



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.4.

3/4/2021

### Subject:

20S.12

Preferred Leasing, LLC (Brian Stephens) requests a Small Scale Comprehensive Plan Amendment (21S.02) to change the Future Land Use designation from RES 4, NC, and CC to all CC. (20PZ00116) (Tax Accounts 2103387 & 2103397) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

20S.12

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (21S.02) to change the Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC.

### Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation on two parcels of land equaling 6.33 acres from NC (Neighborhood Commercial) and RES 4 (Residential 4) to CC (Community Commercial). The applicant is seeking this in order to expand an existing Tractor Supply and Sales store. The parcels are adjacent, have direct access to U.S. Highway 1 and are located on the northeast corner of Cuyler Street and U.S. Highway 1, Mims. The subject parcels are approximately .34 miles south of the SR 46/I-95 interchange.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change, proposing to change the zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-1.

To the north of the subject property is Mims Trailer Park and a single-family residence, to the east is vacant single-family zoned land and a single-family residence, to the south is a single-family residence, and to the west is a convenience store with gas pumps and a junk yard with open storage.

The Board may also wish to consider the expansion of CC is consistent and compatible with the surrounding area. In addition, the Board may wish to consider whether the intersection of Cuyler Road and U.S. Highway 1 (local/arterial) is sufficient for applicable Comprehensive Plan Policies.

On February 8, 2021, the Local Planning Agency 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](mailto: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.



March 5, 2021

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director    Attn: Cheryl Campbell

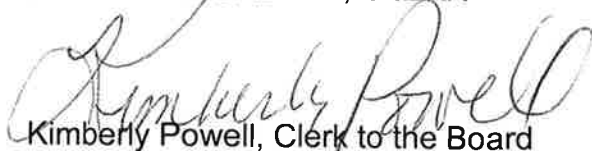
**RE:** Item H.4., Small Scale Comprehensive Plan Amendment (20S.12)

The Board of County Commissioners, in regular session on March 4, 2021, conducted the public hearing and adopted Ordinance No. 21-05, setting forth the tenth Small Scale Comprehensive Plan Amendment (20S.12) changing the Future Land Use designation from Residential 4, Neighborhood Commercial, and Community Commercial to all Community Commercial. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS**  
**RACHEL M. SADOFF, CLERK**

  
Kimberly Powell, Clerk to the Board

/ds

Encl. (1)



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

March 9, 2021

Honorable Rachel M. Sadoff  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 21-05, which was filed in this office on March 8, 2021.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

ORDINANCE NO. 21- 05

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE TENTH SMALL SCALE PLAN AMENDMENT OF 2020, 20S.12, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2020 as Plan Amendment 20S.12; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 20S.12; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and  
Officially filed with the Secretary of State on March 8, 2021.

WHEREAS, on February 8, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 20S.12, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on March 4, 2021, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 20S.12; and

WHEREAS, Plan Amendment 20S.12 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 20S.12 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 20S.12 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 20S.12, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6.        Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 4 day of MARCH, 2021.

ATTEST:

  
LAURIE RICE, CHIEF DEPUTY

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
Rita Pritchett, Chair

As approved by the Board on MARCH 4, 2021.



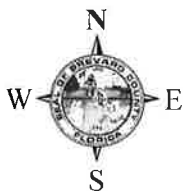
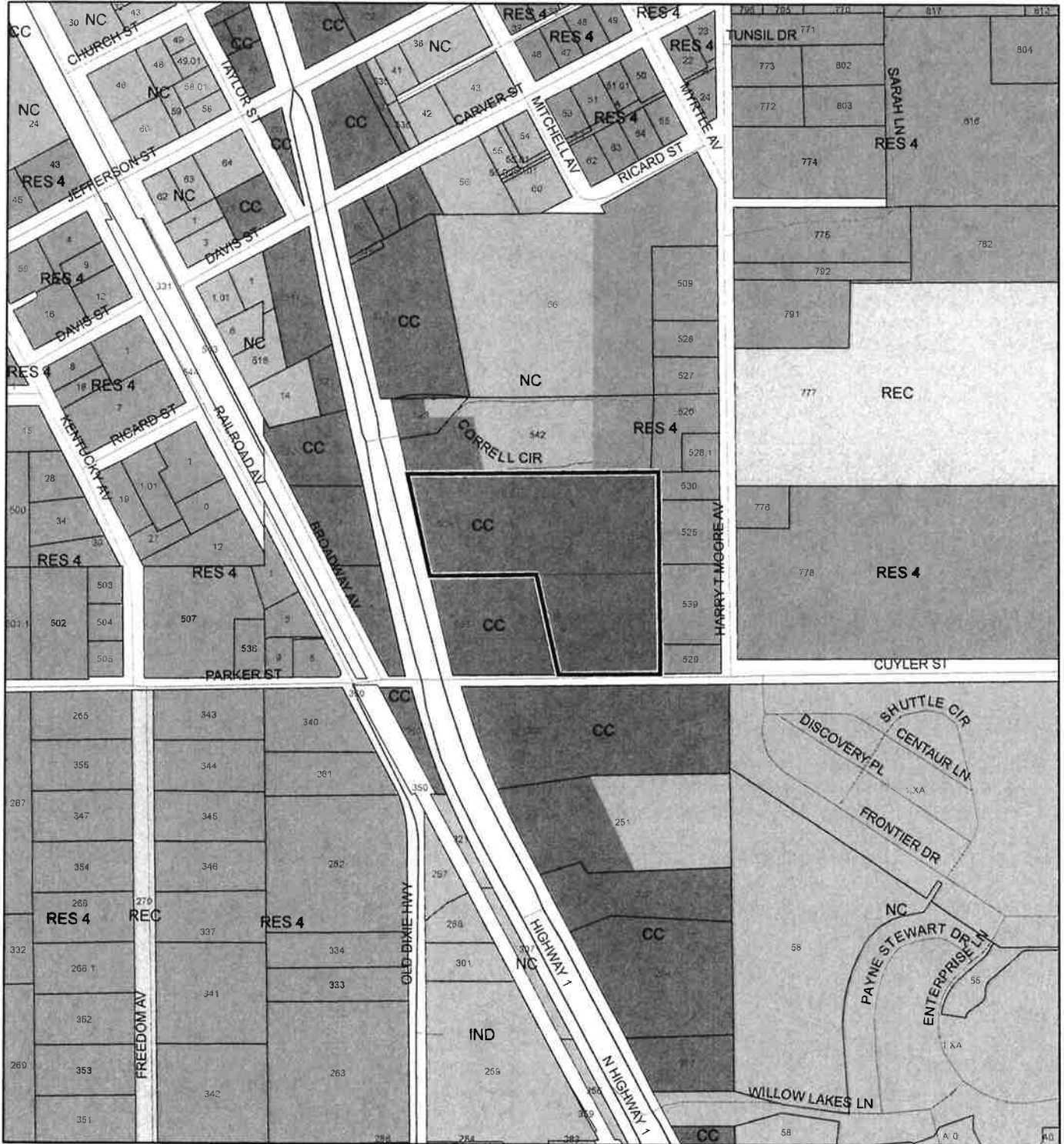
**EXHIBIT A**  
**20S.12 SMALL SCALE**  
**COMPREHENSIVE PLAN AMENDMENT**

**Contents**



**1. Proposed Future Land Use Map**

# PROPOSED FUTURE LAND USE MAP

PREFERRED LEASING, LLC  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



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

## **EXHIBIT B**

### **Contents**

#### **1. Legal Description**

## PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, FEBRUARY 8, 2021, and THURSDAY, MARCH 4, 2021.

**DISTRICT 1 1. (20Z00039) NICHELLE R. KING** (Teresa Davis) requests a change of zoning classification from AU (Agricultural Residential) to RRMH-1 (Rural Residential Mobile Home), on property described as Tax Parcel 10, as recorded in ORB 8535, Pages 2683 - 2684, of the Public Records of Brevard County, Florida. Section 07, Township 24, Range 36. (3.16 acres) Located on the west side of Railroad Ave., approx. 540 ft. north of Cicco Rd. (3620 W. Railroad Ave., Cocoa)

**DISTRICT 5 2. (20Z00040) ROYALD VIE-SINS** requests a change of zoning classification from RR-1 (Rural Residential) to RU-1-13 (Single-Family Residential) on property described as Lots 23, 24, 25, & 26, Block C, Plat of Addition No. 4 June Park, according to the map or plat thereof, as recorded in Plat Book 4, Page 73, of the Public Records of Brevard County, Florida. Section 01, Township 28, Range 36. (0.44 acres) Located on the west side of Seminole Blvd., approx. 585 ft. south of W. New Haven Ave. (2030 Seminole Blvd., Melbourne)

**DISTRICT 1 3. (20PZ00110) PREFERRED LEASING, LLC** (JT Realty Holdings, LLC / Brian Stephens) requests a Small Scale Comprehensive Plan Amendment (205.12) to change the Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on property described as follows: Parcel A: a part of the SE ¼ of the SW ¼ of Section 17, Township 21S, Range 35E, Brevard County, Florida, being more particularly described as follows: from the SE corner of the SW ¼ of said Section 17 run S89deg05'57"W along the south line of said SW ¼ a distance of 210 ft.; thence N0deg54'11"W a distance of 15 ft. to the point of beginning of the herein described parcel; thence S89deg05'57"W along the north right-of-way line of Cuyler St. a distance of 190.65 ft.; thence N0deg54'11"W a distance of 571.20 ft.; thence N89deg05'57"E a distance of 190.65 ft.; thence S0deg54'11"E a distance of 571.20 ft. to the point of beginning. Parcel B: a part of the SE ¼ of the SW ¼ of Section 17, Township 21S, Range 35E, Brevard County, Florida, being more particularly described as follows: from the SE corner of the SW ¼ of said Section 17, run S89deg05'57"W along the south line of said SW ¼ a distance of 400.65 ft.; thence N0deg54'11"W a distance of 15 ft. to the point of beginning of the herein described parcel; thence S89deg05'57"W along the north right-of-way line a distance of 79.94 ft.; thence N13deg09'07"W a distance of 292.05 ft.; thence S89deg05'57"W parallel with aforesaid south line of the SW ¼ of Section 17 a distance of 300 ft. to a point on the easterly right-of-way line of U.S. Highway No. 1 (State Road No. 5); thence N3deg09'07"W along said easterly right-of-way line of U.S. Highway No. 1 (State Road No. 5) a distance of 292.46 ft.; thence N89deg05'07"E a distance of 503.95 ft.; thence S0deg54'11"E a distance of 571.20 ft. to the point of beginning. (6.33 +/- acres) Located on the northeast corner of Cuyler St. and U.S. Highway 1. (3030 Cuyler St., Mims) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 205.12: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

