



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

3/3/2022

Subject:

Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka) request a change of zoning classification from GU to BU-1. (21Z00044) (Tax Account 2100183) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

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

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from GU to BU-1 for the purpose of developing commercial uses on the land. This rezoning is a four-acre portion of a 118.3-acre parcel. The applicant has also applied to rezone a 73.59-acre portion of this parcel from GU, AU, BU-1, and BU-2 to RU-1-7 with a BDP (Binding Development Plan) limiting the site to 199 units.

The applicant has not stated a specific commercial use, but has indicated the desire for more intensive commercial use of the subject property (including a drive-through) than the existing future land use designation NC provides. The effects of lighting, site activity and traffic will be evaluated at the time of site plan review.

Currently, within a one-quarter mile radius of the subject property there are several commercial businesses, including a 1.15-acre convenience store/gas station (built in 1969), a 13.71-acre commercial campground with retail store (built in 1977), a fast food restaurant (built in 1996), and a 41.06-acre commercial campground with office (built in 2002). Recent commercial development in this area includes a truck stop and a retail store.

In January 2022, a binding development plan for a 198 unit single-family subdivision was approved on a 79.16-acre parcel southwest of the subject property (across State Road 46).

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

On February 14, 2022, the Planning & Zoning Board heard the request and voted 9:1 to recommend approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return to Planning & Development.

Resolution 21Z00044

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

WHEREAS, Jackson Family Trust; and C.B. Davis Family Trust, has requested a change of zoning classification from GU (General Use) to BU-1 (General Retail Commercial), on property described as (See Attached); and


WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and the Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from GU to BU-1, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of March 3, 2022.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Kristine Zonka, Chair
Brevard County Commissioner

As approved by the Board on March 3, 2022.

ATTEST:


RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – February 14, 2022

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

21Z00044

Legal Description:

A parcel of land being a portion of lands as described in ORB 6066, Page 844, and ORB 6133, Page 2745, of the Public Records of Brevard County, Florida, lying in **Section 13, Township 21S, Range 34E**, Brevard County, Florida, and being more particularly described as follows: Commence at the east $\frac{1}{4}$ corner of said Section 13; thence S88deg33'59"W, along the east-west midsection line of said Section 13, a distance of 2,804.61 ft.; thence N01deg26'01"W, a distance of 33.33 ft. to a point on the north right-of-way line of S.R. 46, a 75-ft. wide right-of-way as shown on project No. F.A.S. 3-A, dated July 10, 1939, said point also being the SW corner of lands as described in ORB 8560, Page 227 of said Public Records, said point also being the point of beginning of this description; thence S88deg32'28"W, along said north right-of-way line, a distance of 694.50 ft.; thence N01deg27'32"W, a distance of 250 ft.; thence N88deg32'28"E, a distance of 698.90 ft. to a point on the west line of said lands as described in ORB 8560, Page 227; thence S00deg27'06"E, along said west line, a distance of 250.04 ft. to the point of beginning. Containing 4 acres, more or less. Located on the north side of S.R. 46, approx. 0.25 mile west of I-95. (No assigned address. In the Mims area.)

February 25, 2022

To: Jennifer Jones

From: John Tobia, Brevard County Commissioner, District 3

Re: Phone Disclosure

Ms. Jones,

In regards to the upcoming agenda items H.2, H.6, H.7, H.8, and H.9, for the Brevard County Zoning meeting on March 3rd, 2022, please be advised in advance that I spoke with the following party via telephone on February 25th, 2022.

Kim Rezanka, Esq.

The phone call lasted approximately twenty minutes, during which the above individual provided information regarding the above-referenced items.

Sincerely,



John Tobia
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS



BOARD OF COUNTY COMMISSIONERS

Rita Pritchett, District 1 Commissioner

7101 N. Highway 1

Titusville, FL 32780

(321) 607-6901

D1.commissioner@brevardfl.gov

Planning and Development

Commission Meeting March 3, 2022

Tax Account 2100183 Jackson Family Trust

(21PZ00081; 21Z00044; 21PZ00089; 21Z00043)

Commissioner Pritchett met with Ms. Kim Rezanka and Mr. Clark Sprinkel in the District 1 Commission office regarding the above item on January 10, 2022. The Commissioner listened to their plans for this project.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

21Z00044

**Jackson Family Trust; and C.B. Davis Family Trust
GU (General Use) to BU-1 (General Retail Commercial)**

Tax Account Number: 2100183
Parcel I.D.: 21-34-12-00-502
Location: North side of Highway 46, 1,340 feet west of Interstate 95 (I-95) (District 1)
Acreage: 4 acres of 118.3 total site acreage

Planning & Zoning Board: 2/14/2022
Board of County Commissioners: 3/03/2022

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	GU	BU-1
Potential*	0 single-family units**	174,240 sq. ft.
Can be Considered under the Future Land Use Map	YES, NC	NO Requires CC***

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

** GU zoning would require a minimum lot area of 5 acres.

*** A companion application, **21PZ00081**, if approved would change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

Background and Purpose of Request

The applicants are seeking a change of zoning classification from GU (General Use) to BU-1 (General Retail Commercial) for the purpose of developing commercial uses on the land. The property is currently vacant.

This rezoning is a four-acre portion of a 118.3-acre parcel. The applicant has also applied to rezone a 73.59-acre portion of this parcel from GU, AU, BU-1, and BU-2 to RU-1-7 with a Binding Development Plan (BDP) limiting the site to 199 units as zoning action **21Z00043**.

GU is the original zoning of the parcel.

Land Use

The subject property retains a FLU designation of Neighborhood Commercial (NC). The proposed BU-1 zoning classification is not consistent with the NC FLU. BU-1 zoning requires a FLU of Community Commercial (CC). A companion application, **21PZ00081**, if approved, would change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

Applicable Future Land Use Policies

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;

The subject 4.0 acre parcel has frontage on State Road 46 to the south.

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

The subject 4.0 acre parcel is directly adjacent to CC to the east and adjacent to NC land uses to the west and to the south (across State Road 46). Inter-connectivity, including pedestrian access, should be provided between the subject site, the commercial parcels to the east and west, and the proposed residential development to the north (21PZ00089 and 21Z00043). Inter-connectivity to the adjacent properties should be considered in the site design phase and reviewed at site plan.

- C. Existing commercial development trend in the area;

There is an existing commercial use pattern along State Road 46 and the I-95 interchange.

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

Infrastructure improvements undertaken by the County have not prompted fundamental changes in the character of this area. State Road 46 near the I-95 interchange remains a primary commercial node in Mims, serving regional and tourist markets.

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

The subject site is within the Brevard County Utilities service area for potable water and centralized sewer.

Based upon Floor Area Ratio (FAR) used for traffic analysis when considering Future Land use changes, State Road 46 would be operating below the Acceptable Level of Service (LOS) of D. A more detailed analysis will occur at site plan. The applicant may be required to phase develop based on available roadway network capacity.

- F. Spacing from other commercial activities;

This segment of State Road 46 has commercial activities abutting the property to the east and south (across State Road 46). There is a one (1) mile corridor of commercial designated land use along this segment of State Road 46 (from Turpentine Road to Holder Road), with approximately 99 acres designated as NC and 61 acres designated as CC. Currently, approximately 55 acres of NC and 20 acres of CC are commercially developed.

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

The subject parcel is 4.0 acres. There are approximately 39 acres designated as CC along State Road 46 within a one-quarter (1/4) mile radius of the I-95 interchange, with approximately 19 acres remaining undeveloped.

- 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 subject 4.0 acre site could provide infill rather than extend strip commercial development which is discouraged within the Future Land Use element of the Comprehensive Plan.

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.

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 parcel is not immediately located at an intersection, but is within one-quarter (1/4) mile of the Interstate 95 interchange. State Road 46 is an Urban Principal Arterial Road.

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

The subject site is not located at an intersection, but is within one-quarter (1/4) mile of the Interstate 95 interchange. There are approximately 39 acres designated as CC within a one-quarter (1/4) mile radius of the interchange, with approximately 19 acres remaining undeveloped.

- 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 site is adjacent to a cluster of approximately 39 acres of designated CC Future Land Use along State Road 46 within a one-quarter (1/4) mile radius of the I-95 interchange. The next nearest CC cluster is approximately one (1) mile east at the intersection of State Road 46 (West Main Street) and US Highway 1.

