



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

5/27/2021

Subject:

KAT-CAM, LLC (Patricia Garagozlo) requests a Small Scale Comprehensive Plan Amendment (21S.02) to change the Future Land Use designation from NC to CC. (21PZ00018) (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 Small Scale Comprehensive Plan Amendment (21S.02) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial)

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation on 0.59 acres of vacant, undeveloped land from NC to CC. The current designation of NC was adopted in May 2000, when the Mixed Use District land use designation throughout the County was converted into either NC or CC depending on the underlying zoning classification in place. The property is located on the west side of N. Courtenay Parkway, approximately .25 mile south of Hall Road.

A companion application to change the zoning from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial) was submitted accompanying this request.

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding commercial corridor (N. Courtenay Parkway).

On May 13, 2021, the North Merritt Island Dependent Special District Board heard the request and recommended approval by a 6:1 vote.

On May 17, 2021, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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



May 28, 2021

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Amanda Elmore

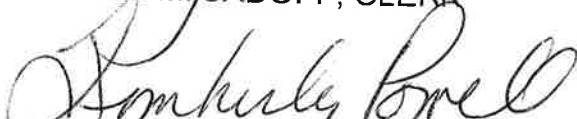
RE: Item H.4., KAT-CAM, LLC. requests a Small Scale Comprehensive Plan Amendment (21S.02) to Change the Future Land Use Designation from NC to CC (21PZ00018) (Tax Account 2410506)

The Board of County Commissioners, in regular session on May 27, 2021, conducted the public hearing and adopted Ordinance No. 21-15, amending Brevard County Code Chapter 62, Article III, Entitled "The 1988 Comprehensive Plan", setting forth the Second Small Scale Plan Amendment of 2021, 21S.02, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501, Entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), Entitled The Future Land Use Map Appendix to change the Future Land Use designation from NC to CC. Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/cld

Encl. (1)

cc: County Attorney



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

June 1, 2021

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

Attention: Nicole Summers

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 21-15, which was filed in this office on June 1, 2021.

Sincerely,

Anya Grosenbaugh
Program Administrator

AG/lb

ORDINANCE NO. 21-15

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SECOND SMALL SCALE PLAN AMENDMENT OF 2021, 21S.02, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2021 as Plan Amendment 21S.02; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 21S.02; and

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

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

Officially filed with the Secretary of the State on June 1, 2021.

WHEREAS, on May 17, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 21S.02, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on May 27, 2021, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 21S.02; and

WHEREAS, Plan Amendment 21S.02 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 21S.02 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 21S.02 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 21S.02, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

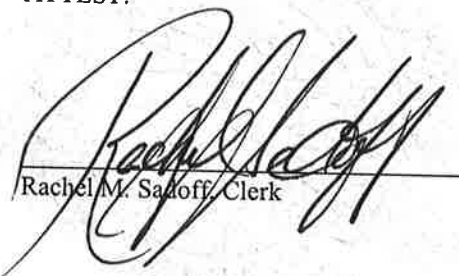
Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

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

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

DONE AND ADOPTED in regular session, this 27 day of May, 2021.

ATTEST:


Rachel M. Saffoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


By: _____
Rita Pritchett, Chair

As approved by the Board on May 27, 2021.

EXHIBIT A
21S.02 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

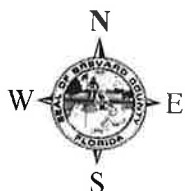
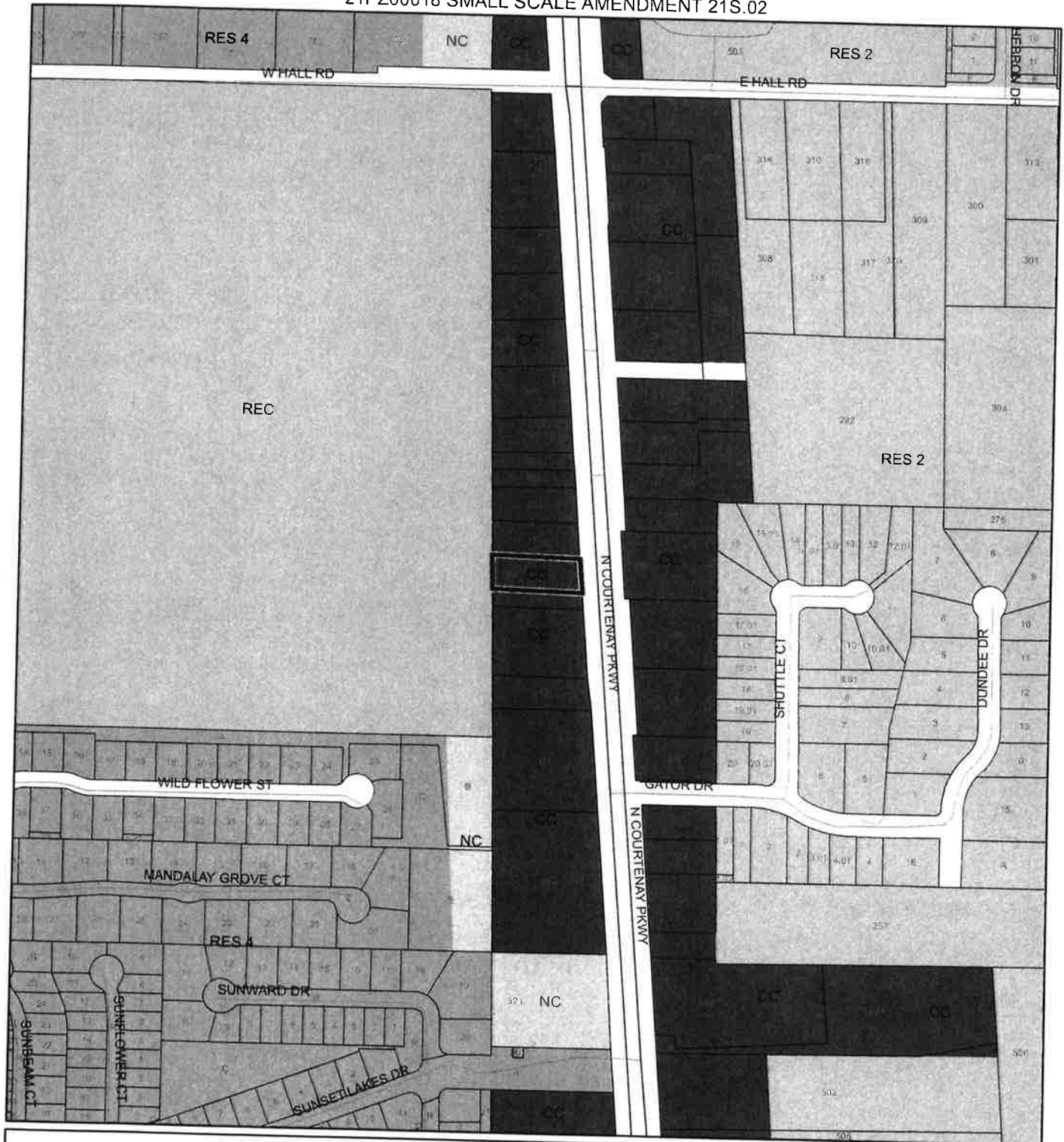
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



