



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

21Z00044

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

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

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

Consistency with Land Use Regulations

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

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

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

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

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

Background and Purpose of Request

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

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

GU is the original zoning of the parcel.

Land Use

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

Applicable Future Land Use Policies

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

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

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

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

- C. Existing commercial development trend in the area;

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

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

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

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

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

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

- F. Spacing from other commercial activities;

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

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

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

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

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

- I. Integration of open space; and

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

- J. Impacts upon strip commercial development.

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

Activities Permitted in Community Commercial (CC) Future Land Use Designations

Policy 2.7

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

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

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

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

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

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

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

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

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

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

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

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

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

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

Criteria:

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

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

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

1. historical land use patterns;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Surrounding Area

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

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

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

Environmental Constraints

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

- Protected Species
- Land Clearing and Landscape Requirements

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

Preliminary Concurrency

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

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

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

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

For Board Consideration

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

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

Item # 21Z00044

Applicant: Rezanka for Jackson Family Trust

Zoning Request: GU to BU-1

Note: Applicant wants transitional commercial use for community.

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

Tax ID No: Portion of 2100183

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Protected Species
- Land Clearing and Landscape Requirements

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

Land Use Comments:

Protected Species

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

Land Clearing and Landscape Requirements

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