

Meeting Date
April 28, 2015



AGENDA	
Section	CONSENT
Item No.	II.A.3

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

SUBJECT:	Binding Development Plan, Re: RO1, LLC (District 2)
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.

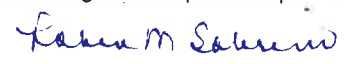

On March 5, 2015, the Board of County Commissioners approved a request for removal of a Binding Development Plan on property located on the east side of N. Courtenay Pkwy., approx. 420 ft. north of E. Crisafulli Rd., Merritt Island, subject to a Binding Development Plan as follows:

- The Developer/Owner shall limit use to all permitted uses in the BU-1 Zoning Classification. A 20 ft. opaque buffer on the east side shall always be there.
- The Developer/Owner shall limit ingress and egress to a single access drive from North Courtenay Parkway.

**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

<b>Contract /Agreement (If attached):</b> Reviewed by County Attorney		Yes	X	No	<input type="checkbox"/>	PR <input type="checkbox"/>
County Manager	Assistant County Manager	Department Director / Extension Robin M. Sobrino, AICP, Director Planning & Development Dept. Ext. 52069				
Stockton Whitten	Mei Scott, AICP					



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

May 4, 2015

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.3., Binding Development Plan, RO1, LLC

The Board of County Commissioners, in regular session on April 28, 2015, executed Binding Development Plan with RO1, LLC for property located on the east side of N. Courtenay Pkwy., approximately 420 ft. north of E. Crisafulli Rd., Merritt Island. Said Plan was recorded in ORBK 7356 PGs 2762 through 2766. Enclosed for you 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

/kg

Encl. (2)

cc: Contracts Administration



BOARD OF COUNTY COMMISSIONERS

FLORIDA'S SPACE COAST



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

April 29, 2015

MEMORANDUM

TO: Recording

RE: Item II.A.3., Binding Development Plan for RO1, LLC

The Board of County Commissioners, in regular session on April 28, 2015, executed a Binding Development Plan on property located on the east side of N. Courtenay Pkwy., approximately 420 ft. north of E. Crisafulli Rd., Merritt Island. Enclosed are the original Binding Development Plan and Check Number 9557 in the amount of \$44.00. **Please record the Binding Development Plan in the Public Records and return the recorded instrument to this office.**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

A handwritten signature in cursive script that reads "Tammy Etheridge".

Tammy Etheridge, Deputy Clerk

/af

Encls. (2)

**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  
 #: 1509110  
 Receipt #: 61479867  
 Cashier Date: 5/1/2015  
 11:52:13 AM



Print Date:  
 5/1/2015 11:52:16 AM

Customer Information	Transaction Information	Payment Summary
(4253) DEAN MEAD 7380 MURRELL RD STE 200 VIERA, FL 32940	DateReceived: 05/01/2015 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$44.00 Total Payments \$44.00

1 Payments
CHECK 9557 \$44.00

1 Recorded Items
(AG) AGREEMENT <i>BK/PG: 7356/2762 CFN:2015086864</i> <i>Date:5/1/2015 11:52:12 AM</i> <i>From: To:</i>
Recording @ 1st=\$10 Add'l=\$8.50 ea. 5 \$44.00
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea. 2 \$0.00

0 Search Items
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1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL

This Instrument Prepared By  
And To Be Returned To:  
Kim Rezanka, Esquire  
DEAN MEAD  
7380 Murrell Road, Suite 200  
Melbourne, Florida 32940  
(321) 259-8900

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 28 day of April, 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 RO1, LLC, an Oregon 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, on or about April 25, 1997, Developer/Owner and the County entered into a Biding Development Plan, recorded at Official Records Book 3666, Page 3431 in the Public Records of Brevard County, Florida, limiting development of the Property to Mini Warehouses; and

WHEREAS, Developer/Owner no longer desires to develop the property as Mini Warehouses and, pursuant to the Brevard County Code, Section 62-1157, has requested that the existing Binding Development Plan be supplanted and replaced; 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. Use limited to all permitted uses in the BU-1 Zoning Classification. A 20' opaque buffer on the east side shall always be there.

3. The Developer/Owner shall limit density to N/A units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. The Developer/Owner shall limit ingress and egress to a single access drive from North Courtenay Parkway.

5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this Property.

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

7. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and 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 March 5, 2015. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

8. Violation of this Agreement 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.

9. 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 8 above.

10. This Binding Development Agreement supplants and replaces the Binding Development Plan dated April 25, 1997, recorded at Official Records Book 3666, Page 3431 in the Public Records of Brevard County, Florida.

REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS THEREOF, the parties hereto have caused these presents to the 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, Florida 32940

  
\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

  
\_\_\_\_\_  
Robin Fisher, Chairperson  
As approved by the Board on 04-28-15

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 28 day of April, 2015, by Robin Fisher, Chairperson of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

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

My Commission Expires:  
June 17, 2018

Christine Mulligan  
(Name typed, printed or stamped)

SEAL  
Commission No.: \_\_\_\_\_




DEVELOPER/OWNER


RO1, LLC  
2250 NW Flander Street  
Suite Garden 02  
Portland, OR 97210

WITNESSES:

Trin Vidato  
\_\_\_\_\_

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

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

  
\_\_\_\_\_  
Managing Member  
Mik Parthasarathy  
(Name typed, printed or stamped)

STATE OF Oregon  
COUNTY OF Multnomah

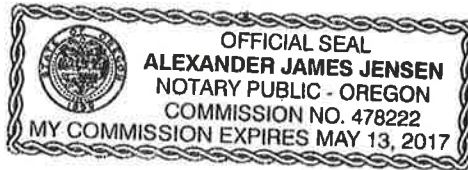
The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of March, 2015, by Mike Parthasarathy, Managing Member, RO1, LLC, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Alex Jensen  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
May 13, 2017

Alex Jensen  
\_\_\_\_\_  
(Name typed, printed or stamped)

SEAL  
Commission No.: 478222



## EXHIBIT "A"

COMMENCE at the Southeast corner of Section 22, Township 23 South, Range 36 East, Brevard County, Florida; thence North 0°28' East along the East line of Section 22, a distance of 864.3 feet to the POINT OF BEGINNING; thence North 89°28' West, along the North boundary of the Property as described in Deed Book 434, page 556, of the Public Records of Brevard County, Florida, a distance of 280.6 feet to the Easterly right of way line of State Road A1A (#3), thence North 1°34' West, along the Easterly right of way line of State Road A1A (#3) a distance of 600.3 feet; thence South 89°39' East along the North boundary line of the property as described in Deed Book 103, page 19 of the Public Records of Brevard County, Florida, a distance of 301.9 feet to the East line of Section 22; thence South 0°28' West along the East line of Section 22 a distance of 600.9 feet to the POINT OF BEGINNING.

LESS and EXCEPT that property conveyed to Brevard County by that certain Warranty Deed dated January 21, 1991 and described in Official Records Book 3110, page 2480 of the Public Records of Brevard County, Florida.

THE ABOVE LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING at the southeast corner of Section 22, Township 23 South, Range 36 East, Brevard County, Florida; thence North 0°28' East along the East line of Section 22, a distance of 864.3 feet to a ½" rebar set and the POINT OF BEGINNING; thence North 89°28' West along the North boundary of the property as described in Deed Book 434, page 556, of the public records of Brevard County, Florida, a distance of 240.57 feet to a ½" rebar set on the easterly right of way line of State Road A1A (#3); thence North 1°34' West; along the easterly right of way line of State Road A1A (#3) a distance of 600.43 feet to a ½" rebar set; thence South 89°39' East along the North boundary of the property as described in Deed Book 103, page 19 of the public records of Brevard County, Florida, a distance of 261.88 feet to a ½" rebar set on the East line of Section 22; thence South 0°28' West along the East line of Section 22 a distance of 600.9 feet to the POINT OF BEGINNING.

STATEMENT OF NO MORTGAGE

STATE OF Oregon

COUNTY OF Multnomah

Mike Parthasarathy, Managing Member of RO1, LLC, after being duly sworn, deposes and says:

The undersigned is the owner of the real property described in the attached Exhibit "A".

There are no mortgages on the referenced real property.

Dated this 31<sup>st</sup> day of March, 2015.

[Signature]  
Managing Member

STATE OF Oregon  
COUNTY OF Multnomah

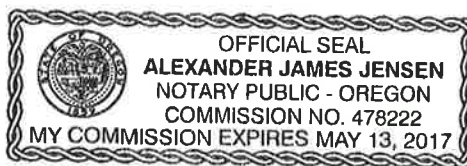
The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of March, 2015, by Mike Parthasarathy, Managing Member, RO1, LLC, who is personally known to me or who has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public

My Commission Expires:  
May 13, 2017

Alex Jensen  
(Name typed, printed or stamped)

SEAL  
Commission No.: 478222



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**III. PUBLIC HEARINGS**  
**B. NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT BOARD**

**Thursday, February 12, 2015 – 6:00 P.M.**  
Merritt Island Service Complex  
2575 N. Courtenay Pkwy., 2<sup>nd</sup> Floor, Merritt Island, Florida

&

**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**  
**Thursday, March 5, 2015 - 5:00 P.M.**  
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 2**

**III.B.1. (14PZ-00118) – RO1, LLC** – (Kim Rezanka, Dean Mead) – requests removal of a BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on 3.44 acres, located on the east side of N. Courtenay Pkwy., approx. 420 ft. north of E. Crisafulli Rd. (No assigned address. In the N. Merritt Island area)

NMI Recommendation: Cook/Balke – Denied. Vote was unanimous.

