

Meeting Date
December 1, 2015



AGENDA	
Section	CONSENT
Item No.	<i>II.A.1</i>

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: Southeastern Metro Savings, 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 1, 2015, the Board of County Commissioners approved the removal of an existing BDP in a BU-1, BU-2, and AU zoning classifications, on property located on the south side of S.R. 520, approx. 500 ft. west of Lake Poinsett Road. (5155 S.R. 520, Cocoa), subject to a Binding Development Plan as follows:

- Uses shall be limited to manufacturing, compounding, processing, packaging, storage, treatment, or assembly of electronics; professional, scientific, photographic and optical instruments; technical and scientific products and materials
- Existing buffers established by BDP recorded in ORB 4502, Pages 2171 – 2176, of the Public Records of Brevard County shall be retained.

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. Sobrino, AICP, Director Planning & Development Dept. Ext. 56363					
Stockton Whitten							



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

December 2, 2015

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.I, Binding Development Plan Agreement with Southeastern Metro Savings LLC

The Board of County Commissioners, in regular session on December 1, 2015, executed Binding Development Plan with Southwestern Metro Savings LLC, for property located on the south side of State Road 520, west of Lake Poinsett Road. Said Plan was recorded in OR BK/PG 7504/2905. 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 Etheridge, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

RESOLUTION NO. 15PZ00046

On motion by Commissioner Smith, seconded by Commissioner Infantini, the following resolution was adopted by a unanimous vote:

WHEREAS, SOUTHEASTERN METRO SAVINGS, LLC has requested removal of an existing BDP in BU-1, BU-2, and AU zoning classifications, on 14.76 acres, located on the south side of S.R. 520, approx. 500 ft. west of Lake Poinsett Rd. (5155 S.R. 520, Cocoa)

Section 34, Township 24 S, Range 35 E, and,

WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved with a BDP limited to manufacturing, compounding, processing, packaging, storage, treatment, or assembly of electronics; professional, scientific, photographic and optical instruments; technical and scientific products and materials; and retaining existing buffers established by BDP recorded in ORB 4502, Pages 2171 – 2176, of the Public Records of Brevard County; and,

WHEREAS, the Board, after considering said application and the Brevard County Planning & Zoning Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved with a BDP limited to manufacturing, compounding, processing, packaging, storage, treatment, or assembly of electronics; professional, scientific, photographic and optical instruments; technical and scientific products and materials; and retaining existing buffers established by BDP recorded in ORB 4502, Pages 2171 – 2176, of the Public Records of Brevard County; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested removal of an existing BDP in BU-1, BU-2, and AU zoning classifications, be APPROVED with a Binding Development Plan, recorded in ORB 7504, Pages 2905 through 2910, dated 12/03/15, limited to manufacturing, compounding, processing, packaging, storage, treatment, or assembly of electronics; professional, scientific, photographic and optical instruments; technical and scientific products and materials; and retaining existing buffers established by BDP recorded in ORB 4502, Pages 2171 – 2176, of the Public Records of Brevard County, and that the zoning classification relating to the above described property be changed, and the Planning & Zoning Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of December 3, 2015.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

by Jim Barfield, Chairman
Brevard County Commission

As approved by Brevard County Commission on December 1, 2015.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z/LPA Hearing – September 21, and September 28, 2015)
(BCC Zoning Hearing – October 1, 2015)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years. THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

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
 #: 1620517
 Receipt #: 61589403
 Cashier Date: 12/3/2015
 2:50:45 PM



Print Date:
 12/3/2015 2:50:53 PM

Customer Information	Transaction Information	Payment Summary
() VDC DISPLAY SYSTEMS DIV 7177 N ATLANTIC AVE CAPE CANAVERAL, FL 32920	DateReceived: 12/03/2015 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$52.50 Total Payments \$52.50

1 Payments	
CHECK 1060	\$52.50

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7504/2905 CFN:2015235551 Date:12/3/2015 2:50:44 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	6	\$52.50
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	2	\$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL

Date: September 29, 2015

Prepared by: Marcial Vidal
Address: 7177 North Atlantic Ave

CFN 2015235551, OR BK 7504 PAGE 2905.
Recorded 12/03/2015 at 02:50 PM, Scott Ellis, Clerk of Courts,
Brevard County
Pgs:6

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 28 day of September, 2015 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and **SOUTHEASTERN METRO SAVINGS LLC**, a duly organized corporation under the laws of the State of Georgia, located at 1868 Tucker Industrial Rd. TUCKER, GA 30084 (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 desires to develop the property in phases while maintaining the current zoning classification(s), 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.

