

Replacement

AGENDA	
Section	CONSENT
Item No.	II A 7

Meeting Date
May 17, 2016



AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: Southgate Investments, Inc. (District 2) 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 March 3, 2016, the Board of County Commissioners approved a Small Scale Plan Amendment from NC & Residential 15 to CC, and a change from RU-2-15 and RU-1-11 to BU-1, on property located on the southeast corner of Pioneer Rd., and N. Courtenay Pkwy. (No assigned address. In the Merritt Island area.), subject to a Binding Development Plan as follows:

- 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

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"/>
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County Manager		Department Director / Extension Robin M. DiFabio, AICP, Director Planning & Development Dept. Ext. 56363
Stockton Whitten		<i>Robin M DiFabio</i>



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

May 18, 2016

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.7, Binding Development Plan Agreement with Southgate Investments, Inc.

The Board of County Commissioners, in regular session on May 17, 2016, executed Binding Development Plan with Southgate Investments, Inc. for property located on the southeast corner of Pioneer Road, and North Courtenay Parkway in Merritt Island area. Said Plan was recorded in OR BK/PG 7620/1574. 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

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
 #: 1707976
 Receipt #: 61675360
 Cashier Date: 5/20/2016
 10:09:54 AM



Print Date:
 5/20/2016 10:09:55 AM

Customer Information	Transaction Information	Payment Summary
() CONSTRUCTION ENGINEERING GROUP 2651 W EAU GALLIE BLVD STE A MELBOURNE, FL 32935	DateReceived: 05/20/2016 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$86.50 Total Payments \$86.50

1 Payments	
CHECK 9942	\$86.50

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7620/1574 CFN:2016097036 Date: 5/20/2016 10:09:51 AM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	10	\$86.50
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	2	\$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL



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

May 18, 2016

MEMORANDUM

TO: Recording

RE: Item II.A.7, Binding Development Plan Agreement with Southgate Investments, Inc.

The Board of County Commissioners, in regular session on May, 17, 2016, executed Binding Development Plan Agreement with Southgate Investments, Inc., for property located on the southeast corner of Pioneer Road, and North Courtenay Parkway in the Merritt Island area. Enclosed are original Binding Development Plan Agreement and Check Number 9942 for \$86.50. **Please record the Agreement 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

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

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:

Scott Ellis
Scott Ellis, Clerk

(SEAL)

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

2725 Judge Fran Jamieson Way
Viera, Florida 32940

By: Jim Barfield
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: _____

(NOTARY SEAL)

Deborah Thomas
NOTARY PUBLIC

My Commission Expires:



**DEBORAH W. THOMAS
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE206892
Expires 6/10/2016**

Signatures continued on following page

WITNESSES:

SOUTHGATE INVESTMENTS, INC.,
DEVELOPER/OWNER

Print Name: Logan Obermeier

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

Print Name: Deborah D Miller

STATE OF Florida

COUNTY OF Alachua

The foregoing instrument was acknowledged before me, this 29 day of April, 2016,
by J.J. Miller, who is personally known to me, or who has produced identification.
Type of Identification Produced: FIDELITY 1146043829260

[Signature]
NOTARY PUBLIC

(NOTARY SEAL)

My Commission Expires:



DEBORAH D. MILLER
MY COMMISSION # FF 184840
EXPIRES: April 20, 2019
Bonded 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.
- Newsstands.
- ~~— 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.~~

TABLED ITEMS

- Item IV.A.1. Item was Withdrawn by the Applicant
- Item IV.A.2. Imperial South, Inc. Infantini/Smith, denied. Commissioner Anderson voted nay.
- Item IV.A.3. Ralph and Cynthia Perrone. Infantini/Anderson, approved as recommended, with a Binding Development Plan. Commissioner Barfield voted nay. The Board adopted Ordinance No. 16-01, Small Scale Plan Amendment 15S.08. Infantini/Anderson. Commissioner Barfield voted nay.
- Item IV.A.4. Southgate Investments, Inc. Barfield/Infantini, approved as recommended, with a Binding Development Plan. The Board adopted Ordinance No. 16-02, Small Scale Plan Amendment 15S.09. Barfield/Infantini.