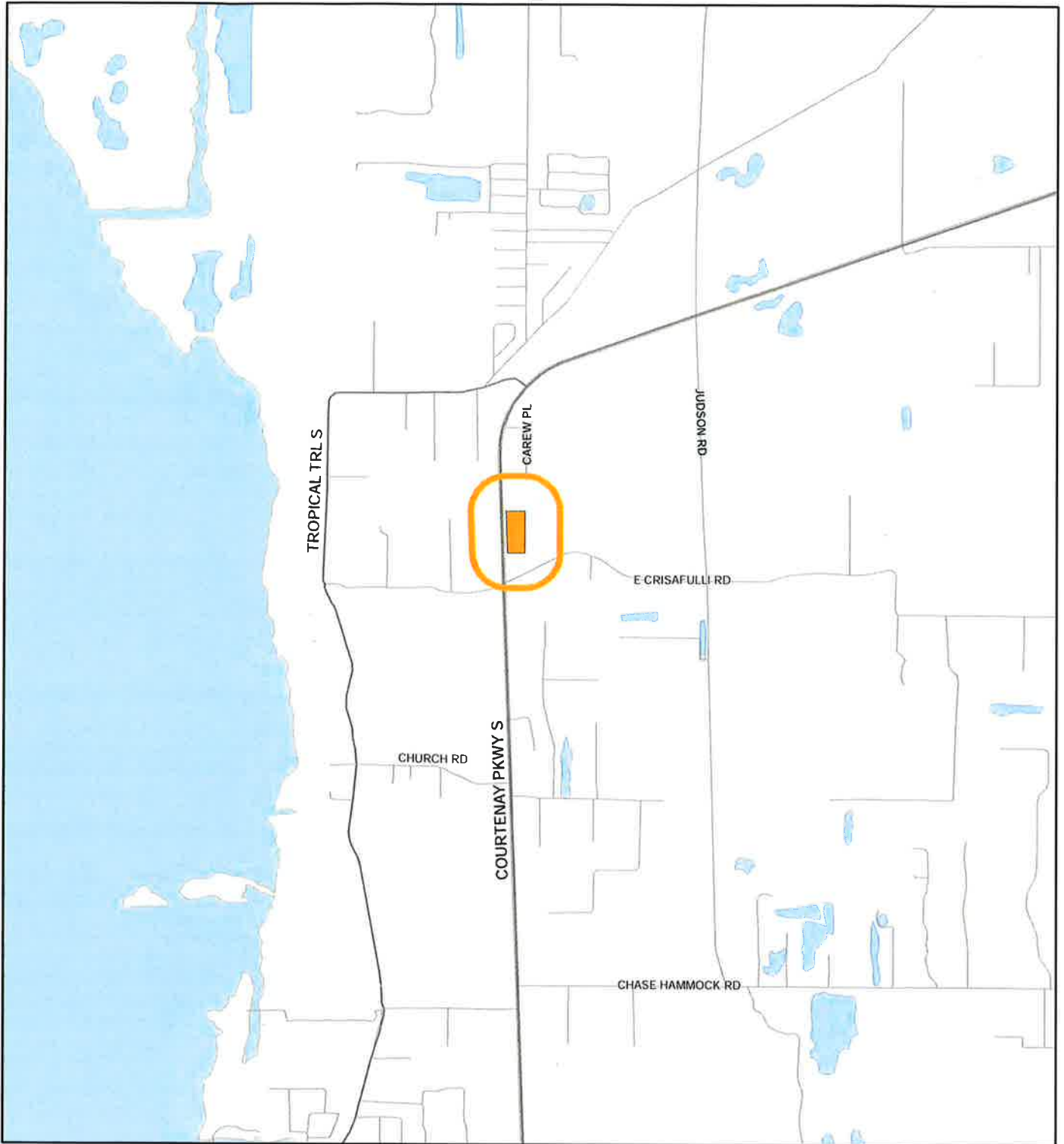
**BCC ACTION: Barfield/Smith – APPROVED removal of existing BDP, and approved a modified BDP allowing all permitted uses in the BU-1 zoning classification, removing the 30 ft. buffer, retaining the 20 ft. buffer on the east side, deleting mini-warehouse and storage use, and directed the applicant to work with the County Attorney’s Office to refine any language in the modified BDP. Vote was unanimous. BDP TO BE SCHEDULE AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.**

**PLANNING AND ZONING BOARD RECOMMENDATIONS OF FEBRUARY 9, 2015 AND  
NORTH MERRITT ISLAND RECOMMENDATIONS OF FEBRUARY 12, 2015**

- Item III.B.1. RO1,LLC. Barfield/Smith, approved removal of current Binding Development Plan (BDP), approved a modified BDP allowing all permitted uses in BU-1 Zoning Classification, removed the 30' buffer, deleted mini warehouse and storage use, and the applicant to work with the County Attorney's Office to refine any language in the modified BDP.
- Item III.B.2. Eagle Properties of Viera, LLC and Anna Jackowska. Anderson/Infantini, approved as recommended.

