



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<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
Zoning	AU	BU-2
Potential*	0 units/0 square feet (substandard lot size)	25,700 square feet
Can be Considered under the Future Land Use Map	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.**

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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.