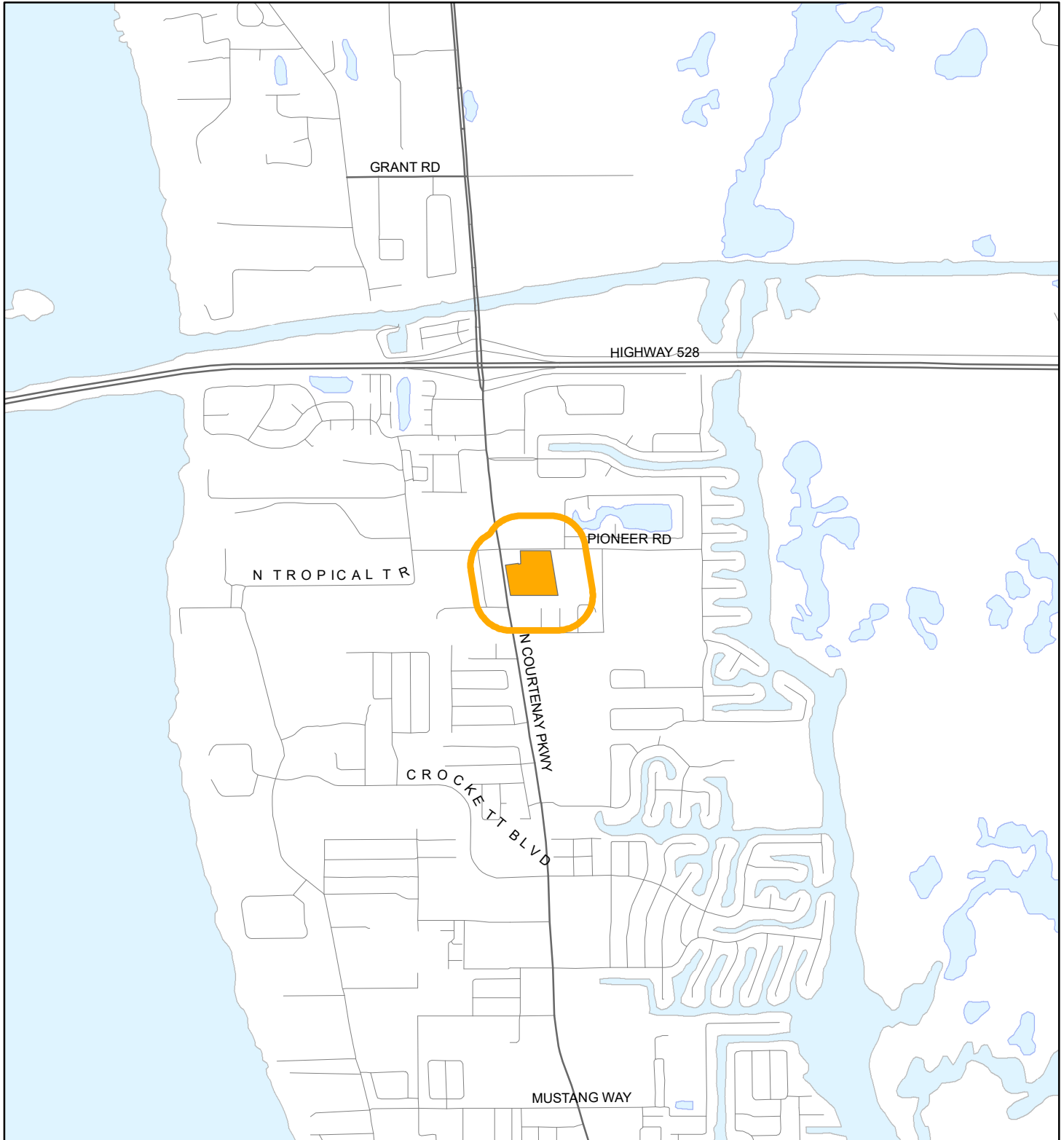


SEAL

LOCATION MAP

PIONEER POINTE, LLC

20Z00042





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.