**4. (20Z00041) PREFERRED LEASING, LLC** (JT Realty Holdings, LLC / Brian Stephens) requests 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) 5. (20Z00042) PIONEER POINTE (Jake Wise) requests an amendment to an existing BDP (Blending Development Plan) in a BU-1 (General Retail Commercial) zoning classification, on property described as Tax Parcel 547, as recorded in ORB 8834, Pages 1689 - 1692, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 36. (8.89 acres) Located on the east side of N. Courtenay Parkway, approx. 208 ft. south of Pioneer Rd., and on the south side of Pioneer Rd., approx. 247 ft. east of N. Courtenay Parkway. (No assigned address. In the Merritt Island area) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, FEBRUARY 8, 2021, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, MARCH 4, 2021, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at these meetings or hearings, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting in accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

## **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.

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**FINDINGS OF FACT (EXHIBIT B)**

*Small Scale Plan Amendment 20S.12 (20PZ00116)*  
**Township 21, Range 35, Section 17**

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**Property Information**

Owner / Applicant: **Preferred Leasing, LLC**

Adopted Future Land Use Map Designation: NC and RES 4

Requested Future Land Use Map Designation: CC

Acreage: 6.33 acres

Tax Account #: 2103387 & 2103397

Site Location: Northeast corner of Cuyler Street and U.S. Highway 1

Current Zoning: BU-1 & AU

Requested Zoning: all BU-1

**Background & Purpose**

The applicant is seeking to amend the Future Land Use designation on two parcels of land equaling 6.33 acres from Neighborhood Commercial (NC) and Residential 4 (RES 4) to Community Commercial (CC). The applicant is seeking this Future Land Use amendment in order to expand an existing Tractor Supply and Sales store. The parcels are adjacent, have direct access to U.S. Highway 1 and are located within unincorporated Brevard County in Mims.

This segment of U.S. Highway 1 had a Mixed Use (MIX) Future Land Use designation since 1997. In 2008, the Future Land Use designations changed to NC adjacent to U.S. Highway 1 and RES 4 directly to the east, and has remained in place since that time.

In 2007, Brevard County staff was directed to create a Small Area Study in the Mims area. The subject parcels are within the Mims Small Area Study Boundary. A recommendation from the study was to guide future commercial development to the southern Mims area near the U.S. Highway 1 corridor and at the State Road 46 (SR 46)/Interstate 95 (I-95) interchange. The subject parcels are approximately .34 miles south of the SR 46/I-95 interchange.

A companion rezoning application was submitted accompanying this request for a Future Land Use designation change, proposing to change the Zoning classification from General Retail Commercial (BU-1) and Agricultural Residential (AU) to all BU-1.

### Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Mims Trailer Park, Single-Family Residence	TR-3 & BU-1	CC, NC & RES 4
<b>South</b>	Single-Family Residence	BU-1	CC
<b>East</b>	Vacant & Single-Family Residence	RU-2-6 & AU	RES 4
<b>West</b>	Convenience Store with gas pumps & Junk Yard with Open Storage	BU-1 & BU-2	CC

To the north of the subject property is Mims Trailer Park and a single-family residence, to the east is vacant single-family zoned land and a single-family residence, to the south is a single-family residence and to the west is a convenience store with gas pumps and a junk yard with open storage.

### Environmental Resources

*Mapped resources include hydric soils/wetlands, land clearing and landscape requirements and protected species:*

- Hydric Soils/Wetlands
- Land Clearing & Landscape Requirements
- Protected Species

*Please refer to all comments provided by the Natural Resource Management Department at the end of this report.*

## Historic Resources

*There are no resource groups of historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources. At the time of site plan review, the applicant will be required to submit a description of the ground disturbing activities to the Compliance and Review Division of the Florida Department of State Division of Historical Resources.*

## Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in *italics*

**Notice:** The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

### 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;

*The applicant is seeking this Future Land Use change to CC, in order to expand an existing tractor supply store with farm equipment sales. Typical hours of operation for a Tractor Supply store are 8:00 a.m. to 8:00 p.m. The proposed expanded use will not exceed the Level of Service (LOS) on U.S. Highway 1. There is the potential impact to the residential neighborhood to the east to be impacted by noise, lighting, odor and site activity.*

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
  - 1. historical land use patterns;

*There is an existing land use pattern of commercial uses along this section of the U.S. Highway 1 corridor. According to the 2007 Mims Small Area Study, the Citizen's Committee recommended that Mims remain rural and small town in nature directing new commercial growth to southern Mims near U.S. Highway 1 and the State Road 46 (SR 46) /Interstate 95 (I-95) interchange approximately .34 miles north of the subject site.*

2. actual development over the immediately preceding three years; and

*There has not been any actual development within this area in the preceding three (3) years.*

3. development approved within the past three years but not yet constructed.

*There have been two (2) zoning actions within a half-mile radius of the subject property within the past three (3) years. There was a change of zoning from Single-family residential (RU-1-7) to Suburban Residential (SR) adopted on March 7, 2019 (18PZ00147) and a conditional use permit for on-premise alcohol beverage consumption for the wedding venue at the Think Green site located approximately two thousand feet (2000') south of the subject property.*

#### **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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

*There is a residential neighborhood abutting the subject site to the east along Harry Moore Avenue. To the west of the subject site is an existing Tractor Supply store. The applicant is seeking to expand the Tractor Supply store.*

*NC Future Land Use designation is used to buffer residential neighborhoods from the more intense commercial activities of a CC Future Land Use designation.*

## **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 service will be compromised;

*According to a preliminary concurrency analysis, it is anticipated there will not be a substantial or adverse transportation impact with the change in the Future Land Use designation to CC of the subject site.*

*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.*

## **Role of the Comprehensive Plan in the Designation of Commercial Lands**

### **Policy 2.1**

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

### **Criteria:**

- A. Overall accessibility to the site;

*Both Parcels A and B have direct access to U.S. Highway, an urban principal arterial roadway on the west side of the properties.*

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

*Inter-connectivity can be provided between the two parcels when developed. Inter-connectivity is not desirable through residential areas to the north, and east.*

- C. Existing commercial development trend in the area;

*This section of the U.S. Highway 1 corridor has both NC and CC Future Land Use designations. U.S. Highway 1 is an urban principal arterial roadway consisting of community commercial uses which serve the surrounding*



*neighborhoods. Across U.S. Highway 1, to the west is an existing convenient store with gas pumps. Also, to the west across U.S. Highway 1, is an open storage facility selling new and used building supplies with a junk yard.*

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

*There have been no new improvements to the infrastructure in this area that have created fundamental changes in the character of the area.*

- E. Availability of required infrastructure at/above adopted levels of service;

*The subject parcels are served by Brevard County water. There are no existing Brevard County Utilities sewer lines that run adjacent to this property. Approximately 2,250 feet north of the subject site there is a sewer connection.*

*The preliminary transportation concurrency analysis indicates that the section of U.S. 1 between Dairy Road and SR 46 has a maximum acceptable volume (MAV) of 41,790. Brevard County defers to the Space Coast Transportation Planning Organization's (TPO's) traffic count program, which indicates that in 2019 the roadway's trips were at 40.58% of the MAV. With this Future Land Use change to Community Commercial (CC), the subject parcel at its highest use would increase the Maximum Acceptable Volume (MAV) to 71.33%. Currently, this section of U.S. 1 has a Level of Service (LOS) of D. The Future Land Use change to Community Commercial (CC) would not create a LOS deficiency. This segment of U.S. 1 has a maximum Acceptable Level of Service (LOS) of D.*

- F. Spacing from other commercial activities;

*There are commercial activities adjacent to the subject site to the west across U.S. Highway 1 and to the south across Cuyler Street*

- G. Size of proposed commercial designation compared with current need for commercial lands;

*The subject parcels, if changed to a CC Future Land Use designation would become part of an existing 7.3 acre community commercial cluster located at the intersection of U.S. Highway 1 and Cuyler Street. There are many parcels along U.S. Highway that have a Future Land Use designation of CC.*

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

*The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary).*

- I. Integration of open space; and

*Open space will be evaluated during the site plan review process.*

- J. Impacts upon strip commercial development.

*The promotion of strip pattern commercial development is discouraged within the Future Land Use Element for CC designated property. Since this is a designated commercial corridor, the proposed change in Future Land Use to CC will not extend an undesirable strip commercial pattern.*

#### **Activities Permitted in Community Commercial (CC) Future Land Use Designations Policy 2.7**

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

*The applicant has indicated that the proposed use will include the expansion of an existing tractor supply store.*

#### **Locational and Development Criteria for Community Commercial Uses Policy 2.8**

Locational and development criteria for community commercial land uses are as follows:

##### **Criteria:**

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size; however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

*The subject parcels is neither located on a collector/arterial nor arterial/arterial intersection but rather on a local/arterial intersection.*

- B. Community commercial complexes should not exceed 40 acres at an intersection.

