



AGENDA REPORT  
February 7, 2019

**Martin Family Trust; Joseph P. Martin and Sarah Martin; and Craig A. and Jennifer Martin-Sater request a change of zoning classification from BU-1 to BU-2. (18PZ00117) (District 1)**

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**SUBJECT:**

Public Hearing, Re: Martin Family Trust; Joseph P. Martin and Sarah Martin; and Craig A. and Jennifer Martin-Sater request a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 1.39 acres, located on the west side of U.S. Highway 1, approximately 600 feet south of Cross Road. (3645 North U.S. Highway 1, Cocoa) (18PZ00117) (District 1)

**FISCAL IMPACT:**

None.

**DEPT/OFFICE:**

Planning and Development

**REQUESTED ACTION:**

It is requested that the Board of County Commissioners conduct a public hearing to consider the request for a change of zoning classification from BU-1 to BU-2.

**SUMMARY EXPLANATION and BACKGROUND:**

The applicant is seeking a change of zoning classification from General Retail Commercial (BU-1) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of making the developed property more marketable. There is an existing 7,266 square foot commercial structure on site.

If this property were developed today within the BU-2 zoning classification, a landscape buffer between the development proposed and the residential property on the western boundary would be required. Recent zoning actions in the area and just across US-1 that have obtained commercial zoning abutting developed residential parcels, such as **15PZ00015** and **15PZ00047**, have included conditions for buffering requirements within Binding Development Plans (BDP's) to ensure that impacts to adjacent residential development are minimized. The conditions applied within each of those BDP's are enumerated within the attached staff comments, within the Applicable Land Use Policies section of the report.

The Board may wish to consider whether any BU-2 uses are incompatible with the

surrounding development and zoning classifications consisting of TR-1, BU-1, and BU-2.

On January 7, 2019, the Planning and Zoning Board voted unanimously to table the item to the January 28, 2019, LPA/PZ meeting, at the request of the applicant.

On January 28, 2019, the Planning and Zoning Board voted unanimously to approve the request.

**ATTACHMENTS:**

**Description**

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **GIS Maps**
- ▢ **P&Z Minutes - 01-07-19**
- ▢ **P&Z Minutes 01-28-19**

## **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 and 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 zoning, conditional uses, comprehensive plan appeals, vested rights or other 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 per cent 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 an 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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS):** Acceptable Level of Service currently adopted by the County.

**Current 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 LOS that a proposed development may generate on a roadway.

**RESOLUTION NO. 18PZ00117**

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

**WHEREAS, MARTIN FAMILY TRUST; JOSEPH P. MARTIN AND SARAH MARTIN; CRAIG A. SATER AND JENNIFER MARTIN-SATER**, have applied for 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 12, as recorded in ORB 7777, Pages 342 – 346, of the Public Records of Brevard County, Florida. (1.39 acres) Located on the west side of U.S. 1, approx. 600 ft. south of Cross Rd. (3645 N. U.S. 1, Cocoa); and

**Section 07,**

**Township 24S,**

**Range 36E, and,**

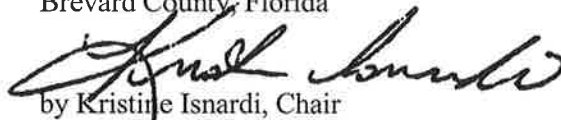
**WHEREAS**, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved; and,

**WHEREAS**, the Board, after considering said application and the Brevard County Planning & Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1 to BU-2, be APPROVED, and that the zoning classification relating to the above described property be changed to BU-2. The Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of February 7, 2019.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida



by Kristine Isnardi, Chair  
Brevard County Commission

Approved by Brevard County Commission on February 7, 2019.

