



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.6.

3/4/2021

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### Subject:

Pioneer Pointe (Jake Wise) requests an amendment to an existing BDP in a BU-1 zoning classification. (20Z00042) (Tax Account 3022346) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider an amendment to an existing BDP (Binding Development Plan) in a BU-1 (General Retail Commercial) zoning classification.

### Summary Explanation and Background:

The applicant is requesting to amend a BDP (Binding Development Plan) approved for BU-1 (General Retail Commercial) zoned property. The proposed modification will add an automobile washing use which was previously not allowed by the existing BDP.

On March 3, 2016, the Board approved a change of zoning to BU-1 with a BDP. In the past, the Board was concerned with speculative development as no proposed use was identified. The Board requested the applicant limit some of the higher intensity uses of the BU-1 zoning classification with a BDP. In response to the Board's request, the applicant submitted a BDP precluding certain uses from being allowed on the site, one of which being automobile washing. The BDP became effective on May 20, 2016, in ORB 7620, Pages 1574 - 1583.

The existing BU-1 zoning classification is consistent with the current Community Commercial Future Land Use designation, and the proposed BDP does not alter this zoning classification's consistency with the Community Commercial FLU designation. The surrounding area can be characterized as a mix of commercial and residential uses. The parcel can be serviced by potable water from the City of Cocoa, and sewer can be provided by Brevard County.

This parcel lies adjacent to the corner lot which is being processed under site plan review for a Starbucks. This parcel is also under review of site plan for a 93-bed Assisted Living Facility and the creation of two outparcels. One of the outparcels is the location of the proposed automobile washing site - Twin's Car Wash. Due to the large development potential, the applicant may wish to limit the scale of the proposed automobile washing facility and other retained commercial uses to reduce the potential concurrency impacts.

The Board may wish to consider whether the proposed BDP limitations mitigate the potential impacts to the surrounding area and are compatible with the adjacent neighborhoods, and minimize potential distress to the environmentally sensitive property.

On February 8, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

Upon receipt of resolution, please execute and return to Planning and Development.

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

### **Administrative Policy 1**

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

#### **Criteria:**

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

### **Administrative Policy 3**

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
  2. actual development over the immediately preceding three years; and
  3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
  1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
  2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
  3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

#### **Administrative Policy 6**

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

#### **Administrative Policy 7**

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

#### **Administrative Policy 8**

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application.”

#### **CONDITIONAL USE PERMITS (CUPs)**

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
  - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
  - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.



- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

## DEFINITIONS OF CONCURRENCY TERMS

**Maximum Acceptable Volume (MAV):** Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

**Current Volume:** Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

**Volume with Development (VOL W/DEV):** Equals Current Volume plus trip generation projected for the proposed development.

**Volume/Maximum Acceptable Volume (VOL/MAV):** Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

**Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV):** Ratio of volume with development to the Maximum Acceptable Volume.

**Acceptable Level of Service (CURRENT LOS):** The Level of Service at which a roadway is currently operating.

**Level of Service with Development (LOS W/DEV):** The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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 Building A, Room 114  
 Viera, Florida 32940  
 (321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS  
 20Z00042**

**Pioneer Pointe, LLC**

**Amendment to Existing BDP to add Automobile Washing**

Tax Account Numbers: 3022346  
 Parcel I.D.: 24-36-14-00-547  
 Location: SE corner of N. Courtenay Parkway and Pioneer Road, Merritt Island  
 (District 2)  
 Acreage: 8.89 acres  
 Planning and Zoning Board: 2/08/2021  
 Board of County Commissioners: 3/04/2021

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1 with BDP	BU-1 with modification of BDP
<b>Potential*</b>	387,248.4 square feet	387,248.4 square feet
<b>Can be Considered under the Future Land Use Map</b>	YES Community Commercial	YES Community Commercial

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

**Background and Purpose of Request**

The applicant is requesting to amend a Binding Development Plan (BDP) approved for BU-1 (General Retail Commercial) zoned property. The proposed modification is to add the allowance of an automobile washing facility.

Zoning action **15PZ00079** adopted May 20, 2016, approved a change of zoning from RU-2-15 (High Density Multi-family Residential) and RU-1-11 (Single-family Residential) to BU-1 with a Binding Development Plan recorded in ORB 7620, Pages 1574 through 1583, dated May 20, 2016 which limited the uses of the property. The Board, concerned with speculative development as no proposed use was identified, requested the applicant limit some of the higher intensity uses of the BU-1 zoning classification with a BDP.

The applicant's response to this request was to submit a BDP which precludes the following BU-1 uses from being allowed on the site: Aquariums; Auditoriums; Automobile repairs, minor; Automobile

sales and storage; Automobile tires and mufflers (new), sales and service; **Automobile washing**; Bait and tackle shop; Billiard rooms and electronic game arcades; Bowling alleys; Cafeterias; Ceramics and pottery; Civic, philanthropic or fraternal organizations; Coin laundromats; Colleges and universities; Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts; Conservatories; Dancing halls and academies; Dog and pet hospitals and beauty parlors; Dyeing and carpet cleaning; Fraternities and sororities; Foster homes; Fruit stores; Funeral homes and mortuaries; Furriers; Group homes, levels I and II; Hat cleaning and blocking; Hospitals; Laboratories; Laundries; Lawn mower sales; Meat, fish and seafood markets; Motorcycle sales and service; Nursing homes; Pawnshops; Pet shops; Plant nurseries; Resort dwellings; Schools, private or parochial; Soft drink stands; 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; Upholstery shops; Automobile and motorcycle repair (major) and paint and body work; Boat sales and service; Cabinetmaking and carpentry; Dry cleaning plants; Farm machinery sales and service; Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products; Outside sale of mobile homes; Substations, and transmission facilities; Security mobile home; Treatment and recovery facility; Completely enclosed lumber sales are permitted as an accessory use to hardware and supply stores; A roadside stand; Change of nonconforming agricultural use; Commercial entertainment and amusement enterprises (small scale and large scale); Commercial/recreational and commercial/industrial marinas; 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.

### **Land Use**

The subject property is currently designated Community Commercial. The existing BU-1 zoning classification is consistent with this Future Land Use designation. The proposed BDP does not alter this zoning classification's consistency with the Community Commercial FLU designation.

### **Environmental Constraints**

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands and hydric soils. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Parkway, between Crockett Boulevard and Pioneer Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 67.67% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 97.61%. The corridor is anticipated to continue to operate at 165.28% of capacity daily. The proposal is anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the project is not intended for residential uses.

