



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

3/4/2021

Subject:

Preferred Leasing, LLC (Brian Stephens) requests a change of zoning classification from BU-1 and AU to all BU-1. (20Z00041) (Tax Accounts 2103387 & 2103397) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1.

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1 for the purpose of expanding an existing tractor supply store which sells farm equipment. The property is located on the northeast corner of Cuyler Street and U.S. Highway 1. The BU-1 zoning classification encompasses land devoted to general retail shopping, offices, and personal services to serve the needs of the community.

The existing business is located within the existing CC (Community Commercial) FLU (Future Land Use) designated portion. Application 20PZ00116 has been submitted to change the FLU from NC (Neighborhood Commercial) and RES 4 (Residential 4) to CC on the north and eastern portions of the property.

The developed character of the surrounding area is a mix of commercial, single family detached dwellings, and a nonconforming mobile home park. The adjacent zonings are: BU-1, TR-3 (Mobile Home Park), RU-2-4 (Low-Density Multi-Family Residential), RU-2-6 (Low-Density Multi-Family Residential) and AU. The proposed expansion area is zoned AU and is undeveloped.

The BU-1 zoning classification requires that 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. The BU-1 zoning classification does not qualify any use as a storage yard.

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood.

On February 8, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return to Planning and Development.



BOARD OF COUNTY COMMISSIONERS

Rita Pritchett, District 1 Commissioner

2000 South Washington Avenue, Ste. 2

Titusville, FL 32780

(321) 607-6901

D1.commissioner@brevardfl.gov

Planning and Development
Zoning Meeting March 4, 2021
Preferred Leasing, LLC- 20PZ00116, 20Z00041

Commissioner Pritchett met with Mr. Jason Bartlett in her office regarding the above items on March 1, 2021. The Commissioner listened to his presentation regarding the zoning items.

Resolution 20Z00041

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

WHEREAS, Preferred Leasing, LLC has requested a change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1, on property described as Tax Parcels 524 and 533, as recorded in ORB 6079, Pages 1090 – 1091, of the Public Records of Brevard County, Florida. **Section 17, Township 21, Range 35.** (8.51 acres) Located on the northeast corner of Cuyler St. and U.S. Highway 1. (3030 Cuyler St., Mims); and

WHEREAS, a public hearing of the Brevard County Planning and 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 and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Brevard County Planning and 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 as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1 and AU to all BU-1 be approved. The Planning and Development 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 March 4, 2021.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on March 4, 2021.

ATTEST:



RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – February 8, 2021

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development 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.**

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application.”

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.
- (c) General Standards of Review.
 - (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940
 (321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
 20Z00041**

Preferred Leasing, LLC

BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1

Tax Account Number: 2103397 & 2103387
 Parcel I.D.: 21-35-17-00-524 & 533
 Location: NE corner of Cuyler Street and U.S. Highway 1 (District 1)
 Acreage: 8.51 acres

Planning and Zoning Board: 2/08/2021
 Board of County Commissioners: 3/04/2021

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.**
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1 & AU	all BU-1
Potential*	86,243 square feet of commercial use and 2 single-family lots	370,695.6 square feet of commercial use
Can be Considered under the Future Land Use Map	YES CC, NC & RES 4	YES** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **There is a Small-Scale Future Land Use Map (FLUM) amendment companion application under **20PZ00116** which proposes to change the NC and RES 4 Future Land Use (FLU) designations to Community Commercial FLU.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1 for the purpose of expanding an existing tractor supply store which sells farm equipment.

The current BU-1 zoning was adopted on May 4, 1978, in conjunction with a conditional use permit request for Farm Machinery Sales and Service. That particular CUP has been retired from the code and replaced as a permitted with conditions use under Ordinance 95-49, adopted on October 19, 1995. The AU zoning is original zoning for this parcel.

Land Use

The subject property is currently designated as Community Commercial (CC), Neighborhood Commercial (NC) and Residential 4 (RES 4). The companion application **20PZ00116** proposes to change the NC and RES 4 FLUs to the CC Future Land Use designation. The BU-1 zoning classification is consistent with the CC FLUM and the AU zoning is consistent with both of the NC and RES 4 FLU.

Environmental Constraints

The subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to determine elevations in aquifer recharge areas. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Dairy Road and SR Highway 46, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 40.58% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 30.75%. The corridor is anticipated to continue to operate at 71.33% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is provided public water by Brevard County. The closest sewer connection is 2,250 feet north of the parcel lying north of E. Main Street.

Applicable Land Use Policies

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

This request is within the Mims Area Small Area Study, approved by the Board on April 10, 2007. The location is the NE corner of Cuyler Street and U.S. Highway 1. The existing business is located within the Community Commercial FLU. The applicant wishes to expand the site to cover the additional lot area to the north and eastern boundaries. Those FLU designations are NC and RES 4. Expanding the CC FLU could be reviewed under FLU Policy 2.11. The FLUM for the property north of this site transitions from CC to NC to RES 4 (same as this parcel). Property lying south of Cuyler Street is designated CC for the full depth of the parcel under this zoning action. The applicant has requested a Small-Scale Comprehensive Plan amendment # **20PZ00116**.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is a mix of commercial BU-1 zoned land, single family detached dwellings and a nonconforming mobile home park. The adjacent zonings are: BU-1, TR-3, RU-2-4, RU-2-6 and AU. The proposed expansion area is undeveloped AU zoned area.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. The TR-3 mobile home park zoning classification encompasses land devoted to mobile home parks. The RU-2-4 and RU-2-6 low-density multiple-family residential zoning classifications encompass lands devoted to low-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. The AU agricultural residential zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character.

The BU-1 zoning classification requires that 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. However, the BU-1 zoning classification does not qualify any use as a storage yard. A storage yard is a permitted use with conditions under the BU-2 zoning classification's list of uses (Contractor's offices, plants and storage yard pursuant to Section 62-1833.5 of Brevard County Code).

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

Surrounding Area

The abutting parcels to the north and east are mostly developed parcels except for two vacant residential lots located to the east. The proposed expansion area for rezoning is currently unimproved. This lot has road frontage along its western and southern boundaries. Expansion into this area will require the construction of a masonry wall and buffering from the existing residential zoned properties.

The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

There has been only two zoning actions within a half-mile radius of the subject property within the last three years. The first action, **18PZ00147**, was for a change of zoning from Single-family residential (RU-1-7) to Suburban Residential (SR) adopted on March 7, 2019. This location lies 1,560 feet due west of the proposed commercial site expansion abutting the east side of N. Singleton Avenue and located 165 feet north of Parker Street. The second action, **19PZ00066**, was for a conditional use permit for on-premise alcoholic beverage consumption for the wedding venue at the Think Green site located 2,000 feet south of this property lying at the NW corner of U.S. Highway 1 and Parrish Road.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary**

Item # 20Z00041

Applicant: JT Realty Holdings for Preferred Leasing

Zoning Request: BU-1 & AU to BU-1

Note: Applicant wants to expand farm machinery sales and service store.

P&Z Hearing Date: 02/08/21; **BCC Hearing Date:** 03/04/21

Tax ID Nos: 2103397 & 2103387

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Land Clearing & Landscape Requirements
- Protected Species

The subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to determine elevations in aquifer recharge areas. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Land Use Comments:

Aquifer Recharge Soils

A large area of the subject parcel contains mapped aquifer recharge soils (Candler fine sand and Tavares fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Topographic maps available to NRM indicate elevations greater than or equal to 30 feet mean sea level (NGVD 1929) in portions of the aquifer recharge areas. Per Section 62-3636, Type 2 aquifer recharge areas, the maximum impervious surface shall be 35 percent of the Type 2 aquifer recharge area on the site. Private lakes as described in article XIII, division 5, of this chapter shall be prohibited. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal high permeability soils or replacement with lower-permeability soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Land Clearing & Landscape Requirements