RETURN: Clerk to the Board #27

2. Developer/Owner shall develop the property as shown in **Exhibit "B"** and further as described as follows:

- a) The structure on Parcel One shall be used as a facility for manufacturing as defined by Brevard County Code of Ordinances. Sec. 62-1837.4 Manufacturing, compounding, processing, packaging, storage, treatment, or assembly of electronics; professional, scientific, photographic and optical instruments; technical and scientific products and materials
- b) In addition the following restrictions shall apply:
 - i) The front 120 feet shall remain as developed as car parking/circulation and office portion of the facility within the existing BU-1 Zoning.
 - ii) The next 310 feet shall remain as parking/circulation and manufacturing facility within the existing BU-2 Zoning, and
 - iii) The back 170 feet shall remain as a drainage pond as completed.
- c) Parcel Two shall remain as wetlands, and wetlands mitigation areas.
- d) The Developer/Owner shall provide for the following buffers:
 - i) 20 feet (landscaped) to the Northern property line.
 - ii) 20 feet (landscape) to the Western property line.
 - iii) 430 feet to the Southern property line (to include the existing drainage pond) and
 - iv) 375 feet to the Eastern property line.
- e) Developer/Owner shall use and maintain the existing 30,000 Square Feet manufacturing and office building with parking spaces.
- f) Ingress and egress shall remain in accordance to the approved Department of Transportation and Brevard county staff and shall consist of two driveways curb cuts.

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. 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

Scott Ellis, Clerk
(SEAL)

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

Jim Barfield

JIM BARFIELD, CHAIRMAN
As approved by the Board on 12-1-2015

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

(x) *Norma J Mann*

Norma J. Mann
(Witness Name typed or printed)

Ronald D Ordway

RONALD D. ORDWAY
(Witness Name typed or printed)

DEVELOPER/OWNER

SOUTHEASTERN METRO SAVINGS LLC

1868 TRUCKER INDL. RD, STONE MTN. GA 30084
(Address)

(x) *Jonathan R Ordway*

Managing Member Partner of Southeastern Metro Savings LLC

JONATHAN R. ORDWAY
(Name typed, printed or stamped)

STATE OF Georgia §

COUNTY OF De Kalb §

The foregoing instrument was acknowledged before me this 5th day of October, 2015, by JONATHAN R. ORDWAY, Managing Member Partner of Southeastern Metro Savings LLC, who is personally known to me or who has produced PERSONALLY KNOWN as identification.

My commission expires
SEAL
Commission No.:

(x) *Norma J Mann*
Notary Public
Norma J Mann
(Name typed, printed or stamped)

Norma J Mann
Notary Public, Gwinnett County, GA
My Commission Expires February 7, 2017

