

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 22S.04 (22SS00001)
Township 24, Range 36, Section 22
LPA 5/9/2022 BoCC 5/26/2022

Property Information

Owner / Applicant: Charles Donaldson

Adopted Future Land Use Map Designation: Residential 1 (RES 1)

Requested Future Land Use Map Designation: Residential 4 (RES 4)

Acreage: 5.5 acres

Tax Account #: 2416959

Site Location: *On the west side of N. Tropical Trail approximately .25 miles south of the intersection of N. Tropical Trail and Crockett Boulevard*

Commission District: 2

Current Zoning: Estate Use Residential (EU)

Background & Purpose

The applicant is requesting to amend the Future Land Use designation from Residential 1 (RES 1) to Residential 4 (RES 4) on 5.5 acres of land in order to two split the lot into two separate parcels. Currently there are two single-family residences built in 1901 and 1950.

In 2004, Brevard County Board of Commissioners (BoCC) directed County staff to conduct a Small Area Study of portions of Merritt Island experiencing pressures from growth. The study area was located along N. Tropical Trail, south of State Road 528 and is bordered to the west by the Indian River Lagoon, by Venetian Way on the north, by Lucas Place on the south and by N. Tropical Trail on the east. The subject site is located within the study area.

Land use designations within the study area were primarily Residential 2 (RES 2), Residential 4 (RES 4) and Residential 15 (RES 15). At the time of the study, the majority of land was designated RES 15. As a result of the study, a recommendation by the BoCC was made to reduce density to RES 1 (one dwelling unit per acre). The study was completed in 2007 and land uses were changed by County staff in 2009. The

density reduction from RES 15 to RES 1 was the result of a recommendation from the South-North Tropical Trail Small Area Study.

In 2018, the property directly to the north received a zoning change from Estate Use Residential (EU) to Suburban Estate Residential Use (SEU). The zoning of EU became inconsistent with the Future Land Use designation of RES 1 at the time of the land use change from RES 15 to RES 1. EU allowed a minimum lot size of 15,000 s.f. whereas SEU requires a 1 acre (43,560 s.f.) minimum lot size. SEU is consistent with the RES 1 future land use designation.

In 2018, the property to the south was subdivided into twenty-one (21) lots ranging in size from .62 to 1.14 acre lots and named Waters Mark Plantation. The roads were paved but no homes were constructed. Since the plat was recorded in 2008 prior to the Future Land use change from RES 15 to RES 1, the lots became non-conforming lots of record.

Similarly, the lots to the south of the subject site have the inconsistent zoning of EU with a RES 1 land use designation.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	One (1) Single-Family Residence	SEU	RES 1
South	Single-Family Platted Vacant Land	EU	RES 1
East	Vacant Residential Land	AU	RES 15
West	Indian River Lagoon	Indian River Lagoon	Indian River Lagoon

To the north of the subject property is one (1) single-family residence, to the south is an undeveloped, platted Single-Family subdivision, to the east, across N. Tropical Trail is a Nursery with a Single-Family residence and to the west is the Indian River Lagoon.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**

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.

Policy 1.2

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

Connection to centralized potable water and wastewater treatment is required. The subject site is within the City of Cocoa's Utilities service area for potable water. The closest Brevard County centralized sewer line is located approximately 439 feet south on N. Tropical Trail at the intersection of N. Tropical Trail and Easy Street.

- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.

Densities greater than four units per acre shall be required to connect to a centralized sewer system when public water service is available. This would align with Florida Department of Health requirements to allow one quarter acre lots when centralized potable water is available.

Residential 4 (maximum of 4 units per acre)

Policy 1.7

The Residential 4 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 this element. The Residential 4 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 4 land use designation; or

The subject site is not immediately adjacent to any RES 4 land use designation however; it is surrounded by RES 1 west pf N. Tropical Trail.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or

The subject site does not serve as a transition between densities greater than four (4) units per acre and areas with density of less than four (4) units per acre.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 4.

The subject site is not adjacent to an incorporated area.

- D. Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant is not proposing a Planned Unit Development.

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:

- 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;

Along the west side of N. Tropical Trail from Venetian Way south to Lucas Place, there is a historical land use pattern of one dwelling unit per acre. Further north along N. Tropical Trail near State Road 528, there is a cluster of higher density land uses of RES 4, RES 6 and RES 15. Within this cluster are single-family residences and vacant multi-family land.

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

There has not been any development immediately adjacent to the subject parcel in the preceding three (3) years.

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

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

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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The proposed use may materially or adversely impact the established surrounding neighborhoods. The proposed use is not consistent with the recommendations of the South-North Tropical Trail Area Study. Based on the recommendations from the study, the future land use map was changed to decrease density on the west side of N. Tropical Trail from State Road 528 to Lucas Place to RES 1, leaving a minimal amount of RES 4 to the north near Indianola Drive and to the south near Saint Lawrence Lane.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service.

The subject site is serviced with potable water by the City of Cocoa. The closest Brevard County centralized sewer line is located approximately 420' south east at Easy Street.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development.

Environmental Resources

Mapped resources include Aquifer Recharge Soils, Surface Water Protection, Floodplain, Coastal High Hazard Area, Indian River Lagoon Nitrogen Reduction Overlay, Protected Species and Protected and Specimen trees.

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 if the request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item #22SS00001

Applicant: Campbell for Donaldson

FLU Request: RES-1 to RES-4

Note: Applicant wants to split lot and build an additional single-family residence.

P&Z Hearing Date: 5/9/22; **BCC Hearing Date:** 5/26/22

Tax ID No: 2416959

- 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
- Surface Water Protection
- Floodplain
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Protected and Specimen trees

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 (Candler fine 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.

Surface Water Protection

The property is located on Class II Surface Waters as designated by the State. A 50-foot Surface Water Protection Buffer is required. Except as allowable under

Section 62-3668 (7), primary structures shall be located outside the buffer. The removal of native vegetation located within the Surface Water Protection Buffer shall be avoided. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at (407) 897-4100. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plot plan, or permit submittal.

Floodplain

A majority of the area within the Surface Water Protection Buffer is mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Coastal High Hazard Area

A majority of the area within the Surface Water Protection Buffer is 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. Specifically, gopher tortoises can be found 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.

Protected and Specimen Trees

Aerials indicate Protected and Specimen trees may exist on the parcel. Per Section 62-4339, requirements exist for Canopy, Protected and Specimen tree(s) preservation. Per Section 62-4341(18), Protected and Specimen Trees shall be

preserved or relocated on site to the Greatest Extent Feasible. 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 a time of site plan submittal. 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.