



Meeting Date
<b>December 15, 2015</b>

AGENDA	
Section	CONSENT
Item No.	<i>II A.3</i>

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

SUBJECT:	Binding Development Plan, Re: Gary and Carol Lynn Bartlett (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 a change of classification from RU-1-9 to BU-1-A , on property located on the northeast corner of Fay Blvd. and Severndale St. (3930 Fay Blvd., Cocoa), subject to a Binding Development Plan as follows:

- Use shall be limited to a childcare facility and a pre-kindergarten school.

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>	<b>Reviewed by County Attorney</b>	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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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 16, 2015

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.3, Binding Development Plan Agreement with Gary and Caro Lynn Bartlett

The Board of County Commissioners, in regular session on December 15, 2015, executed Binding Development Plan with Gary and Carol Lynn Bartlett, for property located on the northeast corner of Fay Blvd., and Severndale St.. Said Plan was recorded in OR BK/PG 7514/1655. 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



Prepared by: Angela A. Abbott  
Address: 4420 S. Washington Avenue  
Titusville, FL 32780

### BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 15 day of DECENBER, 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 Gary K. Bartlett and Carol Lynn Bartlett, as Trustees of the Bartlett Family Trust u/a/d May 22, 2013, (hereinafter referred to as "Owner").

#### RECITALS

WHEREAS, Owner owns property (hereafter referred to as the "Property") in Brevard County, Florida, as more particularly described as:

Lot 1, Block 35, PORT ST. JOHN, UNIT TWO, according to the Plat thereof as recorded in Plat Book 14, Page 48, of the Public Records of Brevard County, Florida.

WHEREAS, Owner has requested the BU-1-A zoning classification and desires to continue to operate the Property as a child care facility and pre-kindergarten school, and pursuant to the Brevard County Code, section 62-1157; 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 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. Owner shall limit the use of the Property as a child care facility and pre-kindergarten school.

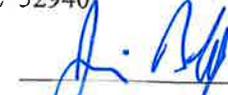
3. Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.
4. 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 1, 2015. 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 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:

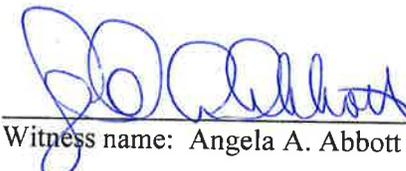
  
\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

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

  
\_\_\_\_\_  
JIM BARFIELD, CHAIRMAN  
As approved by the Board on DECEMBER 15 2015

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

WITNESSES:

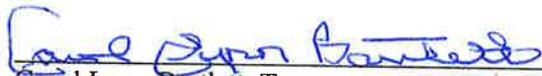
  
\_\_\_\_\_  
Witness name: Angela A. Abbott

OWNER:

Gary K. Bartlett and Carol Lynn Bartlett, as  
Trustees of the Bartlett Family Trust u/a/d  
May 22, 2013  
3930 Fay Boulevard  
Cocoa, FL 32927

  
\_\_\_\_\_  
Gary K. Bartlett, Trustee

  
\_\_\_\_\_  
Witness name: Marc Smith

  
\_\_\_\_\_  
Carol Lynn Bartlett, Trustee

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 30 day of November, 2015, by Gary K. Bartlett & Carol Lynn Bartlett, as Trustees of the Bartlett Family Trust u/a/d May 22, 2013, who are personally known to me or who produced N/A as identification and who took an oath.

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

My commission expires  
SEAL  
Commission No.:

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

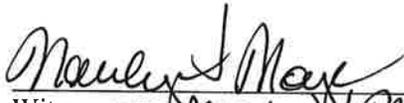


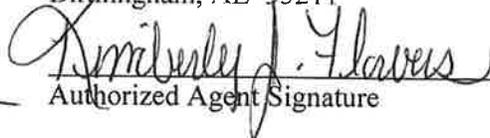
**JOINDER IN BINDING  
DEVELOPMENT PLAN**