- 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 unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

The gross floor area is regulated through the land development regulations and will be reviewed at the time of site plan.

- E. Floor Area Ratio (FAR) of up to 1.00 is permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The overall subject site has the potential for a one hundred seventy-four thousand two hundred forty square foot (174,240 s.f.) building based on allowances in the comprehensive plan. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

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 foresee ably be affected by the proposed use;

The applicant has not stated a specific commercial use, but has indicated the desire for more intensive commercial use of the subject property (including a drive-through) than the existing future land use designation NC provides. The effects of lighting, site activity and traffic will be evaluated at the time of site plan review.

- 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;

This segment of State Road 46 has a historic pattern of commercial development in the vicinity of the Interstate 95 interchange. When the comprehensive plan was adopted in 1988, properties along State Road 46 - from Turpentine Road (0.7 miles west of I-95) to Holder Road (0.3 miles east of I-95) - had a Future Land Use designation of Mixed Use District. When the Density Map was combined with the Future Land Use Map in 2001, the Mixed Use District Future Land Use designations throughout the County were changed to either NC and CC based on the underlying zoning classification in place (Amendment No. 99B.14).

The 2007 Mims Small Area Study recognized the commercial use pattern of the State Road 46 area, including the I-95 interchange, describing it as a primary commercial area serving regional and tourist markets. The Study recommended commercial development should

take place primarily in southern Mims near the U.S.1 corridor, and at the State Road 46 / I-95 interchange. There was no change to the Future Land Use of the subject property as a result of the 2007 Mims Small Area Study.

Currently, within a one-quarter mile radius of the subject property there are several commercial businesses, including a 1.15-acre convenience store/gas station (built in 1969), a 13.71-acre commercial campground with retail store (built in 1977), a fast food restaurant (built in 1996), and a 41.06-acre commercial campground with office (built in 2002). Recent commercial development in this area includes a truck stop and a retail store.

The proposed commercial use of the subject property appears consistent with the historical and existing pattern of surrounding development.

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

In the preceding three (3) years, the 14.08-acre commercial truck stop/retail store immediately east of the subject property was developed, and the 1.41-acre commercial parcel 170 ft southeast of the subject property (across State Road 46) was developed as a retail store.

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

There have not been any development approvals within the past three (3) years that have not been constructed.

Administrative Policy #4 - Character of a neighborhood or area.

The subject property is a vacant four-acre site currently zoned GU that is part of a larger 118.3-acre parcel.

The subject property is located approximately 0.2 miles from the interchange of Highway 46 and I-95. The developed character of the surrounding area is a mix of suburban residential neighborhoods, commercial development, and a recreational vehicle park. Residential lot sizes range from a quarter acre to one acre in size. The homes in these residential neighborhoods are mostly manufactured homes. Residential zonings in the area include TR-1, RRMH-1, RU-1-11, and GU.

The 2007 Mims Small Area Study recognized the commercial use pattern of the State Road 46 area, including the I-95 interchange, describing it as a primary commercial area serving regional and tourist markets. BU-1 zoning on this property could be considered transitional from the BU-2 to the east and the RU-1-7 zoning proposed in application **21Z00043**.

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

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Vacant, Undeveloped Land	GU	NC
South	Across SR 46: Commercial Recreational Vehicle Park, Campground	RVP	NC
East	Commercial Travel Stop and Retail store	BU-2	CC
West	Vacant, Undeveloped Land	GU	NC

The abutting property to the north and west is part of the same parcel, and is part of a separate rezoning request to RU-1-7 zoning and a FLU designation change of NC, CC, and RES 4 for the purpose of creating a residential subdivision. The abutting parcel to the east is a 14.08-acre parcel zoned BU-2 with a CC FLU designation that is a travel stop (a large convenience store with gas pumps). To the south is Highway 46, across which is a Recreational Vehicle Park with RVP zoning and a FLU designation of NC.

There has been one rezoning application in the surrounding area in the past 5 years. On June 6, 2019, **18PZ00161** changed the zoning classification of the 16.4-acre parcel abutting the subject property from BU-1, BU-2, and GU to all BU-2 with a BDP limiting the use to a fast food restaurant, convenience store, tire care center, and hotel with no more than 120 rooms.

Environmental Constraints

Preliminary review of mapped resources indicates the following land use issues:

- Protected Species
- Land Clearing and Landscape Requirements

Please refer to the attached comments provided by the Natural Resources Management Department.

Preliminary Concurrency

The closest concurrency management segment to the subject property is State Road 46 (Fawn Lake to I-95) which has a Maximum Acceptable Volume (MAV) of 14,160 trips per day, a Level of Service (LOS) of C, and currently operates at 66.22% of capacity daily. The maximum development potential - based upon Floor Area Ratio (FAR) used for traffic analysis - would increase the percentage of MAV utilization by 1,007.27%. If fully developed, the corridor is anticipated to operate at 1,073.49% of

capacity daily. Pursuant to Brevard County Code Section 62-602, a concurrency evaluation will be conducted at the site plan review stage. Phasing of the development may be required based on available capacity.

The subject site is within the Brevard County Utilities service area for potable water and centralized sewer.

A School Impact Analysis was not required for this application, as the proposed project is not residential.

For Board Consideration

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

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

Item # 21Z00044

Applicant: Rezanka for Jackson Family Trust

Zoning Request: GU to BU-1

Note: Applicant wants transitional commercial use for community.

P&Z Hearing Date: 02/14/22; **BCC Hearing Date:** 03/03/22

Tax ID No: Portion of 2100183

- 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:

- Protected Species
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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.

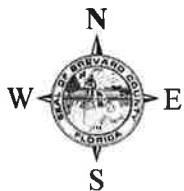
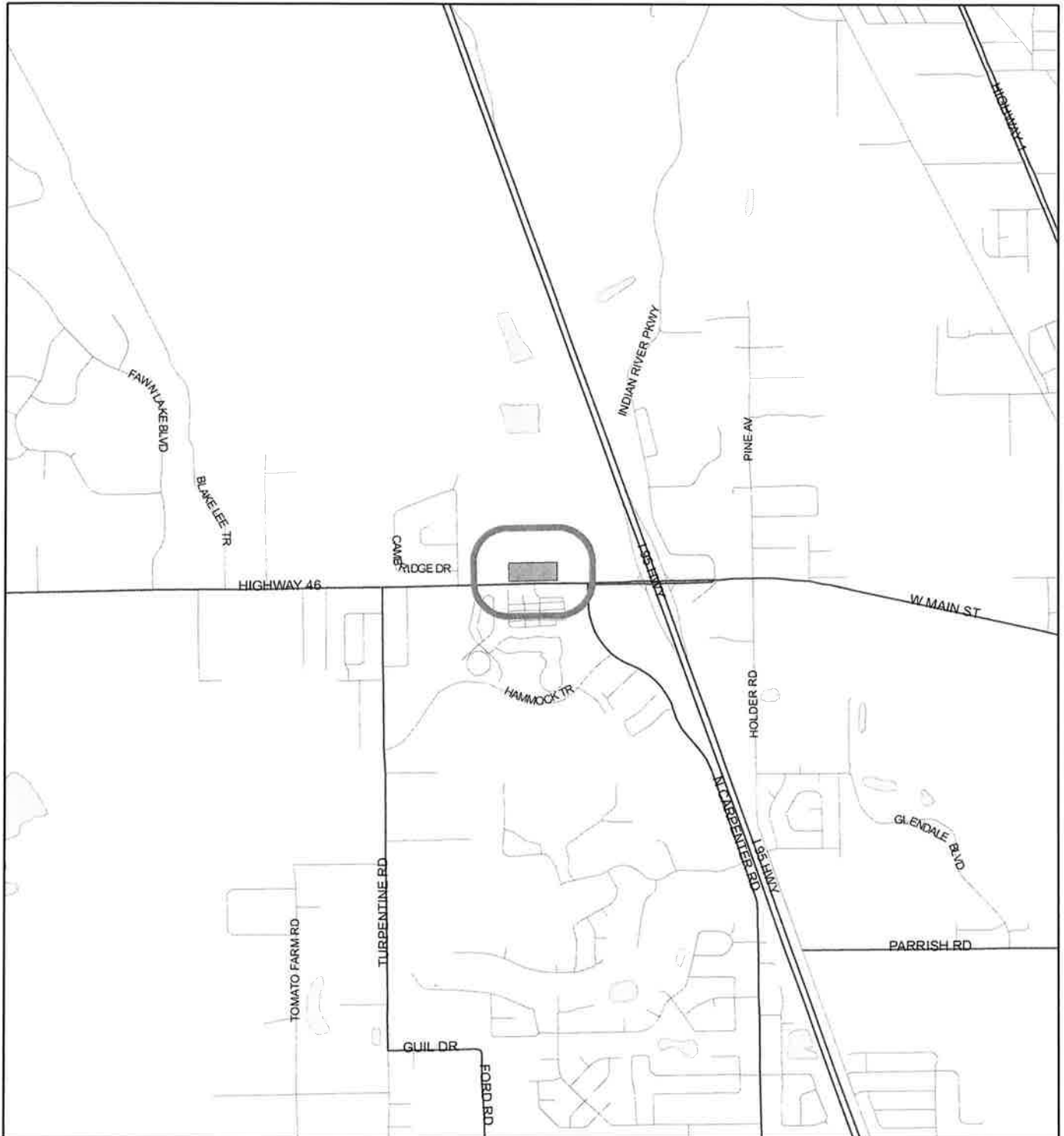
Land Clearing and Landscape Requirements

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.

