



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.5.

5/27/2021

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### Subject:

KAT-CAM, LLC (Patricia Garagozlo) requests a change of zoning classification from AU to BU-2. (21Z00006) (Tax Account 2410506) (District 2)

### 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 request for a change of zoning classification from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

### Summary Explanation and Background:

The applicant is seeking a change of zoning classification from AU to BU-2 in order to increase options for utilizing the property. The property is vacant and is substandard in terms of lot area and width required by AU zoning. The current area is 0.59 acres, approximately 100 feet wide by 258 feet deep.

The proposed zoning classification BU-2, is not consistent with the current NC Future Land Use Designation. The applicant has submitted a Small-Scale Comprehensive Plan Amendment application to change the Future Land Use from NC to CC (Community Commercial). Should the proposed Future Land Use designation of CC be approved, then this request to BU-2 can be considered.

The subject parcel is located on the west side of a commercial corridor with a mixture of BU-1 (General Retail Commercial), BU-2, and split BU-1/BU-2 zoned properties.

The proposed BU-2 classification permits retail, wholesale and warehousing commercial uses as well as outdoor storage.

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

On May 13, 2021, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval of BU-1.

### Clerk to the Board Instructions:

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

**Resolution 21Z00006**

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

**WHEREAS, KAT-CAM, LLC** has requested a change of zoning classification from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 269, as recorded in ORB 5411, Page 1101, of the Public Records of Brevard County, Florida. **Section 02, Township 24, Range 36.** (0.59 acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile north of Gator Dr. (No assigned address. In the N. Merritt Island area.); and


**WHEREAS**, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be approved as BU-1 (General Retail Commercial); and

**WHEREAS**, the Board, after considering said application and North Merritt Island Dependent Special District Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as BU-1 on the eastern 130 feet, and BU-2 on the remaining western portion of the property; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to BU-2, be approved as BU-1 on the eastern 130 feet, and BU-2 on the remaining western portion of the property. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of May 27, 2021.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

  
Rita Pritchett, Chair  
Brevard County Commission

As approved by the Board on May 27, 2021.

ATTEST:

  
RACHEL M. SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – May 3, 2021

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

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

#### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
- b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
- c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.



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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

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

**STAFF COMMENTS**

**21Z00006**

**KAT-CAM, LLC (Patricia Garagozlo)**

**Agricultural Residential (AU) to Retail, Warehousing, and Wholesale Commercial (BU-2)**

Tax Account Number: 2410506  
Parcel I.D.: 24-36-02-00-\*-256  
Location: West side of North Courtenay Parkway, approximately 1,350 feet south of Hall Road (District 2)  
Acreage: 0.59 acres

North Merritt Island Board: 05/13/2021

Board of County Commissioners: 05/27/2021

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU	BU-2
<b>Potential*</b>	0 units/0 square feet (substandard lot size)	25,700 square feet
<b>Can be Considered under the Future Land Use Map</b>	YES NC**	No requires CC***

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

\*\*If determined to be consistent with Future Land Use Element Policy 2.13.

\*\*\*The applicant has submitted a companion Small Scale Comprehensive Plan Amendment application to change the Future Land Use Map (FLUM) from NC (Neighborhood Commercial) to CC (Community Commercial) under **21PZ00018**.

**Background and Purpose of Request**

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

This application is to change the AU zoning to BU-2 in order to increase options for utilizing the property. The property is vacant and substandard in terms of lot area and width required in Agricultural Residential (AU) zoning. The current area is 0.59 acres with approximate dimensions of 100 feet wide by 258 feet deep.

## Land Use

The subject property retains the NC (Neighborhood Commercial) Future Land Use designation. The existing zoning classification AU is consistent with the Future Land Use Designation. The proposed zoning classification of BU-2 is not consistent with the current NC Future Land Use Designation.

The applicant has submitted a Small Scale Comprehensive Plan Amendment application to change the FLUM from NC to CC under **21PZ00018**. Should the proposed Future Land Use designation of CC be approved, then this request to BU-2 can be considered.

## Applicable Land Use Policies

**Proposed Future Land Use: FLUE 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 listed criteria are met, include the following:

- a) Existing strip commercial
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.14; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

**Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations: FLUE Policy 2.13** - This request should be evaluated in the context of Policy 2.13 of the Future Land Use Element, which encourages residential development in areas designated Neighborhood Commercial and Community commercial.

“Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the Coastal High Hazard Area (CHHA), however, residential development is limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street...”

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

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** This parcel is located on the west side of Courtenay Parkway and lies within the Neighborhood Commercial Future Land Use (FLU) designation. The abutting parcel to the north is vacant and retains split zoning, and a FLU of CC. This property is bounded on the east side by North Courtenay Parkway, across which is a property developed as a single-tenant office building with CC FLU. The parcel to the south is developed with a 2,538 square foot, marine/recreational vehicle sales, service and repair center, with outdoor sales of rv's, split zoning, and a FLU of CC. The parcel to the west is 114 acre Brevard County Park with Recreation (REC) FLU.

When evaluated against **FLUE 2.7**, the subject 0.59 acre property could be considered infill rather than extension of strip commercial development. The site is located within an 85 acre commercial corridor.

When evaluated against **FLUE 2.13**, with the exception of a single dwelling unit integrated as part of a commercial site, residential uses on the subject property could be considered to be incompatible with the "scale and intensity" of the FLU designation and use of adjacent properties.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The developed character of the surrounding area: the subject parcel is located on the west side of a commercial corridor with a mixture of General Retail Commercial (BU-1), BU-2, and split BU-1/BU-2 zoned properties. Some properties in this corridor have one single-family dwelling unit as mixed-use to primary commercial use of the property.

The proposed BU-2 zoning is compatible with the proposed CC Future Land Use designation. The closest parcel with BU-2 zoning classification on the full depth of the property, is approximately 700 feet north of the subject parcel. In 1983, **Z-6432**, a proposed rezoning from BU-1 to BU-2 was denied and Development Review sheet 3b in the file stated: "BU-2 not recommended in this sector, however BU-2 in area; possibly keep front half BU-1." Numerous properties in this commercial corridor have split BU-1 zoning by the road with BU-2 zoning set 100 to 150 feet from Courtenay Parkway.

**North Courtenay Parkway Corridor Study.** The proposed rezoning is within the North Courtenay Parkway Corridor Study Area for which staff drafted a report for the Citizen Resource Group (CRG), dated October 2005. The study area is bounded on the north by NASA's Kennedy Space Center, on the east by the rear property lines of properties fronting the east side of North Courtenay Parkway, on the south by the Barge Canal, and on the west by the rear property lines of properties fronting the west side of North Courtenay Parkway. The CRG examined the future land use and zoning for the corridor area and generated the following Land Use recommendations:

**LU-1:** *For properties zoned BU-2, outdoor storage areas shall not be visible from the roadway. An opaque buffer that shields storage areas from view shall be required for BU-2 uses within the North Courtenay Parkway corridor.*

**LU-2:** *No bay doors should face the roadway. All such doors should face to the side or rear of the building.*

**LU-3:** *No portion of a building constructed of sheet metal shall be visible from North Courtenay Parkway. Stucco, wood siding, brick, and other materials with similar textures are appropriate.*

### **Surrounding Area**

The parcel to the north of the subject property is vacant with split zoning, BU-1 east 100 feet/BU-2 remainder. The property is bounded on the east side by North Courtenay Parkway across which is developed with BU-1 zoning. The parcel to the south is developed with split zoning of BU-1 east 150 feet/ BU-2 remainder. The abutting property to the west is a Brevard County park with AU zoning.

There has been one zoning action within a half-mile of the subject property within the last three years.

December 05, 2018, application **18PZ00102** rezoned a 1.33 acre parcel from AU and EU (Estate Use Residential) to all EU located approximately 4,395 feet northeast of the subject property, on the north side of Gails Way.

The current AU classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping. The lot does not meet current code requirements for minimum lot width and depth.

The proposed BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

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

### **Environmental Constraints**

#### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- National Wetlands Inventory (NWI) Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands. A wetland was delineated on the western portion of the property. The wetland delineation will require agency verification. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including

avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required.

### **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is North Courtenay Parkway, between North ramps of SR-528 and Hall Road, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 50.74% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization from 50.74% to 54.26% (LOS D). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this site is a proposed commercial development.

The subject property is served with potable water by the City of Cocoa. Sewer is provided by the County.

### **For Board Consideration**

The Board may wish to consider whether the request is consistent and compatible with the surrounding area given that most of the properties have split BU-1/BU-2 zoning.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 21Z00006**

**Applicant:** Patricia Garagozlo

**Zoning Request:** AU to BU-2

**Note:** Applicant wants BU-2 to increase options for utilizing the property.

**NMI Hearing Date:** 05/13/21; **BCC Hearing Date:** 05/27/21

**Tax ID No:** 2410506

- 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:**

- National Wetlands Inventory (NWI) Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands. A wetland was delineated on the western portion of the property. The wetland delineation will require agency verification. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required.

**Land Use Comments:**

**Wetlands**



The subject parcel contains mapped Freshwater forested/Shrub wetlands as shown on the NWI Wetlands map. A wetland has been delineated on the western portion of the property. The wetland delineation will require agency verification. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

#### **Indian River Lagoon Nitrogen Reduction Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

#### **Protected and Specimen Trees**

The subject property is within a mapped polygon of SJRWMD FLUCCS code 4110-Pine Flatwoods. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and may be found on the property. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Per Section 62-4339, parcels greater than 2.5 acres in size shall meet canopy preservation 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.