PLANNING AND ZONING BOARD RECOMMENDATIONS OF JANUARY 4, 2016

- Item IV.B.1. Richard A. and Joyce V. Marschall. Anderson/Fisher, approved the rezoning, and the requirement to remove the Binding Site Plan (BSP) was withdrawn by staff.

II.A.7.
Attachment

restaurant use with a drive through lane or other use allowed in BU-1-A, and the height of the building shall be limited to one story provided the use is limited to a restaurant; the setback of the building from the eastern boundary will be at least 74.6 feet as depicted on the conceptual site plan, provided that road improvements to North Courtenay Parkway are not required by FDOT that would result in the site improvements being shifted to the east; and that the trash receptacle is to be moved to the western portion of the property.

BCC ACTION: Anderson/Fisher – TABLED to the March 3, 2016, BCC meeting. Vote was unanimous. Commissioner Infantini absent.

IV.B.6. (15PZ00079) – SOUTHGATE INVESTMENTS, INC. – (Jake Wise) – requests a Small Scale Plan Amendment (15S.09) from NC and Residential 15 to CC, and a change of classification from RU-2-15 and RU-1-11 to BU-1, on 9.90 acres +/-, located on the southeast corner of Pioneer Rd., and N. Courtenay Pkwy. (No assigned address. In the Merritt Island area.)

LPA Recommendation: Lawandales/Barber – Approved. Vote was unanimous.

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

BCC ACTION: Fisher/Anderson – TABLED to the March 3, 2016, BCC meeting. Vote was unanimous. Commissioner Infantini absent.

DISTRICT 4

IV.B.7. (15PZ00074) – THE VIERA COMPANY – (Jake Wise) – requests a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with a Restaurant in a PUD zoning classification, on 1.10 acres +/-, located on the west side of Stadium Pkwy., approx. 0.098 mile north of Viera Blvd. (No assigned address. In the Viera area.)

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

BCC ACTION: Fisher/Smith – APPROVED as recommended. Vote was unanimous. Commissioner Infantini absent. 15PZ00074.

IV.B.8. (15PZ00075) – MURRELL PROPERTIES OF BREVARD, LLC – requests a change of classification from RR-1 to BU-1-A on 1 acre, located on the east side of Murrell Road, approx. 0.32 mile south of Roy Wall Boulevard (3545 Murrell Rd., Rockledge)

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

BCC ACTION: Anderson/Smith – APPROVED as recommended. Vote was unanimous. Commissioner Infantini absent. 15PZ00075.