The parcel can be serviced by potable water from the City of Cocoa. Sewer can be provided by Brevard County. There is a force main on the east side of N. Courtenay Parkway which could be utilized.

## **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

### **FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands**

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

#### **Criteria:**

- A. Permitted/prohibited uses;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** As the base zoning classification, BU-1, is not changing, this request may be considered to be compatible with the Community Commercial FLU designation.

This parcel lies adjacent to the corner lot which is being processed under site plan review, **19SP00030**, for a Starbucks. This parcel is also under review of site plan # **20SP00032** for review of a proposed 93-bed Assisted Living Facility and the creation of two outparcels. One of the outparcels is the location of the proposed automobile washing site – Twin’s Car Wash. Due to the large development potential, the applicant may wish to limit the scale of the proposed automobile washing facility and other retained commercial uses to reduce the potential concurrency impacts. The property owner has also requested a waiver from the Section 62-3202 (h)(10) under waiver **20WV00022**. This waiver in process is to remove the requirement for a 6’ high masonry or solid wall to buffer the adjacent residential zonings. Car washes have a higher potential of Code Enforcement complaints than other commercial businesses. The proposed BDP does not offer additional noise mitigation.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The surrounding area can be characterized as a mix of commercial and residential uses. To the north across Pioneer Road is an established medical facility in AU zoning. The SE corner lot is being developed for a Starbucks coffee shop. To the east, lies vacant Single-family residential (RU-1-11) zoning. To the south, abutting Courtney Parkway is a commercial use, a child-care facility, on BU-1-A zoned property with a Conditional Use Permit (CUP) for a Child Care Center under a Binding Site Plan (**Z-7297**) which was approved by the Board on October 21, 1985 prior to the requirement of formally recording the document into the public record. Further to the east, behind this use is a developed 56-unit single-family subdivision also zoned RU-1-11.

### **Surrounding Area**

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet. Conditional uses such as child care centers and private clubs are also permitted in this classification.

The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

There have been no zoning actions within a half-mile radius of the subject property within the last three years.

### **For Board Consideration**

The Board may wish to consider whether the proposed BDP restrictions mitigate the potential development impacts and is consistent and compatible with the surrounding neighborhoods. The Board may also wish to consider the environmental constraints of the property.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary**

**Item # 20Z00042**

**Applicant:** Jake Wise, PE for Pioneer Pointe, LLC

**Zoning Request:** Amendment to BDP

**Note:** Applicant wants to add car wash use.

**P&Z Hearing Date:** 02/08/21; **BCC Hearing Date:** 03/04/21

**Tax ID No:** 3022346

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- NWI Wetlands
- Hydric Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands and hydric soils. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

## **Land Use Comments:**

### **Wetlands**

The subject parcel contains mapped NWI (Freshwater forested shrub wetlands), and hydric soils (Myakka sand depressional) as shown on the NWI Wetlands and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

A wetland delineation will be required prior to any land clearing activities.

### **Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

### **Protected and Specimen Trees**

The entire parcel is mapped within the SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code, and may be found on the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

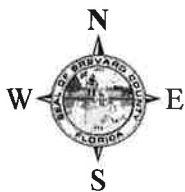
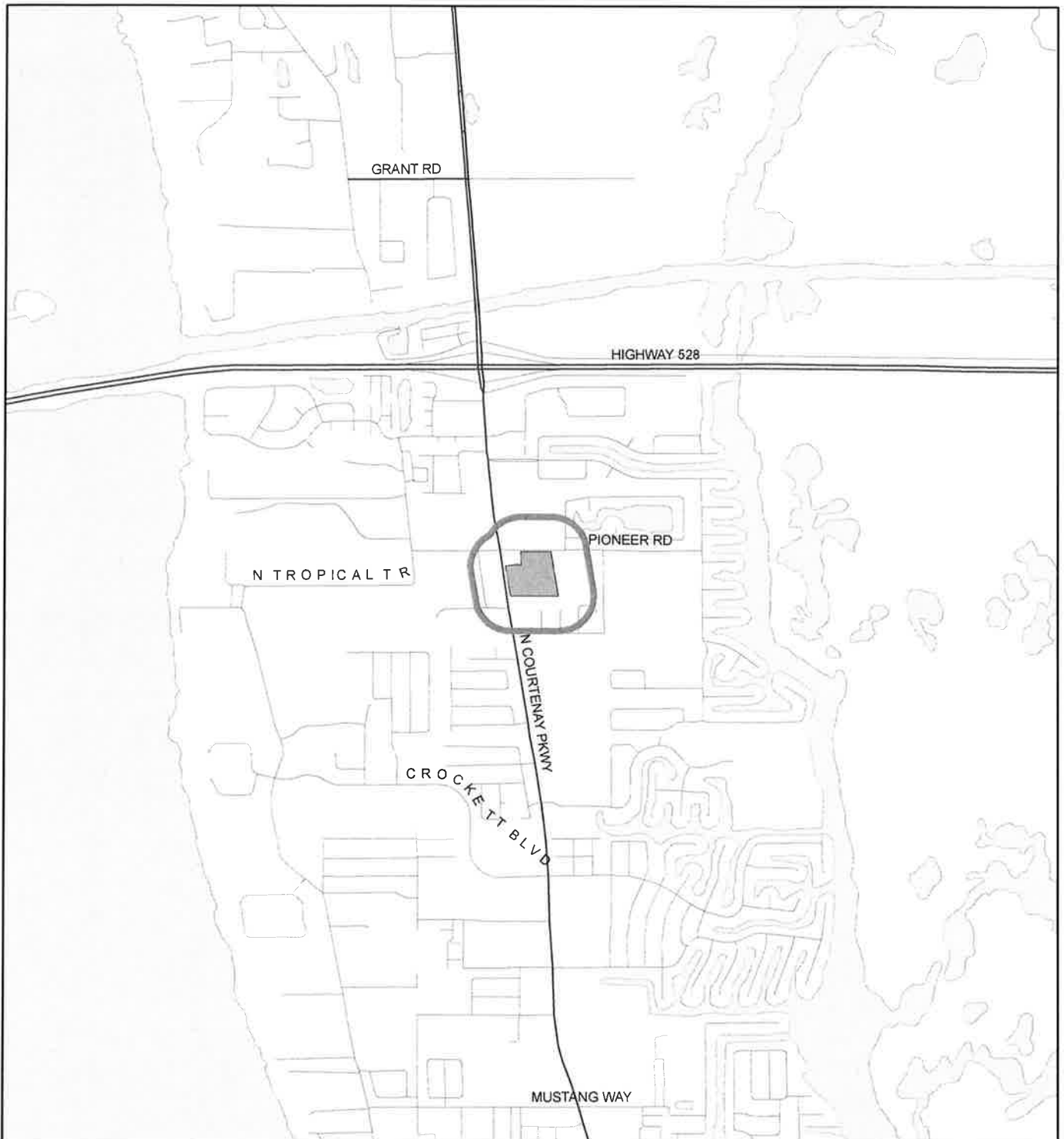
## **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.