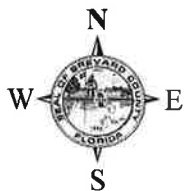
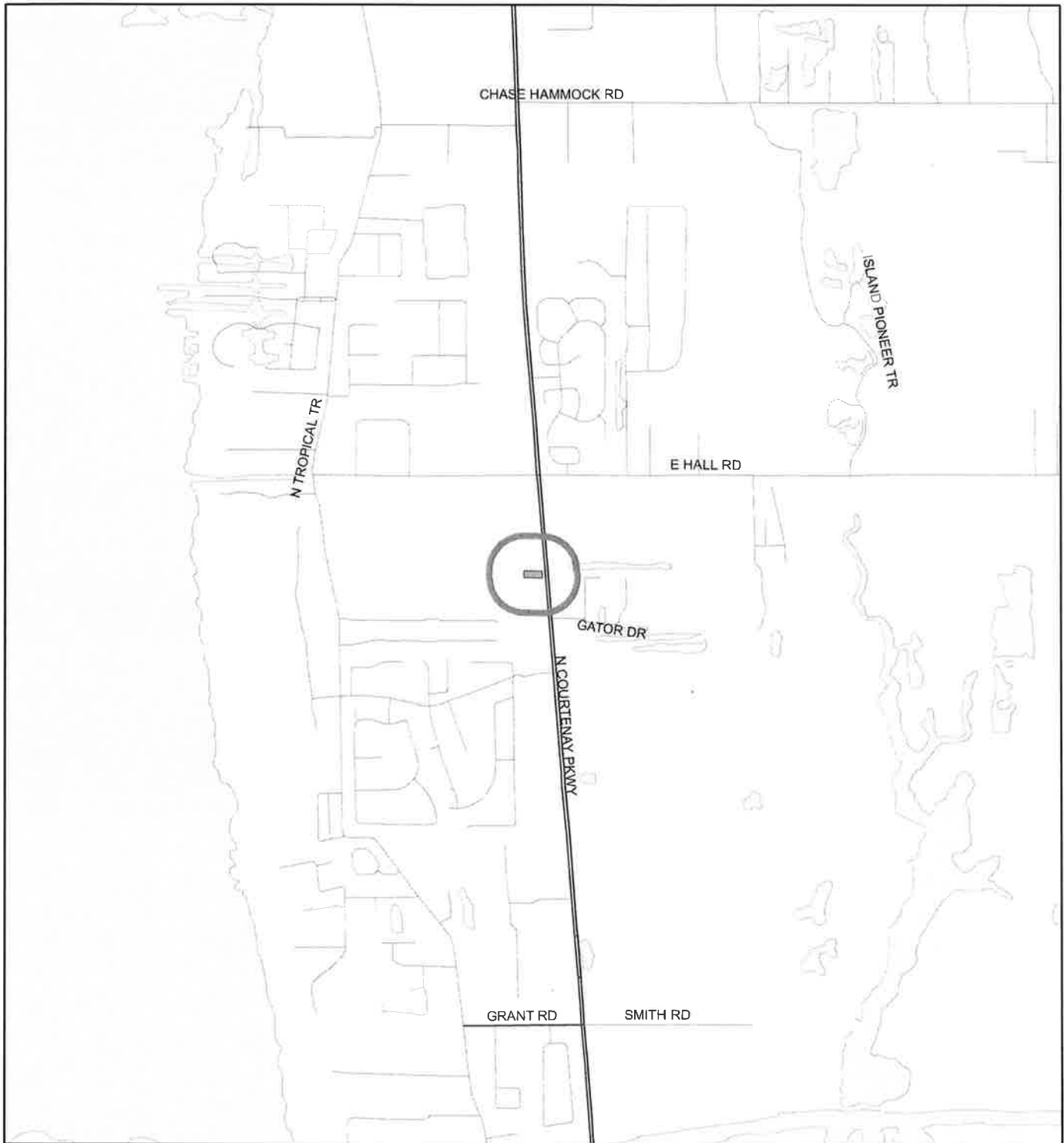
#### **Protected Species**

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.

# LOCATION MAP

KAT-CAM, LLC

21Z00006



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.

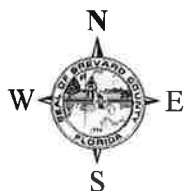
Produced by BoCC - GIS Date: 3/3/2021

— Buffer  
■ Subject Property

# ZONING MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 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: 3/3/2021

— Subject Property

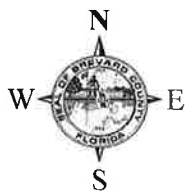
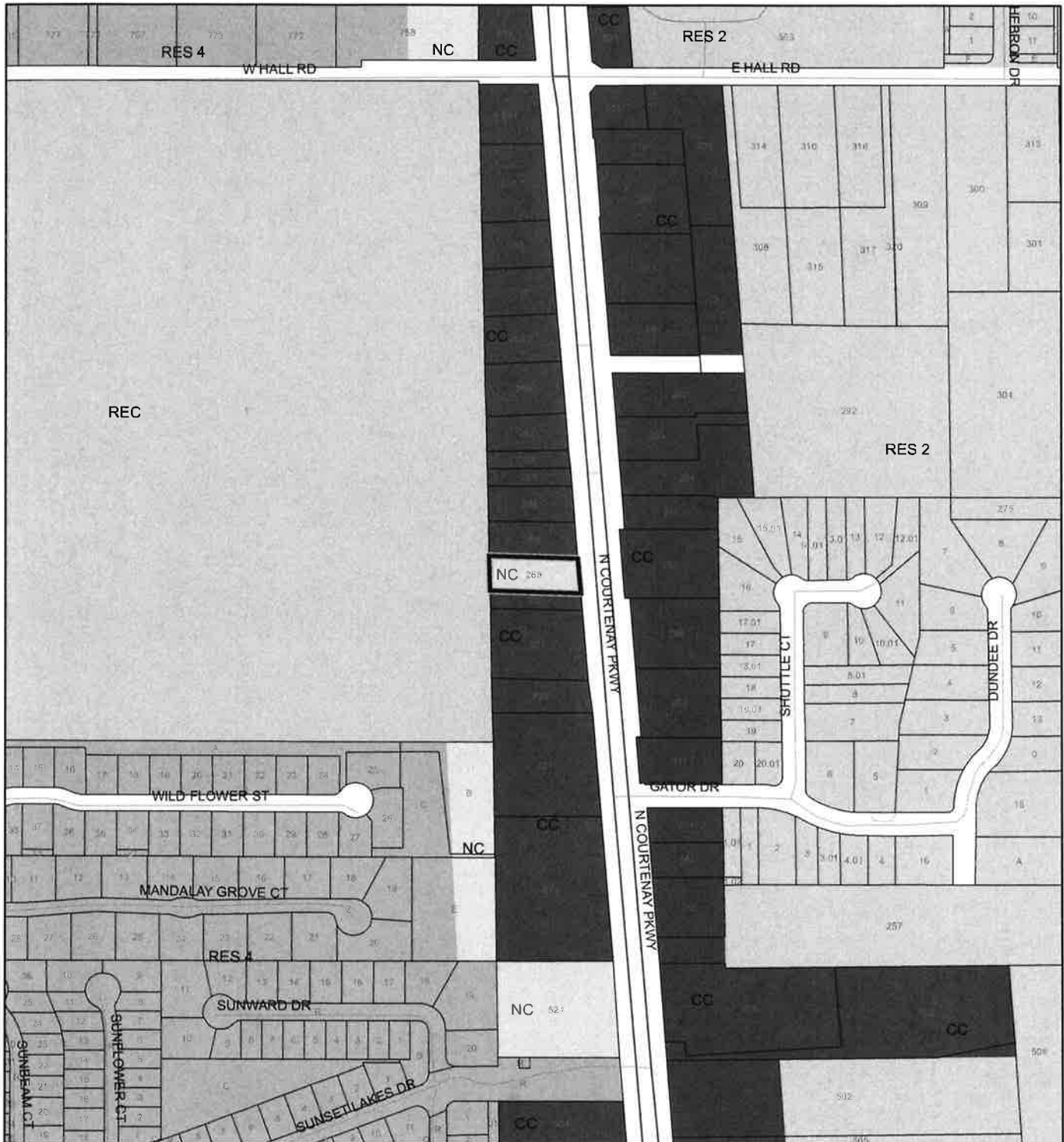
□ Parcels

□ Zoning

# FUTURE LAND USE MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

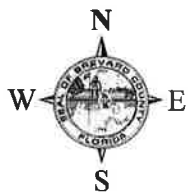
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/3/2021

# AERIAL MAP

KAT-CAM, LLC

21Z00006



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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.