ATTEST:



SCOTT ELLIS, CLERK  
(SEAL)

(P&Z Hearing – January 28, 2019)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

## REZONING REVIEW WORKSHEET

**18PZ00117**

Commission District # 1

Hearing Dates: P&Z 01/07/19

BCC 02/07/19

Owner Name: MARTIN FAMILY TRUST: JOSEPH P. MARTIN; SARAH MARTIN;  
CRAIG SATER; JENNIFER SATER-MARTIN

Request: BU-1 to BU-2

**Subject Property:**

Parcel ID# 24-36-07-00-12

Tax Acct.# 2410960

Location: West side of U.S. 1, approx. 600 ft. south of Cross Road

Address: 3645 North U.S. 1, Cocoa

Acreage: 1.39

### Consistency with Land Use Regulations

YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
<b>Zoning</b>	BU-1	BU-2
<b>Potential*</b>	7,266 sq. ft.	16,954 sq.ft.
<b>Can be Considered under FLU MAP</b>	Yes Community Commercial	Yes Community Commercial

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

	ADT	PM PEAK		
Trips from Existing Zoning	9,905	519	Segment Number	052
Trips from Proposed Zoning	13,916	730	Segment Name	US-1 SR-528 - Canaveral Groves Blvd.
Maximum Acceptable Volume (MAV)	41,790	3,761	Acceptable LOS	D
Current Volume	29,100	2,619	Directional Split	0.51
Volume With Proposed Development	33,111	2,830	ITE CODE	
Current Volume / MAV	69.63%	69.63%	937	
Volume / MAV with Proposal	79.23%	75.24%		
Current LOS	C	C		
OS With Proposal	C	C		
<b>Findings</b>	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

## Background & Purpose of Request

The applicant is seeking a change of Zoning classification from General Retail Commercial (BU-1) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of making the developed property more marketable. There is an existing 7,266 square foot commercial structure on site.

According to business tax receipt (BTR) records, the most recent BTR issued for the property address was for a transmission repair shop, which is a permitted use in both BU-1 and BU-2 Zoning classifications. Prior to that, an BTR application for an auto auction was denied, as the BU-1 Zoning classification would not allow that use on the property. Retail auto sales are permitted in BU-1, but wholesale auto sales require BU-2. There is no record of Code Enforcement actions on this property.

## Land Use Compatibility

The subject property retains the Community Commercial (CC) Future Land Use (FLU) designation.

**FLUE Policy 2.2** designates the role of Zoning Regulations in the Designation of Commercial Lands.

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility shall include consideration of the following standards:

### Criteria:

- A. Permitted/prohibited uses;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

The request for BU-2 zoning should be evaluated within the context of **Policy 2.7** of the Future Land Use Element, which identifies "development activities that may be considered within the Community Commercial Future Land Use Designation..."

Existing strip commercial;  
Transient commercial uses;  
Tourist commercial uses;  
Professional offices;  
Personal service establishments;  
Retail establishments;  
Non-retail commercial uses;  
Residential uses;  
Institutional uses;  
Recreational uses;  
Public facilities;  
Transitional uses pursuant to Policy 2.14; and  
Planned Industrial Park development (as permitted by PIP zoning).

This request should be evaluated within the context of **Policy 2.14A** of the Future Land Use Element, which establishes locational criteria for non-retail commercial uses, as follows:

A. Non-retail commercial land uses shall be limited to those areas where non-retail commercial or industrial characteristics are established or planned so as to protect residential areas from their influence. Non-retail uses, including wholesaling, contracting, heavy repair services, paint and body shops, storage and warehousing uses, may serve as a transitional use between the following higher intensity and lower intensity uses, in the following listed Future Land Use designations:

Higher Intensity Uses: Heavy Industrial or Light Industrial activities.

Lower Intensity Uses: Community Commercial, Planned Industrial Park or Planned Business Park uses.

Future Land Use Designations: Community Commercial, Heavy/Light Industrial or Planned Industrial (Planned Industrial permits PIP zone uses only).

Roadway Access Requirements: Convenient access to a major transportation corridor or along a railroad corridor with visual buffering from such corridors.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

## Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

## Applicable Land Use Policies

The request is to change the Zoning classification on the subject property from BU-1 to BU-2. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities. The US-1 corridor in this area is experiencing considerable new residential development coupled with commercial and industrial infill and redevelopment.

