

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

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

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

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

Approval of March 11, 2021, Minutes

Motion by Gina Lindhorst, seconded by Ted Balke, to approve the minutes from March 11, 2021. The motion passed unanimously.

KAT-CAM, LLC (Patricia Garagozlo)

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

KAT-CAM, LLC (Patricia Garagozlo)

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

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

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

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

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

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

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

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

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

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

Patricia Garagozlo - Correct.

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

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

Mary Hillberg - Is BU-2 under Community Commercial?

Ted Balke - No.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ted Balke - I'm very familiar with the lots because I was the sales person on the lot next to hers, and I know that area and I know those lots. I'm a realtor and when I started I only sold lots on dirt land in North Merritt Island, so I'm very familiar with all of the properties here and the water conditions during various points of time during the year. And I sat for four years on the small area study, and we investigated all of these empty lands and we set forth a Future Land Use that should be indoctrinated; it should not still be coming from the North Tropical Trail study, or it supersedes that, and it was released in 2019.

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

Jim Carbonneau - It was.

Jack Ratterman - It was accepted.

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

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

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

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

Mary Hillberg - They were already there.

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

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

Mary Hillberg - It's a mixture.

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

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

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

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

Ted Balke - Do you know about North Merritt Island?

Patricia Garagozlo - Yes, I do know.

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

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

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

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

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

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

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

Jeffrey Ball - It was 2018.

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

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

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

Patricia Garagozlo - It's all commercial property there.

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

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

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

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

Jeffrey Ball - Okay, I understand.

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

Mary Hillberg - That's correct.

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

Ted Balke - Basically, correct.

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

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

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

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

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

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

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

Patricia Garagozlo - No.

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

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

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

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

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

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

Gina Lindhorst - It was.

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

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

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

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

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

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

Mary Hillberg - What would you think of that?

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

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

Patricia Garagozlo - I respect whatever decision you make.

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

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

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

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

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

Mary Hillberg - Exactly.

Patricia Garagozlo - Why would that hurt me?

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

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

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

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

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

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

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

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

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

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

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

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

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

Mary Hillberg - What is the lowest for a business?

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

Mary Hillberg - That would be good, right?

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

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

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

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

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

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

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

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

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

Mary Hillberg - You can do one or the other.

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

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

Jeffrey Ball - The request is only for one lot.

Jim Carbonneau - It's just one lot.

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

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

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

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

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

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

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

Gina Lindhorst - Anything is possible in the future.

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

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

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

Ted Balke - She owns both of them.

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

Ted Balke - They are both KAT-CAM properties.

Patricia Garagozlo - I only own one lot.

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

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

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

Jack Ratterman - No, they are the same lot.

Jim Carbonneau - They are the same lot, Ted.

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

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

Ted Balke - Okay.

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

Jim Carbonneau - I would vote to say no.

Jack Ratterman - On H.1.?

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

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

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

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

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

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

Patricia Garagozlo - What does BU-1 get you?

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

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

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

Mary Hillberg - Hospitals.....

Jeffrey Ball - It's more neighborhood uses.

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

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

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

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

Gina Lindhorst - Does she have to re-apply?

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

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

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

Gina Lindhorst - It seems reasonable to me.

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

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

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

Jack Ratterman - Yes, H.2.

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

Jack Ratterman - You don't need it.

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

Jack Ratterman - Right.

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

Jim Carbonneau - I'll second that.

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

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

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

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

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

Gina Lindhorst - I second.

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

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

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

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

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

COOLTURAL LAND, LLC (Thomas Jones / Bruce Moia)

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 1.02 acres, located on the east side of N. Courtenay Pkwy., approx. 700 ft. south of Crisafulli Rd. (No assigned address. In the Merritt Island area.) (21Z00009) (Tax Account 2317004) (District 2)

Peter Martin - There are some staff report corrections to read into the record. On Page 1 there is a table where, based on corrected FAR, the square footage there in the table changes in both current and proposed, from 25,700 to 44,431, and that results on Page 4, third to last paragraph, second to last sentence, the percentage changes from 37.80 to 40.36 in terms of the MAV and that percentage utilization. It is still a level of C standard. The other thing is that we incorrectly identified the property to the south as being vacant, which affect two places. On Page 2, the second to last paragraph, third to last line, the word 'vacant', and on Page 4, the same thing, second line from the top, the word 'vacant' should be replaced with 'developed as a retail building', because there is a retail building on the property to the south, per the Property Appraiser's records.