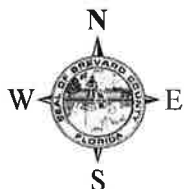
Produced by BoCC - GIS Date: 3/3/2021

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

KAT-CAM, LLC

21Z00006













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/3/2021

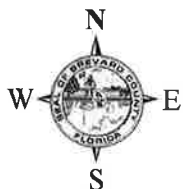
## National Wetlands Inventory (NWI)

	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

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 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: 3/3/2021

## 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

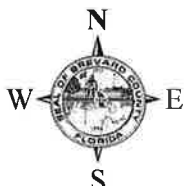
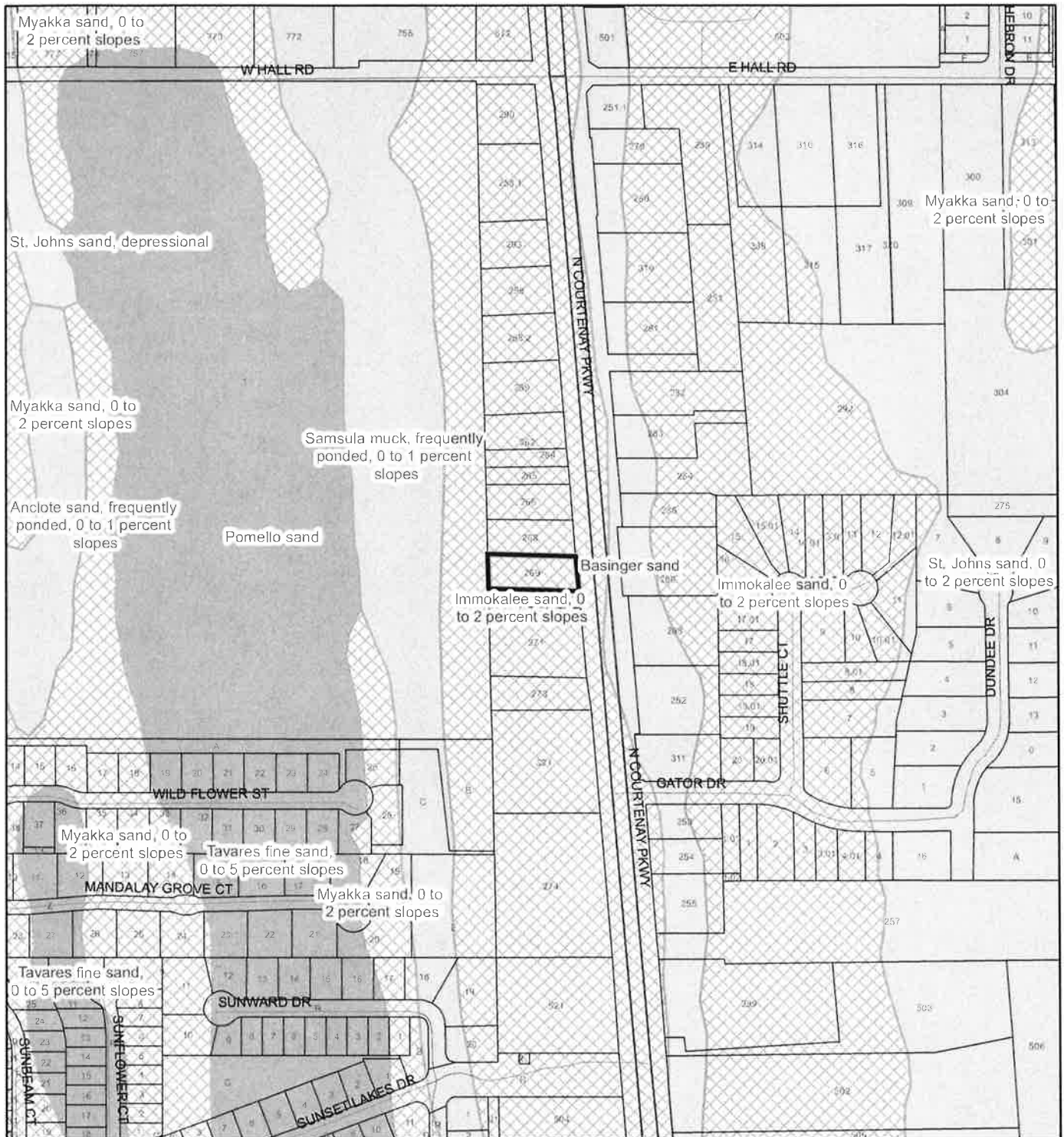
 Parcels



# USDA SCSSS SOILS MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 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: 3/3/2021

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

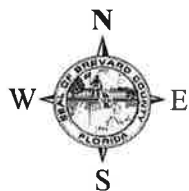
- Subject Property
- Parcels



# COASTAL HIGH HAZARD AREA MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 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: 3/3/2021

— Subject Property

□ Parcels

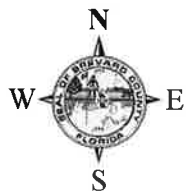
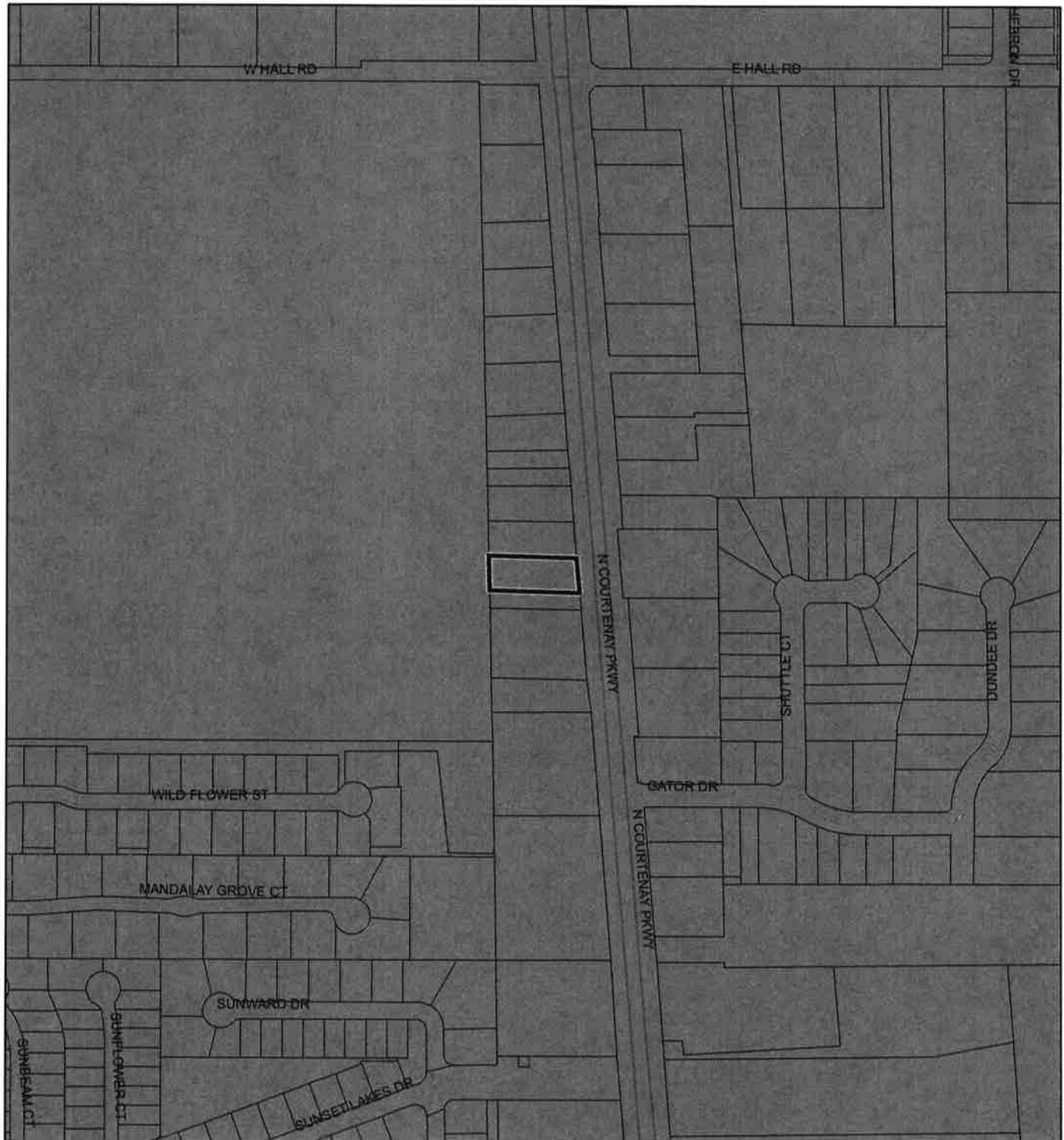
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/3/2021

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

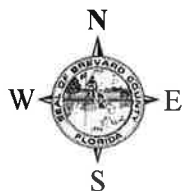
■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

KAT-CAM, LLC

21Z00006




1:4,800 or 1 inch = 400 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: 3/3/2021

 Subject Property

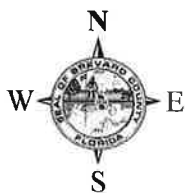
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

KAT-CAM, LLC




21Z00006



1:4,800 or 1 inch = 400 feet

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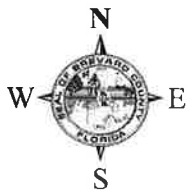
Produced by BoCC - GIS Date: 3/3/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KAT-CAM, LLC

21Z00006




1:4,800 or 1 inch = 400 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: 3/3/2021

