



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

3/3/2022

Subject:

Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka) request a Small Scale Comprehensive Plan Amendment (21S.08) to change the Future Land Use designation from NC to CC. (21PZ00081) (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 Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation from NC to CC on 4.0 acres to allow for more intensive commercial use of the subject property (including a drive-through) than the designated NC land use provides. A companion rezoning application (21Z00044) has been submitted accompanying this request to change the zoning from GU (General Use) to BU-1 (General Retail Commercial). The subject property is part of a larger 118.3 acre parcel and is currently undeveloped.

To the north of the subject property is undeveloped land. To the south, across State Road 46, is a commercial recreational vehicle park and campground; To the east is a commercial travel stop and retail store. To the west is undeveloped land.

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 if the request is consistent and compatible with the surrounding area.

On February 14, 2022, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

March 4, 2022

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

Attention: Deborah Thomas

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 22-06, which was filed in this office on March 4, 2022.

Sincerely,

Anya Owens
Program Administrator

AO/lb



March 4, 2022

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item H.6., Small Scale Comprehensive Plan Amendment (21S.08)

The Board of County Commissioners, in regular session on March 3, 2022 conducted the public hearing and adopted Ordinance No. 22-06, setting forth the third Small Scale Comprehensive Plan Amendment (21S.08) to change the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) (21PZ00081). Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/ns

Encl.(1)

ORDINANCE NO. 22- 06

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRD SMALL SCALE PLAN AMENDMENT OF 2022, 21S.08, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2022 as Plan Amendment 21S.08; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 21S.08; and

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

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON MARCH 4, 2022.

WHEREAS, on February 14, 2022, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 21S.08, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on March 3, 2022, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 21S.08; and

WHEREAS, Plan Amendment 21S.08 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 21S.08 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 21S.08 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 21S.08, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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


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

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

DONE AND ADOPTED in regular session, this 3 day of March, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


Rachel M. Sadoff, Clerk


By: Kristine Zonka, Chair

As approved by the Board on March 3, 2022.

EXHIBIT A
21S.08 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

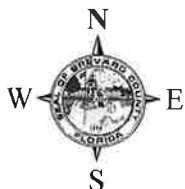
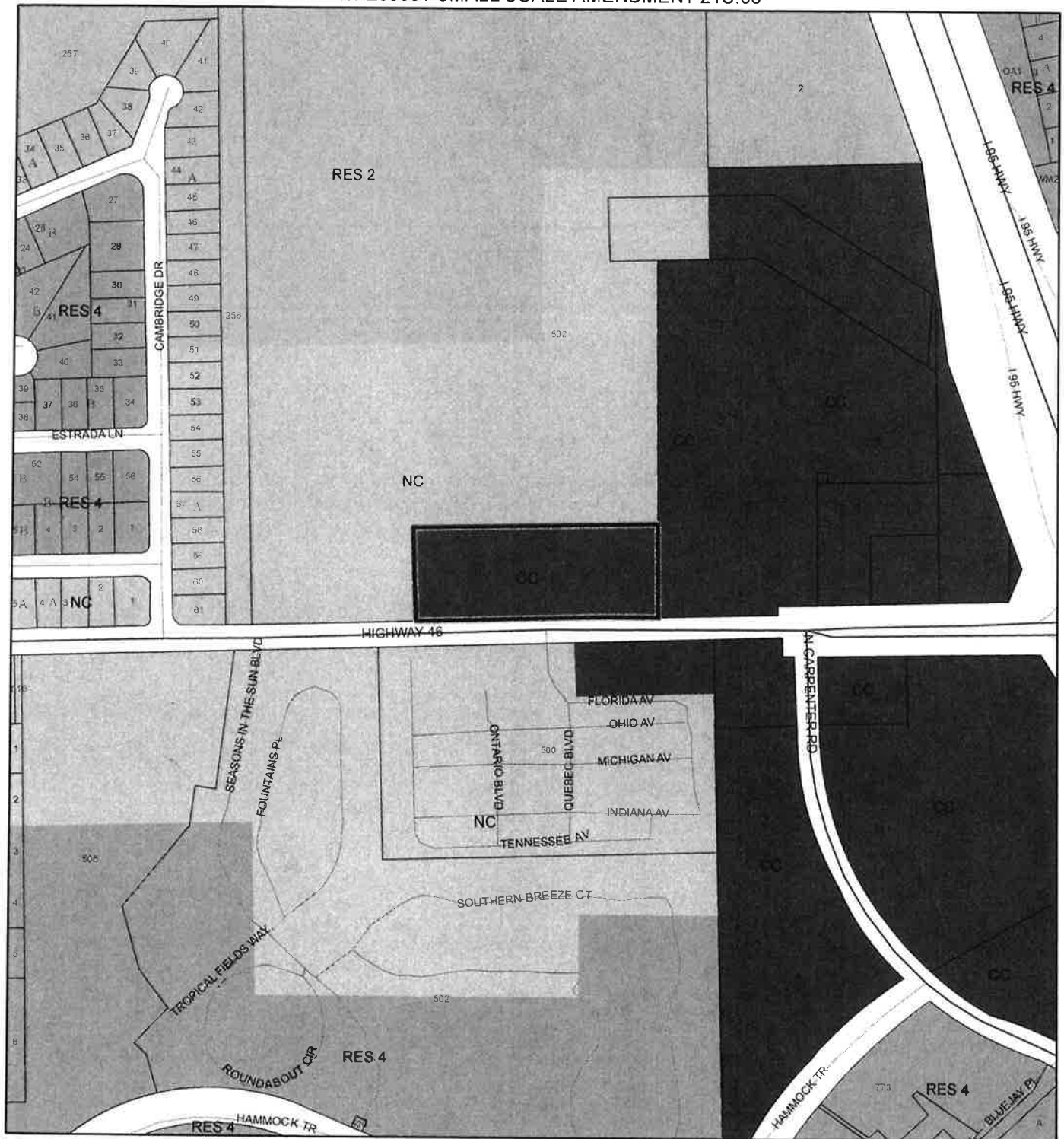
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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