The zoning to the north of the subject property is BU-1 and is undeveloped where that property fronts US-1 and BU-2 with a BDP on the western portion of that property. The zoning to the east and across US Highway 1 is BU-1. The zoning to the south is BU-1. The zoning to the west is Single-Family Mobile Home (TR-1). The TR-1 Zoning classification permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet. This property, a trailer park subdivision known as Vanguard Estates, is an 83-lot single-family residential subdivision.

The Board may wish to consider whether the intensity of the proposed BU-2 uses necessitates screening and buffering the commercial uses or limit the BU-2 uses to mitigate deleterious site performance of the subject property to the abutting 83-lot single-family residential subdivision to the west. This could be done via a Binding Development Plan similar to those utilized for **15PZ00015**, approved 08/21/15, and **15PZ00047**, approved 01/13/2016. **15PZ00015** was approved for the property across US-1 from the subject site with a Binding Development Plan adopted to buffer BU-1-A zoning from impacting the single-family residential properties abutting the rear property line to the east of that property. That Binding Development Plan required the developer to maintain "the current vegetative buffer on the east side of the property," limited the development of the site to a few low intensity uses, and mandated the use of "solid waste receptacles and enclosure(s), driveway access aisle, and driveway connection to U.S. Hwy 1." **15PZ00047** prohibited motorcycle repairs on the property, required an 8-foot tall concrete wall along the east (rear) property line, and limited usage of the property relating

motorcycle repair and location on the lot of long-term outdoor storage of recreational vehicles, boats, trailers, and vehicles storage parking lot.

The applicant should be advised that landscape review, including meeting current code requirements for parking lot and landscaping, will be required with removal of any trees, any alterations to the parking lot or drive-way, any alterations to the building that are visible from U.S. 1, or an increase in floor area of more than 25% per Section 62-4341(6) of the Brevard County Land Development Regulations. These, and any other actions listed in Section 62-4341 that will require meeting current code, will also require a 20 foot vegetative buffer to be developed per Section 62-4342(1) of the Land Development Regulations. The applicant should also be aware that certain changes of use may also require site landscaping and site driveway and parking lot be modified to meet current code requirements.

Within the last three years, there have been six (6) zoning actions within or just over ½ mile radius of this property. The 1.31 acre property approximately 470 feet to the south and across US-1 changed zoning classification from Agricultural Residential (AU) to Restricted Neighborhood Commercial (BU-1-A), with a Binding Development Plan per **15PZ00015** approved 08/21/15. The 1.38 acre property across US-1 changed zoning classification from BU-1 to BU-2 per **15PZ00047** approved 01/12/16. A 7.0 acre property approximately 2,800 to the north and on the same side but about 230 feet west of the US-1 right-of-way changed Zoning classification from BU-1 and BU-2 to Planned Industrial Park (PIP) along with a Small Scale Comprehensive Plan Amendment from CC to Planned Industrial Park (PLNIP) per **16PZ00114**, approved 03/02/17. A 48.25 acre property approximately 3,640 feet to the north on the west side of US-1 changed Zoning classification from PIP, BU-1, Recreational Vehicle Park (RVP), and Agricultural Residential (AU) to Single-Family Residential (RU-1-7) for a 193 unit single-family residential subdivision called Hickory Ridge per **16PZ00118** approved 07/15/17 and per 1.03 acre property 4,230 feet to the north northwest of the subject property changed Future Land Use and Zoning classification from planned industrial to Single-Family Residential (RU-1-7) per **17PZ00038** approved 07/25/17. A 0.93 acre property on Indian River Drive approximately 2,000 feet northeast of the subject property changed Zoning classification from Single-Family Residential (RU-1-13) to Low Density Multi-Family Residential (RU-2-4) with an amendment to an existing BDP limited to two (2) units per **17PZ00043** approved 08/08/17.

