



North Merritt Island Dependent Special District Board

Brevard County Government Center  
2725 Judge Fran Jamieson Way  
Building C  
Viera, Florida 32940  
Agenda  
Thursday, May 13, 2021

**Call To Order**

**Approval of Minutes - March 11, 2021**

**H. Public Hearings**

- H.1.** 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)
- H.2.** KAT-CAM, LLC (Patricia Garagozlo) requests a change of zoning classification from AU to BU-2. (21Z00006) (Tax Account 2410506) (District 2)
- H.3.** Cooltural Land, LLC (Thomas Jones) requests a change of zoning classification from BU-1 to BU-2. (21Z00009) (Tax Account 2317004) (District 2)

**Public Comment**

Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.1.

5/13/2021

### 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 North Merritt Island Dependent Special District Board 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.

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 114-acre Brevard County park. Commercial land uses in this area are limited to being in close proximity to the N. Courtenay Parkway Urban Principal Arterial road, the major north-south corridor providing external access to North Merritt Island. The closest residential neighborhood is approximately 900 feet southeast of the subject property across North Courtenay Parkway and off of Gator Drive.

The Board may wish to consider that the subject site is located along a commercial corridor (N. Courtenay Parkway) that establishes CC 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.

The Board of County Commissioners will consider the request on **Thursday, May 27, 2021, at 5:00 p.m.** at the

Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

**Clerk to the Board Instructions:**

None



# **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**

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**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
<b>North</b>	Vacant Undeveloped Land	BU-2 and BU-1	CC
<b>South</b>	Commercial RV Sales	BU-2 and BU-1	CC
<b>East</b>	Across North Courtenay Parkway – Commercial Construction Company	BU-1	CC
<b>West</b>	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**

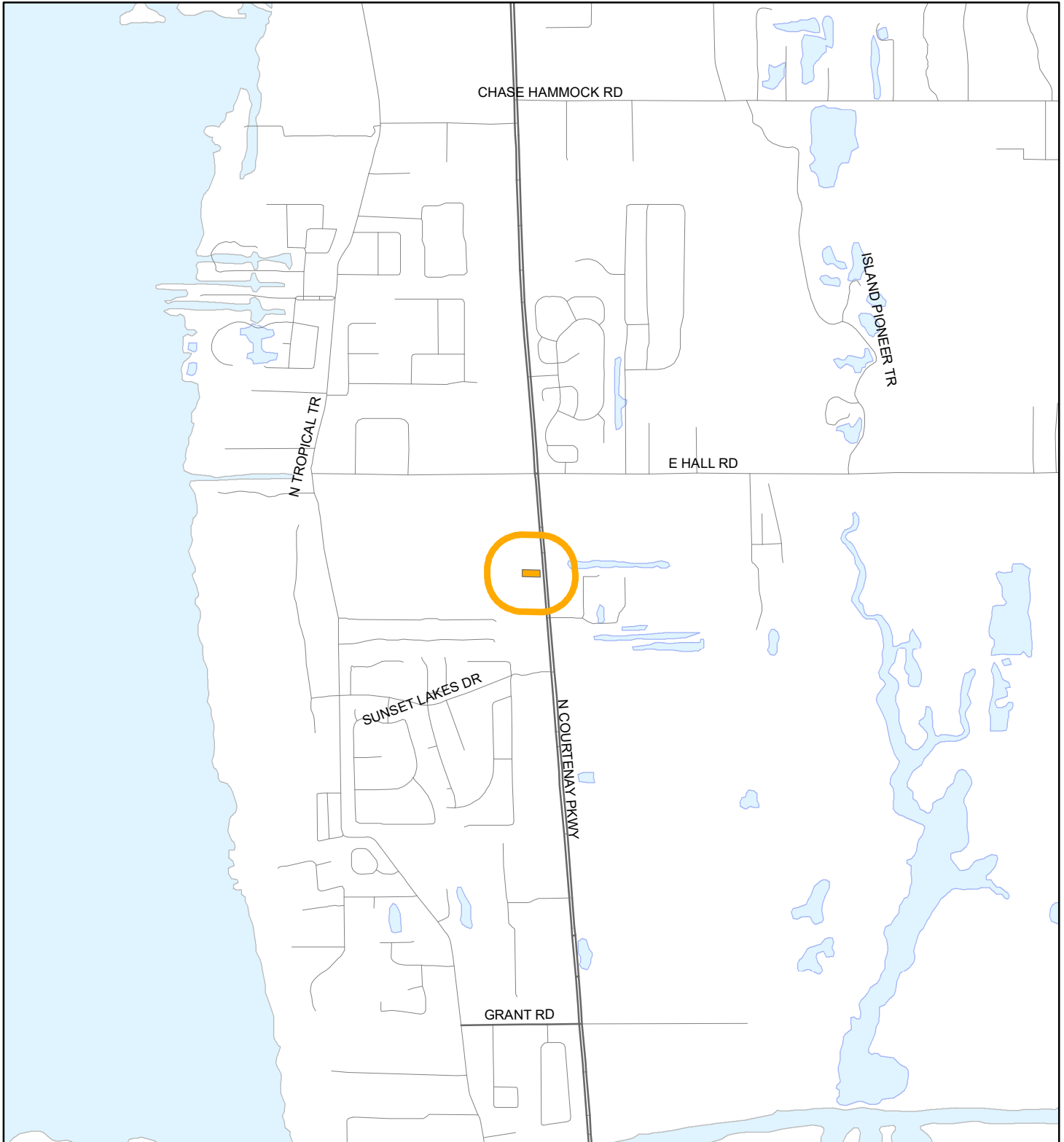
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

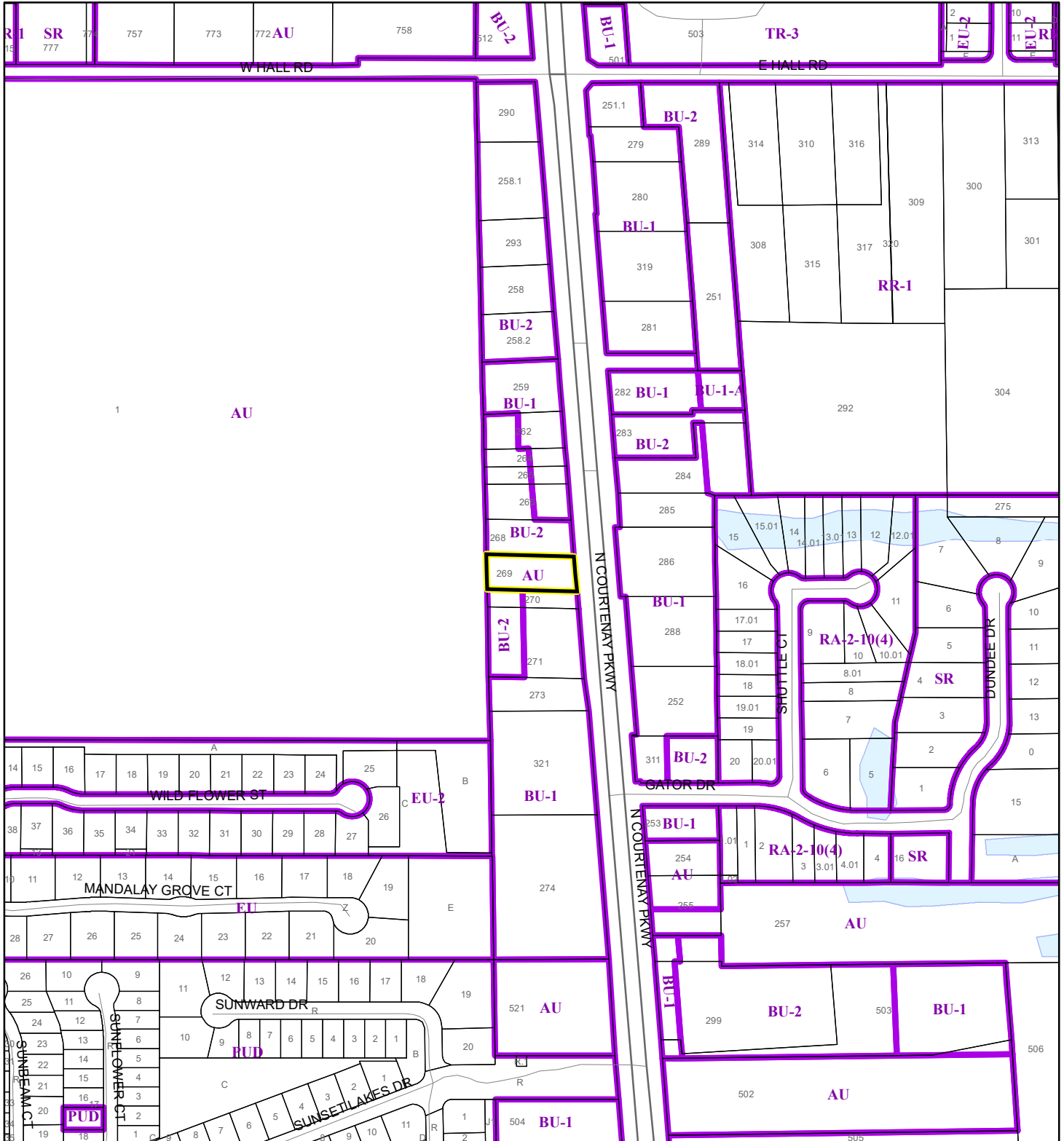
Produced by BoCC - GIS Date: 3/2/2021

Buffer  
Subject Property

# ZONING MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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

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

Subject Property

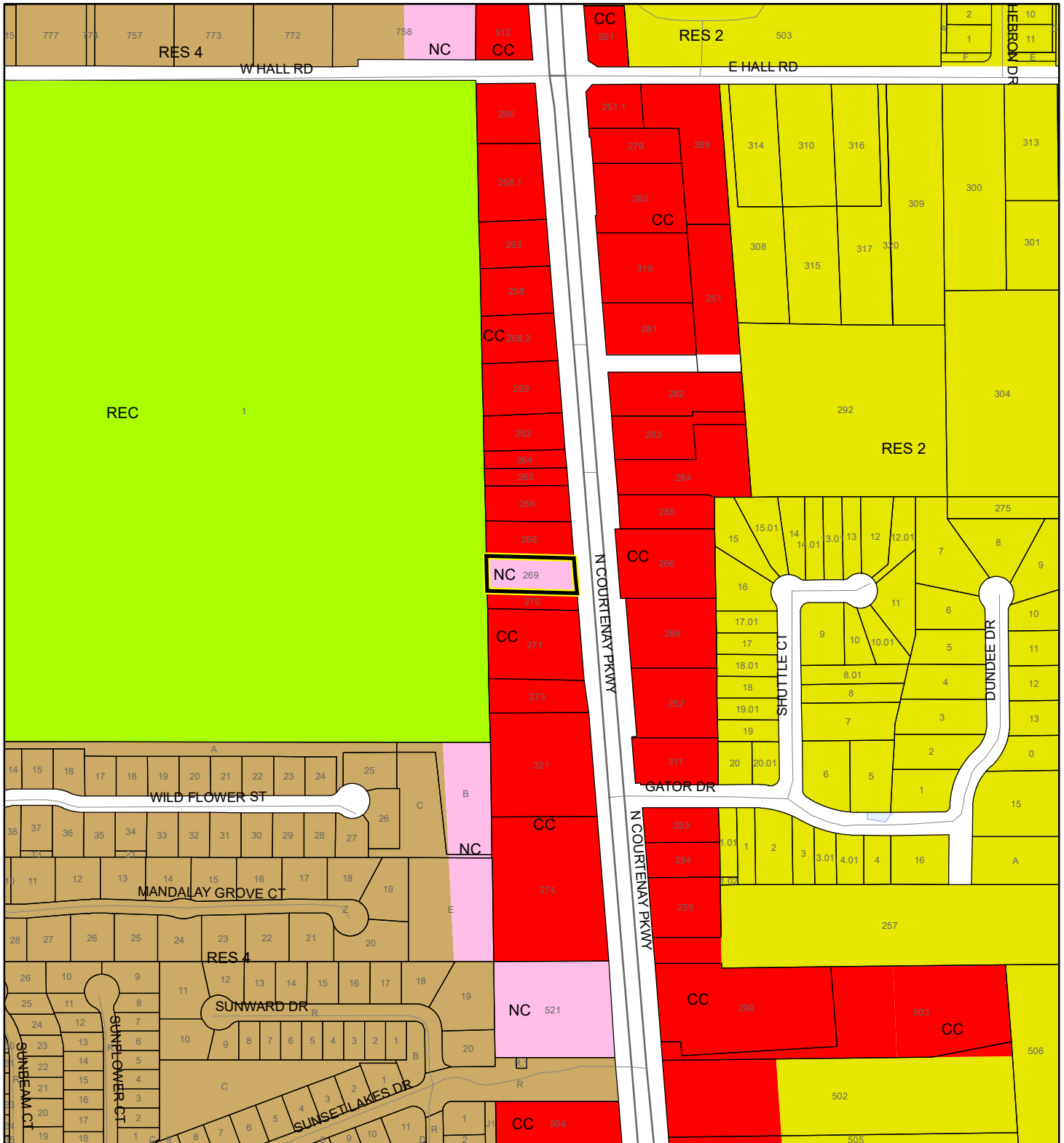
Parcels

Zoning

# FUTURE LAND USE MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

Subject Property  
Parcels

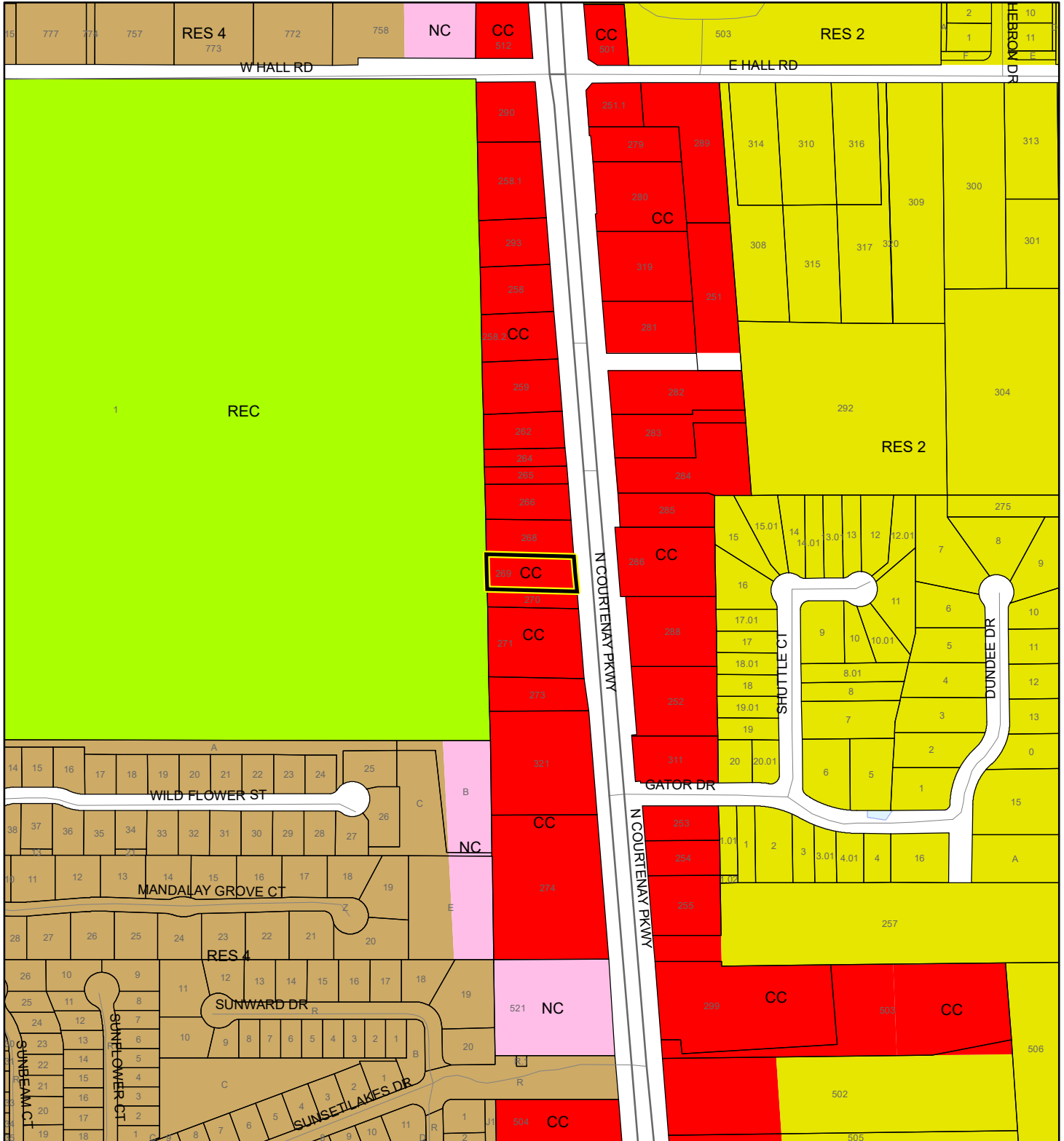
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