# 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.

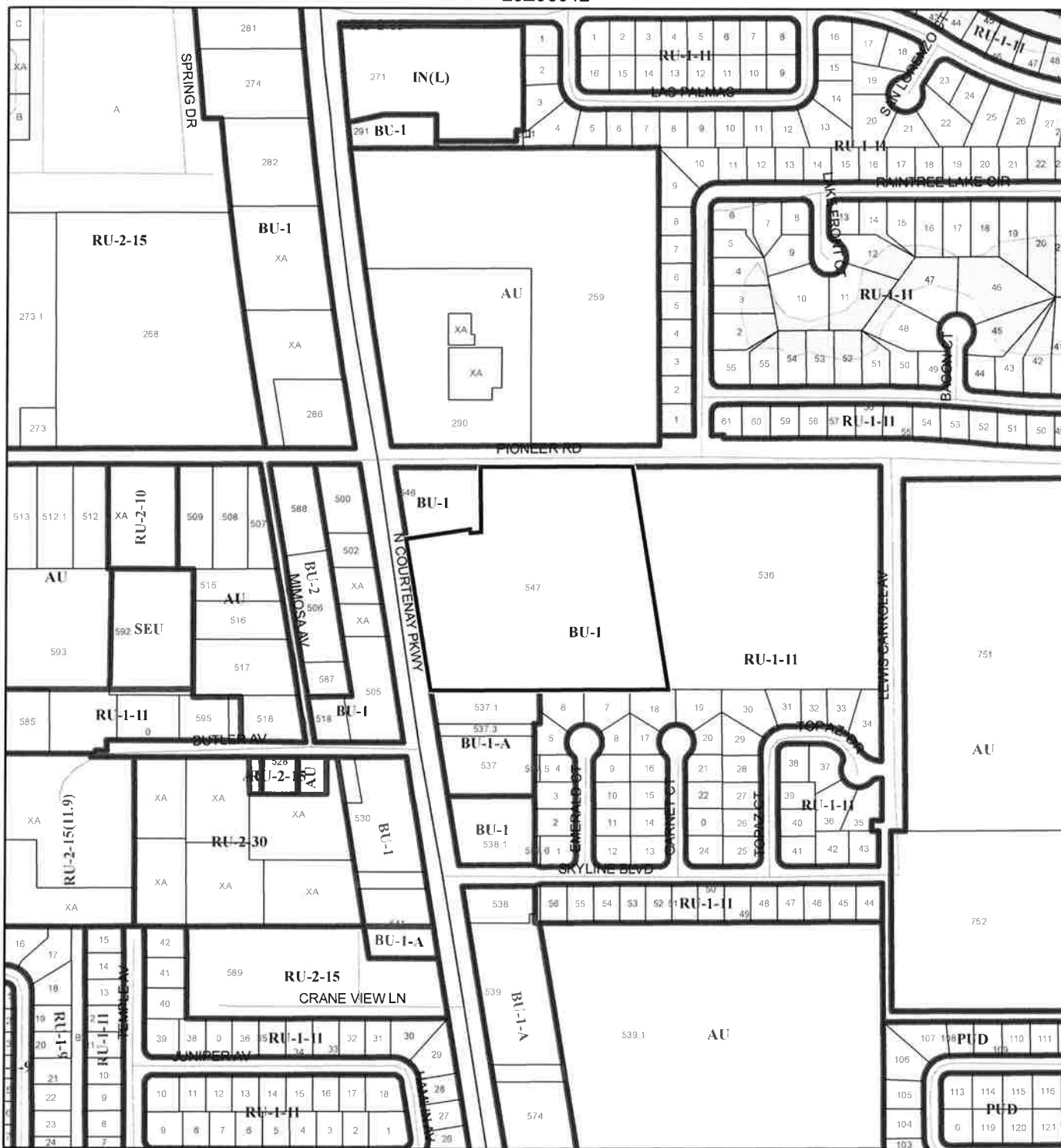
Produced by BoCC - GIS Date: 12/11/2020

-  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

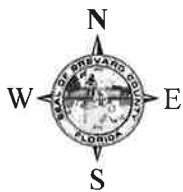
— Subject Property

▭ Parcels

▭ Zoning

# FUTURE LAND USE MAP

PIONEER POINTE, LLC  
20Z00042



1:4,800 or 1 inch = 400 feet

**—** Subject Property  
**□** Parcels

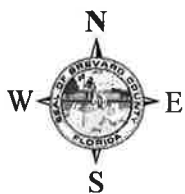
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

# AERIAL MAP

PIONEER POINTE, LLC

20Z00042



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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

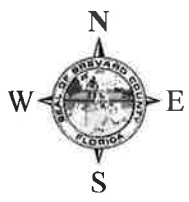
— Subject Property

▭ Parcels

# NWI WETLANDS 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

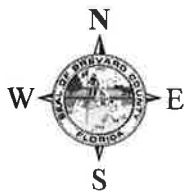
### National Wetlands Inventory (NWI)

- |  |                                   |  |                  |
|--|-----------------------------------|--|------------------|
|  | Estuarine and Marine Deepwater    |  | Freshwater Pond  |
|  | Estuarine and Marine Wetland      |  | Lake             |
|  | Freshwater Emergent Wetland       |  | Other            |
|  | Freshwater Forested/Shrub Wetland |  | Riverine         |
|  |                                   |  | Subject Property |
|  |                                   |  | Parcels          |