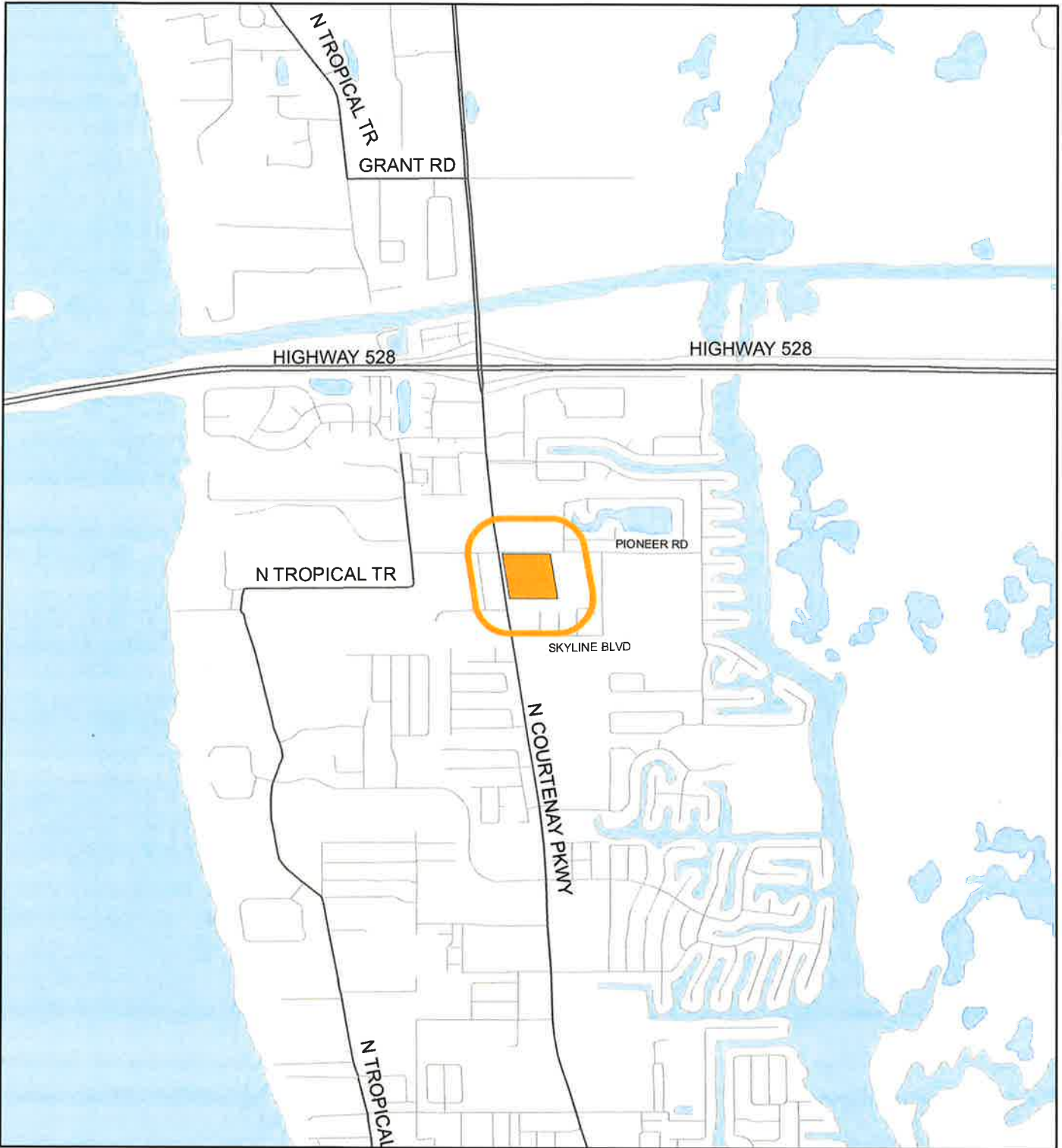
IV.B.9. (15PZ00077) – INDIAN RIVER COLONY CLUB, INC. – (John Robinson) – requests a change of classification from IN(L) to PUD on 3.19 +/- acres, located on the south side of Continental Ave., approx. 361 ft. east of Murrell Rd. (6845 Murrell Rd., Melbourne)

P&Z Recommendation: Thodey/Moia – Approved. Vote was unanimous.

BCC ACTION: Smith/Anderson – APPROVED as recommended. Vote was unanimous. 15PZ00077.



