

Addendum to:

Application for Zoning Action and Comprehensive Plan Amendment and Related Supplement

From: JT Realty Holdings LLC ("Applicant") – by counsel: Dean Mead Law Firm

Property: Tax Account No's: 2103387; 2103397 (the "Property")

Reason for Request:

This is a combined application – requesting amendments to both the land use and zoning maps as to the Property. The Applicant has made this application with the hope that it will be able to continue to use the Property as it is currently being used – as a farm machinery sales and service store – just on a slightly expanded basis. We respectfully ask that, for the reasons listed below, you approve this request.

The subject Property is located at the corner of US Hwy 1 and Cuyler Street in Mims, unincorporated Brevard County, Florida. For many years prior, the Robinson family has operated the Property as a tractor/farm equipment sales and service center. Within the last few years, the Applicant (through an affiliate entity) purchased the business (separate from the Property) and has operated onsite in the same manner as the Robinson family. The Applicant, as of the date of this application, entered into contract with the site owner to purchase the Property with the intention of continuing to operate as a farm equipment sales and service center – just on an expanded basis.

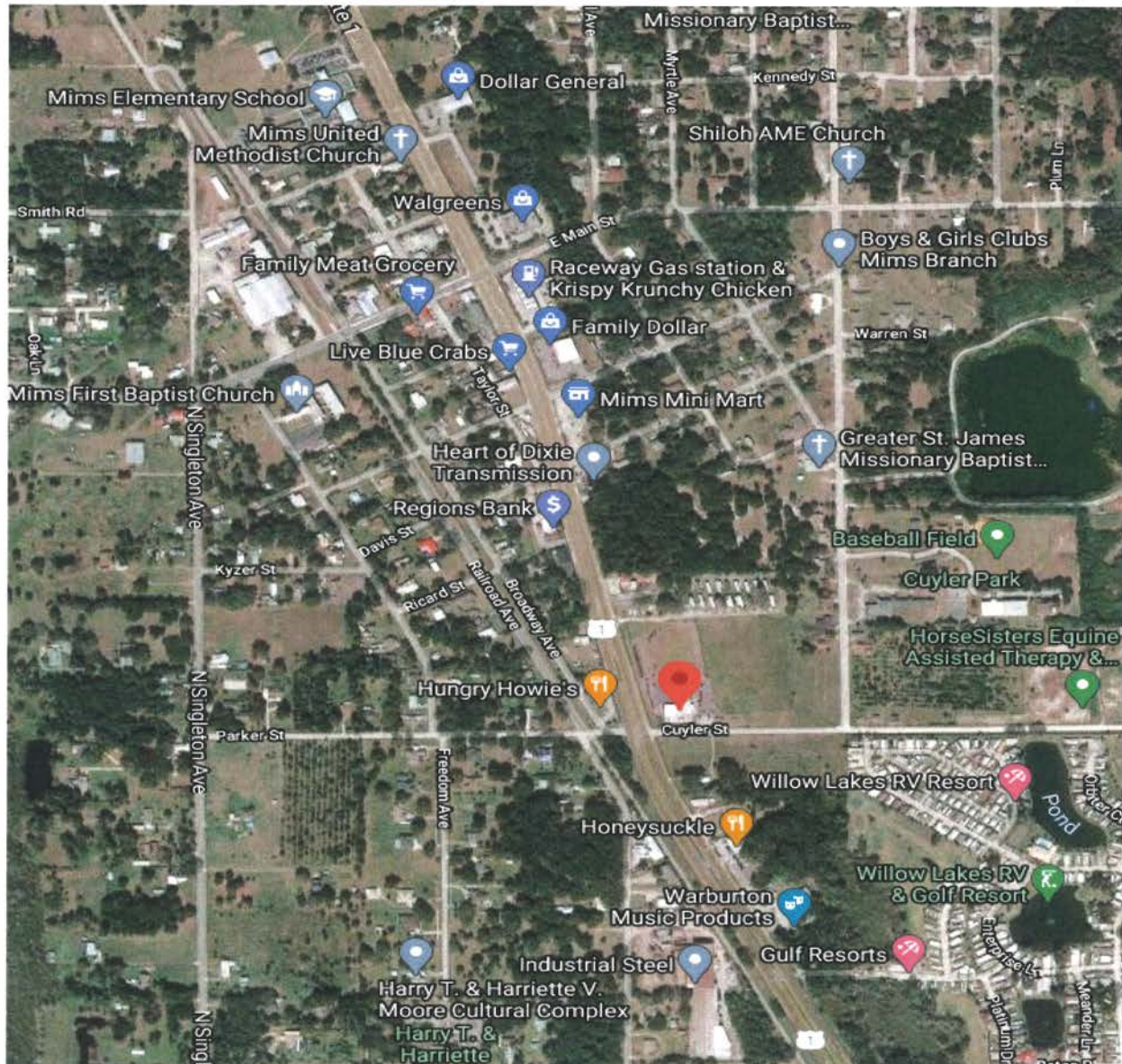
The desire to expand triggered the need for this application. Brevard County has given this Property three different future land use designations – Neighborhood Commercial (NC), Community Commercial (CC), and Residential-4 (RES-4). The corresponding zoning designations include Agricultural (AU) and Business-1 (BU-1). The combination of land use and zoning designations do not comport with the current use of the Property nor do they comport with the Mims Small Area Study (approved by the Board of County Commissioners on April 10, 2007) (the "**Mims SAS**"). We would like for the entire Property's corresponding land use and zoning to be changed to Community Commercial and BU-1, respectively. This would allow the Applicant to continue the existing use of the Property (albeit in a more updated, expanded, and orderly manner) and would better meet the directives of the Mims SAS.