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: 3/2/2021

EXHIBIT B

Contents

1. Legal Description

Ad#4700471

04/29/2021

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the North Merritt Island Dependent Special District Board, and the Board of County Commissioners will consider the following requests on THURSDAY, MAY 13, 2021; MONDAY, MAY 17, 2021 (Item 1 only); and THURSDAY, MAY 27, 2021, DISTRICT 2.

1. (21P00018) - KAT-CAM, LLC (Patricia Garagozlo) - requests a Small Scale Comprehensive Plan Amendment (215.02) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community 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.) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 215.02: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

2. (21200008) - KAT-CAM, LLC (Patricia Garagozlo) - requests 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.)

3. (21200009) COOLTURAL LAND, LLC (Thomas Jones) requests a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as Tax Parcel 5, as recorded in ORB 8116, Pages 487 - 488, of the Public Records of Brevard County, Florida, Section 27, Township 23, Range 36, (1.02 acres) Located on the east side of N. Courtenay Pkwy., approx. 700 ft. south of Chasfull Rd. (No assigned address. In the Merritt Island area.) Public

Legal Notices

Hearing before the North Merritt Island Dependent Special District Board will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida, on THURSDAY, MAY 13, 2021, at 6:00 p.m. A second public hearing will be held by the Local Planning Agency (Item 1 only) at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida, on MONDAY, MAY 17, 2021, at 3:00 p.m. The final public hearing for all three items will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, MAY 27, 2021, at 9:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of the proceedings and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2069 for assistance. In order to maintain the recommended CDC precautions wherein providing a safe environment for our customers, board members, and staff, all future meetings of the North Merritt Island Dependent Special District Board will temporarily be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida. The temporary location change to the Government Center provides opportunity to facilitate the public meetings with a larger meeting room and more resources to allow attendees to follow safe distancing measures and other safety recommendations of the CDC. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 21S.02 (21PZ00018)
Township 24, Range 36, Section 02*

Property Information

Owner / Applicant: **Patricia Garagozlo Kat-Cam, LLC.**

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

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

Acreage: 0.59 acres

Tax Account #: 2410506

Site Location: On the west side of North Courtenay Parkway, approximately 1,350 feet south of Hall Road

Commission District: 2

Current Zoning: Agricultural residential (AU)

Requested Zoning: Retail, Warehousing & Wholesale Commercial (BU-2) (21Z00006)

Background & Purpose

The applicant is requesting to amend the Future Land Use designation on 0.59 acres of vacant, undeveloped land from Neighborhood Commercial (NC) to Community Commercial (CC). The subject property currently has a Future Land Use designation of NC that was adopted in May of 2000 when the Mixed Use District land use designation throughout the County was converted into either NC or CC depending on the underlying zoning classification in place (Amendment No. 99B.14). The original land use designation adopted with the Comprehensive Plan in September of 1988 was Mixed Use District along this segment of SR 3 (North Courtenay Parkway).

A companion rezoning application (21Z00006) was submitted accompanying this request for a Zoning change from Agricultural residential (AU) to Retail, Warehousing, and Wholesale Commercial (BU-2).

A School Impact Analysis was not required for this application.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant Undeveloped Land	BU-2 and BU-1	CC
South	Commercial RV Sales	BU-2 and BU-1	CC
East	Across North Courtenay Parkway – Commercial Construction Company	BU-1	CC
West	Brevard County Mitchell Ellington Park	AU	REC

To the north of the subject property is vacant, undeveloped land; to the south is a RV sales business; to the east, across North Courtenay Parkway, is a construction business; and to the west is a Brevard County owned park (114± acres).

Commercial land uses in this area are limited to being in close proximity to the North Courtenay Parkway (State Road 3) Urban Principal Arterial road, the major north-south corridor providing external access to North Merritt Island.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish

the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foresee ably be affected by the proposed use;

The closest residential neighborhood is approximately nine-hundred feet (900') southeast of the subject property across North Courtenay Parkway and off Gator Drive. The applicant has not stated a specific commercial use but the effects of lighting, site activity and traffic will be evaluated at the time of site plan review.

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

1. historical land use patterns;

There has been a historical existing commercial use pattern established along this segment of North Courtenay Parkway including some developed retail, warehouse and wholesale businesses.

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

There has not been any new development along North Courtenay Parkway within one-half mile of the subject property in the preceding three (3) years.

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

There have not been any development approvals for parcels adjacent to the subject property within the past three (3) years.

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

The subject 0.59 acre parcel has frontage on North Courtenay Parkway to the east. North Courtenay Parkway (State Road 3) is an Urban Principal Arterial roadway providing access to North Merritt Island.

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

The subject 0.59 acre parcel abuts CC to the north and south, and is adjacent to CC land uses to the east across North Courtenay Parkway. Inter-connectivity could be provided between the subject site and the adjacent parcels to the north and south. Cross-access easement requirements are evaluated during site plan review.

- C. Existing commercial development trend in the area;

There is an existing commercial use pattern in this area as commercial land uses are limited to being in close proximity to the North Courtenay Parkway (SR 3). The SR 3 corridor also has some developed retail, warehouse and wholesale businesses. Approximately 84.6 acres of commercially designated future land use is located along North Courtenay Parkway from Hall Road south to Duval Street, including 32.3 acres that remain undeveloped.

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

In 2014, intersection improvements were constructed at North Courtenay Parkway and Hall Road, approximately 0.3 miles north of the subject property. The project included the replacement of the span signal to mast arms, major drainage improvements, and turn lane improvements. The intersection improvements increased the efficiency of the intersection and improved the overall flow of the North Courtenay Parkway corridor.