*The subject parcels when combined with the existing 7.3 acre community commercial cluster, would create a 13.63 acre cluster which is less than 40 acres at an intersection.*

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

*The subject parcels if approved with a CC Future Land Use designation, would create a 13.63 acre community commercial cluster. The intersection of Cuyler Street and U.S. Highway There is a 5.8 acre community commercial cluster is a local/arterial intersection and not a collector/arterial nor arterial/arterial intersection. There is a commercial cluster located approximately .34 miles north of the subject parcels at the intersection of SR 46 and U.S. Highway 1 which is an arterial/arterial intersection.*

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

*The gross floor area is regulated through the land development regulations at the time of site plan review.*

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

*The subject parcels have the potential for a 275,734 square foot commercial development. The FAR is regulated through the land development regulations at the time of site plan review.*

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation.

*The subject parcels meet the criteria to be developed as a recreational vehicle park because they have access to an interstate interchange from the U.S. Highway 1 corridor.*

**Policy 2.15** of the Future Land Use Element Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

**Criteria:**

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross-access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.

*The two (2) subject parcels have frontage on U.S. Highway 1. At the time of development, cross-access can be provided between the 2 parcels.*

- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.

*When developed with a community commercial use, the site plan associated with it will be reviewed for setbacks, landscape and buffering as part of that review to meet the current Land Development Regulations at the time of development.*

- C. A sidewalk or bicycle path shall be required where appropriate, as encouraged by Tables 2.1 and 2.2 to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

*At the time of Site Plan review, the proposed commercial development will be reviewed taking into consideration the integration of both vehicular and non-vehicular access into the site.*

### **For Board Consideration**

This request is seeking a change in Future Land Use (FLU) designation from NC and RES 4 to CC on 6.33 acres and a 2.5 acre portion of the overall 4.07 parcel adjacent to the south. The parcels have direct access to U.S. Highway 1, a commercial corridor along an urban major arterial roadway that provides commercial services to the surrounding local, sub-regional and regional neighborhoods. In addition, both parcels have access to Cuyler Road a Local Road.

The Board may wish to consider that the intersection of Cuyler Road and U.S. Highway 1 is a local/arterial intersection and not a collector/arterial nor arterial/arterial intersection as Policy (A) of the Comprehensive Plan directs commercial clusters to these larger intersections. The Board may wish to consider that the subject parcels when combined with the existing 7.3 acre community commercial cluster would create an approximately 13.33-acre cluster at the intersection of Cuyler Street and U.S. Highway 1, a collector/arterial intersection. Policy 2.8(A) of the Future Land Use Element of the Comprehensive plan provides that community commercial clusters be limited to ten (10) acres in size at a collector/ arterial intersection. In addition, Policy 2.8(C) adds that clusters up to forty (40) acres in size should be spaced five (5) miles apart. The subject parcel is located approximately .34 mile south of a community commercial cluster located at the intersection of SR 46 and U.S. Highway 1.

The Board may wish to consider the expansion of CC into the residential area to the east.

The Board may wish to consider one of the recommendations from the Small Area study was that future commercial development be directed to the southern area of Mims near U.S. Highway 1 and SR 46.

This request is accompanied by a companion proposal for a change of Zoning classification from BU-1 and AU to all BU-1.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Future Land Use Review & Summary**  
**Item # 20PZ00116**

**Applicant:** JT Realty Holdings for Preferred Leasing

**Future Land Use Request:** NC, CC & RES-4 to CC

**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**

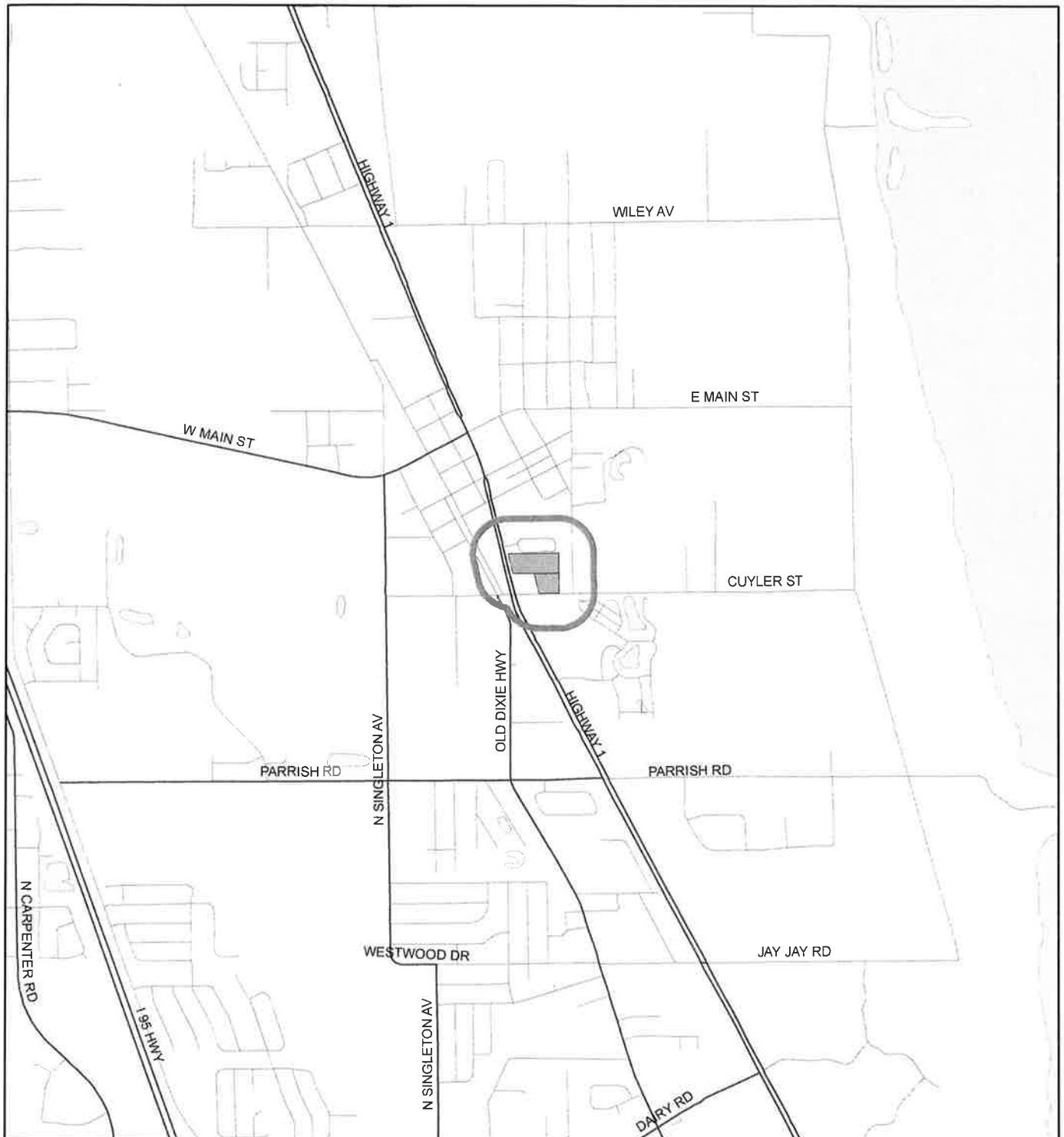
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

### **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  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



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.

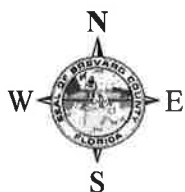
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— Buffer  
■ Subject Property



# ZONING MAP

PREFERRED LEASING, LLC  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



1:4,800 or 1 inch = 400 feet

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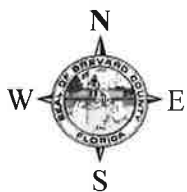
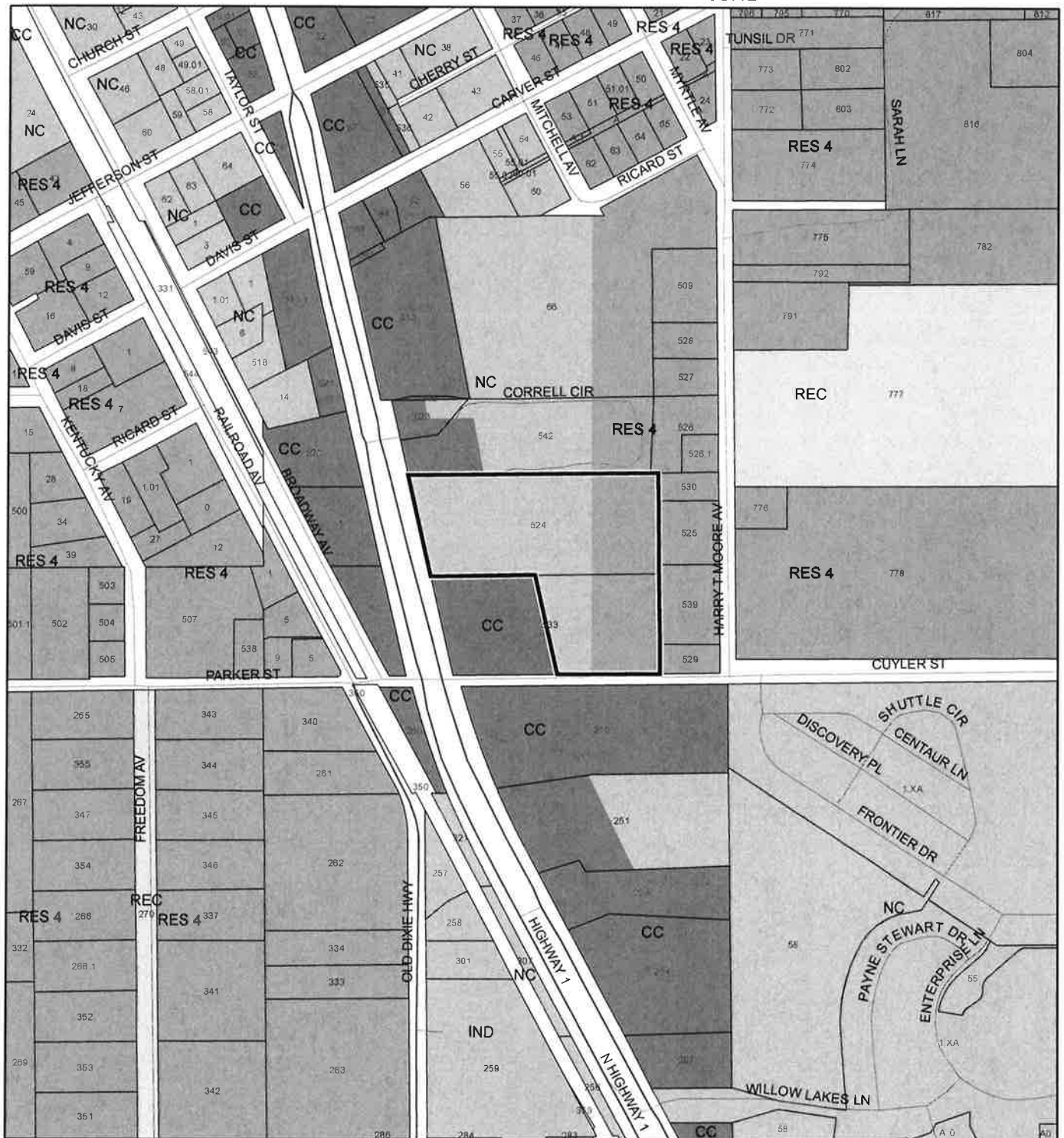
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- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