LOCATION MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST

21Z00044



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

Buffer Distance: 500 feet

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

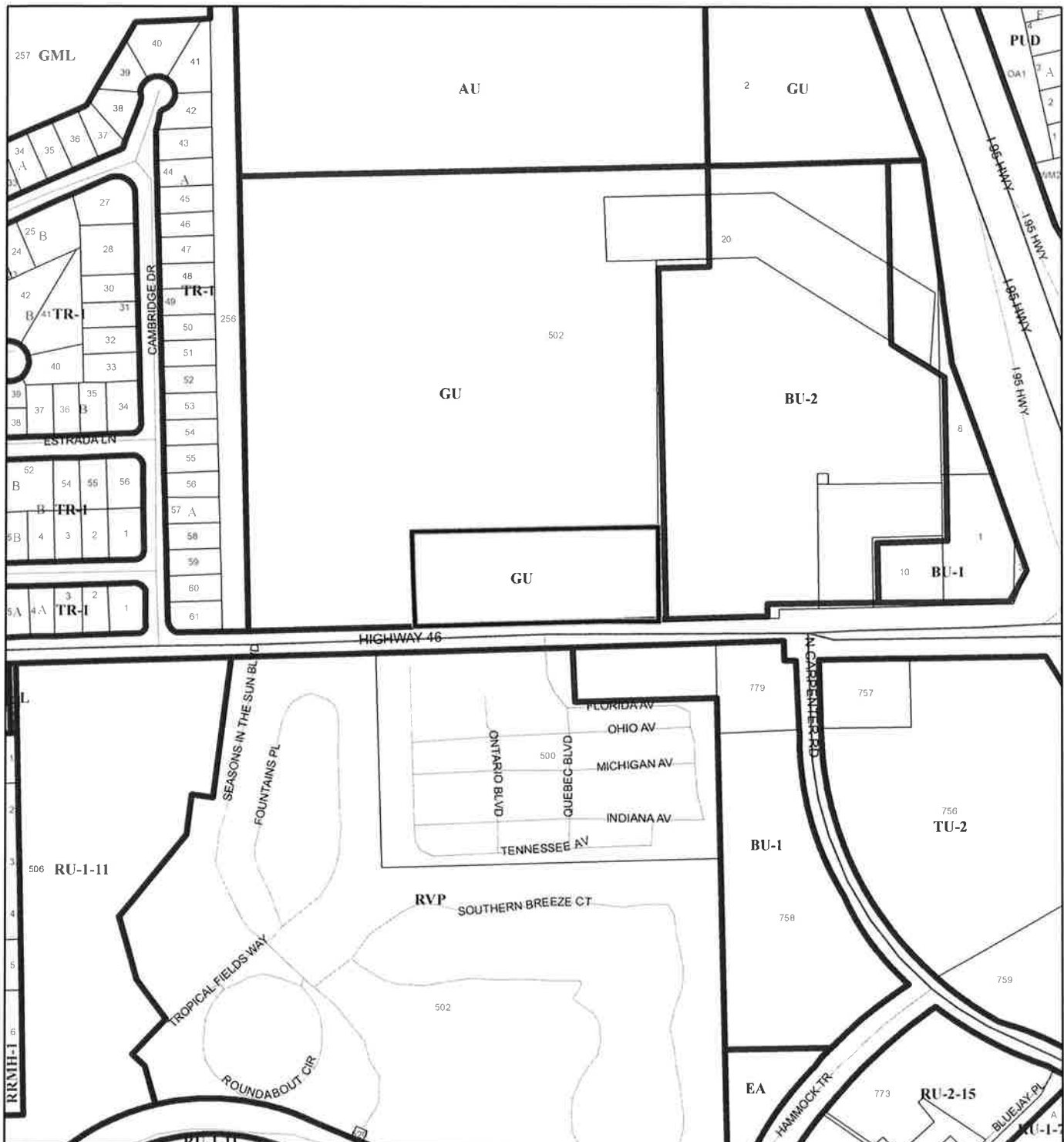
Produced by BoCC - GIS Date: 11/10/2021

— Buffer
 ■ Subject Property

ZONING MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST

21Z00044



1:4,800 or 1 inch = 400 feet

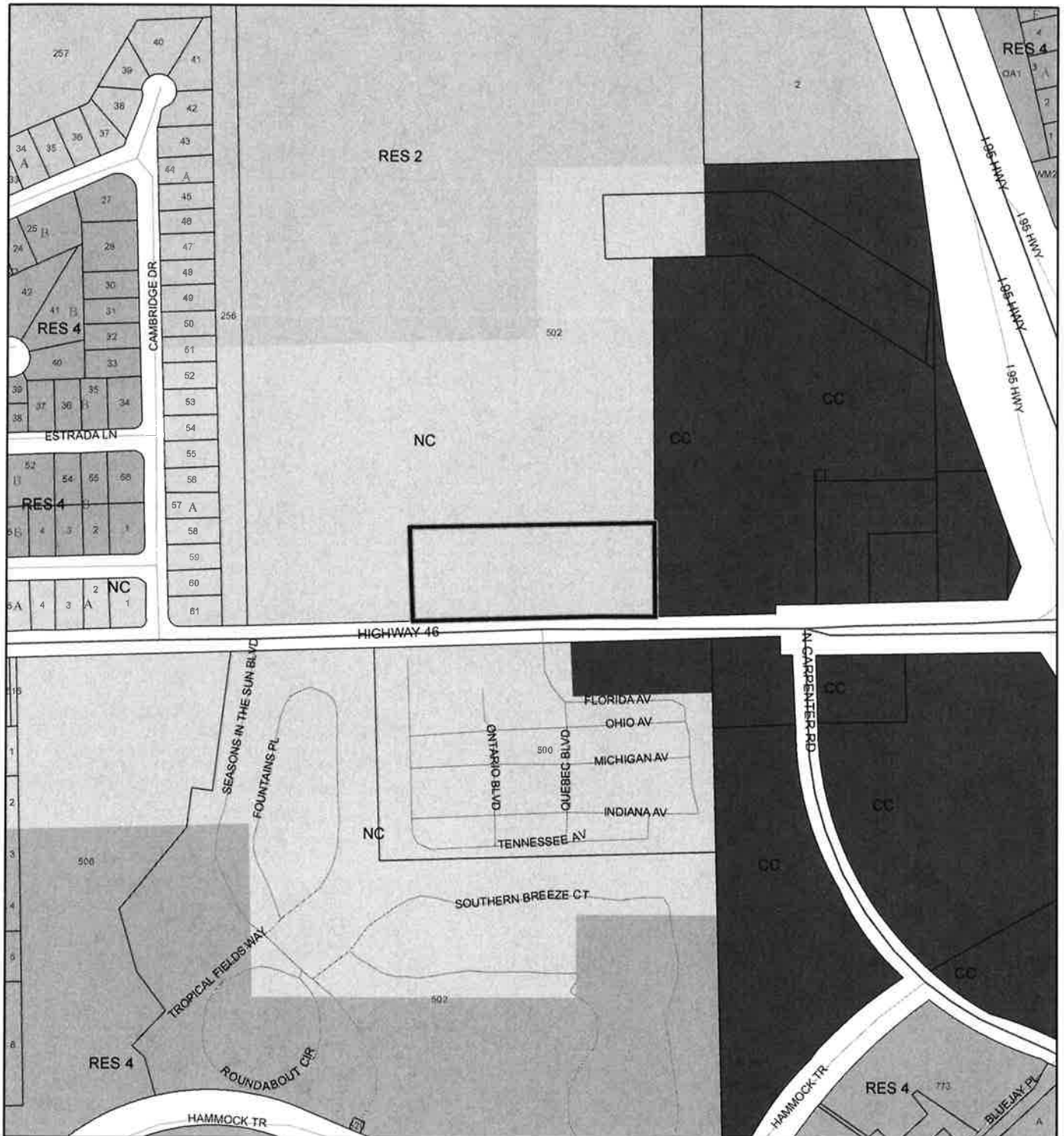
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- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