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

 Subject Property

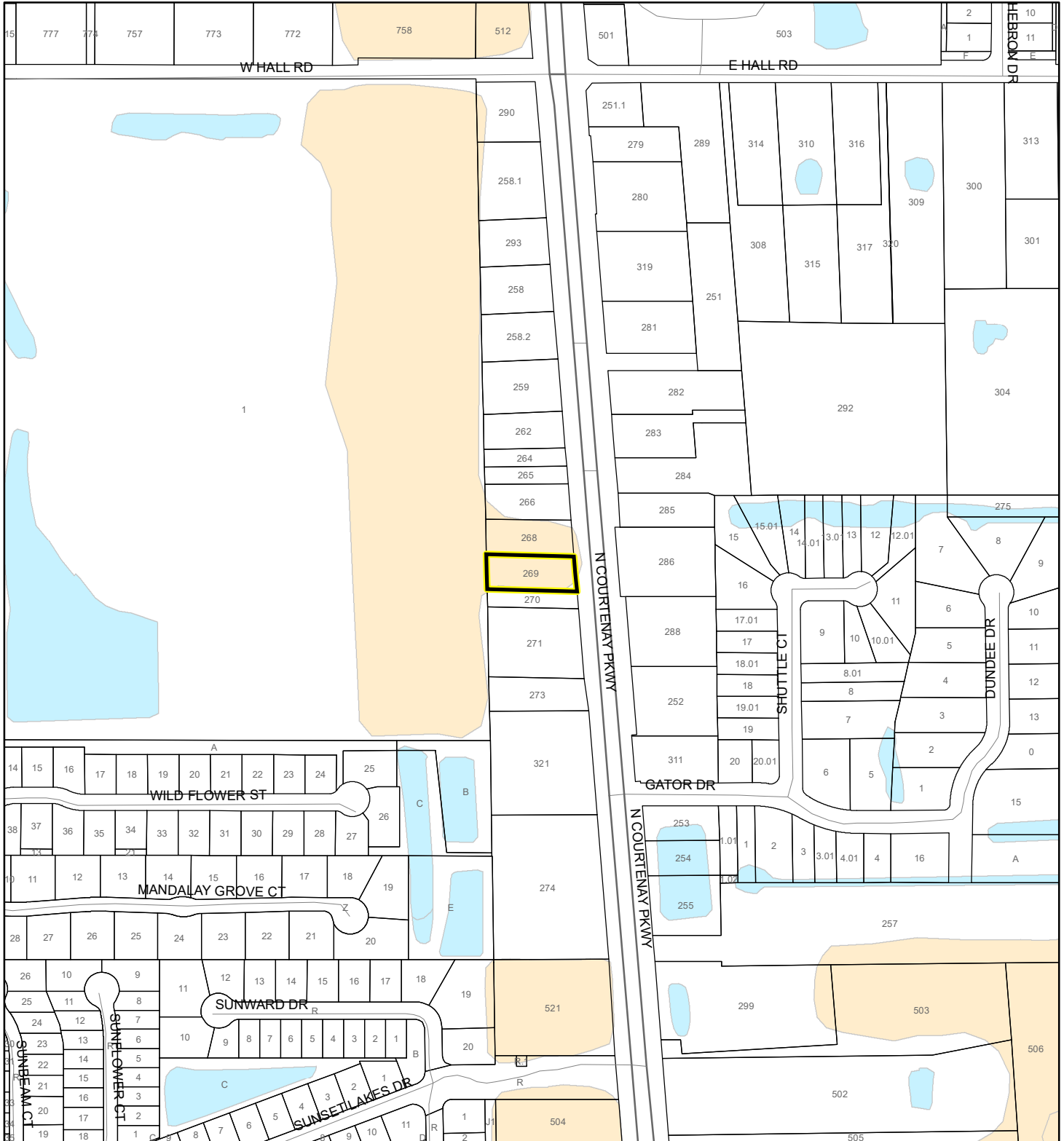
 Parcels



# 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

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

## 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

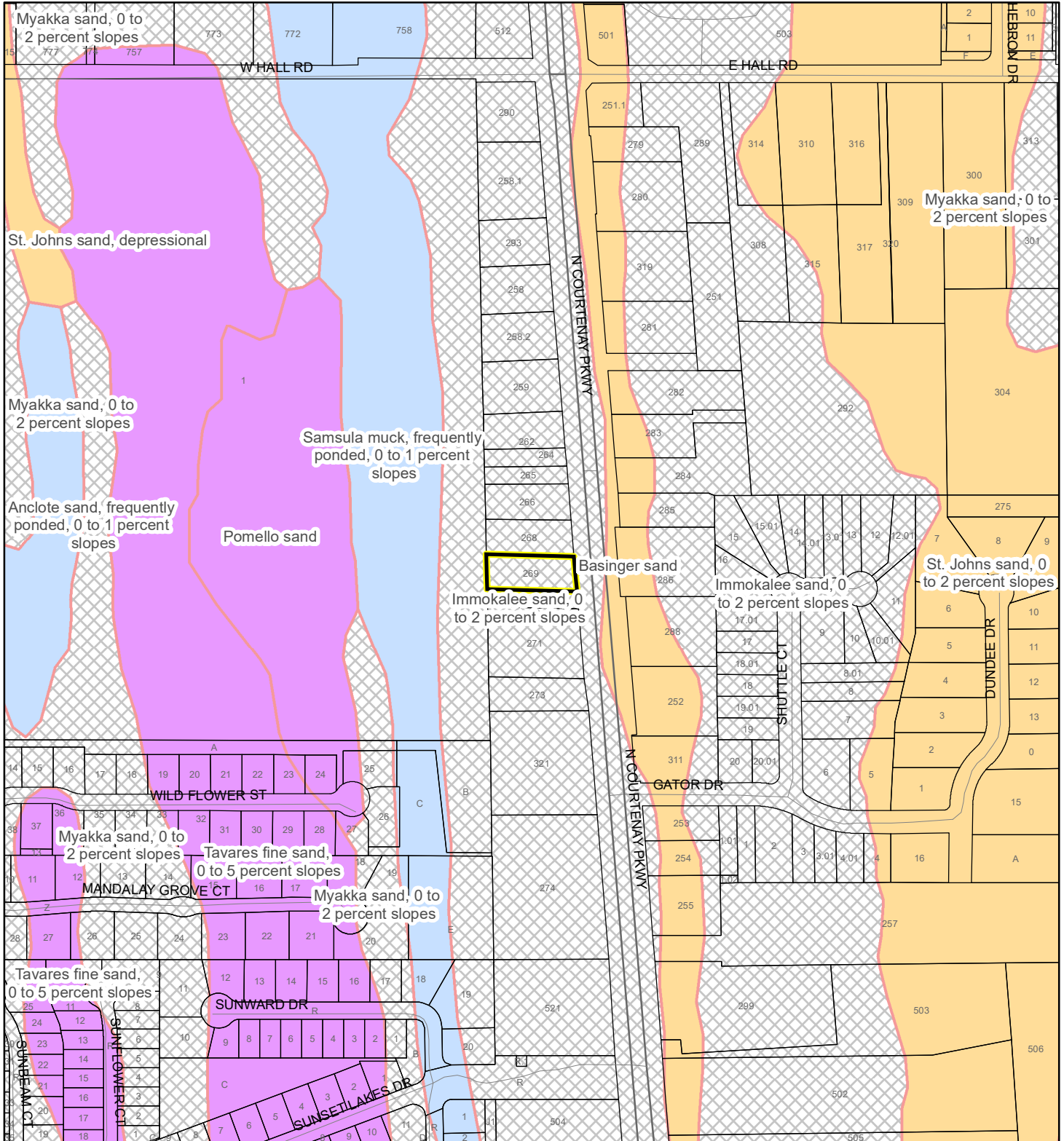
Subject Property

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

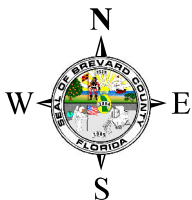
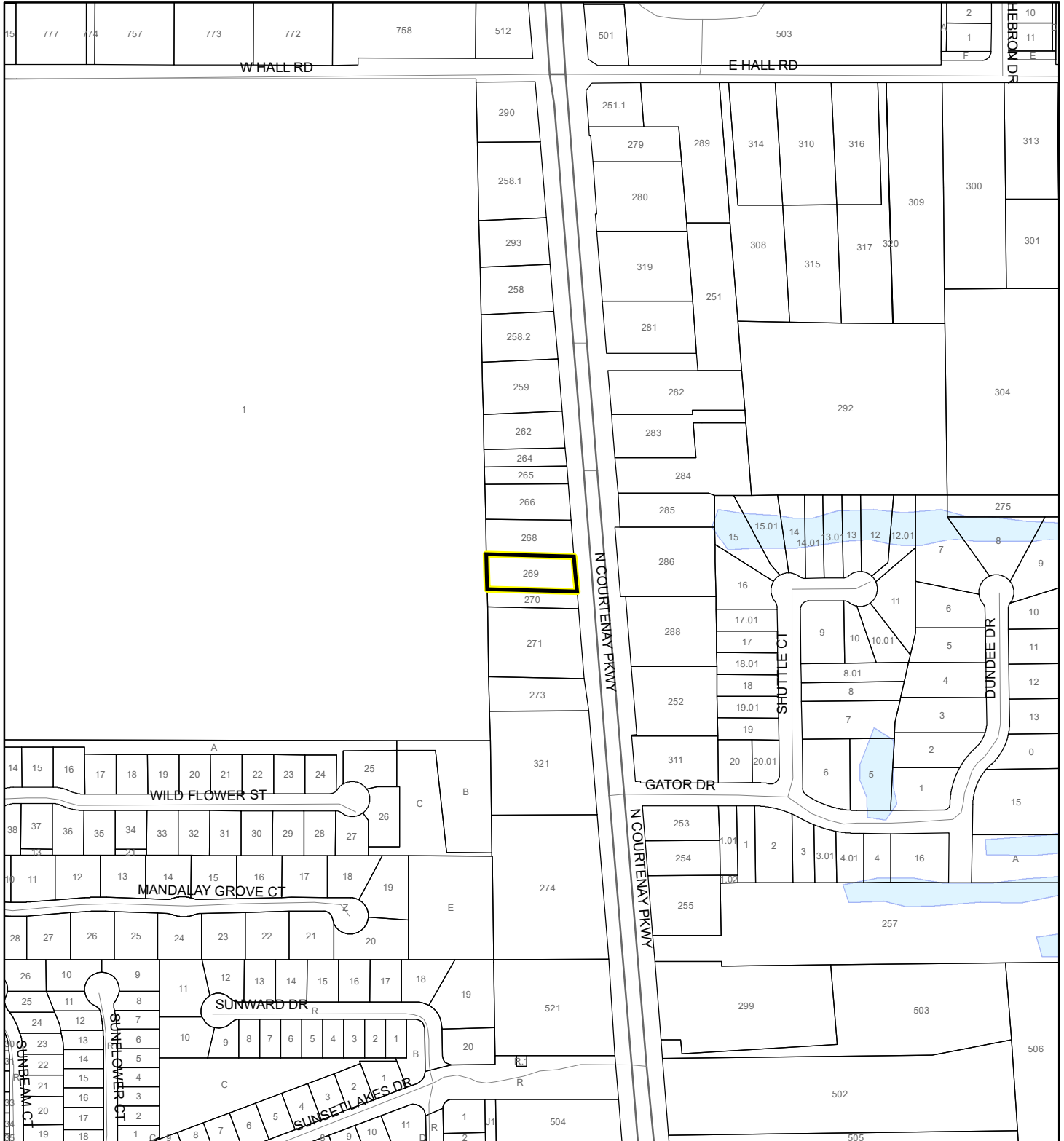
Parcels



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

 Subject Property

 Parcels

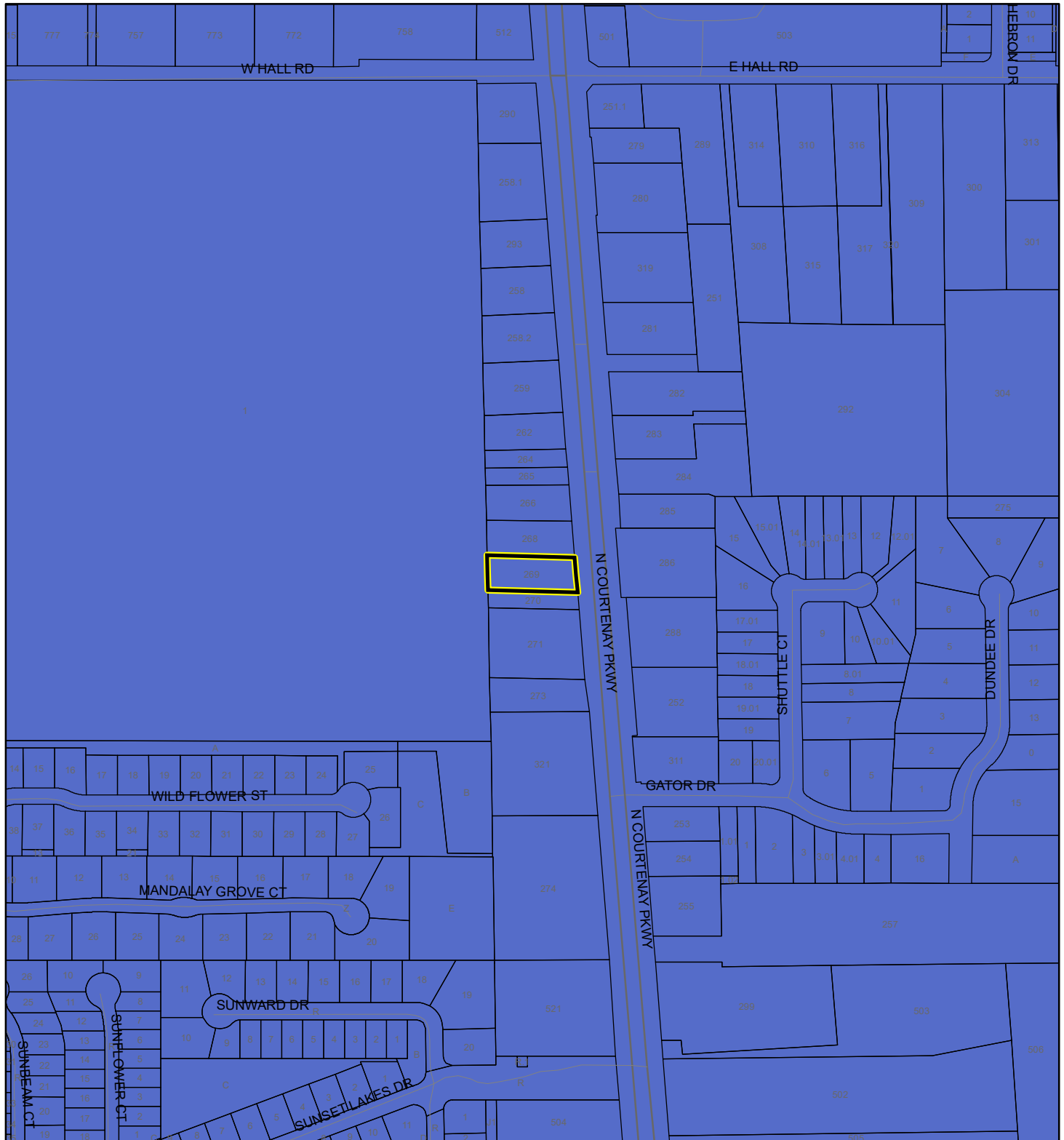
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KAT-CAM, LLC

21PZ00018 SMALL SCALE AMENDMENT 21S.02



1:4,800 or 1 inch = 400 feet

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

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

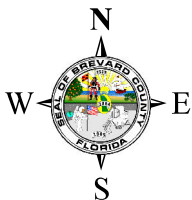
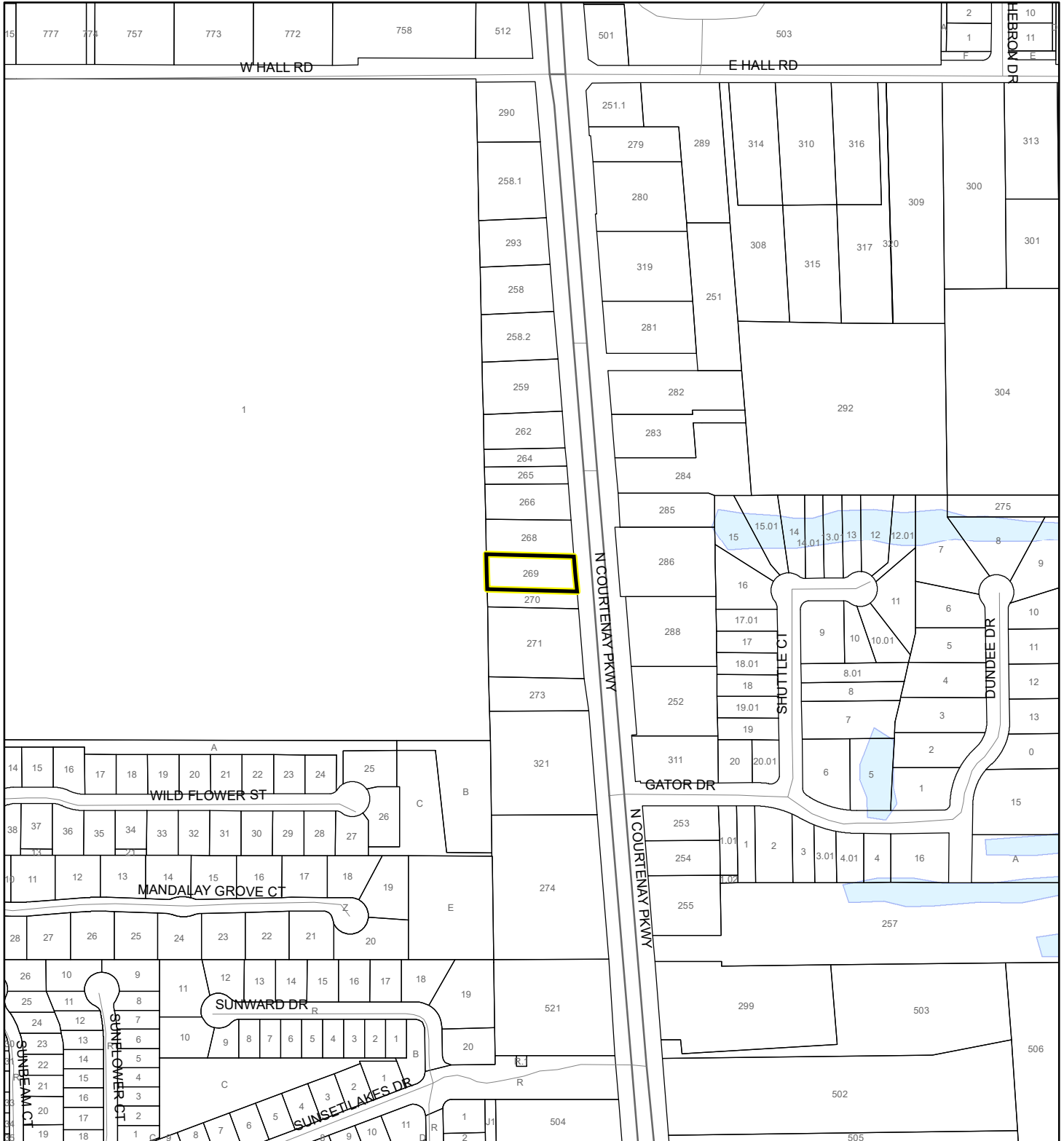
 60 Meters

 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

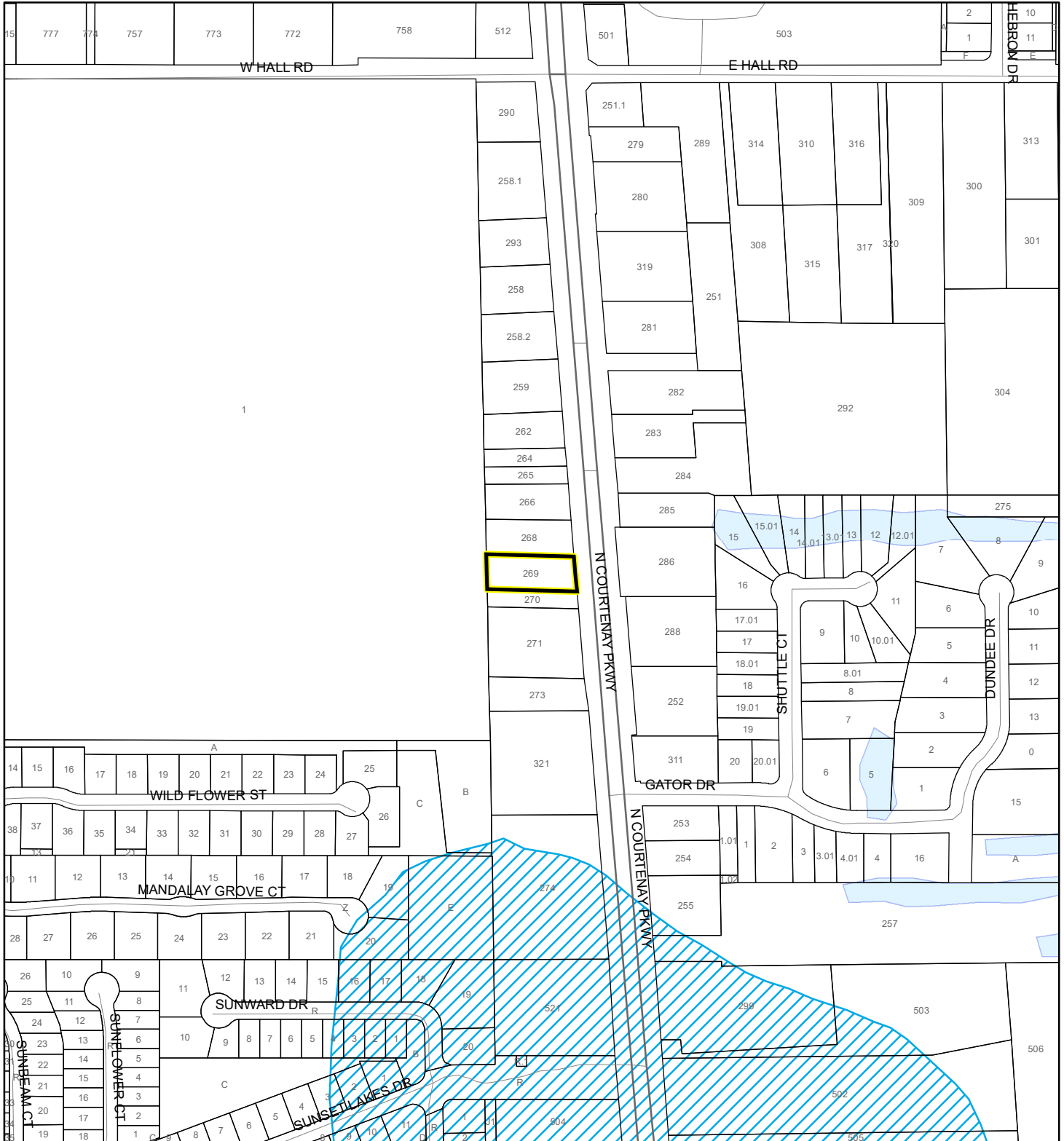
 Parcels

 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

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.

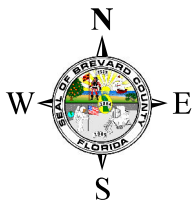
Produced by BoCC - GIS Date: 3/2/2021

- 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

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

## SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

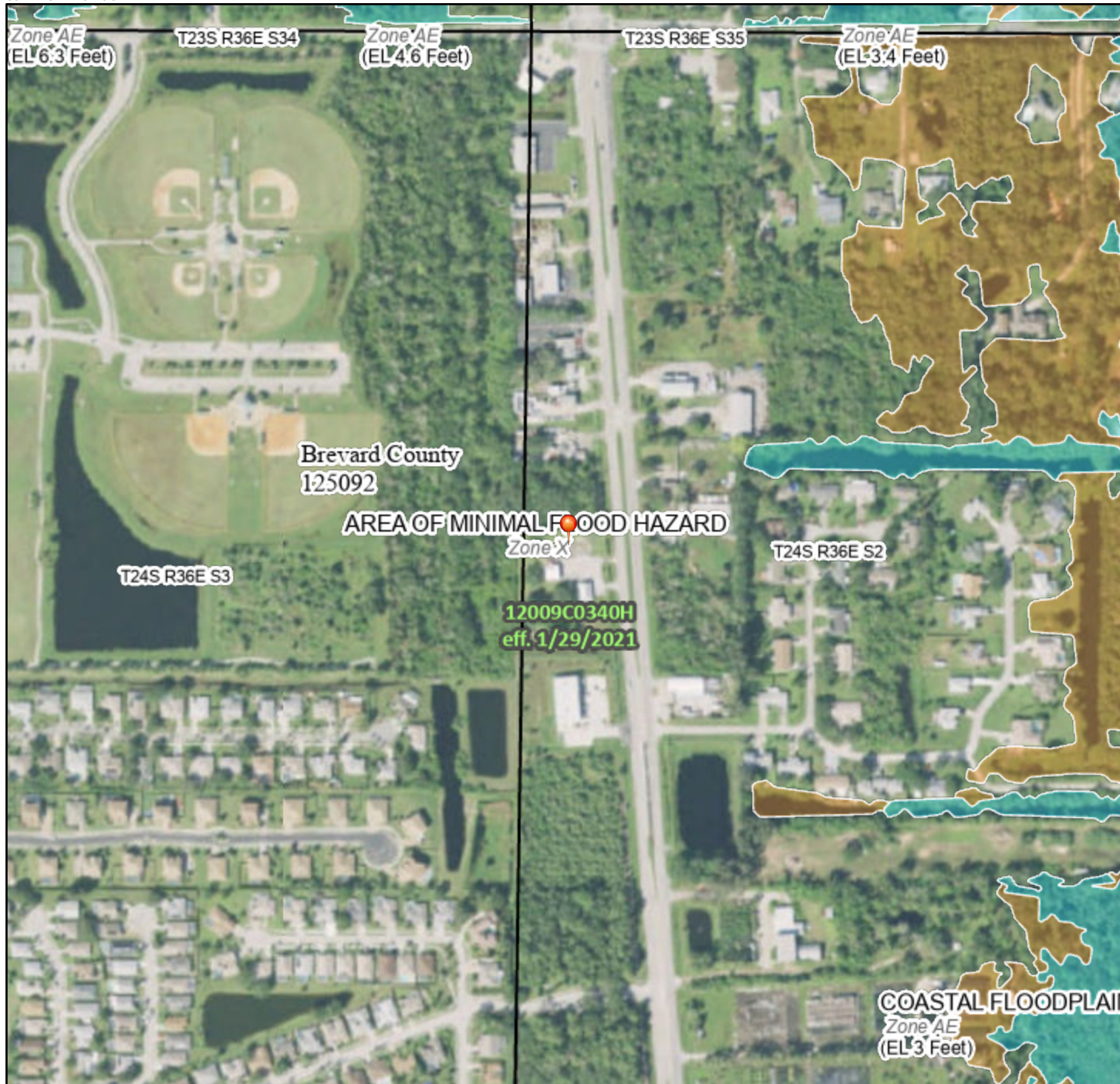
Subject Property  Parcels



# National Flood Hazard Layer FIRMette



80°42'49"W 28°26'5"N



0 250 500 1,000 1,500 2,000 Feet 1:6,000

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, AR
		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
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		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.