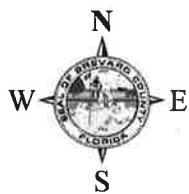
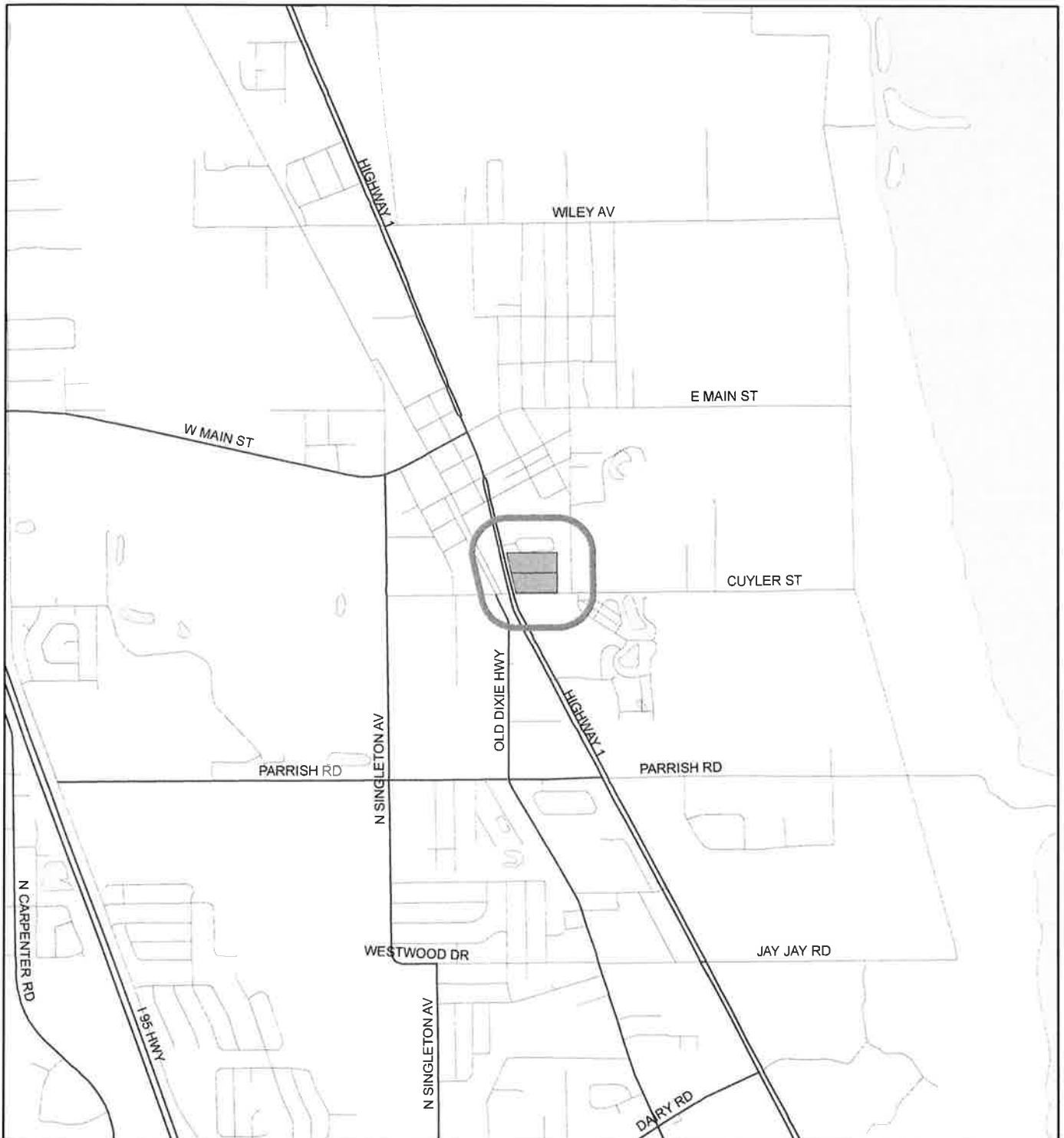
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

PREFERRED LEASING, LLC
20Z00041





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

Buffer Distance: 500 feet

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 BoCC - GIS Date: 12/9/2020

-  Buffer
-  Subject Property

ZONING MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

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.

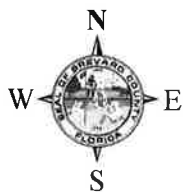
Produced by BoCC - GIS Date: 12/9/2020

- Subject Property
- Parcels
- Zoning



FUTURE LAND USE MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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 BoCC - GIS Date: 12/9/2020

AERIAL MAP
PREFERRED LEASING, LLC
20Z00041



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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 BoCC - GIS Date: 12/9/2020

— Subject Property

▭ Parcels

NWI WETLANDS MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 12/9/2020

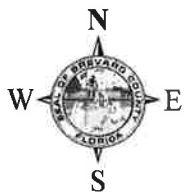
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|-----------------|
| Estuarine and Marine Deepwater | Freshwater Pond |
| Estuarine and Marine Wetland | Lake |
| Freshwater Emergent Wetland | Other |
| Freshwater Forested/Shrub Wetland | Riverine |
| Subject Property | Parcels |

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 12/9/2020

SJRWMD FLUCCS WETLANDS

-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

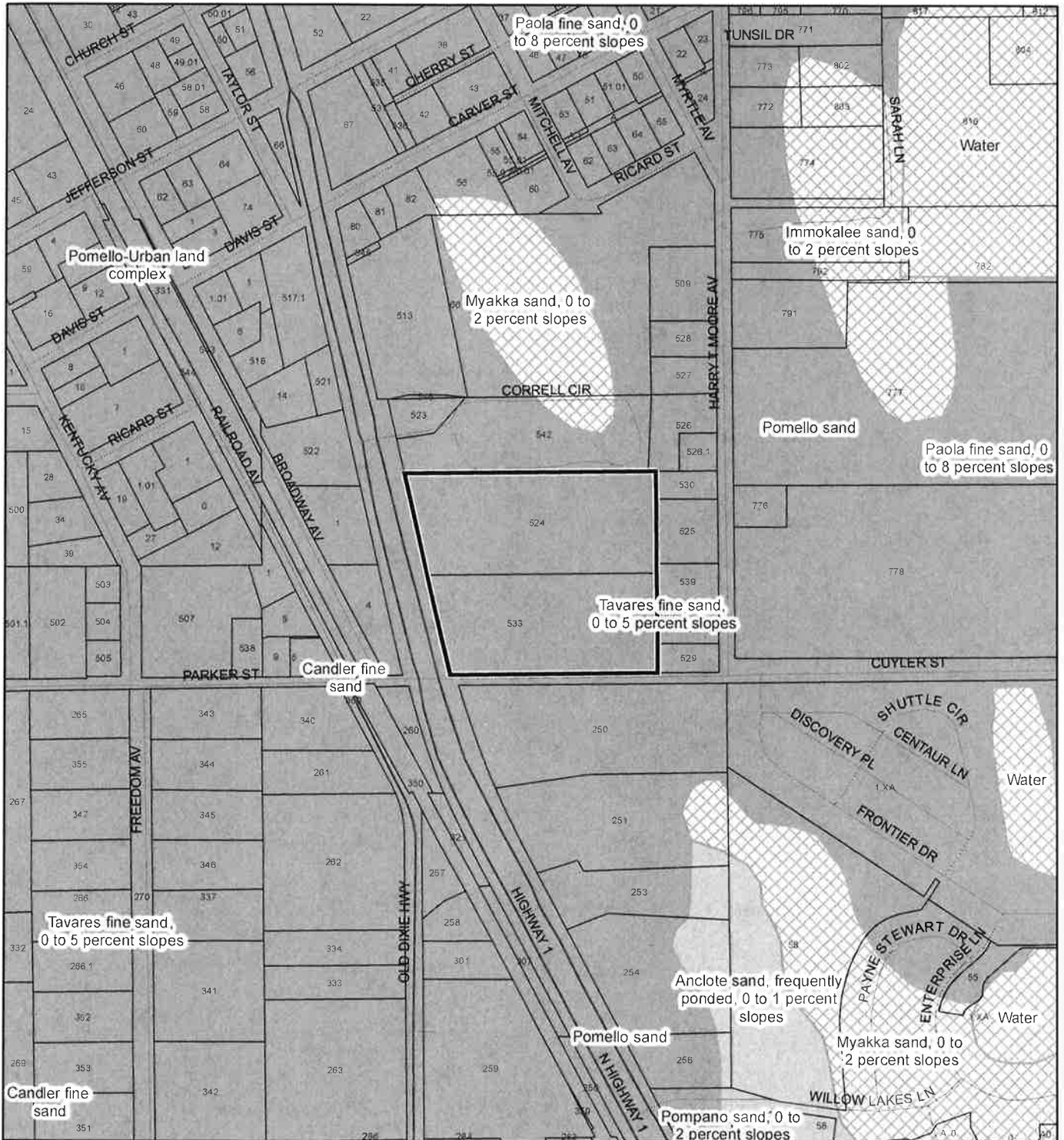
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

