



AGENDA REPORT
March 7, 2019

**James and Jennifer Mutter request a change of zoning classification from
GU and RU-1-13 to BU-1-A. (18PZ00150) (District 1)**

SUBJECT:

James and Jennifer Mutter request a change of zoning classification from GU (General Use) and RU-1-13 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Commercial). The property is 1.15 acres, located on the north side of West Main Street, approximately 145 feet west of Holder Road. (18PZ00150) (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 classification from GU (General Use) and RU-1-13 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Commercial).

SUMMARY EXPLANATION and BACKGROUND:

The applicants are seeking a change of zoning classification from the General Use (GU) and Single-Family Residential (RU-1-13) to Restricted Neighborhood Commercial (BU-1-A) in order to redevelop the property as a real estate office and allow for possible future expansion to other BU-1-A uses. The property is currently developed with one single-family residential unit, located 100 feet west of the first signalized intersection east of the S.R. 46/I-95 Interchange.

The adjacent land to the west consists of vacant land zoned General Retail Commercial (BU-1) and further west is the entrance road to the Indian River Preserve Planned Unit Development (PUD). To the east, the subject parcel abuts two parcels with existing single-family residential dwelling units that retain the RU-1-13 zoning classification.

The BU-1-A zoning has been requested to allow for flexible future use of the property within the permitted uses of the Neighborhood Commercial Future Land Use designation. Should the Board approve the change of zoning of this site, the applicants state that the existing single-family home will be converted into a real estate office. This site will need site plan review in order to ensure there is adequate infrastructure to support.

The preliminary concurrency analysis indicates that the impact of rezoning the parcel would not result in S.R. 46 rising 92.81% of the Maximum Acceptable Volume, but is not anticipated to result in a Level of Service deficiency on the roadway. Transportation impacts and access will be further evaluated by both the County and Florida Department of Transportation during site plan review.

The Board may wish to consider if the proposal for BU-1-A zoning on the 1.15 acre parcel is consistent with the Future Land Use Map's Neighborhood Commercial designation and with plans for future development. The Board may wish to consider if the uses allowed within BU-1-A (professional offices, convenience stores, etc.) are compatible with the development in the surrounding area.

On February 11, 2019, the Planning and Zoning Board heard the request and unanimously recommended approval.

ATTACHMENTS:

Description

- ☐ **Administrative Policies**
- ☐ **Staff Comments**
- ☐ **GIS Maps**
- ☐ **Planning and Zoning Minutes**

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 and 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 zoning, conditional uses, comprehensive plan appeals, vested rights or other 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 per cent 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 an 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 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.
- 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the 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 MPO 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 (ALOS): Acceptable Level of Service currently adopted by the County.

Current 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 LOS that a proposed development may generate on a roadway.

#5

RESOLUTION NO. 18PZ00150

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

WHEREAS, JAMES AND JENNIFER MUTTER have requested a change of zoning classification from GU (General Use) and RU-1-13 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Commercial), on property described as Lot 17, Block 1, Spruce Hills Subdivision, as recorded in ORB 8249, Pages 2609 – 2610, of the Public Records of Brevard County, Florida.
Section 13, Township 21, Range 34. (1.15 acres) Located on the north side of W. Main St., approx. 145 ft. west of Holder Rd. (4218 W. Main St., Mims)

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

WHEREAS, the Board, after considering said application and the Brevard County Planning & 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 and RU-1-13 to BU-1-A, be approved, and the Planning & 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 7, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Kristine Isnardi, Chair
Brevard County Commission
As approved by Brevard County Commission on
March 7, 2019.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – February 11, 2019)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD 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.

REZONING REVIEW WORKSHEET

18PZ00150

Commission District # 1

Hearing Dates: P&Z 02/11/19

BCC 03/07/19

Owner Name: James and Jennifer Mutter

Request: GU & RU-1-13 to BU-1-A

Subject Property:

Parcel ID# 21-34-13-AR-1-17

Tax Acct.# 2100199

Location: North side of W. Main Street, approx. 145 ft. west of Pine Avenue

Address: 4218 W. Main Street, Mims

Acreage: 1.15

Consistency with Land Use Regulations

YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255

YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255

YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	GU & RU-1-13	BU-1-A
Potential*	2 Single-Family Residential Units	10,019 sq. ft.
Can be Considered under FLU MAP	Yes – Neighborhood Commercial	Yes – Neighborhood Commercial