BOARD OF COUNTY COMMISSIONERS

NMI DSD

219.02

Application Pages  
21PZ00018  
KAT-CAM, LLC

**Planning and Development**

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

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

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

PZ # 21PZ00018

Existing FLU: NC Existing Zoning: AU

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 321-698-5702  
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:

GSCPA - 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 E. Rfz Co  
Signature of Property Owner or  
Authorized Representative

2/6/21  
Date

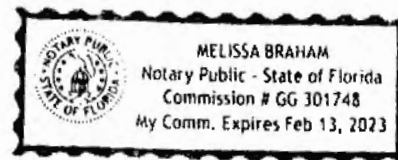
State of Florida

County of Brevard

Subscribed and sworn to me before me this 6<sup>th</sup> 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.

MPS  
Notary Public Signature  
Melissa Braham

Seal



Office Use Only:

Accela No. 21P200018 Fee: \$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: Cheryl 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?

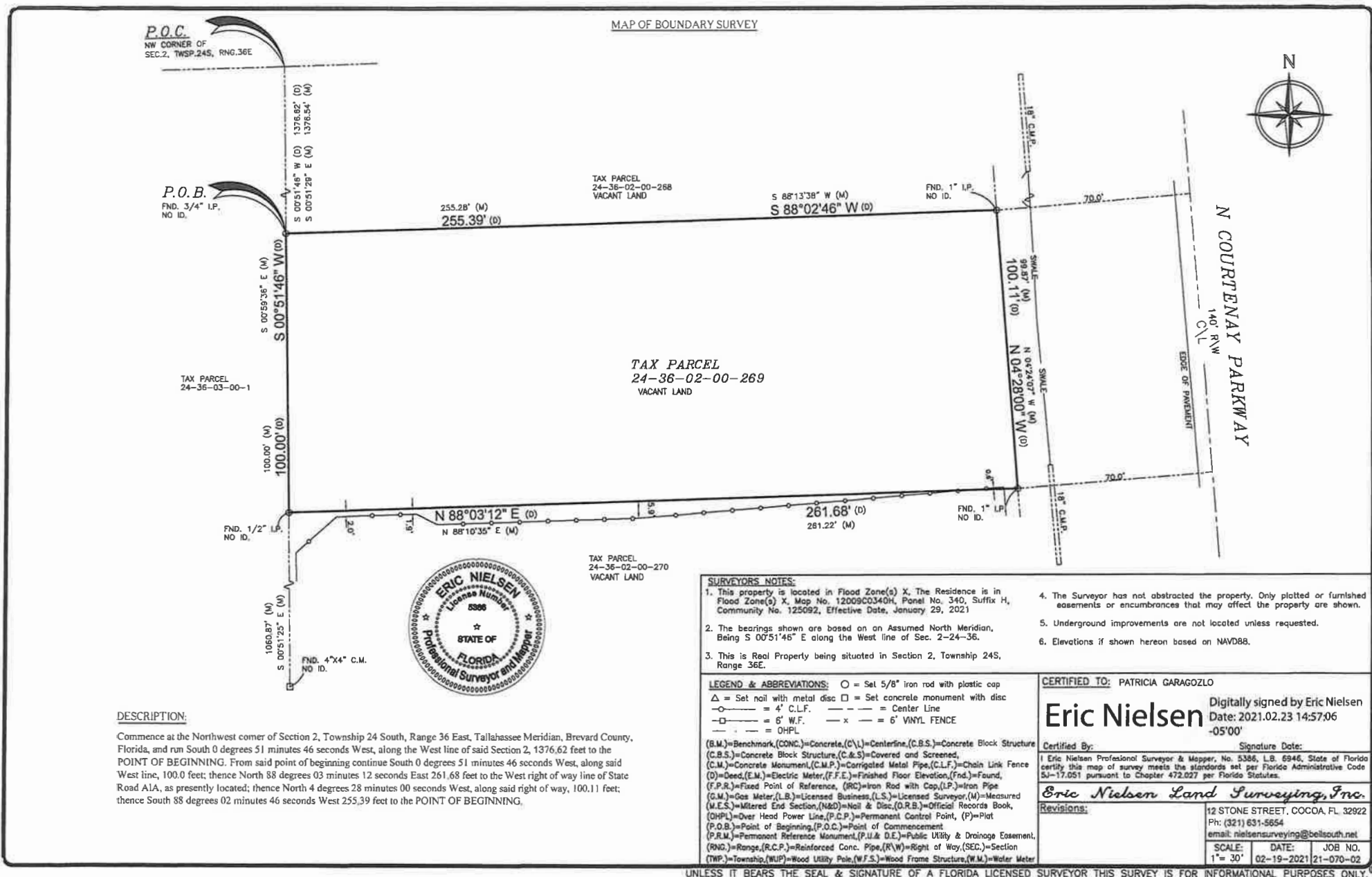
☒ Yes

☐ No

If yes, list NMI DSD

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

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







# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

---

H.2.

5/13/2021

---

### Subject:

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

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a request for a change of zoning classification from AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

### Summary Explanation and Background:

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

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

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

The parcel to the north of the subject property is vacant with split zoning of BU-1 on the eastern 100 feet and BU-2 on the remainder. The property is bound on the east side by N. Courtenay Parkway, across from which is developed BU-1 zoning. The parcel to the south is developed with split zoning of BU-1 on the eastern 150 feet and BU-2 on the remainder. The abutting property to the west is the 144-acre Mitchell Ellington Park, zoned AU.

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

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

The Board of County Commissioners will consider the request on **Thursday, May 27, 2021**, at **5:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

**Clerk to the Board Instructions:**

None

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

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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



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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

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

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

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

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

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

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

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

### STAFF COMMENTS

**21Z00006**

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

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

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

North Merritt Island Board: 05/13/2021

Board of County Commissioners: 05/27/2021

### Consistency with Land Use Regulations

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

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

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

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

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

### Background and Purpose of Request

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

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

## Land Use

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

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

## Applicable Land Use Policies

**Proposed Future Land Use: FLUE Policy 2.7** – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the listed criteria are met, include the following:

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

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

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

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

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

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

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

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

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

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

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



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

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

## **Surrounding Area**

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

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

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

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

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

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

## **Environmental Constraints**

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

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

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

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

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

### **Preliminary Transportation Concurrency**

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

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

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

### **For Board Consideration**

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

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

**Applicant:** Patricia Garagozlo

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

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

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

**Tax ID No:** 2410506

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

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

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

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

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

**Land Use Comments:**

**Wetlands**

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

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

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

### **Protected and Specimen Trees**

The subject property is within a mapped polygon of SJRWMD FLUCCS code 4110-Pine Flatwoods. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and may be found on the property. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Per Section 62-4339, parcels greater than 2.5 acres in size shall meet canopy preservation requirements. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

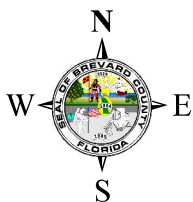
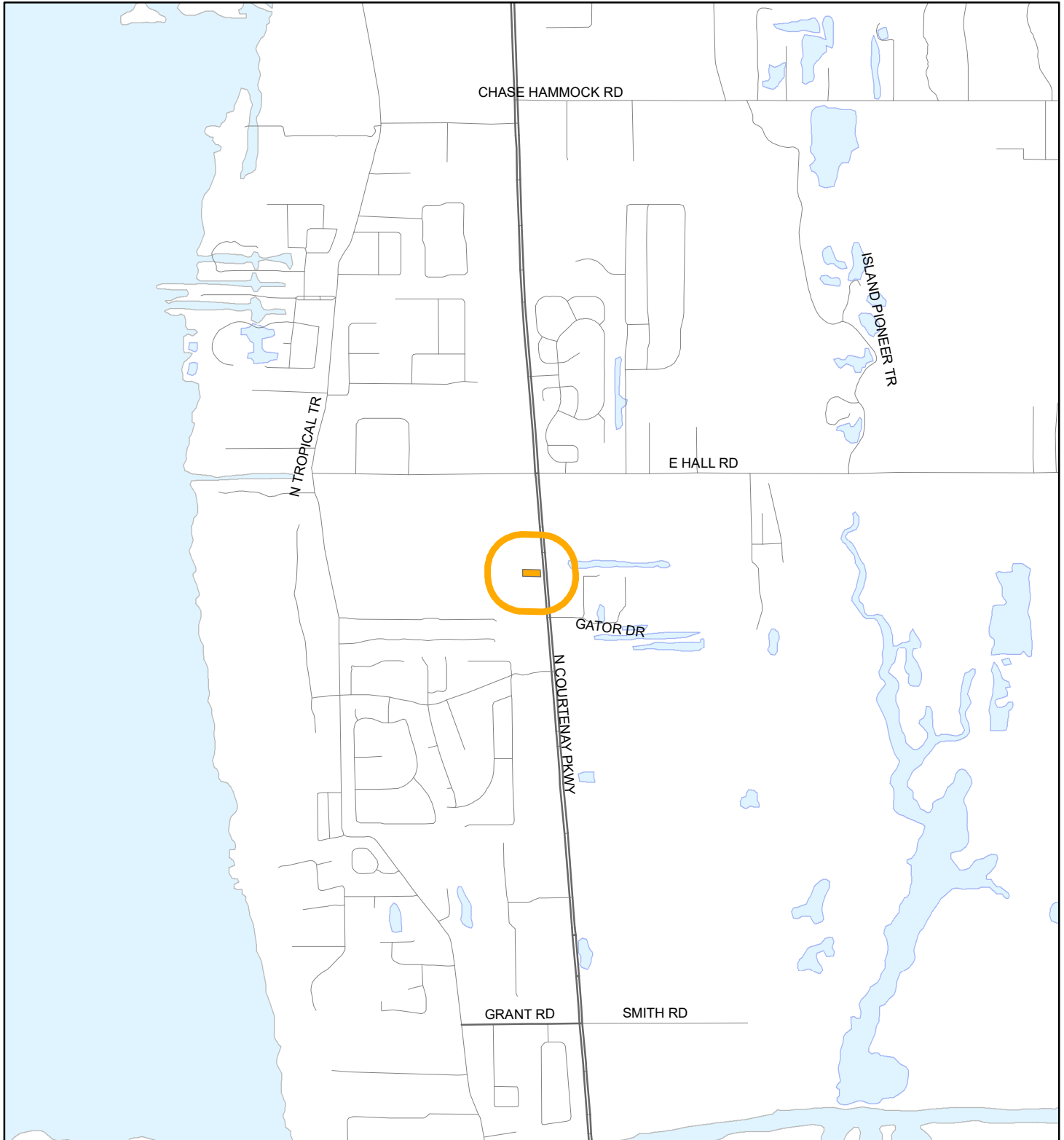
### **Protected Species**

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

# LOCATION MAP

KAT-CAM, LLC

21Z00006





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

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

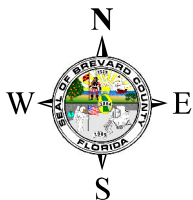
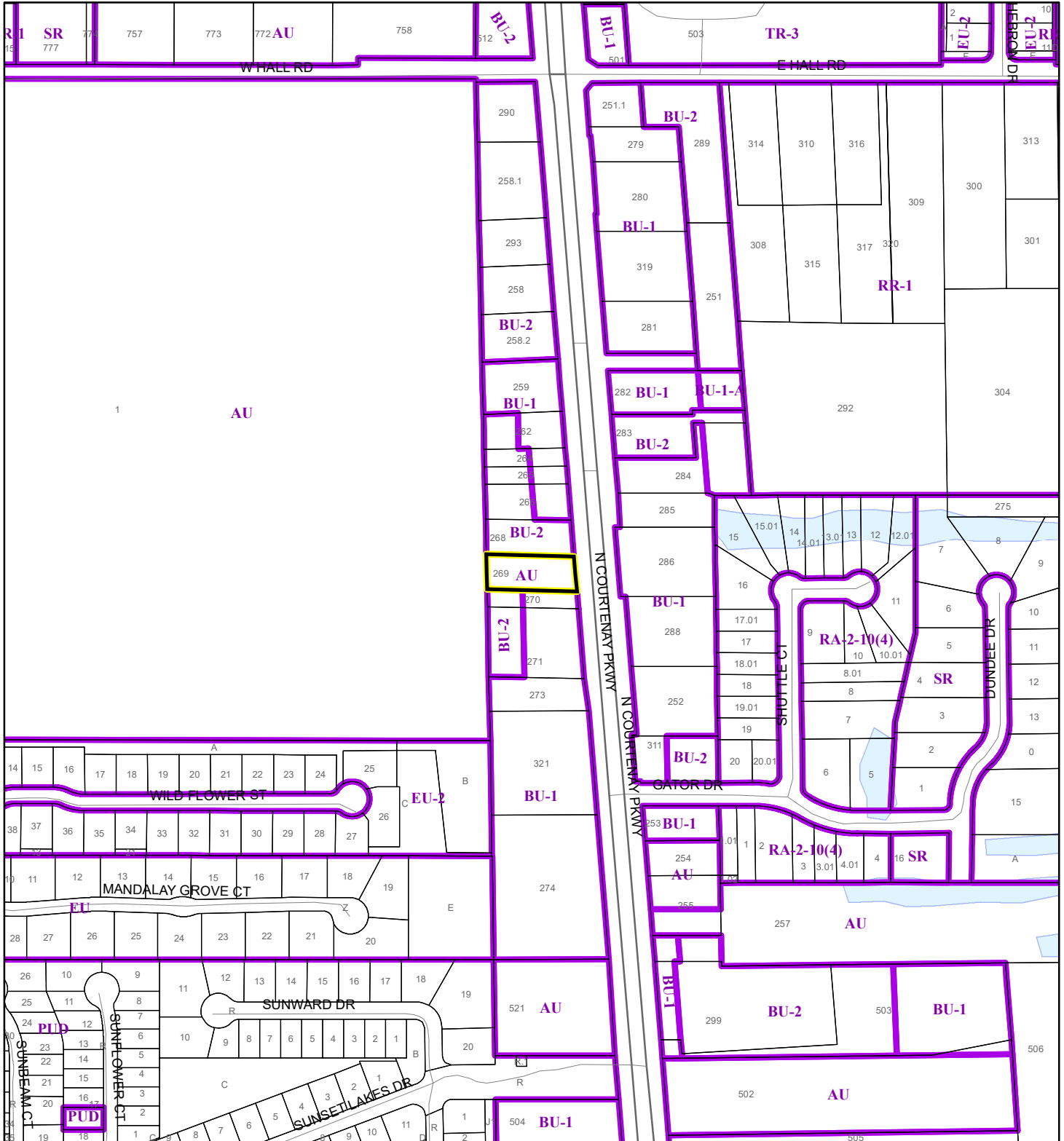
Produced by BoCC - GIS Date: 3/3/2021

 Buffer  
 Subject Property

# ZONING MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

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

Subject Property

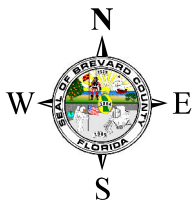
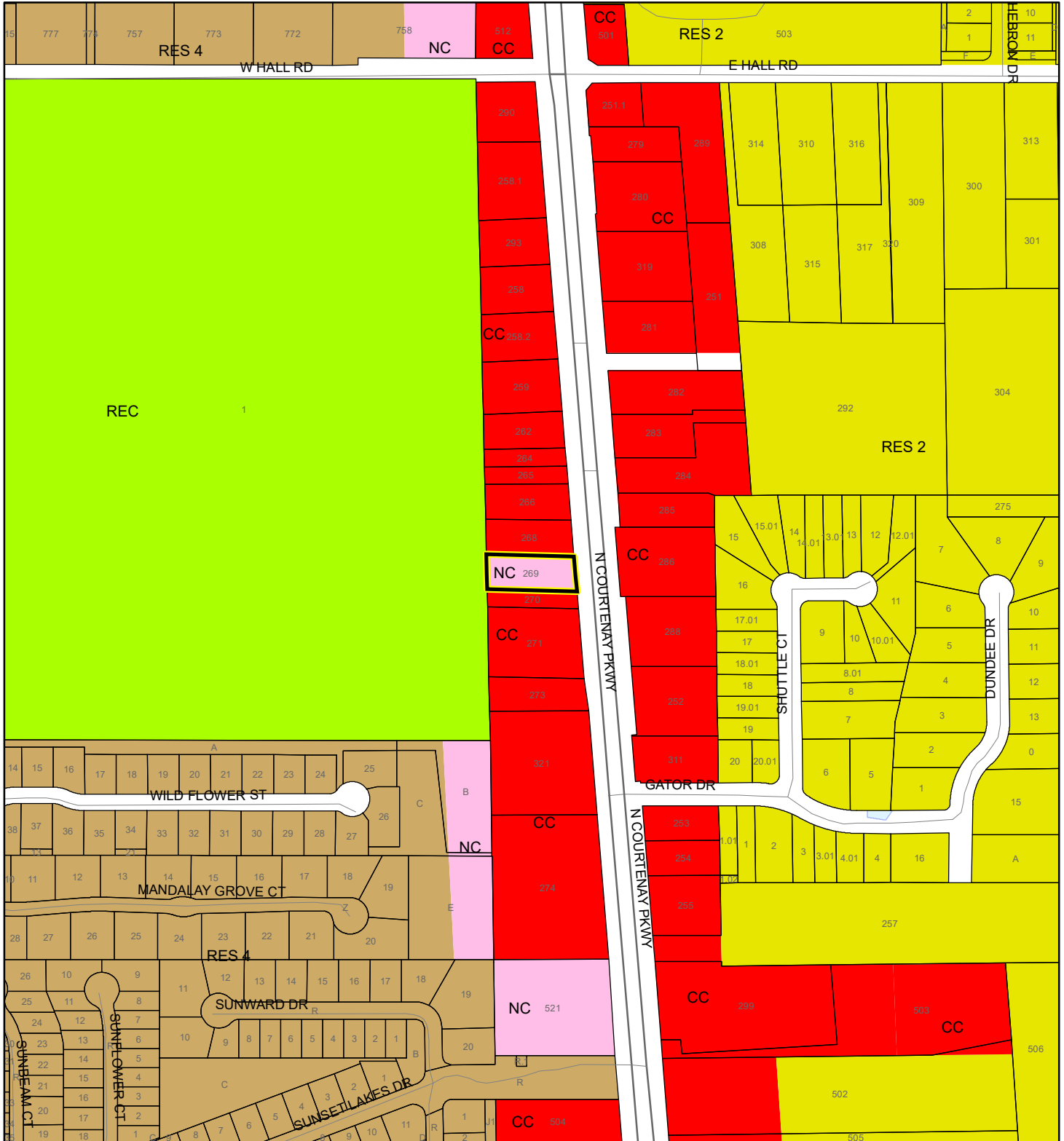
Parcels

Zoning



# FUTURE LAND USE MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

 Subject Property  
 Parcels

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

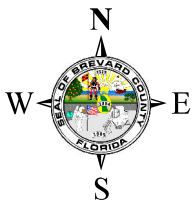
Produced by BoCC - GIS Date: 3/3/2021



# AERIAL MAP

KAT-CAM, LLC

21Z00006




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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