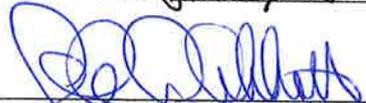
KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated September 13, 2005, given by Gary K. Bartlett and Carol Lynn Bartlett, as mortgagor, in favor of the undersigned, Regions Bank, as mortgagee, recorded in Official Records Book 5554, Page 0678, as modified August 3, 2015, in Official Records Book 7435, Page 2113, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME:  
REGIONS BANK  
201 Milan Parkway  
Birmingham, AL 35211

  
Witness name: Marilyn J. Mayer

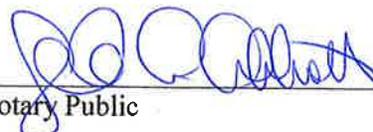
  
Authorized Agent Signature

  
Witness name: Angela A. Abbott

KIMBERLY J. FLOWERS, MGR/OFFICER  
Name/Title typed, printed or stamped

STATE OF Florida  
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 2015, by Kimberly J. Flowers, who is personally known to me or who produced N/A as identification.

  
Notary Public

My commission expires:

SEAL

Commission No.:



# 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  
 #: 1627608  
 Receipt #: 61596411  
 Cashier Date: 12/17/2015  
 10:05:33 AM



Print Date:  
 12/17/2015 10:05:34 AM

Customer Information	Transaction Information	Payment Summary
(46) ANGELA ABBOTT ESQ 4420 S WASHINGTON AVE TITUSVILLE, FL 32780	DateReceived: 12/17/2015 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 3682	\$35.50

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7514/1655 CFN:2015245033 Date:12/17/2015 10:05:32 AM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	4	\$35.50
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	3	\$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL



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 16, 2015

MEMORANDUM

TO: Recording

RE: Item II.A.3, Binding Development Plan Agreement with Gary and Carol Lynn Bartlett

The Board of County Commissioners, in regular session on December 15, 2015, executed Binding Development Plan Agreement with Gary and Carol Lynn Bartlett, for property located on the northeast corner of Fay Blvd., and Severndale St. Enclosed are original Binding Development Plan Agreement and Check Number 3682 in the amount of \$35.50. **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 Etheridge, Deputy Clerk

/dt

Encls. (2)

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

**WEDNESDAY, September 9, 2015 – 6:00 P.M.**  
Port St. John Library  
6500 Carole Ave., Port St. John, Florida

&  
**LOCAL PLANNING AGENCY**  
**MONDAY, September 28, 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, 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**

**III.B.4. (15PZ00033) – GARY K. AND CAROL LYNN BARTLETT, TRUSTEES** – (Angela Abbott) – request a Small Scale Plan Amendment (15S.08) to change the Future Land Use from Residential 1 to NC, and a change of classification from RU-1-9 to BU-1-A, on 0.27 acres, located on the northeast corner of Fay Blvd. and Severndale St. (3930 Fay Blvd., Cocoa)

PSJ Recommendation: Rodriguez/Musselman – Approved with a BDP limited to a childcare facility and a pre-kindergarten school. Vote was unanimous.

LPA Recommendation: Lawandales/McLellan – Denied the Small Scale Plan Amendment with finding that rezoning is a transitional use pursuant to Policy 2.14 of the Future Land Use Element. Vote was unanimous.

**BCC ACTION: Infantini/Smith – APPROVED with a BDP limited to a childcare facility and a pre-kindergarten school. Denied the Small Scale Plan Amendment with finding that rezoning is a transitional use pursuant to Policy 2.14 of the Future Land Use Element. 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 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. Dillesh 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.