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

	ADT	PM PEAK		
Trips from Existing Zoning	20	2	Segment Number	310C
Trips from Proposed Zoning	1,438	159	Segment Name	SR 46 I-95 - US 1
Maximum Acceptable Volume (MAV)	14,160	1,274	Acceptable LOS	D
Current Volume	11,724	1,055	Directional Split	0.5
Volume With Proposed Development	13,142	1,212	ITE CODE	
Current Volume / MAV	82.80%	82.80%	868	
Volume / MAV with Proposal	92.81%	95.12%		
Current LOS	C	C		
LOS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicants are seeking a change of zoning classification from the General Use (GU) and Single-Family Residential (RU-1-13) to all Restricted Neighborhood Commercial (BU-1-A) in order to redevelop the property as a real estate office and allow for possible future expansion to other BU-1-A uses. The 100' by 100' portion of the lot was combined with 2 platted lots to make up the one existing 1.15 acre parcel. The property is currently developed with one single-family residential unit, located 100 feet west of a four-way, signalized intersection that is the first signalized intersection east of SR-46/I-95 Interchange.

The northern 100' by 100' lot area is zoned GU (original zoning) and the remainder of the lot is zoned RU-1-13 under **Z-2980**; a Board directed rezoning application to change the RU-1 zoning classification to a new class of single-family zoning classifications, which included RU-1-7, RU-1-9, RU-1-11 or the RU-1-13 and was approved on June 1, 1972.

Land Use Compatibility

The subject property retains the Neighborhood Commercial (NC) Future Land Use (FLU) designation. The requested BU-1-A Zoning is consistent with the FLU and Future Land Use Element (FLUE) Goals, Objectives, and Policies.

FLUE 2.1 outlines the role of the Comprehensive Plan in the designation of commercial land.

FLUE Policy 2.5 – Activities Permitted in Neighborhood Commercial (NC) Future Land Use Designations

Neighborhood Commercial (NC) development activities are intended to be low impact in nature and serve the needs of the immediate residential area. Intrusion of these land uses into surrounding residential areas shall be limited. Existing BU-1-A uses, which were established as of the adoption date of this provision shall be considered consistent with this policy. Development activities which may be considered within Neighborhood Commercial (NC) Future Land Use designation, provided that listed criteria are met, include the following:

- a) Professional offices (no drive through lanes permitted);
- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses;
- e) Institutional uses;
- f) Recreational uses;
- g) Public facilities; and
- h) Transitional uses pursuant to Policy 2.12.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

Applicable Land Use Policies

The applicants are proposing to change the zoning (GU & RU-1-13) to BU-1-A in order to convert a single-family dwelling unit into a real estate office. The subject parcel is approximately 810 feet east of the SR-46/I-95 Interchange and west of the four-way signalized intersection of W. Main Street (SR-46) and Pine Avenue/Holder Road. To the west, the land between the subject parcel and the SR-46/I-95 Interchange consists of vacant land zoned General Retail Commercial (BU-1) and the entrance road to the Indian River Preserve Planned Unit

Development (PUD). To the east, the subject parcel abuts two parcels with existing single-family residential dwelling units that still retain the RU-1-13 Zoning classification.

While the proposed real estate office use could be permitted by the Residential Professional (RP) Zoning classification if it were developed to conform to the residential, architectural standards of RP, the BU-1-A Zoning has been requested to allow for other BU-1-A uses to be added to the commercial building and flexible future use of the property within the permitted uses of the NC FLU designation.

The surrounding properties are zoned Agricultural Residential (AU) and Single-Family Residential (RU-1-13) to the north, RU-1-13 across SR-46 to the south, RU-1-13 to the east, and BU-1 to the west. The AU property to the north is part of the same parcel as the BU-1 zoned property to the west.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet. RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture. The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

The subject property is located within the Mims Small Area Study (SAS) boundaries. The Mims SAS, which was accepted by the Board on April 10, 2007, recommended an elliptical overlay zone around the SR-46/I-95 Interchange for the application of design guidelines for commercial properties in the area. The S.R. 46 interchange is one of Mims's "front doors", especially to those from outside Brevard County. The Mims community is greatly concerned that development be visually harmonious with its rural heritage and character.

There have been two (2) zoning actions approved in the last three (3) years within ½ mile of the subject property and two (2) zoning actions are currently under review in addition to the subject request.