Jack Ratterman - The second building down is the old Policchio grove building. The other one is where they have stuff parked in the front.

Gina Lindhorst - It used to be the bagel store.

Ted Balke - And they split the properties.

Mary Hillberg - Are you finished?

Peter Martin - Yes, except I shouldn't have commented on that one property because I'm not sure about the rezoning. There are a lot of properties owned by that family. It might be a different property than what I was thinking of.

Ted Balke - The administration hasn't been out there taking photographs of the property?

Mary Hillberg - We don't know, Ted.

Ted Balke - That's part of the administrative details.

Jack Ratterman - There's an aerial map, Ted.

Mary Hillberg - We have a picture in our map. We're going to hear from the applicant now.

Bruce Moia - I'm the President of MBV Engineering, representing the applicant. My address is 1250 W. Eau Gallie Boulevard, Melbourne. What we're asking for today is a little bit different than the

previous request, in that we already have the land use of CC, so we are only asking to go from BU-1 to BU-2, and we do know what we're going to do. We need the BU-2 because we need the storage. Storage is very low intensity, but it can't be done without the BU-2 zoning. We are going to have contractor trades with a small office, mostly storage of materials, and vehicles. It will be very low intensity; it is basically a BU-1 use, but in a lot of municipalities and in the County it requires BU-2. The site is vacant and it is one acre in size. The property to the south appears to be a metal fabrication facility, not a bagel shop anymore. I think that changed recently and the Property Appraiser's Office hasn't caught up yet, but from what I understand they are already operating, so that means the County must have issued them an occupational license. Up and down that corridor, you can see there are plenty of similar uses, a lot of BU-2 uses in BU-1 zoning, whether it be by grandfathering or whatever. I heard the commentary being made about BU-2 zoning, and I heard the words, 'limited' and 'we don't want it', so I don't know if the report says we want to limit the amount of BU-2, or that we don't want anymore BU-2, but we would hope that you would allow BU-2 in this instance so that we can do this low intensity development and get the outdoor storage that we have to have in the requirement of the BU-2. There is pretty much all BU-2 to the north of us once past Crisafulli Road, so it's not unusual for this area, so I think it's pretty compliant with what is around the properties. I'm here to answer any questions you may have.

Mary Hillberg - What are you storing?

Bruce Moia - I don't know if you're familiar with contractor trades, but they usually pop up when you have a lot of development going on, which we do in this county - No. 2 in the country, so that's pretty cool - usually it could be plumbers, it could be drywall guys, and they would have a small office where they do their financials, and they would have an administrative person who does their books, and then they come and store their materials in the back. If there is a 1,000 square-foot unit, there would be 200 square feet of office and 800 square feet of storage for materials that you don't want to leave outside because they would get ruined.

Mary Hillberg - Building materials?

Bruce Moia - Typically, yes, that is what it is. That is the use we are looking for.

Gina Lindhorst - Is it your business that's going to be there?

Bruce Moia - No, not my business. It will be multi-tenant and it will be constructed and leased to contractors.

Gina Lindhorst - It would be several offices?

Bruce Moia - It would be multi-tenant, so it would be several offices.

Gina Lindhorst - A lot of trucks to be stored there, and supplies.

Jim Carbonneau - Didn't we have a similar request recently?

Bruce Moia - If you look at an aerial of that corridor, there are a lot of materials being stored.

Ted Balke - The materials being stored there are basically for the County.

Bruce Moia - What's good about contractor trades is you have storage inside and anything else is usually stored in the rear, so you wouldn't see it from the road. There would be a parking lot with a landscape buffer, the building, and then everything would be in the back. From the front it would look like a typical commercial building use.