## 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

# National Flood Hazard Layer FIRMette



80°42'49"W 28°26'5"N



## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

<b>SPECIAL FLOOD HAZARD AREAS</b>	<b>Without Base Flood Elevation (BFE)</b> Zone A, V, A99 <b>With BFE or Depth</b> Zone AE, AO, AH, VE, AR <b>Regulatory Floodway</b>
<b>OTHER AREAS OF FLOOD HAZARD</b>	0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile <b>Zone X</b> Future Conditions 1% Annual Chance Flood Hazard <b>Zone X</b> Area with Reduced Flood Risk due to Levee, See Notes, <b>Zone X</b> Area with Flood Risk due to Levee <b>Zone D</b>
<b>OTHER AREAS</b>	NO SCREEN Area of Minimal Flood Hazard <b>Zone X</b> Effective LOMRs Area of Undetermined Flood Hazard <b>Zone D</b>
<b>GENERAL STRUCTURES</b>	Channel, Culvert, or Storm Sewer Levee, Dike, or Floodwall
<b>OTHER FEATURES</b>	Cross Sections with 1% Annual Chance Water Surface Elevation Coastal Transect Base Flood Elevation Line (BFE) Limit of Study Jurisdiction Boundary Coastal Transect Baseline Profile Baseline Hydrographic Feature
<b>MAP PANELS</b>	Digital Data Available No Digital Data Available Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 3/2/2021 at 11:15 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Feet 1:6,000

Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020



BOARD OF COUNTY COMMISSIONERS

Application Pages  
21Z00006  
KAT-CAM, LLC

**Planning and Development**  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

### Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21Z00006  
Existing FLU: NC Existing Zoning: AU  
Proposed FLU: \_\_\_\_\_ Proposed Zoning: BU-2

#### PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

PATRICIA GARAGOZO KAT-CAM LLC  
Name(s) Company  
3903 Postbridge TR. MCLEOD, FL 32934  
Street City State Zip Code  
PATRICIA GARAGOZO@GMAIL.COM  
Email Phone Cell 321-698-5702

#### APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

\_\_\_\_\_  
Name(s) Company  
\_\_\_\_\_  
Street City State Zip Code  
\_\_\_\_\_  
Email Phone Cell



**APPLICATION NAME**

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 0.59

Reason for Request: TO Rezone from Substandard zoning.  
TO become Commercial B.U. 2  
just as all other properties  
next to it.  
TO increase options for utilizing property



The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☒ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☒ An approval of this application does not entitle the owner to a development permit.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Signature of Property Owner or  
Authorized Representative

Date

State of

County of

Subscribed and sworn before me, by X physical presence or \_\_\_\_\_ online notarization,

this 27<sup>th</sup> day of January, 2021, personally appeared

Patricia Bologna-Garagoz, who is personally known to me or produced

FLDL

as identification, and who did / did not take an oath.

Notary Public Signature



LAUREL LANG  
Notary Public - State of Florida  
Commission # GG 172805  
My Comm. Expires Jan 7, 2022

Seal

**Office Use Only:**

Accela No. 21Z00006 \$1508.00 Date Filed: 1/29/2021 District No. 2

Tax Account No. (list all that apply) 2410506

Parcel I.D. No.

24 36 02 00 — 269  
Twp Rng Sec Sub Block Lot/Parcel

Planner: Peter Martin Sign Issued by: PMM to Cale Entrenchment Notification Radius: 500'

**MEETINGS**

**DATE**

**TIME**

☐ P&Z

☐ PSJ Board

☒ NMI Board

☐ LPA

☐ BOA

☒ BCC

5/13/21

6:00 PM.

5/27/21

5:00 pm

Wetland survey required by Natural Resources ☒ Yes ☐ No Initials PMM

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☐ Yes

☒ No

If yes, list

N/A

Location of subject property: West side of North Courtenay Parkway approximately 1,350 feet south of the intersection of East Hett Road and North Courtenay Parkway.

Description of Request: Applicant is requesting rezoning from Agricultural Residential (AR) to Retail, Warehousing and Wholesale Commercial (BU-2) in order to increase options for utilizing the property.

## Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

### NOTES:

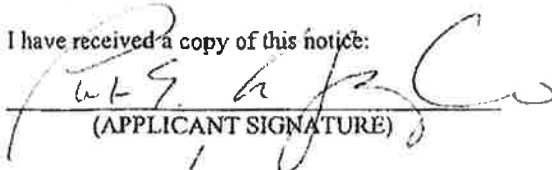
- ✓ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ✓ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

Patricia.GARRA@GO210.COM or \_\_\_\_\_ or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes/No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)



# ecospatial ANALYSTS

February 14, 2021

Ms. Pat Garagozlo  
KAT-CAM LLC  
3903 Postridge Trail  
Melbourne, FL 32934  
Phone: (321) 698-5702  
Email: patricia.garagozlo@gmail.com

Project Address: N. Courtenay Pkwy, Merritt Island, FL 32953  
Project Area:  $\pm 0.59$  acres  
Brevard Parcel ID: 24-36-02-00-269  
Brevard Tax ID: 2410506  
Parcel Description: PART OF W 1/2 OF NW 1/4 W OF RD AS DES IN ORB 252 PG 455

Subject: Letter of Determination for Wetlands and Protected Species for Brevard County Natural Resources Management Department

Dear Ms. Garagozlo;

Ecospatial Analysts, Inc. conducted an environmental assessment and wetland determination on the above-referenced property ( $\pm 0.59$ -acres) on February 6, 2021. The property is a vacant parcel located in Merritt Island, Brevard Co., Florida (Figure 1). The parcel was bordered by North Courtenay Parkway to the east, vacant land to the north and west and commercial business to the south. A stormwater ditch and a utility corridor occurred between the parcel and N Courtenay Parkway. The parcel boundary is also shown on an aerial image in Figure 2 and a 7.5-minute USGS topological quad in Figure 3.

**PURPOSE** The purpose of the survey was to identify wetlands and rare, threatened and endangered species habitat that may affect parcel development.

**LANDCOVER** Landcover (Figure 4) was mapped using the Florida Land Use Cover and Forms Classification System (FLUCFCS) (1999) within the Brevard County Parcel boundary as obtained from the Florida Department of Revenue Geographic Information System (GIS) data. The landcover within the property consisted of three landcover types (Table 1) totaling an area of 0.580-acres (slightly smaller than the acreage reported by the Brevard County tax accessor's office).

Table 1. Landcover types and approximate acreages found with the parcel.

FLUCFCS Code	FLUCFCS Description	Area (acres)*
425	Live Oak and Hardwoods	0.528
743	Spoil Area (743)	0.014
510	Ditch – remanent (510)	0.038
	<b>Approximate Total</b>	<b>0.580</b>

\*GIS parcel boundary from Brevard Co does not seemed to be georeferenced accurately. Boundary has been shifted to represent field findings.

The parcel was dominated by Live Oak and Hardwoods (FLUCFCS 425;  $\pm 0.528$ ) and Spoil Areas (FLUCFCS 743;  $\pm 0.014$ ). The parcel was dominated by live oaks (*Quercus virginiana*) with some other trees, shrubs and vines which included cabbage palm (*Sabal palmetto*), Brazilian peppers (*Schinus terebinthifolia*), air potato (*Dioscorea bulbifera*), muscadine (*Vitis rotundifolia*), sparse (*Pinus elliotii*), a few saw palmettos (*Sereona repens*) and strangler fig (*Ficus aurea*).

One isolated surface water feature (Ditch FLUCFCS 510; 0.038-acres) occurred on the parcel. This feature was a remanent, upland-cut stormwater ditch which is no longer functioning as such. The ditch terminates at the south parcel boundary and offsite at the north boundary of the adjacent parcel to the north. The bottom of the ditch was dense swamp fern (*Telmatoblechnum serrulatum*).

The west edge of the ditch was a Spoil Area (FLUCFCS 743; 0.014-acres) that appeared to be soil from the ditch piled alongside.

**WETLANDS** The investigation concluded one jurisdictional surface water wetland (Chapter 62- 340 of the Florida Administrative Code (F.A.C.)) occurred on the parcel as an isolated section of an abandoned stormwater ditch (Figure 5). The ditch is considered a surface water feature that was excavated. For purposes of surveying, the boundary of the surface water was identified with seven, neon-orange surveyors flags labeled consecutively "2/6/21 ECOS W1-1" to W1-10. Wetland flags W1-1 and W1-10 should be tied due south to their intersection with the parcel boundary. The wetland boundary along the north side of the parcel should be tied at the wetland line intersection with the parcel boundary. The Ditch was flagged at the top of its bank to its north and south termination.

Soil profiling was conducted throughout the parcel to confirm the absence of hydric soils. Hydric soils that were grey colored mineral stripped matrix were identified only at the base of the Ditch. Upland soils on the parcel were light grey colored, mineral organic with less than 20% of the sand grains coated.

**SOILS** One soil series, Immokalee fine sand, occurred within the property (Figure 6). The soil characteristics derived from soil profiles were consistent to the soil descriptions for this soil within the Soil Survey of Brevard Co. (Huckle et al. 1974; [https://www.nrcs.usda.gov/Internet/FSE\\_MANUSCRIPTS/florida/FL009/0/Brevard.pdf](https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/florida/FL009/0/Brevard.pdf)). Soils on the parcel were light grey colored, mineral organic with less than 20% of the sand grains coated with organic material.

**PROTECTED SPECIES** No rare, threatened or endangered species were seen on the parcel or expected to occur there. No impacts to protected species are anticipated with developing this parcel.