- **16PZ00095** approved a Binding Development Plan (BDP) for a Recreational Vehicle Park (RVP) on 12/21/16. The RVP site lies on the south side of SR 46 3,300 feet west of the proposed zoning action.
- **16PZ00015** changed the name of the Walkabout PUD to the Indian River Preserve PUD on 02/05/2016. The PUD lies 150 feet to the west of the proposed zoning action.
- **18PZ00161** located approximately 1/3 of a mile to the west of the subject property is currently under review to change the zoning classification from GU (3.81 acres) and BU-1 (1.78 acres) to Retail, Wholesale, and Warehousing Commercial (BU-2) and combine with property already zoned BU-2 to develop a 14.4 acre tract.
- **18PZ00160** is a Small Scale Comprehensive Plan Amendment from NC to Community Commercial (CC) that was filed concurrently for the above listed project (**18PZ00161**).

For Board Consideration

The applicants are seeking a change of zoning classification from the General Use (GU) and Single-Family Residential (RU-1-13) to all Restricted Neighborhood Commercial (BU-1-A) in order to redevelop the property as a real estate office and allow for possible future expansion to other BU-1-A uses. The property is currently developed with one single-family residential unit, located 100 feet west of the first signalized intersection east of SR-46/I-95 Interchange

The adjacent land to the west consists of vacant land zoned General Retail Commercial (BU-1) and further west is the entrance road to the Indian River Preserve Planned Unit Development (PUD). To the east, the subject parcel abuts two parcels with existing single-family residential dwelling units that still retain the RU-1-13 zoning classification.

Staff Comments: Page 4
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The BU-1-A zoning has been requested to allow for flexible future use of the property within the permitted uses of the NC FLU designation. Should the Board approve the change of zoning of this site, the applicants state that the existing single-family home will be converted into a real estate office. This site will need site plan review in order to be upgraded to provide parking for the new business venture.

The preliminary concurrency analysis indicates that the impact of rezoning the parcel would result in SR46 volume over capacity rising to 92.81% of the MAV. Transportation impacts and access will be further evaluated by both the County and FDOT during site plan review.

The proposal for BU-1-A zoning on the 1.15 acre parcel is consistent with the Future Land Use Map's Neighborhood Commercial designation and with plans for future development, as demonstrated within the 2007 Mims Small Area Study. The Board should be aware that the subject parcel abuts existing residential development and that the proposed commercial development will be required to provide a buffer, including a wall and landscaping, adjacent to residential uses, which will be reviewed during the site planning process.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review
SUMMARY

Item #: 18PZ00150 Zoning Request: GU & RU-1-13 to BU-1-A P&Z Hearing Date: 02/11/19	Applicant: James and Jennifer Mutter BCC Hearing Date: 03/07/19
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This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Hydric Soils/Wetlands	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Potential

Comments:

**This review relates to the following property: Twp. 21, Rng. 34, Sec. 13;
Tax ID No. 2100199**

The subject parcel contains mapped aquifer recharge soils (Pomello-Urban land complex) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

