

Meeting Date
<b>December 20, 2016</b>



AGENDA	
Section	CONSENT
Item No.	<b>II.A.5</b>

**AGENDA REPORT**  
*BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS*

SUBJECT:	Binding Development Plan, Re: RJM Merco, LLC (District 1) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development Department

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

Summary Explanation & Background:

A Binding Development Plan (BDP) is a voluntary agreement by a property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of approval of the zoning application by the Board. Following staff and legal review, a BDP is routinely presented to the Board in recordable form as a Consent agenda item in order to finalize the zoning action.

On October 13, 2016, the Board of County Commissioners approved a change of classification from RU-1-9 to BU-1-A, on property located on the northeast corner of Elkcam Blvd. and Manth Ave., approx. 470 ft. west of U.S. Hwy 1 (Lot 1 = No assigned address. In the Cocoa area. Lot 2 = 1070 Elkcam Blvd., Cocoa), subject to a Binding Development Plan as follows:

- Developer/Owner shall limit the Property to an age 50 and over Assisted Living Facility

Staff Contact: Jennifer Jones

Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department  
 Exhibits Attached: Binding Development Plan, with exhibits, and check for recording

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



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

December 21, 2016

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.5, Binding Development Plan Agreement with RJM Merco, LLC

The Board of County Commissioners, in regular session on December 20, 2016, executed Binding Development Plan with RJM Merco, LLC, for property located on the northeast corner of Elkcam Blvd. and Manth Ave., approximately 470 ft. west of U.S. Hwy 1. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

Prepared by: Kendall T. Moore, Esquire  
Moore Eavenson Baughan, PLC  
895 Barton Boulevard, Suite B  
Rockledge, FL 32955

### **BINDING DEVELOPMENT PLAN**

**THIS AGREEMENT**, entered into this 20 day of December, 2016, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and RJM Merco, LLC, a Florida Limited Liability Company (hereinafter referred to as "Developer/Owner").

### **RECITALS**

**WHEREAS**, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

**WHEREAS**, Developer/Owner has requested the BU-1-A zoning classification and desires to develop the Property as an assisted living facility, and pursuant to the Brevard County Code, Section 62-1157; and

**WHEREAS**, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

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

**NOW, THEREFORE**, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. The Developer/Owner agrees to limit the use of the property solely to development of an Assisted Living Facility limited to residents age 50 and over.

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 the Public Records of Brevard County, Florida.

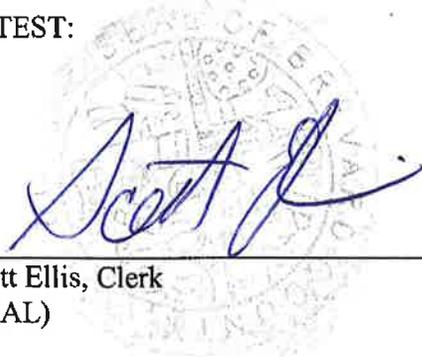
5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on October 13, 2016. 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 will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

  
Scott Ellis, Clerk  
(SEAL)

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

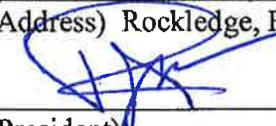
  
CURT SMITH, CHAIRMAN  
As approved by the Board on 12/20/16

WITNESSES:

  
Karla Gwinn  
(Witness Name typed or printed)

  
Ryan Bishop  
(Witness Name typed or printed)

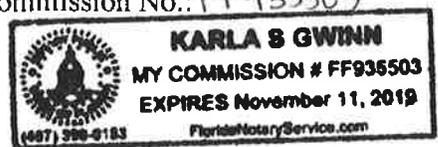
DEVELOPER/OWNER

RJM MERCO, LLC  
1037 Pathfinder Way, Suite 140  
(Address) Rockledge, Florida 32955  
  
(President)  
Ralph J. McCoig, Jr.  
(Name, typed, printed or stamped)

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of November, 2016, by Ralph J. McCoig, Jr., President of RJM Merco, LLC, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires: 11/11/2019  
SEAL  
Commission No.: FF935503



  
Notary Public  
Karla S. Gwinn  
(Name typed, printed or stamped)

## **EXHIBIT "A"**

Lots 1 and 2, Block 29, PORT ST. JOHN UNIT THREE, according to the plat thereof, recorded in Plat Book 23, Pages 50 through 52, inclusive, in the Public Records of Brevard County, Florida. (Parcel Identification Numbers: 2302493 and 2302494)