## REFERENCES

Florida Department of Transportation Surveying and Mapping Section. January 1999, Third Edition. Florida Land Use, Cover and Forms Classification System (FLUCFCS). 95 pp.

Huckle et al. 1974, Soil Survey of Brevard County, Soil Conservation Service, U.S. Department of Agriculture, 130 pp.

USDA NRCS. 2002 Field Indicators of Hydric Soils in the United States, version 5.0. G.W. Hurt, P.M. Whited and R.F. Pringle (eds). USDA, NRCS in cooperation with the National Technical Committee for Hydric soils, Fort Worth, TX.

Please contact me if you have any questions regarding the information provided or other environmental questions related to this proposed single-family residence.

Regards,



(electronically submitted)

Vickie L. Larson  
President

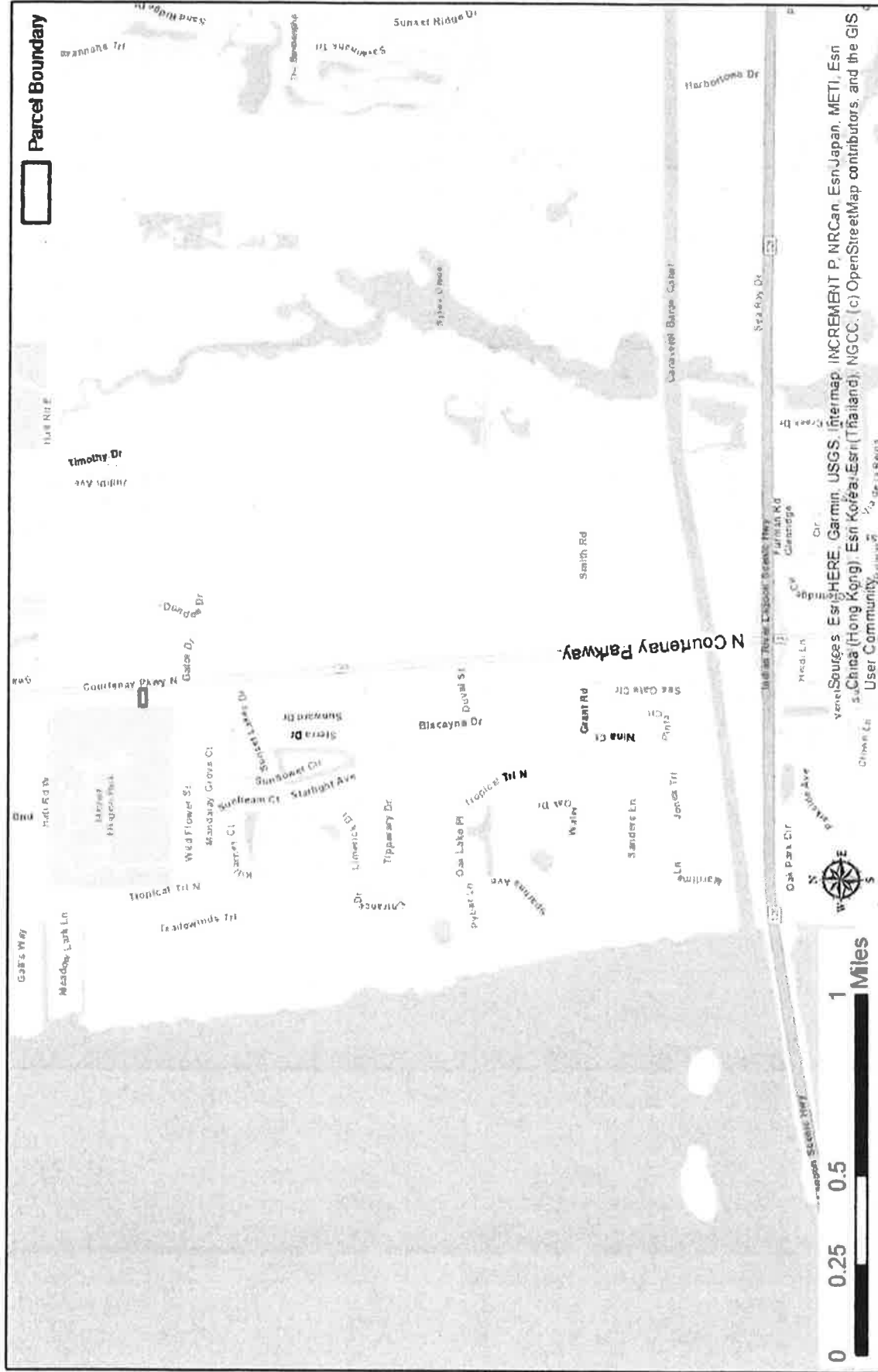


Figure  
No. **1**

**Title:** Location (0.59-acres)  
**Address:** N. Courtenay Pkwy, Merritt Island, FL 32953  
**Parcel ID:** 24-36-02-00-269  
**Tax Account:** 2410506  
**Source:** ESRI Basemap Imagery  
**Notes:** Locations approximate. Site visit 2/6/21

**ecospacial**  
 ANALYSTS  
 3245 N. Courtenay Pkwy Ste 37  
 Merritt Island, FL 32953  
 321.403.5147

Date: 2/14/2021



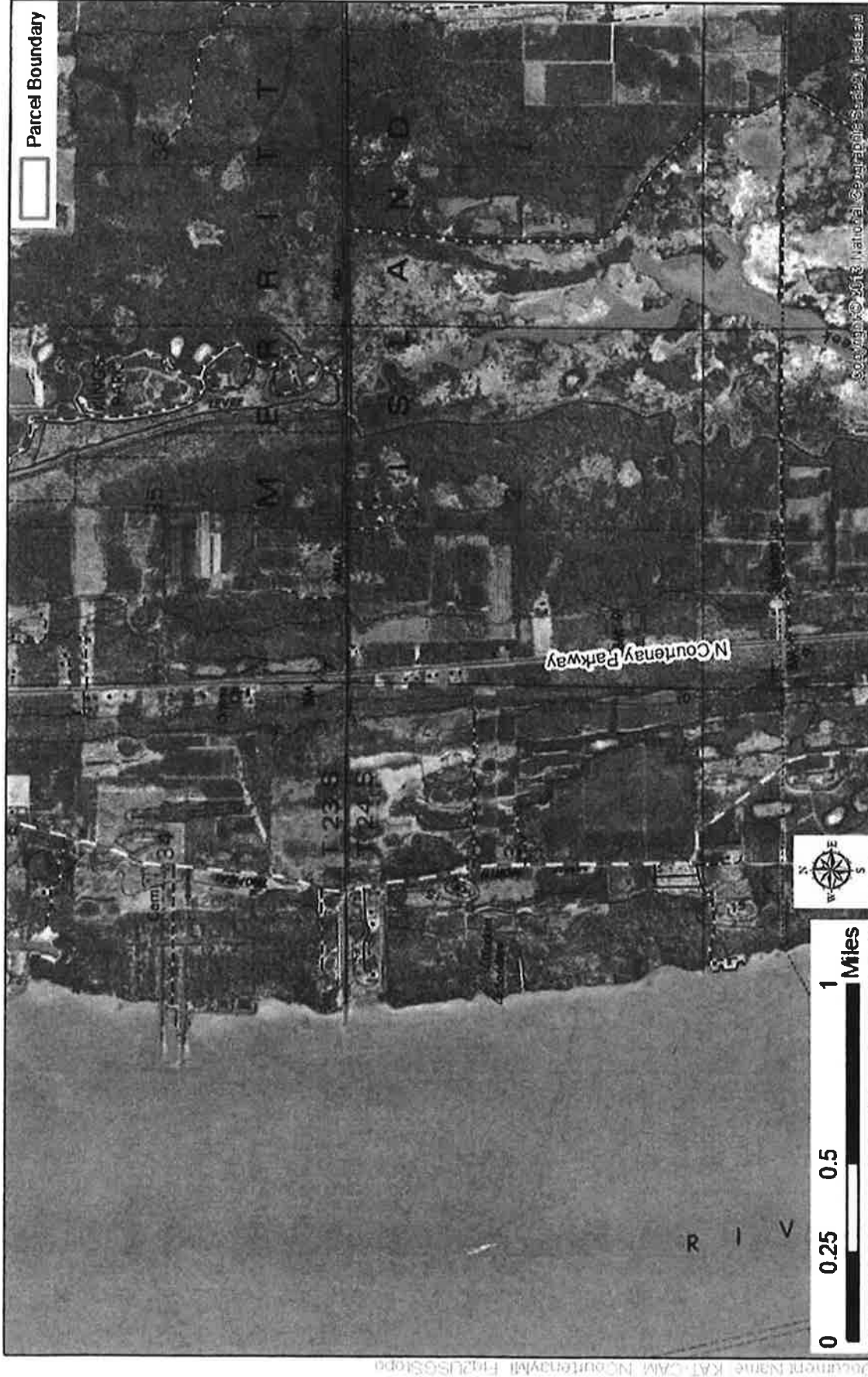


Figure  
No. 2

Title: USGS 7.5 minute Quad Topography (0.59-acres)  
 Address: N. Courtenay Pkwy, Merritt Island, FL 32953  
 Parcel ID: 24-36-02-00-269  
 Tax Account: 2410506  
 Source: ESRI Basemap Imagery  
 Notes: Locations approximate. Site visit 2/6/21

**ecospatial**  
 ANALYSTS  
 3245 N. Courtenay Pkwy Ste 37  
 Merritt Island, FL 32953  
 321.403.5147

25





Figure  
No.