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 Subject Property

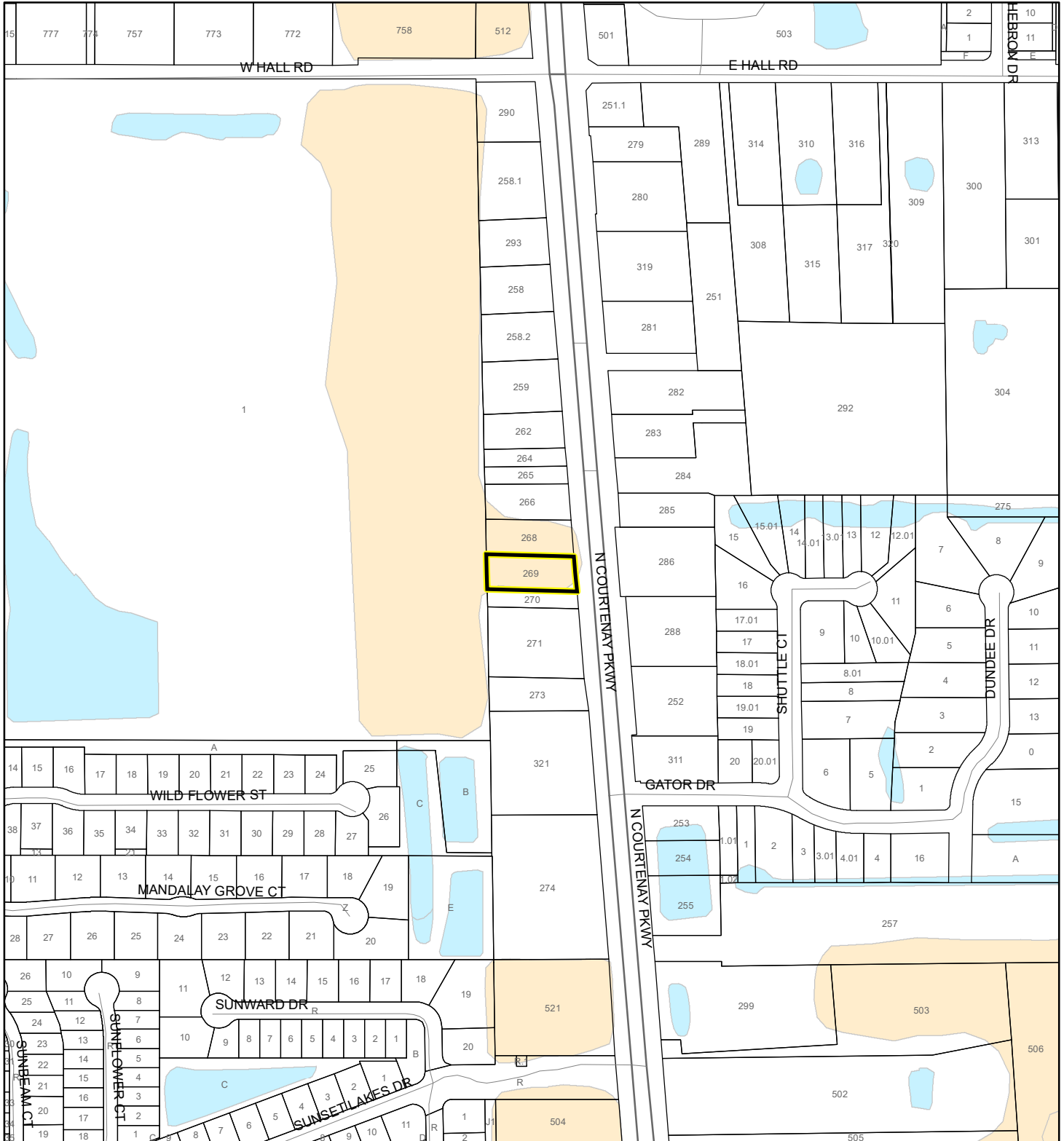
 Parcels



# NWI WETLANDS MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

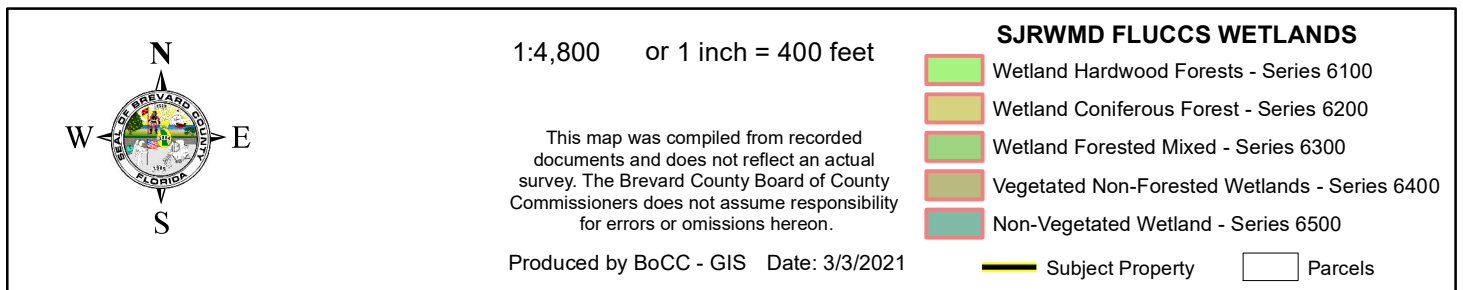
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

## 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

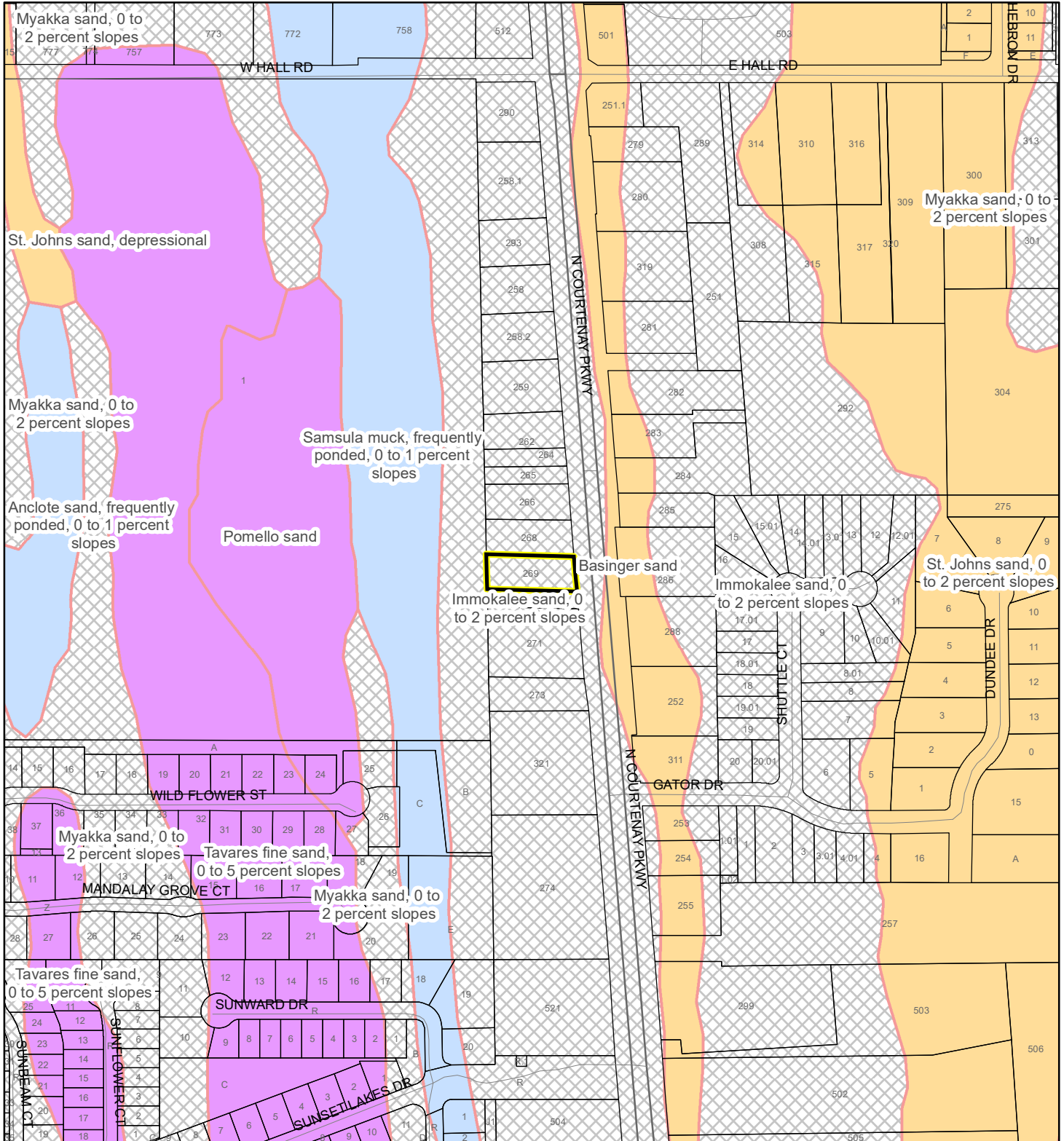
KAT-CAM, LLC  
21Z00006



# USDA SCSSS SOILS MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

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

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

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

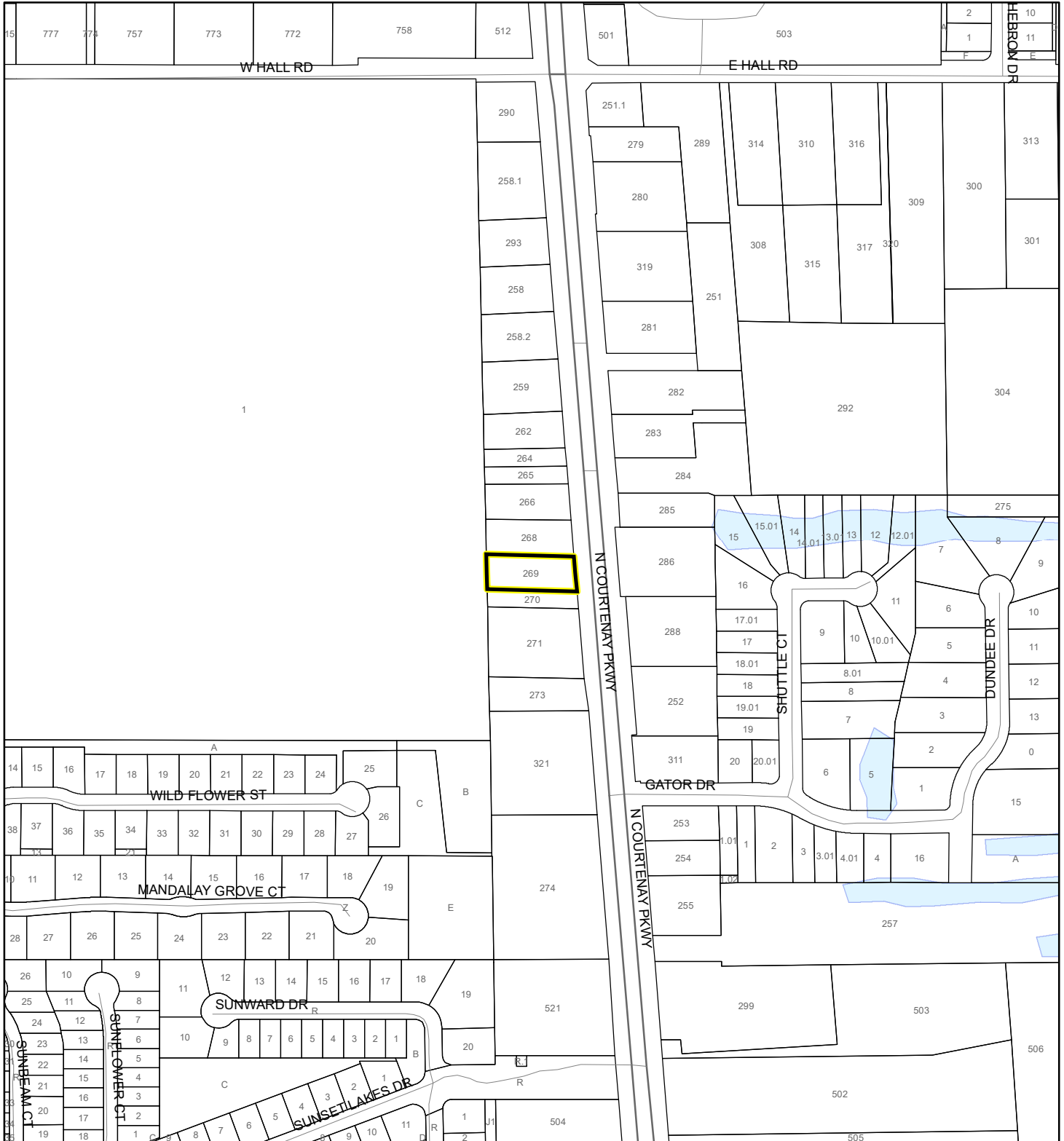
Subject Property

Parcels

# COASTAL HIGH HAZARD AREA MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet


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

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

 Subject Property

 Parcels

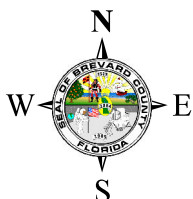
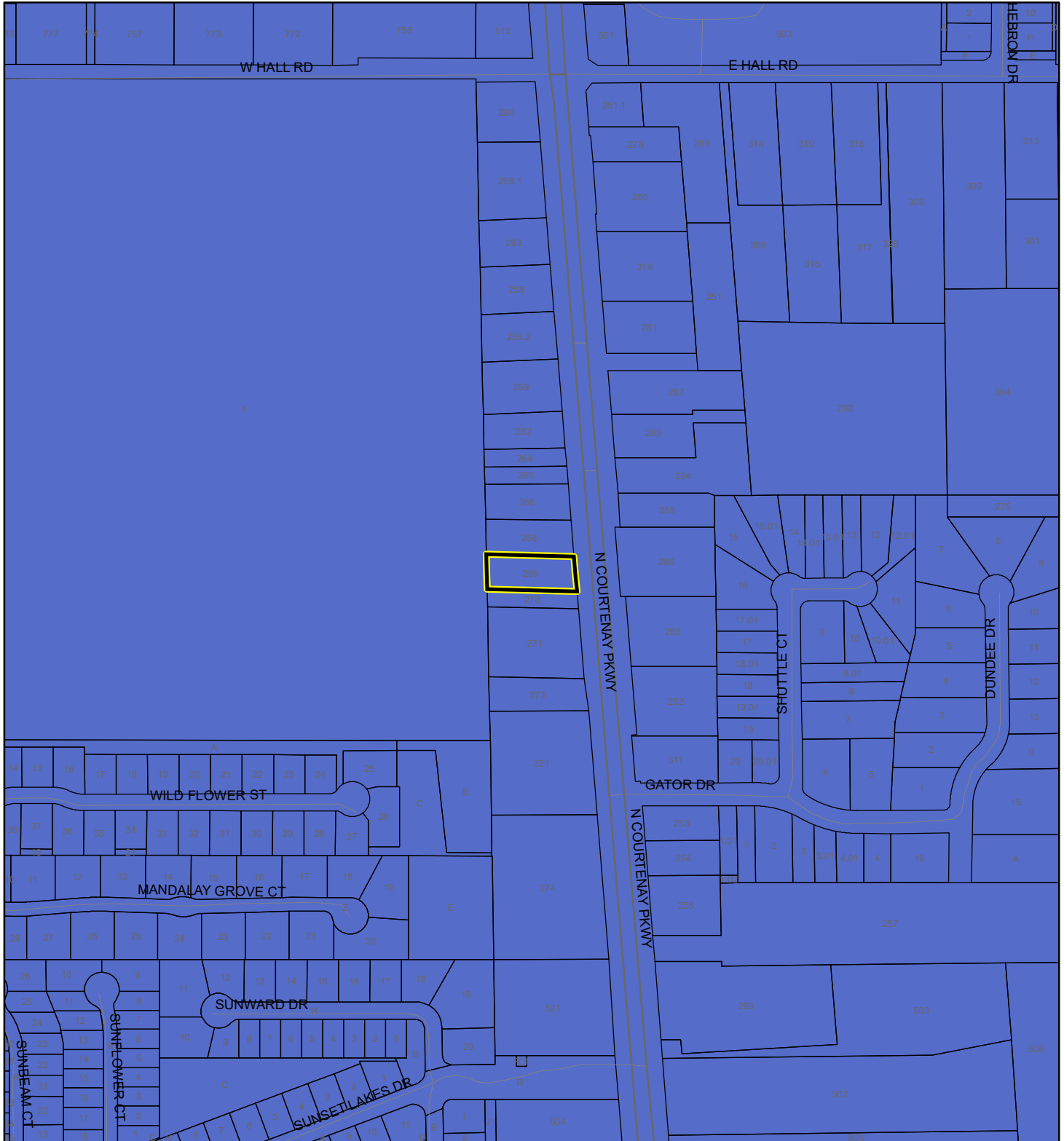
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

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

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

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

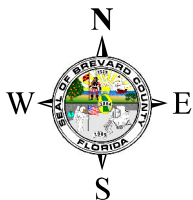
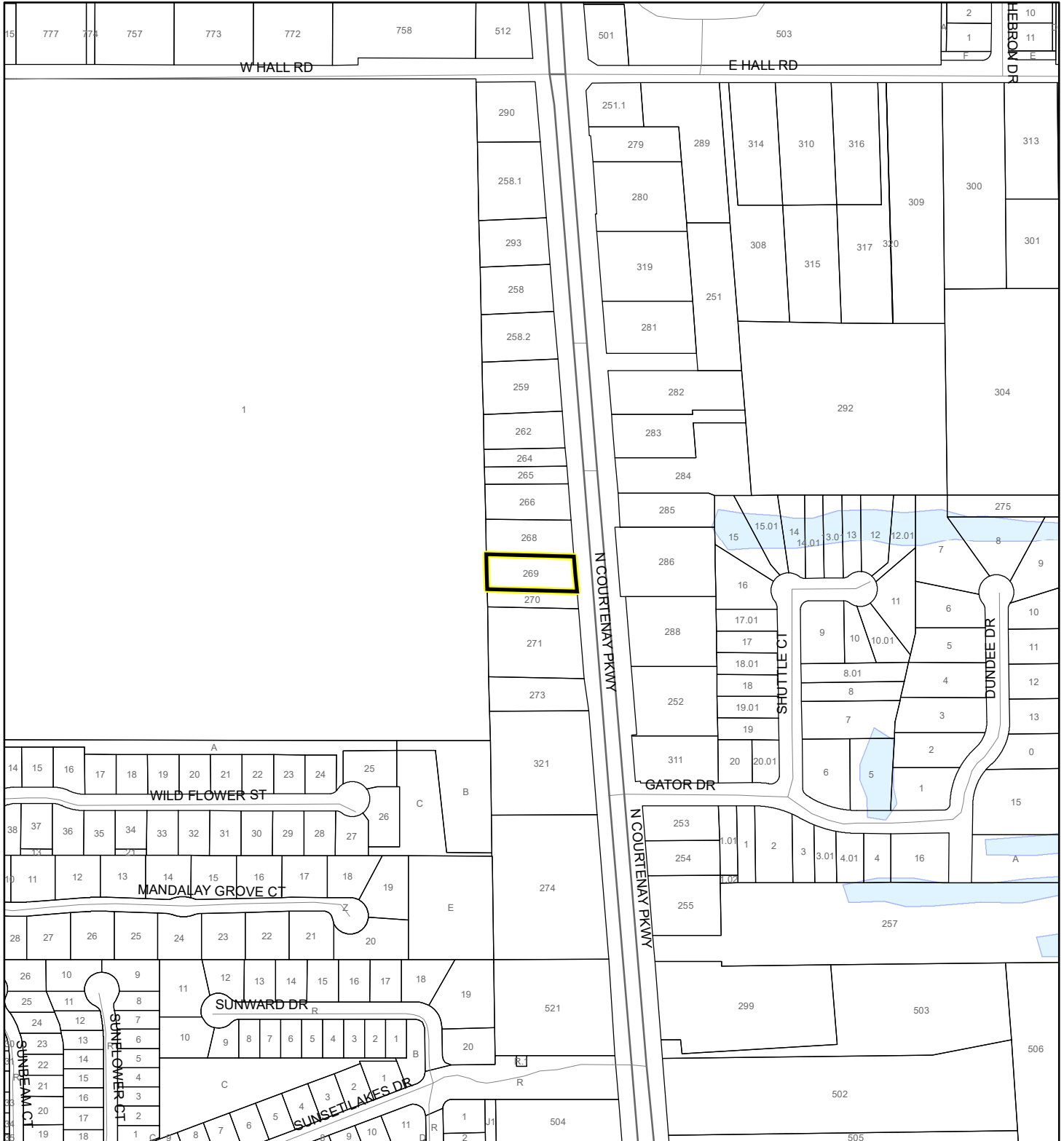
 60 Meters