Produced by BoCC - GIS Date: 11/22/2021

EXHIBIT B

Contents

1. Legal Description

PUBLIC HEARING NOTICE

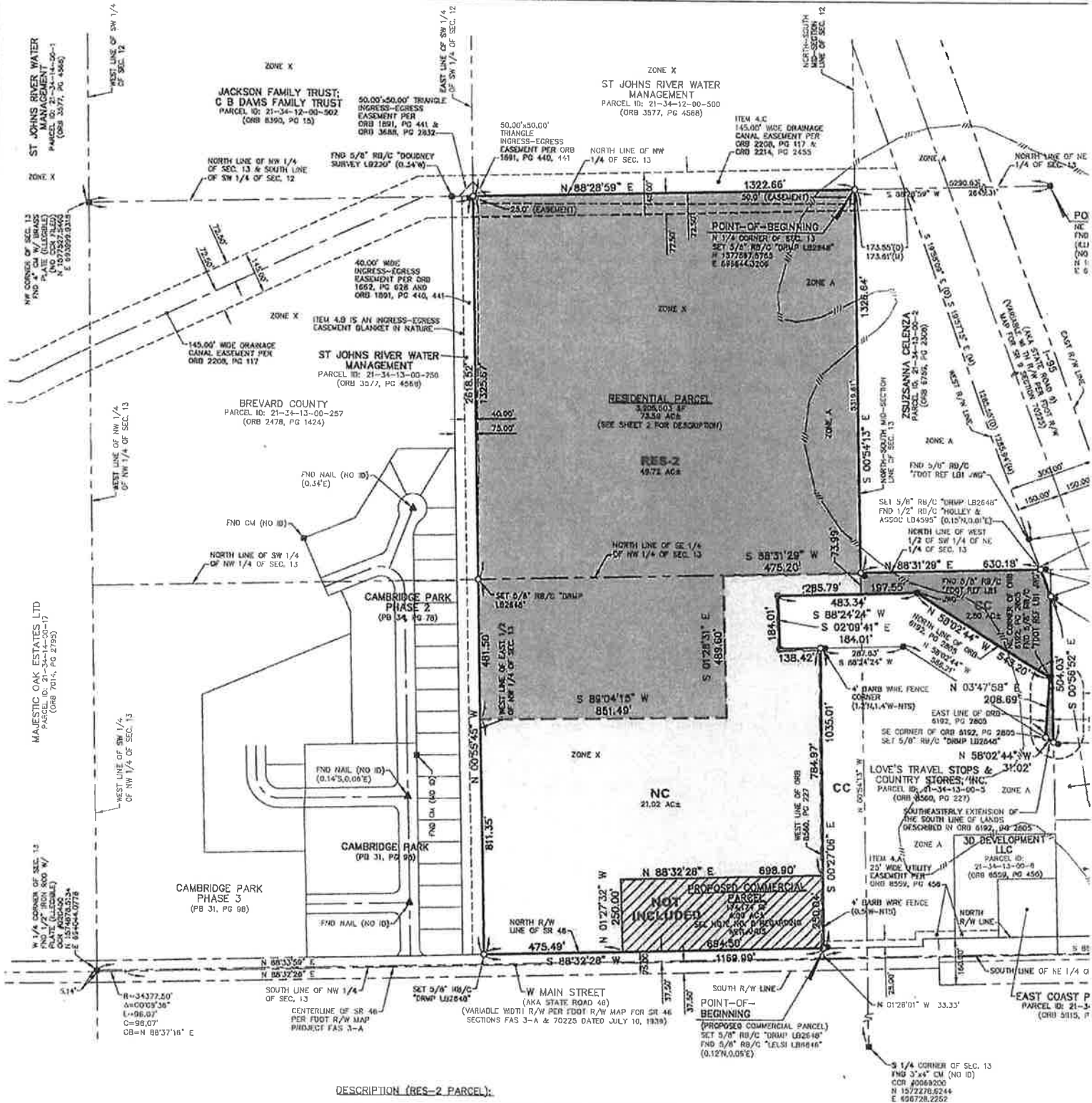
NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board/Local Planning Agency and the Board of County Commissioners will consider the following requests on MONDAY, FEBRUARY 14, 2022, and THURSDAY, MARCH 3, 2022, DISTRICT 1 (21200046) LANCE C. BONCEK requests a change of zoning classification from GU (General Use) to AUL (Agricultural Residential, Low-Intensity), on property described as Lot 8, Block 4, Canaveral Groves Subdivision, as recorded in ORB 7195, Pages 2110 - 2111, of the Public Records of Brevard County, Florida, Section 11, Township 24, Range 35, (1.08 acres) Located on the south side of Angelica St., approx. 200 ft. east of Alan Shepard Ave. (3375 Angelica St., Cocoa) (21P200081) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (215.08) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as 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 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.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 215.07: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. (21200044) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST (Kim Rezanka) requests a change of zoning classification from GU (General Use) to BU-1 (General Retail Commercial), on property described as 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 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.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 215.10: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. (21200043) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST (Kim Rezanka) request a change of zoning classification from AU (Agricultural Residential), GU (General Use), BU-1 (General Retail Commercial), and BU-2 (Retail, Warehousing, and Wholesale Commercial), to RU-1-7 (Single-Family Residential) with a BDP (Binding Development Plan), on property described as 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 NE corner of Section 13; thence S88deg21'59"W, along the north line of the NE 1/4 of said Section 13, a distance of 2,645.31 ft. to the north 1/4 corner of said Section 13 and the point of beginning of this description; thence S00deg54'13"E, along the north-south midsection line of said Section 13, a distance of 1,326.64 ft. to a point on the north line of the west 1/2 of the SW 1/4 of the NE 1/4 of said Section 13; thence N88deg31'29"E, along the north line, a distance of 630.18 ft. to a point on the westerly right-of-way line of Interstate 95 (S.R. No. 9), a 300 ft. wide right-of-way as shown on FDOT Map Section No. 70225; thence S19deg56'28"E, along said westerly right-of-way line, a distance of 98.81 ft. to a point on the east line of the west 1/2 of the SW 1/4 of the NE 1/4 of said Section 13; thence S00deg55'52"E, along said east line a distance of 504.03 ft. to a point on the southeasterly extension of the south line of lands as described in ORB 6192, Page 2805 of said Public Records; thence N58deg02'44"W, along said southeasterly extension, a distance of 31.02 ft. to the SE corner of said lands as described in ORB 6192, Page 2805; thence N03deg47'58"E, along the east line of said lands, a distance of 208.69 ft. to the NE corner of said lands; thence N58deg02'44"W, along the north line of said lands, a distance of 543.20 ft.; thence S88deg24'24"W, along the north line of said lands, a distance of 483.34 ft. to the NW corner of said lands; thence S02deg09'41"E, along the west line of said lands, a distance of 184.01 ft. to the SW corner of said lands; thence N88deg24'24"E, along the south line of said lands, a distance of 138.42 ft. to a point on the west line of lands as described in ORB 8560, Page 227 of the Public Records of Brevard County, Florida; thence S00deg27'06"E, along the west line of said lands, a distance of 784.97 ft.; thence S88deg32'28"W, along said north right-of-way line, a distance of 698.90 ft.; thence S01deg27'32"E, a distance of 250 ft. to a point on the northerly right-of-way line of S.R. No. 46, a 75-ft. wide right-of-way as shown on Project No. F.A.S. 3-A, dated July 10, 1939; thence S88deg32'28"W, along said north right-of-way line, a distance of 475.49 ft. to a point on the west line of the east 1/2 of the NW 1/4 of said Section 13, thence N00deg55'45"W, along said west line, a distance of 2,618.52 ft. to a point on the north line of the NW 1/4 of said Section 13; thence N88deg28'59"E, along said north line, a distance of 1,322.66 ft. to the point of beginning. (73.59 +/- 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.) (21P200090) JOHN LOUIS FREEMAN (Pamela McCarty) requests removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 1, Block H, as recorded in ORB 9062, Page 1205, of the Public Records of Brevard County, Florida, Section 26, Township 25S, Range 37, (0.19 acres) Located on the southwest corner of S. Orlando Ave. and Summer Street, (2031 S. Orlando Ave., Cocoa Beach) (21P200091) MICHAEL R. AND MALENA C. STEWART (Pamela McCarty) request removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 1.01, Block H, as recorded in ORB 9134, Pages 2615 - 2616, of the Public Records of Brevard County, Florida, Section 26, Township 25S, Range 37, (0.23 acres) Located on the southeast corner of S. Atlantic Ave. and Summer St., (2060 S. Atlantic Ave., Cocoa Beach) Public Hearing before the Planning and Zoning Board/Local Planning Agency will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, FEBRUARY 14, 2022, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, MARCH 3, 2022, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at these meetings or hearings, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting, in accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, per Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

Notice of Meetings

ty, Florida, and being more particularly described as follows: Commence at the east 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.) (21P200089) JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST (Kim Rezanka) requests a Small Scale Comprehensive Plan Amendment (215.10) to change the Future Land Use designation from RES 2 (Residential 2) to RES 4 (Residential 4), on property described as 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 NE corner of Section 13; thence S88deg21'59"W along the north line of the NE 1/4 of said Section 13, a distance of 2,645.31 ft. to the north 1/4 corner of said Section 13 and the point of beginning of this description; thence S00deg54'13"E along the north-south mid-section line of said Section 13, a distance of 1,326.64 ft. to a point on the north line of the SE 1/4 of the NW 1/4 of said Section 13; thence S88deg31'29"W along said north line a distance of 475.20 ft.; thence S01deg28'31"E a distance of 489.60 ft.; thence S89deg04'15"W a distance of 851.49 ft. to a point on the west line of the east 1/2 of the NW 1/4 of said Section 13; thence N00deg55'45"W along said west line a distance of 481.50 ft. to the NW corner of the SE 1/4 of the NW 1/4 of said Section 13; thence continue N00deg55'45"W along said west line a distance of 1,325.67 ft. to a point on the north line of the NW 1/4 of said Section 13; thence N88deg28'59"E along said north line, a distance of 1,322.66 ft. to the point of beginning. (49.72 +/- acres). The property is located on the north side of S.R. 46, approx. .25 mile west of I-95. (No assigned address. In the Mims area.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 215.10: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

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(21P200090) JOHN LOUIS FREEMAN (Pamela McCarty) requests removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 1, Block H, as recorded in ORB 9062, Page 1205, of the Public Records of Brevard County, Florida, Section 26, Township 25S, Range 37, (0.19 acres) Located on the southwest corner of S. Orlando Ave. and Summer Street, (2031 S. Orlando Ave., Cocoa Beach) (21P200091) MICHAEL R. AND MALENA C. STEWART (Pamela McCarty) request removal of a BDP (Binding Development Plan), in an RU-2-12 (Medium Density Multi-Family Residential) zoning classification, on property described as Lot 1.01, Block H, as recorded in ORB 9134, Pages 2615 - 2616, of the Public Records of Brevard County, Florida, Section 26, Township 25S, Range 37, (0.23 acres) Located on the southeast corner of S. Atlantic Ave. and Summer St., (2060 S. Atlantic Ave., Cocoa Beach) Public Hearing before the Planning and Zoning Board/Local Planning Agency will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, FEBRUARY 14, 2022, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, MARCH 3, 2022, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at these meetings or hearings, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting, in accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 633-2069 for assistance. Brevard County Planning & Development Department, per Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

Notice of Meetings



NOTE:

1. SEE SHEET CERTIFICATE

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 21S.08 (21PZ00081)
Township 21, Range 34, Section 13*

Property Information

Owner / Applicant: **Jackson Family Trust, C.B. Family Trust**

Adopted Future Land Use Map Designation: Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: 4.0 acres

Tax Account #: 2100183

Site Location: On the north side of Highway 46 approximately 0.25 miles west of I-95

Commission District: 1

Current Zoning: General Use (GU)

Requested Zoning: General Retail Commercial (BU-1)
(application 21Z00044)

Background & Purpose

The applicant is requesting to amend the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) on 4.0 acres to allow for more intensive commercial use of the subject property (including a drive-through) than the designated NC land use provides.