3



Figure No.

4



Figure No.

5

Title: Wetlands (0.59-acres)  
 Address: N. Courtenay Pkwy, Merritt Island, FL 32953  
 Parcel ID: 24-36-02-00-269  
 Tax Account: 2410506  
 Source: ESRI Basemap Imagery  
 Notes: Locations approximate. Site visit 2/6/21

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 3245 N. Courtenay Pkwy Ste 37  
 Merritt Island, FL 32953  
 321.403.5147

28



Figure No.

6

Title: Soils (0.59-acres)  
 Address: N. Courtenay Pkwy, Merritt Island, FL 32953  
 Parcel ID: 24-36-02-00-269  
 Tax Account: 2410506  
 Source: ESRI Basemap Imagery  
 Notes: Locations approximate. Site visit 2/6/21

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 ANALYSTS  
 3245 N. Courtenay Pkwy Ste 37  
 Merritt Island, FL 32953  
 321.403.5147









Owner's Name: Kat Cam LLC  
Hearing Date: May 13, 2021

21200006

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

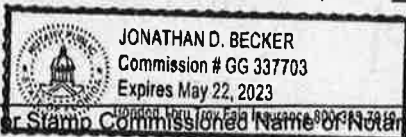
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Denny Long,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Signature

Sworn and Subscribed before me, this 21 day of April 2021



(Print, Type, or Stamp Commissioned Name of Notary Public)

Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: \_\_\_\_\_

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

## REZONING NOTICE

The North Merritt Island Dependent Special District Board will hold a public hearing at 6:00 PM on 5/13/21 at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL, to consider the proposed zoning action on this property as indicated below:

Owner: Kat-Cam, LLC

Present Zoning: All Acreage: 0.59

Requested Action(s): Rezone from All to BU-2

The recommendations from the aforementioned public hearing will be presented to the County Commission at 5:00 P.M. on May 27, 2021.

at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera. All interested parties are invited to appear and be heard. Written comments filed with the Brevard County Zoning Official, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL 32940 will be considered.

Removal of this sign prior to May 27, 2021 is illegal and subject to prosecution.



## NORTH MERRITT ISLAND

### DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, May 13, 2021**, at 6:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Viera, Florida.

**Board members present were:** Mary Hillberg, Chair; Gina Lindhorst; Catherine Testa; Jack Ratterman; Jim Carbonneau; Chris Cook; and Ted Balke.

**Planning and Development staff present were:** Jeffrey Ball, Planning and Zoning Manager; Peter Martin, Planner II; and Jennifer Jones, Special Projects Coordinator.

#### Excerpt of Complete Minutes

##### **KAT-CAM, LLC (Patricia Garagozlo)**

A Small Scale Comprehensive Plan Amendment (21S.02) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.59 acres, located on the west side of N. Courtenay Pkwy., approx. 0.11 mile north of Gator Dr. (No assigned address. In the N. Merritt Island area.) (21PZ00018) (Tax Account 2410506) (District 2)

##### **KAT-CAM, LLC (Patricia Garagozlo)**

A change of zoning classification from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 269, as recorded in ORB 5411, Page 1101, of the Public Records of Brevard County, Florida. **Section 02, Township 24, Range 36.** (0.59 acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile north of Gator Dr. (No assigned address. In the N. Merritt Island area.) (21Z00006) (Tax Account 2410506) (District 2)

Patricia Garagozlo - My address is 3903 Post Ridge Trail, Melbourne. I am moving to rezone the vacant land owned by KAT-CAM, and I'm a managing member of KAT-CAM. I'd like to rezone it to make it consistent with the other properties that border me. To the north is BU-2, and to the south is BU-1 in the front and BU-2 in the back, but for all intents and purposes he operates as a BU-2 property. I'm looking to give it the highest use and be consistent with the other properties that border me.

Ted Balke - The property to the south is residential in the front and BU-1 in the back.

Patricia Garagozlo - Not that the notes reflect that I have. Did he say he thinks the front is residential?

Ted Balke - No, the front is commercial; it's BU-1 in the front and residential in the back. It's AU in the back.

Patricia Garagozlo - The staff comments seem to indicate it is BU-1 in the front and BU-2 in the back, but I could be mistaken.

Mary Hillberg - What is the current zoning of that property?

Peter Martin - The zoning on the property to the south is split between BU-1 and BU-2.

Patricia Garagozlo - That's what I thought. I thought it was BU-1 in the front and BU-2 in the back, but if you pass by, you'll see that for all intents and purposes he's operating under BU-2.

Mary Hillberg - And the property to the north is BU-2 also.

Patricia Garagozlo - Correct.

Mary Hillberg - And the Future Land Use shows it all to be Community Commercial, is that correct?

Peter Martin - Currently, the Future Land Use is Neighborhood Commercial on the subject property. The properties to the north and south have a Future Land Use designation of all Community Commercial.

Mary Hillberg - Is BU-2 under Community Commercial?

Ted Balke - No.

Peter Martin - Community Commercial permits BU-1 and BU-2, in addition to the other zoning classifications that are permitted under the current Neighborhood Commercial.

Jim Carbonneau - Patricia, what is your proposed use for the property?

Patricia Garagozlo - At this time I don't really have a proposed use; I'm just trying to change the zoning to be consistent in order to optimize my ability to decide what I want to do with it in the future, so I'm not limited in the future when I decide development.

Jim Carbonneau - Do you own or have interest in any of the other properties around this piece of property?

Patricia Garagozlo - Not the two direct pieces connected to me. I am part owner of another piece in Merritt Island under a different LLC. I don't own either of those lands next to me.

Jack Ratterman - Is it a group of people who own it, or you own it?

Patricia Garagozlo - This is actually my children's property that we purchased a long time ago. KAT stands for my daughter, Katiana; and CAM stands for my son, Cameron. I'm a managing member, but it's actually their property and at some point I hope that they come back to Brevard County and maybe set up an office, but right now what I want to do is make it the highest use, because I don't know what they will eventually use it for.

Ted Balke - Doesn't that also make it more available for resale?

Patricia Garagozlo - That's true, I do have it up for sale, so I want to be forthright about that, but I don't know if I'm going to get a buyer or not. I'd like the potential if I do have a buyer.

Ted Balke - But if we approve you with a rating of BU-2 it makes it more profitable to be able to sell that land.

Patricia Garagozlo - I don't know about profitability on selling land; all I know is that my interest is to optimize the best use for the property, and that's what I'm here to do.

Jack Ratterman - I'm always worried about BU-2 because in BU-2 you can do anything, just about.

Patricia Garagozlo - The property next door to me is BU-2, and for all intents and purposes the other one is on the other side of me.

Ted Balke - But we went through four years of a study for the small area study group, and we were against any BU-2 being added to North Merritt Island.

Patricia Garagozlo - I'm unaware of that. I wouldn't have been privy to that. I would feel that I would not be being treated fairly if I weren't awarded that because the other lots right next to me are BU-2.

Ted Balke - Yes, but yours is also the two lots that are wetlands, on the NW1 wetlands map. You're fresh-water forested shrub wetlands. Those two lots definitely are, and it's on the maps.

Patricia Garagozlo - I had a wetlands study and it should be part of the documents that you received. What they are calling wetlands is actually a manmade ditch; someone dug a ditch on the back of the property after I purchased it many years ago; unbeknownst to me, someone dug a ditch on the back of the property, and unfortunately, it's now deemed wetlands. If you read the report and talk to the person who went out and surveyed it for me, it is a manmade ditch someone dug, and I think it was my neighbor, but I'm not going to accuse anybody.

Mary Hillberg - Ted may be referring to the wetlands map.

Ted Balke - Yes, if you look at the NW map you can see that the whole area coming down, including most of the eastern section of the playground there, is also considered wetlands. These are the two lots it comes out into.

Patricia Garagozlo - But again, I had a wetland survey and the entire property.....

Ted Balke - But anybody can walk through it at any point in time when it hasn't rained here, and you haven't realized how bad this area gets.

Jeffrey Ball - The wetlands map is a general map based on soils from a general area.

Mary Hillberg - There is a soils map also, and her soils are not....

Jeffrey Ball - Correct, so we would take an environmental study that's actually gone out to the property and flagged it to determine if there are any wetlands on the property. With that being said, when you look at a Future Land Use change as well as a zoning change, there are two things that you should consider. One is consistency with the Comprehensive Plan, and the second is compatibility with the surrounding area. Those are the two criteria that you should be looking for in whether to recommend approval or denial.

Mary Hillberg - We have several administrative policies that we also look at, along with the other properties and businesses around, and various different things such as traffic, lighting, and noise. We look at quite a few different things, but thank you. On the St. Johns wetlands map, Ted, you'll see the wetland forest is that property.

Ted Balke - I'm very familiar with the lots because I was the sales person on the lot next to hers, and I know that area and I know those lots. I'm a realtor and when I started I only sold lots on dirt land in North Merritt Island, so I'm very familiar with all of the properties here and the water conditions during

various points of time during the year. And I sat for four years on the small area study, and we investigated all of these empty lands and we set forth a Future Land Use that should be indoctrinated; it should not still be coming from the North Tropical Trail study, or it supersedes that, and it was released in 2019.