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

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The parcel is within the City of Cocoa's service area for potable water and within Brevard County's service area for sanitary sewer.

- F. Spacing from other commercial activities;

The subject parcel is located within an existing commercial corridor along North Courtenay Parkway and is surrounded by Community Commercial (CC) to the north, south and east.

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

The subject parcel is 0.59 acres. Currently there is approximately 32.3 acres of vacant commercial property within this 84.6 acre commercial cluster along North Courtenay Parkway from Hall Road to Duval Street.

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

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary on pages 8 and 9).

- I. Integration of open space; and

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

- J. Impacts upon strip commercial development.

The subject 0.59 acre site could be considered infill rather than extend strip commercial development. The subject site is located within an existing commercial area.

Activities Permitted in Community Commercial (CC) Future Land Use Designations
Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, 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 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The application does not indicate a specific development activity for the site.

Locational and Development Criteria for Community Commercial Uses
Policy 2.8

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

Criteria:

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

The subject parcel is located on North Courtenay Parkway, an urban principal arterial roadway. Currently, there is a commercial cluster of approximately 85 acres along North Courtenay Parkway from Hall Road to Duval Street.

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

The subject site is 0.59 acre infill located along a commercial corridor (North Courtenay Parkway) and is not located at an intersection.

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

The subject site is located within a commercial cluster along North Courtenay Parkway. With the exception of three parcels, including the site, the entire 85 acre commercial cluster from Hall Road south to Duval Street has a CC Future Land Use designation.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

The gross floor area is regulated through the land development regulations at the time of site plan review.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial (CC) sites.

The overall subject site has the potential for a twenty-five thousand seven hundred square foot (25,700 s.f.) building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

Environmental Resources

Mapped resources and noteworthy land use issues include National Wetlands Inventory (NWI) Wetlands, Indian River Lagoon Nitrogen Reduction Overlay, protected and specimen trees and protected species.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Historic Resources

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

For Board Consideration

The Board may wish to consider that the subject site is located along a commercial corridor (North Courtenay Parkway) that establishes CC Future Land Uses as the predominant land use.

The Board should also consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 21PZ00018**

Applicant: Patricia Garagozlo

FLU Request: NC to CC

Note: Applicant wants CC to increase options for utilizing the property.

NMI Hearing Date: 05/13/21; **P&Z Hearing Date:** 05/17/21; **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.

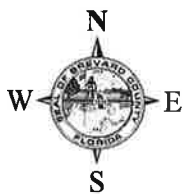
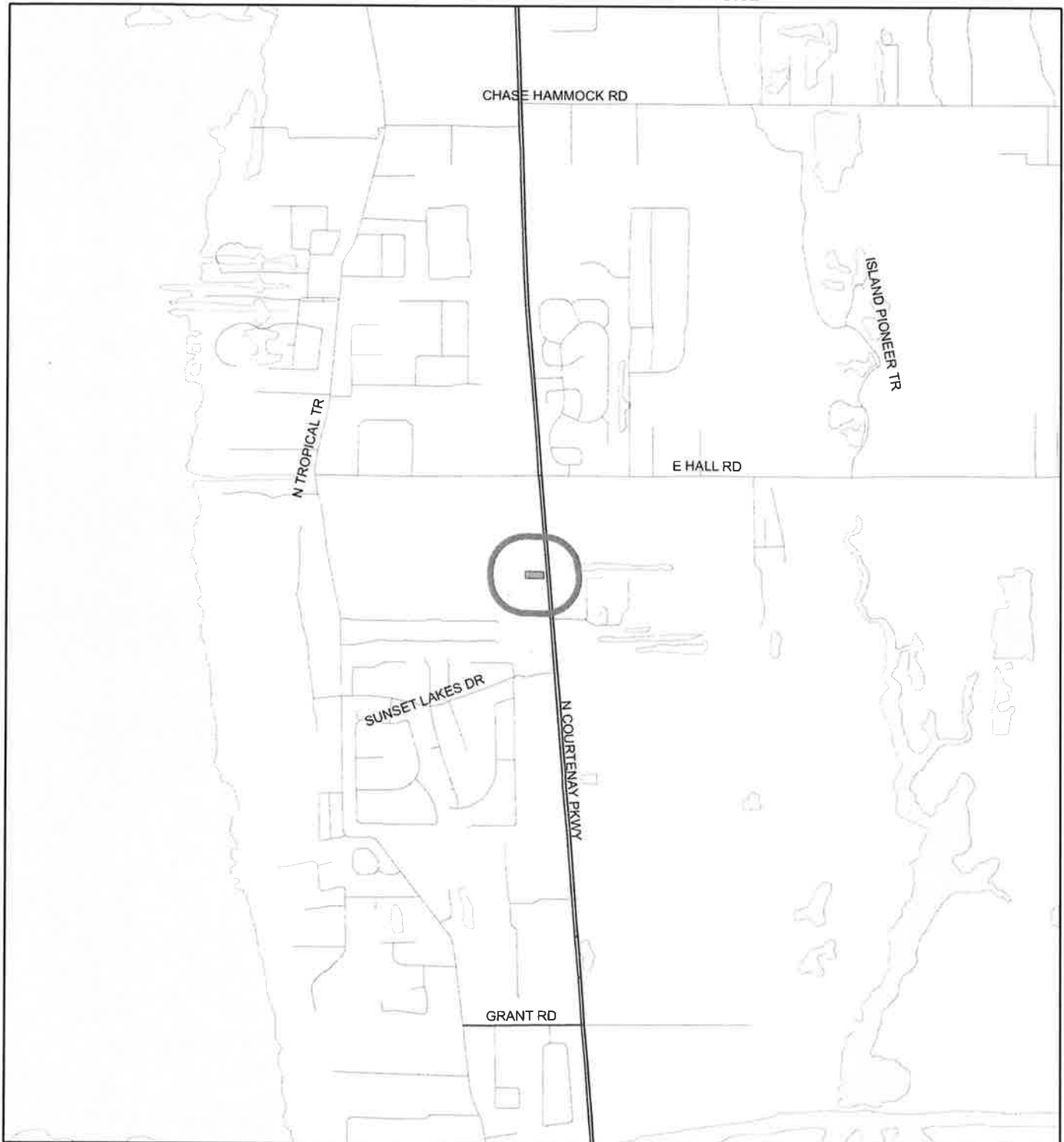
Protected Species

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

21PZ00018 SMALL SCALE AMENDMENT 21S.02



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.