The subject property is part of a larger 118.3 acre parcel and is currently undeveloped. The subject property has a Future Land Use designation of NC that was adopted in May of 2000 when the Mixed Use District land use designation throughout the County at the time was converted into either NC or CC depending on the underlying zoning classification in place (Amendment No. 99B.14). The original land use designation adopted with the Comprehensive Plan in September of 1988 was Mixed Use District along this segment of State Road 46. There was no change to the Future Land Use as a result of the 2007 Mims Small Area Study.

A companion rezoning application (21Z00044) was submitted accompanying this request to change the zoning from General Use (GU) to General Retail Commercial (BU-1) on the 4.0 acre subject site.

The applicant has also submitted an additional application (21PZ00089) to amend the Future Land Use from Residential 2 (RES 2) to Residential 4 (RES 4) on 49.72 acres north of the subject site, along with a companion rezoning application (21Z00043) requesting to change the zoning on 73.59 acres within the larger 118.3 acre parent parcel from Agricultural Residential (AU) and General Use (GU) to Single-family Residential (RU-1-7) with a Binding Development Plan (BDP) limiting to 199 single-family residential units.

Surrounding Land Use Analysis

	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

To the north of the subject property is undeveloped land. To the south, across State Road 46, is a commercial recreational vehicle park and campground; To the east is a commercial travel stop and retail store. To the west is undeveloped land.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being

considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could 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.

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.

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.

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 will be permitted for Community Commercial sites.

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.

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 this proposed project is not residential.

Environmental Resources

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.

Historic Resources

There are no recorded historic or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

The Board may wish to consider if 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

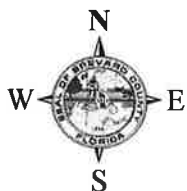
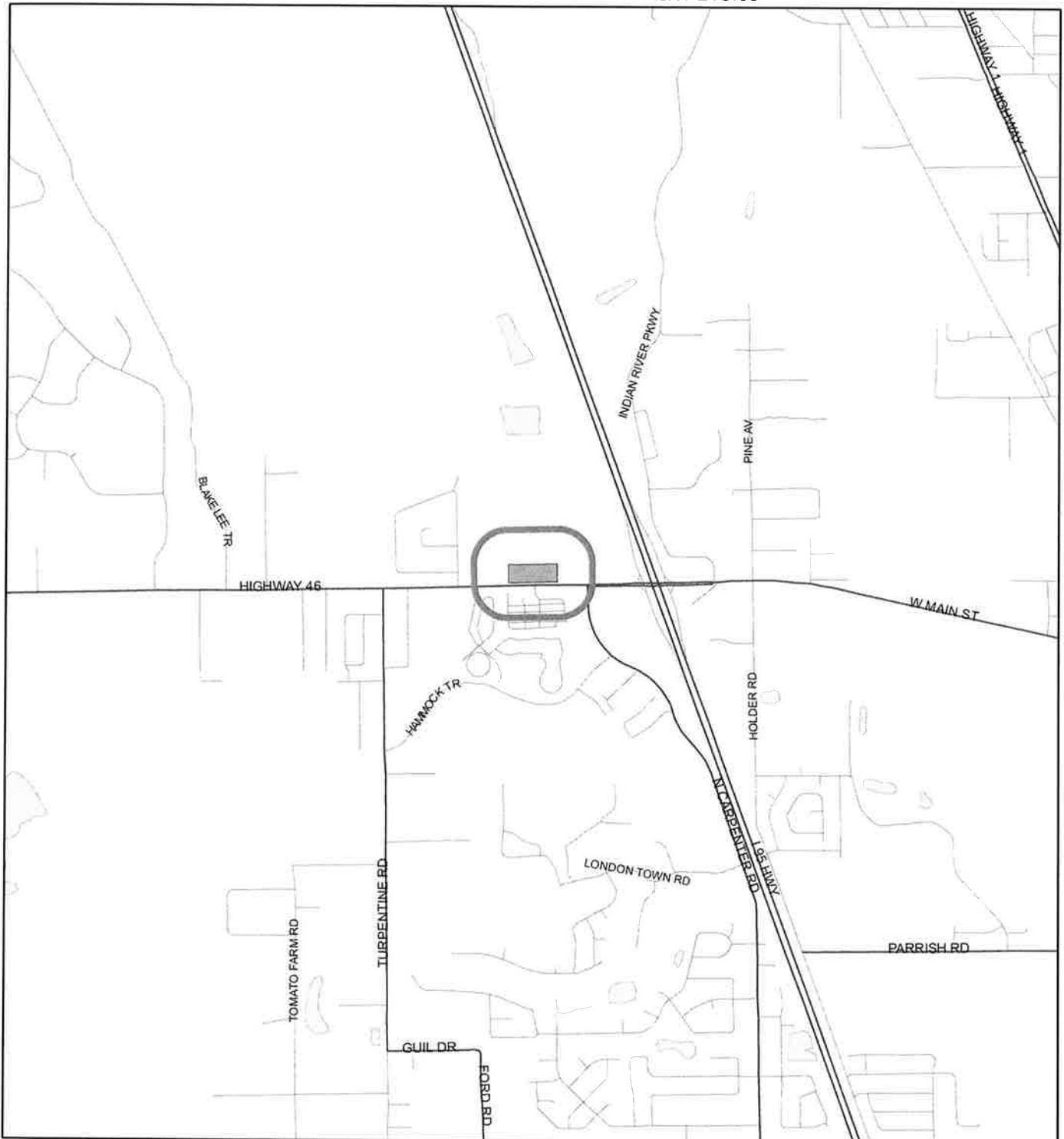
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and 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
21PZ00081 SMALL SCALE AMENDMENT 21S.08



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.