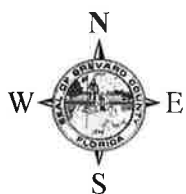
1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

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Produced by BoCC - GIS Date: 11/10/2021

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



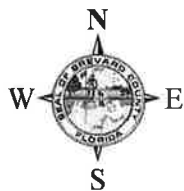
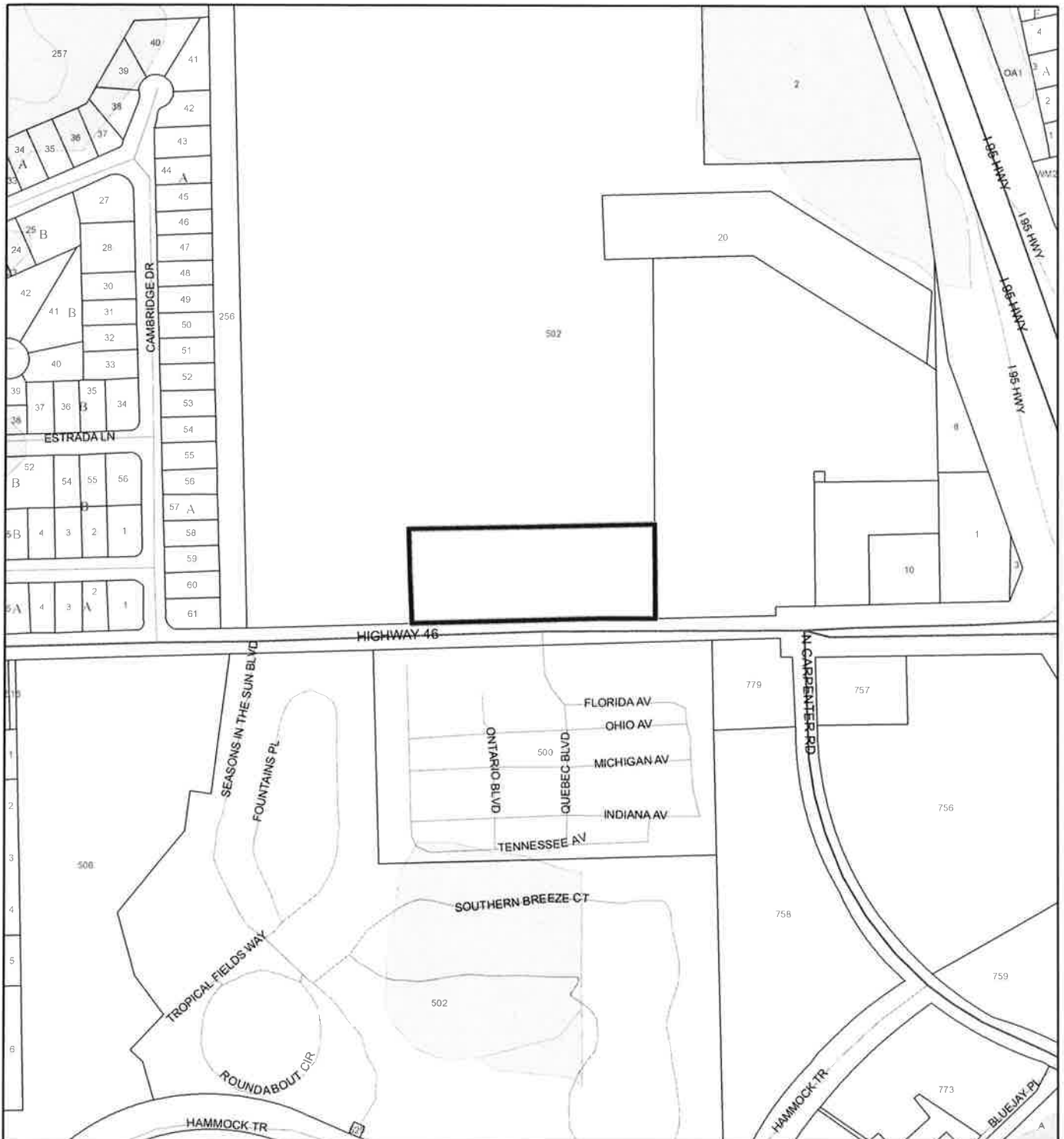
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Parcels

NWI WETLANDS MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST

21Z00044



1:4,800 or 1 inch = 400 feet

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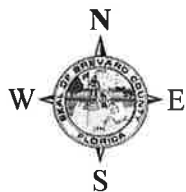
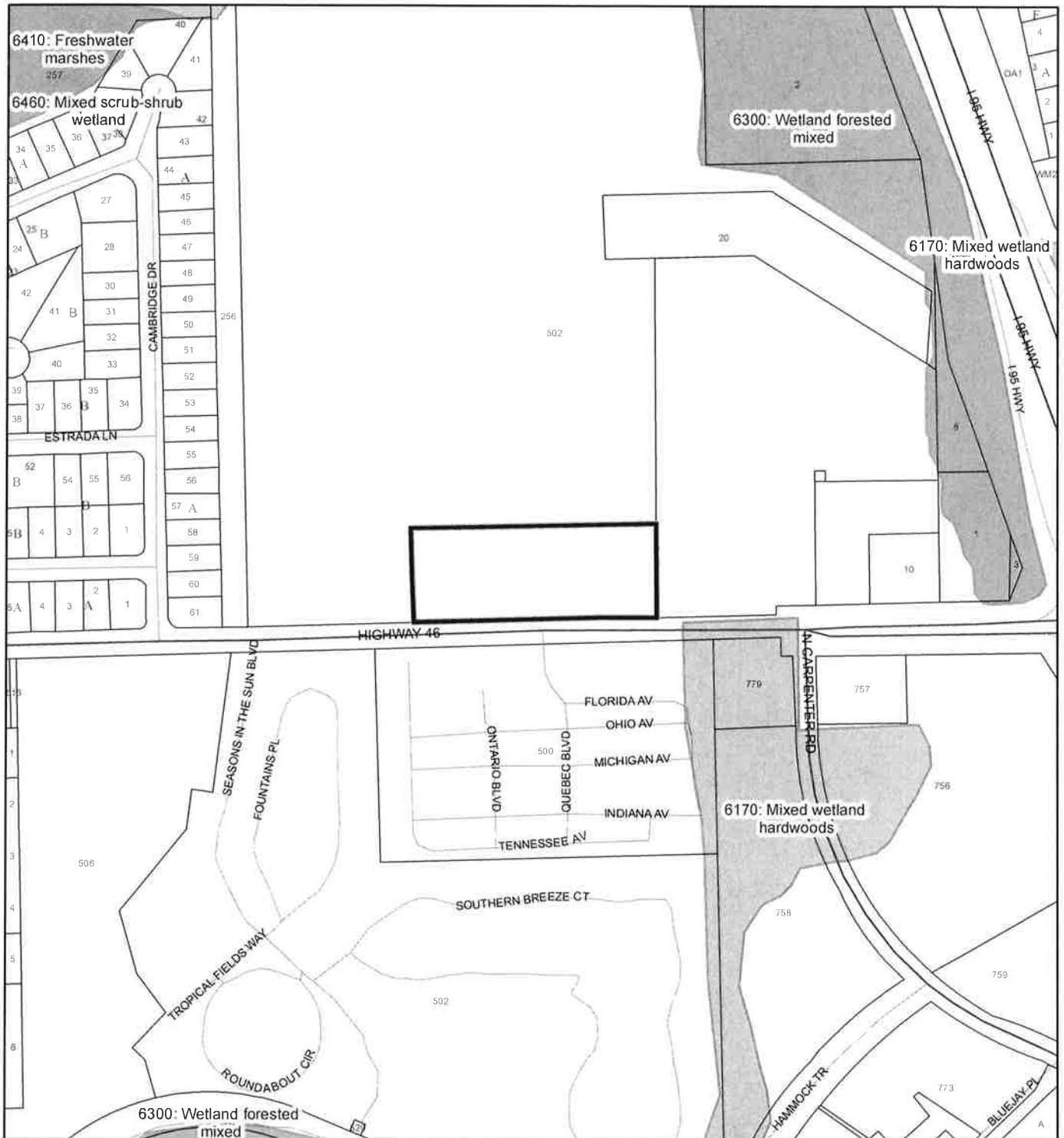
Produced by BoCC - GIS Date: 11/10/2021