PREFERRED LEASING, LLC

20PZ00116 SMALL SCALE AMENDMENT 20S.12



1:4,800 or 1 inch = 400 feet

— Subject Property

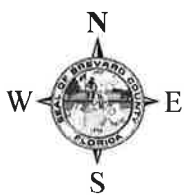
□ Parcels

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# PROPOSED FUTURE LAND USE MAP

PREFERRED LEASING, LLC  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



1:4,800 or 1 inch = 400 feet

**Subject Property**

**Parcels**

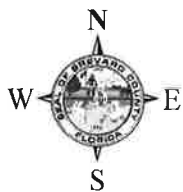
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# AERIAL MAP

PREFERRED LEASING, LLC

20PZ00116 SMALL SCALE AMENDMENT 20S.12



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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— Subject Property

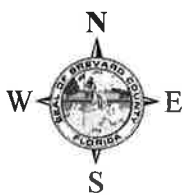
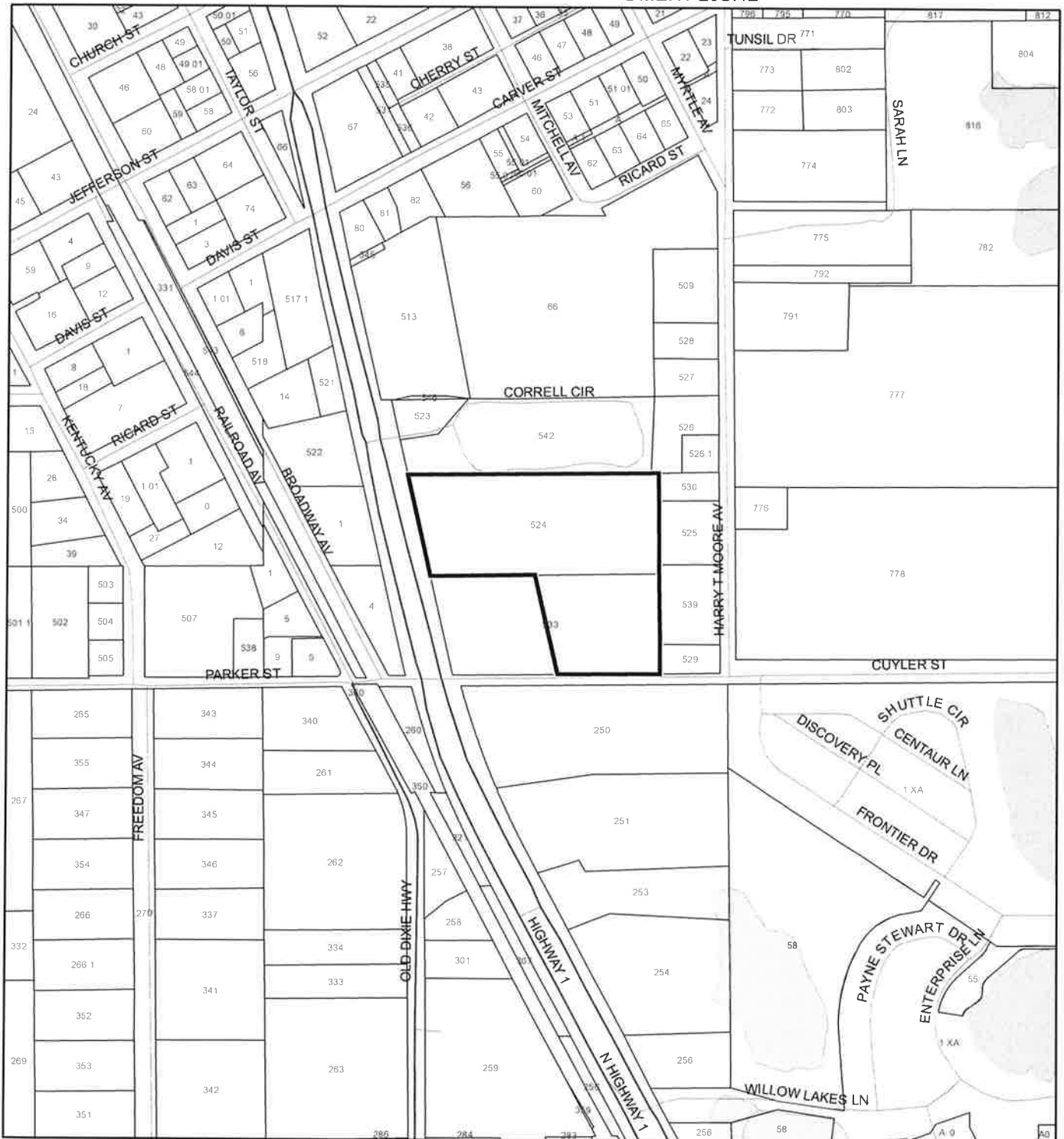
□ Parcels



# NWI WETLANDS MAP

PREFERRED LEASING, LLC

20PZ00116 SMALL SCALE AMENDMENT 20S.12



1:4,800 or 1 inch = 400 feet

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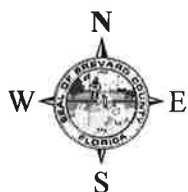
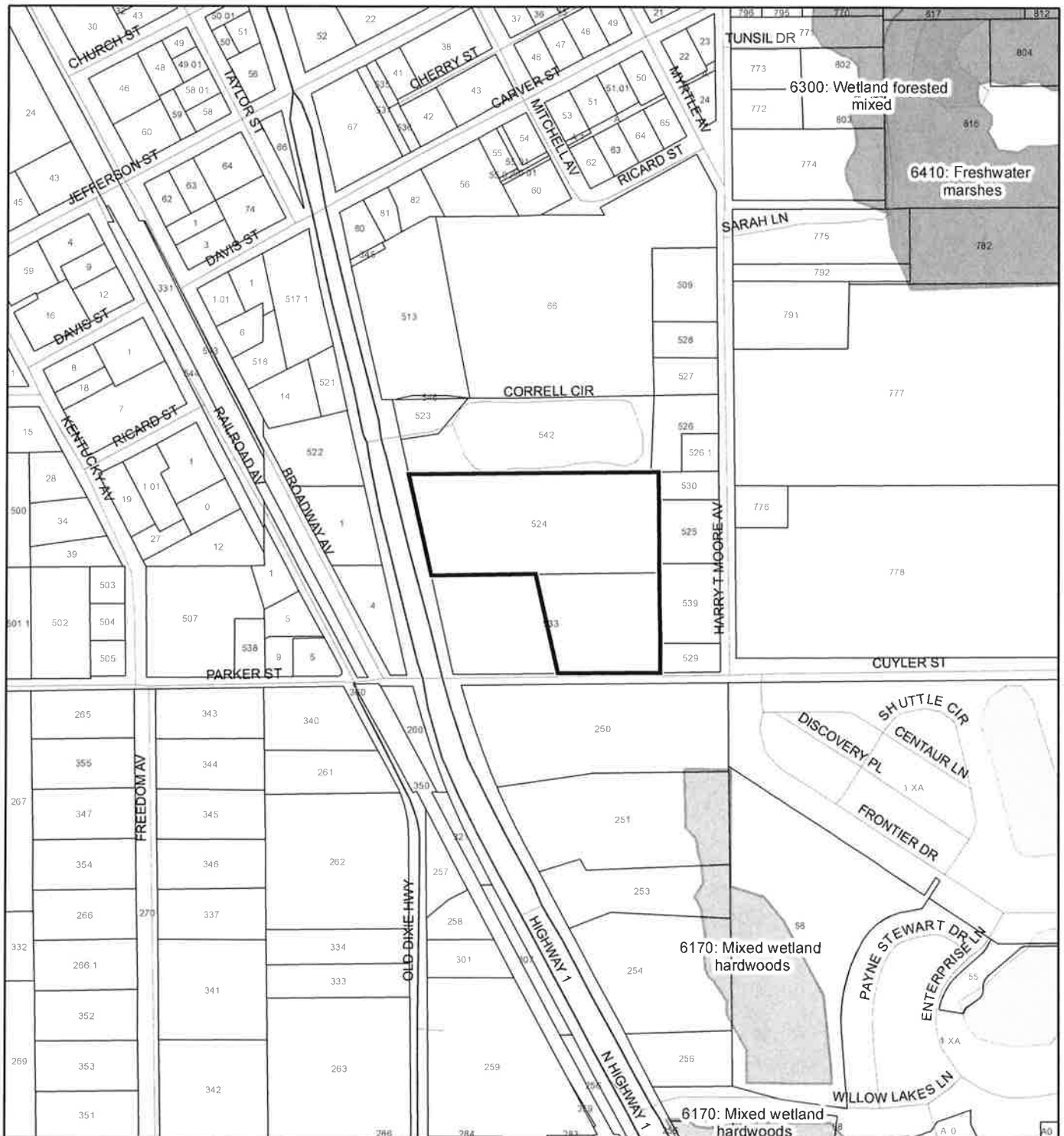
Produced by BoCC - GIS Date: 12/9/2020

