



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

### STAFF COMMENTS 20PZ00015 James and Mary Murray AU to EU

Tax Account Number: 2511451  
Parcel I.D.: 25-36-24-00-31.1  
Location: East side of S. Tropical Trail, approximately 850 feet north of Old Settlement Road (District 2)  
Acreage: 0.57 +/- acres

Planning and Zoning Board: 06/15/20  
Board of County Commissioners: 07/09/20

#### 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             |
|--|----------------------------------|----------------------|
| <b>Zoning</b>  | AU                               | EU                   |
| <b>Potential*</b>                                      | Lot is inadequate in size for AU | 1 Single Family Unit |
| <b>Can be Considered under the Future Land Use Map</b> | Yes, RES 3 DIR                   | Yes, RES 3 DIR       |

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

#### Background and Purpose of Request

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use) for the purpose of legitimizing a parcel that does not meet minimum lot area. The subject parcel is developed with a 1,936 sq. ft. single-family house with 1,168 sq. ft. of living area that was built in 1961 along with a 612 sq. ft. detached garage.

The subject parcel was part of the larger parcel to the east and south which was rezoned from EU to AU per zoning action **Z-237** on September 10, 1959. The parcel was split from the parent parcel into its current configuration per Official Records Book (ORB) 701, Page 87 in June 1964 by a previous owner. When the subject parcel was created, AU required a minimum lot width and depth of 125 feet with a minimum lot size of one acre. The parcel is inadequate to the AU lot width or lot size requirements at the time it was subdivided.

The applicant purchased the parcel on November 01, 1997 and combined it with their abutting 2.05 acre parcel to the north that they have owned since 1979. Combining the two parcels together created two existing single-family houses to be on one parcel. On November 20, 2019 per ORB 8606, Page 976 the applicant sold the north 2.05 acre portion and retained the portion of the parcel as described in ORB 701, Page 87.

The applicant has also applied for a variance **(20PZ00014)** which will be heard on March 25, 2020, to legitimize the north 10 ft. setback requirement for an accessory structure in EU for the existing detached garage that the applicant says has been there since the 1970's. This variance application is also to legitimize the existing single-family house, built in 1961, to meet the 2,000 sq. ft. minimum living area required for a single family house size in the EU zoning classification.

## **Land Use**

The subject property retains the RES 3 DIR (Residential 3 Directive) Future Land Use designation. The existing zoning classification AU and the proposed EU may be considered to be consistent with the RES 3 DIR Future Land Use designation.

The Central and South Merritt Island Directive, Residential 3 DIR, Future Land Use designation affords an additional step down in density through the directive. This land use designation permits a maximum density of up to three (3) units per acre, except as otherwise may be provided for within the Future Land Use Element.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

## **Environmental Constraints**

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

## **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is South Tropical Trail, between Plantation Road and South Courtenay Parkway, which has a Maximum Acceptable Volume (MAV) of 12,480 trips per day, a Level of Service (LOS) of D, and currently operates at 10.82% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to continue to operate at 10.82% of capacity daily (LOS D). 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 is not serviced by Brevard County sewer. The closest available Brevard County sewer line is approximately 2.98 miles north of the subject parcel located along the west side of South Tropical Trail. The property lies within the Indian River Lagoon Septic overlay.

The parcel is serviced by City of Cocoa water.

## **Applicable Land Use Policies**

The developed character of the surrounding area along South Tropical Trail is EU zoning and developed with single-family houses except the undeveloped abutting parcel to the east and south which is zoned AU. The parcel and the surrounding area along South Tropical Trail have a Future Land Use (FLU) designation of RES 3 DIR which is compatible with the AU and proposed EU zonings.

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 proposed 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.

The abutting parcel to the north is zoned EU and is developed with a single-family home on 2.05 acres. The parcel to the east and south is zoned AU and is vacant land with 6.33 acres. West of the parcel across South Tropical Trail is EU zoning classification developed with single-family homes.

There have been no zoning actions within a half-mile of the subject property within the last nine years.

## **For Board Consideration**

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use) for the purpose of legitimizing a parcel that does not meet minimum lot area.

The Board may wish to consider whether the request is consistent and compatible with the abutting AU parcel and the surrounding EU zoning classifications.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 20PZ00015**

**Applicant:** Quattrocchi – Murray

**Zoning Request:** Applicant wants legitimize undersized lot for a variance for accessory structure

**P&Z Hearing Date:** 06/15/20; **BCC Hearing date:** 07/09/20

**Tax ID No:** 2511451

This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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 Septic Overlay
- Heritage Specimen Trees
- Protected Species

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 (Paola fine sand) as shown on the USDA SCSSs soils 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 Septic Overlay**

The property is mapped within the Indian River Lagoon Septic Overlay. If sewer is not available, and future modifications to structures or changes to property use are proposed, then the project may require a septic system that provides at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

## **Heritage Specimen Trees**

Aerials indicate the subject property may contain Heritage Specimen trees (greater than or equal to 24 inches in diameter), or Protected trees (greater than or equal to 10 inches in diameter). Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen and Protected trees. In addition, 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.

## **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.