### **For Board Consideration**

The applicant is seeking a change of Zoning classification from General Retail Commercial (BU-1) to Retail, Warehousing and Wholesale Commercial (BU-2) for the purpose of making the developed property more marketable. There is an existing 7,266 square foot commercial structure on site.

If this property were developed today within the BU-2 Zoning classification, significant landscape buffering between the development proposed and the surrounding property would be required. Given the proximity of the abutting 83-lot single-family residential subdivision to the west, the Board may wish to consider whether additional buffering should be required for the BU-2 uses to be compatible with existing surrounding development.

Recent zoning actions in the area and just across US-1 that have obtained commercial zoning abutting developed residential parcels, such as **15PZ00015** and **15PZ00047**, have included additional buffering requirements within BDP's to ensure that impacts to adjacent residential development are minimized.

The Board may also wish to consider whether any BU-2 uses are incompatible with the surrounding development.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

**Item #: 18PZ00117**

**Applicant: Jennifer Martin Sater**

**Request: BU-1 to BU-2**

**P&Z Hearing Date: 01/07/19;**

**BCC Hearing Date: 02/07/19**

This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

<b>Natural Resource</b>	<b>Preliminary Assessment</b>	<b>Natural Resource</b>	<b>Preliminary Assessment</b>
Hydric Soils/Wetlands	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Not Mapped	Wildlife	Potential

**Comments:**

**This review relates to the following property: Twp. 24, Rng. 36, Sec. 07;  
Tax ID No. 2410960**

The subject parcel contains mapped aquifer recharge soils (Paola fine sand – 0 to 8% slopes) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

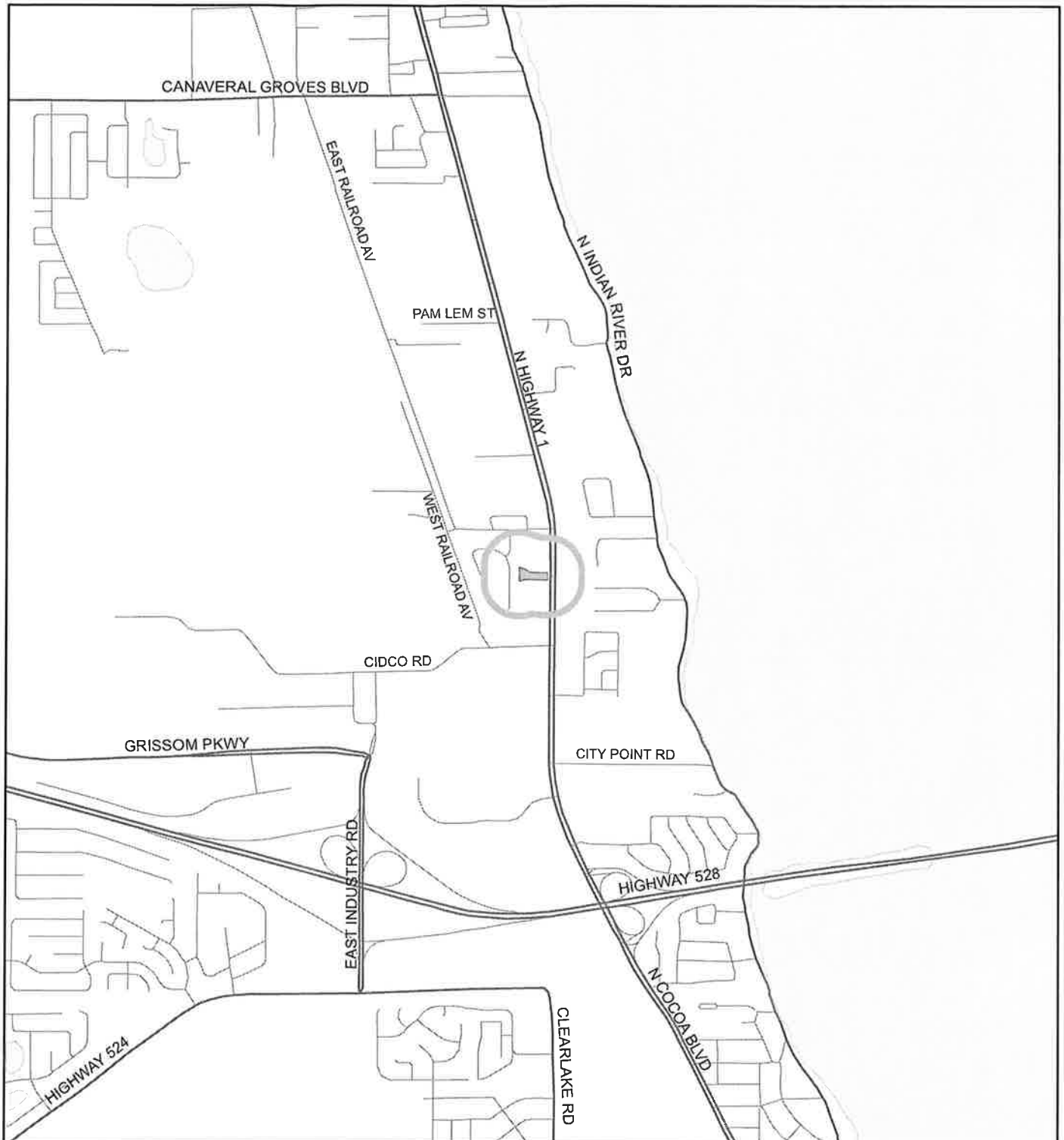
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. 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. Applicant should contact NRM prior to performing any land clearing activities.