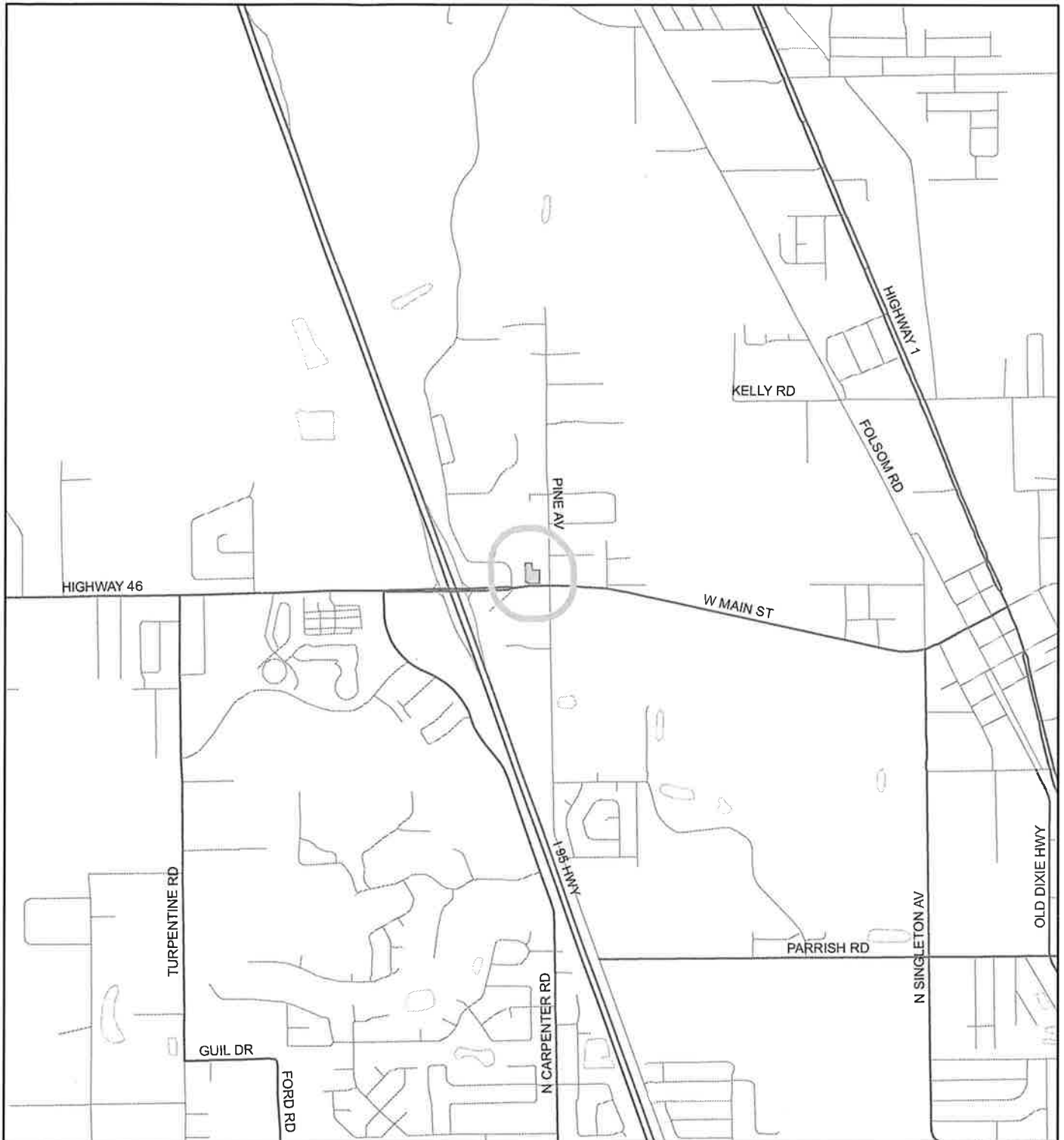
Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. In addition, a large Florida Scrub Jay polygon is mapped to the southeast and exists over a portion of the parcel as shown on the attached Scrub Jay Occupancy Map. 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.

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. The attached environmental report prepared by Atlantic Environmental Solutions on November 26, 2018, found the site to be dominated by large live oaks and other native vegetation. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

MUTTER, JAMES AND JENNIFER

18PZ00150



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

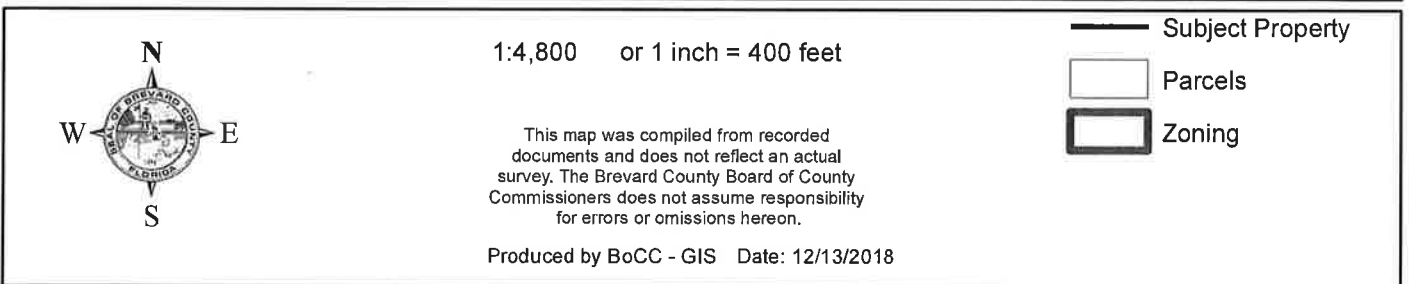
Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 12/13/2018