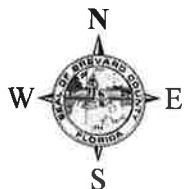
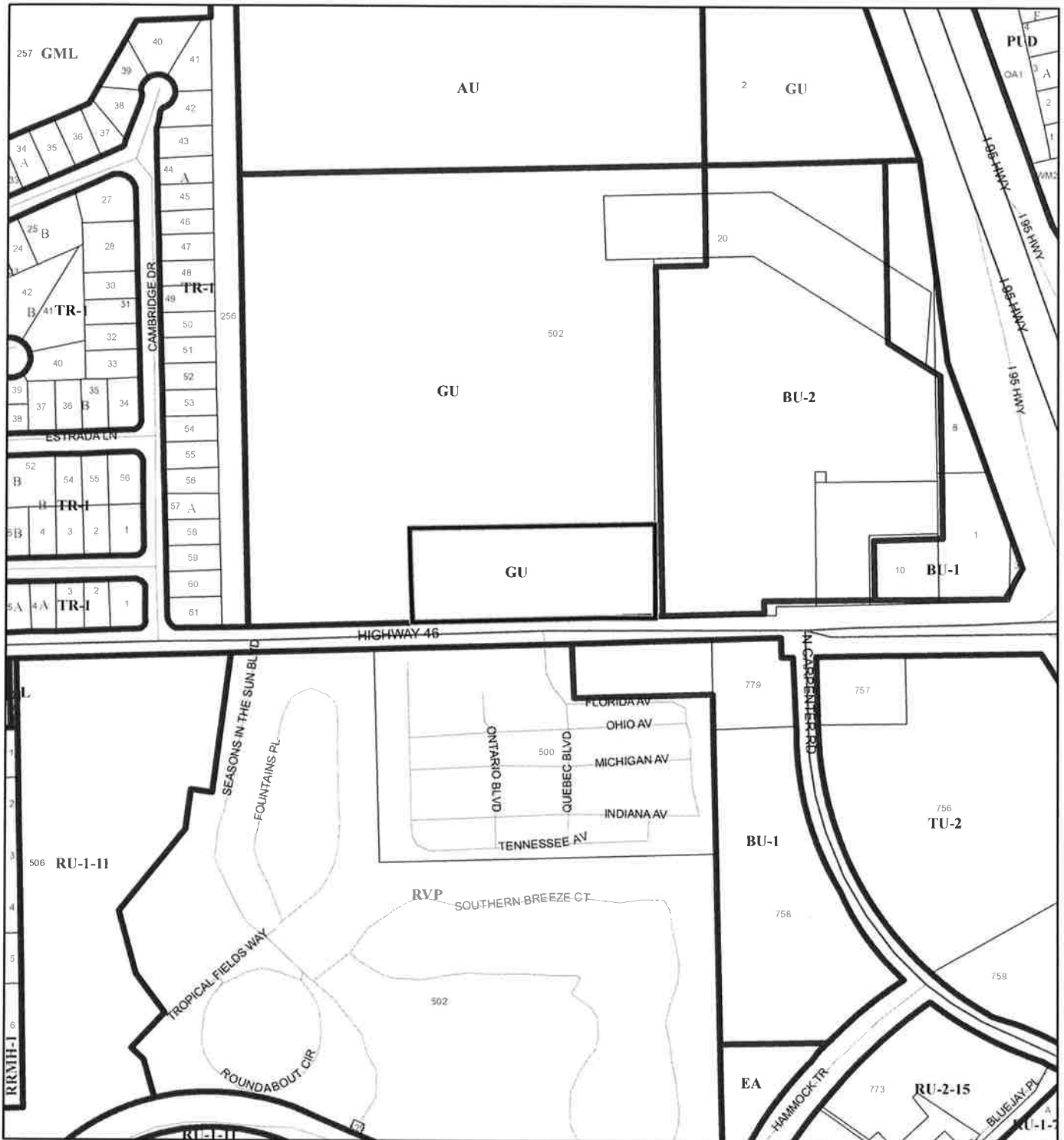
Produced by BoCC - GIS Date: 11/22/2021

— Buffer
■ Subject Property

ZONING MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



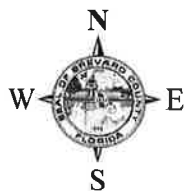
1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

- Subject Property
- Parcels
- Zoning

JACKSON FAMILY TRUST; AND C.B. DAVIS FAMILY TRUST
21PZ00081 SMALL SCALE AMENDMENT 21S.08



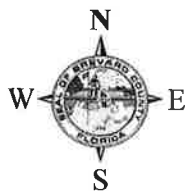
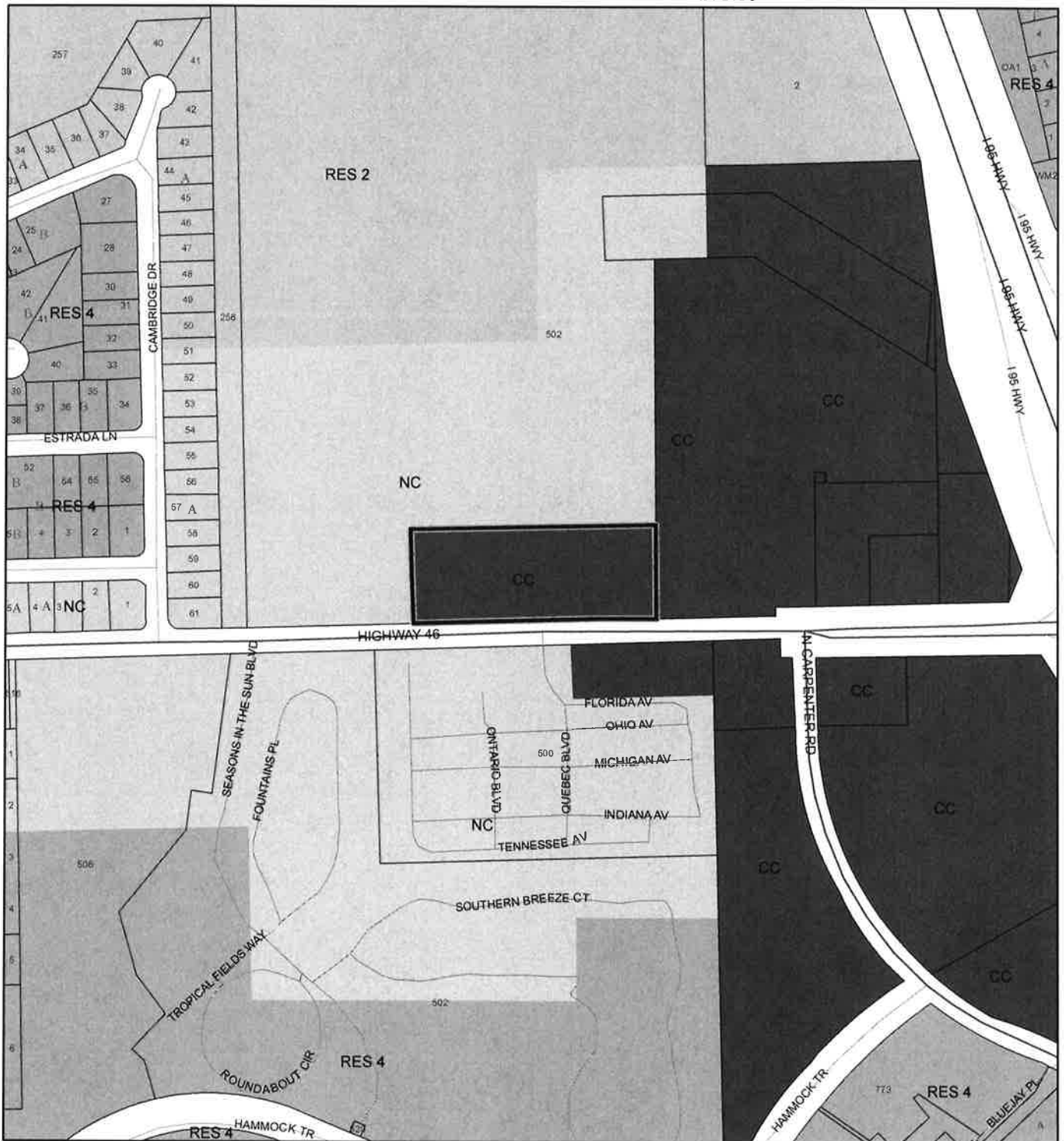
Subject Property
Parcels

Produced by BoCC - GIS Date: 11/22/2021

PROPOSED FUTURE LAND USE MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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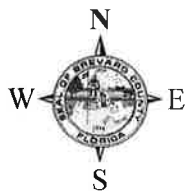
Produced by BoCC - GIS Date: 11/22/2021