 All Distances

# EAGLE NESTS MAP

KAT-CAM, LLC

21Z00006




1:4,800 or 1 inch = 400 feet

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

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

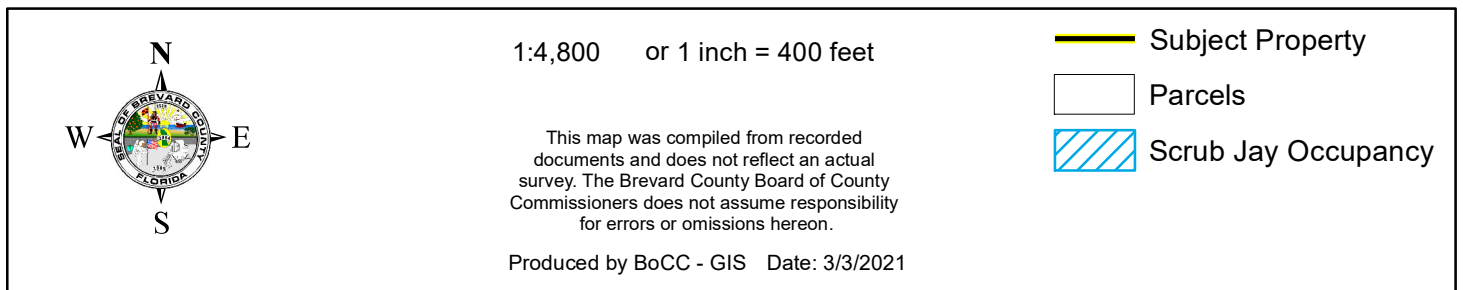
 Subject Property

 Parcels

 Eagle Nests  
FWS 2010



KAT-CAM, LLC  
21Z00006



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KAT-CAM, LLC

21Z00006



1:4,800 or 1 inch = 400 feet

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

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

## SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

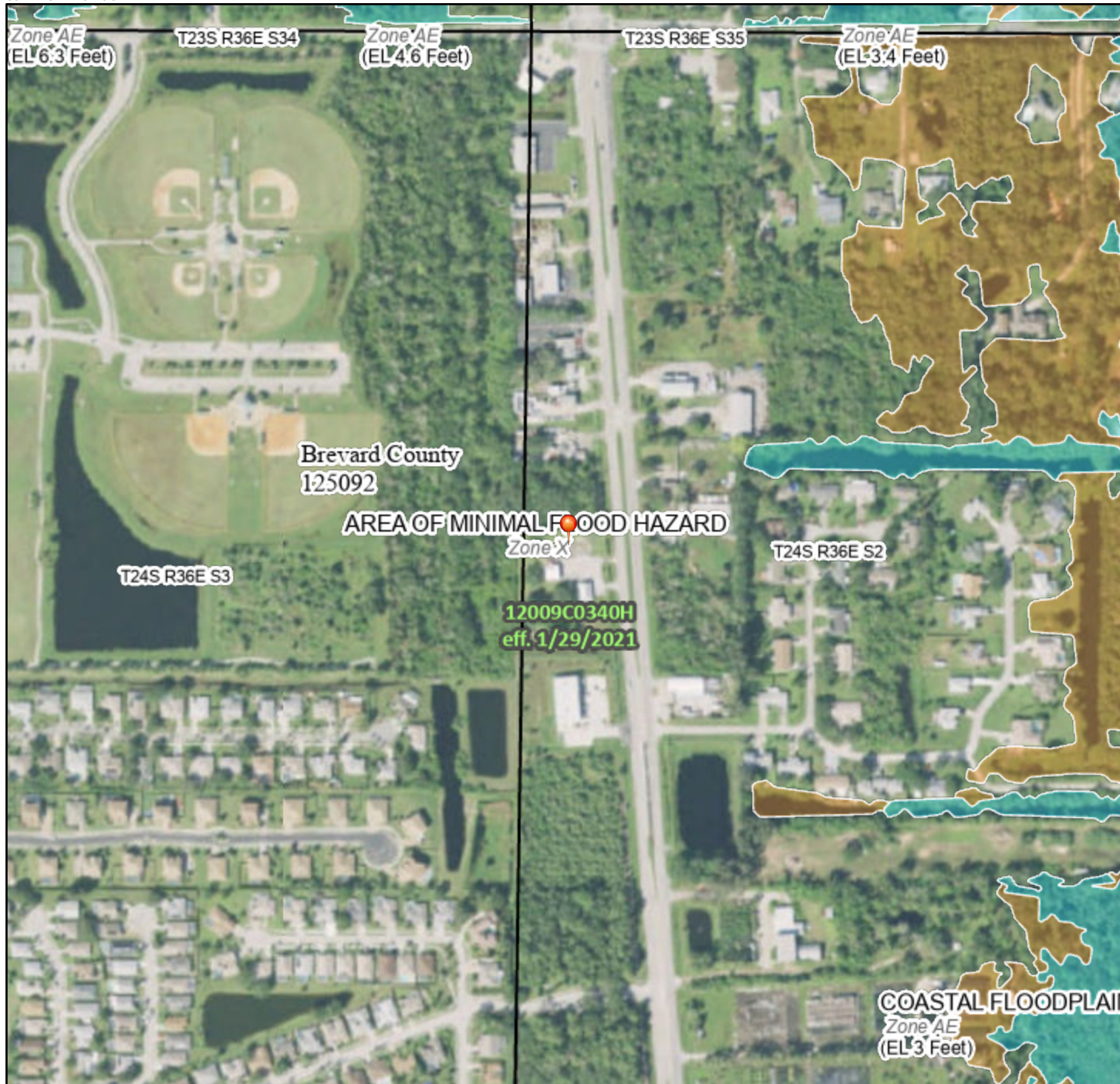
Subject Property  Parcels



# National Flood Hazard Layer FIRMette



80°42'49"W 28°26'5"N



0 250 500 1,000 1,500 2,000 Feet 1:6,000

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, AR
		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
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		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.



BOARD OF COUNTY COMMISSIONERS

Application Pages  
21Z00006  
KAT-CAM, LLC

**Planning and Development**

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

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

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

PZ # 21Z00006

Existing FLU: NC Existing Zoning: AU

Proposed FLU: \_\_\_\_\_ Proposed Zoning: BU-2

**PROPERTY OWNER INFORMATION**

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

PATRICIA GARAGOZO KAT-CAM LLC  
Name(s) Company

3903 Postbridge TR. MCIRB, FL 32934  
Street City State Zip Code

PATRICIA.GARAGOZO@GMAIL.COM  
Email

Phone \_\_\_\_\_ Cell 321-698-5702

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

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

\_\_\_\_\_  
Name(s) Company

\_\_\_\_\_  
Street City State Zip Code

\_\_\_\_\_  
Email Phone Cell

**APPLICATION NAME**

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

Acreage of Request: 0.59

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



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

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

Signature of Property Owner or  
Authorized Representative

Date

State of

County of

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

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

Patricia Bologna-Garago who is personally known to me or produced

FLDL as identification, and who ~~did~~ did not take an oath.

Notary Public Signature



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

Seal

**Office Use Only:**

Accela No. 21Z00006 \$1,508.00 Date Filed: 1/29/2021 District No. 2

Tax Account No. (list all that apply) 2410506

Parcel I.D. No.

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

Planner: Peter Martip Sign Issued by: PMM to Code Enforcement Notification Radius: 500'

**MEETINGS**

**DATE**

**TIME**

- ☐ P&Z  
☐ PSJ Board  
☒ NMI Board  
☐ LPA  
☐ BOA  
☒ BCC

5/13/21

6:00 P.M.

5/27/21

5:00pm

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

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

☐ Yes ☒ No If yes, list N/A

Location of subject property: West side of North Courtenay Parkway approximately 1/2 mile south of the intersection of East Hall Road and North Courtenay Parkway.

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





February 14, 2021

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

## REFERENCES

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

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

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

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

Regards,



(electronically submitted)  
Vickie L. Larson  
President



Date: 2/14/2021



**ecospatial**  
**ANALYSTS**

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

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

Figure  
No.

1





Date: 2/14/2021



**ecospatial**  
ANALYSTS

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

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

Figure No.

2

25





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

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

Figure  
No.

3



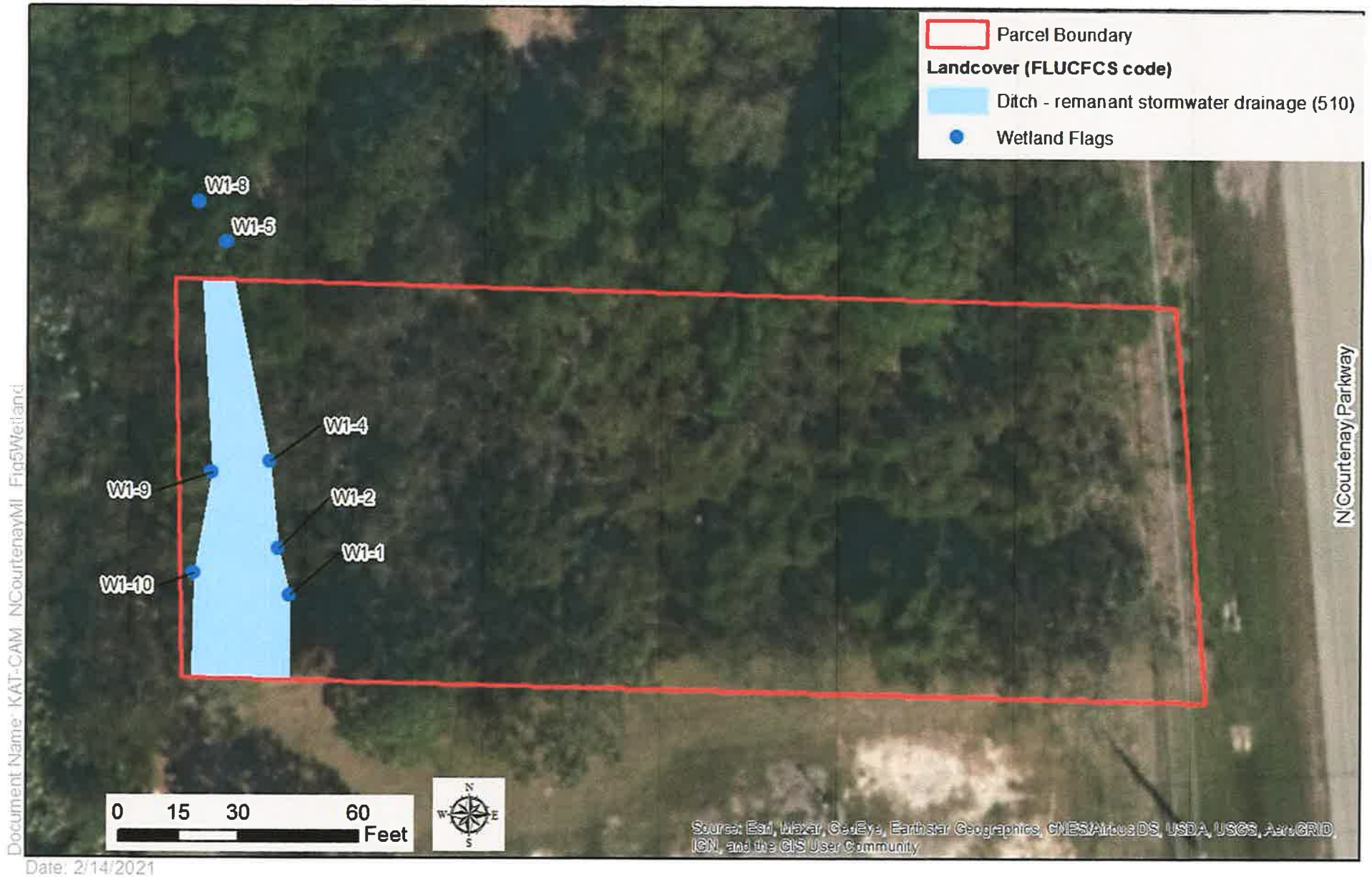
 **ecospatial**  
ANALYSTS  
3245 N. Courtenay Pkwy Ste 37  
Merritt Island, FL 32953  
321.403.5147

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

Figure  
No.

4





**ecospatial**  
ANALYSTS

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



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

Figure  
No.

5



Document Name: KAT-CAM N Courtenay MI Fig6Soils



Date: 2/14/2021



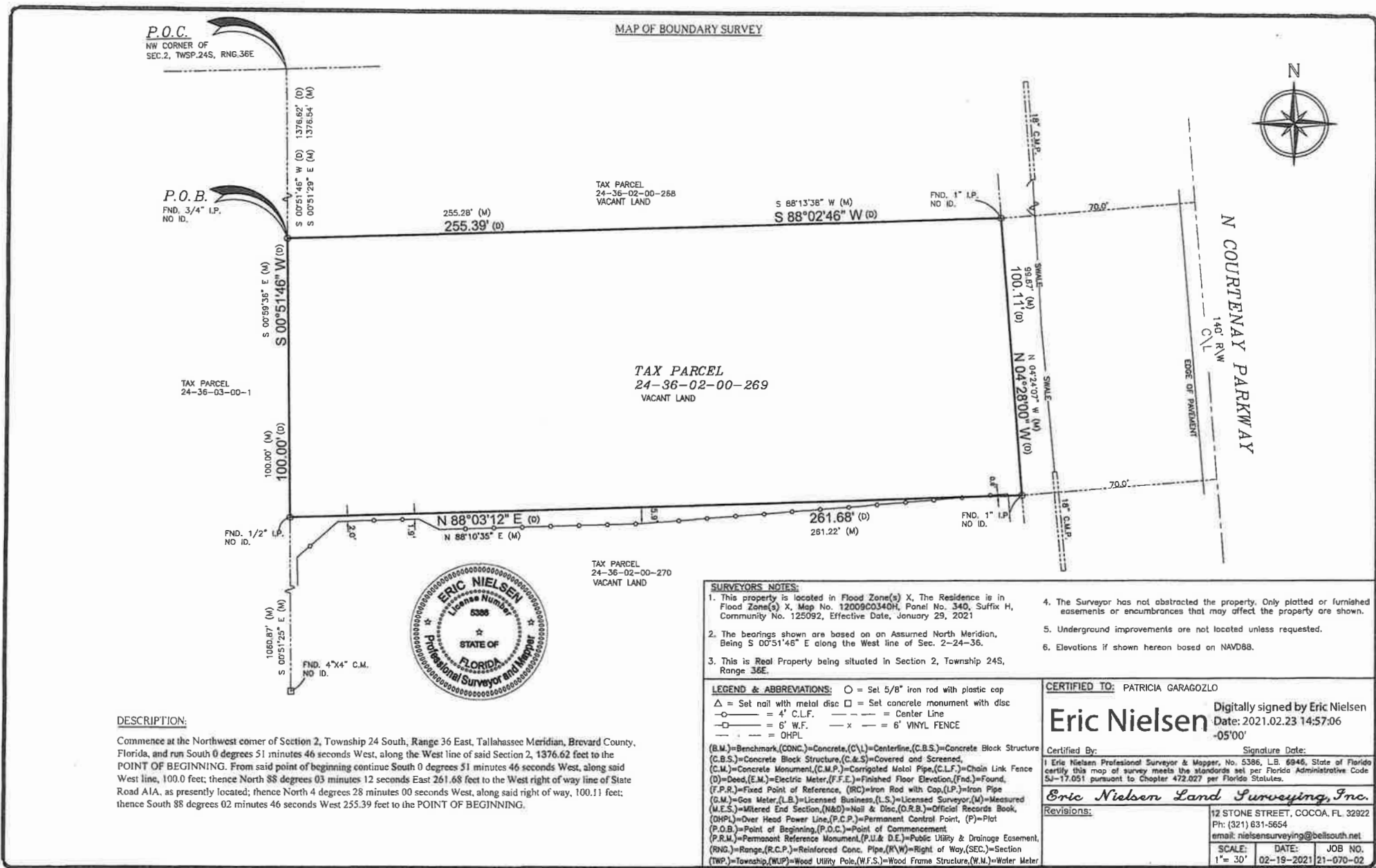
**ecospace**  
ANALYSTS

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

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

Figure No.

6



P.O.C.  
NW CORNER OF  
SEC. 2, TWP. 24S, RANG. 36E

# MAP OF BOUNDARY SURVEY

P.O.B.  
FND. 3/4" I.P.  
NO ID.

TAX PARCEL  
24-36-03-00-1

TAX PARCEL  
24-36-02-00-268  
VACANT LAND

TAX PARCEL  
24-36-02-00-269  
VACANT LAND

TAX PARCEL  
24-36-02-00-270  
VACANT LAND



## 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, 1376.62 feet to the POINT OF BEGINNING. From said point of beginning continue South 0 degrees 51 minutes 46 seconds West, along said West line, 100.0 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.



N COURTENAY PARKWAY  
140' R/W  
C/L

## SURVEYOR'S NOTES:

1. This property is located in Flood Zone(s) X. The Residence is in Flood Zone(s) X, Map No. 1200900340H, Panel No. 340, Suffix H, Community No. 125092, Effective Date, January 29, 2021
2. The bearings shown are based on an Assumed North Meridian, Being S 0°51'46" E along the West line of Sec. 2-24-36.
3. This is Real 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. — = Center Line  
— = 6" W.F. — x — = 6" VINYL FENCE  
— = OHPL

(B.M.)=Benchmark, (C.B.S.)=Concrete Block Structure, (C.C.S.)=Concrete Block Structure, (C.C.S.)=Covered and Screened, (C.M.)=Concrete Monument, (C.M.P.)=Corrugated Metal Pipe, (C.L.F.)=Chain Link Fence, (D.)=Deed, (E.M.)=Electric Meter, (F.F.E.)=Finished Floor Elevation, (Fnd.)=Found, (F.P.R.)=Fixed Point of Reference, (I.R.C.)=Iron Rod with Cap, (L.P.)=Iron Pipe, (G.M.)=Gas Meter, (L.B.)=Licensed Business, (L.S.)=Licensed Surveyor, (M.)=Measured, (M.E.S.)=Mitered End Section, (N&D.)=Nail & Disc, (O.R.B.)=Official Records Book, (OHPL)=Over Head Power Line, (P.C.P.)=Permanent Control Point, (P.)=Plot, (P.O.B.)=Point of Beginning, (P.O.C.)=Point of Commencement, (P.R.M.)=Permanent Reference Monument, (P.U. & D.E.)=Public Utility & Drainage Easement, (RNG.)=Range, (R.C.P.)=Reinforced Conc. Pipe, (R.W.)=Right of Way, (SEC.)=Section, (TWP.)=Township, (W.U.P.)=Wood Utility Pole, (W.F.S.)=Wood Frame Structure, (W.M.)=Water Meter

CERTIFIED TO: PATRICIA GARAGOZLO

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

Certified By: Signature Date:  
I, Eric Nielsen Professional Surveyor & Mapper, No. 5386, L.B. 6946, State of Florida  
certify this map of survey meets the standards set per Florida Administrative Code  
51-17.051 pursuant to Chapter 472.027 per Florida Statutes.

**Eric Nielsen Land Surveying, Inc.**

Revisions: 12 STONE STREET, COCOA, FL. 32922  
Ph: (321) 631-5654  
email: nielsenlandsurveying@bellsouth.net

SCALE: 1" = 30' DATE: 02-19-2021 JOB NO. 21-070-02

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





# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

---

H.3.

5/13/2021

---

### Subject:

Cooltural Land, LLC (Thomas Jones) requests a change of zoning classification from BU-1 to BU-2. (21Z00009) (Tax Account 2317004) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

### Summary Explanation and Background:

The applicant is seeking a change of zoning classification from BU-1 to BU-2 in order to accommodate contractor storage yard and flex office/warehouse use. The property is vacant. The property is 1.02 acres, located on the east side of N. Courtenay Parkway, approximately 700 feet south of Crisafulli Rd.

The subject property retains the Community Commercial (CC) Future Land Use designation. The existing zoning classification BU-1 can be considered consistent with the Future Land Use Designation. The proposed zoning classification of BU-2 can be considered consistent with the Future Land Use designation.

The property abutting to the north of the subject property is developed with BU-1 zoning on 80 feet closest to Courtenay Parkway and AU (Agricultural Residential) on remainder. The two abutting parcels to the east are developed as SR (Suburban Residential) zoning with a drainage facility on the western approximately 100 feet of each property and abutting the subject property. The parcel to the south is vacant BU-1 zoning. The property across Courtenay Parkway to the west is developed with a residence and citrus grove in BU-1 zoning.

The BU-1 classification permits retail commercial land uses on minimum 7,500 square foot lots. BU-1 does not permit warehousing or wholesaling. It also does not permit contractor storage yards or outdoor recreational vehicle storage. The proposed BU-2 classification permits retail, wholesale, and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

The subject property is served with potable water by the City of Cocoa. The property is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located on the opposite side of North Courtenay Parkway, approximately 1,865 feet to the South.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area for BU-2 fronting Courtenay Parkway.

The Board of County Commissioners will consider the request on **Thursday, May 27, 2021, at 5:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

**Clerk to the Board Instructions:**

None

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

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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



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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

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

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

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

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

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

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

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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

### STAFF COMMENTS

**21Z00009**

**Cooltural Land, LLC (Thomas R. Jones for Peña)**

**General Retail Commercial (BU-1) to Retail, Warehousing, and Wholesale Commercial (BU-2)**

Tax Account Number: 2317004  
Parcel I.D.: 23-36-27-00-\*5  
Location: East side of North Courtenay Parkway, approximately 700 feet south of Crisafulli Road (District 2)  
Acreage: 1.02 acres

North Merritt Island Board: 05/13/2021

Board of County Commissioners: 05/27/2021

### Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
<b>Zoning</b>	BU-1	BU-2
<b>Potential*</b>	25,700 square feet	25,700 square feet
<b>Can be Considered under the Future Land Use Map</b>	YES CC	YES CC

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

### Background and Purpose of Request

The applicant is seeking a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

The request is to change from BU-1 to BU-2 in order to accommodate contractor storage yard and flex office/warehouse use. The property is vacant. The property is 1.02 acres.

The original zoning of the property was AU (Agricultural Residential). On 10/31/62, Resolution **Z-854** rezoned the property from AU to BU-1 (Neighborhood Retail Business). Comprehensive Zoning Ordinance **73-13** changed BU-1 (Neighborhood Retail Business) to BU-1 (General Retail Commercial).

## Land Use

The subject property retains the Community Commercial (CC) Future Land Use designation. The existing zoning classification BU-1 is consistent with the Future Land Use Designation. The proposed zoning classification of BU-2 is consistent with the Future Land Use Designation.

## Applicable Land Use Policies

**Future Land Use: FLUE Policy 2.7** – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the listed criteria are met, include the following:

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

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

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** This parcel is located on the east side of Courtenay Parkway, is currently vacant, and lies within the Community Commercial (CC) Future Land Use (FLU) designation. The abutting property to the north is developed as an art studio with retail sales, on the part fronting Courtenay Parkway, and a residence on the rear portion and likewise has split CC/NC FLUE. The two abutting parcels to the east are developed with single-family residences, the western approximately 100 feet of which are part of a drainage pond, with Residential 1 (RES 1) FLU. The parcel to the south is vacant with CC FLU. The property across Courtenay Parkway to the west is developed with a residence and citrus grove with CC FLU. The site is located within a 200 acre commercial corridor with some mixed residential uses.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The developed character of the surrounding area: part of an approximately 200 acre strip commercial corridor, which contains a mixture of neighborhood, retail commercial, limited outdoor storage uses, with some single-family residences as mixed use on same properties as commercial. Most properties are limited to BU-1 with some BU-2 zoned properties. Behind this corridor, on the abutting properties to the east, are high square footage residential homes on ¼ to 1 acre lots with RES 1 FLU.



The closest parcel with BU-2 zoning classification on the full depth of the property, is approximately 1,140 feet north of the subject parcel and north of the Crisafulli Road intersection. It is on a much larger vacant parcel, with a Binding Development Plan (BDP), **14PZ-00118B** (ORB 7356, Pages 2762-2766), that limits uses to “all permitted uses in the BU-1 Zoning Classification” and requires “A 20’ opaque buffer on the east side shall always be there.” The next closest lot with BU-2 the full depth of the property is approximately 8,800 feet to the south. In 1983, **Z-6432**, a proposed rezoning from BU-1 to BU-2 was denied and Development Review sheet 3b in the file stated: “BU-2 not recommended in this sector, however BU-2 in area; possibly keep front half BU-1.”

