

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 21S.05 (21PZ00033)  
Township 23, Range 36, Section 24*

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**Property Information**

**Owner / Applicant: Elliott Family Revocable Trust**

**Adopted Future Land Use Map Designation: Planned Industrial (PI)**

**Requested Future Land Use Map Designation: Residential 1 (RES 1)**

**Acreage: 8.25 acres**

**Tax Account #: 2316601 and 2323951**

**Site Location: South of Dalbora Road, approximately 1,220 feet east of N. Courtenay Parkway**

**Commission District: 3**

**Current Zoning: Planned Industrial Park (PIP)**

**Requested Zoning: Rural Residential (RR-1) (21Z00020)**

**Background & Purpose**

The applicant is requesting to amend the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) on 8.25 acres parcel of land. The subject property is currently developed with one (1) single-family residence that was built in 2003 and has a Future Land Use designation of PI that was adopted with the Comprehensive Plan in September of 1988.

Existing development of the surrounding area is generally described as single-family homes on lots ranging in size from approximately one (1) to four (4) acres. The applicant intends to create two (2) flag lots for two (2) single family homes.

A companion rezoning application (21Z00020) was submitted accompanying this request for a Zoning change from Planned Industrial Park (PIP) to Rural Residential (RR-1).

The subject property is not considered an appropriate location for planned industrial land use as the site does not meet the criteria in FLU policy 3.5B which requires

planned industrial parks to be within 660 feet of a major transportation corridor. The site is located over 1,200 feet from SR 3 (North Courtenay Parkway).

**Surrounding Land Use Analysis**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Three (3) Single-Family residences	RR-1	RES 1
<b>South</b>	Vacant, undeveloped land	AU	RES 1
<b>East</b>	Two (2) Single-Family residences	RR-1 and AU	RES 1 and RES 1:2.5
<b>West</b>	Vacant, undeveloped land	PIP	PI

To the north and east of the subject property are single-family residences. To the south and west of the subject property is vacant, undeveloped land. 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 have been numerous noise complaints regarding the activities performed at the property.

**Comprehensive Plan Policies/Comprehensive Plan Analysis**

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

**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.

**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;

*The general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to four (4) acres. Although the immediate area originally had a Future Land Use of PI that was adopted with the Comprehensive Plan in September of 1988, many properties in the vicinity now have RES 1 Future Land Use. As such, a pattern of rural residential land use has been established along Dalbora Road.*

*A Future Land Use Map amendment from PI to Residential 1 (along with a rezoning to RR-1) would allow for development of the subject property that is compatible with the rural residential character of the area.*

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

*One (1) single family residence was constructed adjacent to the north of the subject property in 2019.*

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

*There have not been any development approvals that are pending construction along Dalbora Road within the past three (3) years.*

## **Residential Land Use Designations**

### **Policy 1.1**

The residential land use designations adopted as part of the Future Land Use Map represent maximum density thresholds. Approved densities may be lower than the maximum allowed by a residential land use designation as a result of one or more of the following:

#### **Criteria:**

- F. Policies established in specialized plans as may be adopted by the Board of County Commissioners.

*The subject property was located within the 2018 North Merritt Island Small Area Study (SAS) boundary. A recommendation from the 2018 North Merritt Island SAS was for all parcels  $\geq 2.5$  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). The Board of County Commissioners acknowledged the Recommendations of the 2018 North Merritt Island SAS. Staff was not directed to implement this recommendation.*

## **Residential 1 (maximum of 1 dwelling unit per acre)**

### **Policy 1.8**

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 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 1 land use designation; or

*The subject parcel is adjacent to existing Residential 1 land use designation to the north and east.*

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser; or

*The subject parcel does not serve as a transition between greater and lesser densities.*

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1.

*The subject parcel is not adjacent to an incorporated area.*

**Concurrency**

*The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The parcel is within the City of Cocoa's service area for potable water. The parcel is not serviced by public sewer. The closest available Brevard County sewer line is approximately 2.4 miles southwest of the subject property. No school concurrency information has been provided as the development potential is considered de minimis and falls below the minimum number of new residential lots that would require a formal review.*

**Environmental Resources**

*Mapped resources and noteworthy land use issues include wetlands/hydric soils, floodplain, Indian River Lagoon Nitrogen Reduction Overlay, protected and specimen trees and protected species.*

*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 with the Comprehensive Plan and compatible with the surrounding area, recognizing the existing development trends.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Future Land Use (FLU) Review & Summary**  
**Item # 21PZ00033**

**Applicant:** Mayer for Elliot

**FLU Request:** PI to RES-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.