Mary Hillberg - The property to the rear of your property is a development.

Bruce Moia - Yes, but there is a big stormwater pond between us and them, and we would be required to build a wall.

Mary Hillberg - So, you would have a buffer?

Bruce Moia - We have to per code.

Ted Balke - What are you doing about the lemon trees that are there?

Bruce Moia - We are going to do everything we can to save the 72-inch oak tree; it is a nice tree, and fortunately it's on the north property line so it should be easy to save.

Ted Balke - What about the other 10 that are supposed to be blue ribbon?

Bruce Moia - We will work with staff and preserve as much as we can, and we will mitigate what we have to. That is way down the line, we are hoping to get approval and then we will work out those details with staff during the site plan process.

Ted Balke - You actually have a usage and explained what you are going to do on the property, but you don't have any drawings or anything.

Bruce Moia - No, obviously if we're not successful the expense of creating construction plans would be premature, so that typically doesn't happen at a rezoning request.

Ted Balke - We're left with the same thing about a restricted BU-2 piece of property on the north corridor, which is what the small area study was trying to restrict.

Bruce Moia - I understand. We are amenable to you striking any undesirable uses as long as we can do what we want.

Ted Balke - You're looking to put a limitation on what you're doing?

Bruce Moia - If it's a requirement.

Jim Carbonneau - What are the proposed hours of operation?

Bruce Moia - A typical business.

Ted Balke - You wouldn't know with that type of business, and you wouldn't know what type of activity he's going to create on the roadways. You wouldn't know what type of requirements he's going to have with sewage, water, and everything else. It could be a congested area right there because of the fact that you have contractors going in and out with some kind of tractors or trailers; you have deliveries that are going to be going in the back to accommodate his warehousing. These are all

considerations that we were looking at when we did the small area study, which is why we didn't want that kind of environment with a BU-2.

Gina Lindhorst - The zoning map doesn't note it, but there is no sewer available to these properties that I can see. It says clearly in the staff notes that there is no sewer.

Ted Balke - Sewer is on the west side only.

Gina Lindhorst - I think the majority of all of the properties are BU-1; there are very few BU-2's.

Ted Balke - There are no BU-2's north of Hall Road.

Mary Hillberg - North of Crisafulli.

Ted Balke - Yes, Crisafulli.

Jim Carbonneau - There is no current sewer on the west side of the street. That is the proposed line from the Ron Dimenna subdivision. Currently there are no plans for anyone else other than that subdivision.

Mary Hillberg - So, this would have to be on septic.

Bruce Moia - If it meets the State requirements and can't go on sewer. It would be the same if we were opening up a restaurant, which we could do right now and would be a lot more water and sewer than what we're proposing.

Ted Balke - You would need a very large septic with a grease trap and everything, and you only have an acre that you're working with.

Bruce Moia - I understand. What we are proposing generates very little water and very little sewer.

Ted Balke - I'm more concerned about the large trucks that are going to have to come for deliveries to your storage in the back.

Bruce Moia - There are several uses in the BU-1 that that would be required as well.

Michael Yauch - 565 Indian Bay Boulevard, Merritt Island. Regarding this rezoning request by Cooltural Land, LLC, on May 3rd the North Merritt Island Homeowners Association (NMIHOA) objected to the changing of the zoning on their 1.02-acre parcel from BU-1 to BU-2 based on the Administrative Policies 3.C., inconsistency with the existing patterns of the surrounding development, using historical land use patterns, actual development over past three years. Administrative Policy 4, the adjacent properties zoning and character. Administrative Policy 8(1), consideration of the character of the surrounding properties. Administrative Policies 4 & 5, in that BU-2 zoning would be too intense for commercial development and inappropriate for this area of S.R. 3. BU-1 in this area for this parcel is appropriate, and the property abuts agricultural land and neighborhood. In the study area, the commercial corridor of S.R. 3, north of Kings Way, to north of Crisafulli, in which this parcel is located, contains only approximately 8% of BU-2 properties; the other approximately 92% being BU-1, EU, and AU. Therefore, as it is stated in the Planning and Development staff notes, under the

definition of the Comprehensive Plan, FLU element 2.7, this would make this a 4-spot zoning instead of a zoning natural to this area. The NMIHOA requests this property retain the BU-1 zoning.