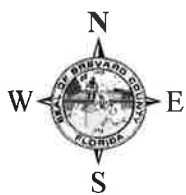
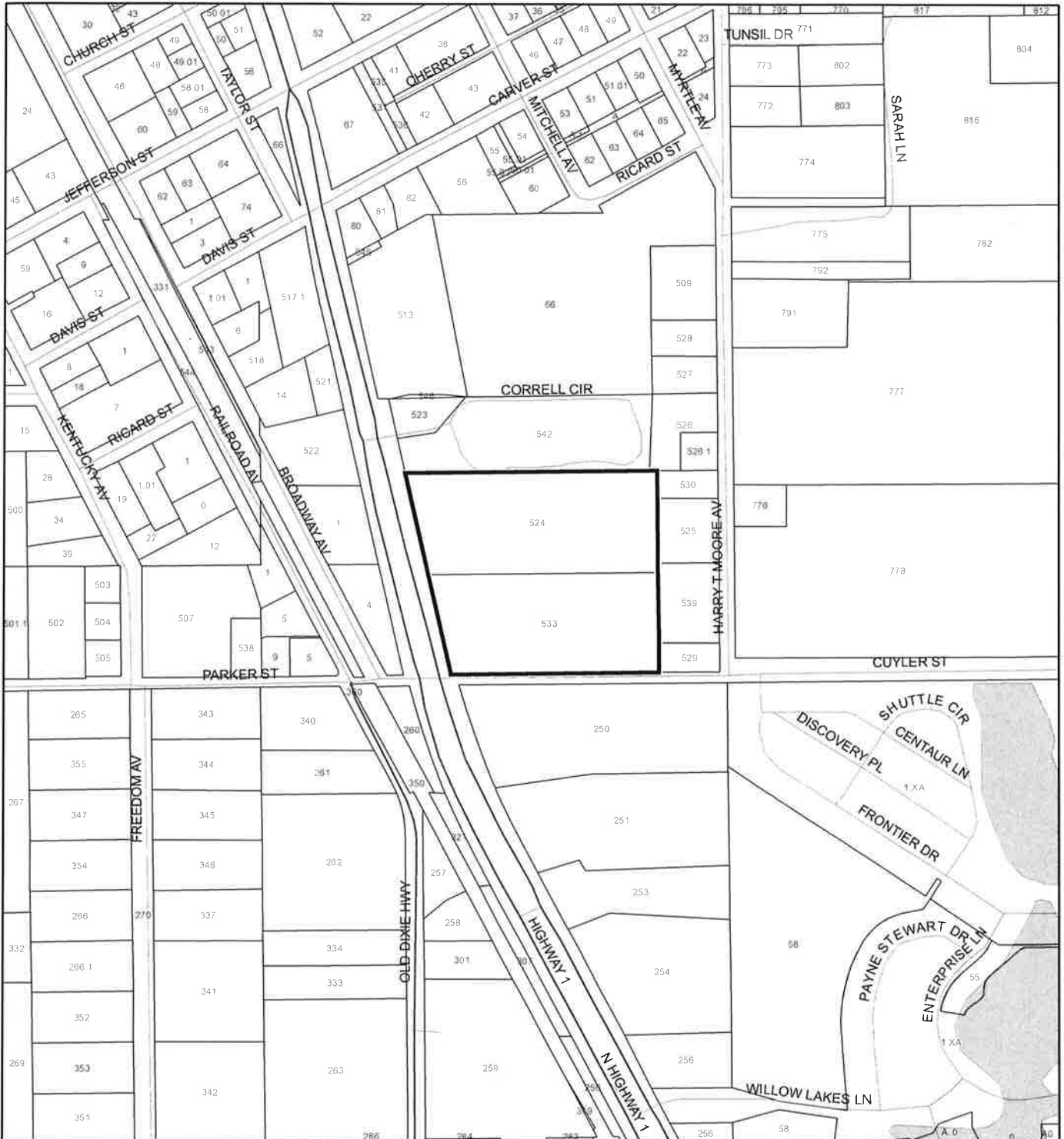
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/9/2020

FEMA FLOOD ZONES MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 12/9/2020

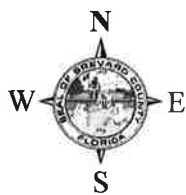
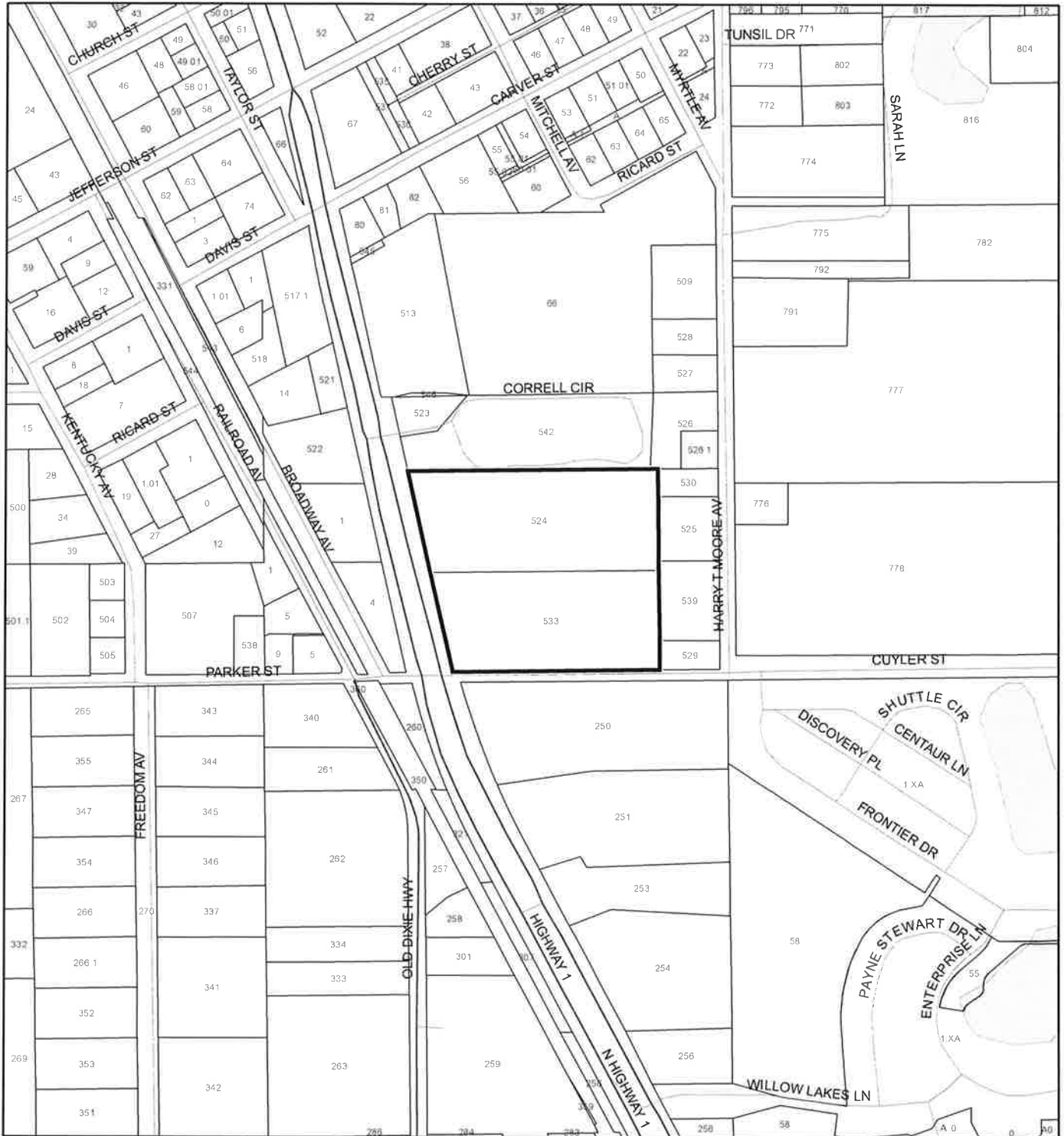
FEMA Flood Zones

- | | | |
|---|--|----------------------|
| AO | Open Water | X |
| AE | VE | X Protected By Levee |
| AH | 0.2 Percent Annual Chance Flood Hazard | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | Parcels | |

COASTAL HIGH HAZARD AREA MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet


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 BoCC - GIS Date: 12/9/2020

 Subject Property

 Parcels

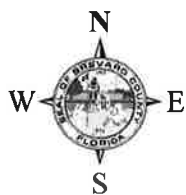
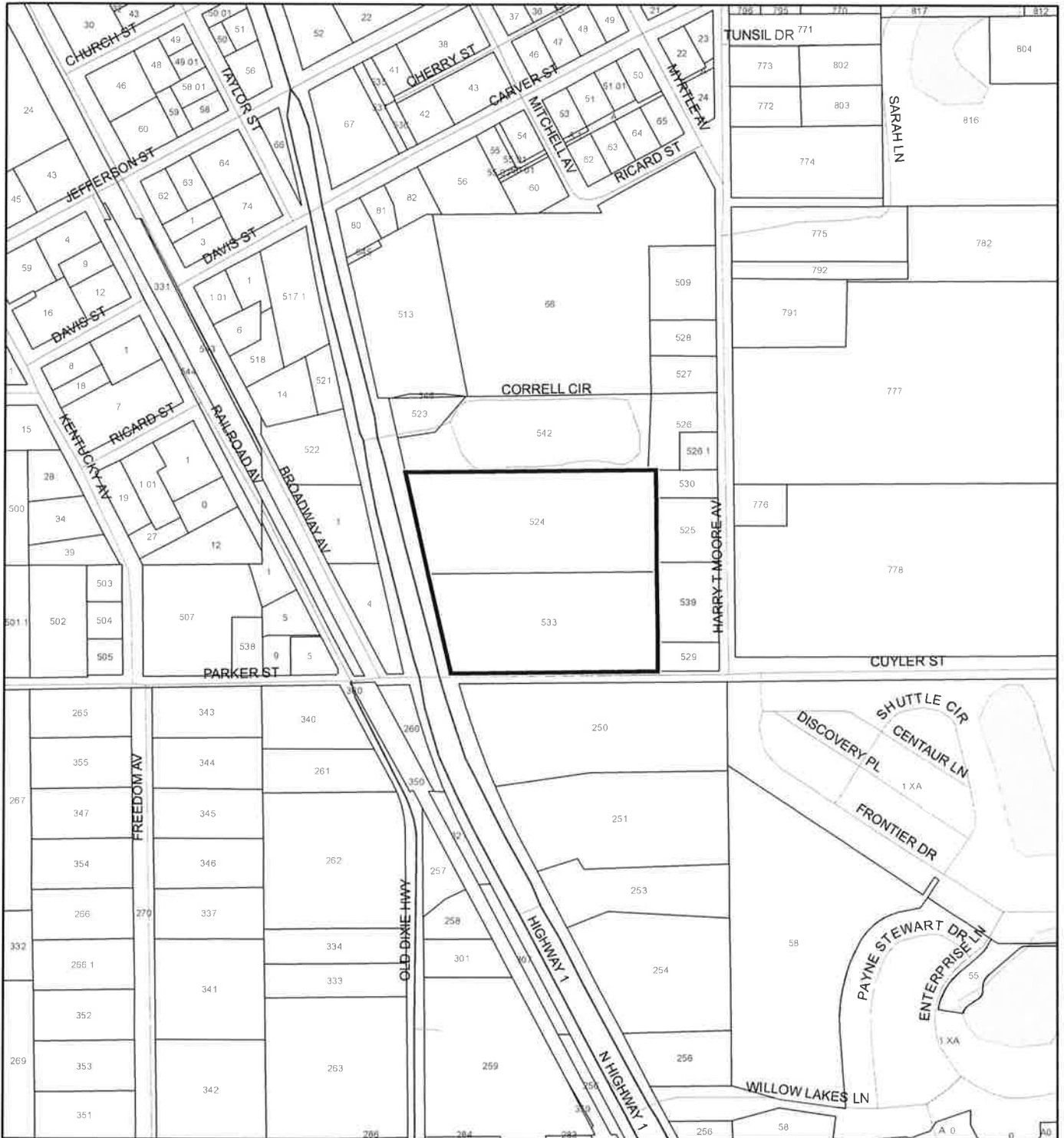
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 12/9/2020

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

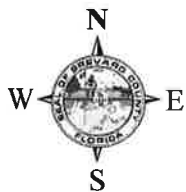
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

PREFERRED LEASING, LLC

20Z00041



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 12/9/2020

 Subject Property

 Parcels

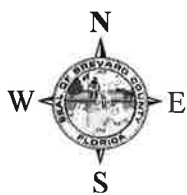


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

PREFERRED LEASING, LLC




20Z00041



1:4,800 or 1 inch = 400 feet

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.

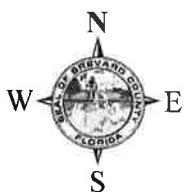
Produced by BoCC - GIS Date: 12/9/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

PREFERRED LEASING, LLC

20Z00041






1:4,800 or 1 inch = 400 feet


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 BoCC - GIS Date: 12/9/2020

SJRWMD FLUCCS Upland Forests

-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property

 Parcels



BOARD OF COUNTY COMMISSIONERS

Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 20Z00041

Existing FLU: NC, CC, RES 4 Existing Zoning: BU-1 & AU

Proposed FLU: _____ Proposed Zoning: BU-1

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

Preferred Leasing, LLC, a Florida limited liability company

Name(s) _____ Company _____

6350 Cable Ave. _____ Cocoa _____ FL _____ 32927
Street City State Zip Code

cache719@gmail.com _____ 321-543-2482 _____
Email Phone Cell

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

Attorney Agent Contract Purchaser Other _____

JT Realty Holdings LLC, a Florida limited liability company

Name(s) _____ Company _____

1374 Marjohn Ave. _____ Clearwater _____ FL _____ 33756
Street City State Zip Code

bstephens@deanmead.com _____ 321-259-8900 _____
Email Phone Cell

APPLICATION NAME

- Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres) *Filed separately but contemporaneously (BMS)*
- Text Amendment (CP): Element _____
- Other Amendment (CP): _____
- Rezoning Without CUP (RWOC)
- Combination Rezoning and CUP (CORC)
- Conditional Use Permit (CUP)
- Binding Development Plan (BDP)
- Binding Development Plan (BDP) (Amendment)
- Binding Development Plan (BDP) (Removal)
- Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- Administrative Approval of Flag Lot or Easement
- Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- Other Action: _____


Acreeage of Request: 8.51

Reason for Request:

See Addendum

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- An approval of this application does not entitle the owner to a development permit.
- For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.



Signature of Property Owner or
Authorized Representative

12/3/2020

Date

State of FLORIDA

County of BAYWARD

Subscribed and sworn before me, by physical presence or _____ online notarization,
this 3rd day of, December, 20 20, personally appeared
BRIAN STEPHENS, who is personally known to me or produced
_____ as identification, and who did / did not take an oath.



Notary Public Signature
Laura H. Seguna



Office Use Only:

Accela No. 20200041 Fee: 1652.00 Date Filed: 12/4/20 District No. 1

Tax Account No. (list all that apply) 210 3397 + 210 3387

Parcel I.D. No.

21 35 17 00 524 + 533
Twp Rng Sec Sub Block Lot/Parcel

Planner: GCR Sign Issued by: _____ Notification Radius: 500'

MEETINGS

P&Z

DATE 2/18/21

TIME 3pm

PSJ Board

NMI Board

LPA

BOA

BCC

3/4/21

5pm

Wetland survey required by Natural Resources Yes No Initials _____

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

Yes No If yes, list _____

Location of subject property: NE corner of Cuyler St & US Hwy 1

Description of Request: BU-1 + AU TO ALL BU-1

Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

NOTES:

- If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via

stephen.c.donovan@com or () _____ or U.S. Mail _____
c-mail address fax number

Yes No

I have received a copy of this notice:

[Signature]
(APPLICANT SIGNATURE)

Addendum to:
Application for Zoning Action and Comprehensive Plan Amendment and Related Supplement
From: JT Realty Holdings LLC (“Applicant”) – by counsel: Dean Mead Law Firm
Property: Tax Account No’s: 2103387; 2103397 (the “Property”)

Reason for Request:

This is a combined application – requesting amendments to both the land use and zoning maps as to the Property. The Applicant has made this application with the hope that it will be able to continue to use the Property as it is currently being used – as a farm machinery sales and service store – just on a slightly expanded basis. We respectfully ask that, for the reasons listed below, you approve this request.

The subject Property is located at the corner of US Hwy 1 and Cuyler Street in Mims, *unincorporated Brevard County, Florida*. For many years prior, the Robinson family has operated the Property as a tractor/farm equipment sales and service center. Within the last few years, the Applicant (through an affiliate entity) purchased the business (separate from the Property) and has operated onsite in the same manner as the Robinson family. The Applicant, as of the date of this application, entered into contract with the site owner to purchase the Property with the intention of continuing to operate as a farm equipment sales and service center – just on an expanded basis.

The desire to expand triggered the need for this application. Brevard County has given this Property three different future land use designations – Neighborhood Commercial (NC), Community Commercial (CC), and Residential-4 (RES-4). The corresponding zoning designations include Agricultural (AU) and Business-1 (BU-1). The combination of land use and zoning designations do not comport with the current use of the Property nor do they comport with the Mims Small Area Study (approved by the Board of County Commissioners on April 10, 2007) (the “**Mims SAS**”). We would like for the entire Property’s corresponding land use and zoning to be changed to Community Commercial and BU-1, respectively. This would allow the Applicant to continue the existing use of the Property (albeit in a more updated, expanded, and orderly manner) and would better meet the directives of the Mims SAS.

The Brevard County Land Development Regulations delineates criteria for both the Planning and Zoning Board as well as the Board of County Commissioners to consider when evaluating these types of applications. We have listed each of the five criteria below and addressed them in turn.

[discussion of criteria to commence on following pages]

Criteria 1: The character of the land use of the property surrounding the property being considered.

This criteria focuses on compatibility. Although the existing land use and zoning designations may indicate to the contrary, the Property sits squarely within Mims' primary business and general commercial corridor. Indeed, as discussed in more detail below, the Mims SAS specifically identifies this zone as the intended commercial corridor in Mims for all future purposes. Below, we have included a snapshot from GoogleMaps, which confirms that this area, despite a smattering of residences, operates as a general commercial node. Retailers¹, motels², manufacturers³, auto repair facilities⁴, and other general business operators⁵ all surround the subject Property. The character of the surrounding land uses is commercial. The expansion of the existing use at the Property will not disrupt that character.



¹ Mims Mini Mart, Walgreens, Dollar General

² Wayward Traveler Inn, Willow Lakes RV & Golf Resort

³ Industrial Steel

⁴ Heart of Dixie Transmission

⁵ Honey Suckle, Horse Sisters Equine Assisted Therapy, Raceway Gas, Regions Bank, Live Blue Crabs, Family Meat Grocery

Criteria 2: The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use, or conditional use.