# LOCATION MAP

RO1 LLC  
14PZ\_00118



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

Buffer Distance: 500 feet

 Buffer

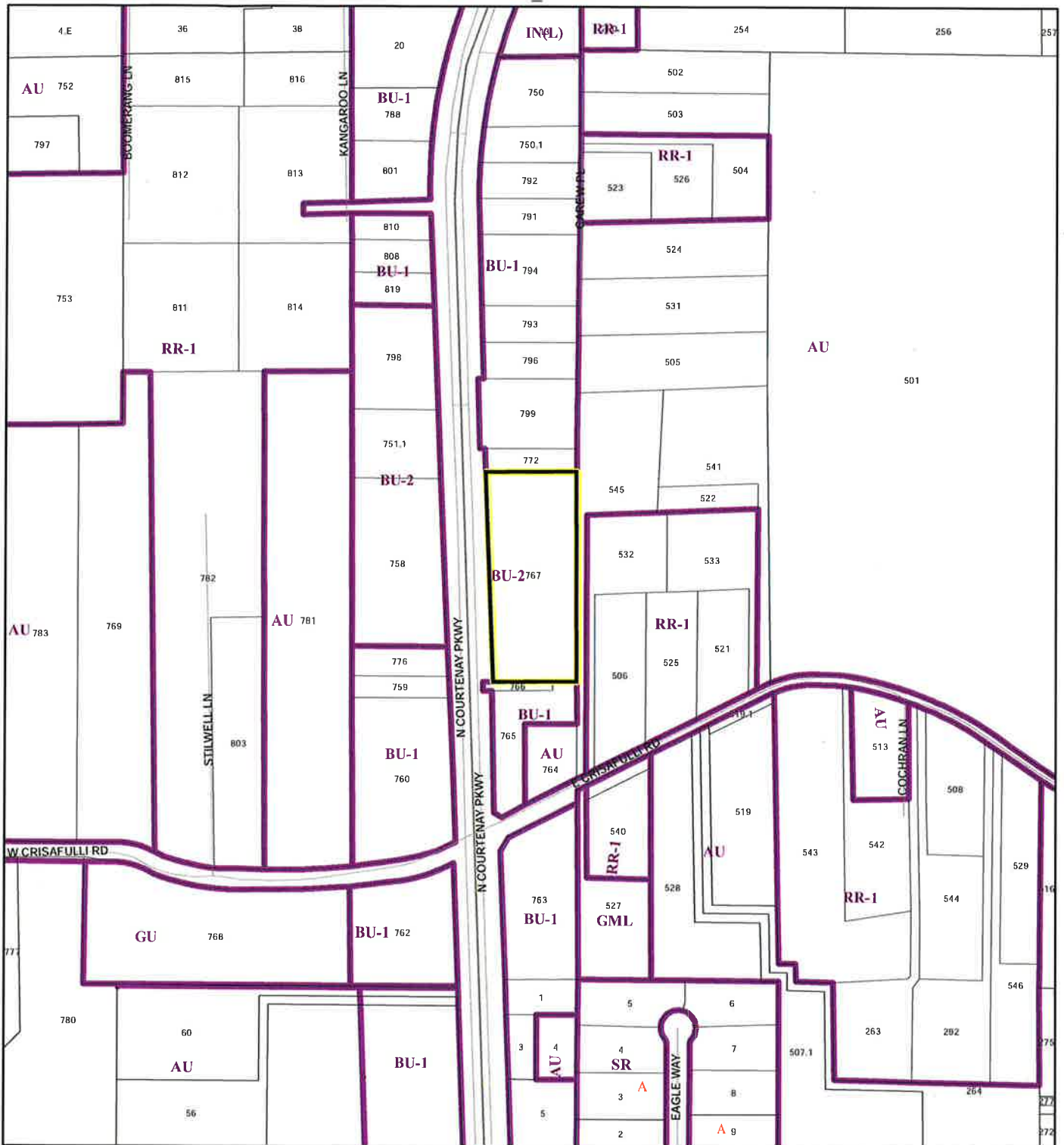
 Subject Property

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: 12/22/2014

# ZONING MAP

RO1 LLC  
14PZ\_00118



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 herein.