# SJRWMD FLUCCS WETLANDS - 6000 Series 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

## SJRWMD FLUCCS WETLANDS

-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property

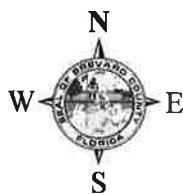
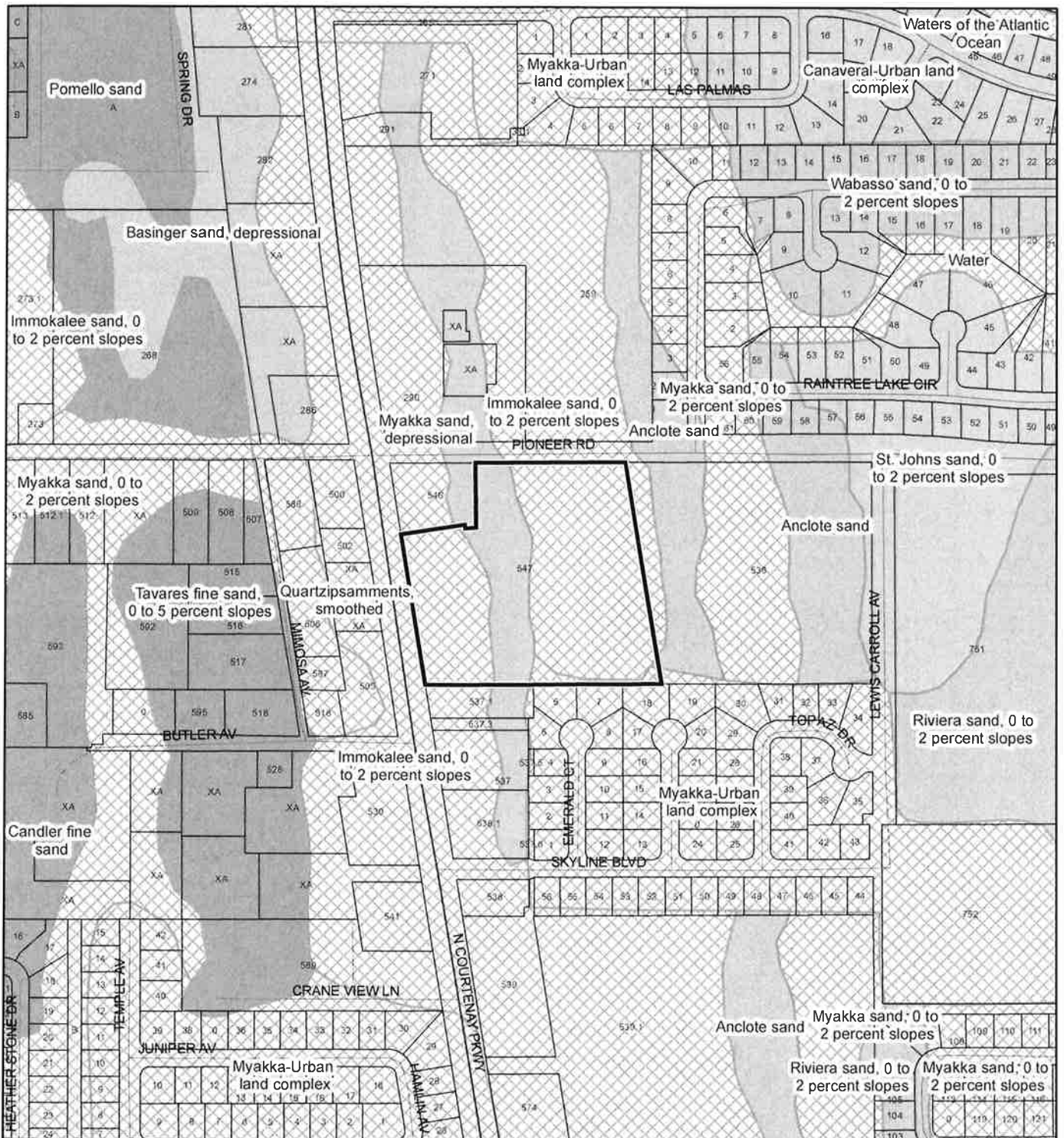
 Parcels



# USDA SCSSS SOILS MAP





PIONEER POINTE, LLC



20Z00042



1:4,800 or 1 inch = 400 feet

### USDA SCSSS Soils

-  Aquifer and Hydric
-  Aquifer
-  Hydric
-  None

-  Subject Property
-  Parcels

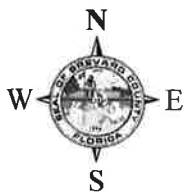
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

# FEMA FLOOD ZONES MAP

PIONEER POINTE, LLC

20Z00042



1:4,800 or 1 inch = 400 feet

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

### FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  | Parcels    |                      |





# COASTAL HIGH HAZARD AREA MAP

PIONEER POINTE, LLC  
20Z00042



1:4,800 or 1 inch = 400 feet

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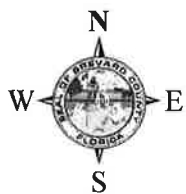
-  Subject Property
-  Parcels
- Coastal High Hazard Area**
-  SurgeZoneCat1

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

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

PIONEER POINTE, LLC

20Z00042



1:4,800 or 1 inch = 400 feet

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

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

PIONEER POINTE, LLC




20Z00042



1:4,800 or 1 inch = 400 feet

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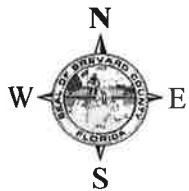
Produced by BoCC - GIS Date: 12/11/2020

-  Subject Property
-  Parcels
-  Eagle Nests FWS 2010

# SCRUB JAY OCCUPANCY MAP

PIONEER POINTE, LLC




20Z00042



1:4,800 or 1 inch = 400 feet

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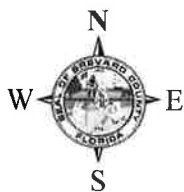
Produced by BoCC - GIS Date: 12/11/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series 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

### SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

MIRA



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 20Z00042

Existing FLU: CC Existing Zoning: BU-1

Proposed FLU: N/A Proposed Zoning: N/A

**PROPERTY OWNER INFORMATION**

If the owner is an LLC, include a copy of the operating agreement.

K.R. Welsh Pioneer Pointe, LLC  
Name(s) Company

3845 W Eau Gallie Blvd; Ste 101 Melbourne FL 32934  
Street City State Zip Code

ken@welshci.com 321-757-7383  
Email Phone Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

Attorney  Agent  Contract Purchaser  Other Authorized Representative

Jake Wise, PE Construction Engineering Group, LLC  
Name(s) Company

2651 W Eau Gallie Blvd; Suite A Melbourne FL 32935  
Street City State Zip Code

Jwise@cegengineering.com 321-610-1760 321-427-7455  
Email Phone Cell

**APPLICATION NAME**

- Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- Text Amendment (CP): Element \_\_\_\_\_
- Other Amendment (CP): \_\_\_\_\_
- Rezoning Without CUP (RWOC)
- Combination Rezoning and CUP (CORC)
- Conditional Use Permit (CUP)
- Binding Development Plan (BDP)
- Binding Development Plan (BDP) (Amendment)
- Binding Development Plan (BDP) (Removal)
- Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- Administrative Approval of Flag Lot or Easement
- Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- Other Action: \_\_\_\_\_

Acreege of Request: +/- 8.89

**Reason for Request:**

The enclosed application for a binding development plan (BDP) modification to an existing recorded BDP is to add one additional allowable use in the BU-1 zoning. Previously, uses that are normally allowed in the BU-1 zoning were voluntarily removed including an automobile wash. At that time in 2016, automobile washes were different than the new ones being developed today. Today they are attractive buildings with architectural features such as in the enclosed exhibit drawing. The proposed automobile wash for this specific property would be very similar or exactly the same as the enclosed exhibit drawing.