When evaluated against **FLUE 2.7**, the subject 1.02 acre property could be considered spot zoning of BU-2 in a mixed residential/BU-1 corridor, rather than infill or an extension of similar strip commercial development.

BU-2 allows for more intense uses than BU-1, such as, but not limited to, metal buildings, outdoor storage yards, and warehouses. The intensive nature of BU-2 uses could create noise, light, traffic and other nuisance factors. BU-2 zoning and uses on this corridor have not been primarily located directly adjacent to Courtenay Parkway right-of-way, have natural or developed buffers from abutting residential uses, and are primarily located on the west side of Courtenay Parkway.

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

July 9, 2020, application **20PZ00017** rezoned a 2.23 acre parcel from General Use (GU) to Suburban Estate Use (SEU) located approximately 2,350 feet south of the subject property, on the south side of Kings Way, adjacent to and on the east side of Courtenay Parkway.

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

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

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

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

## **Surrounding Area**

The property abutting to the north of the subject property is developed per split zoning of BU-1 on 80 feet closest to Courtenay Parkway and AU (Agricultural Residential) on remainder. The two abutting parcels to the east are developed per Suburban Residential (SR) zoning with a drainage facility on

the western approximately 100 feet of each property and abutting the subject property. The parcel to the south is vacant with BU-1 zoning. The property across Courtenay Parkway to the west is developed with a residence and citrus grove in BU-1 zoning.

The current BU-1 classification permits retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. It also does not permit contractor storage yards or outdoor recreational vehicle storage.

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

The AU classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

## **Environmental Constraints**

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

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

## **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is North Courtenay Parkway, between Hall Road and North Tropical Trail, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 34.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization from 34.28% to 37.80% (LOS C). The proposal is not anticipated to create a deficiency in LOS.

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

The subject property is served with potable water by the City of Cocoa. The property is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located on the opposite side of North Courtenay Parkway, approximately 1,865 feet to the South.

### **For Board Consideration**

The Board may wish to consider whether the request is consistent and compatible with the surrounding area for BU-2 fronting Courtenay Parkway.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 21Z00009**

**Applicant:** Jones for Peña

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

**Note:** Applicant wants contractor storage yard, warehouse, RV storage, and RV rental.

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

**Tax ID No:** 2317004

- 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:**

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Protected and Specimen Trees
- Protected Species

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

**Land Use Comments:**

**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 sewer 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.

**Floodplain**

If it is determined that any area of the parcel is within the floodplain, then per Section 62-3724(4) of the floodplain ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-

existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

### **Protected and Specimen Trees**

An environmental report, prepared by Floravista, Inc, found several Protected (greater than or equal to 10 inches in diameter) and Specimen trees (greater than or equal to 24 inches in diameter) on the parcel. Prior to any site plan design, a tree survey should be conducted to locate trees that may be integrated into the site plan design, including, the Live Oak that is 74.2 inches in diameter, and in good condition. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, 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. 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. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM.

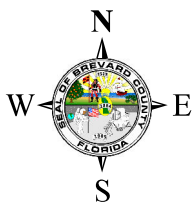
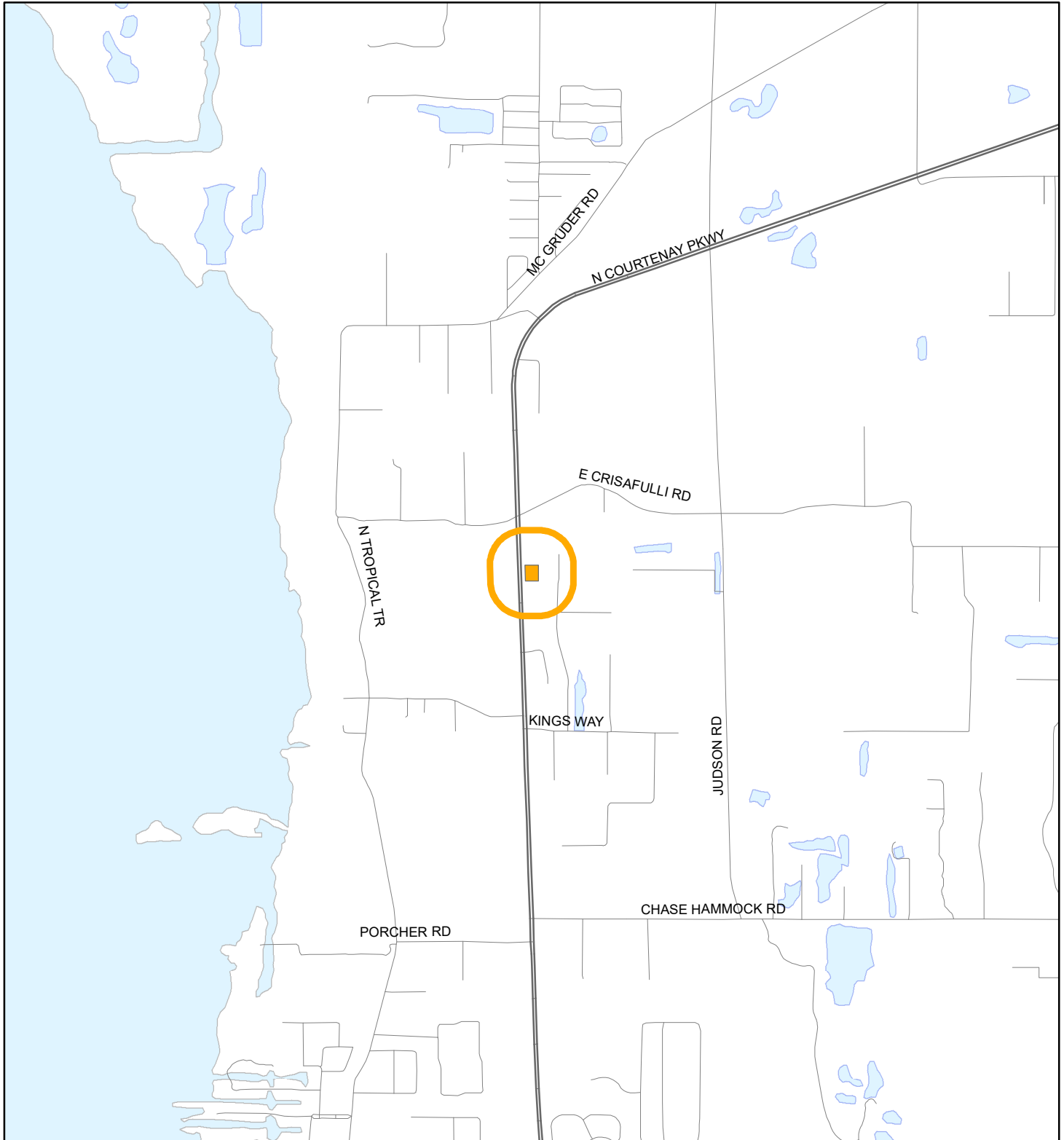
### **Protected Species**

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

COOLTURAL LAND, LLC

21Z00009





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: 3/9/2021

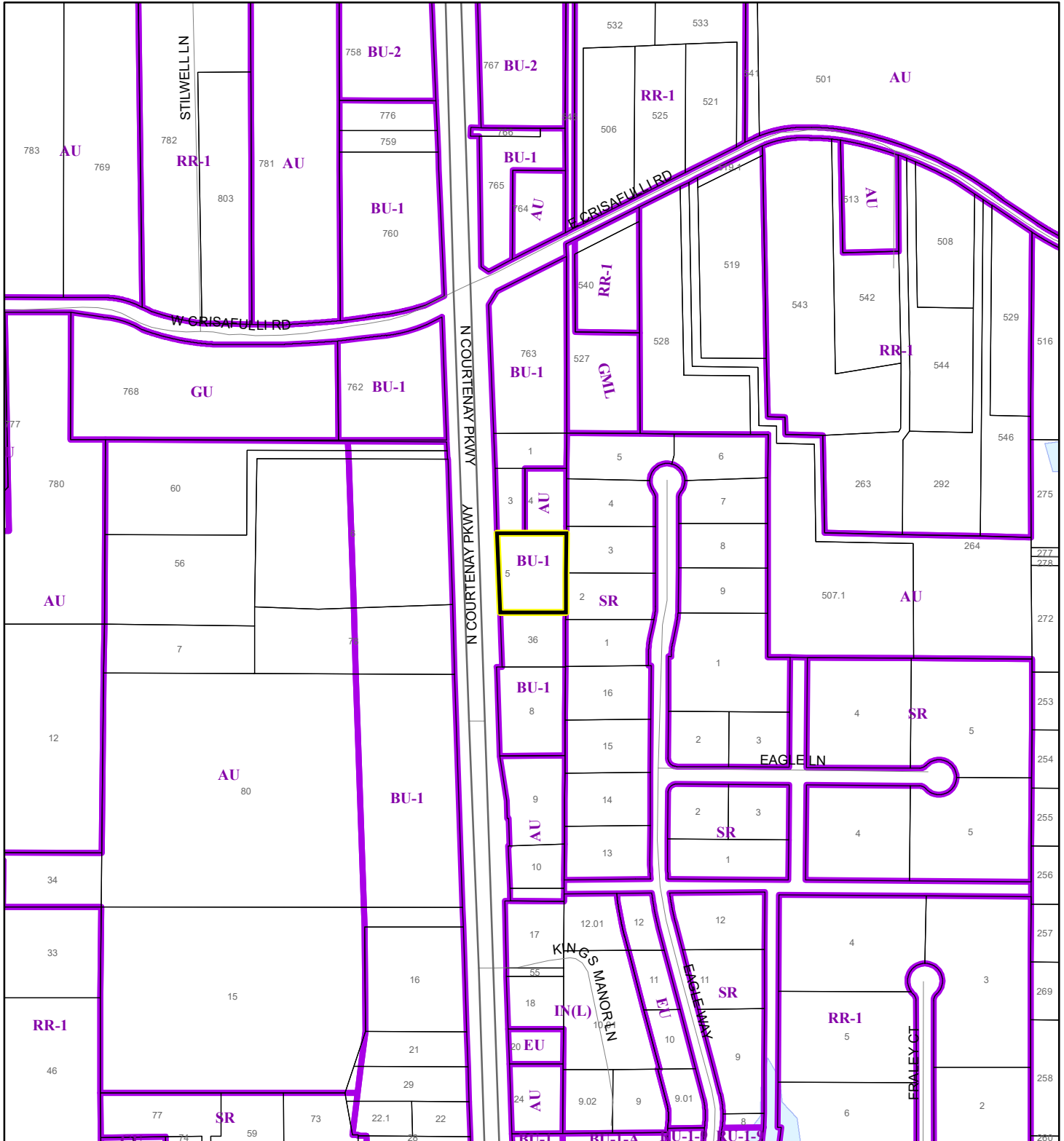
 Buffer  
 Subject Property



# ZONING MAP

COOLTURAL LAND, LLC

21Z00009



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: 3/9/2021

Subject Property

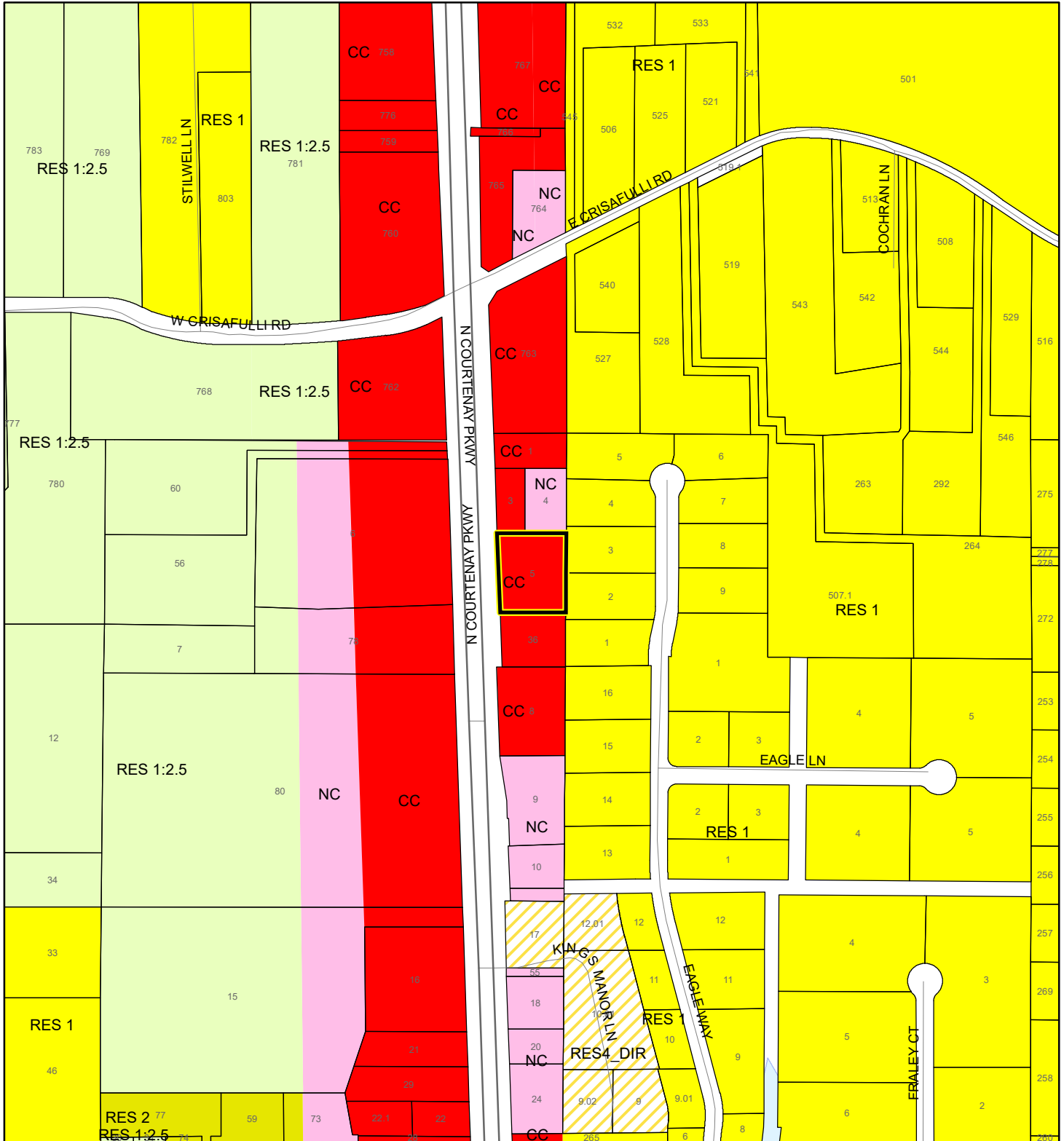
Parcels

Zoning

# FUTURE LAND USE MAP

COOLTURAL LAND, LLC

21Z00009



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: 3/9/2021



# AERIAL MAP

COOLTURAL LAND, LLC

21Z00009




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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

Produced by BoCC - GIS Date: 3/9/2021

 Subject Property

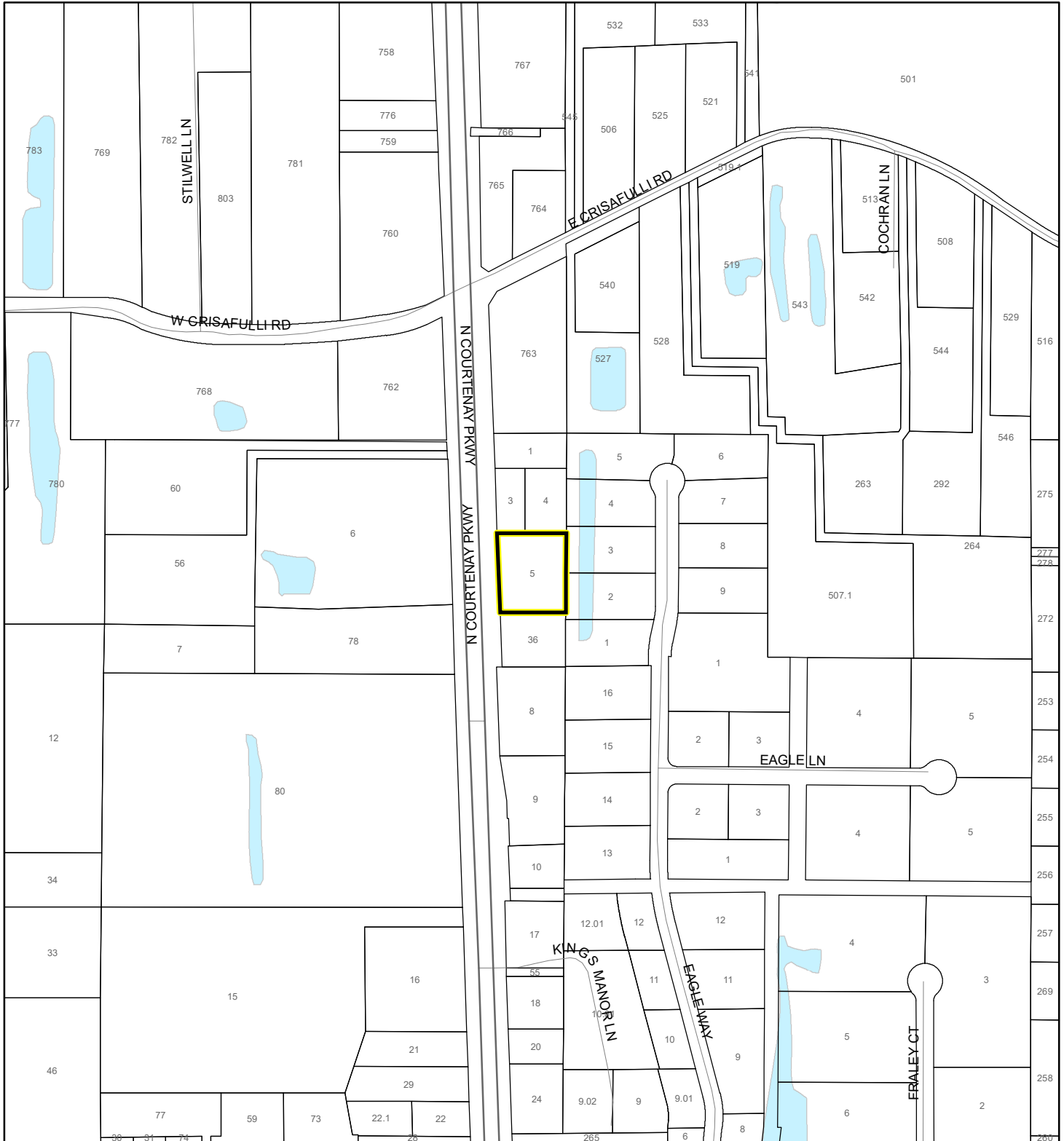
 Parcels



# NWI WETLANDS MAP

COOLTURAL LAND, LLC

21Z00009













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/9/2021

## 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

COOLTURAL LAND, LLC

21Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/9/2021

## 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

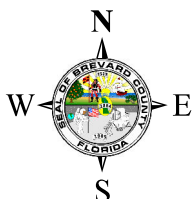
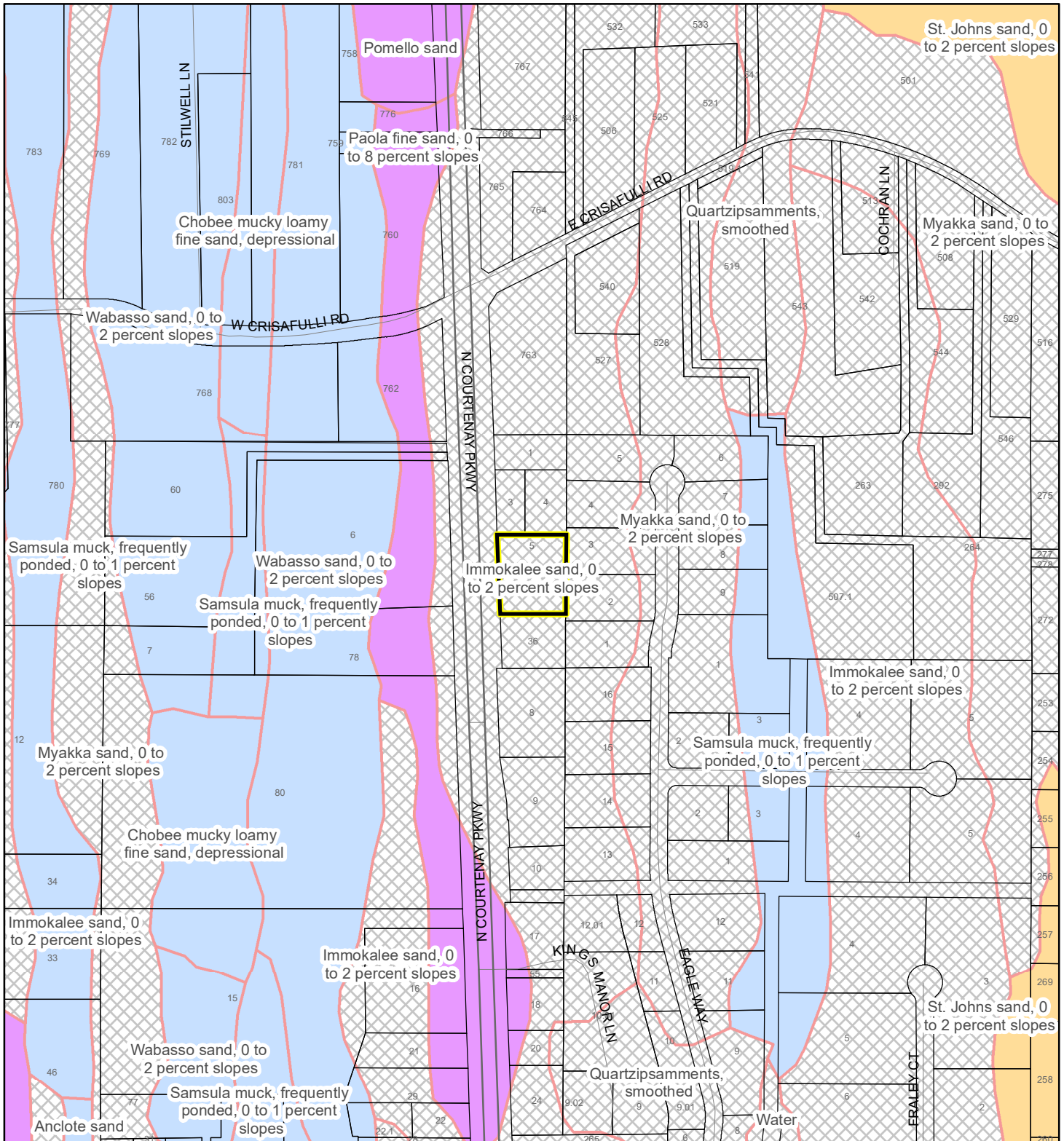
Subject Property