— Subject Property
 □ Parcels

AERIAL MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 11/22/2021

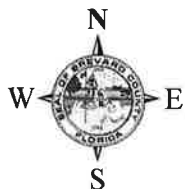
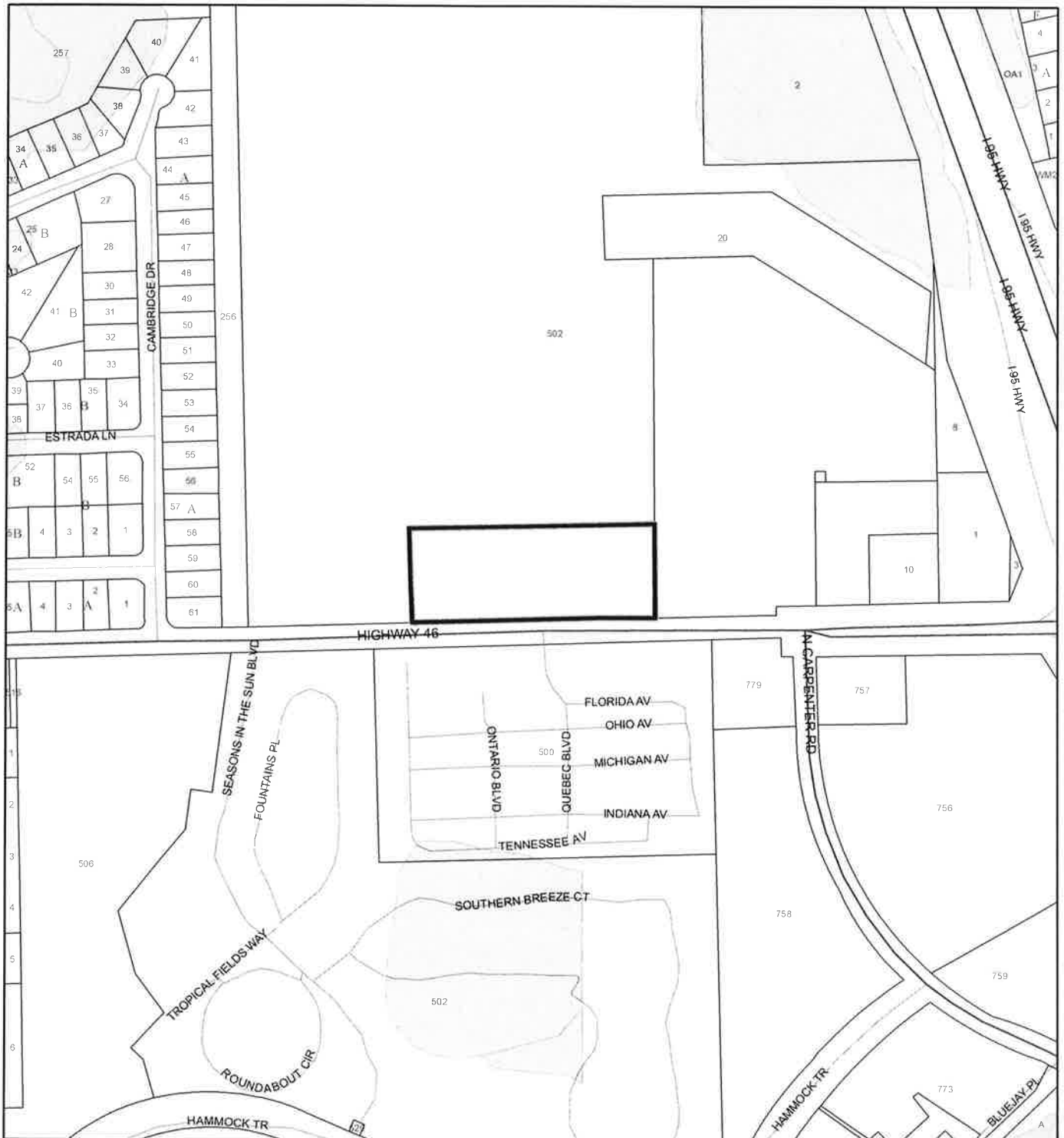
— Subject Property

□ Parcels

NWI WETLANDS MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

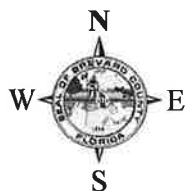
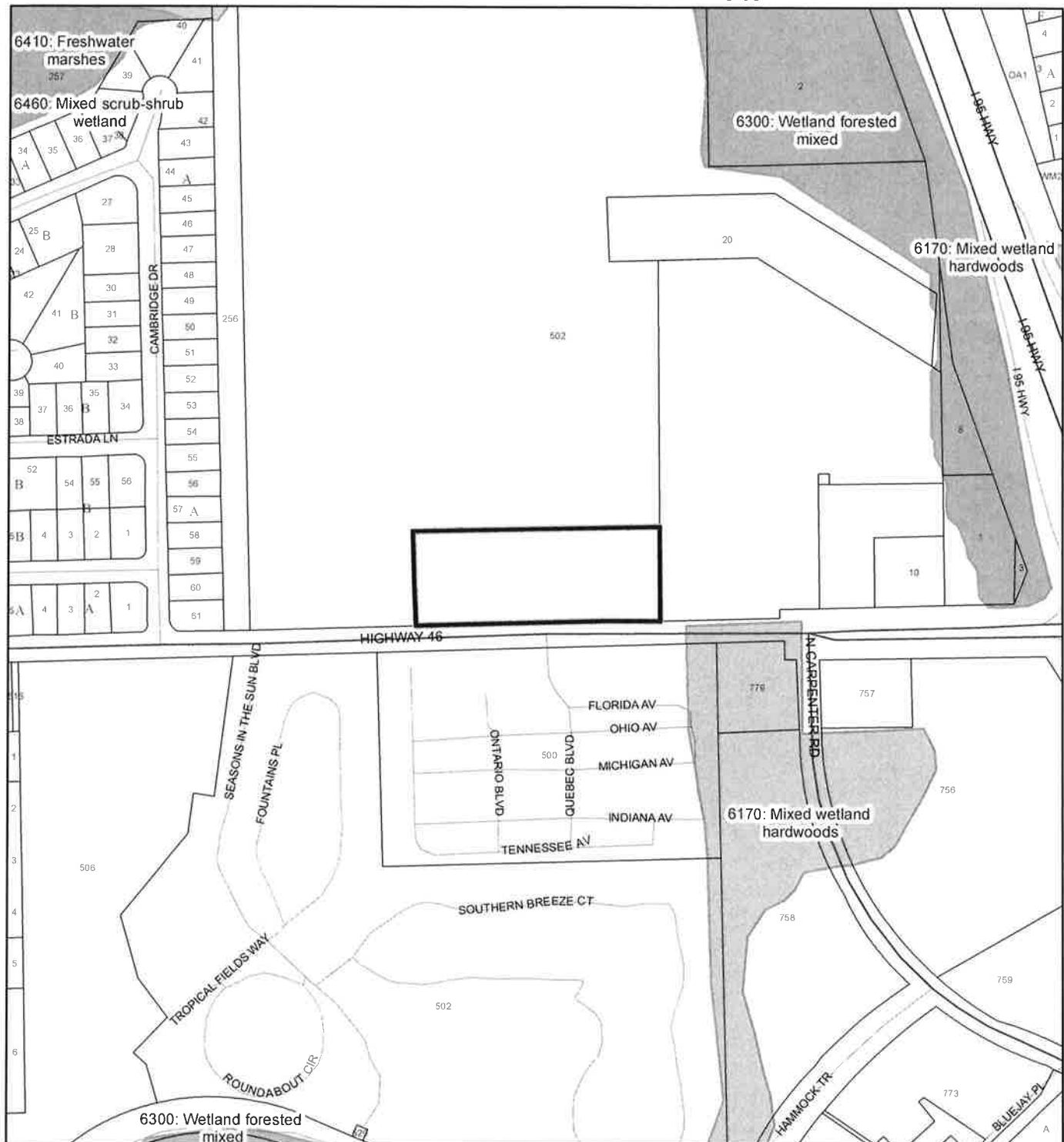
National Wetlands Inventory (NWI)

	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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

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

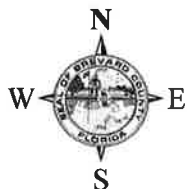
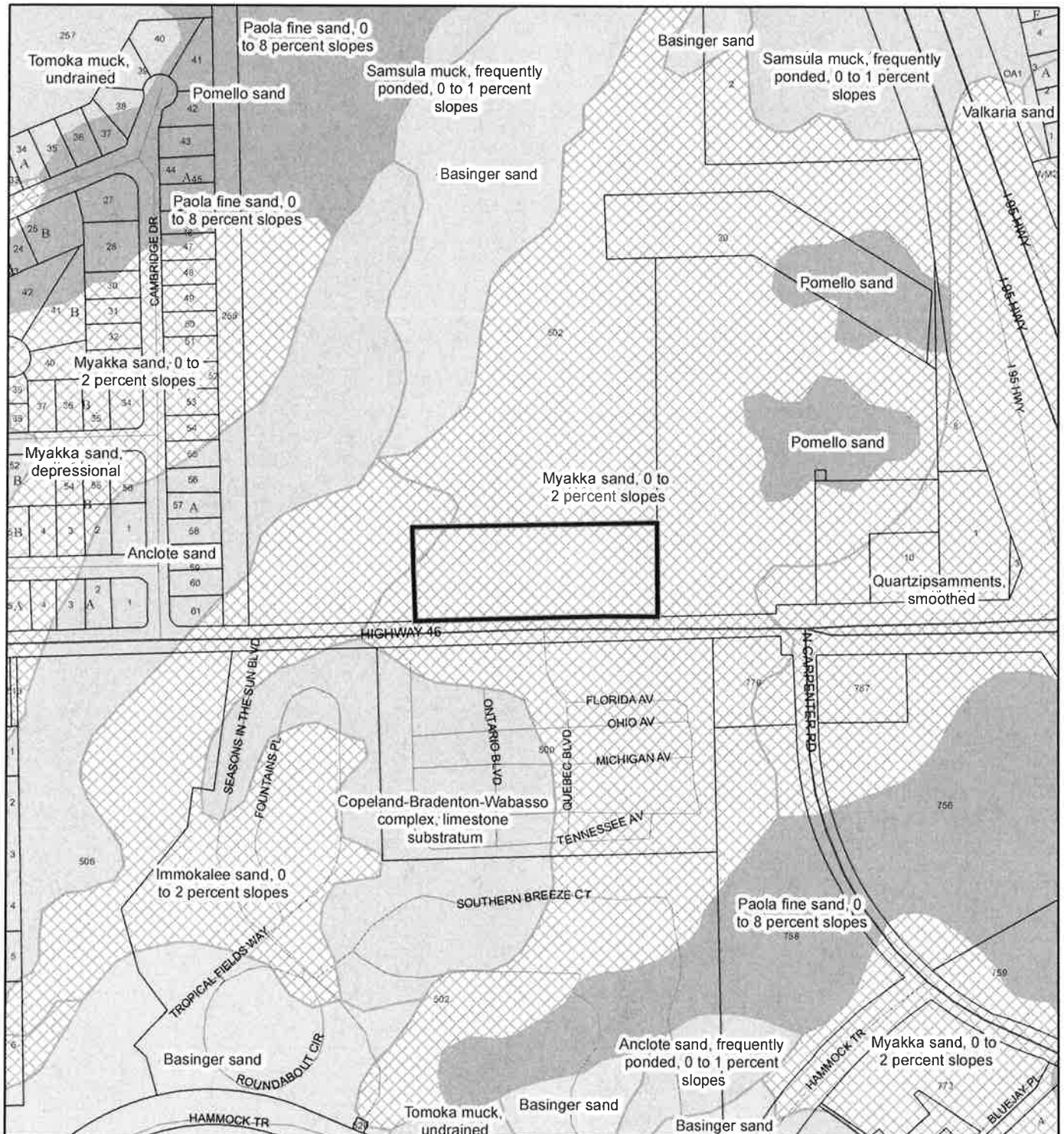
Subject Property