**RJM MERCO, LLC**  
**1037 PATHFINDER WAY, SUITE 140**  
**ROCKLEDGE, FL 32955**

Board of County Commissioners  
Planning & Development Dept  
2725 Judge Fran Jamieson Way  
Building A, Room 113  
Viera, FL 32940

Dear Commissioners,

This is to notify you that there is **NO** mortgage on the property described as:

Lots 1 and 2, Block 29, PORT ST. JOHN UNIT THREE, according to the plat thereof, recorded in Plat Book 23, Pages 50 through 52, inclusive, in the Public Record of Brevard County, Florida. (Parcel Identification Numbers: 2302493 and 2302494)

Sincerely,



Ralph J McCoig, Jr.  
President

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of November, 2016 by Ralph J McCoig, Jr, President of RJM Merco, LLC, who is personally known to me.



Notary Public - Karla S Gwinn

**IV. PUBLIC HEARINGS  
B. PORT ST. JOHN AGENDA**

**WEDNESDAY, September 14, 2016 – 6:00 P.M.**  
Port St. John Library  
6500 Carole Ave., Port St. John, Florida

&

**BOARD OF COUNTY COMMISSIONERS  
THURSDAY, October 13, 2016 – 5:00 P.M. (postponed from 10/06/16)**  
both at the  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Bldg. C, Viera, FL

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

**DISTRICT 1**

THE FOLLOWING ITEM WAS TABLED FROM THE 07/13/16 AND 08/10/16 PSJ MEETINGS

**IV.B.8. (16PZ00058) – RJM MERCO, LLC** – (Kendall Moore, Esq.) requests a change of classification from RU-1-9 to BU-1-A, on 0.37 acres, located on the northeast corner of Elkcam Blvd. and Manth Ave., approx. 470 ft. west of U.S. Hwy. 1. (Lot 1 = No assigned address. In the Cocoa area. Lot 2 = 1070 Elkcam Blvd., Cocoa)

PSJ Recommendation: Porter/Musselman – Approved with a BDP limited to an age 65 and over Assisted Living Facility. Vote was unanimous.

**BCC ACTION: Smith/Anderson – APPROVED with a Binding Development Plan limited to an age 50 and over Assisted Living Facility. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.**

**VII. PUBLIC COMMENT**

**PLANNING AND ZONING BOARD RECOMMENDATIONS OF SEPTEMBER 12, 2016; PSJ  
RECOMMENDATION OF SEPTEMBER 14, 2016**

- Item IV.B.1. Mike Erdman Motors, Inc. Infantini/Smith, approved as recommended.
- Item IV.B.2. Jonathan Amick. Fisher/Smith, approved as recommended.
- Item IV.B.3. K&T Enterprises of Brevard County. Fisher/Anderson, approved with special conditions to stay open until 1:30 a.m. on County holidays listed in the Florida Statutes.
- Item IV.B.4. Earl & Stephanie Cannon. Anderson/Infantini, approved as recommended.
- Item IV.B.5. Violeta V. Welsh. Infantini/Fisher, tabled to the November 3, 2016, Zoning meeting.
- Item IV.B.6. Janice Renk. Anderson/Fisher, tabled to the November 3, 2016, Zoning meeting.
- Item IV.B.7. Banana Rverfront, LLC. Fisher/Anderson, tabled to the November 3, 2016, Zoning meeting.
- Item IV.B.8. RJM Merco, LLC. Infantini/Anderson, approved with the exception of reducing the age from 65 to 50 and remain as an Assisted Living Facility.

**PLANNING AND ZONING ADMINISTRATIVE REZONING RECOMMENDATIONS OF  
SEPTEMBER 12, 2016**

- Item IV.C.1. Anderson/Fisher, approved as recommended.
- Item IV.C.2. Smith/Anderson, approved as recommended, and adopted  
Ord. No. 14-23 (165.08)