Sometimes, a change in condition of a particular area will spur the need for zoning changes. Other times, however, zoning changes are needed to confirm the character of an area. The Applicant's request, here, fits into the latter category. Conditions in this commercial node have not changed significantly over time. This Property, in particular, has always been used for general commercial purposes. Prior to 1988, Brevard County identified this Property under a "mixed use" zoning category – intended to allow both commercial and residential uses as the community desired. The State, according to County staff, requested that, instead of using this broad category, the County delineate the commercial from the residential zones – which is how the Property ended up with the myriad zoning and land use designations which it has currently. But, designating this Property as anything but general commercial was probably an error. As confirmed by its historic use and more recently by the Mims SAS, this Property should be used primarily for general commercial purposes. As to this use in particular, again, the Applicant's proposal amounts to a mere expansion of an existing use – involving no significant changes other than the expansion.

Criteria 3: The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

Again, because this use already exists at the site, the County's infrastructure in the area should suffer no significant impact. The utilities and infrastructure demand should remain largely the same.

Criteria 4: The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.

In 2007, the County (and the residents of Mims) helped establish the plans for this area – that is, how the residents would like to see it develop and how the County staff, given its professional judgment and expertise, felt it should develop. The parties agreed that this area should be one focused on limited suburban and residential development, one that encourages commercial infill and limited expansion of commercial operations, and one that, of those commercial enterprises, should focus primarily on agrarian production and related service sectors. The Mims SAS further acknowledged that the residents did not wish to see newer, large scale, significant commercial development into new zones. It expresses a desire, rather, to keep commercial operations within their current nodes, and identifies the corridors in which that development should occur.⁶ This application complies with all of these goals of the community residents and county staff. It, again, evidences a continuation of an existing agrarian focused use on the same site – updated and expanded only slightly – in the desired commercial node. The project proposed by this application, thus, meshes perfectly with the existing land use plans for the area.

⁶ See, Mims SAS at page 6.

Criteria 5: The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

As noted numerous times in the above responses, this application requests only the ability to continue an existing use. The continuation will involve a reorganization and a slight expansion of the existing operation on the Property – evidencing a better, more aesthetically pleasing use of the site. Rebuilding the primary structures onsite, too, affords an opportunity to update infrastructure ensuring safe functioning of the site into the future. The BU-1 zoning district specifically permits the operation of a farm machinery sales and service center so long as certain conditions are met. The Applicant can easily satisfy all of those conditions at this Property. Further, at present, the Applicant’s plan includes moving the center of the operation to the northern portion of the Property. The Applicant has flexibility in that regard, but the thought was that, by moving the center of the operation further north, that would move the business closer to the other general commercial operations – allowing neighborhood commercial operations to wrap around Cuyler Street leading towards the parks. The continuation of this use (even on the expanded basis contemplated here) is permitted and appropriate for this area and will not adversely impact public health, safety, or welfare.

20200041

Owner's Name:

Preferred Leasing LLC

Hearing Date:

February 8, 2021

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

AFFIDAVIT

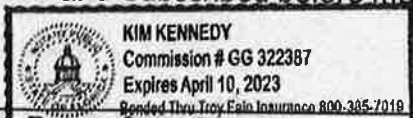
STATE OF FLORIDA
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, SEAN DONOVAN, to me well known and known to me to be the person described in and who executed the foregoing affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Sean Donovan
Signature

Sworn and Subscribed before me, this 20th day of Jan.



(Print, Type, or Stamp Commissioned Name of Notary Public)

[Signature]
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: _____

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

REZONING NOTICE

20Z000041

The Brevard County Planning and Zoning Board will hold a public hearing at 3:00 P.M. on February 8, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL, to consider the proposed zoning action on this property as indicated below.

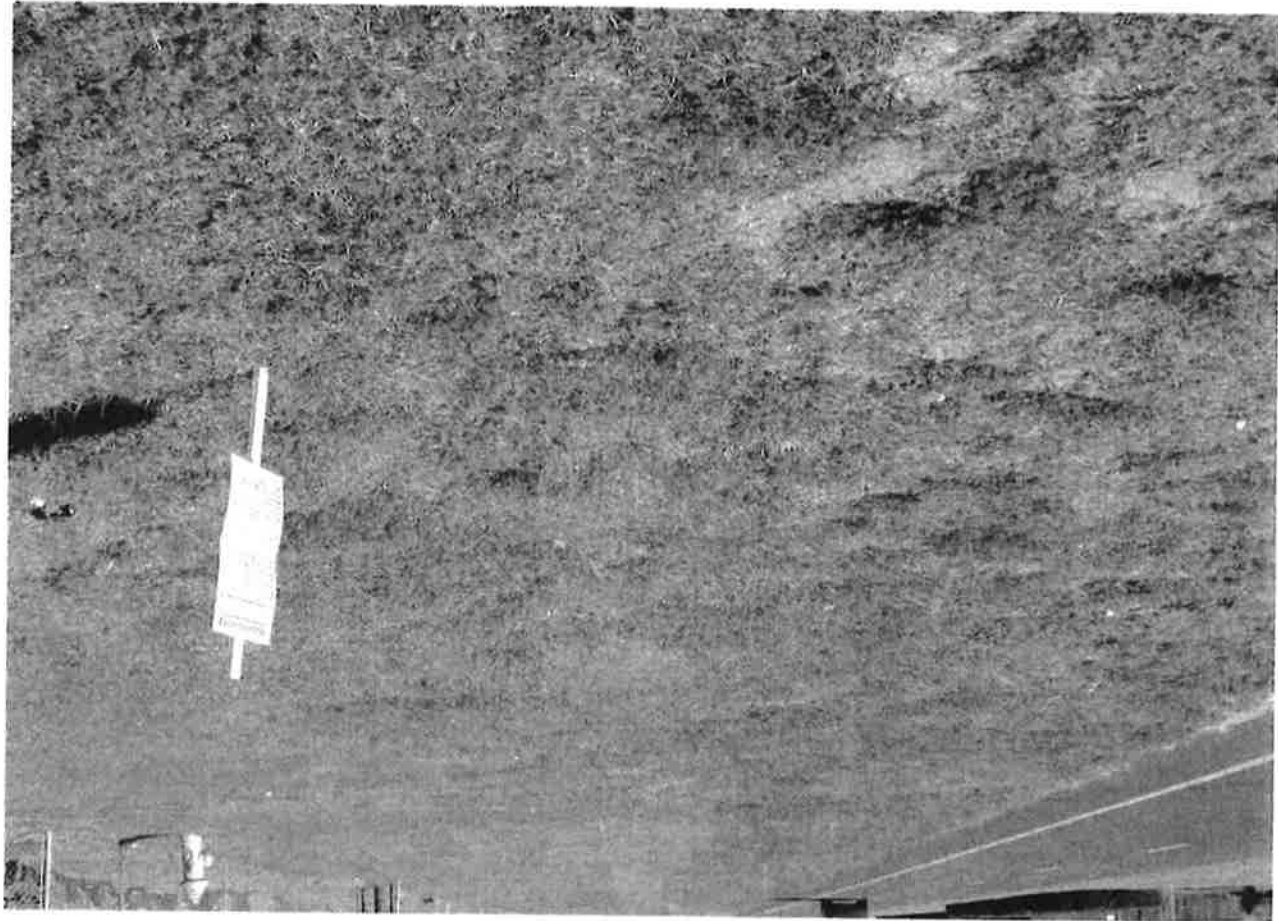
Owner: Preferred Leasing LLC

Present Zoning RM-1 & AU Average 8.51

Proposed Zoning RM-1 & AU to 011 BU-1

The recommendations from the aforementioned public hearing will be presented to the County Commission at 5:00 P.M. on March 4, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera. All interested parties are invited to appear and be heard. Written comments filed with the Brevard County Zoning Official, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL 32940 will be considered.

Removal of this sign prior to March 4, 2021, is illegal and subject to prosecution.



**DEAN
MEAD**

**Rezoning & Map Amendment
3030 Cuyler St. Mims, FL**

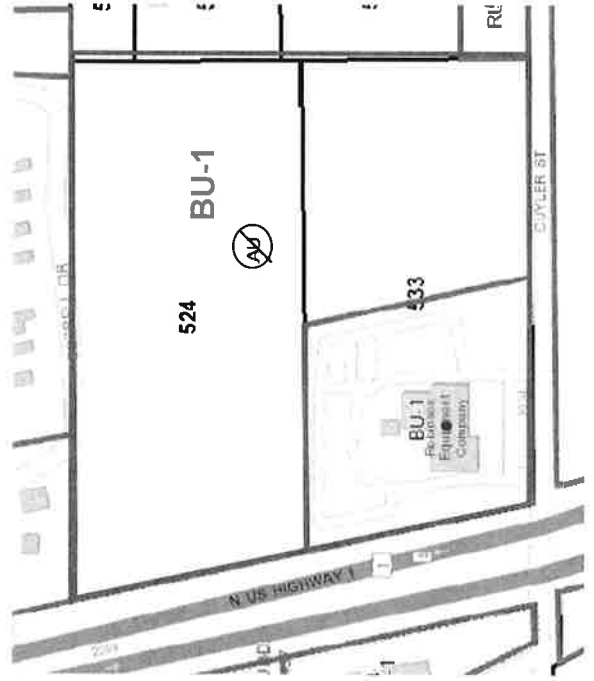
**FLORIDA COAST EQUIPMENT
Tractor Dealership**

Request:

Continuation and Redesign of Existing Tractor Dealership.