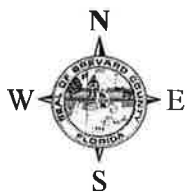
Produced by BoCC - GIS Date: 3/2/2021

— Buffer
■ Subject Property

ZONING MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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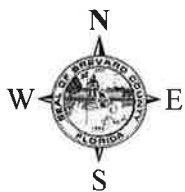
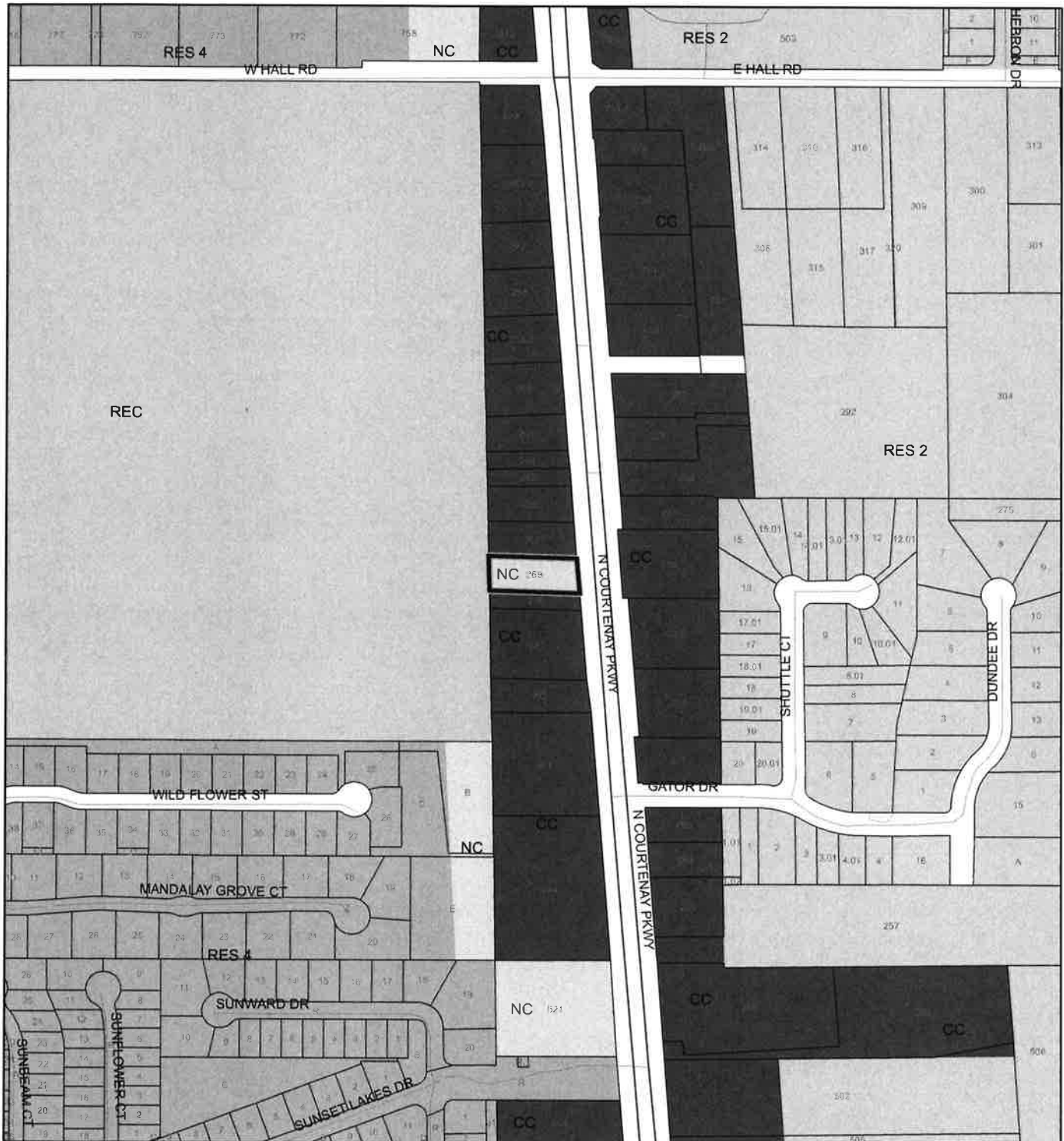
Produced by BoCC - GIS Date: 3/3/2021