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

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/10/2021

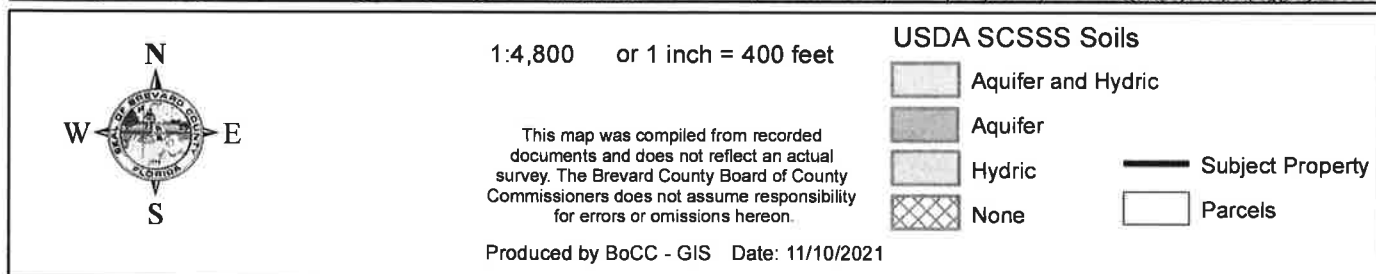
SJRWMD FLUCCS WETLANDS

- 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

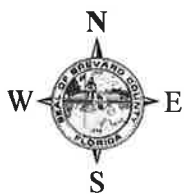
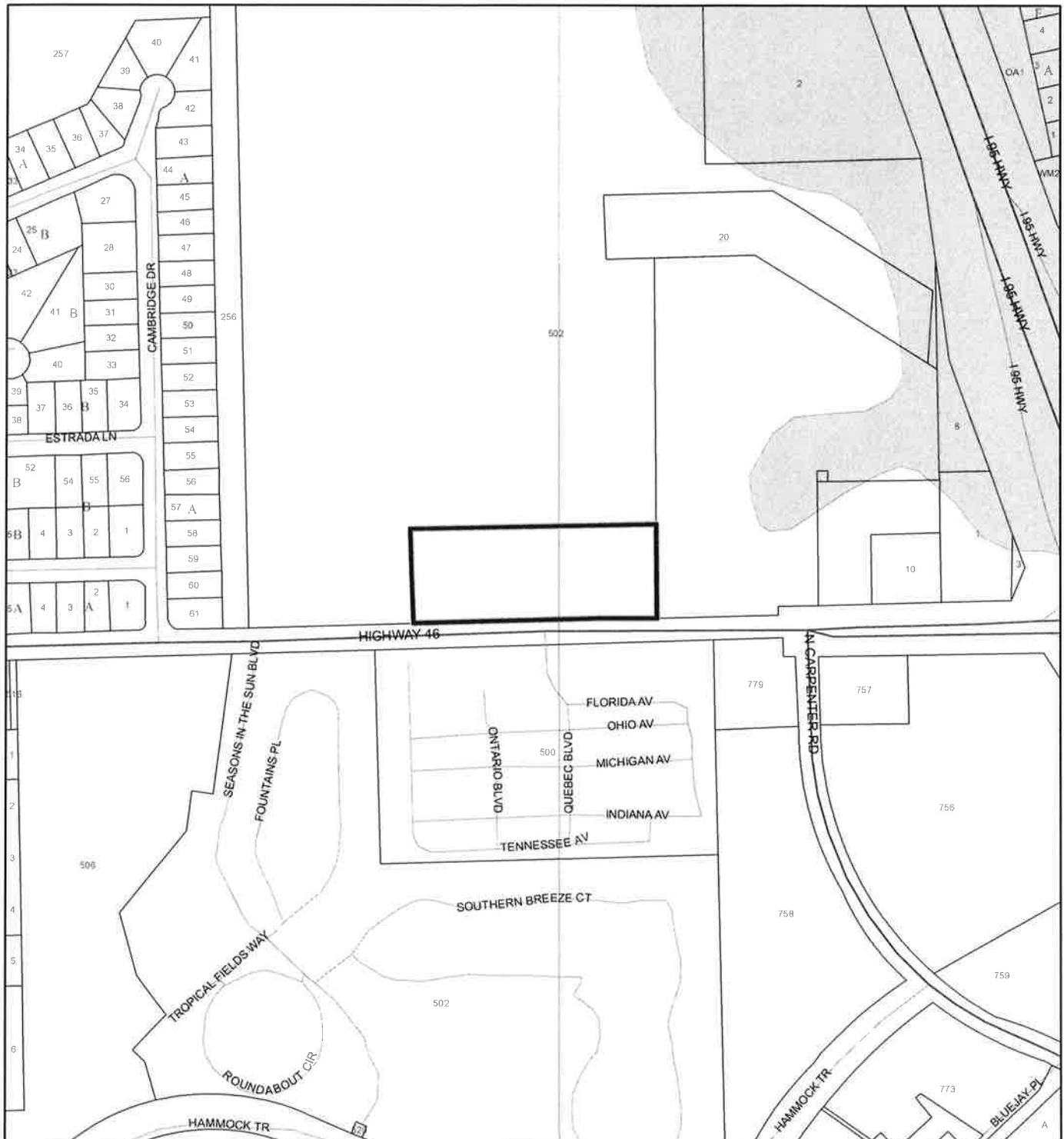
Parcels