Parcels

USDA SCSSS SOILS MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

USDA SCSSS Soils

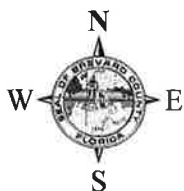
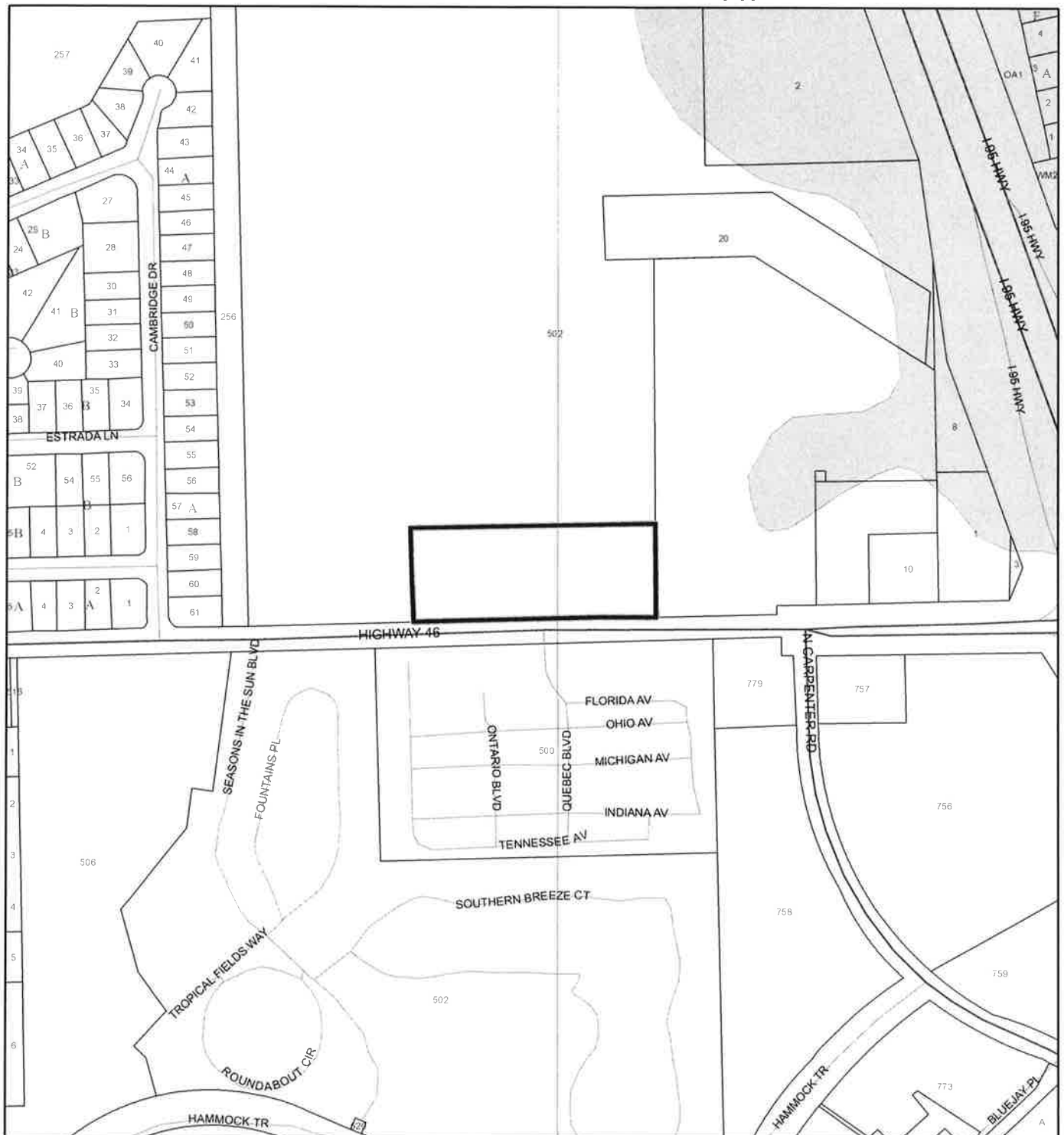
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

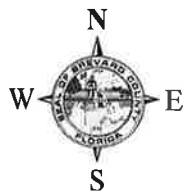
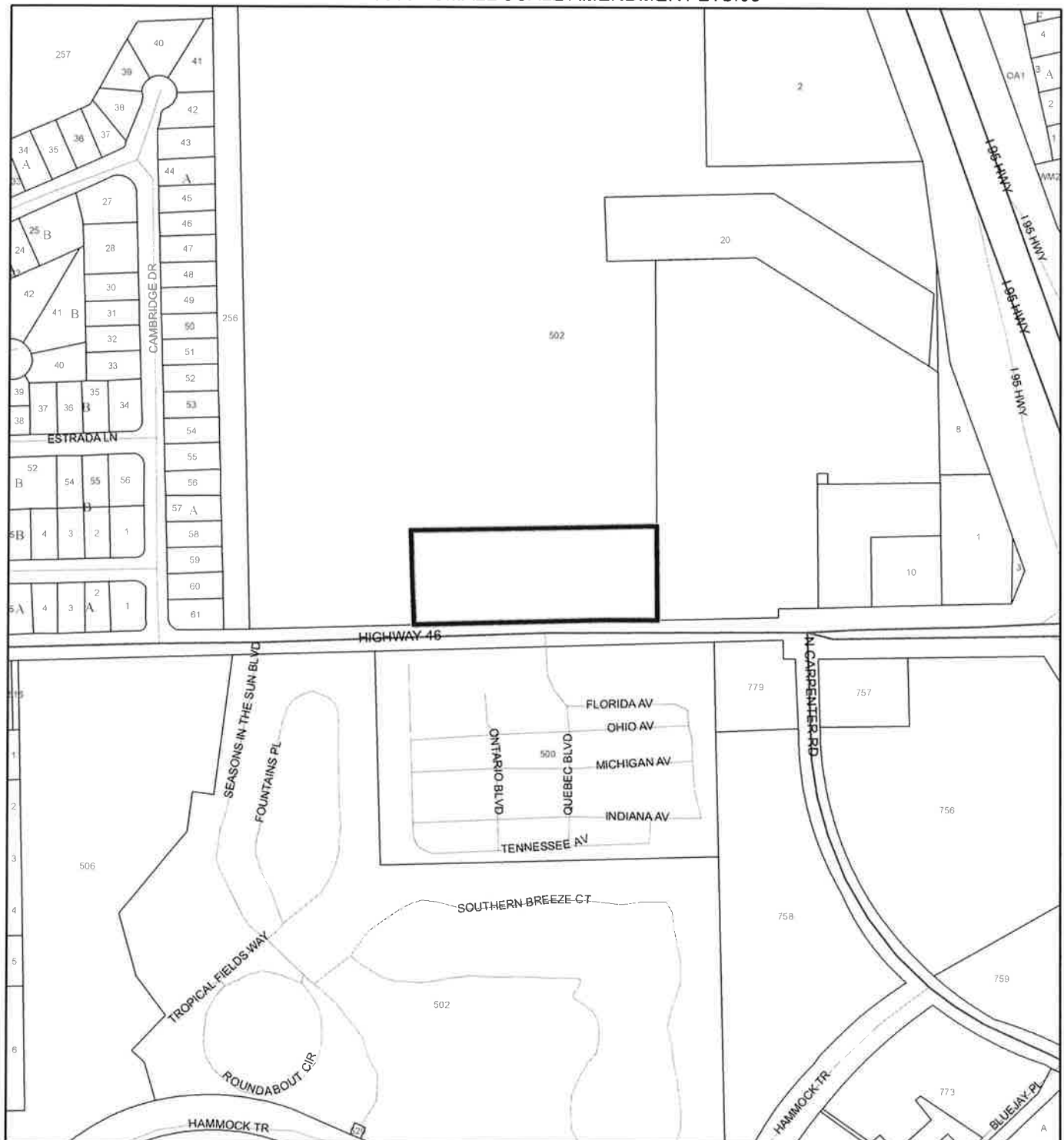
FEMA Flood Zones