# LOCATION MAP

MARTIN FAMILY TRUST

18PZ00117



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.

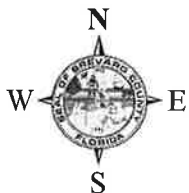
Produced by BoCC - GIS Date: 10/9/2018

— Buffer  
■ Subject Property

# ZONING MAP

MARTIN FAMILY TRUST

18PZ00117



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/9/2018

— Subject Property

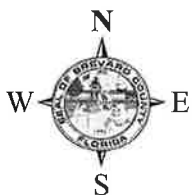
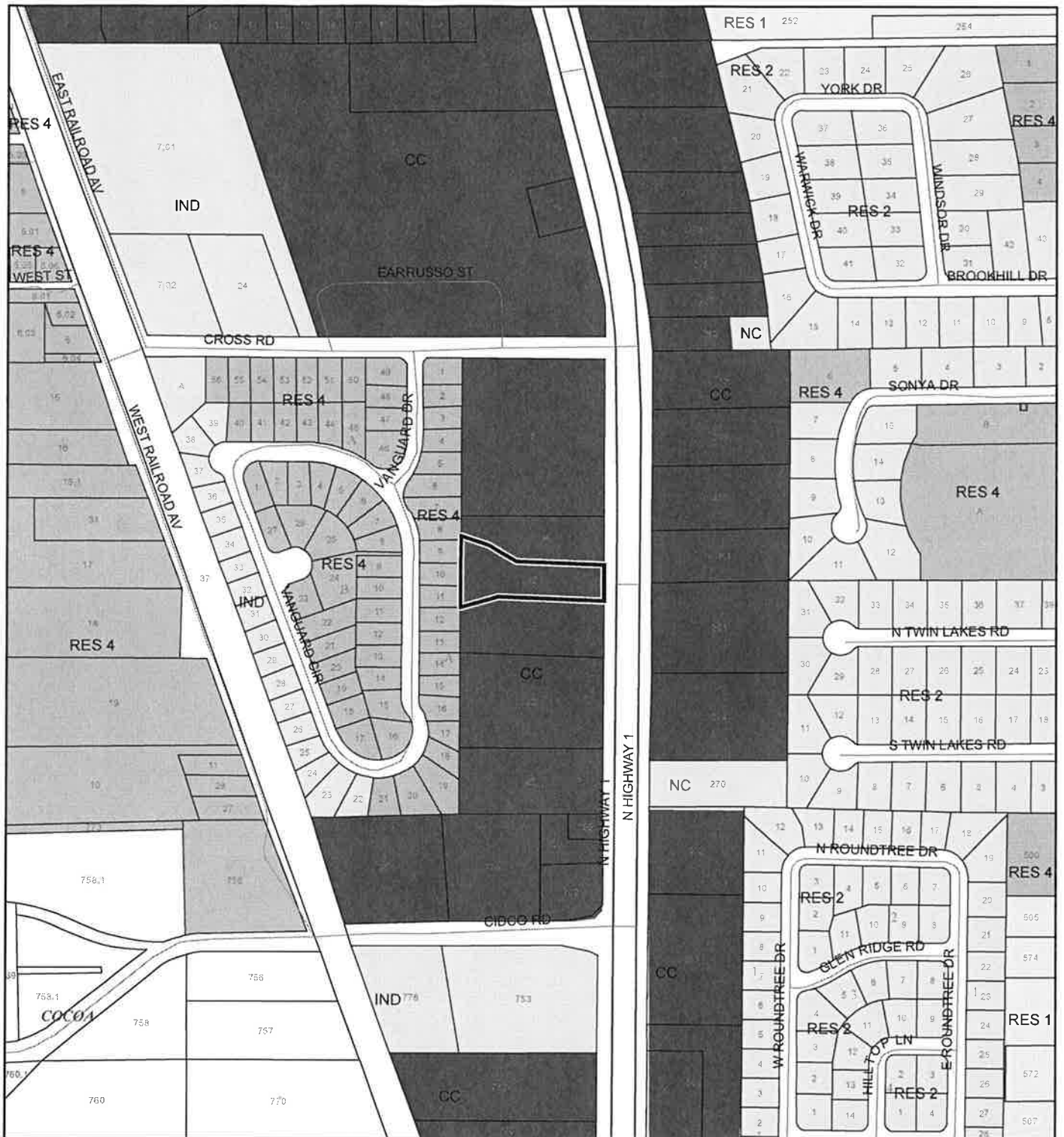