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



FEMA FLOOD ZONES MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



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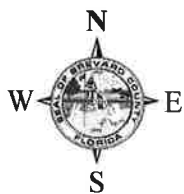
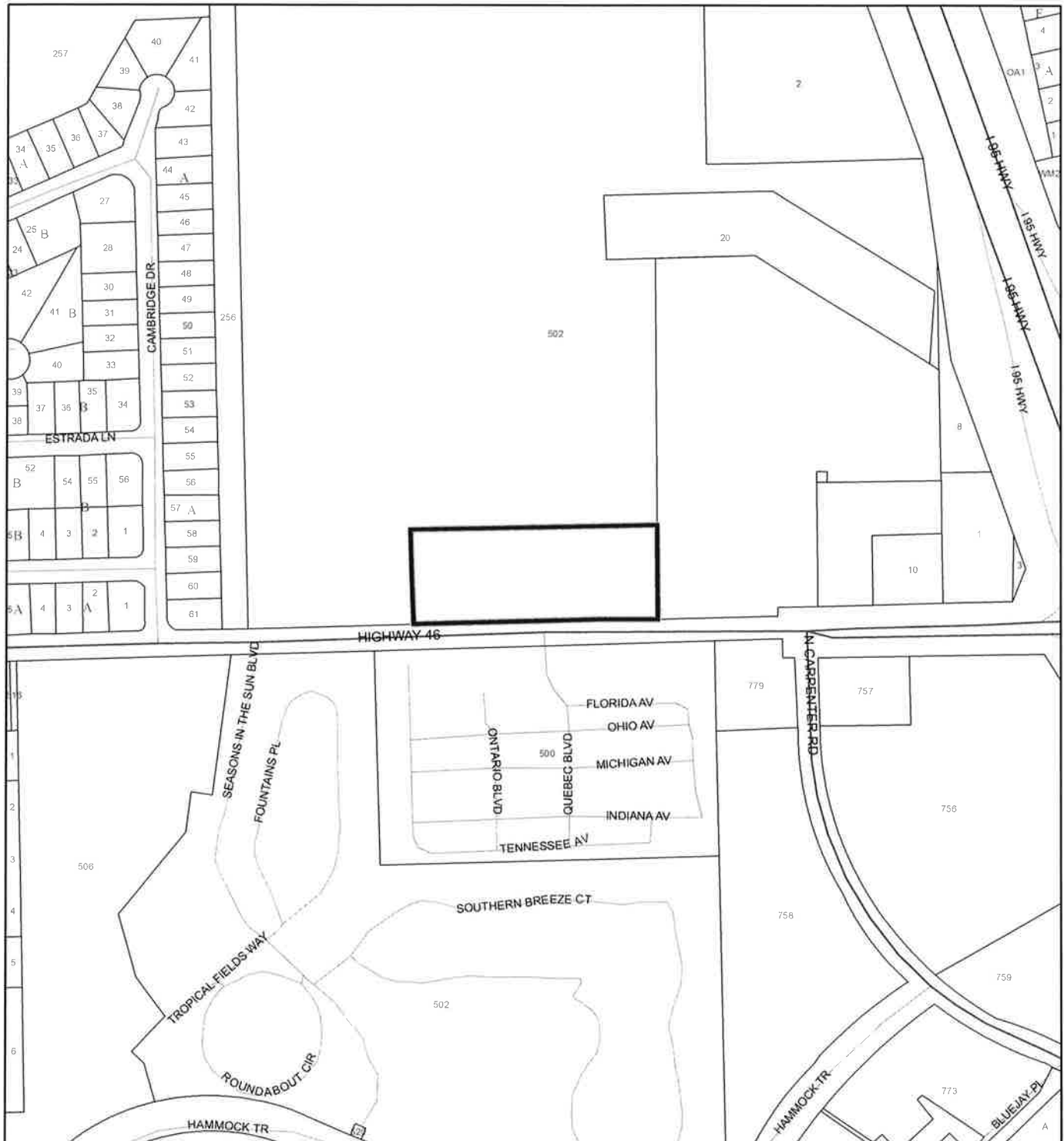
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FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/10/2021

— Subject Property

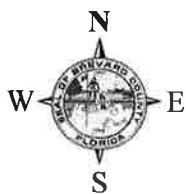
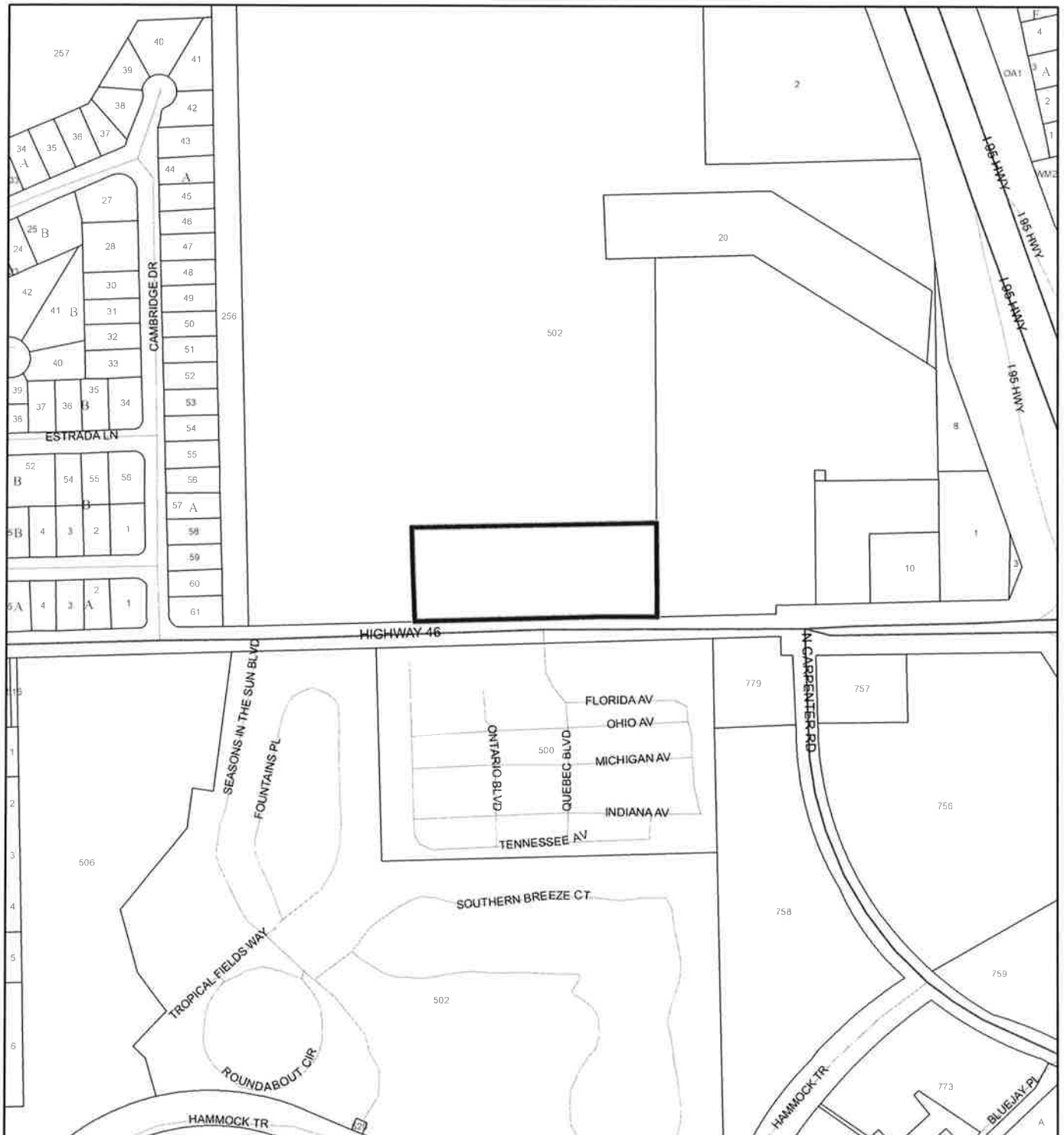
□ Parcels

Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



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— Subject Property

□ Parcels

Septic Overlay

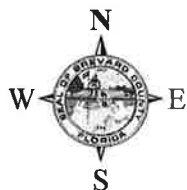
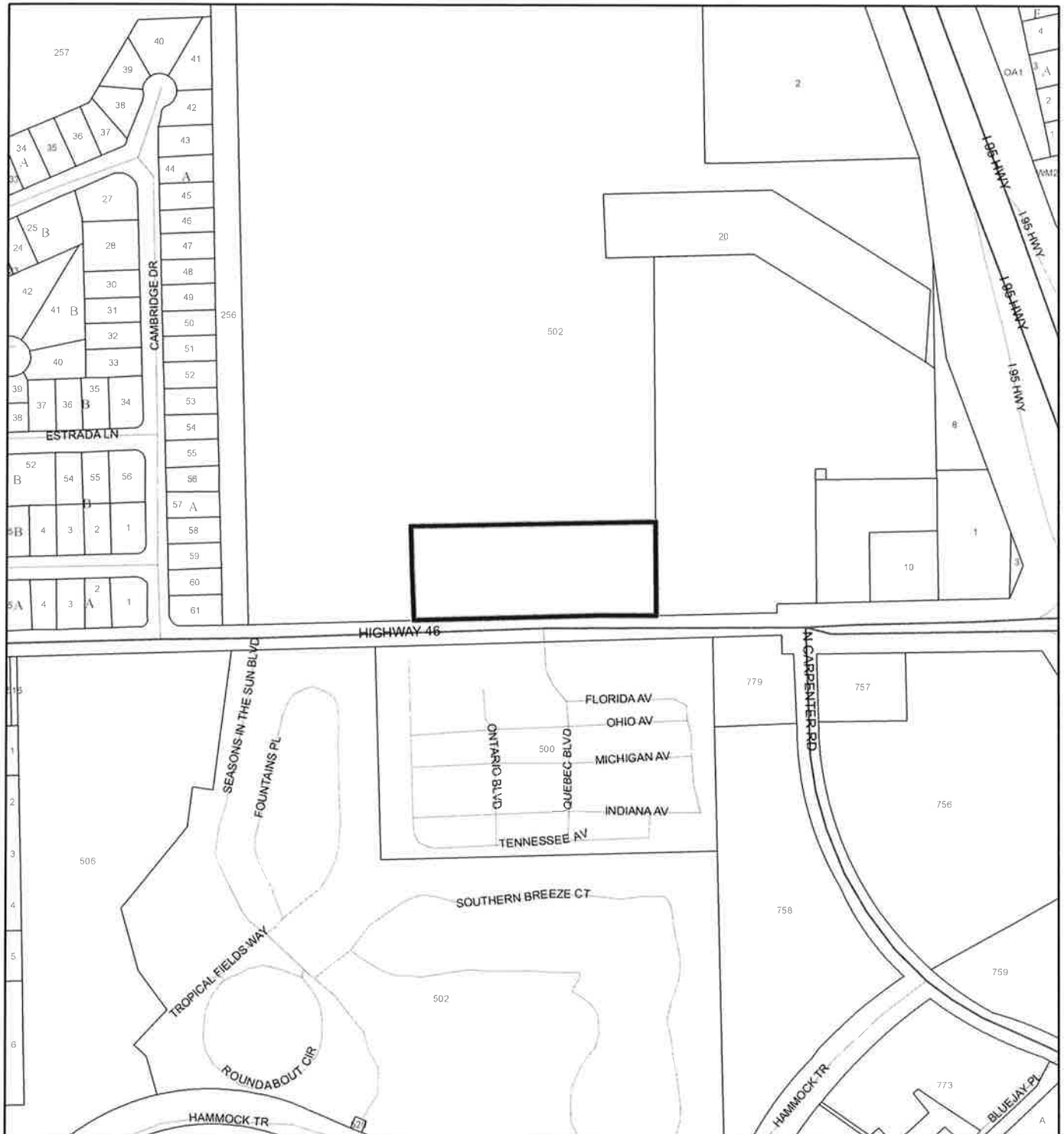
■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21Z00044