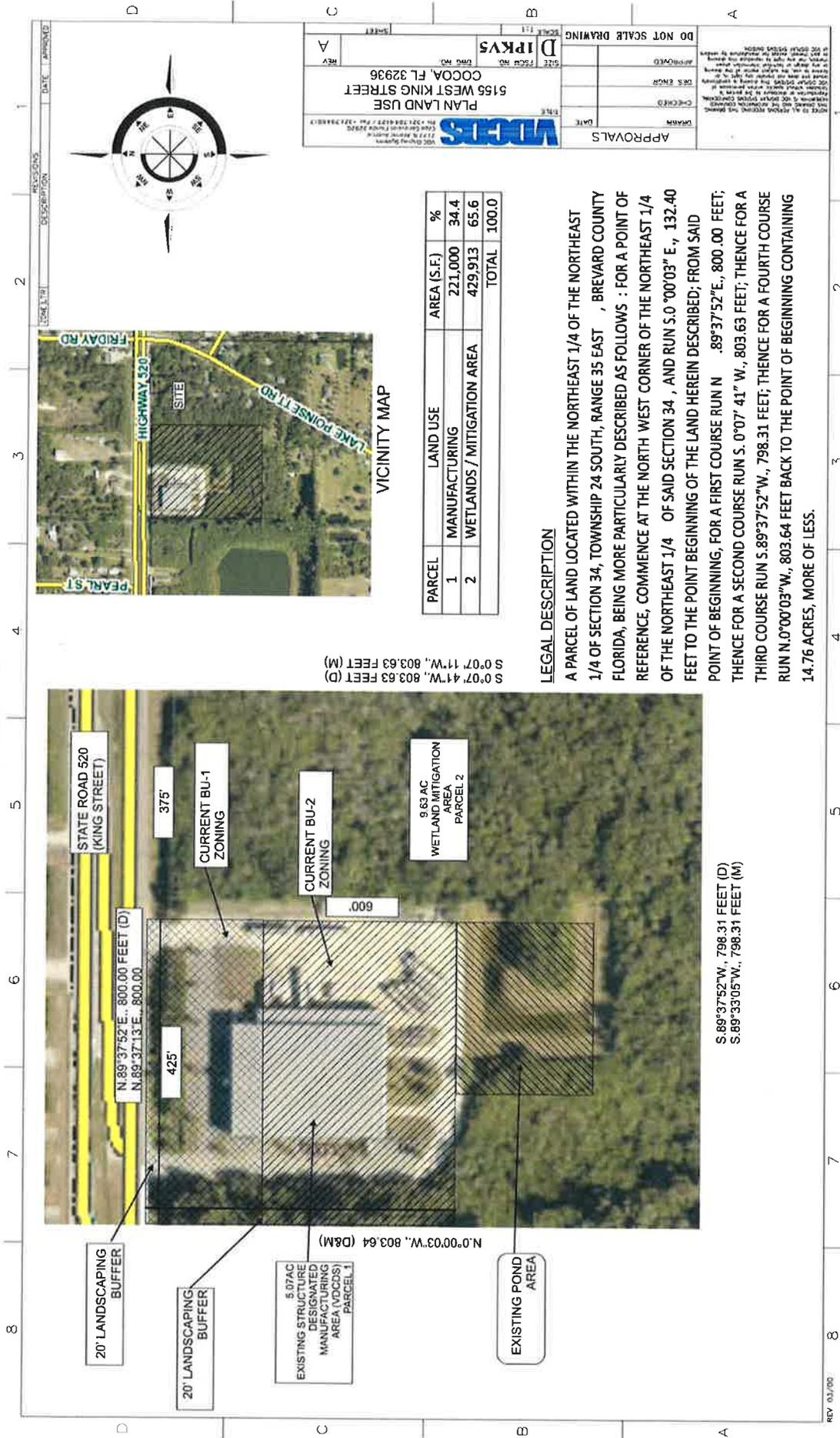
EXHIBIT "A"

A PARCEL OF LAND LOCATED WITHIN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 34, AND RUN S.0°00'03" E., 132.40 FEET TO THE POINT BEGINNING OF THE LAND HEREIN DESCRIBED; FROM SAID POINT OF BEGINNING, FOR A FIRST COURSE RUN N.89°37'52"E., 800.00 FEET; THENCE FOR A SECOND COURSE RUN S. 0°07' 41" W., 803.63 FEET; THENCE FOR A THIRD COURSE RUN S.89°37'52"W., 798.31 FEET; THENCE FOR A FOURTH COURSE RUN N.0°00'03"W., 803.64 FEET BACK TO THE POINT OF BEGINNING CONTAINING 14.76 ACRES, MORE OF LESS.

PARCEL # 24-35-34-00-00001.0-0000.00

EXHIBIT "B"



S 0°07'41"W, 803.63 FEET (D)
 S 0°07'11"W, 803.63 FEET (M)

S 89°37'52"W, 798.31 FEET (D)
 S 89°33'05"W, 798.31 FEET (M)

PARCEL	LAND USE	AREA (S.F.)	%
1	MANUFACTURING	221,000	34.4
2	WETLANDS / MITIGATION AREA	429,913	65.6
TOTAL		650,913	100.0

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED WITHIN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE NORTH WEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 34, AND RUN S.0°00'03" E., 132.40 FEET TO THE POINT BEGINNING OF THE LAND HEREIN DESCRIBED; FROM SAID POINT OF BEGINNING, FOR A FIRST COURSE RUN N. 89°37'52" E., 800.00 FEET; THENCE FOR A SECOND COURSE RUN S. 0°07'41" W., 803.63 FEET; THENCE FOR A THIRD COURSE RUN S. 89°37'52" W., 798.31 FEET; THENCE FOR A FOURTH COURSE RUN N. 0°00'03" W., 803.64 FEET BACK TO THE POINT OF BEGINNING CONTAINING 14.76 ACRES, MORE OR LESS.