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

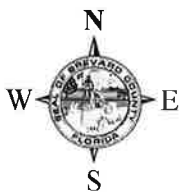
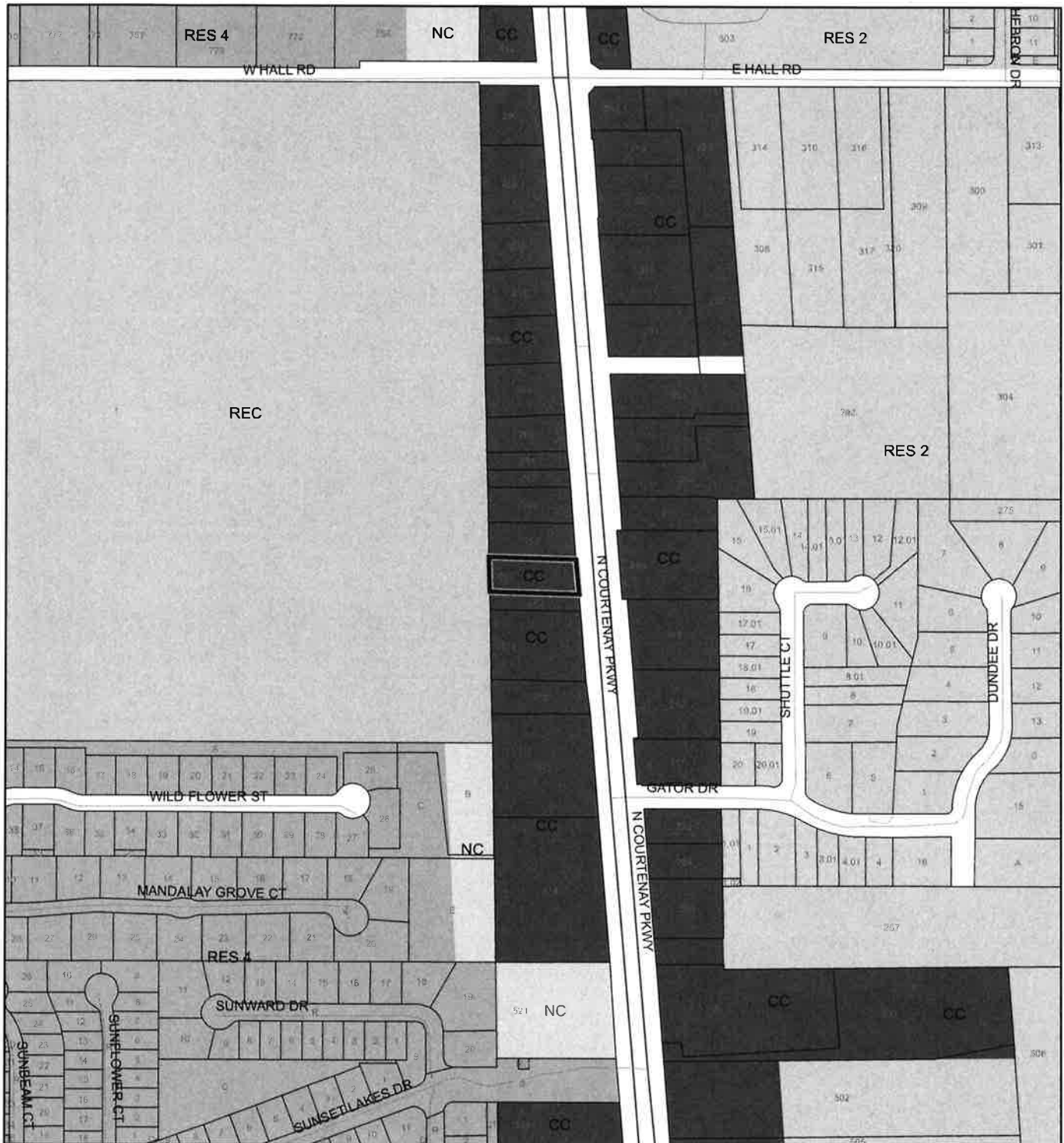
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/2/2021

PROPOSED FUTURE LAND USE MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

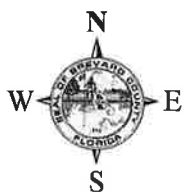
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/2/2021

AERIAL MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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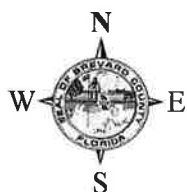
 Subject Property

 Parcels

NWI WETLANDS MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/2/2021

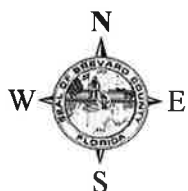
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|-----------------|
| 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

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/2/2021

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

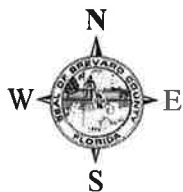
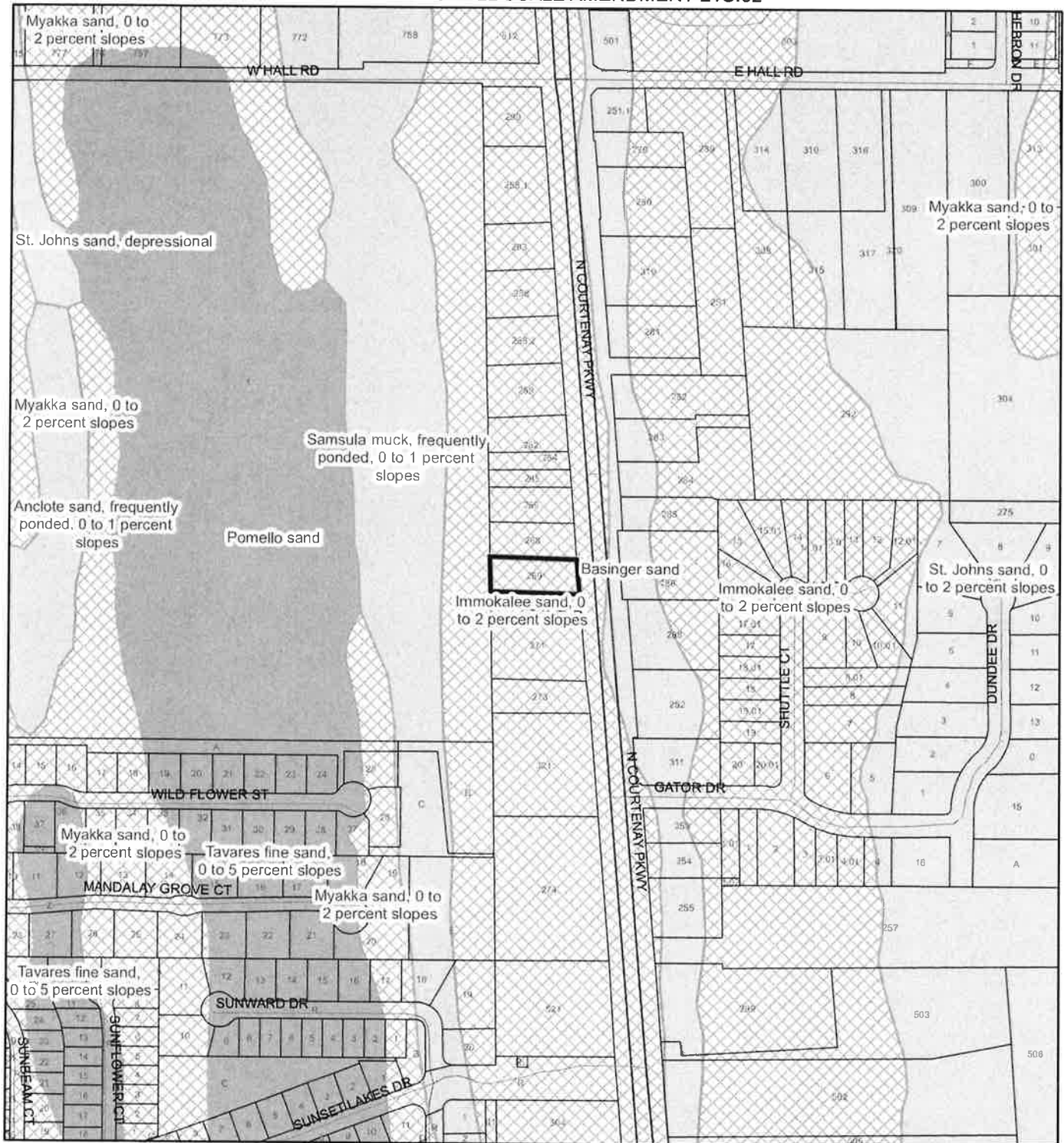
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