1:4,800 or 1 inch = 400 feet

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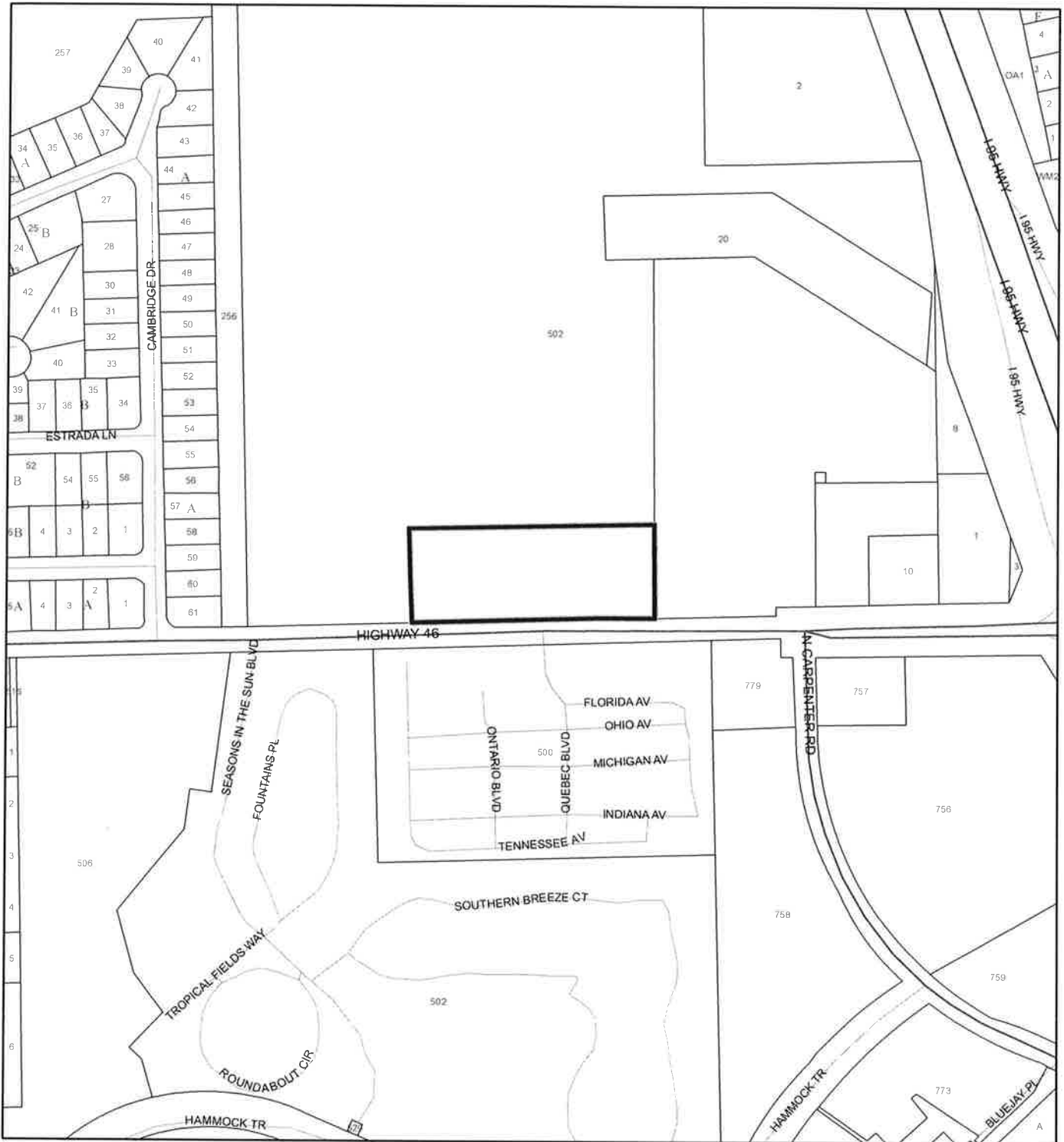
Produced by BoCC - GIS Date: 11/10/2021

-  Subject Property
-  Parcels
-  Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST




21Z00044



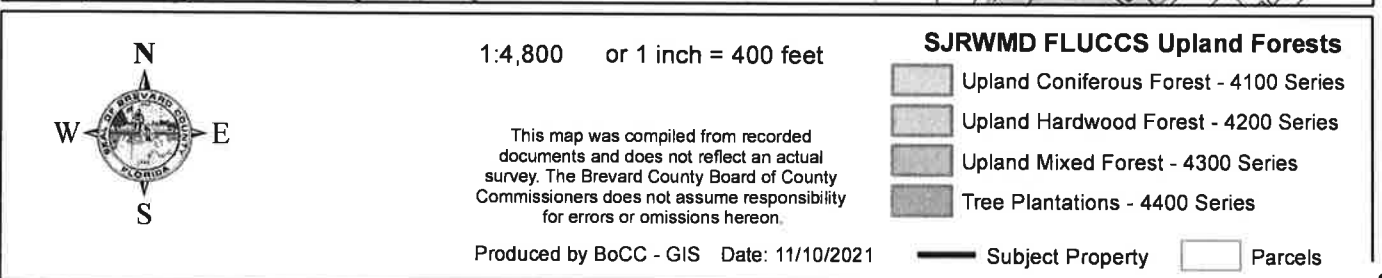
1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/10/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

21Z00044





PRINCIPALS
Lawrence L. Smith, Jr.
Donaldson K. Barton, Jr.
Glenn J. Lusink
Jon S. Meadows
Mark D. Prochek
Mark E. Puckett

November 2, 2021

DRMP Job #: 21-0658.000

Lacey Lyons Rezanka
Attn: Kimberly Rezanka
1290 Rockledge Blvd Suite 201
Rockledge, FL 32955