APPROVALS

WPC
 WPC Design Group
 2110 N. KENNEDY AVENUE
 SUITE 100
 COCOA, FL 32909
 TEL: 321-993-4327 FAX: 321-993-4328

DIPKVS
 DATE: _____
 CHECKED: _____
 DESIGNED: _____
 APPROVED: _____
 SIZE: 7.5" x 10.5" (11")
 DWG NO: _____
 COCOA, FL 32936

DO NOT SCALE DRAWING



REVISIONS	DATE	APPROVED

SOUTHEASTERN METRO SAVINGS LLC
1868 TUCKER INDUSTRIAL ROAD
TUCKER GEORGIA 30084

October 1, 2015

Brevard County Planning and Zoning Board
2725 Fran Jamieson Way
Melbourne FL 32940

Dear Board:

As the managing member partner, I hereby certify that the property located at 5155 West King Street, Cocoa, FL 32926 owned by Southeastern Metro Savings LLC is unencumbered by any outstanding mortgages, liens or other debt from any institutional lender or other mortgage source.


Jonathan R. Ordway

NOTARY: 

Norma J Mann
Notary Public, Gwinnett County, GA
My Commission Expires February 7, 2017

III. PUBLIC HEARINGS

B. PLANNING & ZONING BOARD
MONDAY, September 21, 2015 – 3:00 P.M.
&
BOARD OF COUNTY COMMISSIONERS
THURSDAY, October 1, 2015 – 5:00 P.M.

Both at the
BREVARD COUNTY GOVERNMENT CENTER
2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida

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

DISTRICT 5

III.B.1. (15PZ00048) – DILESH ENTERPRISES, LLC – (Jose Ripoll) – requests a CUP for Alcoholic Beverages (Full-Liquor) for On-Premises Consumption in Conjunction with a Restaurant in a TU-1(20) zoning classification on 1.3 acres, located on the west side of Hwy A1A, between North Court and South Court. (2910 N. Hwy A1A, Indialantic)

P&Z Recommendation: Lawandales/Barber – Approved. Vote was unanimous.

BCC ACTION: Infantini/Smith – APPROVED. Vote was unanimous. Commissioner Anderson absent. 15PZ00048.

DISTRICT 1

III.B.2. (15PZ00046) – SOUTHEASTERN METRO SAVINGS, LLC – (Richard Manning) – requests removal of an existing BDP in BU-1, BU-2, and AU zoning classifications, on 14.76 acres, located on the south side of S.R. 520, approx. 500 ft. west of Lake Poinsett Rd. (5155 S.R. 520, Cocoa)

P&Z Recommendation: McLellan/Lawandales – Tabled to the 09/28/15 LPA meeting. Vote was unanimous.

BCC ACTION: Smith/Infantini – APPROVED with an amended Binding Development Plan limited to manufacturing, compounding, processing, packaging, storage, treatment, or assembly of electronics; professional, scientific, photographic and optical instruments; technical and scientific products and materials; and retaining existing buffers established by BDP recorded in ORB 4502, Pages 2171 – 2176, of the Public Records of Brevard County. 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. Vote was unanimous. Commissioner Anderson absent.

III.B.3. (15PZ00047) – ROTATION HOLDINGS, LLC – requests a change of classification from BU-1 to BU-2, on 1.38 acres, located on the east side of U.S. Hwy 1, approx. 0.18 mile north of Cidco Road. (No assigned address. In the Cocoa area)

P&Z Recommendation: Lawandales/Cannon – Tabled to the 09/28/15 LPA meeting. Vote was unanimous.

BCC ACTION: Smith/Barfield – APPROVED with a Binding Development Plan prohibiting motorcycle repairs on the property, providing an 8-foot tall concrete wall along the east (rear) property line; and limiting usage of the eastern 241 ft. of the property for long-term secured recreation vehicles, boats, trailers, vehicles storage parking lot. 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. Vote was unanimous. Commissioner Anderson absent.

**PLANNING AND ZONING BOARD RECOMMENDATIONS OF SEPTEMBER 21, 2015; AND
PORT ST. JOHN RECOMMENDATIONS OF SEPTEMBER 9, 2015**