*15P200079 5/19/2016*

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- An approval of this application does not entitle the owner to a development permit.
- For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

*JW*

\_\_\_\_\_  
Signature of Property Owner or  
Authorized Representative

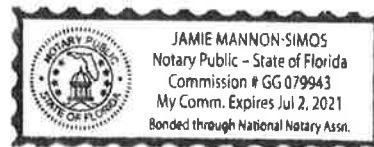
12.4.20  
Date

State of Florida  
County of Brevard

Subscribed and sworn before me, by  physical presence or \_\_\_\_\_ online notarization,  
this 4th day of December, 20 20, personally appeared  
Jake Wise, who is personally known to me or produced  
\_\_\_\_\_ as identification, and who did / did not take an oath.

*Jamie Mannon-Simos*  
Notary Public Signature

Seal





Office Use Only:

Accela No. 20200042 Fee: 1149.00 Date Filed: 12/4/2020 District No. 2

Tax Account No. (list all that apply) 3022346

Parcel I.D. No.

24 36 14 00 547  
Twp Rng Sec Sub Block Lot/Parcel

Planner: GCR Sign Issued by: C.E. Notification Radius: 500'

MEETINGS

	DATE	TIME
<input checked="" type="checkbox"/> P&Z	<u>2/8/21</u>	<u>3pm</u>
<input type="checkbox"/> PSJ Board	_____	_____
<input type="checkbox"/> NMI Board	_____	_____
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>3/4/21</u>	<u>5pm</u>

Wetland survey required by Natural Resources  Yes  No Initials \_\_\_\_\_

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

Yes  No If yes, list \_\_\_\_\_

Location of subject property:

SE corner of N. Constaney Pkwy & Bidwee Rd

Description of Request:

Amend existing BDP

### Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

**NOTES:**

- If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

jwise@cegengineering.com or ( ) \_\_\_\_\_ or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes  No

I have received a copy of this notice:

J.W.  
(APPLICANT SIGNATURE)

Prepared By and Record and Return to  
Richard S. Amari, Esquire  
Amari Law Office, PLC  
P.O. Box 66732  
St. Pete Beach, FL. 33736

CFN 2016097036, OR BK 7620 PAGE 1574,  
Recorded 05/20/2016 at 10:09 AM, Scott Ellis, Clerk of Courts,  
Brevard County  
1 Pgs:10

**BINDING DEVELOPMENT PLAN**

**THIS AGREEMENT** is entered into between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County"), and **SOUTHGATE INVESTMENTS, INC.**, a Florida 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"; and

**WHEREAS**, Developer/Owner desires to develop the Property as a commercial development pursuant to 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 landowners and affected facilities or services; and

**WHEREAS**, the County is authorized to regulate development of the Property; and

**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 construction and maintenance of any improvements.

2. The Developer Owner agrees to limit the uses of the Property so that none of the uses shown and crossed through in ~~struck through~~ manner on the 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.

3. 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 comprehensive plan or land development regulations as they may apply to this Property.

4. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

5. 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 re-zoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property.

6. The Exhibits A through B, which are attached to this Agreement, are by this reference incorporated into this Agreement.

7. The effective date of this Agreement is the date of the signature of the last party to sign this Agreement.

8. Developer/Owner represents and warrants that Developer/Owner has fee simple title to the Property and that all mortgagees, if any, have joined in and consented to this Agreement.

**(Signatures begin on following page)**

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the effective date set forth above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA

Scott Ellis  
Scott Ellis, Clerk

2725 Judge Fran Jamieson Way  
Viera, Florida 32940

(SEAL)

By: [Signature]  
Print Name: Jim Barfield, Chairman

As approved by the Board on May 17, 2016

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, this 17 day of May, 2016, by Jim Barfield,  who is personally known to me, or  who has produced identification. Type of Identification Produced: \_\_\_\_\_

Deborah Thomas  
NOTARY PUBLIC

(NOTARY SEAL)

My Commission Expires:



DEBORAH W. THOMAS  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE208892  
Expires 6/10/2016

Signatures continued on following page

STATE OF FLORIDA  
COUNTY OF BREVARD  
This is to certify that the foregoing is a true and current copy of Barfield Deborah Thomas witness my hand and official seal this 17 day of May 2016  
SCOTT ELLIS, Clerk of Circuit Court  
BY Deborah Thomas D.C.

**WITNESSES:**

[Signature]  
Print Name: Loyan Oarmer

[Signature]  
Print Name: Deborah D Miller

**SOUTHGATE INVESTMENTS, INC.,  
DEVELOPER/OWNER**

By: [Signature]  
Print Name: J.T. MILLER  
Its: FILES

STATE OF Florida

COUNTY OF Alachua

The foregoing instrument was acknowledged before me, this 29 day of April, 2016,  
by J.T. Miller,  who is personally known to me, or  who has produced identification.  
Type of Identification Produced: FD MYL043027260

[Signature]  
NOTARY PUBLIC

(NOTARY SEAL)

My Commission Expires:



DEBORAH D. MILLER  
MY COMMISSION # FF 184040  
EXPIRES: April 20, 2019  
Booked thru Budget Notary Services

EXHIBIT A

Legal Description:

Begin at the northeast corner of the northwest (nw 1/4) quarter of the southwest (sw 1/4) quarter of section 14, township 24 south, range 36 east, thence s 89°44'30" w along the north line of said nw 1/4 of the sw 1/4, a distance of 78.48 feet to the east edge of the right of way of state road no. 3 as at present located; thence s 09°16'30" e along east edge of said right of way, a distance of 493.55 feet to the intersection of said right of way and the east line of said nw 1/4 of the sw 1/4 in section 14 aforesaid; thence n 00°07'30" w along said east line of said nw 1/4 of the sw 1/4, a distance of 487.45 feet to the point of beginning. Said land lying and being in the nw 1/4 of the sw 1/4 of said section 14, township 24 south, range 36 east. And the north 1/2 of the northeast 1/4 of the southwest 1/4 of section 14, township 24 south, range 36 east, Brevard county, Florida, except ditch and highway right of way

**EXHIBIT B**

**Brevard County BU-1**

(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.
- Newstands.
- ~~— Nursing homes.~~
- Optical stores.
- Paint and wallpaper stores.
- ~~— Parking lots (commercial).~~
- Parks and public recreational facilities.
- ~~— 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).