Subject: Surry Homes Zoning Survey

Dear Ms. Rezanka,

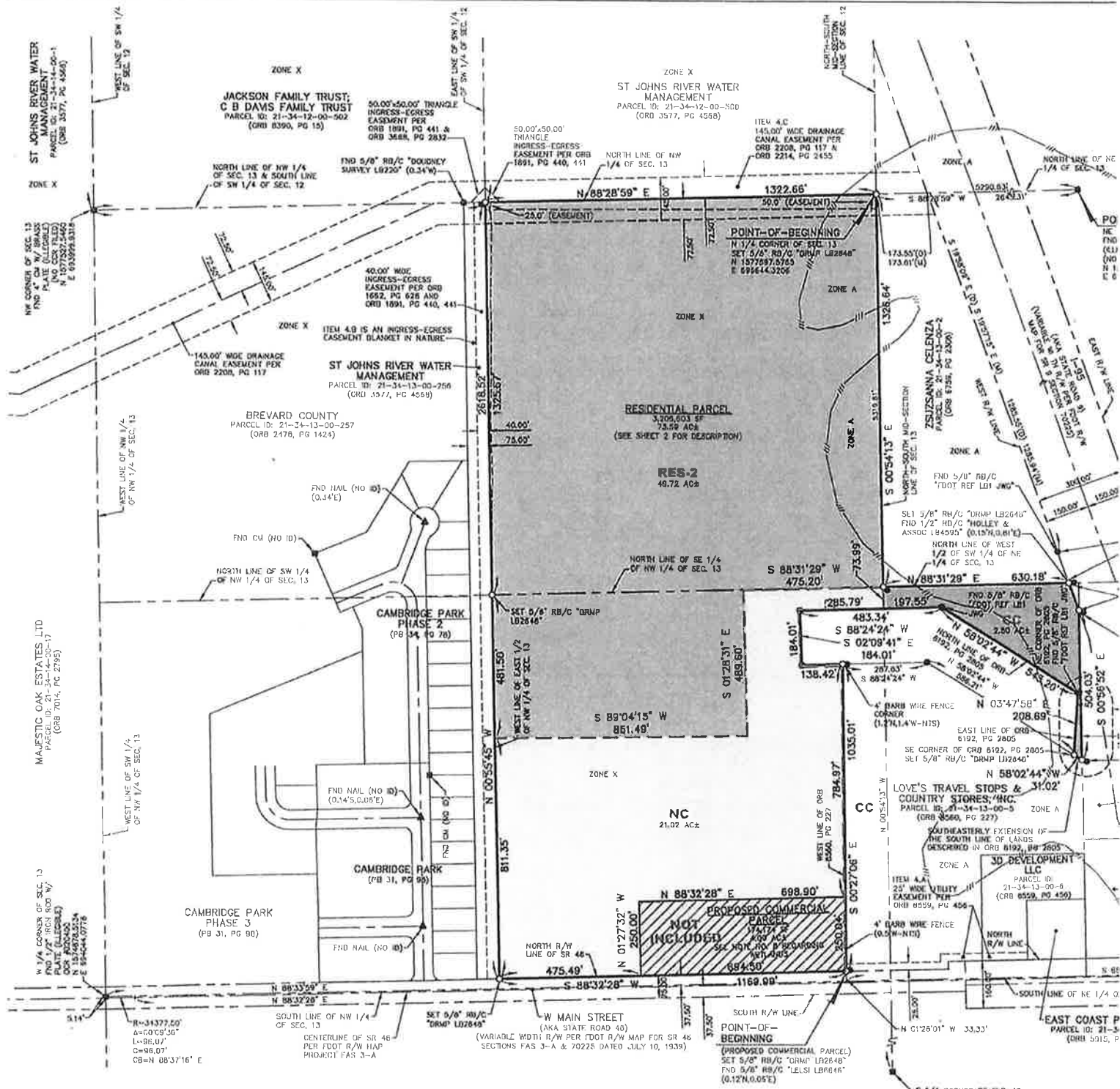
As requested by Surrey Homes, I visited the subject site on 10/5/21 in order to verify existing onsite ecological conditions. The subject site, which is currently part of a larger proposed development parcel, consists of 4.0 acres of proposed commercial land located on the north side of State Road 46. A boundary survey of the overall parcel and 4.0 acre commercial parcel has been prepared by this office and references the field visit conducted by this office. As identified on the inspection date, onsite vegetative communities consist only of improved pasture which is a designated upland habitat. As improved pasture, there are shallow swales for drainage conveyance however, they do not regularly hold water and are not classified as surface waters. There were no wetlands and/or surface waters found within the subject area or the immediately surrounding vicinity. Development of the subject site will not result in any wetland and/or surface water impacts.

Sincerely,
DRMP, Inc.

Shanda Ryer
Ecologist

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Tampa, Florida
Trotman, North Carolina

1 833.811.3767
www.DRMP.com

**DESCRIPTION (RES-2 PARCEL):**

A PARCEL OF LAND BEING A PORTION OF LANDS AS DESCRIBED IN OUR BOOK 666 PAGE 844 AND OUR BOOK 8133 PAGE 2745 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA LYING IN SECTION 13, TOWNSHIP 21 SOUTH, RANGE 34 EAST BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 13; THENCE SOUTH 00°21'20\"/>

NOTE:

1. SEE SHEET CERTIFICATE

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 14, 2022, 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: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Mark Wadsworth, Chair (D4); Liz Alward (D4); Logan Luse (D4-Alt); Bruce Moia (D5); Peter Filiberto, Vice Chair (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Cheryl Campbell, Comprehensive Planner; George Ritchie, Planner III; Kyle Harris, Associate Planner; Alex Esseesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka)

A Small Scale Comprehensive Plan Amendment (21S.08) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 4 acres, located on the north side of S.R. 46, approx. 0.25 mile west of I-95. (No assigned address. In the Mims area.) (21PZ00081) (Tax Account 2100183) (District 1)

Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka)

A change of zoning classification from GU (General Use) to BU-1 (General Retail Commercial). The property is 4 acres, located on the north side of S.R. 46, approx. 0.25 mile west of I-95. (No assigned address. In the Mims area.) (21Z00004) (Tax Account 2100183) (District 1).

Kim Rezanka, Attorney representing the applicant, handed out exhibits to the board [the exhibits can be found in files 21PZ00081 and 21Z00044, located in the Planning and Development Department] She stated before the board is two applications to change the land use and zoning on a 4-acre parcel, which is part of a larger 118-acre parcel. She said the handout she gave the board is of the 118 acres, and the four acres is on S.R. 46, closest to I-95 to the east. She said she also gave the board a concept plan by DRMP, it is not for site plan review, but it shows the four acres on the left side, and that is the four acres she is seeking to change from NC to CC. It has not yet been decided what will go on the four acres, but with all of the homes coming to the area, more commercial is needed, and Community Commercial will allow a drive through with the BU-1 zoning being requested. The Loves Travel Stop is to the east, and Chevron and Dunkin Donuts is further to the east. She said the application includes a justification for the request to Community Commercial, it also cites the 2007 Mims Small Area Study which states that commercial should take place in this location.

Jeffrey Ball noted that the concept plan for the residential portion has not been vetted to make sure it meets County code.

Ron Bartcher stated the analysis says that based on a Floor Area Ratio for traffic analysis, S.R. 46 would be a 1,000% increase in traffic. He said with no plans for what will be on the property, his biggest concern is that traffic on S.R. 46 would be at an unacceptable level.

Ms. Rezanka stated a traffic study has been requested, but it is not final yet. She said S.R. 46 is not at capacity, but it will be a site plan issue when a commercial use comes in.

Mr. Bartcher asked if the staff report is correct in stating S.R. 46 is at 66% capacity. Mr. Ball replied yes, at the time of the report, that is correct. Staff goes by the highest and best use, so that might not be what the applicant is doing, that's just a best guess to notify everyone that there may be a problem.

Mr. Bartcher stated the applicant is asking for BU-1 which allows a drive through, and that increases the traffic rate. He said he is not sure they would be creating as much commercial space as what was shown in the worst case scenario, but even if they created half of that, it's too much traffic for that road.

Mr. Ball explained the applicant has options. They can wait for available capacity, if there is a capacity issue; they can phase the development to meet the traffic demands; or they can pay their way, as a proportionate share to provide the added capacity to the road. The applicant for the commercial use will need to provide a site plan that shows the square footage of the commercial area and a traffic study to show how many trips, and at that time they will have to do a concurrency review to see if there are enough available trips that are left on the road.

No Public comment.

Liz Alward stated not knowing what the use is going to be, as far as intensity, such as evening hours and lighting, concerns her. She said while commercial is good along that corridor, planned commercial, including the surrounding residential is important also.

Peter Filiberto stated he has the same concerns regarding the traffic, but he doesn't see those concerns with Item H.5.

Motion by Peter Filiberto, seconded by Bruce Moia, to recommend approval of the Small Scale Comprehensive Plan Amendment from NC to CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Robert Sullivan, to recommend approval of a change of zoning classification from GU to BU-1. The motion passed 9:1, with Ron Bartcher voting nay.