— Buffer
■ Subject Property

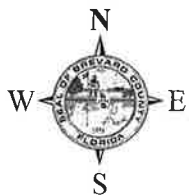
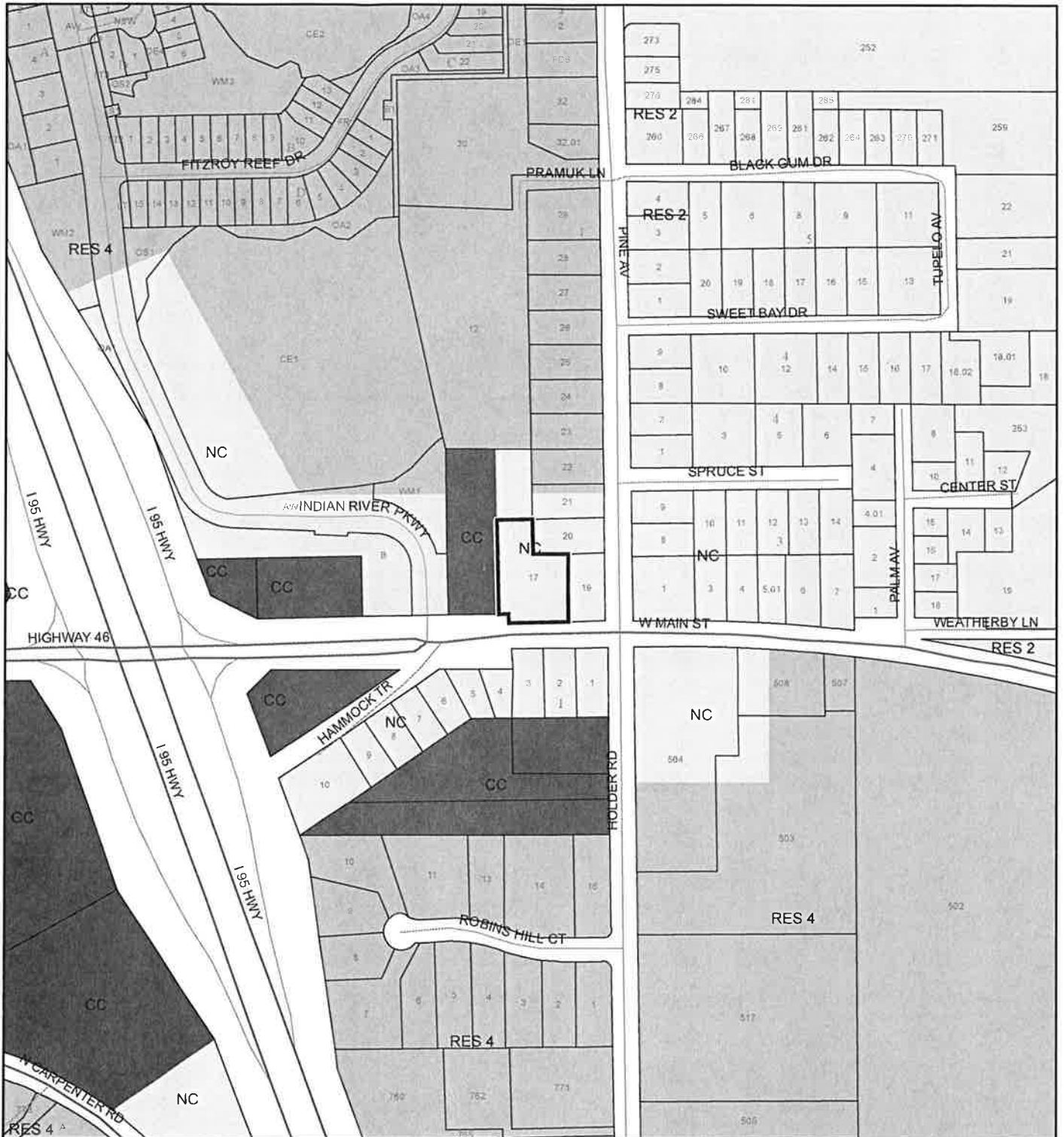
MUTTER, JAMES AND JENNIFER
18PZ00150



FUTURE LAND USE MAP

MUTTER, JAMES AND JENNIFER

18PZ00150



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

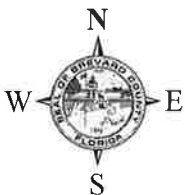
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AERIAL MAP

MUTTER, JAMES AND JENNIFER

18PZ00150



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2018

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Produced by BoCC - GIS Date: 12/13/2018