□ Parcels

□ Zoning

# FUTURE LAND USE MAP

MARTIN FAMILY TRUST

18PZ00117



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: 9/26/2018

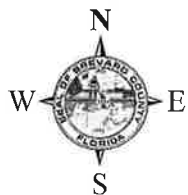
— Subject Property

□ Parcels

# AERIAL MAP

MARTIN FAMILY TRUST

18PZ00117



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

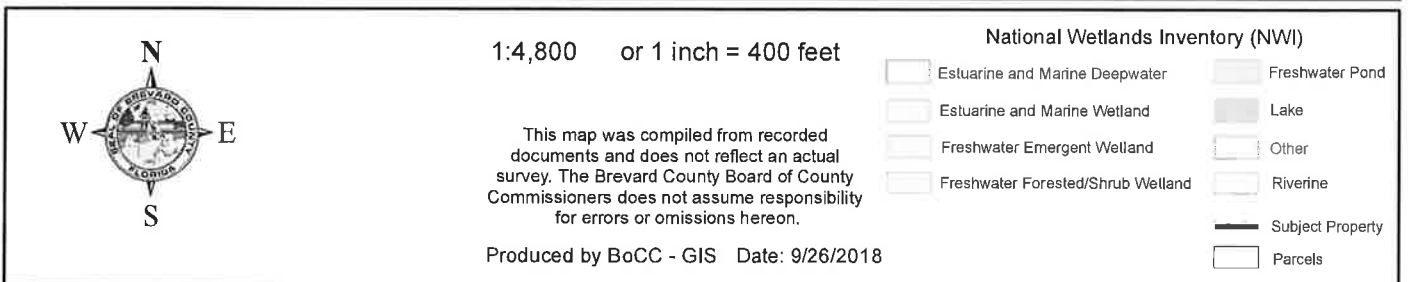
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/26/2018