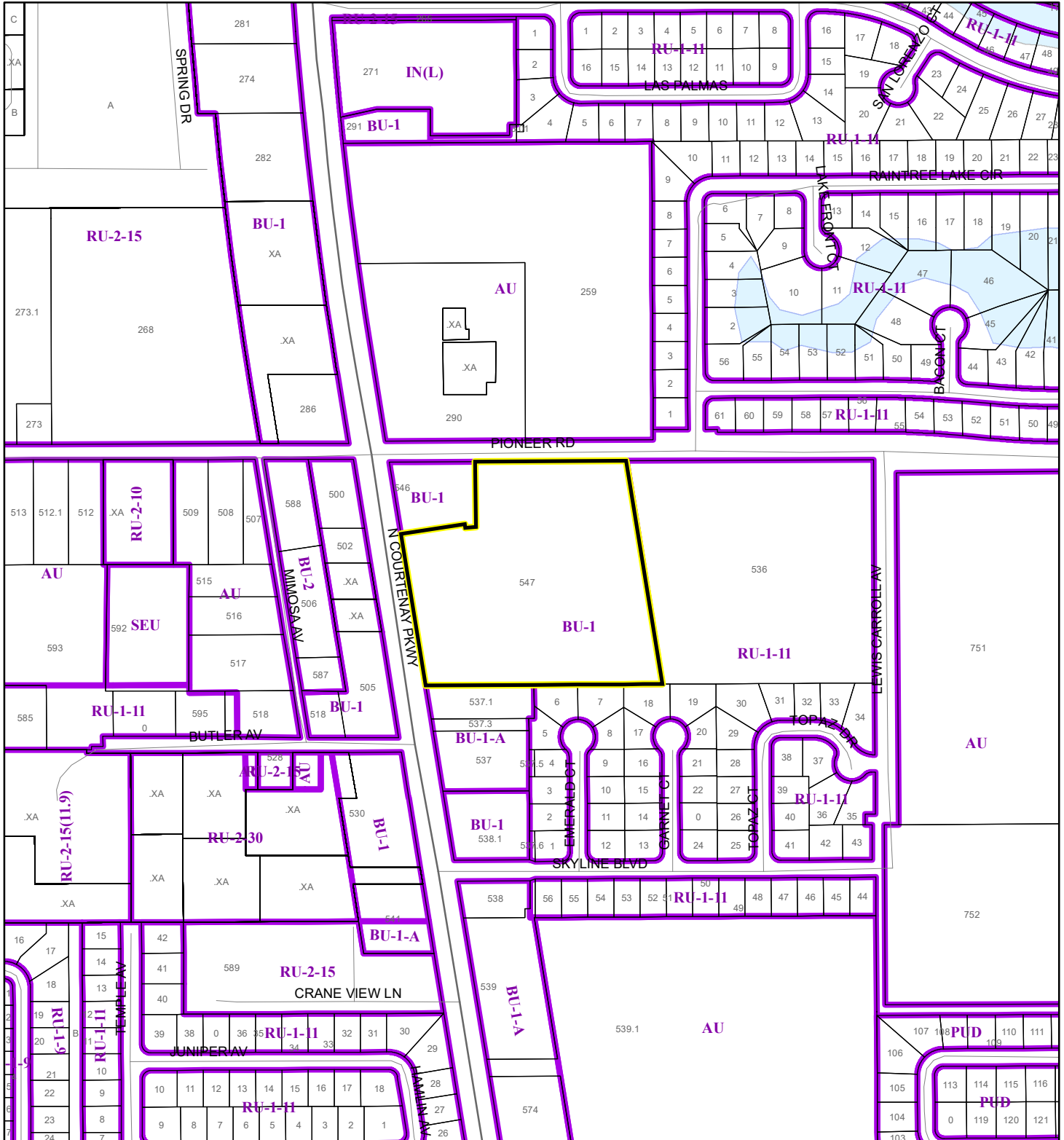
Produced by BoCC - GIS Date: 12/11/2020

 Buffer
 Subject Property

ZONING MAP

PIONEER POINTE, LLC

20Z00042



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: 12/11/2020

Subject Property

Parcels

Zoning

5. **PIONEER POINTE** (Jake Wise) requests an amendment to an existing BDP (Binding Development Plan) in a BU-1 (General Retail Commercial) zoning classification. The property is 8.89 acres, located on the east side of N. Courtenay Parkway, approx. 208 ft. south of Pioneer Rd.; and on the south side of Pioneer Rd., approx. 247 ft. east of N. Courtenay Parkway. (No assigned address. In the Merritt Island area.) (20Z00042) (Tax Account 3022346) (District 2)

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

Board of County Commissioners Action: Lober/Smith – Approved as recommended with a BDP as submitted, with the additional conditions that the only portion of the car wash that shall be self-service is the vacuum station which will be available only to those customers who have paid for and gone through a full-service car wash, and the car wash will only operate when there is an attendant physically onsite. 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.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Health First, Inc. Lober/Smith, Zonka abstained. Adopted Ordinance No. 21-06, setting forth plan amendment 2020-1.1 and amending section 62-501; and approved Letter to Transmit 2020-1.1 Large Scale Comprehensive Plan Amendment to permit a Countywide increase in Floor Area Ratio for Community Commercial designated sites from 1.00 to 1.75 within a PUD zoning classification (20PZ00069).
- Item H.2. Nichelle R. King. Lober/Zonka. Approved changing zoning classification from AU to RRMH-1 as recommended (20Z00039).
- Item H.3. Ronald Viesins. Request withdrawn by applicant letter received on January 25, 2021.
- Item H.4. Preferred Leasing, LLC. Smith/Zonka. Adopted Ordinance No. 21-05, setting forth the tenth Small Scale Plan Amendment of 2020, 20S.12, changing the Future Land Use designation from RES 4, NC, and CC to all CC (20PZ00116).
- Item H.5. Preferred Leasing, LLC. Smith/Zonka. Approved changing zoning classification from BU-1 and AU to all BU-1 as recommended (20Z00041).
- Item H.6. Pioneer Pointe. Lober/Smith. Approved amendment to an existing Binding Development Plan in a BU-1 zoning classification that the only portion of the car wash, that shall be self-service is the vacuum station which will be available only to those customers who have already paid for and gone through a full-service car wash, and the car wash will only operate when there is an attendant, whether it is an employee, an agent, or otherwise, physically on-site.
- Item H.7. 5971 Cedar Lake Drive Revocable Land Trust and U.S. Highway No. 1 Commercial Land Trust. Lober/Zonka. Continued to March 23, 2021, meeting.