



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
 22Z00033**

Daren and Regina Dempsey

AU (Agricultural Residential) to RU-1-13 (Single-Family Residential)

Tax Account Number: 2318342
 Parcel I.D.s: 23-36-34-00-8
 Location: 4850 N. Tropical Trail, Merritt Island, FL 32953 (District 2)
 Acreage: 1.41 acres

North Merritt Island Board: 8/11/2022
 Planning & Zoning Board: 8/15/2022
 Board of County Commissioners: 9/01/2022

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
Zoning	AU	RU-1-13
Potential*	1 SF lot	5 SF lots
Can be Considered under the Future Land Use Map	YES RES 4	YES RES 4

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

Background and Purpose of Request

The applicants are seeking a change of zoning classification from AU (Agricultural Residential) to RU-1-13 (Single-family Residential) in order to split their 1.41-acre property into 2-lots. The current Future Land Use designation of RES 4 will allow up to 5 dwelling units on the property.

The original zoning on the property was AU. The existing residence is 1,379 sq. ft. in size and was built in 1950 according to the Brevard County Property Appraiser website. Brevard County Code of Ordinance, Section 62-1340(1)(a) allows one single-family detached dwelling per lot. In comparison, EU or EU-2 requires a larger house size than what is currently on the property.

In comparison to EU and EU-2, RU-1-13 has the smallest square feet of minimum living area; least setbacks for principal and accessory structures; least square footage of minimum lot size. All three zoning classifications are devoted to single-family residential development of spacious character with the same permitted uses.

The subject property is located within the 2019 North Merritt Island Small Area Study boundary. A recommendation from the 2019 North Merritt Island SAS was for all parcels ≥ 2.5 acres in size designated as RES 1 Future Land Use and AU zoning classification, to be amended on the Future Land Use Map to RES 1:2.5. The subject property would have not been subject to this recommendation. The Board of County Commissioners acknowledged the recommendations of the 2019 North Merritt Island SAS, but did not direct staff to implement this recommendation.

Land Use

The subject property is currently designated Residential 4 (RES 4). Both the AU and RU-1-13 zoning classifications can be considered consistent with the Residential 4 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

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;

Regarding the hours of operation, lighting, odor, noise levels, traffic or site activity. The proposed rezoning is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. Residential uses will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.

- 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;

The subject property has been developed as a single-family residence since 1950. The area immediately surrounding the subject site has been developed as single-family residences with the exception of the Citrus Club HOA tennis court abutting the property to the south. Across N. Tropical Trail northwest of the subject property is a 24.27-acre County-owned park that features an equestrian facility and riverfront launch site for canoes.

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

There has not been any actual development within this area in the preceding three (3) years.

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

There has not been any development approved but not yet constructed within a half mile in the preceding three (3) years.

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

No material violation of relevant policies has been identified.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

There is an existing pattern of agricultural residential zoning and estate use residential zoning on lots ranging from 0.34 acres to 3.04 acres surrounding the subject property.

The request can be considered an introduction of RU-1-13 zoning classification into an area developed mostly as single-family residences on lots of spacious character with agricultural uses.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-Family	AU	RES 2
South	Tennis Court	EU-2	RES 4
East	Single-Family	AU	RES 4
West	Single-Family	EU – across N. Tropical Trail	RES 4

To the north of the subject property is a single-family residence on a 2.74-acre lot zoned AU; to the south is an HOA-owned tennis court on a 0.56-acre lot zoned EU-2; to the east is a single-family

residence on 3.04 acres zoned AU. To the west, across N. Tropical Trail, are two (2) single-family residences, each on 1.25 acres lots zoned EU.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 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 and plants nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

EU-2 zoning classification is an estate single family residential zoning classification. The minimum lot size is 9,000 square feet with a minimum lot width of 90 feet and depth of 100 feet. The minimum living area is 1,500 square feet.

The proposed RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

There has been one (1) zoning action within a half-mile radius of the subject property within the last three years. **21Z00042, approved** May 31, 2022, was a request to change AU (Agricultural Residential) to RU-2-4 (Low-density Multiple-family Residential) with a BDP on 2.79 acres located 1,757 feet southeast of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Tropical Trail, between Hall Road to W. Crisafulli Rd., which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of C, and currently operates at 10.01% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.24%. The corridor is anticipated to operate at 10.25% of capacity daily. The request is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line and water line is approximately 0.4 miles east on N. Courtenay Pkwy.

Environmental Constraints

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

For Board Consideration

The Board may wish to consider whether the introduction of RU-1-13 is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary**

Item #22Z00033

Applicant: Regina Dempsey

Zoning Request: AU to RU-1-13

Note: Applicant wants to split lot

NMI Hearing Date: 8/11/22; **P&Z Hearing Date:** 8/15/22; **BCC Hearing Date:** 9/1/22

Tax ID No: 2318342

- 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:

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

Aquifer Recharge Soils

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

Indian River Lagoon Nitrogen Reduction Overlay

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If no sewer is available, then 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

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. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design. 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. There is potential for existence of Gopher Tortoises in areas of aquifer recharge soils. 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.