Parcels

# USDA SCSSS SOILS MAP

COOLTURAL LAND, LLC

21Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/9/2021

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

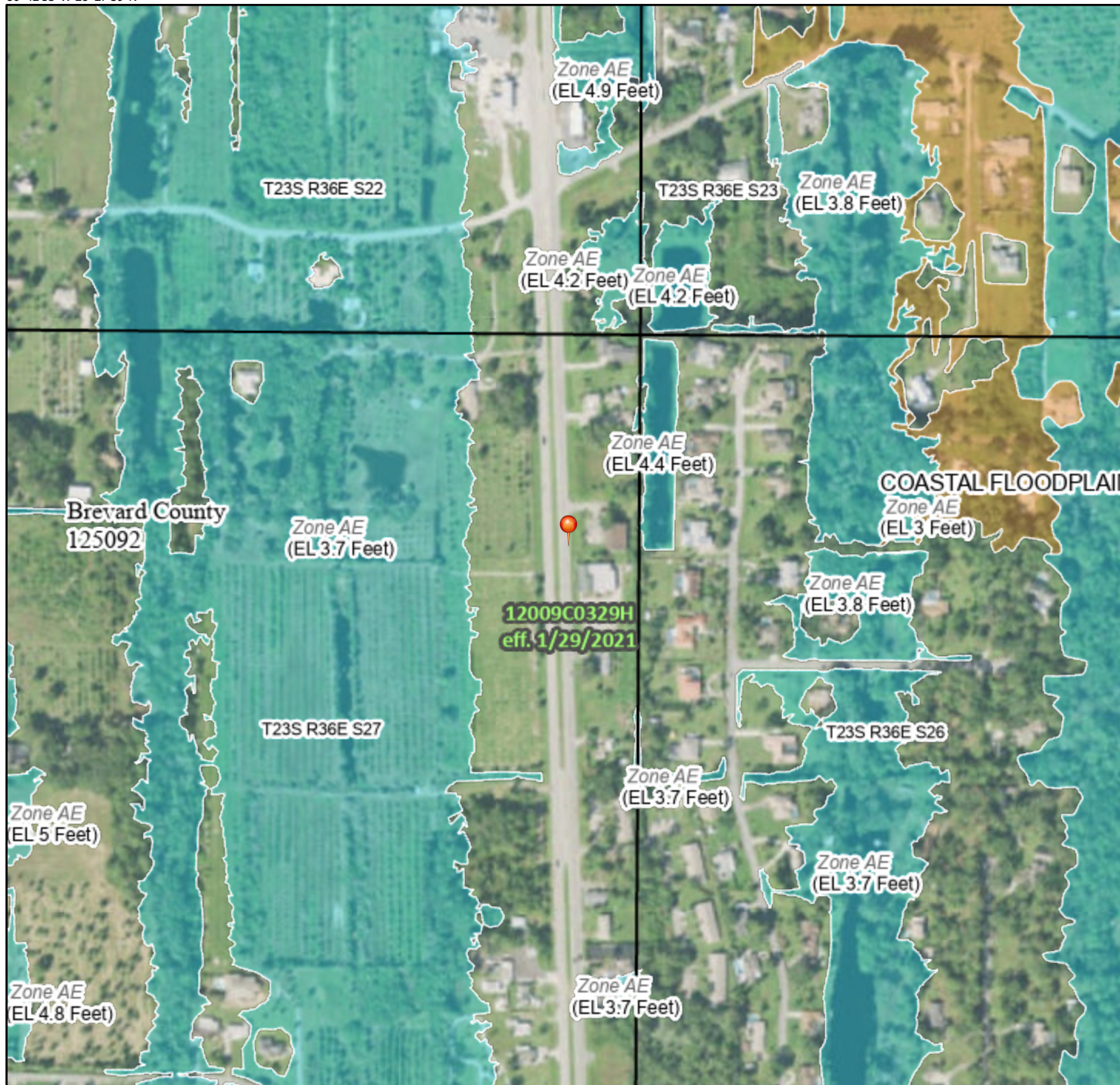
Parcels



# National Flood Hazard Layer FIRMette



80°42'53"W 28°27'59"N



0 250 500 1,000 1,500 2,000 Feet 1:6,000

80°42'15"W 28°27'27"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, AR
		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
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		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

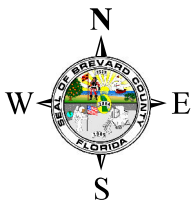
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 3/10/2021 at 8:44 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by 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.

# COASTAL HIGH HAZARD AREA MAP

COOLTURAL LAND, LLC

21Z00009



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 3/9/2021

 Subject Property

 Parcels

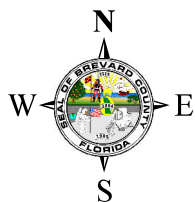
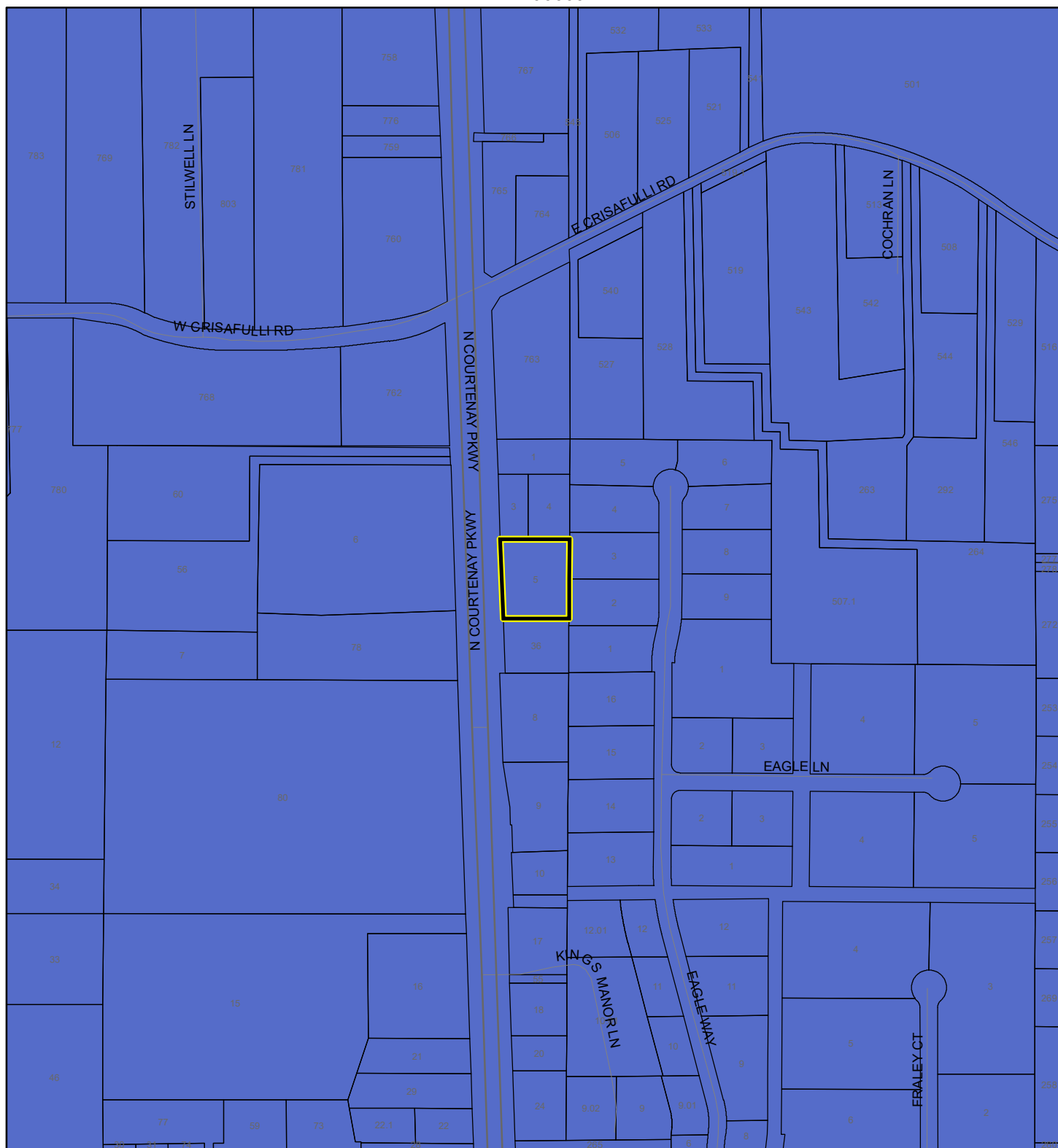
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

COOLTURAL LAND, LLC

21Z00009



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/9/2021

 Subject Property

 Parcels

**Septic Overlay**

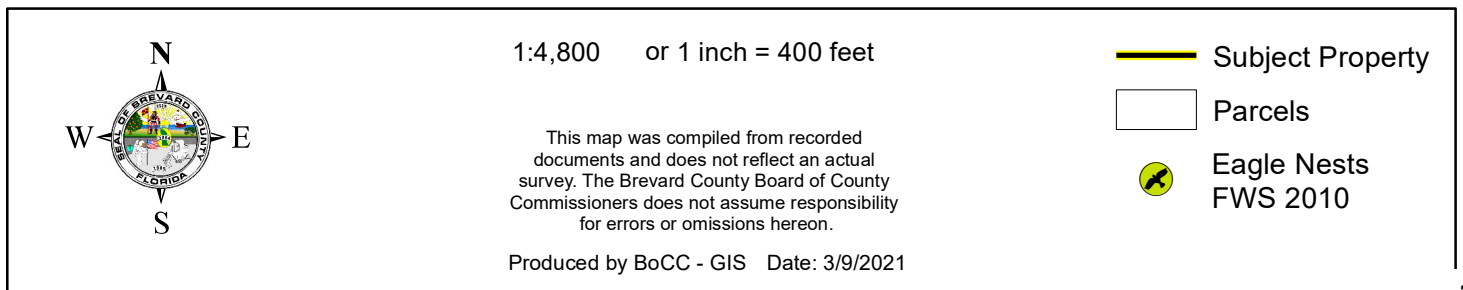
 40 Meters

 60 Meters

 All Distances



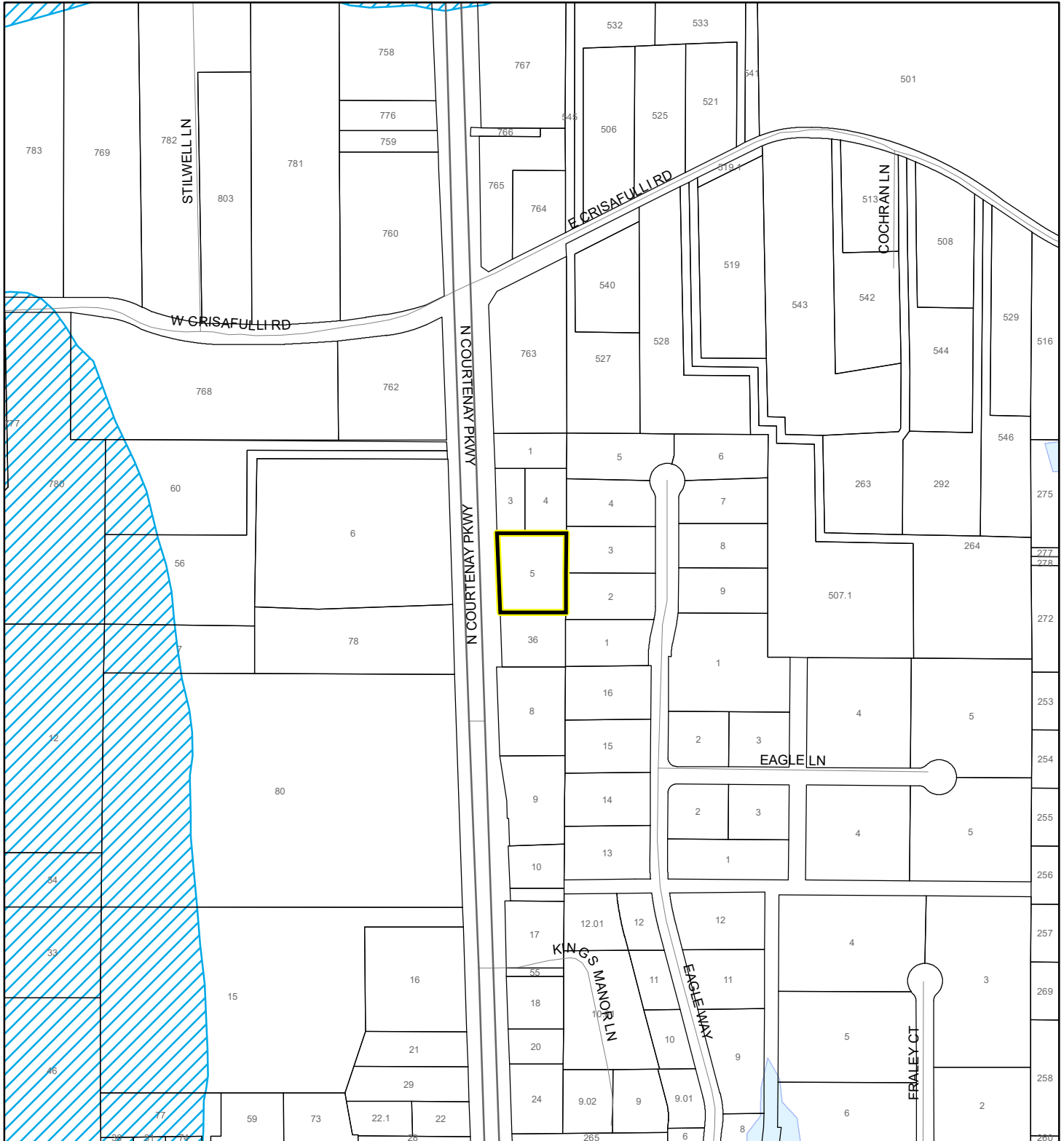
21Z00009



# SCRUB JAY OCCUPANCY MAP

COOLTURAL LAND, LLC

21Z00009



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.

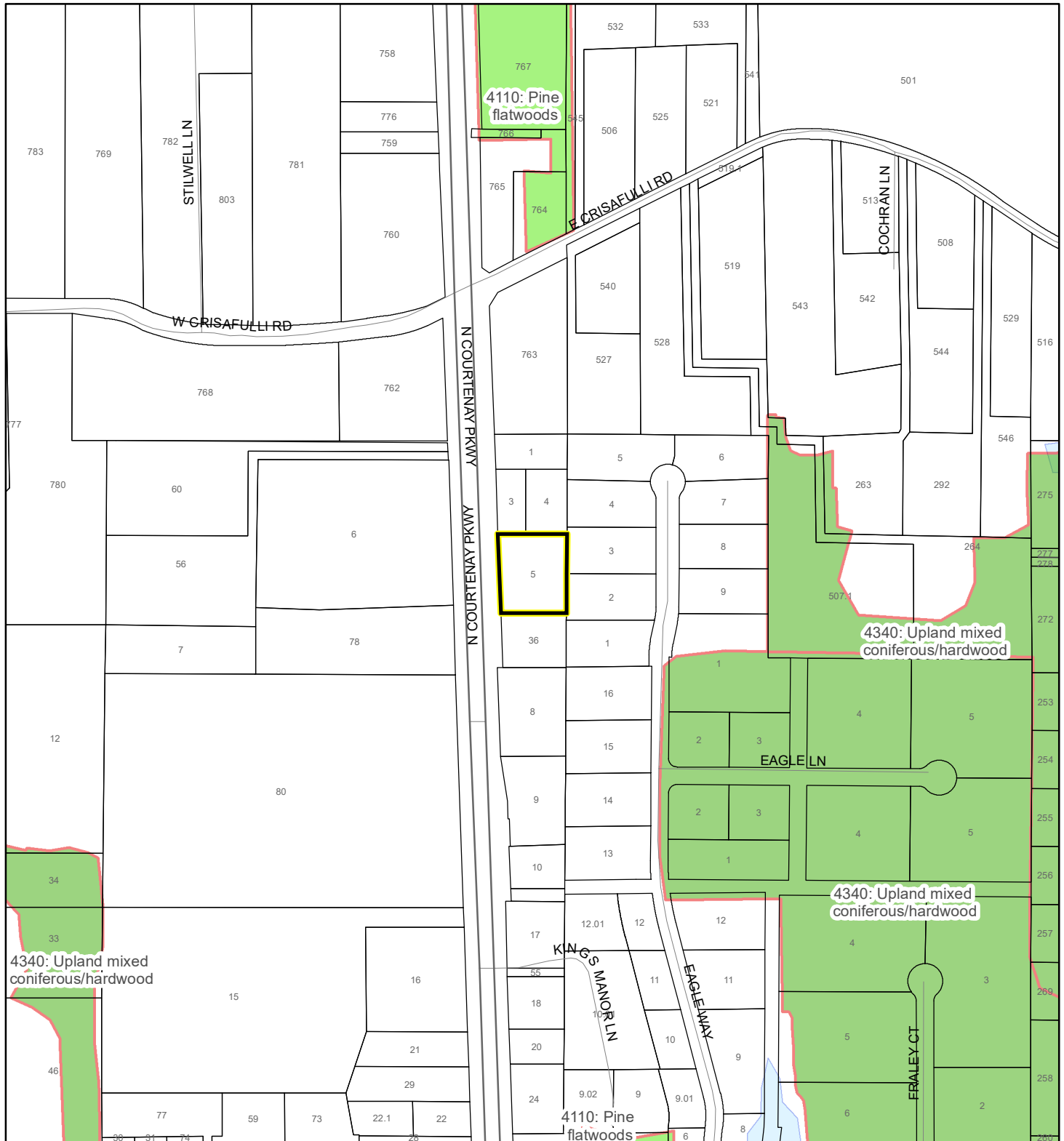
Produced by BoCC - GIS Date: 3/9/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

COOLTURAL LAND, LLC

21Z00009



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: 3/9/2021

## 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





BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

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

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

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

PZ # 21Z00009

Existing FLU: CC Existing Zoning: BU-1

Proposed FLU: CC Proposed Zoning: BU-2

**PROPERTY OWNER INFORMATION**

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

Ezequiel F. Peña Cooltural Land, LLC.  
Name(s) Company  
704 SW 17th Ave #3 Miami FL 33135  
Street City State Zip Code

Email Phone Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☒ Contract Purchaser ☐ Other

Thomas R. Jones Possum Corner, LLC.  
Name(s) Company  
5802 Hoffner Ave #701 Orlando FL 32822  
Street City State Zip Code  
tom@florida-re.com 407-857-0010 same  
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) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 1.02

Reason for Request:

Change zoning from BU-1 to BU-2 to accommodate contractors yard and flex office/warehouse use.

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

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

Thomas R. Jones  
Signature of Property Owner or  
Authorized Representative

3-4-2021  
Date

State of Florida  
County of Brevard

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

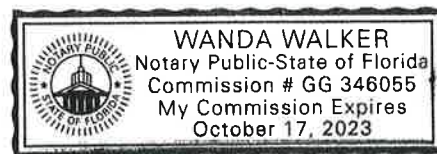
this 4<sup>th</sup> day of, March, 20 21, personally appeared

Thomas Jones, who is personally known to me or produced

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

Wanda Walker  
Notary Public Signature

Seal



Office Use Only:

Accela No. 21700009 Fee: \$1,508.00 Date Filed: 3/5/21 District No. 2

Tax Account No. (list all that apply) 2311004

Parcel I.D. No.

23 36 27 00 — 5  
Twp Rng Sec Sub Block Lot/Parcel

Planner: Peter Martin Sign Issued by: Code Enforcement Notification Radius: 500'

MEETINGS

DATE

TIME

☐ P&Z

☐ PSJ Board

☒ NMI Board

☐ LPA

☐ BOA

☒ BCC

5/13/21

6:00 pm

5/27/21

5:00 pm

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

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

☐ Yes

☒ No

If yes, list

N/A

Location of subject property:

East side of North Courtney  
Parkway approximately 700 feet south of the  
Intersection of North Courtney Parkway and Crisafulli  
Road.

Description of Request:

Rezone subject property from General Retail  
Commercial (BU-1) to Retail, Warehousing and  
Wholesale Commercial (BU-2).