## 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  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



1:4,800 or 1 inch = 400 feet

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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

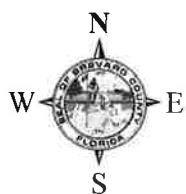
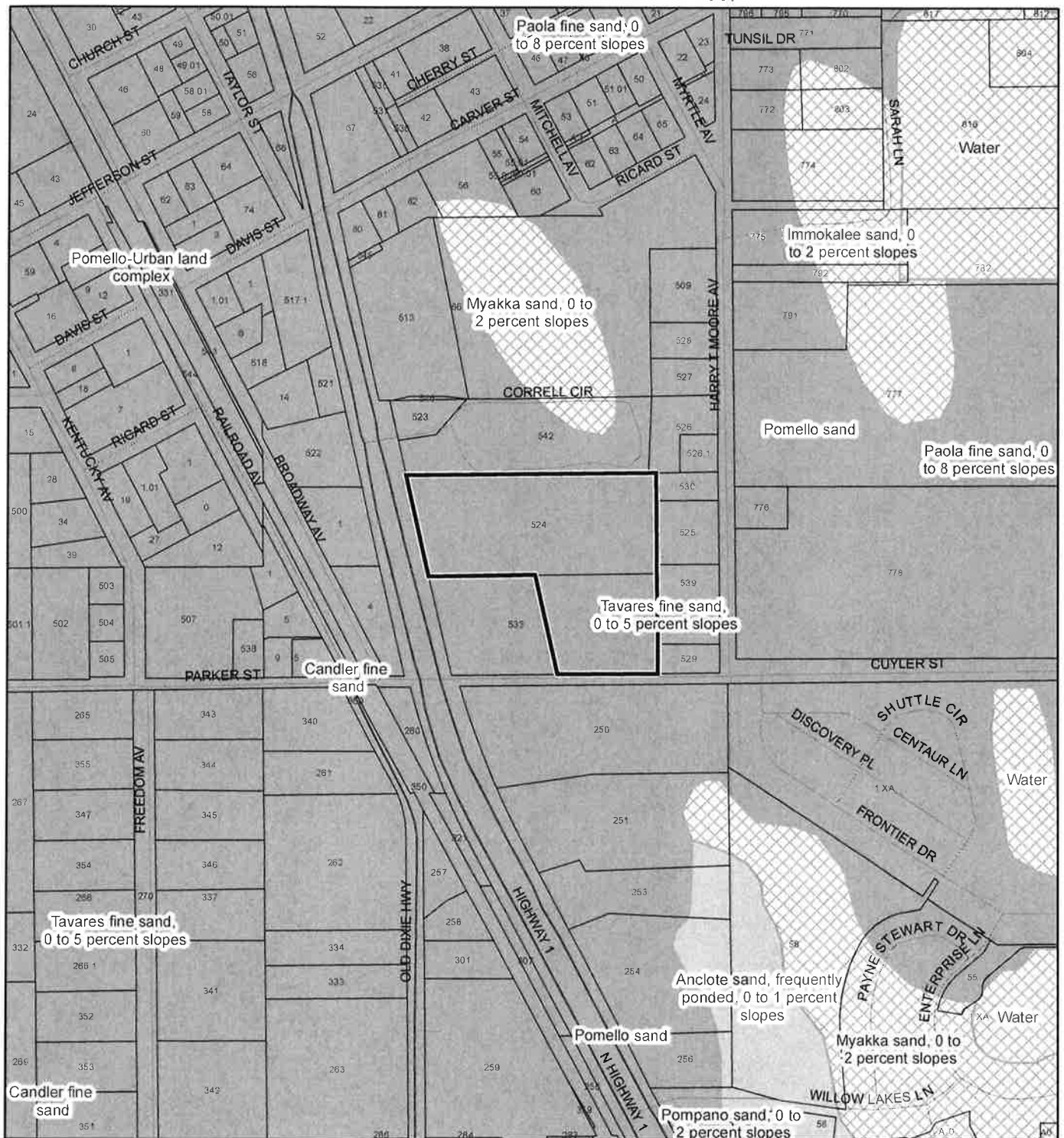
Subject Property

Parcels

# USDA SCSSS SOILS MAP

PREFERRED LEASING, LLC

20PZ00116 SMALL SCALE AMENDMENT 20S.12



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

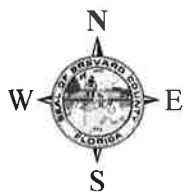
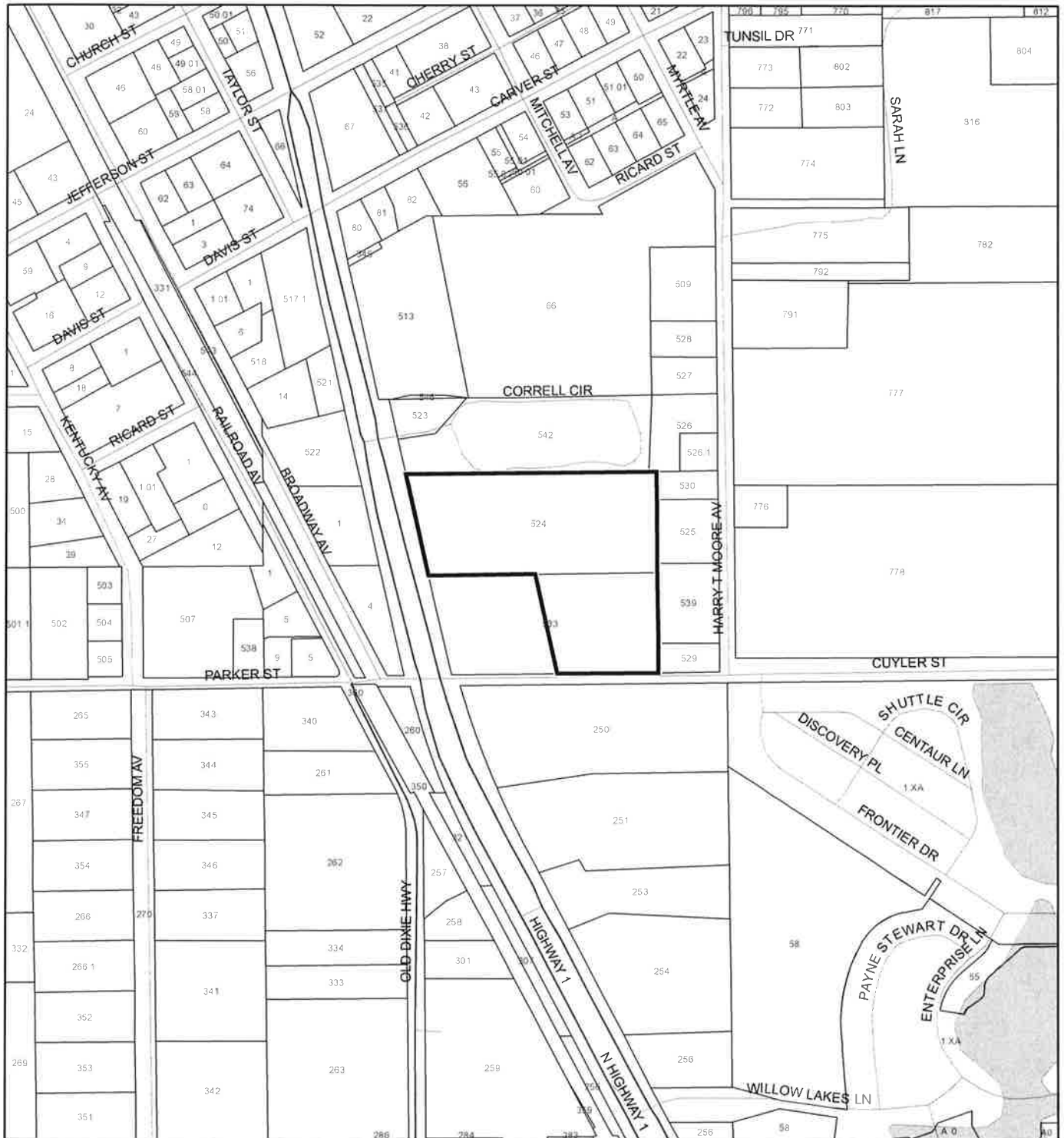
## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