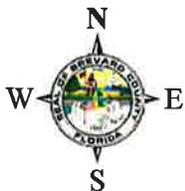
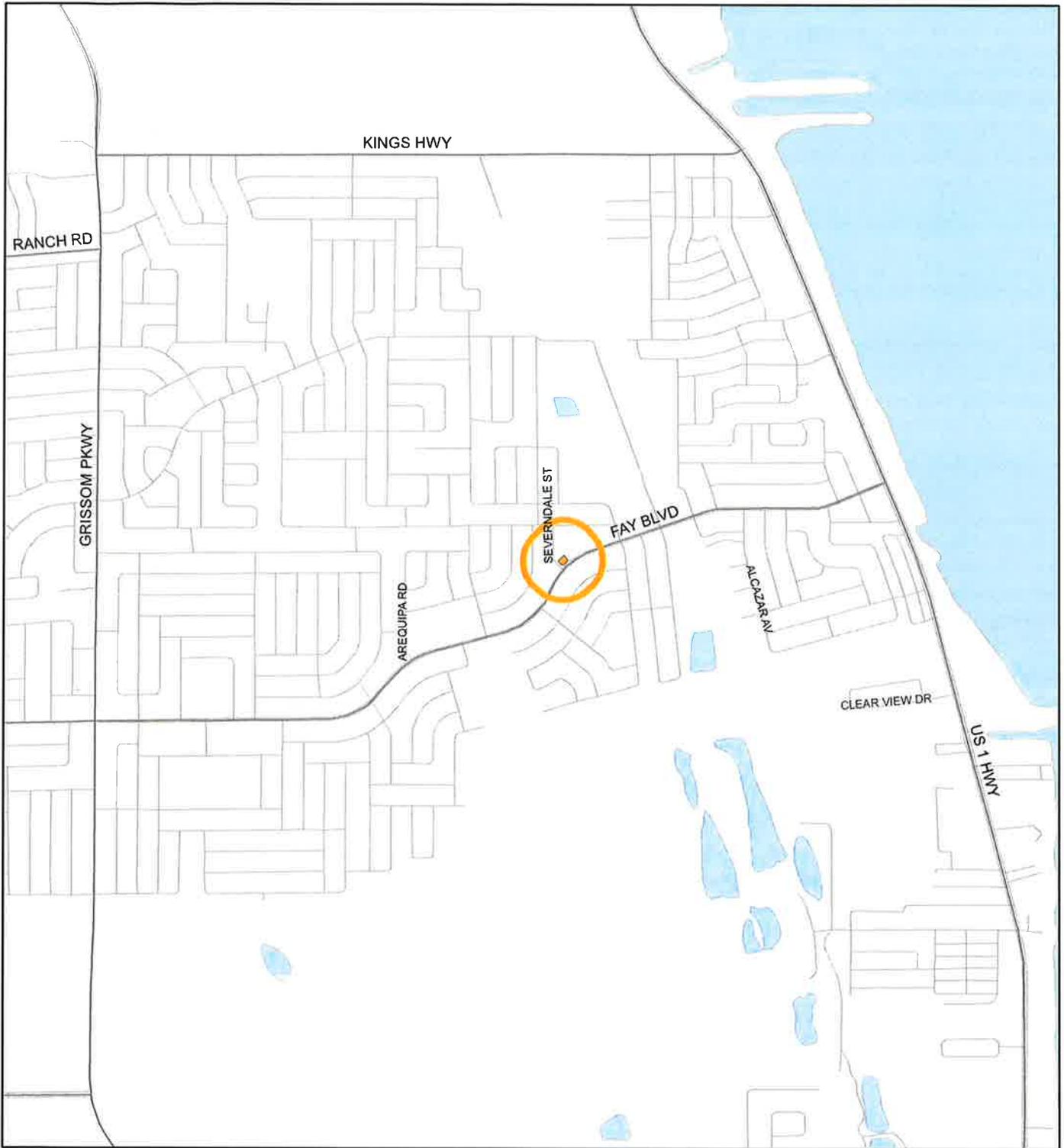
III.B.3. Rotation Holdings, LLC. Smtih/Barfield, approved with a BDP prohibiting motorcycle repairs on the property, providing an 8-foot tall concrete wall along the east (rear) property line; and limiting usage of the eastern 241 ft. of the property for long-term secured recreation vehicles, boats,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