Mary Hillberg - Jeff, would it be possible for this board to include the North Merritt Island study that was accepted by the County Commission. Was it not accepted by the Commission? I believe it was.

Jim Carbonneau - It was.

Jack Ratterman - It was accepted.

Mary Hillberg - Would it be okay to have a map that includes that in our handouts? I don't know if this will have any particular effect on you [to Patricia Garagozlo], but I'm just asking because this is an item that is something that we worked on; all of the people got together and they had a committee and they worked for months and months, years. The County was also involved, and the committee set up a vision for North Merritt Island.

Patricia Garagozlo - So the vision for those two lots is that they can't be developed?

Mary Hillberg - No, the vision was Neighborhood Commercial, I believe.

Patricia Garagozlo - Why are all of the other lots BU-2?

Mary Hillberg - They were already there.

Ted Balke - They were BU-2 before the small area study.

Gina Lindhorst - You have a mixture of BU-1 and BU-2.

Mary Hillberg - It's a mixture.

Ted Balke - And we're trying to retain the BU-2 rating because of the fact that we have been, in the past, providing that to people and then they move or they only got it for the purpose of resale. We gave it out, for example, to the olive lady, and now that whole lot up there is BU-2 and it shouldn't be.

Patricia Garagozlo - I've been a resident of Brevard County for 42 years and I have no interest in doing anything that will hurt Brevard County. I wouldn't be here for 42 years if I didn't love it.

Ted Balke - But you live in Melbourne and you don't live on North Merritt Island, and you have no idea how difficult the flooding issue is.

Patricia Garagozlo - I don't live in Merritt Island, but I have family that lives in Merritt Island, so I'm well aware and well versed on what goes on in Merritt Island.

Ted Balke - Do you know about North Merritt Island?

Patricia Garagozlo - Yes, I do know.

Mary Hillberg - Let's go on to the subject here.

Jeffrey Ball - Madam Chair, I was just looking at the staff report and there was a study that was done in 2005.

Mary Hillberg - No, this was the study that was just recently done on North Merritt Island. What year was that done, Jack? You were on the committee, you and Ted, I believe.

Ted Balke - 2019 or 2020. The only problem was after it was released, Tobia, from Palm Bay, turned around and.... we restricted everything on North Merritt Island to be 2.5 acres per house, and he turned around and tried to change it and said now everything is two houses on 2.5 acres. Again, Palm Bay is trying to direct what's going on here.

Mary Hillberg - What we need to do is hang on to the subject here.

Ted Balke - The Future Land Use is established that there would be no more BU-2's assigned.

Mary Hillberg - What I was asking Jeff about was the study and if was 2019 or 2020.

Jeffrey Ball - It was 2018.

Mary Hillberg - That's when it started, right?

Ted Balke - No, that's when it was completed, after four years.

Mary Hillberg - Is it possible that we have a picture of that in our handouts when we do this so that we can have an idea of.....it was a community, 'how shall we grow, what do we want to look like in the future'. It did include that the corridor was a commercial corridor because that had already been established by the County.

Patricia Garagozlo - It's all commercial property there.

Jim Carbonneau - I'm concerned that it's not being considered as part of the County review.

Mary Hillberg - That's why I'm asking if we can have a copy of that in with our handouts.

Jeffrey Ball - We can pull up the outcome of that study that was done in 2018. If that is something the board would like see prior to making your recommendation we can provide that to you, but I want to pay close attention to the existing Future Land Use that is on the property. If you look at the Future Land Use map, this property is surrounded by Community Commercial already, besides the property to the rear, which is a County park, which is recreation.

Mary Hillberg - I understand what these maps are. What I was asking was if you could please give us a picture of what the final result of the study was in our handouts in the future, not for now.

Jeffrey Ball - Okay, I understand.

Ted Balke - North Courtenay Parkway was considered, all frontage on that, could be commercial, but it was not BU-2. It was restricted to somebody having a CUP with a specific purpose of what they were going to do with the property so that it could be evaluated for that.

Mary Hillberg - That's correct.

Patricia Garagozlo - Is he saying it could be BU-1 but not BU-2? Is that what he's trying to tell me?

Ted Balke - Basically, correct.

Mary Hillberg - He's one of the board members who can't come to the meetings, but Ted is a wonderful member of our board and he's very knowledgeable.

Ted Balke - And I'm also one of the five people that sat on the small area study.

Mary Hillberg - Yes, you are. Thank you, Ted. Do you have anything else to add to your presentation?

Patricia Garagozlo - No, I don't. I appreciate your time.

Mary Hillberg - What we do is we have the applicant come up first, and then anyone else who wants to come up who wants to speak to this topic, and then after anyone else has come up to speak, you get to come up speak last to rebut if someone says something that you feel is incorrect, and then it closes to the audience and the board makes a decision. Is there anyone who would like to speak to this topic?

Michael Yauch - I live at 565 Indian Bay Boulevard. Regarding these zoning requests, I'm here to present the decision of the North Merritt Island Homeowners Association (NMIHOA). We represent several thousand residents on North Merritt Island, and regarding the requests of KAT-CAM, LLC, on May 3<sup>rd</sup> the NMIHOA objected to the change of zoning on their .59-acre parcel, from AU to BU-2, and its Future Land Use from Neighborhood Commercial to Community Commercial. The decision was based on Administrative Policy 3.C., inconsistency with the existing pattern of surrounding development, using historical land use patterns, actual development over the past three years. Administrative Policy 4, adjacent properties' zoning and character. Administrative Policy 8(1), considering the character of the surrounding properties, and Administrative Policies 4 and 5, that this rezoning would be too intense for the commercial development in this area, for S.R. 3, and thus inappropriate. Not that it could not be rezoned to BU-1 in this area, but in this northern area of North Merritt Island this stretch was not originally intended for BU-2, commerce and traffic, especially as the property abuts a large park, many residents, and much residential land use. In the study area of the commercial corridor of S.R. 3, from Sunset Lakes to Hall Road, in which this parcel is located, contains approximately 30% BU-2 property and other approximately 70% BU-1 and AU; therefore, the NMIHOA requests that BU-1 instead of BU-2 be assigned here.

Mary Hillberg - Does anyone else want to speak on this topic? Would the applicant like to come up and rebut anything she's heard?

Patricia Garagozlo - No.

Mary Hillberg - Okay, it's closed to the audience and it comes back to the board. What's your pleasure?

Jack Ratterman - If you go through the BU-2, you can have a crematorium, cemetery, mausoleum. BU-2 is too intense, it's too much.

Ted Balke - That's exactly what we discussed, Jack, during the small area study.

Gina Lindhorst - I see that there is a mixture of BU-2 and BU-1 in this section of Courtenay and it does abut to the recreational area, the park. If you don't have a specific need for BU-2, I would wonder why we would have it designated as BU-2 now. I do understand why you would like to have it similar to all of the properties next to it, so it would be consistent with the Community Commercial designation.

Ted Balke - Consistent with what the gentleman from the North Merritt Island Homeowners Association said, that follows the findings from the small area study, that we were trying to limit the number of BU-2's that were made available on North Merritt Island. It can be a BU-1, providing it has the setback and the trees in the front to shield it from the road, but we did not want to increase the number of BU-2's in the entire north corridor there.

Mary Hillberg - I understand that, I didn't want any BU on the corridor. This was supposed to be a....and I believe it is still categorized as a scenic highway.

Gina Lindhorst - It was.

Mary Hillberg - It doesn't seem very scenic right now, but that's what it was, a historic scenic highway, and the people who live here wanted it to be more attractive than it was, than it is now. That's one of the reasons North Merritt Island did this study, was to try to put together the area in such a way that it would grow in a less intense way, such as gas stations, crematoriums, and heavy machinery, and parking lots for huge cranes, and that sort of thing. They wanted to make this more of the scenic highway that it was designated to be initially.

Ted Balke - BU-2 also lets them offer things such as strip clubs and all of those other nasty elements.

Mary Hillberg - Yes, and some of the businesses that are less conducive to the neighborhoods, the agricultural neighborhoods that we have in our area. That's one of the reasons that we had that study, and Ted and Jack were members of that study, and we are all North Merritt Island people on the board, so we feel that this is an important aspect. On the other hand, the surrounding areas do have, and things do change, and the surrounding areas do have that designation and the way they are using it is probably pretty much the way we were hoping they wouldn't be using it.

Chris Cook - I concur with almost everything that's been said, but one of the things in the study was, knowing there is going to be some BU-2 there, maybe the applicant could consider putting BU-2 on the back portion of the property, and I believe that's what the corridor study recommended.

Mary Hillberg - That may be why this piece of property has BU-2 in the back. Would you like to have your property in half?

Patricia Garagozlo - That's fine, whatever you all want me to do.

Mary Hillberg - What would you think of that?

Patricia Garagozlo - I'd be fine if that's what you decide.

Mary Hillberg - If that would be BU-2 in the back then it wouldn't be right on the causeway.

Patricia Garagozlo - I respect whatever decision you make.

Ted Balke - It also makes it harder for a realtor to sell a property that has a split designation, so she may want to reconsider that. If she took it all as a BU-1 she would be better off for resale purposes.

Mary Hillberg - Maybe she could decide they could be creative.