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.~~

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. 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. Developer/Owner agrees to limit the uses of the Property so that none of the uses shown and ~~crossed through and struck through~~ in the recorded manner on attached Exhibit "B" shall be allowed as a permitted use, accessory building or use or conditional use of the Property, but instead of each of those uses shown in a ~~struck through~~ manner shall be prohibited as a use of the Property. Exhibit "B" hereto includes "automobile washing" as a permitted use.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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 8 above.

8. Developer/Owner owns fee simple to the Property and that all mortgagees, if any, have joined in and consented to this Agreement.
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 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:

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

\_\_\_\_\_

By: \_\_\_\_\_

Kim R. Welsh, Manager

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

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 \_\_\_\_ physical presence or \_\_\_\_ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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  
SEAL  
Commission No.:

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

(Name typed, printed or stamped)



Exhibit "A"

Legal Description:

Begin at the northeast corner of the northwest (nw 1/4) quarter of the southwest (sw 1/4) quarter of section 14, township 24 south, range 36 east, thence s 89°44'30" w along the north line of said nw 1/4 of the sw 1/4, a distance of 78.48 feet to the east edge of the right of way of state road no. 3 as at present located; thence s 09°16'30" e along east edge of said right of way, a distance of 493.55 feet to the intersection of said right of way and the east line of said nw 1/4 of the sw 1/4 in section 14 aforesaid; thence n 00°07'30" w along said east line of said nw 1/4 of the sw 1/4, a distance of 487.45 feet to the point of beginning. Said land lying and being in the nw 1/4 of the sw 1/4 of said section 14, township 24 south, range 36 east. And the north 1/2 of the northeast 1/4 of the southwest 1/4 of section 14, township 24 south, range 36 east, Brevard county, Florida, except ditch and highway right of way

**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.*

~~*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.*~~

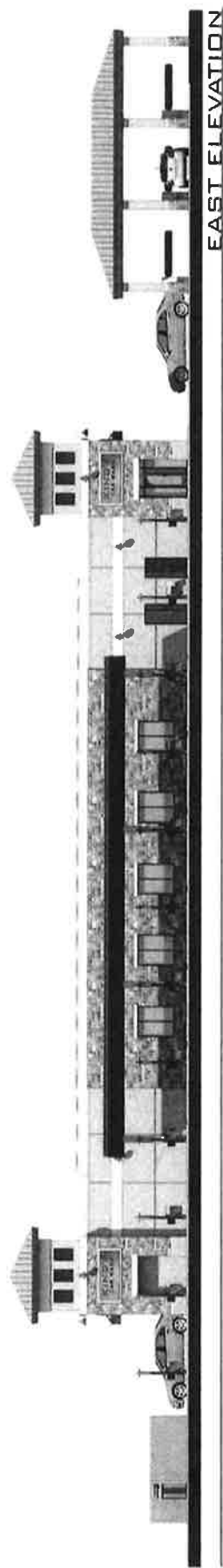
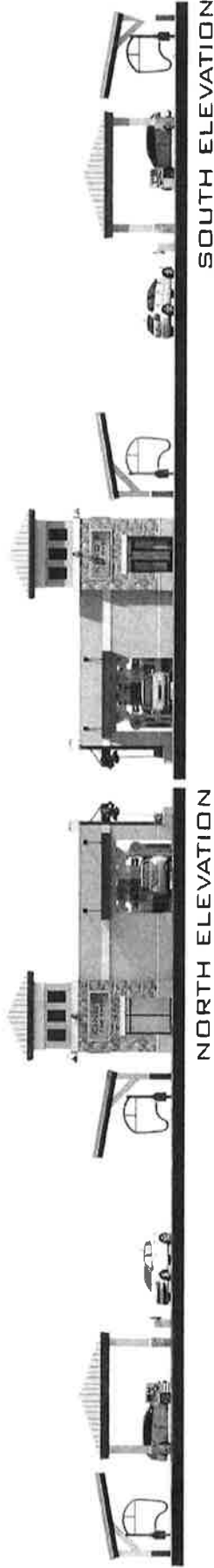
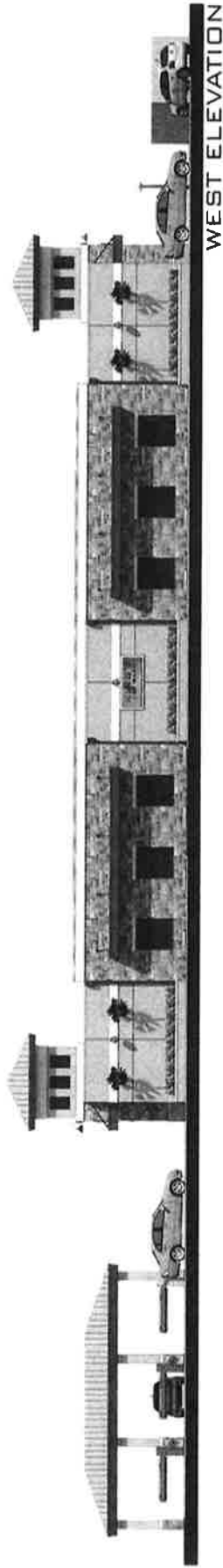
~~*Substantial expansion of a preexisting use.*~~