— Subject Property

□ Parcels

NWI WETLANDS MAP

MUTTER, JAMES AND JENNIFER

18PZ00150



1:4,800 or 1 inch = 400 feet

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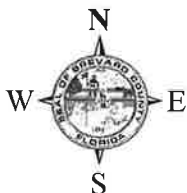
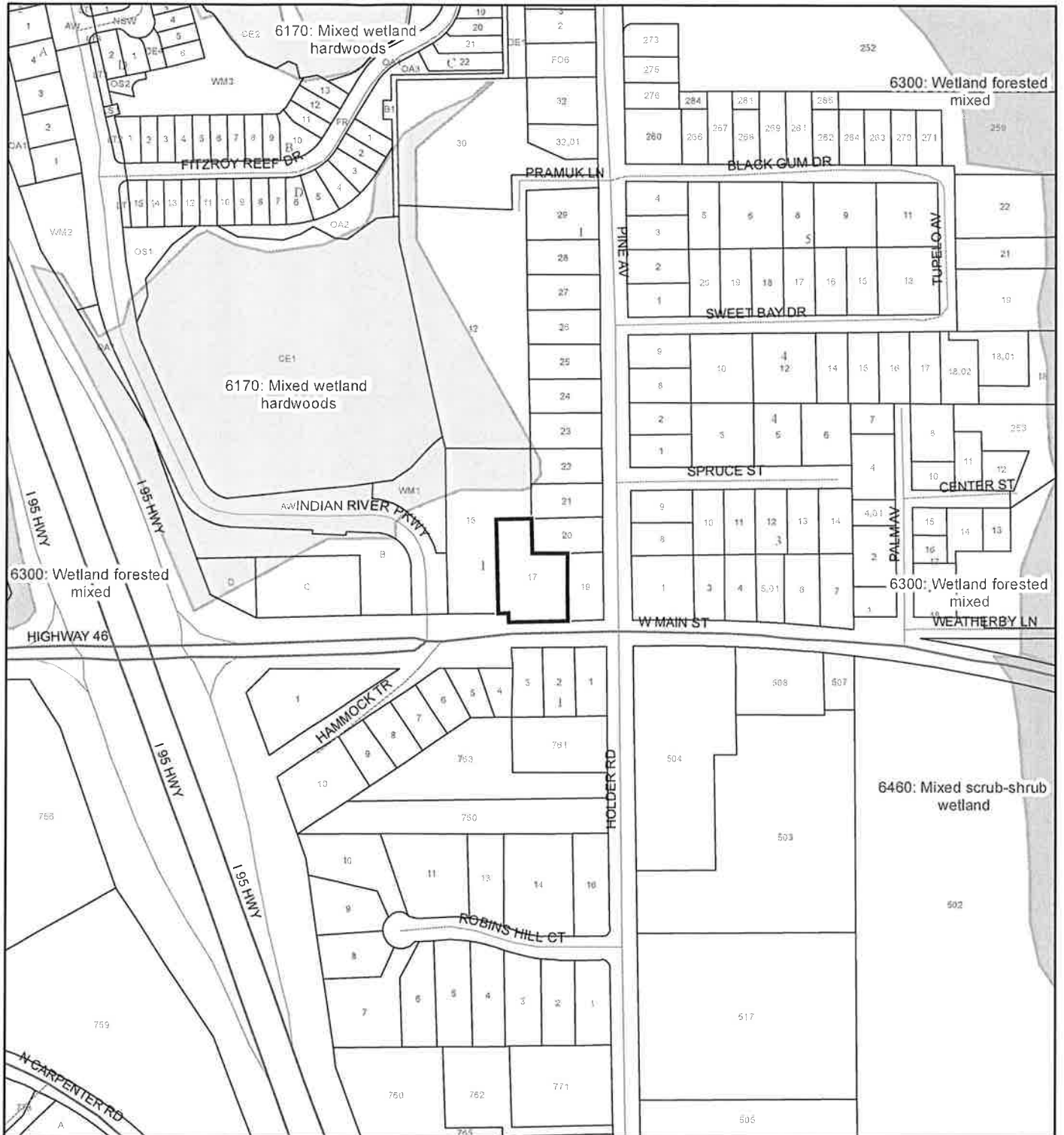
National Wetlands Inventory (NWI)