## Notice to Applicants for Change of Land Use

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

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

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

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

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

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

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

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

### NOTES:

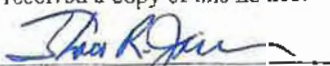
- ☒ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with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

Please transmit staff's comments via:

Tom @ Florida-RE.com ( ) or U.S. Mail \_\_\_\_\_  
e-mail address fax number

☒ Yes ☐ No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)

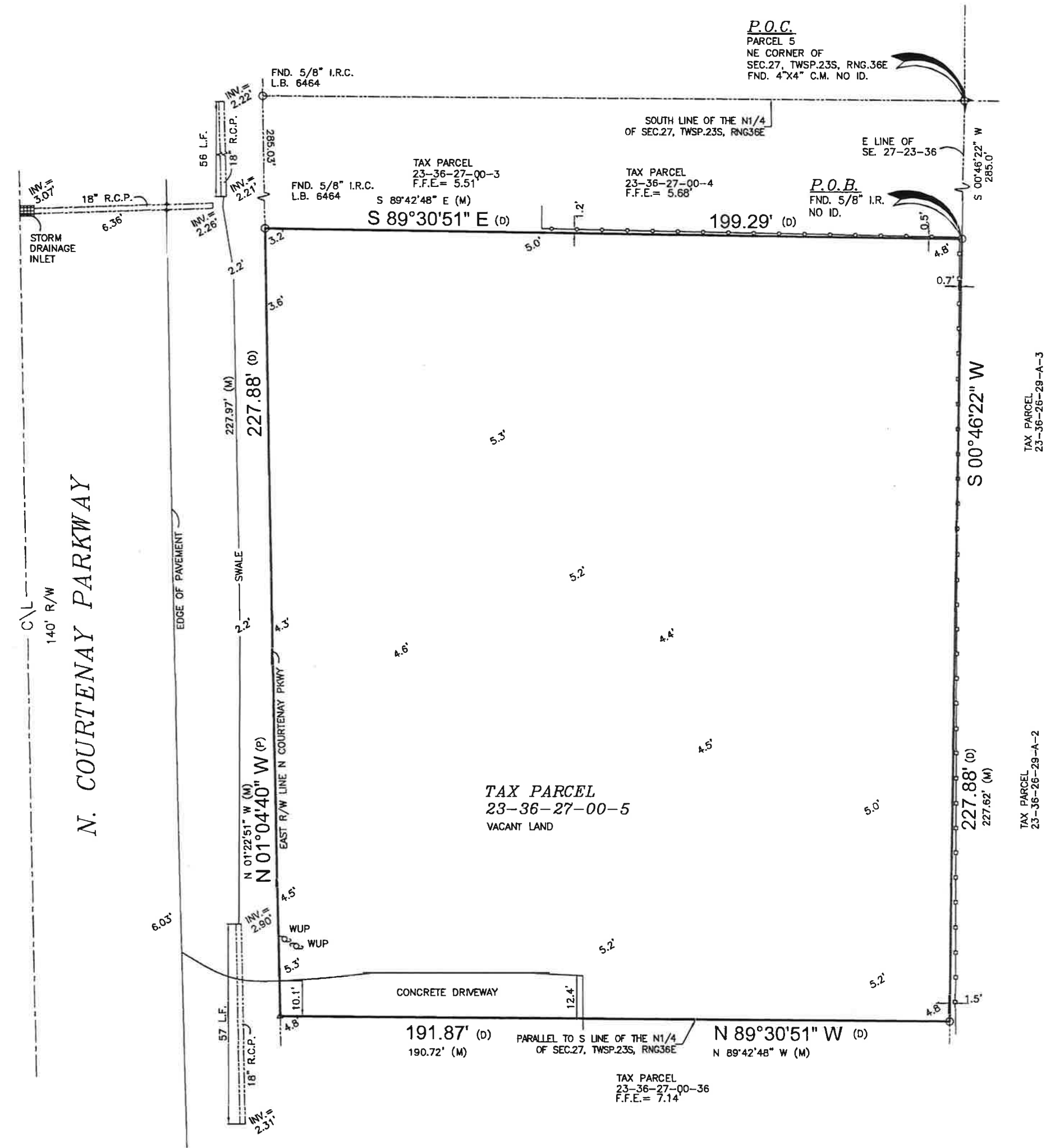


DESCRIPTION:

MAP OF BOUNDARY SURVEY



BEGIN AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 23 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA. THENCE RUN SOUTH 00 DEGREES 46'22" WEST ALONG THE EAST LINE OF SECTION 27, A DISTANCE OF 285 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING CONTINUE SOUTH 00 DEGREES 46'22" WEST ALONG THE EAST LINE OF SECTION 27 A DISTANCE OF 227.88 FEET TO A POINT; THENCE FOR A SECOND COURSE RUN NORTH 89 DEGREES 30'51" WEST PARALLEL TO THE NORTH LINE OF SECTION 27 A DISTANCE OF 191.87 FEET MORE OR LESS TO THE EASTERLY RIGHT OF WAY OF SAID ROAD (COURTENAY PARKWAY) OR STATE ROAD 3; THENCE FOR A THIRD COURSE RUN NORTH 01 DEGREES 04'40" WEST ALONG THE EASTERLY RIGHT OF WAY OF SAID ROAD, A DISTANCE OF 227.88 FEET; THENCE FOR A FOURTH COURSE RUN SOUTH 89 DEGREES 30'51" EAST, A DISTANCE OF 199.29 FEET TO THE POINT OF BEGINNING.



SURVEYORS NOTES:

1. This property is located in Flood Zone X. The Residence is lying in Flood Zone X, Map No. 12009C0329G, Panel No. 329, Suffix G, Community No. 125092, Effective Date, March 3, 2014.
2. The bearings shown are based on an Assumed North Meridian, Being S 00° 46' 22" W along the East line of Sec. 27-23-36
3. This is Real Property being situated in Section 27, Township 23 S, Range 36 E.

4. The Surveyor has not abstracted the property. Only plotted or furnished easements or encumbrances that may restrict the property are shown.
5. Underground improvements are not located unless requested.
6. Elevations shown hereon based on NAVD88.

LEGEND & ABBREVIATIONS:

○ = Set 5/8" iron rod with plastic cap  
△ = Set nail with metal disc □ = Set concrete monument with disc  
— = 4' C.L.F. — = Center Line  
— = 6' W.F. XXX = Existing Elevations  
— = OHPL (XXX) = Proposed Elevations  
(B.M.)=Benchmark,(CONC.)=Concrete,(C/L)=Centerline,(C.B.)=Concrete Block  
(C.B.S.)=Concrete Block Structure,(C.&S.)=Covered and Screened,  
(C.M.)=Concrete Monument,(C.M.P.)=Corrugated Metal Pipe,(C.L.F.)=Chain Link Fence  
(D)=Deed,(E.M.)=Electric Meter,(F.F.E.)=Finished Floor Elevation,(Fnd.)=Found,  
(F.P.R.)=Fixed Point of Reference, (IRC)=Iron Rod with Cap,(I.P.)=Iron Pipe  
(G.M.)=Gas Meter,(L.B.)=Licensed Business,(L.S.)=Licensed Surveyor,(M)=Measured  
(M.E.S.)=Mitered End Section,(N&D)=Nail & Disc,(O.R.B.)=Official Records Book,  
(OHPL)=Over Head Power Line,(P.C.P.)=Permanent Control Point, (P)=Plat  
(P.O.B.)=Point of Beginning,(P.O.C.)=Point of Commencement  
(P.R.M.)=Permanent Reference Monument,(P.U. & D.E.)=Public Utility & Drainage Easement,  
(RNG.)=Range,(R.C.P.)=Reinforced Conc. Pipe,(R/W)=Right of Way,(SEC.)=Section  
(TWP.)=Township,(WUP)=Wood Utility Pole,(W.F.S.)=Wood Frame Structure,(W.M.)=Water Meter

CERTIFIED TO:

COOLTURAL LAND, LLC, A DELAWARE LIMITED LIABILITY COMPANY  
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY  
SORGINI & SORGINI, P.A.

Certified By:

Signature Date:

I Eric Nielsen Professional Surveyor & Mapper, No. 5386, L.B. 6946, State of Florida certify this map of survey meets the standards set per Florida Administrative Code 5J-17.051 pursuant to Chapter 472.027 per Florida Statutes.

**Eric Nielsen Land Surveying, Inc.**

Revisions:

12 STONE STREET, COCOA, FL. 32922  
Ph: (321) 631-5654 Fax: (321) 631-5974

SCALE: 1" = 30' DATE: 03-01-2018 JOB NO. 18-089-02





# Floravista, Inc.

Sustainable Ecological Solutions

. Conservation Biology  
. Land Management  
. Wetland Delineation  
. Arboriculture  
. Research & Consultation  
. Native Plant & Wildlife Ecology

March 15, 2018

Cooltural Lands LLC  
Attn: Ezequiel F. Peña  
Arlen House East Condominiums  
100 Bay View Drive, Apt. 1903  
Sunny Isles, Miami FL, 33160

**RE: Letter Report – Natural Resources / Ecological Assessment and Constraints and Report for Parcel ID 23-36-27-00-5, Tax Account 2317004, Merritt Island, Brevard County, Florida**

Dear Mr. Peña:

Floravista, Inc. is pleased to provide this **Letter Report** describing field work, research, results, and findings as described in the **Scope of Consulting Services**, which was executed on **March 1, 2018**. Cooltural Lands LLC ("**Client**") subcontracted Floravista, Inc. to provide to the Client, the Consulting Services ("**Consulting Services**") described in the **Letter Agreement – Natural Resources / Ecological Assessment and Constraints and Report by Floravista**.

The study area is east of and adjacent to N. Courtenay Parkway, comprises approximately 1.02 +/- acre of undeveloped land, parcel: **Parcel ID: 23-36-27-00-5**, north and adjacent to a developed site, with the address: 5800 N Courtenay Pkwy Merritt Island FL 32953. The Client intends to use the vacant parcel, which is zoned BU-1 for development of an office and associated stormwater management.

Specifically, the **Scope of Consulting Services** of this assessment is:

- 1 Generate soil map from the United States Department of Agriculture, Natural Resources Conservation Service.
- 2 Communicate with the local, and jurisdictional Brevard County Natural Resource Management Office regarding buffers, tree preservation/replacement, aquifer recharge areas, wetland and upland maps, parking waivers, and other requirements to be submitted by the Client's for Client's proposed Site Plan Application.
- 3 Conduct a native tree inventory, measure the Diameter at Breast Height (DBH) of native trees, and list and field-label native trees defined as protected or specimen by the Brevard County Code of Ordinances, CH. 62, ART. XIII, DIV. 2 - LANDSCAPING, LAND CLEARING & TREE PROTECTION. Map the approximate locations of native trees relative to the parcel boundary
- 4 Following Florida Administrative Code (F.A.C.) 62-340 wetland definitions and field methodology, determine wetlands absence or presence.

- 5 Conduct a Threatened and Endangered Species Assessment to evaluate the occurrence or potential use of the subject property by species listed by the Florida Fish and Wildlife Conservation Commission (FFWCC) or U.S. Fish and Wildlife Service (USFWS), which will include a database search and subject property field review. Flag and provide map of any listed species findings.
- 6 Provide a concise Letter Report to the Client, comprising brief findings, including summary of native trees, wetland determination, and listed species assessments, and applicable Brevard County Natural Resource and Florida Fish and Wildlife Conservation Commission regulatory requirements, if applicable.

## RESULTS AND DISCUSSION

Floravista, Inc. senior environmental scientist, Suzanne Kennedy, visited the site with Field Assistants and performed the above-mentioned site-assessments and field-flagging on March 11, 2018, on the study area, **Parcel ID: 23-36-27-00-5**.

This assessment did not conduct subsurface soil, water quality, archaeological, or hazardous materials investigations as part of. The findings in this assessment reflect conditions on-site at the time of the field investigation (March 11, 2018) and do not preclude the possibility that on-site conditions may change or that protected wildlife species may occur on the site in the future.

### General Site Description

The subject area, **Parcel ID: 23-36-27-00-5**, is an upland, vacant, undeveloped, mostly cleared parcel, in un-incorporated Brevard County, and zoned BU-1, a commercial zoning. Assessments revealed no wetlands, no aquifer recharge mapped soils, no hydric mapped soils, no current presence of threatened or endangered wildlife or plant species. The main ecological and natural resource finding on the site is the presence of ten (10) native protected trees and one (1) specimen tree, as defined by Section 62-4332, by the Brevard County Code of Ordinances, CH. 62, ART. XIII, DIV. 2 - LANDSCAPING, LAND CLEARING & TREE PROTECTION.

### Native Tree Inventory

Floravista, Inc.'s native tree assessment found the presence of ten (10) native protected trees and one (1) specimen tree, as defined by Section 62-4332, by the Brevard County Code of Ordinances, CH. 62, ART. XIII, DIV. 2 - LANDSCAPING, LAND CLEARING & TREE PROTECTION. Floravista, Inc. marked these trees with blue flagging near the measurement, Diameter at Breast Height (DBH). DBH is defined by Brevard County Code or Ordinances, Section 62-4332 as the diameter of the trunk of a tree, or the sum of the stems of a multi-stemmed tree, measured 4.5 feet above natural or development grade. Floravista wrapped blue flagging around each of the 11 trees described in Table 1 (below) and with permanent marker, gave each tree a unique identification code (FV) for Floravista, hyphen Tree, hyphen numbers 1 through 11, with the common name and the DBH on the flag.

**Table 1. Native Trees that Brevard County defines as Protected and Specimen Sizes  
(Parcel ID: 23-36-27-00-5)**

Scientific Name	Common Name	DBH	Field Flag ID (blue flag labels)	Brevard County Natural Resource Definition	Condition (assessed by Floravista, Inc.)
<i>Pinus elliottii</i>	Slash pine	23.9"	FV-Tree-1	Protected	Fair to Good
<i>Quercus virginiana</i>	Live Oak	41.1"	FV-Tree-2	Specimen	Poor
<i>Quercus virginiana</i>	Live Oak	16.3"	FV-Tree-3	Protected	Fair
<i>Pinus elliottii</i>	Slash Pine	16.4"	FV-Tree-4	Protected	Poor
<i>Pinus elliottii</i>	Slash pine	16.7"	FV-Tree-5	Protected	Good
<i>Pinus elliottii</i>	Slash pine	15.9"	FV-Tree-6	Protected	Fair
<i>Quercus virginiana</i>	Live Oak	14.5"	FV-Tree-7	Protected	Fair to Good
<i>Pinus elliottii</i>	Slash pine	19.7"	FV-Tree-8	Protected	Fair to Good
<i>Quercus virginiana</i>	Live Oak	21.3"	FV-Tree-9	Protected	Fair
<i>Quercus virginiana</i>	Live Oak	74.2"	FV-Tree-10	Specimen	Good
<i>Quercus virginiana</i>	Live Oak	16.7"	FV-Tree-11	Protected	Good

### Soils, Wetland Determination, Aquifer Recharge Assessment

The soil data were obtained from the Natural Resources Conservation Services (NRCS) Web Soil Survey (<https://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/survey/>). The NRCS mapped one soils types in the study area: Immokalee sand, 0 to 2 percent slopes sand. The Immokalee series consists of very deep, very poorly and poorly drained soils that formed in sandy marine sediments. Immokalee soils are on flatwoods and low broad flats on marine terraces. Slopes range from 0 to 2 percent. Mean annual precipitation is about 1397 millimeters (55 inches) and the mean annual temperature is about 22 degrees C (72 degrees F) (Source: [https://soilseries.sc.egov.usda.gov/OSD\\_Docs/I/IMMOKALEE.html](https://soilseries.sc.egov.usda.gov/OSD_Docs/I/IMMOKALEE.html)). Immokalee sand, 0 to 2 percent slopes, is not a hydric (wetland) soil, and not an aquifer recharge soil.

The potential jurisdictional wetlands and surface waters in the study area were investigated in the field based on the methodologies detailed in Chapter 62-340.200(19) Florida Administrative Code (F.A.C) for the Florida Department of Environmental Protections (FDEP), State of Florida Water Management Districts, and the federal definition and methodology in the U.S. Army Corps of Engineers (ACOE) Wetlands Delineation Manual.

Floravista, Inc., determined the absence of jurisdictional wetlands and surface waters on the subject property. No soil, hydrology, or sufficient hydrophytic plants were present to indicate wetland presence. The upper stratum of vegetation were upland species, as defined by. Lower strata of vegetation supported non-hydrophytic plants from our Floravista, Inc. expert field botanist and wetland biologist, Suzanne Kennedy.

### Vegetation Assessment

The subject area **Parcel ID: 23-36-27-00-5** has been disturbed and maintained with periodic mowing in the front. The parcel (note, from non-survey-flagged boundary visual interpretation) is all upland. Many of the plant species colonizing the parcel are very invasive, non-native plants, as described by the Florida

Exotic Pest Plants Council ([www.fleppc.org](http://www.fleppc.org), FLEPPC 2017). Over ¾ of the site is has been cleared and has a ground cover of ruderal native and non-native plants, such as blackberry (*Rubus* sp.), Cogon grass (*Imperata cylindrical*; FLEPPC Category I), shiny blueberry (*Vaccinium myrsinites*; native upland plant) Caesar weed (*Urena lobata*), wedelia (*Sphagneticola trilobata*), shrubby false buttonwood (*Spermacoce verticillata*; FLEPPC Category II)

The rear, and part of the north and southeast perimeter within the side setbacks or slightly outside the setbacks (locations will be known with survey of the blue flags Floravista wrapped around the native protected and one specimen trees) support the following trees: slash pine (*Pinus elliottii*), scattered live oak (*Quercus virginiana*), schlefera, Queensland umbrella tree (*Schefflera actinophylla*; FLEPPC Category I), and Brazilian pepper (*Schinus terebinthifolia*; FLEPPC Category I). The understory supports wax myrtle (*Myrica cerifera*), saw palmetto (*Serenoa repens*), herbaceous ruderal, weedy groundcover plant species, vines, and slash pine and live oak seedlings.

The following vines range from occasional to moderate throughout the parcel: Muscadine grape (*Vitis rotundifolia*), poison ivy (*Toxicodendron radicans*), briar (*Smilax* sp.), Virginia creeper (*Parthenocissus quinquefolia*). Vines are growing along the trunks of native trees to their lower canopy branches, especially Briar vines.

### Threatened and Endangered Wildlife and Plant Species Assessment

The potential use or presence of the study area by protected species regulated by the Florida Fish and Wildlife Conservation Commission (FWC), Florida Department of Agriculture and Consumer Services (DACS), and the U.S. Fish and Wildlife Service (FWS) was evaluated based on database records and actual observation, signs of scat, prints, or other indications of their presence or utilization of the study area during the field review.

The natural communities in the study area have been altered and rendered largely unsuitable for most listed plant species. Additionally, dumped trash in some areas, and heavy leaf litter and duff under the trees, which are present in the back (east) and northeast small fraction of the property, are not conducive for listed wildlife or plants documented in Brevard County.

No animal tracks, burrows, scat, or other indications of the presence of listed animals were found during the field reconnaissance. Specifically, gopher tortoise (*Gopherus polyphemus*), which are common in Brevard County upland habitats, were not observed during this site review. The FWC Eagle Nest Locator (updated 2014) database identified BE080 as the nearest bald eagle (*Haliaeetus leucocephalus*) nest, inactive, and within the Pine Island Sanctuary, approximately 1.5 miles northwest of the study area, beyond the regulatory 660-foot buffer.

No listed plant species were observed during the field reconnaissance of the project site (March 11, 2018). The onsite habitats are degraded and in poor quality, with non-native, invasive plants, such as

### Conclusions and Recommendations:

1. The study area contains ten protected trees and one specimen tree, regulated by Brevard County Natural Resources Management Office (BC NRMO). They should be accurately mapped by a Professional, Licensed Surveyor, before the Client has a site plan review with BC

NRMO, to determine the landscape buffer zone, and tree replacement, as necessary for the protect trees.

- a. During site plan design, Brevard County Natural Resources Management Department will want to see preservation of the specimen live oak tree, and its root zone, and preservation of protected trees, where feasible. The condition (in Table 1) will help determine which trees would be hazardous if preserved. Verbatim, Brevard County Code or Ordinances Section, 62-4341 (18) states:

*"Replacement criteria. Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Where the site, parcel or lot has met canopy coverage requirements as outlined in Section 62-4339, without the use of an Alternative Landscape Enhancement Plan, site, parcel or lot shall not be subject to replacement criteria with the exception of Specimen Trees. Where the removal of a protected or specimen tree is necessary below the minimum canopy preservation percentage required per Section 62-4339, an Alternative Landscape Enhancement Plan shall be required that meets the criteria in Section 62-4344."*

- b. Replacement native trees can be proposed in the buffers or the front of the parcel, for some of the protected trees, with BC NRMD coordination and approval. Below are the percent DBH replacement requirements:

Verbatim, Brevard County Code of Ordinances, Section 62-4341,

*"18 (d) Replaces Protected Trees with new plantings of canopy species trees at a rate of twenty-five percent (25%) of the cumulative Diameter at Breast Height (dbh) of the trees removed, using a minimum fifty (50) percent four (4) inch caliper plantings. The remaining fifty (50) percent replacement plantings shall be a minimum two and one-half (2.5) inch caliper plantings. Of the two and one-half (2.5) inch caliper plantings, up to twenty (20) percent may be non-native. In no event shall undesirable or non-native invasive plantings be used for replacement."*

2. No Threatened and Endangered plants or animals were found during this assessment.

- a. No consultation with the FWC or the FWS is anticipated based on this assessment.
- b. Wildlife move and wildlife assessments cannot guarantee that wildlife will not occur on the site at another time.

I look forward to working with you, by providing environmental/ecological services for the next phases of your project. Floravista, Inc., gladly will provide additional services as mutually agreed upon between Floravista, Inc. and the Client.

If you have any questions about the content or scope of this report, please call or email me.

Sincerely,



President and Ecological Scientist

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