Ted Balke - The problem there is that when you have a lot like that, it's just like her neighbor to the south where the BU-2 overtakes the front of the lot.

Mary Hillberg - Other properties are that way, so this would go with the other properties.

Patricia Garagozlo - If it were split it doesn't prohibit me from using the whole thing as a BU-1, right?

Mary Hillberg - Exactly.

Patricia Garagozlo - Why would that hurt me?

Ted Balke - It doesn't hurt you, it lets you use it as BU-1, so I don't understand why you just wouldn't accept it as a BU-1.

Patricia Garagozlo - I will accept, I'm a very easy going person, I will accept whatever the board decides.

Mary Hillberg - You will accept BU-1 instead of BU-2?

Patricia Garagozlo - Yes, if you decide it's all BU-1 that's fine; if you decide it's BU-1 in the front and BU-2 in the back, that's fine too.

Ted Balke - Your problem is that one of your lots there is AU in the back and split between that and BU-2. The problem there is that you're moving from an AU to a BU-1. You're moving from a totally agricultural lot all the way up to.....

Mary Hillberg - If she wanted to go to BU-1 she could.

Ted Balke - If she doesn't have any plan for what she's even going to put on the property, I don't know why we're letting her go all the way to the extreme of a non-regulated business property.

Gina Lindhorst - That's a very big jump from AU to BU-2 is what Ted is trying to say, and there's no actual need for BU-2 right now, according to the applicant for her purposes in changing this, so maybe we could consider the BU-1 only.

Ted Balke - Neither one of these has a development plan. I don't know why you would even consider moving it to anything other than what it is.

Mary Hillberg - What is the next step up from AU?

Jeffrey Ball - AU is really agricultural, and the next step would be AU(L), which is Agricultural Low-Intensity and prohibits the selling of goods from the property.

Mary Hillberg - What's the next step up from that?



Jeffrey Ball - RR-1, which is larger lots.

Mary Hillberg - What is the lowest for a business?

Jeffrey Ball - BU-1-A, and if that's the board's direction to recommend BU-1-A, then there is no need to change the land use, because BU-1-A is consistent with the current land use of Neighborhood Commercial.

Mary Hillberg - That would be good, right?

Jeffrey Ball - You would be introducing a new zoning classification; in that area there is no BU-1-A.

[Jim Carbonneau gave the applicant a copy of the BU-1-A zoning classification to review]

Mary Hillberg - As you see, there are quite a few things here, from antique shops to dental clinics, to newsstands, to tailor shops.

Ted Balke - Exactly what she talked about in her kids setting up offices or whatever, that would be consistent with BU-1-A.

Jeffrey Ball - On a broad spectrum of uses in BU-1-A, it's a neighborhood commercial use intensity, office, small retail. Then you go up to BU-1, which allows for more intensive uses, and then BU-2. The difference between BU-1 and BU-2, generally speaking, is warehousing and the ability to do outdoor storage.

Mary Hillberg - I think that's what Ted is saying, that BU-2 is so intense.

Patricia Garagozlo - I think BU-1-A is inconsistent with the other properties, so I would say BU-1.

Mary Hillberg - Okay, we're back to the board. What ideas do you have?

Jim Carbonneau - I'm not sure where to start because we have to vote for H.1. first, is that correct?

Mary Hillberg - You can do one or the other.

Jim Carbonneau - We can discuss them jointly, but we have to vote on them separately. My thoughts are, we're talking about half an acre, and I don't think that is...without any known direction where her children might go with the property, the fact that she is not currently involved with the ownership with the surrounding properties, and the land size alone doesn't warrant jumping into a BU-1 or BU-2 category.

Ted Balke - You have to remember that these two half-acres lots are adjacent to each other, so now you're talking about a consistent one acre lot.

Jeffrey Ball - The request is only for one lot.

Jim Carbonneau - It's just one lot.

Ted Balke - I know, but they are both the same, they are both next to one another, and then you're talking about them becoming single entity, because they can file to have the two lots mingled into one without going through the zoning board.

Mary Hillberg - Jeff, do you understand what Ted is saying?

Jeffrey Ball - I think he's saying that Ms. Garagozlo owns the adjacent property, which I don't believe she does.

Mary Hillberg - She doesn't own the adjacent property.

Ted Balke - She owns the two half-acre lots next to each other.

Mary Hillberg - No, she doesn't own those; she only owns the one that is outlined in our handout.

Catherine Testa - But it's still a potential, the neighbors, or a future land owner to join them in the future, which would allow them to do warehousing on a larger property. She might be limited if she tried to do warehousing on .59, but if you add it to the lots south and north then there might not be the same limitation.

Gina Lindhorst - Anything is possible in the future.

Mary Hillberg - But you have to remember, if she bought all the property along the whole corridor, she could do a lot, but we can't look that way, we have to just look at what we're looking at.

Ted Balke - The two .59-acre lots, aren't they next to each other?

Mary Hillberg - We're not looking at those, we're only looking at hers.

Ted Balke - She owns both of them.

Mary Hillberg - No, she doesn't own those, she only owns the one.

Ted Balke - They are both KAT-CAM properties.

Patricia Garagozlo - I only own one lot.

Ted Balke - And one lot is the .18-acre?

Mary Hillberg - I think you are looking at the other applicant, I believe.

Ted Balke - No, they are both her, they are both Patty. H.1. and H.2. are both adjacent lots.

Jack Ratterman - No, they are the same lot.

Jim Carbonneau - They are the same lot, Ted.

Ted Balke - Half of the .59-acre is NC, and the other half of it is AU.

Jeffrey Ball - If I can just reiterate, before you tonight there are two applications on the same property, which is .59-acre. One application is to change the land use from Neighborhood Commercial to Community Commercial. The other application is to change the zoning from AU to BU-2.

Ted Balke - Okay.

Mary Hillberg - Does anyone else on the board have anything to say? Jim, I understand you feel that this probably not a good idea because it's not going to be useful right now?

Jim Carbonneau - I would vote to say no.

Jack Ratterman - On H.1.?

Jim Carbonneau - If we're not going to go to the BU-1-A recommendation for zoning, then I think the current NC is proper for the land as it is.

Jack Ratterman - Would the applicant amend her proposal to BU-1-A?

Jim Carbonneau - According to Jeff, if she goes with the BU-1-A then H.1. isn't necessary. Is that correct, Jeff?

Jeffrey Ball - Yes, you can have Neighborhood Commercial in BU-1-A zoning if that is the direction of the board. That might not be the direction the applicant wants to take.

Patricia Garagozlo - What is the difference between BU-1 and BU-1-A?

Mary Hillberg - BU-1-A is less intense.

Patricia Garagozlo - What does BU-1 get you?

[Jim Carbonneau gave a copy of the BU-1 zoning classification to Patricia Garagozlo]

Mary Hillberg - It's more intense types of things.

Jeffrey Ball - It's convenience stores....

Mary Hillberg - Hospitals.....

Jeffrey Ball - It's more neighborhood uses.

Mary Hillberg - But you're talking about .59 acres.

Patricia Garagozlo - It's not a lot of land. I think to be consistent with what's there, I think BU-1 is appropriate. There is more on either side of me, so I think BU-1 is appropriate. When I look at BU-1 there is not much difference. Obviously, I can't put anything huge on .59 acres.

Mary Hillberg - The applicant wants to change it from going to BU-2 to BU-1.

Patricia Garagozlo - It sounds like the homeowners agreed with that.

Gina Lindhorst - Does she have to re-apply?

Jeffrey Ball - No, since it's a lower intensity zoning the board can make a recommendation to go to BU-1.

Gina Lindhorst - I like that better. It is what the North Merritt Island Homeowners Association assessed, that 70% of the corridor there is BU-1, and only 30% is BU-2.

Mary Hillberg - That's true, and also being next to a recreation park you don't want the heavy intensity types of things, but BU-1 has a lot of room to do a lot of things. I don't know what the other properties are thinking, but if I were going to buy a property in a business area and have a business, that would be something that I think would be useful.

Gina Lindhorst - It seems reasonable to me.

Ted Balke - So then you don't need H.1.

Jack Ratterman - Right. I make a motion that we amend this change from a BU-2 to BU-1.

Ted Balke - You're talking about H.2.

Jack Ratterman - Yes, H.2.

Ted Balke - H.1. does not...

Jack Ratterman - You don't need it.

Ted Balke - H.1. doesn't need to be voted on because it is already NC.

Jack Ratterman - Right.

Mary Hillberg - Jack recommends that this property moves from AU to BU-1. Is there a second?

Jim Carbonneau - I'll second that.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Jeffrey Ball - The board does need to act on Item H.1.; BU-1 requires a Community Commercial land use designation.

Mary Hillberg - I thought you said it didn't need to.

Jeffrey Ball - Only if going to BU-1-A.

Jack Ratterman - I make a motion that we approve H.1., from NC to CC.

Gina Lindhorst - I second.

Mary Hillberg called for a vote on the motion as stated and it passed 6:1, with Jim Carbonneau voting nay.

Ted Balke - Why doesn't NC cover BU-1?

Jeffrey Ball - That is how the Comprehensive Plan is written in our code, in Section 62-1255.

Ted Balke - All the other lots there that are BU-1 are NC.

Mary Hillberg - We can have a conversation on this later because we are holding this lady up, and we have another item behind it.