# LOCATION MAP

RJM MERCO LLC

16PZ00058



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

Buffer Distance: 500 feet

-  Buffer
-  Subject Property

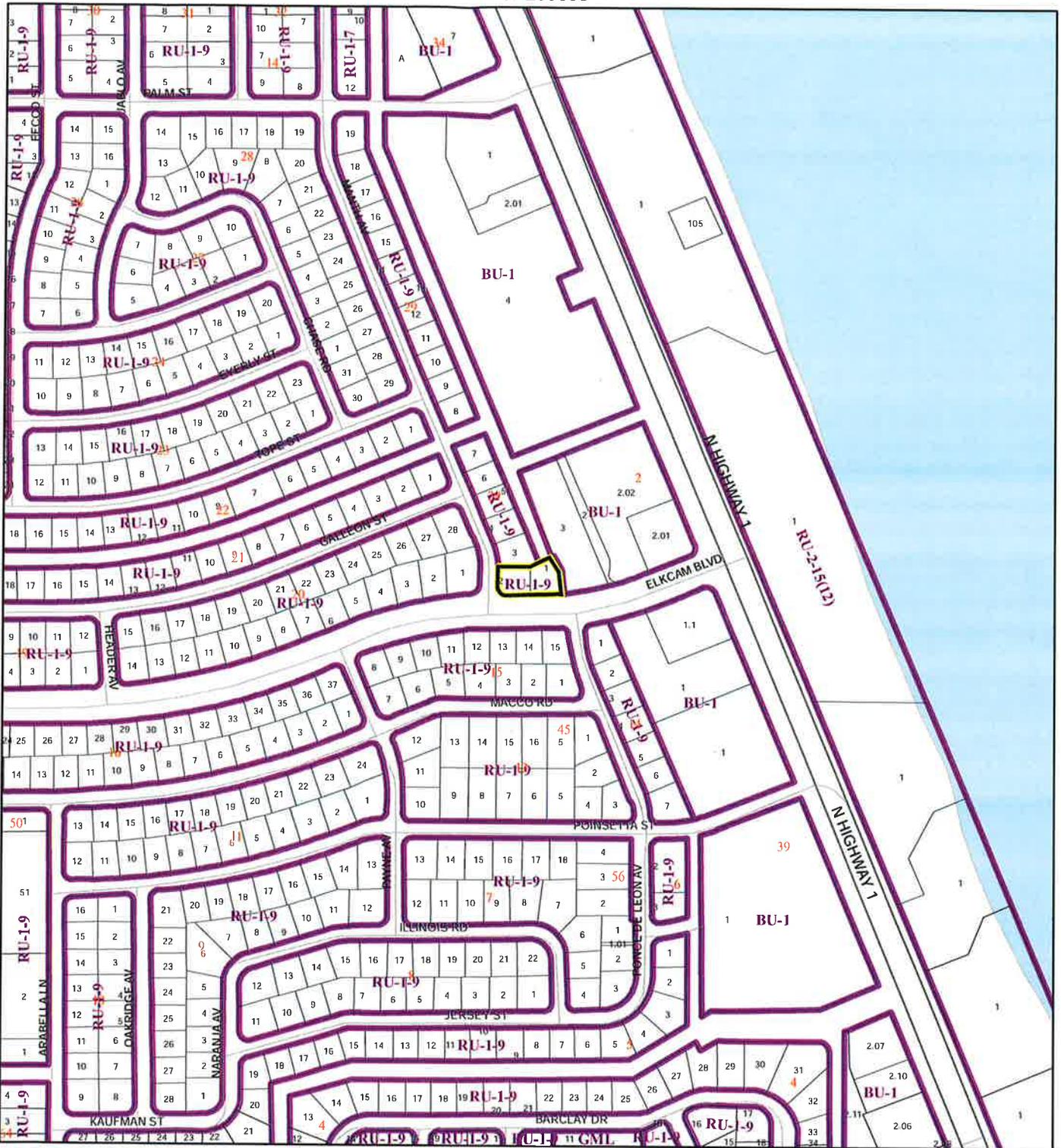
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/14/2016

# ZONING MAP

RJM MERCO LLC

16PZ00058



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

 Zoning

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

**BrevardClerk.US**

Scott Ellis, Clerk of Court

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

DBLIVE Transaction

#: 1820958

Receipt #: 61786247

Cashier Date: 12/21/2016

12:12:35 PM



Print Date:

12/21/2016 12:12:47 PM

Customer Information	Transaction Information	Payment Summary
( ) MERCO HOLDINGS 1037 PATHFINDER WAYH STE 140 ROCKLEDGE, FL 32955	DateReceived: 12/21/2016 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$35.50 Total Payments \$35.50

**1 Payments**

CHECK 1667	\$35.50
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**1 Recorded Items**

(AG) AGREEMENT	BK/PG: 7782/519 CFN:2016250413 Date: 12/21/2016 12:12:35 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	4	\$35.50
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	2	\$0.00

**0 Search Items**

**1 Miscellaneous Items**

(AGTR) AGENT TRANSMITTAL
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