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: 3/2/2021

USDA SCSSS Soils

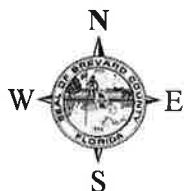
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

COASTAL HIGH HAZARD AREA MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

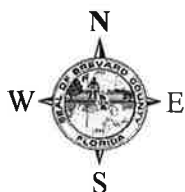
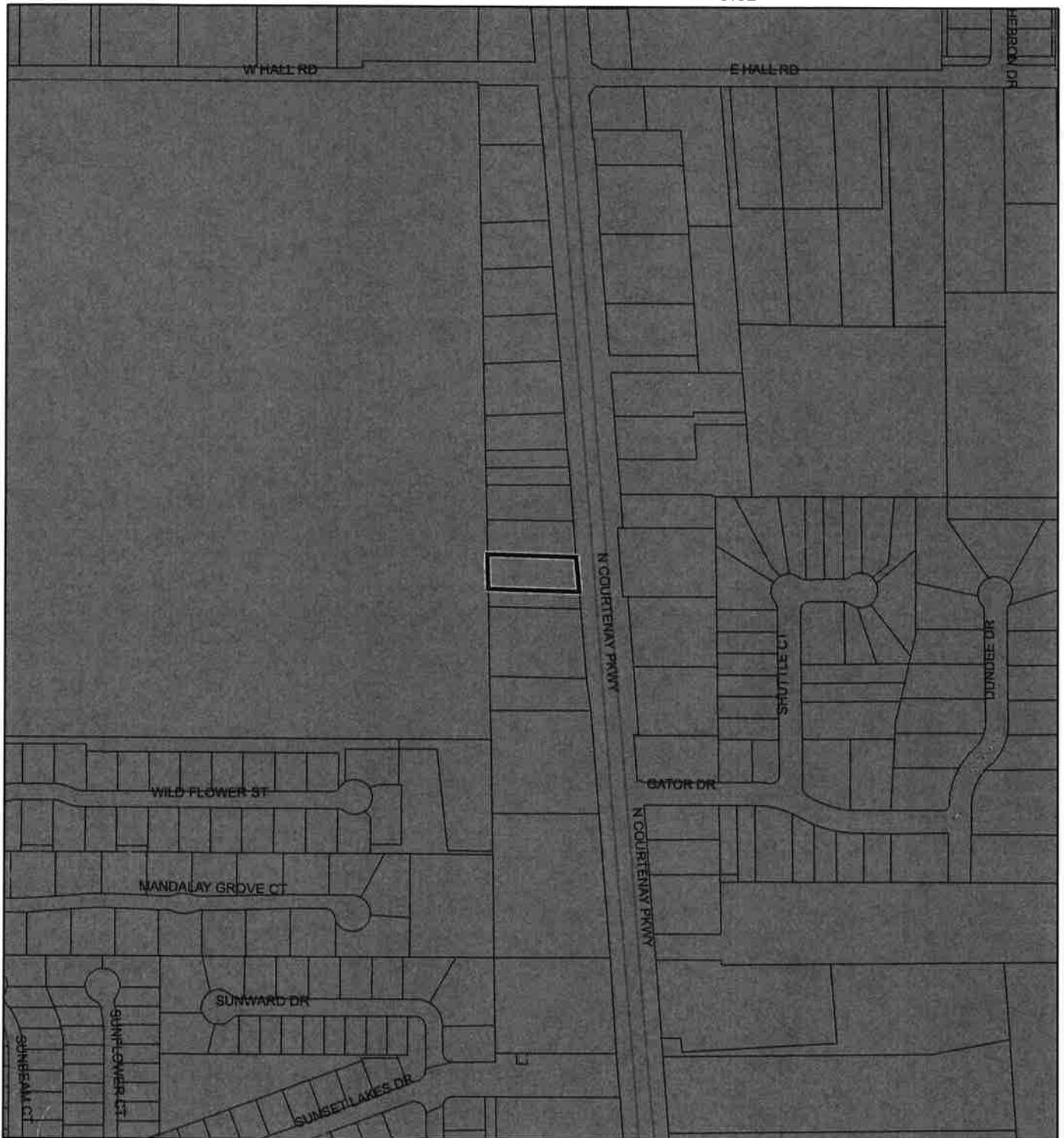
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/2/2021

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

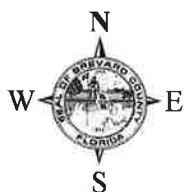
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/2/2021

 Subject Property

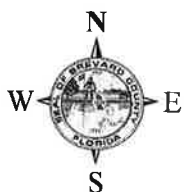
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

KAT-CAM, LLC




21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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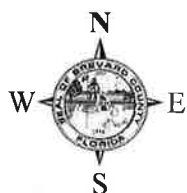
Produced by BoCC - GIS Date: 3/2/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02





1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/2/2021

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°26'51"N



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

Legend

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

SPECIAL FLOOD HAZARD AREAS

Without Base Flood Elevation (BFE)
Zone A, V, A99

With BFE or Depth
Zone AE, AO, AH, VE, AP

Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

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
Zone X

Future Conditions 1% Annual Chance Flood Hazard
Zone X

Area with Reduced Flood Risk due to Levee
See Notes, Zone X

Area with Flood Risk due to Levee
Zone D

OTHER AREAS

NO SCREEN

Area of Minimal Flood Hazard
Zone X

Effective LOMRs

Area of Undetermined Flood Hazard
Zone D

GENERAL STRUCTURES

Channel, Culvert, or Storm Sewer

Levee, Dike, or Floodwall

OTHER FEATURES

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

MAP PANELS

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.