	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

MUTTER, JAMES AND JENNIFER

18PZ00150




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2018

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

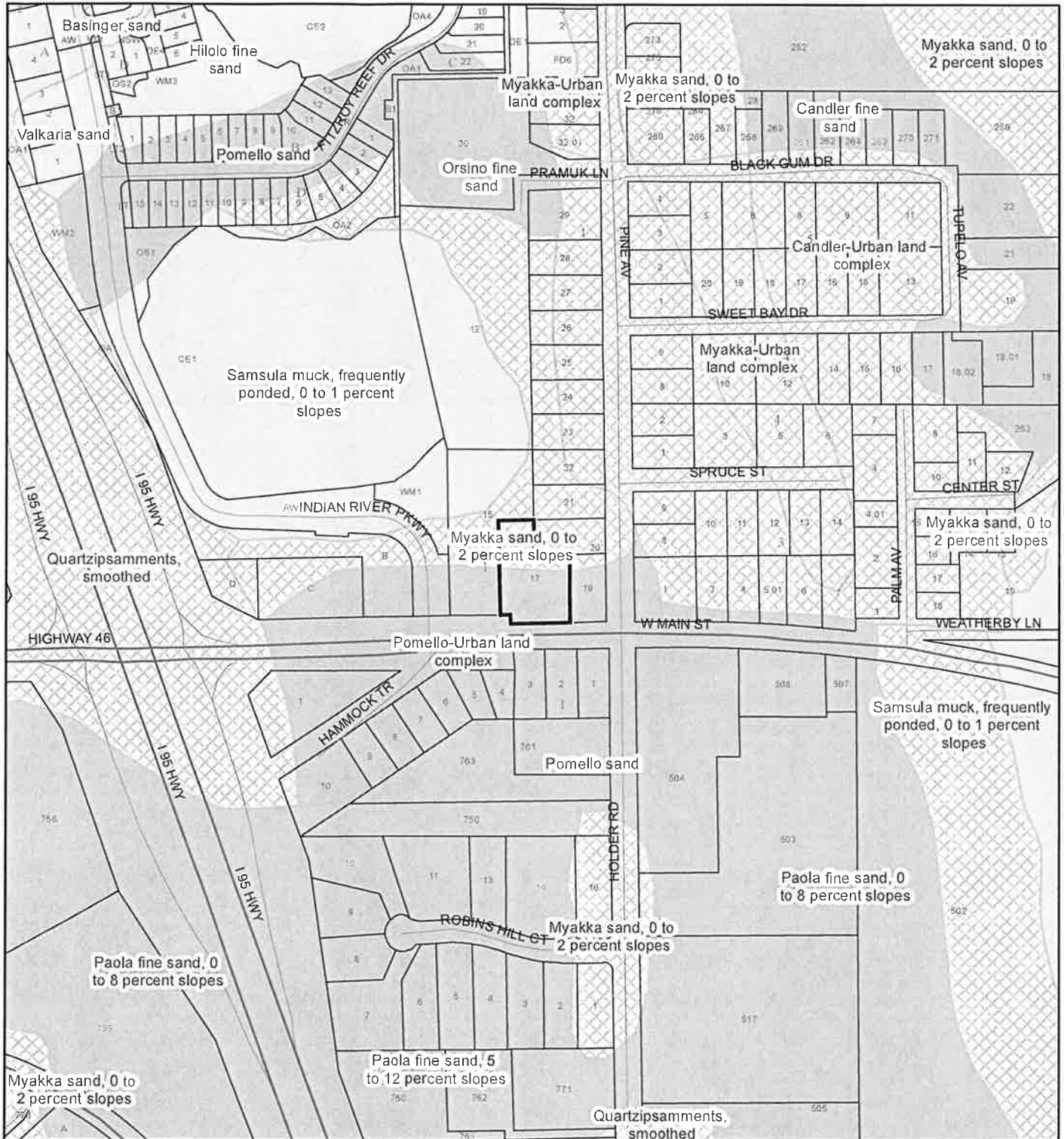
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

MUTTER, JAMES AND JENNIFER

18PZ00150



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USDA SCSSS Soils

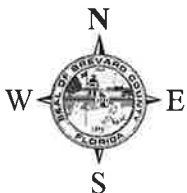
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

MUTTER, JAMES AND JENNIFER

18PZ00150



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2018

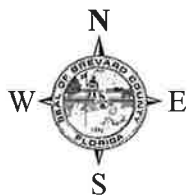
FEMA Flood Zones

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

EAGLE NESTS MAP

MUTTER, JAMES AND JENNIFER

18PZ00150



1:4,800 or 1 inch = 400 feet

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 Subject Property

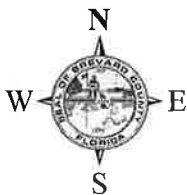
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

