



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

21Z000020

William D. & Elizabeth Anne Elliott, Trustees
PIP (Planned Industrial Park) to RR-1 (Rural Residential)

Tax Account Number: 2323951 and 2316601
Parcel I.D.: 23-36-24-00-286 and 23-36-24-00-251
Location: South side of Dalbora Road, 1,270 feet east of N. Courtenay Pkwy.
(District 2)
Acreage: 8.25

North Merritt Island Board: 08/21/2021
Land Planning Agency: 08/23/2021
Board of County Commissioners: 09/02/2021

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, per Policy 2.13 of the Future Land Use Element.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	PIP	RR-1
Potential*	No units	Two single-family units
Can be Considered under the Future Land Use Map	Yes PI	YES** RES 1

*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. In the PIP zoning, property owners who purchased such property prior to October 19, 2004 are permitted to construct single family residences. The applicants purchase the two parcels on July 12, 2017.

There is a Small-Scale Future Land Use Map (FLUM) amendment companion application under **21PZ00033 which proposes to change the PI (Planned Industrial) Future Land Use (FLU) designation to RES 1 (Residential 1) FLU.

Background and Purpose of Request

The applicant is seeking a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential) for the purpose of creating two residential lots. The applicant also wishes to be able to build a single-family home on the east parcel. The parcels appear to be configured as flag lots. The PIP zoning does not permit a flag lot configuration; however residential parcels can be

administratively approved per Section 62-102(B) to utilize them for frontages less than 125 feet of road frontage.

The PIP zoning of the parcels was adopted September 02, 1999 per zoning action **Z-10287**. The subject east parcel was subdivided into its current configuration on July 21, 2006, per Official Records Book 5679, Page 4093 and is vacant land. The subject west parcel was subdivided into its current configuration on December 27, 2017, per Official Records Book 8059, Page 1425 when the northwest abutting 1.21 acre parcel was split off from this parcel. This west parcel is developed with a single-family home.

If the Board approves this request, the applicants will be required to have the two parcels administratively approved as Flag Lots per Section 62-102(B).

The applicants have also applied for a companion application **21PZ00033** to change the PI (Planned Industrial) Future Land Use (FLU) designation to RES 1 (Residential 1) FLU.

Land Use

The subject property is currently designated as PI (Planned Industrial). The companion application **21PZ00033** proposes to change the PI FLU to RES 1 Future Land Use designation. The proposed RR-1 zoning classification is not compatible with PI FLU; the proposed RR-1 zoning is consistent with the proposed RES 1 FLU.

Applicable Future Land Use Policies

The Current FLU follows: FLUE Policy 3.5 - The Planned Industrial Future land use designation. The Planned Industrial land use designation is intended to accommodate the clustering of light industrial and business uses in settings which provide special attention to the integration of infrastructure, such as circulation, parking, and utilities, while placing emphasis upon aesthetics of the project and compatibility with abutting properties and properties within the industrial park. These parks shall be designed to limit intrusion into residential areas. Appropriate uses are those that operate within enclosed buildings such as manufacturing, assembling, fabricating, warehousing and retailing activities. Hotel and motel accommodations that serve the travel needs of employees or clients associated with firms within the planned industrial or business parks are also appropriate. Marinas may also be considered within this land use designation.

The Proposed FLU follows: 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 Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element.

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

The East parcel is vacant land. The West parcel is developed with a single-family residence and both parcels lie within the PI Future Land Use designation. In the PIP zoning, property owners who purchased such property prior to October 19, 2004 are permitted to construct single family residences. The single-family residence on the West parcel was built in 2003 prior to the applicants owning the parcel. The abutting developed parcels and the surrounding area have a Residential 1 Future Land Use designation. The subject parcels PI Future Land Use is not compatible with the proposed RR-1 zoning. The proposed RR-1 zoning is consistent with the proposed RES 1 Future Land Use designation.

The existing development of the surrounding area along Dalbora Road is described as single-family homes on lots that meet the one dwelling unit per acre (1du/ac) density allowed by the RES 1 Future Land Use. A FLU designation of RES 1 is necessary to be compatible with the propose RR-1 zoning.

There have been two changes to the Future Land Use within the past 5 years in the surrounding area from PI to RES 1.

The subject property is located within the 2018 North Merritt Island Small Area Study (SAS) boundary. A 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 and Agricultural Residential (AU) zoning classification, Brevard County should amend the Future Land Use Map 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 #4 - Character of a neighborhood or area.

The subject parcels are zoned PIP. The east parcel is vacant. The west parcel is developed with a single-family residence.

The developed character of the surrounding area along Dalbora Road is Rural Residential (RR-1) and Agricultural Residential (AU) zoned parcels which are developed with single-family houses.