207



BOARD OF COUNTY COMMISSIONERS

NMI DSD

219.02

Application Pages
21PZ00018
KAT-CAM, LLC

Planning and Development
2725 Judge Fran Jamleson 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 # 21PZ00018

Existing FLU: NC Existing Zoning: ALL

Proposed FLU: CC Proposed Zoning: _____

PROPERTY OWNER INFORMATION

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

PATRICIA GARA60210 KAT-CAM LLC
Name(s) Company
3903 Postridge TRAIL MEIR FL 32934
Street City State Zip Code
PATRICIA.GARA60210@gmail.com 321-658-5702
Email Phone Cell

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:

CSCPA - Change FLU from NC to CC

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.
- ☒ 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.

Pat & Alf Co
Signature of Property Owner or
Authorized Representative

2/6/21
Date

State of Florida
County of Brevard

Subscribed and sworn to me before me this 6th day of February, 2021,
personally appeared Patricia Garagozlo, who is personally known to me or
produced Drivers License as identification, and who did / did not take an oath.

MAB
Notary Public Signature
Melissa Braham

Seal



Office Use Only:

Accela No. 21P00018 Fee: \$1,219.00 Date Filed: 2/24/21 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: Pheryl W. Campbell Sign Issued by: n/a Notification Radius: _____

MEETINGS

DATE

TIME

☐ P&Z

5/3/21

3:00 p.m.

☐ PSJ Board

☒ NMI Board

5/13/21

6:00 p.m.

☒ LPA

5/17/21

3:00 p.m.

☐ BOA

☐ BCC

5/27/21

5:00 p.m.