— Subject Property

□ Parcels

MARTIN FAMILY TRUST  
18PZ00117



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

MARTIN FAMILY TRUST

18PZ00117



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/26/2018

## 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

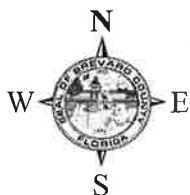
Subject Property

Parcels

# USDA SCSSS SOILS MAP

MARTIN FAMILY TRUST

18PZ00117



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Produced by BoCC - GIS Date: 9/26/2018

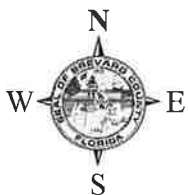
## USDA SCSSS Soils

	Aquifer and Hydric		Subject Property
	Aquifer		Parcels
	Hydric		
	None		

# FEMA FLOOD ZONES MAP

MARTIN FAMILY TRUST

18PZ00117



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Produced by BoCC - GIS Date: 9/26/2018

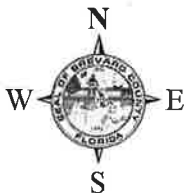
## FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  | Parcels    |                      |

# EAGLE NESTS MAP

MARTIN FAMILY TRUST

18PZ00117



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/26/2018

 Subject Property

 Parcels

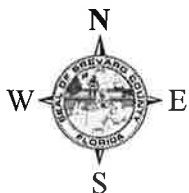


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

MARTIN FAMILY TRUST




18PZ00117



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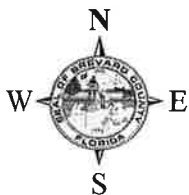
Produced by BoCC - GIS Date: 9/26/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MARTIN FAMILY TRUST

18PZ00117



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/26/2018

## 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

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 7, 2019**, 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 the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Excerpt from complete minutes.

### **5. Martin Family Trust; Joseph P. Martin and Sarah Martin; Craig A. Sater and Jennifer Martin-Sater:**

(Jennifer Martin-Sater & Craig Sater) request a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 1.39 acres, located on the west side of U.S. Highway 1, approximately 600 feet south of Cross Road. (3645 North U.S. Highway 1, Cocoa) (18PZ00117) (District 1)

Erin Sterk – This applicant could not be here today and would like to be tabled to the 28<sup>th</sup>.

Henry Minneboo – Is there a motion?

Rochelle Lawandales – I move to table the request until January 28<sup>th</sup>.

Ron McLellan – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

## **LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES**

The Local Planning Agency/Planning and Zoning Board met in regular session on Monday, January 28, 2019, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Board members present were: Henry Minneboo, Chair; Ron Bartcher; Ben Glover; Scott Langston; Mark Wadsworth; Bruce Moia; and Peter Filiberto.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Mary Taylor, Customer Service Specialist; and Jennifer Jones, Special Projects Coordinator II.

The Chair, Henry Minneboo, called the meeting to order at 3:00 p.m.

Excerpt of complete agenda.

### **Martin Family Trust (Jennifer Martin-Sater & Craig Sater):**

Request a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 1.39 acres, located on the west side of U.S. Highway 1, approximately 600 feet south of Cross Road. (3645 North U.S. Highway 1, Cocoa) (18PZ00117) (District 1)

Mike Sarraco – I'm Mike Sarraco, representing the Martin Family Trust, and we're requesting a rezoning from BU-1 to BU-2. In going through some of the comments and some of the revisions, there is already a block wall about 8 feet tall behind the building separating them from the residential.

Henry Minneboo – You're across from Lay Z Boy?

Mike Sarraco – Yes, almost to State Road 528.

Henry Minneboo – And then you go all the way to East Railroad Avenue?

Mike Sarraco – Yes.

No public comment.

Bruce Moia – I see that there's BU-2 already in the area, so I'll recommend approval of the request.

Mark Wadsworth – I'll second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.