- Existing Use Onsite for over 30 years
- Goals:
 - Improve, Update, Expand Existing Use
 - Increase Property Value – Taxes
 - Create Jobs

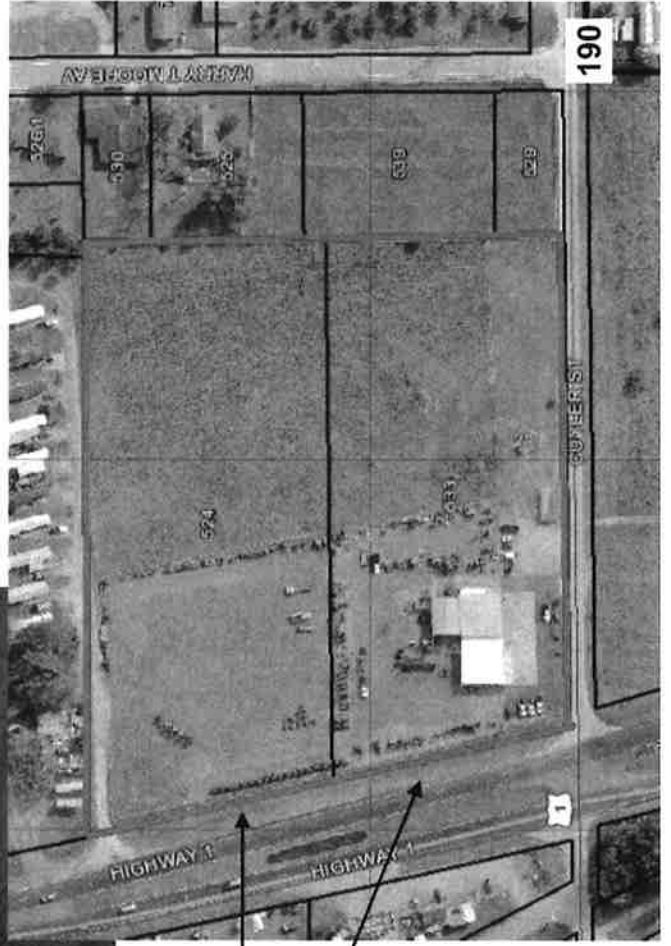
- Change Land Use from NC/CC/Res-4 to all CC
- Change Zoning from BU-1/AU to all BU-1





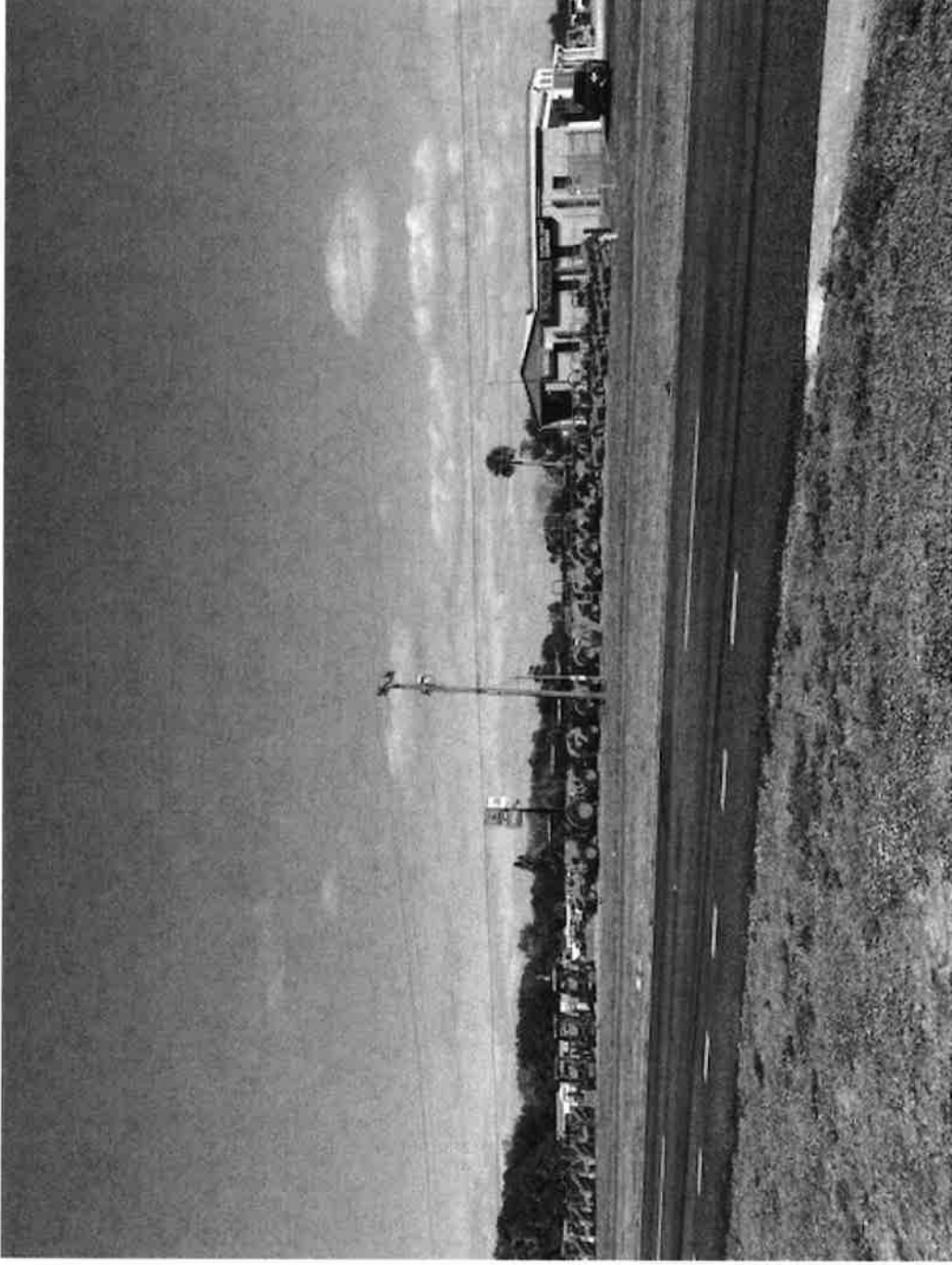
PAST USE:

Original Building
Before JT Realty Holdings

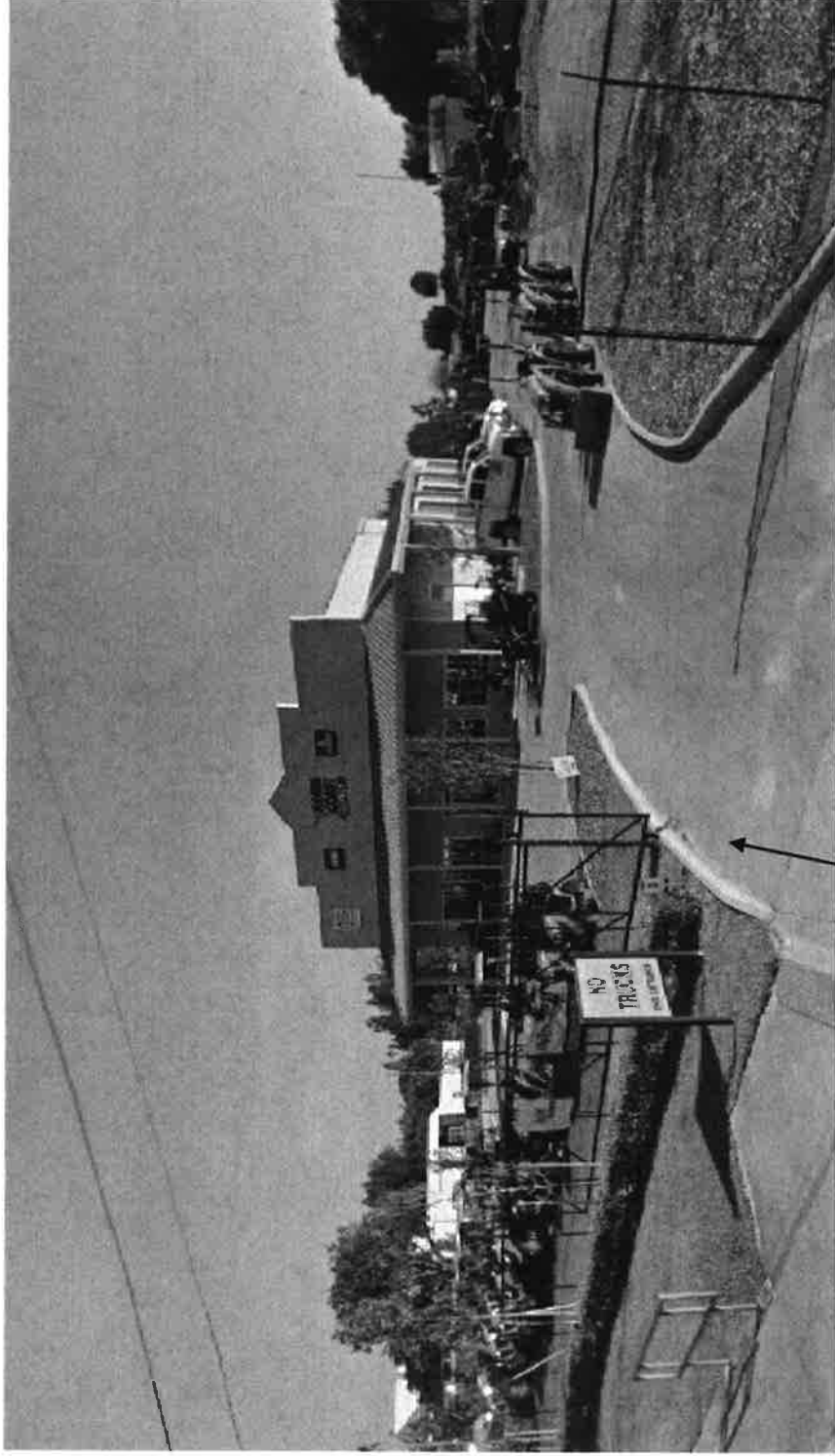


Entire Site Used

Current Use:



Proposed Future Use:



Existing Facility in Ft. Pierce, FL

Site Specific Renderings:



Preliminary Site Layout (Proposal):



Rebuild to North

Long Drive - No Queuing

Compatibility: (Continuation of Existing Use)

Mims Small Area Study – Spring 2007

- ✓ Commercial Development Focus South of SR 46
- ✓ Agricultural, Rural/Small Town Feel & Uses Preserved
- ✓ Desire to Create Local Jobs



Existing Uses to East (Commercial and Residential):



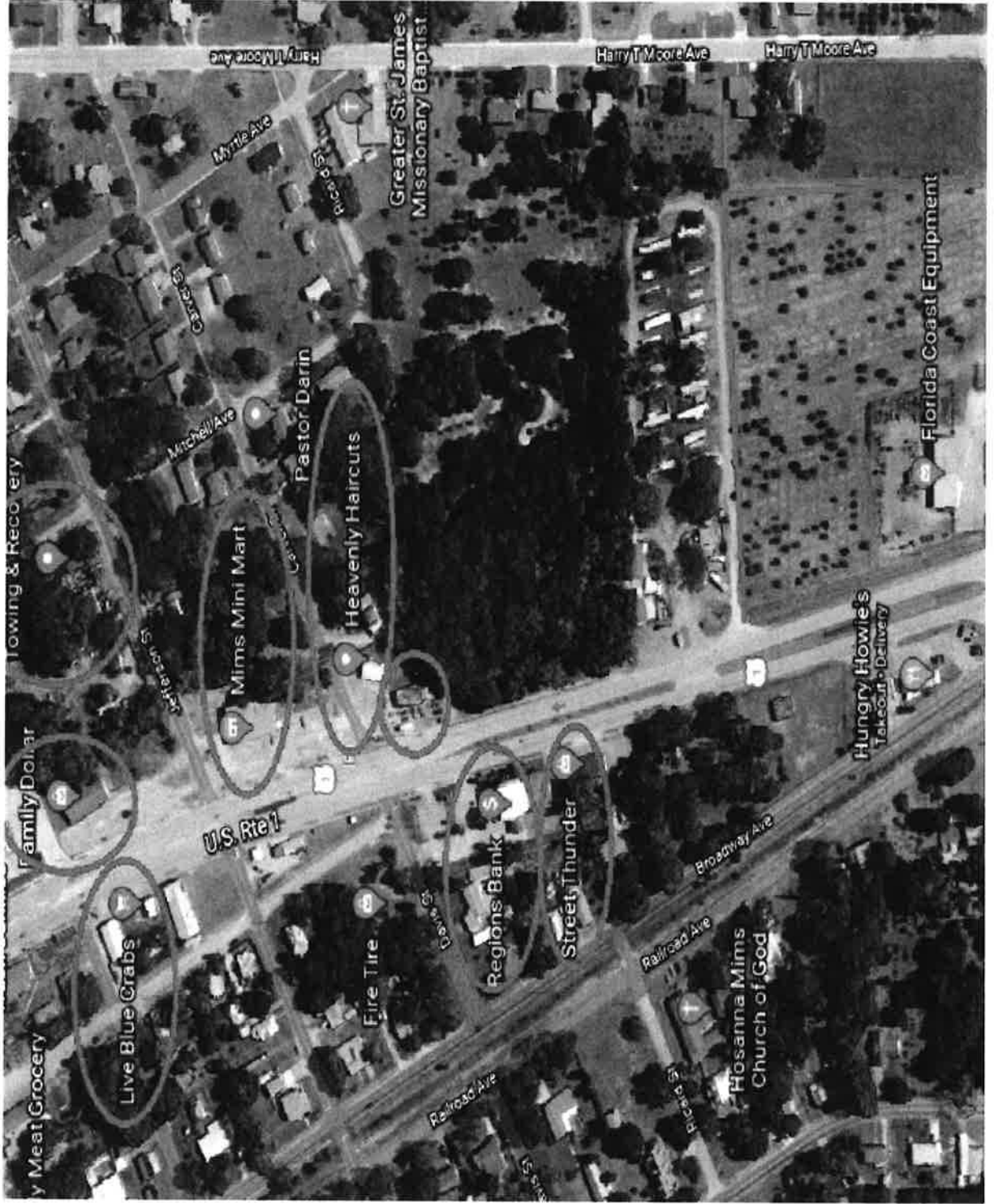
Existing Uses South (Commercial/Industrial):



Existing Uses West (Commercial/Residential):



Existing Uses North (Commercial (Minor Residential):



Conclusion – We request approval because:

- ❖ Continuation of Existing Use
- ❖ Compatibility with Future Plans, Citizen's Requests, and Existing Uses
- ❖ Investment, Value, Jobs

From: bartcher@cfl.rr.com
To: [Jones, Jennifer](#)
Subject: FW: Development in Mims
Date: Thursday, January 28, 2021 9:20:07 AM
Attachments: [image001.png](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Jennifer,

I have had a limited contact with Brian Stephens, who is requesting a land use change and a zoning change at the February 8, 2021 P&Z Advisory Board meeting. This contact has been only one email, which I have included below. Would you please present this information to the County Attorney and let me know his advice.

Besides disclosing the fact to other Board members at the upcoming meeting that I had this contact, is there anything else I need to do? Should I abstain from voting on the issue? Should I abstain from participating in the Board's discussion of this issue?

Regards,

Ron Bartcher

From: bartcher@cfl.rr.com <bartcher@cfl.rr.com>
Sent: Wednesday, November 18, 2020 12:30 PM
To: 'Brian Stephens' <BStephens@deanmead.com>
Subject: RE: Development in Mims

Brian,

I am on the Brevard County Planning & Zoning Advisory Board and I am covered by the Florida Sunshine Law. However, since I have no financial interest in this property and would have no benefit if your client were to purchase this property, I believe I can answer your questions.

I was President of the Mims Community Group. Our group is interested in keeping Mims a rural area. We also try to stay up to date on developments in Mims. We supported the Mims Small Area Study that was performed in 2006 by Brevard County Planning Department. We recognize that the US1 corridor is and will continue to be used for commercial purposes.

I do not believe that anyone would object to that property being used as you suggest. In my many years as President of this group, I have never heard anyone object to having that business there. Also, I am not aware of any other considerations that would affect your client's proposed use. As a tractor dealer located on US1, that business fits within our rural community.

As you probably know, there are 2 parcels currently being used for the tractor business. Parcel ID 21-35-17-00-533 on the corner of US1 and Cuyler and parcel ID 21-35-17-00-524 located immediately to the north. The zoning for these two parcels is different: part is BU-1 (business) and part is AU (agricultural). The Future Land Use designation for these two parcels is also different: CC (Community Commercial – higher intensity) and NC (Neighborhood Commercial – lower intensity). Because of these differences, you may have to request zoning and land use changes. You will need to talk to the County's Planning & Zoning department to know for sure (George Ritchie would be a good person to talk to).

If you do require zoning or land use changes, that request will come before the Planning & Zoning Advisory

Board and I will have to disclose that I have had some contact with you. I do not foresee that creating a problem for either of us. If the Board's attorney deems it necessary, I can abstain from voting on the matter.

Regards,
Ron Bartcher

From: Brian Stephens <BStephens@deanmead.com>

Sent: Wednesday, November 18, 2020 7:15 AM

To: bartcher@cfl.rr.com

Subject: Development in Mims

Mr. Bartcher,

Hope you are doing well. George Ritchie gave me your contact information. I hope that you don't mind my reaching out.

I am a land use lawyer. I work for a client who is trying to buy property in Mims off of US1 at Cuyler Road – the old Robinson tractor dealer site. The client wants to continue that same operation onsite – just under a different brand.

George Ritchie pointed us to the Mims Small Area Study from 2007. It seems to support the continued use of this site as a tractor dealer – or, at least, the continued use of this corridor as a commercial one.