PREFERRED LEASING, LLC  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



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

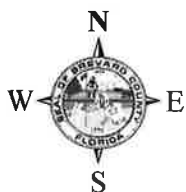
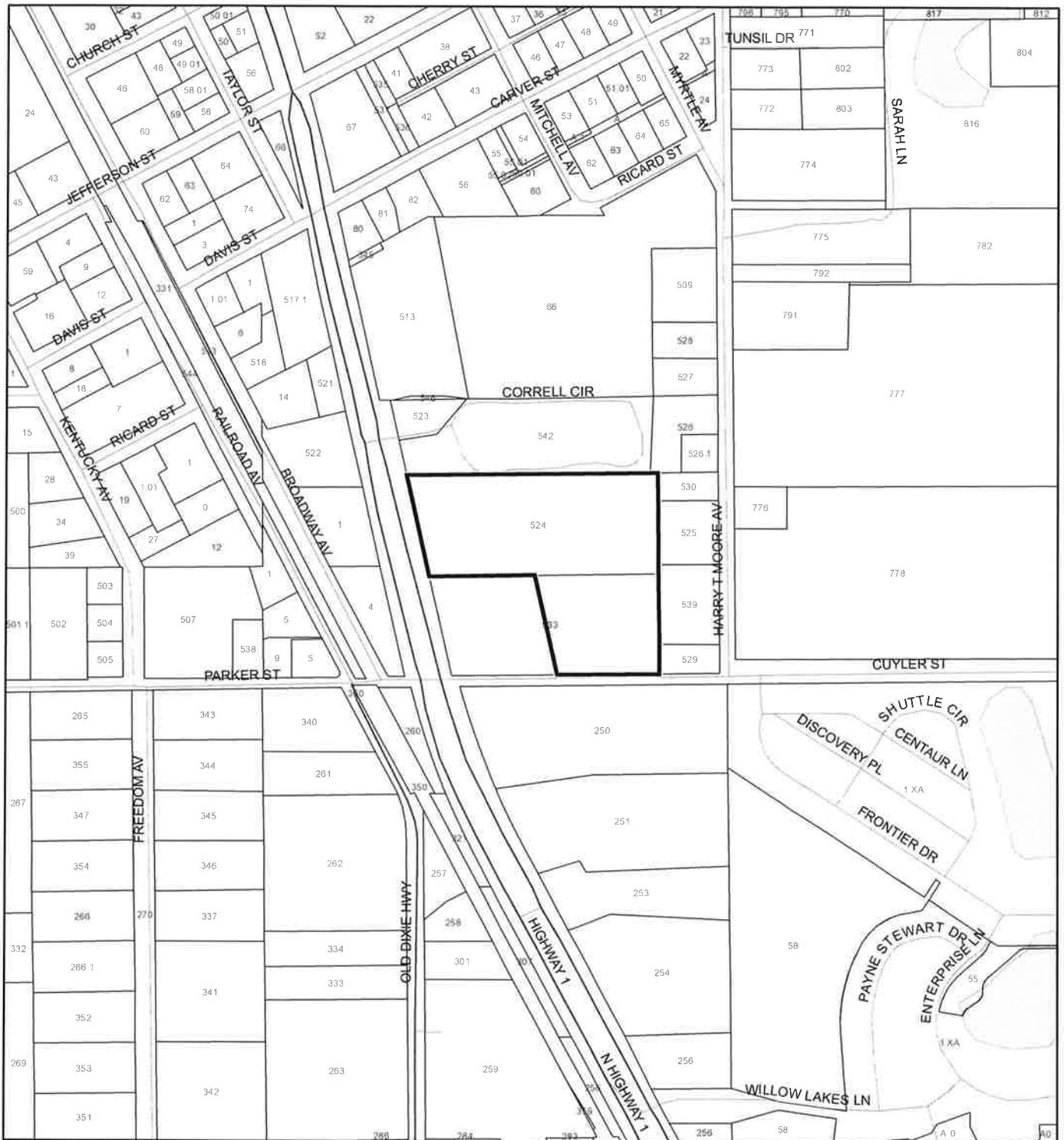
## FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 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  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



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

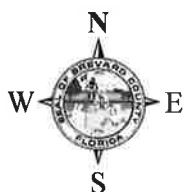
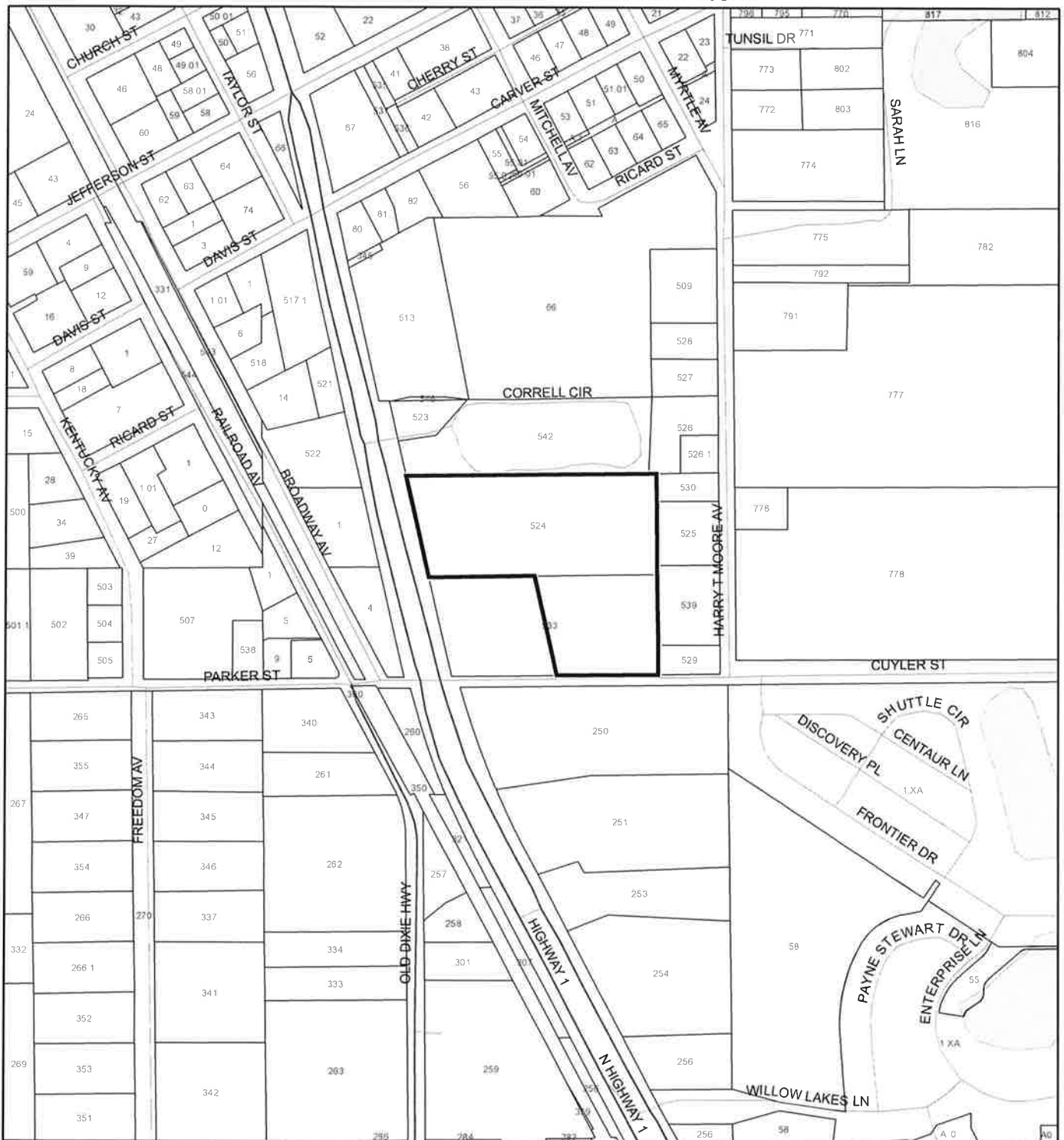
**Coastal High Hazard Area**