The Brevard County Land Development Regulations delineates criteria for both the Planning and Zoning Board as well as the Board of County Commissioners to consider when evaluating these types of applications. We have listed each of the five criteria below and addressed them in turn.

[discussion of criteria to commence on following pages]

Criteria 1: The character of the land use of the property surrounding the property being considered.

This criteria focuses on compatibility. Although the existing land use and zoning designations may indicate to the contrary, the Property sits squarely within Mims' primary business and general commercial corridor. Indeed, as discussed in more detail below, the Mims SAS specifically identifies this zone as the intended commercial corridor in Mims for all future purposes. Below, we have included a snapshot from GoogleMaps, which confirms that this area, despite a smattering of residences, operates as a general commercial node. Retailers¹, motels², manufacturers³, auto repair facilities⁴, and other general business operators⁵ all surround the subject Property. The character of the surrounding land uses is commercial. The expansion of the existing use at the Property will not disrupt that character.



¹ Mims Mini Mart, Walgreens, Dollar General

² Wayward Traveler Inn, Willow Lakes RV & Golf Resort

³ Industrial Steel

⁴ Heart of Dixie Transmission

⁵ Honey Suckle, Horse Sisters Equine Assisted Therapy, Raceway Gas, Regions Bank, Live Blue Crabs, Family Meat Grocery

Criteria 2: The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use, or conditional use.

Sometimes, a change in condition of a particular area will spur the need for zoning changes. Other times, however, zoning changes are needed to confirm the character of an area. The Applicant's request, here, fits into the latter category. Conditions in this commercial node have not changed significantly over time. This Property, in particular, has always been used for general commercial purposes. Prior to 1988, Brevard County identified this Property under a "mixed use" zoning category – intended to allow both commercial and residential uses as the community desired. The State, according to County staff, requested that, instead of using this broad category, the County delineate the commercial from the residential zones – which is how the Property ended up with the myriad zoning and land use designations which it has currently. But, designating this Property as anything but general commercial was probably an error. As confirmed by its historic use and more recently by the Mims SAS, this Property should be used primarily for general commercial purposes. As to this use in particular, again, the Applicant's proposal amounts to a mere expansion of an existing use – involving no significant changes other than the expansion.

Criteria 3: The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

Again, because this use already exists at the site, the County's infrastructure in the area should suffer no significant impact. The utilities and infrastructure demand should remain largely the same.

Criteria 4: The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.

In 2007, the County (and the residents of Mims) helped establish the plans for this area – that is, how the residents would like to see it develop and how the County staff, given its professional judgment and expertise, felt it should develop. The parties agreed that this area should be one focused on limited suburban and residential development, one that encourages commercial infill and limited expansion of commercial operations, and one that, of those commercial enterprises, should focus primarily on agrarian production and related service sectors. The Mims SAS further acknowledged that the residents did not wish to see newer, large scale, significant commercial development into new zones. It expresses a desire, rather, to keep commercial operations within their current nodes, and identifies the corridors in which that development should occur.⁶ This application complies with all of these goals of the community residents and county staff. It, again, evidences a continuation of an existing agrarian focused use on the same site – updated and expanded only slightly – in the desired commercial node. The project proposed by this application, thus, meshes perfectly with the existing land use plans for the area.

⁶ See, Mims SAS at page 6.

Criteria 5: The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

As noted numerous times in the above responses, this application requests only the ability to continue an existing use. The continuation will involve a reorganization and a slight expansion of the existing operation on the Property – evidencing a better, more aesthetically pleasing use of the site. Rebuilding the primary structures onsite, too, affords an opportunity to update infrastructure ensuring safe functioning of the site into the future. The BU-1 zoning district specifically permits the operation of a farm machinery sales and service center so long as certain conditions are met. The Applicant can easily satisfy all of those conditions at this Property. Further, at present, the Applicant's plan includes moving the center of the operation to the northern portion of the Property. The Applicant has flexibility in that regard, but the thought was that, by moving the center of the operation further north, that would move the business closer to the other general commercial operations – allowing neighborhood commercial operations to wrap around Cuyler Street leading towards the parks. The continuation of this use (even on the expanded basis contemplated here) is permitted and appropriate for this area and will not adversely impact public health, safety, or welfare.