LOCATION MAP

SOUTHGATE INVESTMENTS INC
15PZ00079 and Small Scale Amendment 15S.09



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

Buffer Distance: 500 feet

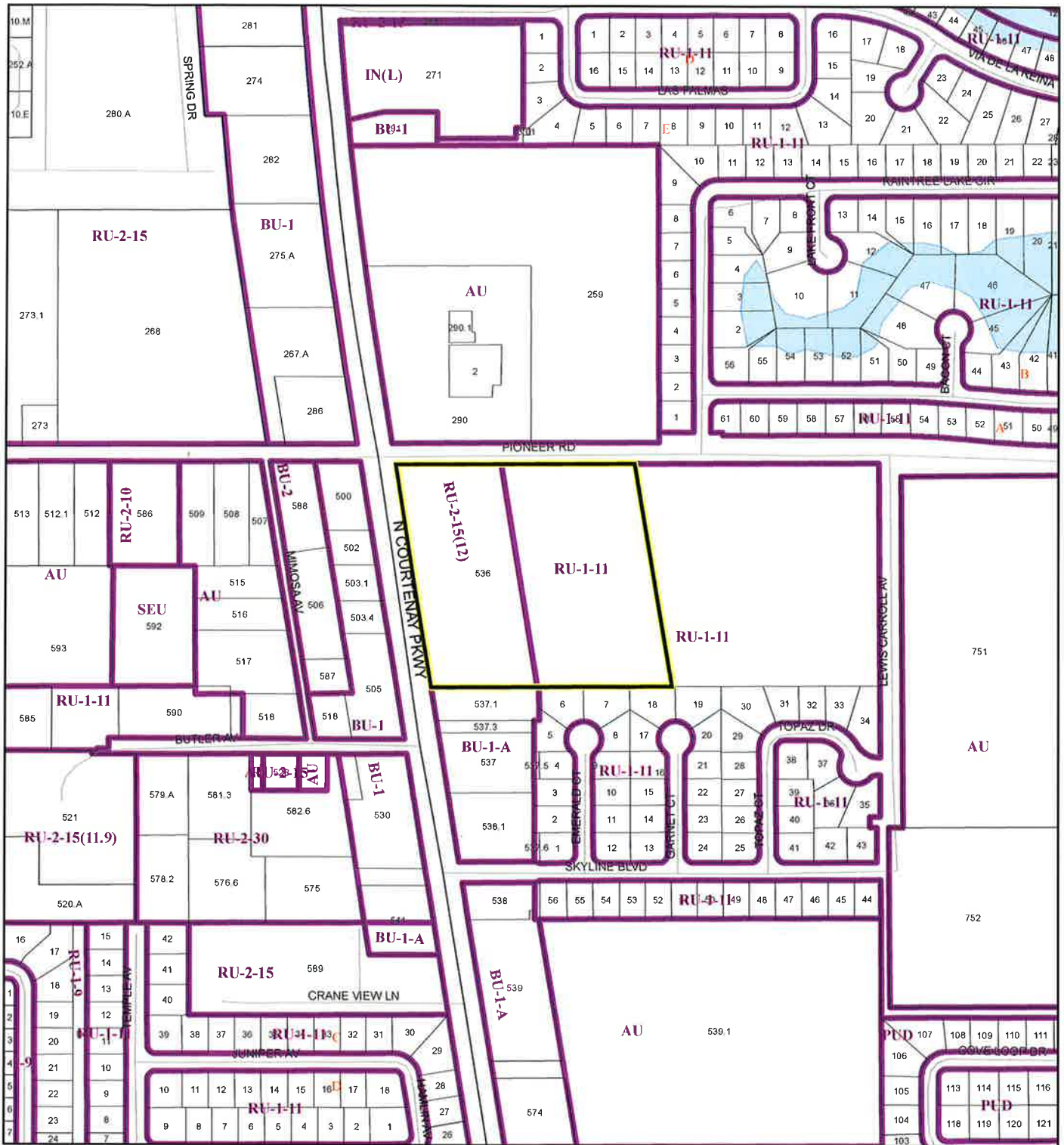
-  Buffer
-  Subject Property

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 herein.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 11/19/2015

ZONING MAP

SOUTHGATE INVESTMENTS INC
15PZ00079 and Small Scale Amendment 15S.09



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.

SOUTHGATE INVESTMENTS, INC.

4909 SW 105th Ave.
Gainesville, FL 32608

May 3, 2016

PLANNING & DEVELOPMENT DEPARTMENT
Atten: Jennifer Jones, Special Projects Coordinator II
2725 Judge Fran Jamieson Way
Viera, FL 32940

Re: Southgate Investments, Inc. Binding Development Plan
Pioneer Road, Merritt Island, FL

Dear Ms. Jones,

This letter is to confirm that there is no mortgage on the above referenced property that is subject of the Binding Development Plan.

Sincerely,

SOUTHGATE INVESTMENTS, INC.



J. T. Miller, President

STATE OF FLORIDA
COUNTY OF ALACHUA

J. T. Miller

_____ , after being duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:
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

There are no mortgages on the above described property

Dated this third day of May, 2016

Southgate Investments Inc.

Signature

President

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was sworn to before me this 3rd day of May 2016, by
J.T. Miller, who is personally known to me or who has
produced FLD as identification, and who did take an oath.



DEBORAH D. MILLER
MY COMMISSION # FF 184940
EXPIRES: April 20, 2019
Bonded Thru Budget Notary Services

Notary Public:

State of Florida at Large
My Commission Expires: 4/20/19

(SEAL)