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

— Subject Property

□ Parcels

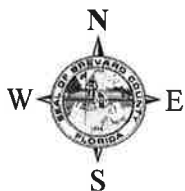
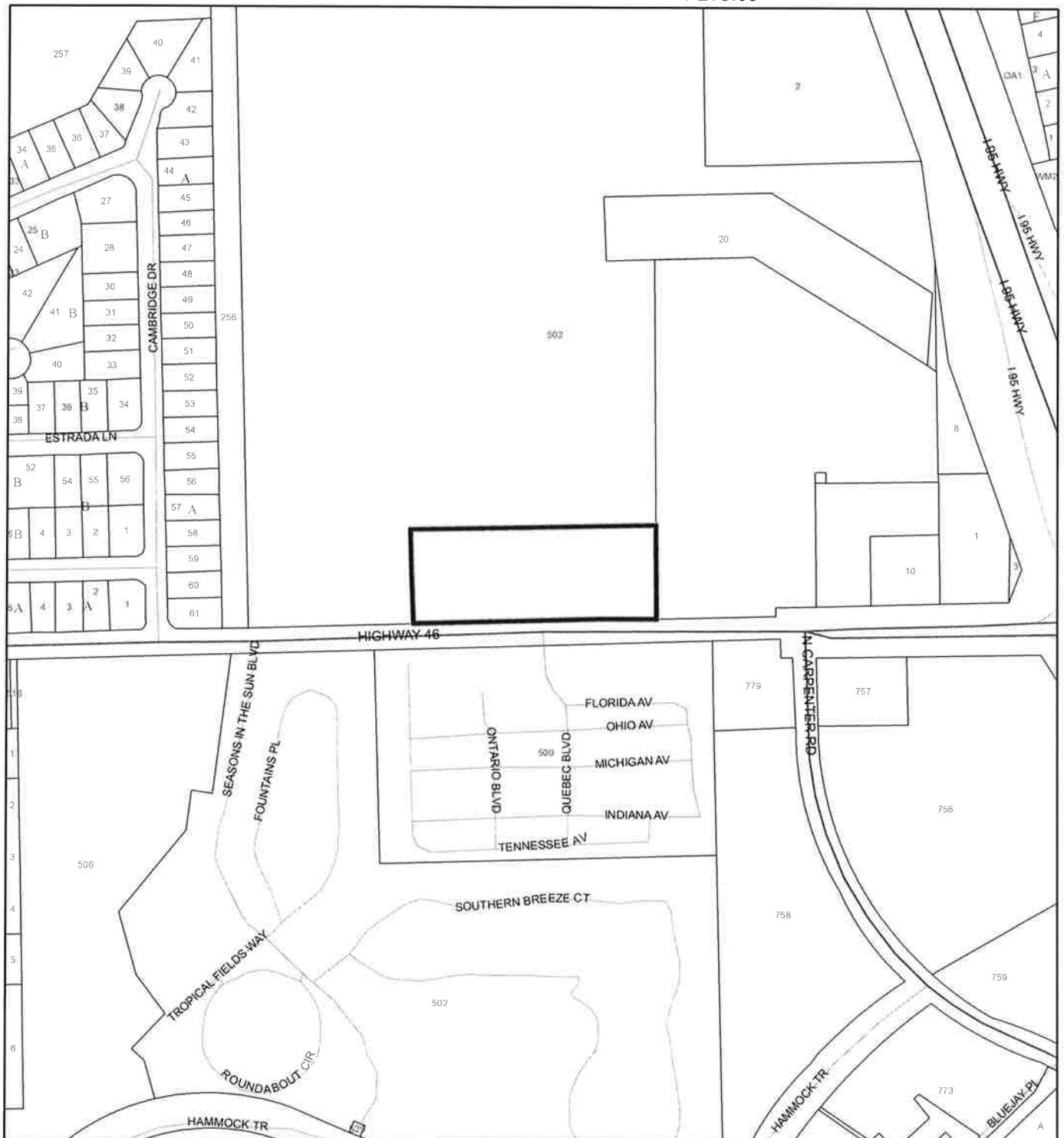
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

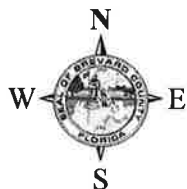
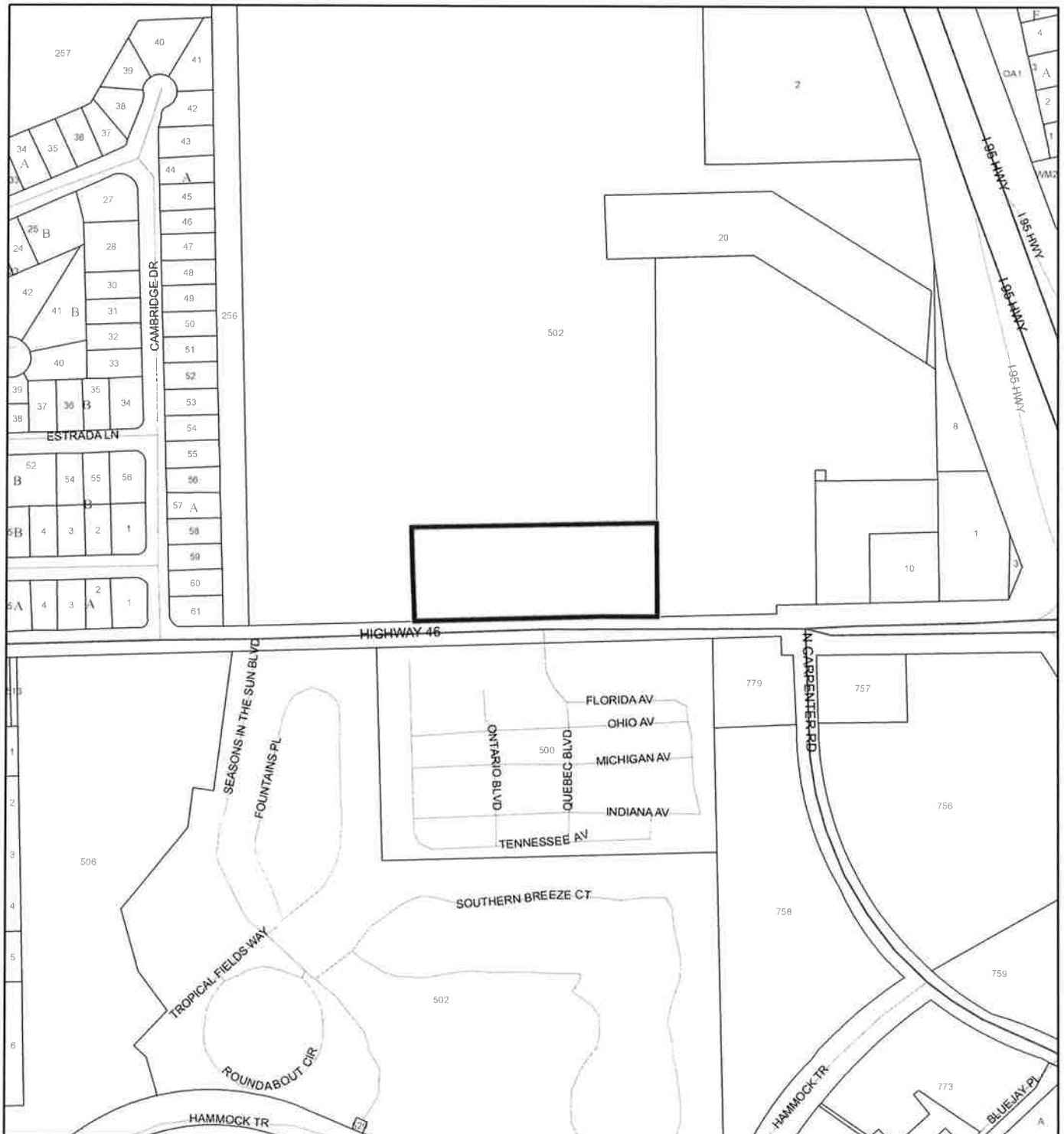
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