■ SurgeZoneCat1



# EAGLE NESTS MAP

PREFERRED LEASING, LLC  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



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

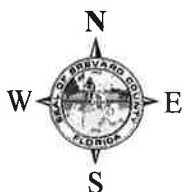
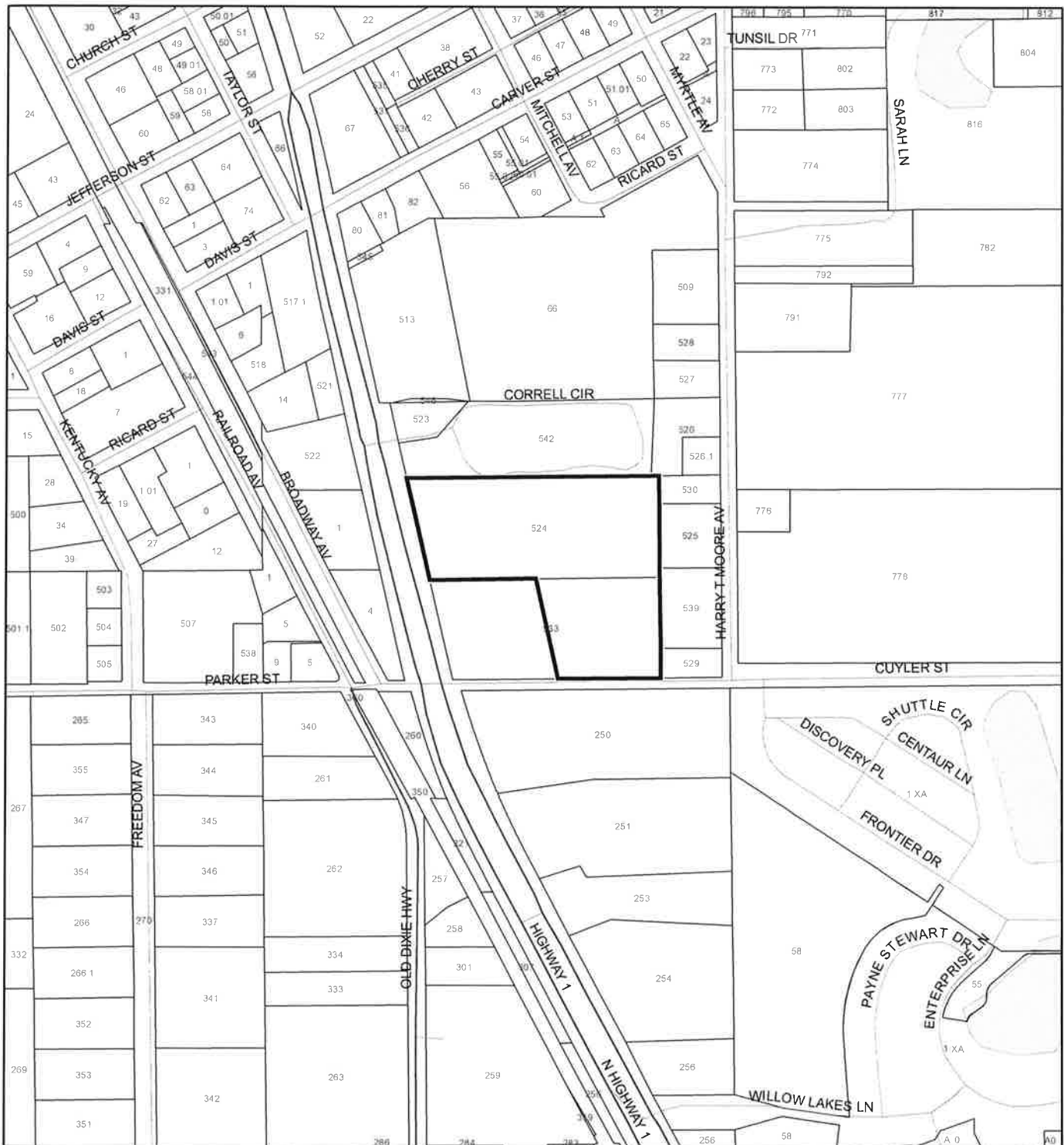
□ Parcels



Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

PREFERRED LEASING, LLC  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



1:4,800 or 1 inch = 400 feet

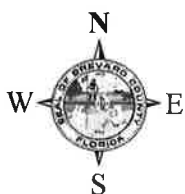
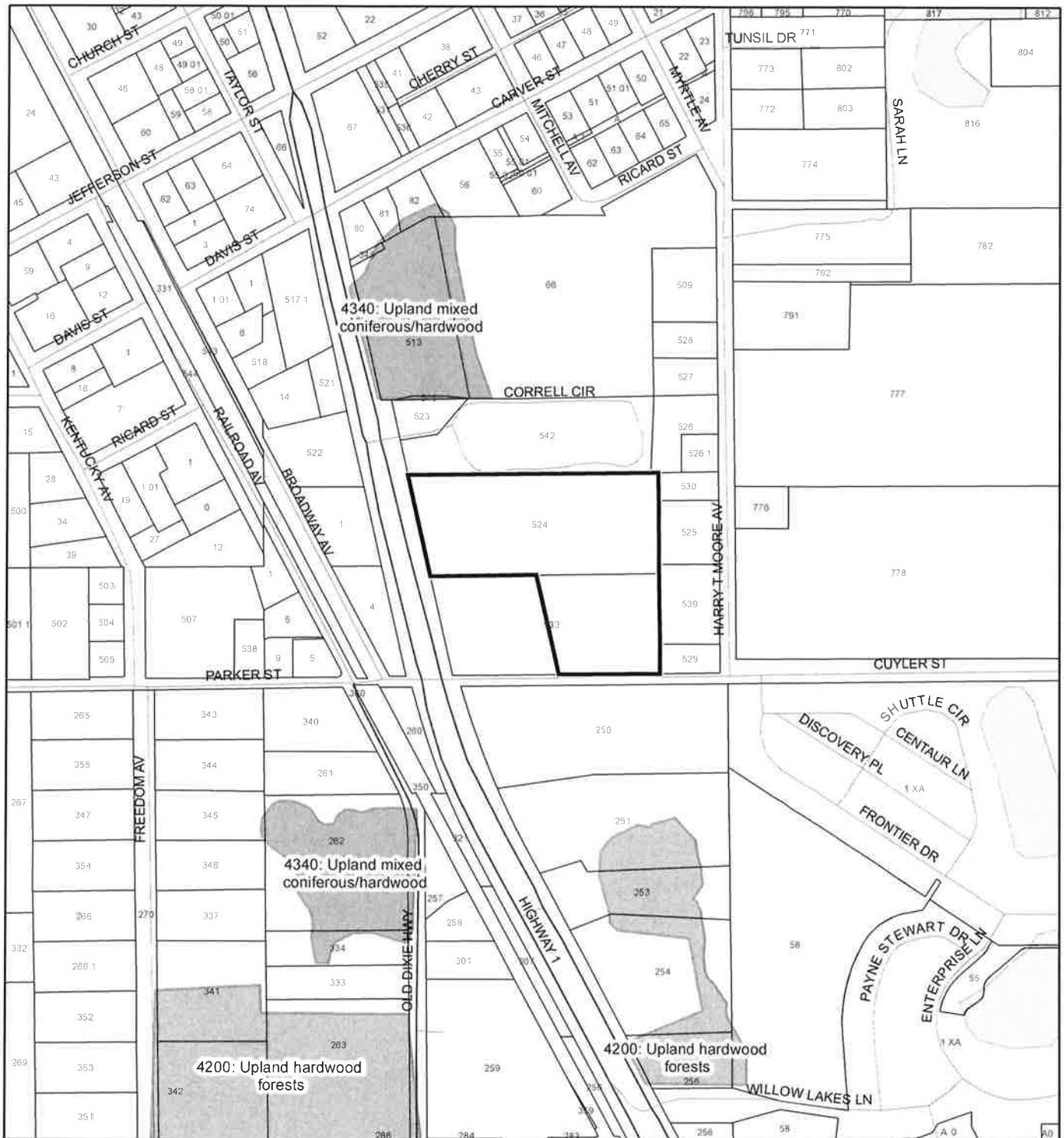
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

PREFERRED LEASING, LLC  
20PZ00116 SMALL SCALE AMENDMENT 20S.12



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



205.12

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

BOARD OF COUNTY COMMISSIONERS

**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 # 20PZ00116

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

Proposed FLU: CC 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)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☒ Rezoning Without CUP (RWOC) *Filed separately but contemporaneous* yes
- ☐ 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


6.3929

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 BREVARD

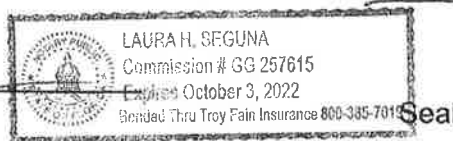
Subscribed and sworn before me, by ✓ physical presence or \_\_\_\_\_ online notarization,

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





20 PZ00116

Office Use Only:

Accela No. ~~2103387~~ + ~~2103397~~ Fee: 1219.00 Date Filed: 12/4/2020 District No. 1

Tax Account No. (list all that apply) 2103387 + 2103397

Parcel I.D. No.

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

Planner: GCR Sign Issued by: Notification Radius:

MEETINGS

DATE

TIME

☒ P&Z

2/8/21

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:

NC + RES 4 TO CC

Planning and Zoning Office, 2725 Judge Fran Jamieson Way, Viera, FL 32940  
(321) 633-2069



119

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. Retailers<sup>1</sup>, motels<sup>2</sup>, manufacturers<sup>3</sup>, auto repair facilities<sup>4</sup>, and other general business operators<sup>5</sup> 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.



<sup>1</sup> Mims Mini Mart, Walgreens, Dollar General

<sup>2</sup> Wayward Traveler Inn, Willow Lakes RV & Golf Resort

<sup>3</sup> Industrial Steel

<sup>4</sup> Heart of Dixie Transmission

<sup>5</sup> 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.<sup>6</sup> 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.

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<sup>6</sup> 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.

## 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. deanmead.com or ( ) \_\_\_\_\_ or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes No

I have received a copy of this notice:

(Signature)  
(APPLICANT SIGNATURE)





**DEAN  
MEAD**

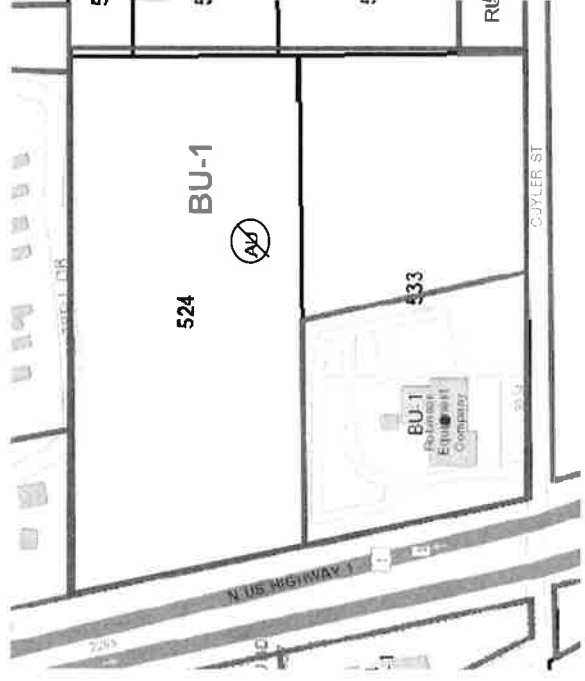
**Rezoning & Map Amendment  
3030 Cuyler St. Mims, FL**

**FLORIDA COAST EQUIPMENT  
Tractor Dealership**

## Request:

Continuation and Redesign of Existing Tractor Dealership.

