



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

20Z00013

Carmen Fanczi

AU (Agricultural Residential) to EU (Estate Use Residential)

Tax Account Number: 2511450
Parcel I.D.: 25-36-24-00-31
Location: SW corner of Curry Dell Lane and S. Courtenay Parkway (District 2)
Acreage: 6.33 acre

Planning and Zoning Board: 09/14/2020

Board of County Commissioners: 10/01/2020

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	EU
Potential*	2-Single Family Units	12-Single Family Units
Can be Considered under the Future Land Use Map	Yes RES 3 Directive	Yes RES 3 Directive

* 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 Residential) for the purpose of creating an 11-unit subdivision. The applicant did not provide staff with a proposed development plan submitted with this application.

The subject parcel was originally zoned EU from 1958 to September 10, 1959. Since that time it has been zoned AU per zoning action **Z-0237**.

Land Use

The subject property retains the Residential 3 Directive FLU designation. This parcel is located within the Central and South Merritt Island Study area where only the following classifications can be requested: EU, SR, SEU, RR-1, REU, AU, PA, GU, AGR, RRMH-1, RRMH-2.5, RRMH-5 and TR-2. The current zoning of AU as well as the proposed EU zoning classifications may be considered to be consistent with this FLU designation.

Environmental Constraints

The subject parcel contains mapped NWI and SJRWMD wetlands, and hydric soils. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65 3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The majority of the property located on the east side of S. Courtenay Parkway is located within the Coastal High Hazard Area (CHHA) as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The Coastal Management Element of the Comprehensive Plan, Objective 7.0, limits densities within the coastal high hazard zone and directs development outside of this area. Objective 7.0, Policy 7.6 states that existence of sewer, water, roadways or other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the coastal high hazard area.

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

Preliminary Concurrency

The closest concurrency management segment to the subject property is S. Courtenay Parkway, between Pineda Causeway to Banana Boulevard, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 60.83% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.73%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 61.56% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

At this time, Tropical Elementary School, Jefferson Middle School and Merritt Island High School are projected to have enough capacity for the total of projected and potential students from the South Curry Dell development.

The parcel can be serviced by City of Cocoa water. There is no sewer service in the area. The closest Brevard County sewer connection is 3.125 miles to the north.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The subject parcel is a remnant undeveloped AU parcel surrounded by AU, EU and SEU (Suburban Estate Residential Use) zoning classifications. The abutting developed parcel to the west is also zoned AU.

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 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 SEU zoning permits suburban estate residential uses on lots of one acre (minimum) with a width of 125 feet and a depth of 200 feet. It also requires a minimum floor area is 2,000 square feet of living area.

Most of the subject property lies between S. Tropical Trail and S. Courtenay Parkway. This portion of the property is proposed to be split into two segments. The portion accessed by S. Tropical Trail will be developed as a 1.0+ acre flag lot. The portion accessing S. Courtenay Parkway is proposed to be developed as multiple EU zoned lots. There is also a portion lying east of S. Courtenay Parkway extending to the Banana River which contains an estimated 1.24 acres. Most of the abutting residential lots are developed.

Surrounding Properties

The developed character of the surrounding area is residential. The abutting parcels to the north are zoned EU. The abutting parcel to the east is also part of this application request. The abutting parcels to the south are EU except for that portion lying east of S. Courtenay Parkway which is zoned SEU. The abutting developed parcel to the west is zoned AU.

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

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area. This area is within the Indian River Lagoon Nitrogen Reduction Overlay and if not connected to sewer facilities will need to utilize alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary

Item # 20Z00013

Applicant: Michael Maguire for Carmen Fanczi

Zoning Request: AU to EU

Note: Applicant wants to develop subdivision with 11 single-family lots on 6.33 acres.

P&Z Hearing Date: 09/14/20; **BCC Hearing Date:** 10/01/20

Tax ID No: 2511450

- 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:

- NWI Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI and SJRWMD wetlands, and hydric soils. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than

five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The majority of the property located on the east side of S. Courtenay Parkway is located within the Coastal High Hazard Area (CHHA) as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The Coastal Management Element of the Comprehensive Plan, Objective 7.0, limits densities within the coastal high hazard zone and directs development outside of this area. Objective 7.0, Policy 7.6 states that existence of sewer, water, roadways or other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the coastal high hazard area.

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

Land Use Comments:

Wetlands

The subject parcel contains mapped NWI (Freshwater forested shrub wetlands), SJRWMD (Mixed scrub-shrub wetlands), and hydric soils (Anclothe sand – frequently flooded, and St. Johns sand) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities.

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Aquifer Recharge Soils

A large area of the subject parcel, located on the west of S. Courtenay Parkway, contains mapped aquifer recharge soils (Paola fine sand and Orsino 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.

Coastal High Hazard Area

The majority of the property located in the east side of S. Courtenay Parkway is located within the CHHA as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The Coastal Management Element of the Comprehensive Plan, Objective 7.0, limits densities within the coastal high hazard zone and directs development outside of this area. Objective 7.0, Policy 7.6 states that existence of sewer, water, roadways or other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the coastal high hazard area.

Floodplain

A large portion of the property located on the east side of S. Courtenay Parkway is mapped as being within the floodplain as identified by the Federal Emergency Management Agency 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. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. 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."

Surface Waters of the State

The property is located on Class II surface waters designated by the State as Outstanding Florida Waters and an Aquatic Preserve. A 50-foot surface water protection buffer (buffer) is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside the buffer. Alteration or construction other than that which is allowed under this division shall be prohibited, unless it is shown to be in the public interest and does not adversely impact water quality and natural habitat. All alteration shall demonstrate avoidance and minimization of surface water protection buffer impacts, including the location of the alteration within the most landward portion of the buffer, as practicable. The remainder of the surface water protection buffer shall be maintained in unaltered vegetation, except for non-native invasive plants.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Per Section 62-3666 (14), all onsite sewage treatment and disposal systems (OSTDS) shall be set back at least 100 feet from the buffer establishment line, the safe upland line, mean high water line or ordinary high-water line.

Protected and Specimen Trees

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and 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. 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. 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.