MUTTER, JAMES AND JENNIFER




18PZ00150



1:4,800 or 1 inch = 400 feet

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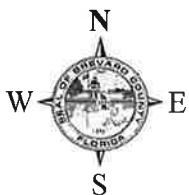
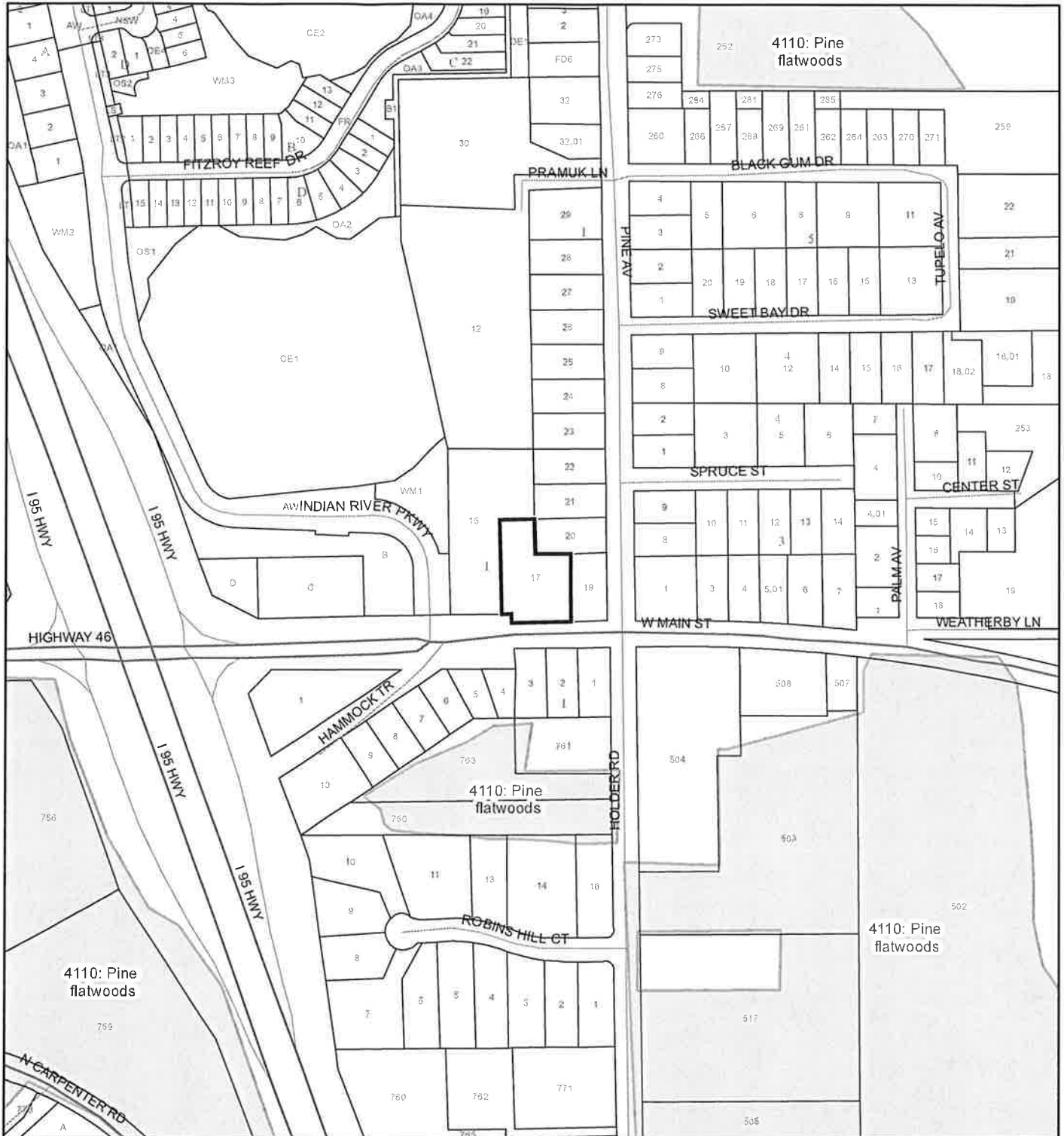
Produced by BoCC - GIS Date: 12/13/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MUTTER, JAMES AND JENNIFER

18PZ00150





1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/13/2018

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

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 11, 2019, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Paul Body, Planner II; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, March 7, 2019, at 5:00 p.m.

Excerpt from complete agenda

James and Jennifer Mutter:

A change of zoning classification from GU (General Use) and RU-1-13 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Commercial). The property is 1.15 acres, located on the north side of West Main Street, approximately 145 feet west of Holder Road. (4218 West Main Street, Mims) (18PZ00150) (District 1)

Jimmy Mutter – I'm the owner of 4218 West Main Street, and I'd like to try to get it rezoned so we can open an office there in the near distant future.

Henry Minneboo – Is that just over an acre?

Jimmy Mutter – Yes.

No public comment.

Ron McLellan – You have frontage on Main Street?

Jimmy Mutter – Yes, sir.

Rochelle Lawandales – I move approval.

Ron McLellan – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.