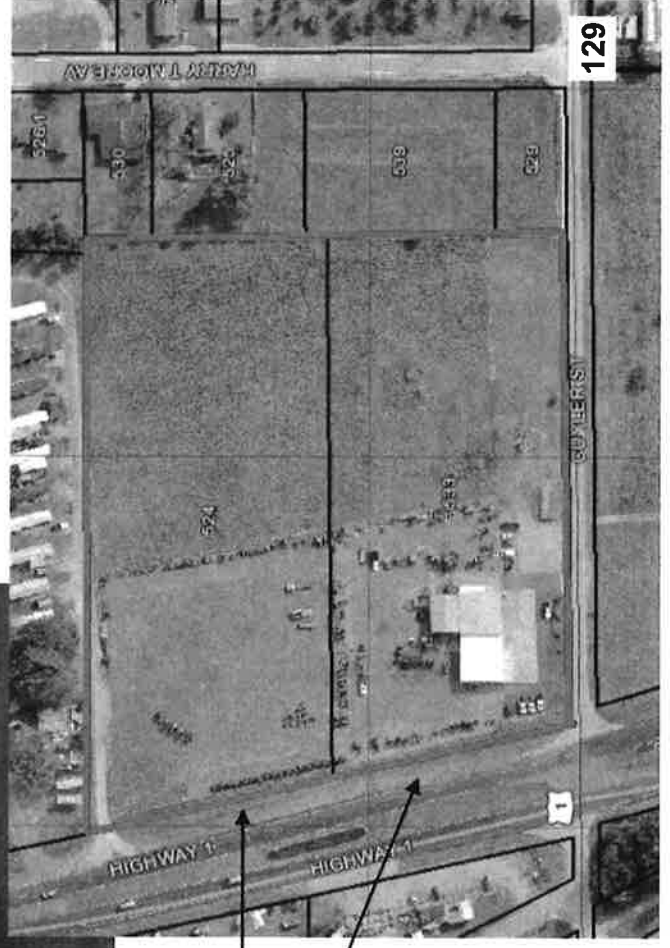
- Existing Use Onsite for over 30 years
- Goals:
  - Improve, Update, Expand Existing Use
  - Increase Property Value – Taxes
  - Create Jobs
- Change Land Use from NC/CC/Res-4 to all CC
- Change Zoning from BU-1/AU to all BU-1





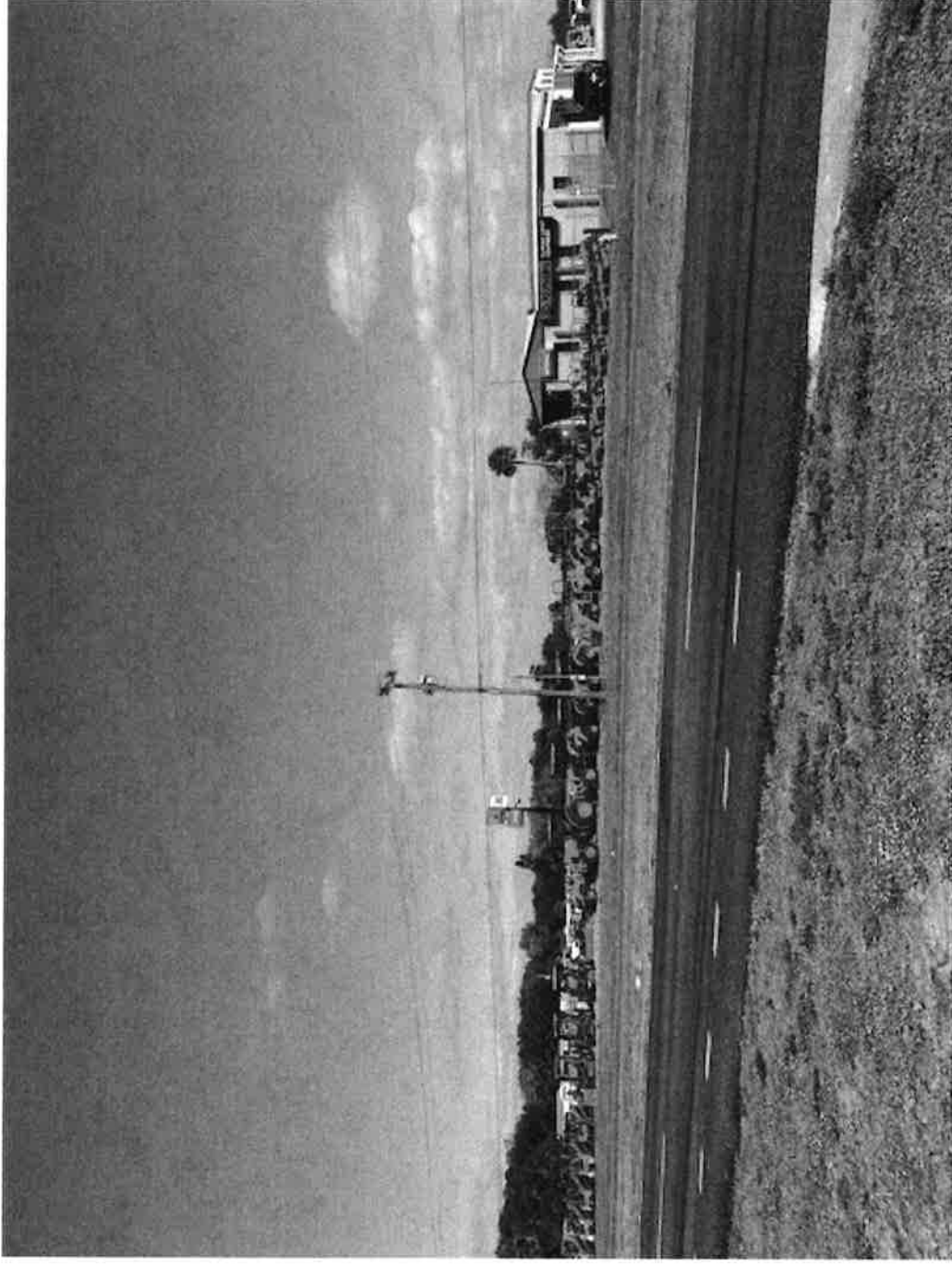
# PAST USE:

Original Building  
Before JT Realty Holdings



Entire Site Used

Current Use:



Proposed Future Use:



Existing Facility in Ft. Pierce, FL

Site Specific Renderings:





RESIDENT - ALBION

CONCEPTUAL SITE PLAN

FLORIDA COAST EQUIPMENT  
MIMS, FLORIDA  
CUTLER DRIVE  
TOWN OF ALBION

Building Footprint  
Parking  
Roads  
Vegetation

Scale: 1" = 100'

North Arrow

## 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 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](mailto: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 any thing 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](mailto:bartcher@cfl.rr.com) <[bartcher@cfl.rr.com](mailto:bartcher@cfl.rr.com)>  
**Sent:** Wednesday, November 18, 2020 12:30 PM  
**To:** 'Brian Stephens' <[BStephens@deanmead.com](mailto: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](mailto:BStephens@deanmead.com)>  
**Sent:** Wednesday, November 18, 2020 7:15 AM  
**To:** [bartcher@cfl.rr.com](mailto: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](mailto: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 Hodggers, 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 Hodggers, to approve the change of zoning classification from BU-1 and AU to all BU-1. The motion passed unanimously.

## Donna Scott

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**From:** Donna Scott  
**Sent:** Friday, March 5, 2021 2:54 PM  
**To:** 'Jones, Jennifer'  
**Subject:** RE: H.4. Question

Got it.

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**From:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Sent:** Friday, March 5, 2021 2:52 PM  
**To:** Donna Scott <donna.scott@brevardclerk.us>  
**Subject:** RE: H.4. Question

A couple of them last year were withdrawn, so that's why they don't match.

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**From:** Donna Scott <donna.scott@brevardclerk.us>  
**Sent:** Friday, March 5, 2021 2:42 PM  
**To:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Subject:** RE: H.4. Question

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

The header of the Ordinance says setting forth the tenth Small Scale Comprehensive Plan Amendment (20S.12), which doesn't make sense to me.

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**From:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Sent:** Friday, March 5, 2021 2:35 PM  
**To:** Donna Scott <donna.scott@brevardclerk.us>  
**Subject:** RE: H.4. Question

I'm sorry, Donna. I'm losing my mind. 20S.12 is correct. It was the last one of 2020. It was wrong on the agenda.

Is it 5:00 yet?

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**From:** Donna Scott <donna.scott@brevardclerk.us>  
**Sent:** Friday, March 5, 2021 2:30 PM  
**To:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Subject:** RE: H.4. Question

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

Thank you.

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**From:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Sent:** Friday, March 5, 2021 2:30 PM  
**To:** Donna Scott <donna.scott@brevardclerk.us>  
**Subject:** RE: H.4. Question

Ok, I'll go tell her.

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**From:** Donna Scott <donna.scott@brevardclerk.us>  
**Sent:** Friday, March 5, 2021 2:29 PM  
**To:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Subject:** RE: H.4. Question

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

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Yes, I'll need a new one.

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**From:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Sent:** Friday, March 5, 2021 2:27 PM  
**To:** Donna Scott <donna.scott@brevardclerk.us>  
**Subject:** RE: H.4. Question

Do you need a new ordinance? I can have Cheryl make the change.

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**From:** Donna Scott <donna.scott@brevardclerk.us>  
**Sent:** Friday, March 5, 2021 2:25 PM  
**To:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Subject:** H.4. Question

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

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The Agenda Report and Agenda has (21S.02) but the Ordinance has (20S.12), which is correct?

Thank you,  
Donna Scott  
Assistant Clerk to the Board  
321-637-2001



Brevard County, Florida  
**Clerk of the Court**  
Rachel M. Sadoff

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