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

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

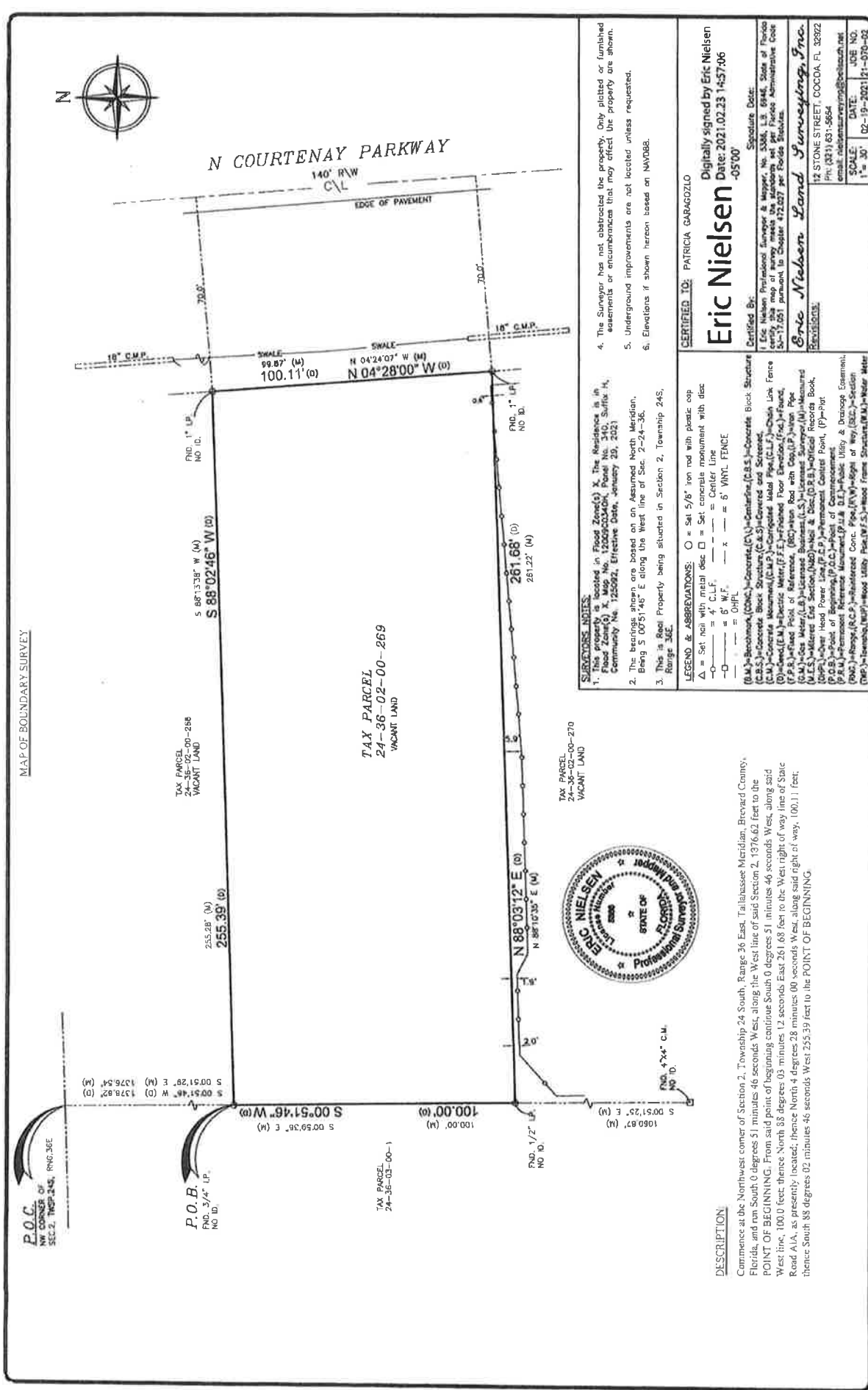
☒ Yes

☐ No

If yes, list NMI DSD

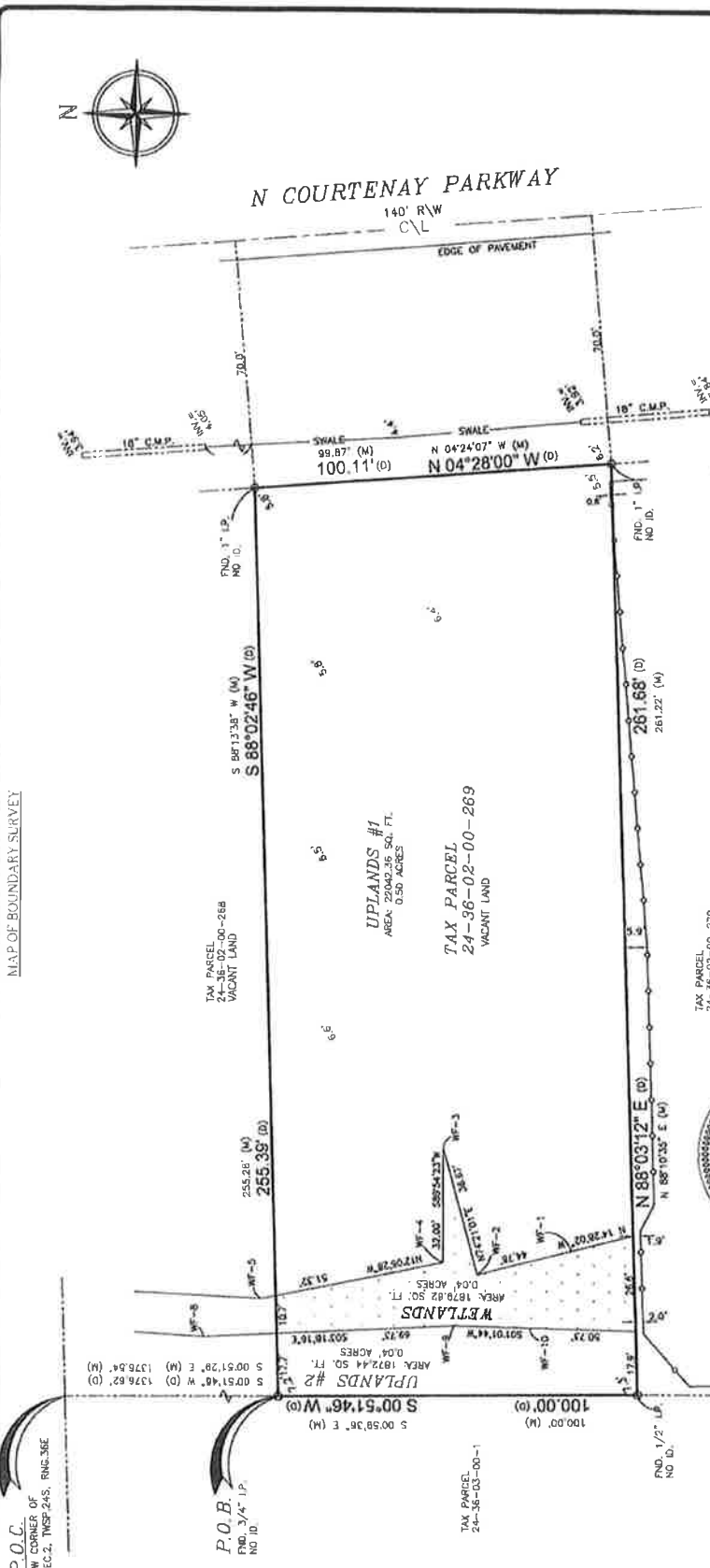
Location of subject property: On the west side of North Courtenay Pkwy., approx. 0.11 mile north of Gator Dr

Description of Request: SECPA - Change Future Land Use from NC to CC





MAP OF BOUNDARY SURVEY



CERTIFIED TO: PATRICIA GARAGOLLO

Eric Nielsen
Digitally signed by Eric Nielsen
Date: 2021.02.23 16:03:15
-05'00'

Eric Nielsen Land Surveying, Inc.
12 STONE STREET, COCOA, FL 32922
PH: (321) 631-5554
email: eric@nielsenlandsurveying.com

Surveyor's Notes:

- This property is located in Flood Zone(s) X. The Residence is in Flood Zone(s) X. Map No. 120000020404, Page No. 340, Suffolk County, Community No. 125092, Effective Date, January 29, 2021.
- The bearings shown are based on an assumed North Meridian, Being S 00°51'46" E along the West line of Sec. 2-24-36.
- This is Best Property being situated in Section 2, Township 24S, Range 36E.

LEGEND & ABBREVIATIONS:

- Set 5/8" iron rod with plastic cap
- Set nail with metal disc
- Set concrete monument with disc
- 4" C.L.F.
- 6" W.F.
- 6" V.M.V. FENCE
- CHPL

DESCRIPTION:

Commence at the Northwest corner of Section 2, Township 24 South, Range 36 East, Tallahassee Meridian, Brevard County, Florida, and run South 0 degrees 51 minutes 46 seconds West, along the West line of said Section 2, 1376.02 feet to the POINT OF BEGINNING. From said point of beginning continue South 0 degrees 51 minutes 46 seconds West, along said West line, 100.00 feet, thence North 88 degrees 03 minutes 12 seconds East 261.68 feet to the West right of way line of State Road A1A, as presently located; thence North 4 degrees 28 minutes 00 seconds West, along said right of way, 100.11 feet; thence South 88 degrees 02 minutes 46 seconds West 255.39 feet to the POINT OF BEGINNING.

UNLESS IT BEARS THE SEAL & SIGNATURE OF A FLORIDA LICENSED SURVEYOR THIS SURVEY IS FOR INFORMATIONAL PURPOSES ONLY.

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 3rd 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.

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, May 17, 2021, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Chair Mark Wadsworth, at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Ben Glover; Mark Wadsworth, Chair; Bruce Moia; and Joe Buchanan.

Staff members present were: Tad Calkins, Planning & Development Director; Jane Hart, Associate Planner; Abby Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

1. KAT-CAM, LLC (Patricia Garagozlo) requests a Small Scale 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 North Merritt Island area) (20PZ00018) (Tax Account 2410506) (District 2)

Patricia Garagozlo, 3903 Post Ridge Trail, Melbourne, stated she would like to rezone the property to BU-2 in order to increase the options to utilize the property in the future.

No public comment.

Ron Bartcher asked staff for the recommendation from the North Merritt Island Dependent Special District Board.

Jane Hart replied the North Merritt Island Board met on May 13, 2021, and recommended approval of the Future Land Use change to Community Commercial. She advised there is a companion rezoning application from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and the North Merritt Island Board recommended approval as BU-1.

Mr. Bartcher asked Ms. Garagozlo was asking for BU-2. Ms. Garagozlo replied yes, BU-2 is consistent with the properties to the north and south, which are zoned BU-1 in the front and BU-2 in the back.

Mr. Bartcher asked staff why the rezoning request is not heard by the Local Planning Agency.

Tad Calkins replied the Local Planning Agency has to hear the Small Scale Comprehensive Plan Amendment, but because the rezoning request is not an increase in residential density, the LPA does not need to make a recommendation.

Motion by Ron Bartcher, seconded by Joe Buchanan, to approve the Small Scale Plan Amendment (21S.02) to change the Future Land Use designation from NC to CC.

Adjournment:

Upon consensus of the board, the meeting adjourned at 3:07 p.m.