Properties along Dalbora Road are single-family residential in nature. The development trend for the surrounding area has been from Planned Industrial Park to single-family residential homes along with agricultural use and animals for the past 20 years.

The current PIP classification is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements on a minimum one acre lot, with a minimum lot width of 150 feet and minimum lot depth of 200 feet. PIP permits single family residences with conditions in section 62-1841.9: property owners who purchased such property prior to October 19, 2004 are permitted to construct single family residences (one per minimum lot size required). The PIP zoning does not permit a flag lot configuration.

The proposed RR-1 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 the RR-1 zoning classification.

There have been two rezoning applications in the surrounding area in the past 5 years.

May 03, 2018; **18PZ00010**: Changed zoning from AU to RR-1. This rezoning was on a 2.64 acre parcel, approximately 1,021 feet easterly of the subject parcels and located on the north side of D'albora Road.

March 07, 2019; **18PZ00142**: Changed zoning from PI to RR-1. This rezoning was on a 1.21 acre parcel, which abuts the subject parcels along the west and located on the south side of D'albora Road.

Surrounding Area

The abutting parcel to the north is zoned AU with agricultural amenities. The abutting parcels to the east are zoned RR-1 and AU and are developed with single-family residences. The abutting parcel to the south is zoned AU and is vacant. The abutting parcels along the west are zoned RR-1 and PIP. The RR-1 parcel is developed with single-family residence and the PIP parcel is vacant. The closest developed industrial parcel (Air Liquide) is located approximately 575 feet to the northeast of the subject property, on the north side of North Courtenay Parkway. Air Liquide purchased the property in 1968. Staff is in the process of reviewing a Vested Rights determination. There has been numerous noise complaints regarding the activities performed at the property.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcels contain mapped hydric soils and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE; and are thus subject to criteria in Section 62-3724(4) of the Floodplain Protection

ordinance, including compensatory storage. Please see Floodplain section in NRM comments for more information.

Information available to NRM indicates that impacts to wetlands and floodplain may have occurred when a portion of the site (and potentially offsite) was cleared and filled. The discovery of unpermitted land clearing, and/or wetland or floodplain impacts may result in enforcement action. Restoration may be required. The applicant is advised to cease further site work until a Building permit or other development order is issued.

Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Parkway, between N. Tropical Trail and Space Commerce Way, which has a Maximum Acceptable Volume of 40,300 trips per day, a Level of Service (LOS) of D, and currently operates at 22.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to continue to operate at 22.31% 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 parcels are not serviced by Brevard County sewer. The closest available Brevard County sewer line is located approximately 2.4 miles southwest of the parcel. The parcels can be serviced by City of Cocoa water.

For Board Consideration

The Board may wish to consider whether the request to RR-1 is consistent and compatible with the surrounding area given the fact that RR-1 zoning has been established in the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item # 21Z00020**

Applicant: Mayer for Elliot

Zoning Request: PIP to RR-1

Note: Applicant wants two flag lots to build two single family homes.

NMI Hearing Date: 08/12/21; **P&Z Hearing Date:** 08/23/21; **BCC Hearing Date:** 09/02/21

Tax ID Nos: 2323951 & 2316601

- 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:

- Wetlands/Hydric Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcels contain mapped hydric soils and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE; and are thus subject to criteria in Section 62-3724(4) of the Floodplain Protection

ordinance, including compensatory storage. Please see Floodplain section in NRM comments for more information.

Information available to NRM indicates that impacts to wetlands and floodplain may have occurred when a portion of the site (and potentially offsite) was cleared and filled. The discovery of unpermitted land clearing, and/or wetland or floodplain impacts may result in enforcement action. Restoration may be required. The applicant is advised to cease further site work until a Building permit or other development order is issued.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped hydric soils (Riviera & Winder soils, Copeland-Bradenton-Wabasso complex, and Bradenton fine sand), and SJRWMD wetlands as shown on the USDA Soil Conservation Service Soils Survey, and SJRWMD Florida Land Use & Cover Codes maps, respectively; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), 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 would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Information available to NRM indicates that impacts to wetlands may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted wetland impacts may result in enforcement/restoration action.

Floodplain

Portions of the properties are located within areas 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.

Information available to NRM indicates that impacts to the floodplain may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted floodplain impacts may result in enforcement/restoration action.

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 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

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 exist 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. Per Section 62-4339, parcels greater than 2.5 acres in size shall meet canopy preservation, and Protected/Specimen tree requirements. 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 prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM. Information available to NRM indicates that unpermitted land clearing may have occurred when a portion of the site (and potentially off-site) was cleared. The discovery of unpermitted land clearing activities may result in enforcement/restoration action.

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.