~~*Trailer and truck rental.*~~

*Wireless telecommunication facilities and broadcast towers.*

Drawing  
20Z00042  
Pioneer Pointe

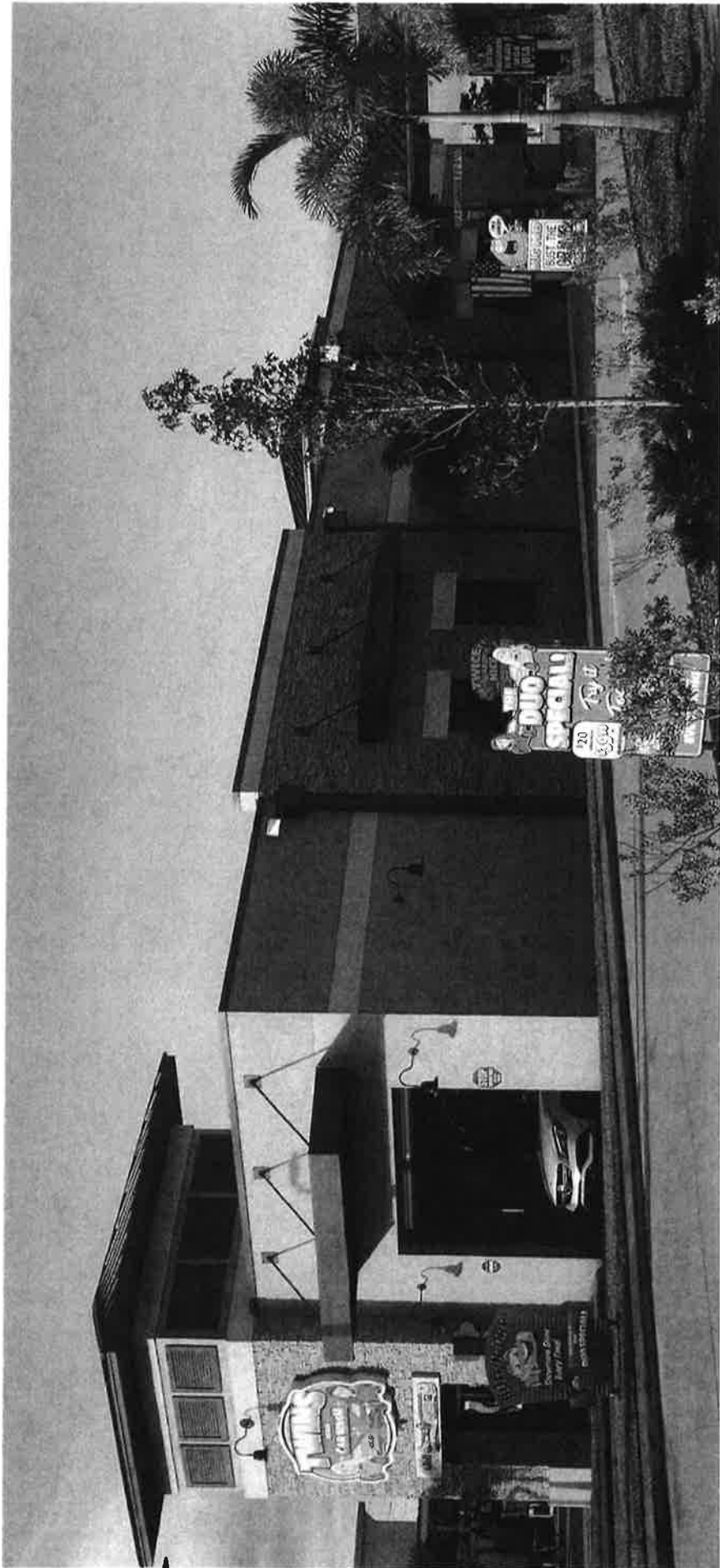
# TWIN'S CAR WASH



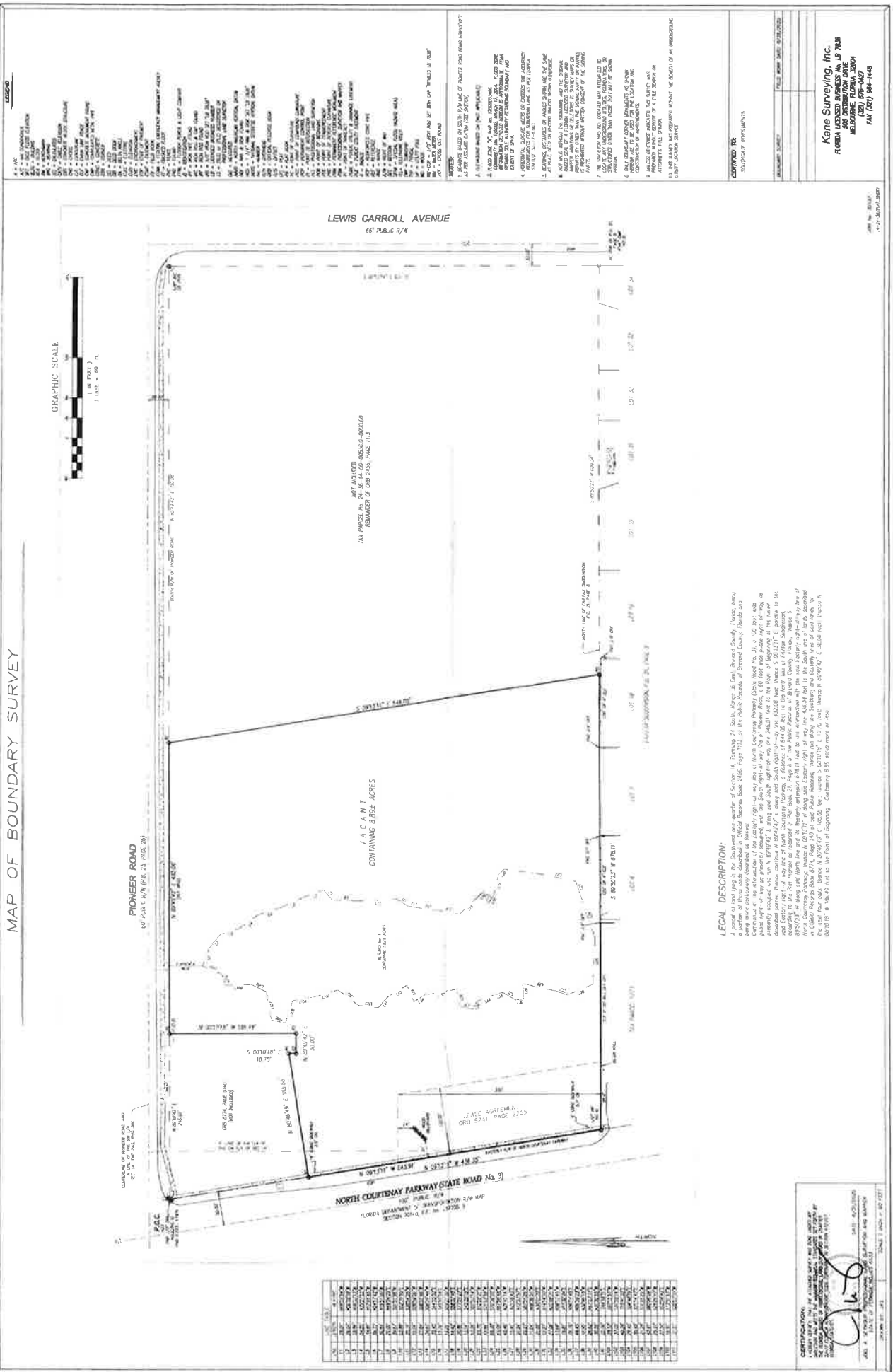
Melbourne Florida

**SYANA**  
SOFARRELLI ASSOCIATES





MAP OF BOUNDARY SURVEY



LINE	BEARING	DISTANCE
1	N 89°34'49" E	103.55
2	N 01°01'01" E	107.70
3	N 89°34'49" E	103.55
4	N 89°34'49" E	103.55
5	N 01°01'01" E	107.70
6	N 89°34'49" E	103.55
7	N 01°01'01" E	107.70
8	N 89°34'49" E	103.55
9	N 01°01'01" E	107.70
10	N 89°34'49" E	103.55
11	N 01°01'01" E	107.70
12	N 89°34'49" E	103.55
13	N 01°01'01" E	107.70
14	N 89°34'49" E	103.55
15	N 01°01'01" E	107.70
16	N 89°34'49" E	103.55
17	N 01°01'01" E	107.70
18	N 89°34'49" E	103.55
19	N 01°01'01" E	107.70
20	N 89°34'49" E	103.55
21	N 01°01'01" E	107.70
22	N 89°34'49" E	103.55
23	N 01°01'01" E	107.70
24	N 89°34'49" E	103.55
25	N 01°01'01" E	107.70
26	N 89°34'49" E	103.55
27	N 01°01'01" E	107.70
28	N 89°34'49" E	103.55
29	N 01°01'01" E	107.70
30	N 89°34'49" E	103.55

**LEGAL DESCRIPTION:**

That certain parcel of land, known as Lots 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**CERTIFICATION:**

I, *[Signature]*, Surveyor, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the client.

DATE: 05/15/2020

SCALE: AS SHOWN

ADDITIONAL INFORMATION: THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING BOARD RULES AND REGULATIONS.

- LEGEND:**
- 1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
  - 2. ALL BEARINGS ARE TRUE BEARINGS.
  - 3. ALL CORNERS ARE TO BE MARKED WITH IRON PIPES OR IRON NAILS.
  - 4. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTER LINE OF THE ROAD.
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  - 20. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTER LINE OF THE ROAD.

**Kane Surveying, Inc.**  
 FLORIDA LICENSED BUSINESS No. LP 7938  
 15550 W. STATE ROAD 308  
 SUITE 200, WEST PALM BEACH, FLORIDA 33411  
 (561) 878-0427  
 FAX (561) 594-1448

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 20Z00042**

**Applicant:** Jake Wise, PE for Pioneer Pointe, LLC

**Zoning Request:** Amendment to BDP

**Note:** Applicant wants to add car wash use.

**P&Z Hearing Date:** 02/08/21; **BCC Hearing Date:** 03/04/21

**Tax ID No:** 3022346

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- NWI Wetlands
- Hydric Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands and hydric soils. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

**Land Use Comments:**

**Wetlands**

The subject parcel contains mapped NWI (Freshwater forested shrub wetlands), and hydric soils (Myakka sand depressional) as shown on the NWI Wetlands and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land

development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. A wetland delineation will be required prior to any land clearing activities.

#### **Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

#### **Protected and Specimen Trees**

The entire parcel is mapped within the SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code, and may be found on the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

#### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, an active Bald Eagle nest is located on the adjacent, vacant parcel to the east (Tax ID # 2412222). If any project is within 660 feet of the Bald Eagle nest, then the developer is advised to follow the National Bald Eagle Management Guidelines or consult the U.S. Fish and Wildlife Service at 352-406-6780. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

## PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 8, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### Excerpt of Complete Minutes

#### Pioneer Pointe (Jake Wise)

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)

Jake Wise, 2651 West Eau Gallie Blvd., Melbourne, stated he is the Civil Engineer for the project. He said his clients are asking for a revision to a BDP that was approved many years ago and at the time they worked with the neighbors to restrict certain uses because they didn't know what kind of business would go on the property. Since then, the automobile washing industry has evolved tremendously and the architecture on them is very attractive. He said they are before the board today to ask to add the automobile washing back as one of the allowable uses. The site is currently under development for a Starbucks at the intersection of Pioneer Road and Courtenay Parkway. There is also an application in progress for the back portion of the commercial, behind the Starbucks, for an assisted living facility, and that project is pretty far along in the permitting stages. The proposed car wash would be one of the commercial outparcels, if recommended by this board and approved by the County Commission.

No public comment.

Ron Bartcher stated Mr. Wise is requesting a waiver to remove a six-foot masonry wall, and asked what is planned to go in its place.

Mr. Wise replied the property itself is about 20 acres, with the front 10 acres commercial and the back 10 acres residential, and there is also a very large wetland area in the middle between the two ten-acre pieces, and his client owns the entire property. There are no plans for the residential portion, so on the east border between the two zonings they are requesting to put in a fence instead of a wall, and that will help with the preservation of the wetlands and the preservation of the existing vegetation which will be the backdrop to the assisted living facility. He noted he has met with Commissioner Lober and they have the support of staff for the request.

Mr. Bartcher asked where exactly on the property will the car wash be located. Mr. Wise replied it will be at the most southwestern portion of the parcel, south of Starbucks.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the amendment to an existing BDP in a BU-1 zoning classification. The motion passed unanimously.

Upon consensus, the meeting adjourned at 3:44 p.m.

**District 2 Disclosures**  
**03/04/21 BOCC Planning & Zoning Meeting**

**H.6. Pioneer Pointe (Jake Wise) requests an amendment to an existing BDP in a BU-1 zoning classification (20Z00042)**

- *01/29/21* – Don Spurlock sent an email with attachments (including photos and drawings of proposed car wash).
- *01/29/01* – Greg Stoll, a volunteer with Florida Audubon Eaglewatch Program, sent an email to alert Commissioner Lober and County staff about an active bald eagle nest near the proposed site.
- *02/02/21* – Commissioner Lober met with Jack Wise, Don Spurlock and Ken Welsh, to discuss the proposal.
- *03/01/21* – Commissioner Lober exchanged e-mails with Don Spurlock regarding the proposed BDP.
- *03/03/21* – Don Spurlock sent e-mail to D2 Office regarding the proposed BDP.