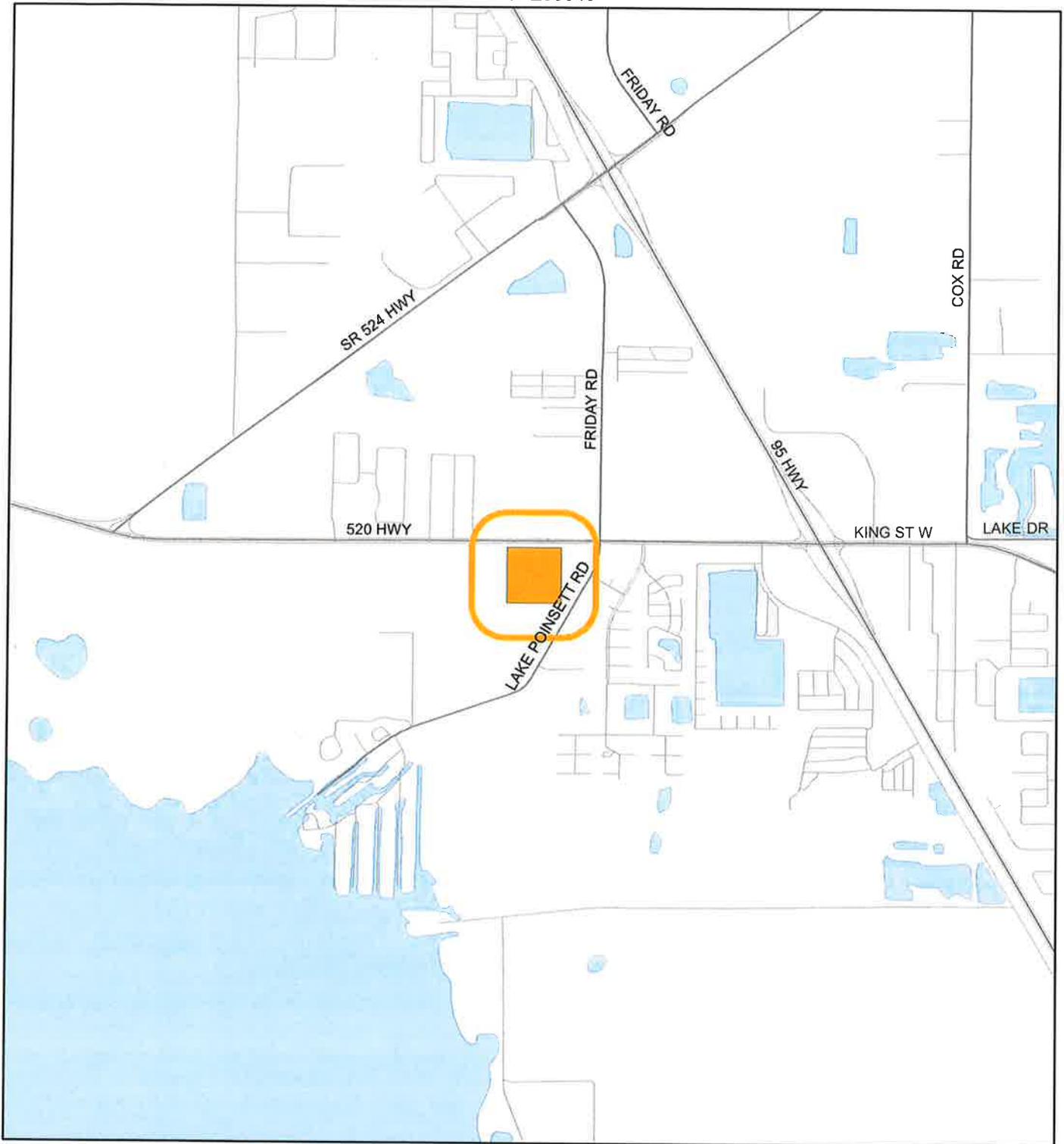
III.B.1. Dilesh Enterprises, LLC. Infantini/Smith, approved as recommended.

III.B.2. Southeastern Metro Savings, LLC. Smith/Infantini, approved with an amended BDP limited to manufacturing, compounding, processing, packing, storage, treatment, or assembly of electronics; professional, scientific, photographic and optical instruments; technical and scientific products and materials; and retaining existing buffers established by BDP recorded in ORB 4502, Pages 2171 – 2176, of the Public Records of Brevard County.

III.B.3. Rotation Holdings, LLC. Smtih/Barfield, approved with a BDP prohibiting motorcycle repairs on the property, providing an 8-foot tall concrete wall along the east (rear) property line; and limiting usage of the eastern 241 ft. of the property for long-term secured recreation vehicles, boats, trailer, vehicles storage parking lot.

III.B.4. Gary K. and Carol Lynn Bartlett, Trustees. Infantini/Smith, approved with a BDP limited to a childcare facility and a pre-kindergarten school; and denied the Small Scale Plan Amendment with finding that zoning is a transitional use pursuant to Policy 2.14 of the Future Land Use Element.

LOCATION MAP
SOUTHEASTERN METRO SAVINGS LLC
15PZ00046



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: 7/16/2015

ZONING MAP

SOUTHEASTERN METRO SAVINGS LLC 15PZ00046



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.