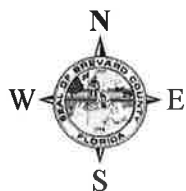
1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

- Subject Property
- Parcels
- Eagle Nests FWS 2010

21PZ00081 SMALL SCALE AMENDMENT 21S.08



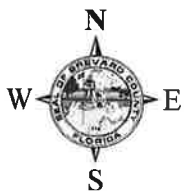
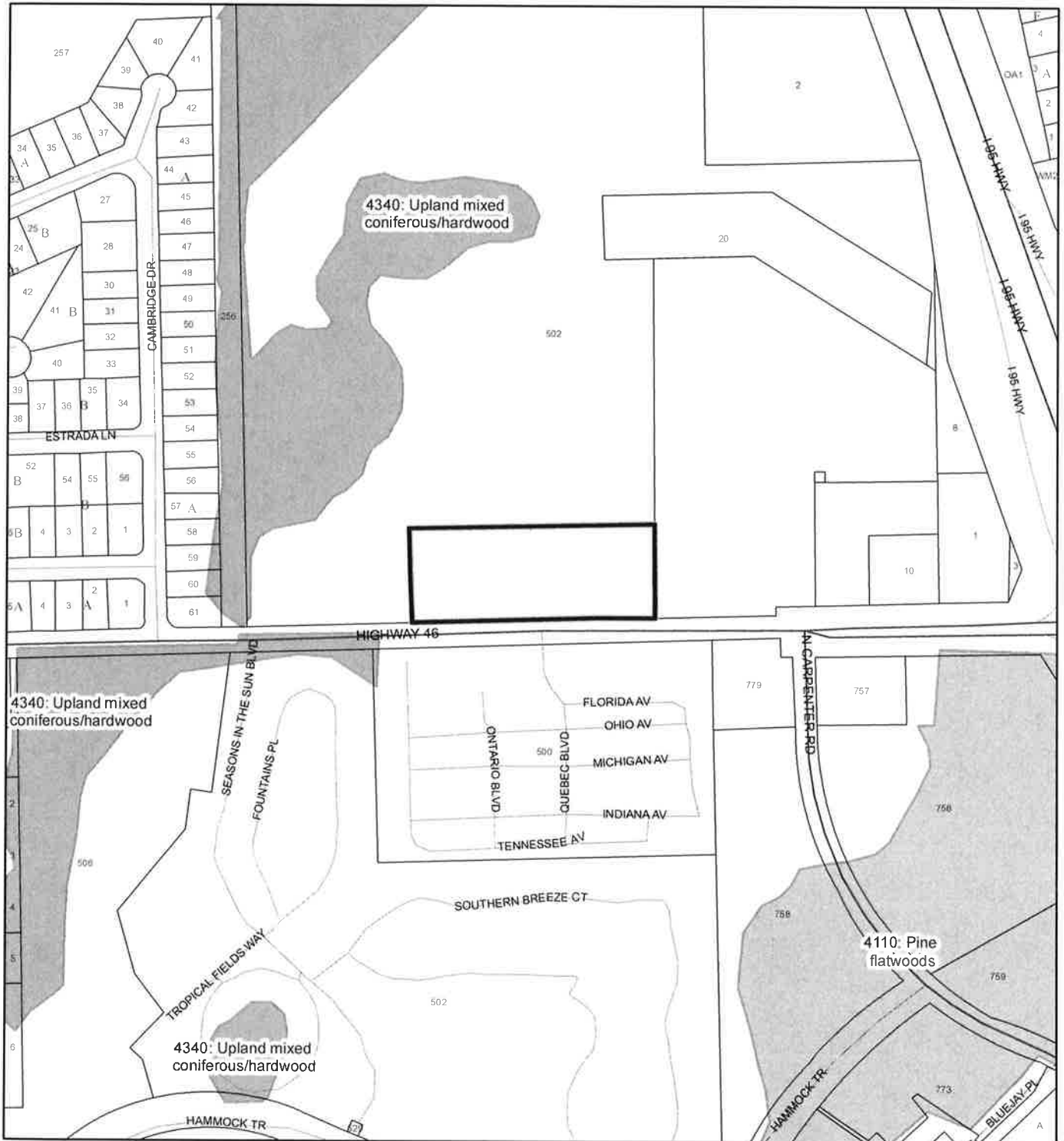
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

226

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

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

21PZ00081 SMALL SCALE AMENDMENT 21S.08



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/22/2021

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels



BOARD OF COUNTY COMMISSIONERS

Description of Request
21PZ00081
Jackson/Davis

Planning & Development Department
2725 Judge Fran Jamieson Way, Bldg A, Suite 114
Viera, FL 32940
Phone: (321) 633-2070, Fax: (321) 633-2074
www.BrevardFL.gov/PlanningDev

Supplement to Comprehensive Plan Amendment Application

1. **Type of Application:**

☒ Small-scale Comprehensive Plan Future Land Use Map Amendment

☐ Large-scale Future Land Use Map Amendment

☐ Comprehensive Plan Text Amendment

Plan Element(s) of Text Amendment request: _____

2. **Applicant:** Kimberly B. Rezanka **Staff Planner:** _____

3. **Comprehensive Plan Amendment Information:**

Adopted Future Land Use Designation: NC

Requested Future Land Use Designation: CC

Existing Zoning: GU

Proposed Text Amendment (if applicable): Attach the proposed text amendment in a strike- thru/underlined format along with one copy on a CD in Microsoft Word, rtf or text format.

4. **Description of Request/Justification: Must include a written statement explaining the rationale and the appropriate data and analysis necessary to support the proposed change.**

Text amendment supplemental information shall include any goal, objective, policy, implementation strategy, directive and any supporting data and analysis, including maps, figures and tables, and; (1) Identification of the particular element of the plan on which the request is based; and, (2) Citation of the existing language which is proposed to be changed; and, (3) Proposed rewording of the existing language or the wording of proposed new text.

See Attached.

(Use additional sheets if necessary)



Plan Amendment for Surrey Homes (Mims):
Parcel Id. 21-34-12-00-502, Mims, FL (the “Property”)

The change in the FLUM from NC to CC is requested to allow the purchaser to create a four (4) acre commercial parcel between the Love’s Travel Stop on S.R.46 and a residential single-family subdivision proposed to the west. The CC designation will allow BU-1, which will provide more options for tenants of the commercial parcel, including a drive-through lanes. Also, this commercial parcel will “serve several neighborhoods, sub-regional and regional areas and provide(s) an array of retail, personal and professional uses,” as contemplated by the CC Designation (FLUE Policy 2.7), by virtue of its location off of I-95 and SR46. The 2007 Mims Small Area Study indicated that commercial development “should take place . . . at the S.R. 46/ I-95 interchange”, p. 2. Because NC is intended to serve “the needs of the immediate residential area,” per FLUE Policy 2.5, the CC designation is more appropriate for this four (4) acre parcel.

The CC Designation is consistent and compatible with the uses to the east of the Property, the Love’s Travel Stop, which is designated CC on the FLUM. This four (4) acre Property will contain “transitional activities” between the intense Travel Stop uses and the residential subdivision to be constructed to the west of the Property (FLUE Policy 2.14). The commercial uses on this Property will provide appropriate buffering (wall and landscaping), lighting, hours of operation and setbacks to minimize any adverse impacts on the residential properties to the west.

Finally, a review of FLUE Policy 2.1, the Property is accessible from S.R. 46, the CC designation is compatible as explained above, the development trends (including Love’s Travel Stop) are consistent with this FLUM change, S.R. 46 is a major roadway with capacity, this Property is not a commercial strip center but an appropriate commercial use for the area.



PRINCIPALS

Lawrence L. Smith, Jr.
Donaldson K. Barton, Jr.
Glenn J. Lusink
Jon S. Meadows
Mark D. Prochak
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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Boca Raton, Florida
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1.833.811.3767
www.DRMP.com

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 Esseeesse, 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.