Mary Hillberg - Anyone else in the audience who would like to speak? Seeing none, I bring it back to the board and it is closed to the audience.

Ted Balke - There's been a lot of migration of animals since the 2018 survey that was done, and since this is one of the remaining treed areas, overgrown, I would think there might be a request for another survey from the Floravista group to go in there again and make sure there are no more endangered species that have occupied it in these past three years.

Mary Hillberg - Has the County received any public comment on this request?

Jennifer Jones - No, ma'am.

Ted Balke - I'm not sure anybody received anything back there on Kings Way.

Mary Hillberg - This pond behind the property, where did it come from?

Peter Martin - That is part of the drainage for the residential plat behind and it is part of individual lots, so the lot lines go across the pond.

Ted Balke - They don't own it; that's the retainage water that they put in there when they built those homes.

Mary Hillberg - Would this property then be....

Ted Balke - During rains the property gets wet.

Mary Hillberg - Would this property be draining into this drainage pond?

Ted Balke - Yes.

Jeffrey Ball - That will all be dealt with in the site planning process. Each property on its own has to retain the stormwater onsite.

Jim Carbonneau - There is a major study going on right now with the County at Crisafulli Road to consider drainage because of the flooding problems to the north and to the south.

Jeffrey Ball - I'm not aware of any study.

Jim Carbonneau - We have homeowner input, and there is a large one happening, and I live on Crisafulli Road.

Jeffrey Ball - Our department would not handle that kind of a study.

Mary Hillberg - What is the pleasure of the board?

Gina Lindhorst - I think BU-2 is pretty intense for that area and I don't know that the proposed use would need to be BU-2. The majority of the properties on that whole area are BU-1, so it's consistent with the other properties nearby.

Chris Cook - I always refer back to the corridor study, that BU-2 is not what was supposed to be designated as far as the scenic highway. There are 42 luxury townhomes going in, and all of the developments going in on Crisafulli Road and Chase Hammock Road, and they are going to be bringing in a lot of people and there is also development happening on Hall Road. Having a crane and RV storage place right in the back yard of the people to the east....I don't know if you have seen the BU-2 buffers that are existing now, but they are pretty sad. They are supposed to be opaque fencing, but they blow down and the County doesn't have the resources to keep it up. I think BU-2 is too intense for that.

Mary Hillberg - You would recommend BU-1?

Chris Cook - Wasn't the planned industrial park supposed to be closer to KSC? Isn't that where we wanted to move these types of storages, for the construction of the Cape? I think that is a much more appropriate location. That's where we need to try to gently coerce that kind of development.

Gina Lindhorst - You don't think BU-2 would be appealing to people who live nearby?

Chris Cook - No.

Gina Lindhorst - It might reduce their property values.

Chris Cook - Yes. If you have storage in your back yard it can't improve your property values.

Jack Ratterman - I'm for keeping it as-is.

Catherine Testa - I'd like to make a motion to decline the request to change the zoning from BU-1 to BU-2 on account that it is inconsistent with the surrounding residential and AU properties. It is also inconsistent with the character of the neighborhood, everything in the area being BU-1; there is no BU-2 in the vicinity. Also, with the inconsistency of what has gone on in this general vicinity where the development taking place is purely residential. There has been no increase in commercial activity to the BU-2 level. There is BU-2 available to the north of Crisafulli Road, so something like this could easily be up there. There is land available that is already BU-2. My recommendation is to decline it based on those items.

Jim Carbonneau - I'll second.

Gina Lindhorst - We could also list some of the policies.

Mary Hillberg - Which ones would you like to list?

Jack Ratterman - 3.C., 4, 8(1), (4), and (5).

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

Upon consensus, the meeting adjourned at 7:15 p.m.