BARTLETT, GARY K

15PZ00033 and Small Scale Amendment 15S.08



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

Buffer Distance: 500 feet

 Buffer

 Subject Property

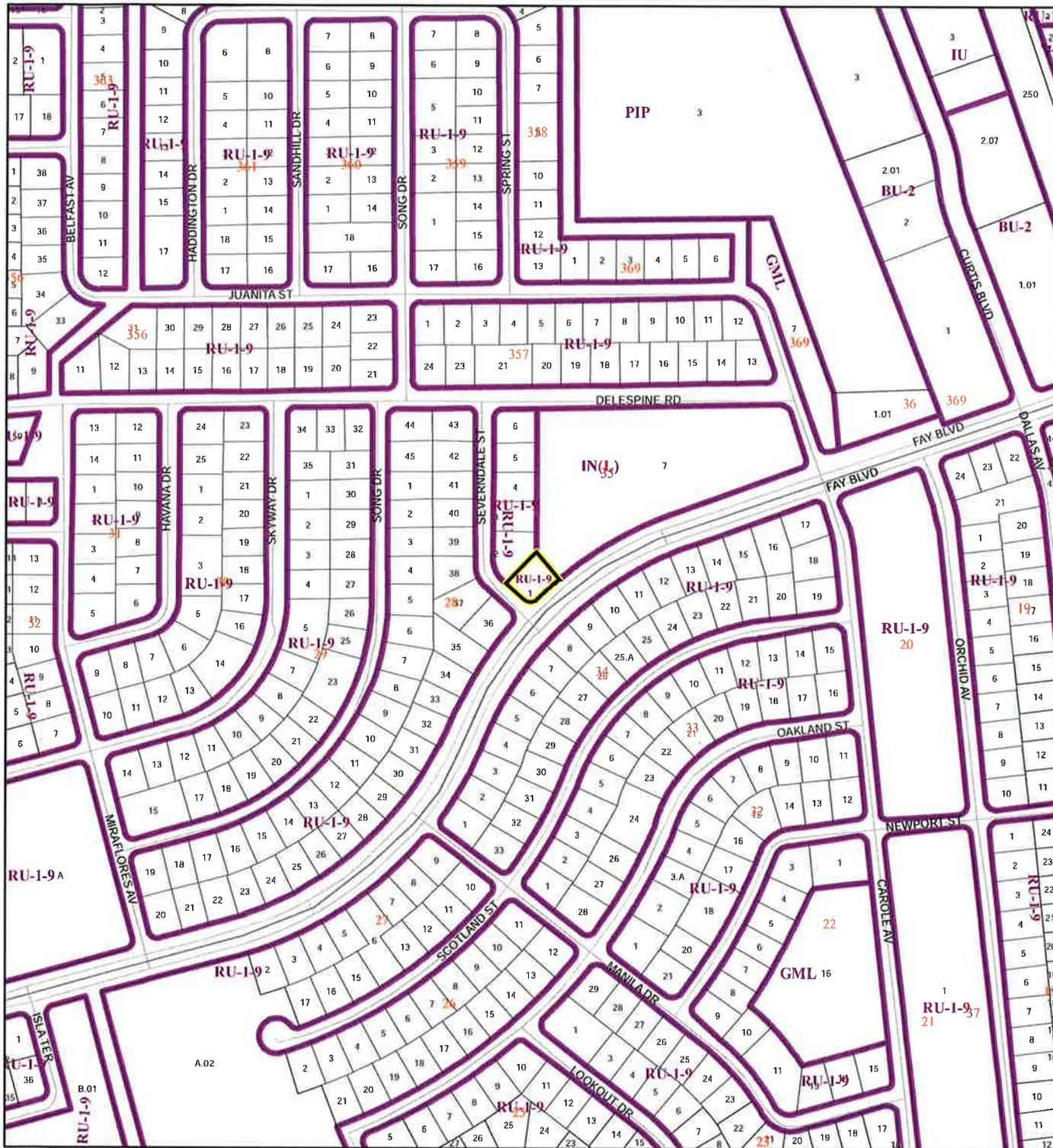
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 6/16/2015

# ZONING MAP

BARTLETT, GARY K

15PZ00033 and Small Scale Amendment 15S.08



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.