Are you aware of any change in sentiment or any new small area studies about which we should be aware?

Are you aware of any other considerations which we should assess that would adversely impact my client's proposed use?

Please note that, in giving these questions, I am aware of the sensitivity regarding the Sunshine Laws. Please don't feel obligated to answer in any way that would violate the same.

I appreciate the time as I am not as familiar with Mims as I am other parts of the county.

Thanks,
Brian



Brian M. Stephens
Attorney at Law
BStephens@deanmead.com
321-259-8900 F: 321-254-4479 D: 321-751-6593
Dean Mead
7380 Murrell Road
Suite 200, Viera, Florida 32940
Orlando | Fort Pierce | Tallahassee | Viera/Melbourne



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PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 8, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Preferred Leasing, LLC (Brian Stephens)

A Small Scale Comprehensive Plan Amendment (20S.12) to change the Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC. The property is 6.33 acres, located on the northeast corner of Cuyler St. and U.S. Highway 1. (3030 Cuyler St., Mims) (20PZ00116) (Tax Accounts 2103387 & 2103397) (District 1)

Preferred Leasing, LLC (Brian Stephens)

A change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1. The property is 8.51 acres, located on the northeast corner of Cuyler St. and U.S. Highway 1. (3030 Cuyler St., Mims) (20Z00041) (Tax Accounts 2103387 & 2103397) (District 1)

Ron Bartcher advised the board of ex parte communication via email with applicant Brian Stephens.

Jason Bartlett, 2512 West Thorpe Drive, Malabar [Mr. Bartlett presented a PowerPoint to the board. The PowerPoint can be located in the Planning and Development Department under File Nos. 20PZ00116 and 20Z00041] He stated the front corner of the property is the Robinson Equipment Company, which is a tractor and lawnmower dealer that has switched to Florida Coast Equipment, which is a similar operation and dealership. Florida Coast Equipment will take over lots 524 and 533. It is the current AU zoning on lot 524 that is being requested to rezone to BU-1, to match the zoning on lot 533, under the same ownership. The CC (Community Commercial) Future Land Use is on the back one-quarter of the property, and portions of lots 524 and 533 are designated as RES 4 (Residential 4) and NC (Neighborhood Commercial), so they would like to extend the front corner to the entire property and change the land use to all CC. The old building currently on the property will be torn down and a new facility will be built for Florida Coast Equipment. He stated the proposed concept plan shows that everything will be moved close to U.S. Highway 1, and there will be a large retention area in the back to provide additional buffering. He stated they are trying to match the Small Area Study that was performed in 2007, where it was requested that all commercial developments be south of Main Street and along the U.S. Highway 1 corridor. He noted the area is mostly rural, and Florida Coast Equipment is a rural-type of business that sells tractors and lawnmowers. He summarized in conclusion that the reason for the request is for continuation of the existing use, compatibility with future plans, citizen's requests, as well as an investment and potential jobs.

Mark Wadsworth asked if Robinson Equipment currently using all of the property to store equipment. Mr. Bartlett replied yes, it will be used to display equipment. The equipment will also be displayed

along U.S. Highway 1, and an entrance road is proposed off of Cuyler Street that will have equipment displayed along it.

Public comment.

Rita Pilot, 2308 Harry T. Moore Avenue, Mims, stated she is speaking on behalf of herself and as a trustee of the equestrian property directly behind the subject property. She said she is adamantly opposed to an additional entry point on Cuyler Street. Since the change from Robinson Equipment, there has been additional heavy equipment on the street, which is a dirt road farther down, and there is a problem with traffic. She said she is also concerned by the fact that it abuts the back of her property, and she would like a barrier there to delineate the residential property from the commercial property. In addition, she is concerned about the additional traffic and would like some consideration as to whether there needs to be traffic control put into place, because with all the heavy equipment coming out and the additional business, she does not believe that there is a provision to control the traffic. She noted it is very difficult to turn left from Cuyler Street onto U.S. Highway 1.

Mark Wadsworth asked Ms. Pilot if her property is east of Harry T. Moore Avenue and north of Cuyler Street. Ms. Pilot replied she is north of Cuyler Street, on both east and west sides; she is a trustee to the property on the east, and the owner of the property on the west.

Ben Glover asked staff if there a landscape buffer that would have to be implemented.

George Ritchie replied when they come in for the site plan improvements there will be a requirement as part of the site plan and landscaping codes that will have buffers and wall requirements, but it is not part of the zoning code.

Mr. Glover asked if that is that something the board has done before in a BDP (Binding Development Plan), to require some kind of buffer. Mr. Ritchie replied if that is what the board would like to, it can ask the applicant if they are willing to put those conditions in a BDP.

Harry Carswell asked if RU-2-6 (Low Density, Multi-Family) is multi-family. Mr. Ritchie replied yes, RU-2-6 is a low-density multi-family zoning classification that allows single-family homes or multi-family developments up to the density allowed by the Comprehensive Plan and zoning. Mr. Carswell asked if up to six units would be allowed on Ms. Pilot's property. Mr. Ritchie replied yes, if the associated land use of the property next door was also Residential 6, then they can have six units; if the land use was a lower density, then the zoning would be capped.

Ms. Pilot stated she is opposed to any additional entrance from Cuyler Street, and she would prefer a wall or other barrier between the residential property.

Jeffrey Ball stated a lot of Ms. Pilot's concerns will be addressed during the site plan process. Between residential and commercial land uses, there is not a provision in the code that requires a six-foot wall. There are provisions in the code that allow for a waiver process, but that would have to go before the Board of County Commissioners. He stated as far as buffering, that is all required per the land development code, as well as access points that will be determined based on a traffic study that would be provided with the site plan.

Mr. Glover asked if there is confirmation for Ms. Pilot that there would be a wall put in place. Mr. Ball replied the code requires a wall between commercial and residential land uses.

Ms. Pilot stated she heard it said there will be a buffer between the properties and there will be a study done; however, it is a problem now. She said she would like to understand what the study will entail, because an additional entry on Cuyler Street would be highly problematic.

Jeffrey Ball stated the engineers in Public Works will look at the trip generation based on the proposed use to see if an additional access would be warranted, and they will also look at what the access requirements are to see if there is enough frontage to allow for an additional entrance point, and they will look to see if it has to be a right-turn only, and they will look at turn lanes and decel lanes, and it will all be based on a traffic study provided by the applicant.

Mr. Wadsworth stated he wanted Ms. Pilot to understand the steps the applicant still needs to go through if the requests are approved. Ms. Pilot stated she understands and she is still in opposition.

Mr. Bartlett clarified that the proposed site plan has a single entrance on Cuyler Street, which is where the entrance is now that Florida Coast Equipment is using; there is not an additional entrance proposed.

Mr. Wadsworth asked, with the new building, does the developer still plan on coming in off of Cuyler Street. Mr. Bartlett replied yes. Mr. Wadsworth asked if they would have to access from U.S. Highway 1 depending on the traffic study. Mr. Bartlett replied correct, it will depend on the traffic study, but currently there is no access from U.S. Highway 1; the access is from Cuyler Street.

George Ritchie noted that the proposed site plan has not been reviewed by staff. If the zoning action is approved and the applicant submits a site plan, then County staff will look at it and may make comments about the road material itself and whether it should stay a dirt road or be improved.

Ron Bartcher asked if the new owners will be selling the same brand of tractors. Mr. Bartlett replied yes.

Mr. Bartcher stated during Small Area Study the residents who participated recognized the commercial use of U.S. Highway 1, so he doesn't see that it presents any problem. They are essentially using the same business, just with a new building, and it will probably have a few more tractors on the property. He said he drives by it every day and there is equipment spread out all over the property, not just on the corner. The concern he sees with the traffic is dependent on the amount of increased business over the next few years.

Mr. Bartlett stated Florida Coast Equipment has been operating at the location for a couple of years, so any increase in traffic and sales has already been realized. He said they will add two or three service bays in order to service equipment faster. He noted Florida Coast Equipment is looking for property in the Melbourne area which will alleviate some of the traffic at the Mims location.

Mr. Bartcher asked if there will be a lot of semi-trucks coming to the property. Mr. Bartlett replied there will be periodic deliveries for the equipment, but he can't speak to the exact quantity.

Ben Glover asked Mr. Bartcher if there are usually a lot of cars parked in front of the business. Mr. Bartcher replied there are usually a few; it is a good business and there are customers, but it doesn't have heavy traffic. He further stated the intersection of Cuyler and U.S. Highway 1 would be the most concern because it is a two-lane road, and U.S.1 is four lanes. There really isn't much of a turn lane, and people coming off of Cuyler have a hard time making a left turn.

Mr. Bartlett stated with there being a few hundred feet of the extended driveway, there will not be any vehicle stacking.

Motion by Ron Bartcher, seconded by Brian Hodgers, to approve the Small Scale Comprehensive Plan Amendment from RES 4, NC, and CC, to all CC. The motion passed unanimously

Motion by Ron Bartcher, seconded by Brian Hodgers, to approve the change of zoning classification from BU-1 and AU to all BU-1. The motion passed unanimously.