



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

22Z00009

Tyler M. and Cristina N. Boucher

AU (Agricultural Residential) to RR-1 (Rural Residential)

Tax Account Number: 2316242
Parcel I.D.s: 23-36-22-00-6
Location: 6245 N. Tropical Trail Merritt Island, FL (District 2)
Acreage: 2.51 acres

NMI Hearing Date: 4/14/2022
Planning & Zoning Board: 4/18/2022
Board of County Commissioners: 5/05/2022

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	RR-1
Potential*	1 SF lot	2 SF lots
Can be Considered under the Future Land Use Map	YES RES 1	YES RES 1

* 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 RR-1 (Rural Residential) in order to split their property into two parcels. The property's original legal description describes the property as Parcel #6 & Parcel #34.

The original zoning on the property was AU. Zoning Resolution **DNZ-11164** adopted on December 1, 2005, denied a similar request to rezone for the purpose of splitting the lot. That application submittal was proposed by a previous owner to also change the property's zoning from AU to RR-1.

Land Use

The subject property is currently designated Residential 1 (RES 1). Both the AU and RR-1 zoning classifications are consistent with the Residential 1 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.9 –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

The subject property is within the **2018 North Merritt Island Small Area Study (SAS)** boundary. The recommendation of the 2018 North Merritt Island SAS was for all parcels 2.5 acres in size designated as Residential 1 (RES 1) Future Land Use with Agricultural Residential (AU) zoning have their Future Land Use Map designation decreased to Residential 1:2.5 (RES 1:2.5). While the Board acknowledged the Recommendations of the 2018 North Merritt Island SAS, staff was not directed to implement this recommendation.

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;

The applicant proposes the development of a second single-family home (two lots). It is not anticipated to significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

- 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;

There are four (4) FLU designation (RES 2, RES 1, RES 1:2.5 and Public Conservation) within 500-feet of this site. The latest FLU amendment was approved under 17S.01 which changed the FLU from RES 1:2.5 to RES 2 on May 4, 2017. That parcel is located on the south side of N. Tropical Trail in a SW direction from this request (225-feet to the west). An

earlier FLU change occurred in 2009-1.9 for a parcel located east of this site which also lies on the south side of N. Tropical Trail and is 715-feet to the east of this request. The North Merritt Island Small Area Study (SAS) was completed in 2018.

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 actual development within this area 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.

Approval of this request may be considered contrary to the findings of the 2018 North Merritt Island Small Area Study (SAS).

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

The character of the area lying north of N. Tropical Trail is a mix of large lot residential zoning classifications on lots which range from 2.45-acres to 29-acre areas in size. This parcel has frontage on two streets and the applicants request to divide their 2.51-acre property into two lots meeting the proposed 1.0-acre minimum lot size allowed by the RR-1 zoning request and FLU designation of RES 1.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF residence	AU	RES 1
South	SF residence	AU & SR	RES 1:2.5
East	SF residence	EU	RES 1
West	SF residence	RR-1	RES 1

The RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principle residence within RR-1 zoning.

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.

The SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

The 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.

There has been no zoning actions within a half-mile radius of the subject property within the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N Tropical Trail, between W. Crisafulli Road to N. Courtenay Parkway, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 12.14% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 12.2% of capacity daily. The proposal 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 has access to public water from the City of Cocoa. Currently no centralized sewer is provided to the lot. The site will need to utilize a septic system. The closest sewer line is on N. Courtenay Parkway.

Environmental Constraints

- Aquifer Recharge Soils
- Floodplain
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

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

Item #22Z00009

Applicant: Tyler Boucher

Zoning Request: AU to RR-1

Note: Applicant wants to split lot.

NMI Hearing Date: 4/14/22; **P&Z Hearing Date:** 4/18/22; **BCC Hearing Date:** 5/5/22

Tax ID No: 2316242

- 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
- Floodplain
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and Anclote 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.

Floodplain

Two small areas of the property (northwest and southwest) are mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection 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 prior to any grading, filling or land alteration activities.

Coastal High Hazard Area

Two small areas of the property (northwest and southwest corners) are located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates CHHAs to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is located within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate 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. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. The subject property has mapped Florida Scrub Jay polygon onsite as shown on the Scrub Jay Occupancy Map. 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.

Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Specimen Trees. 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. The discovery of unpermitted land clearing activities may result in enforcement action. Land clearing is not permitted without prior authorization by NRM.