

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 22S.11 (22SS00008)
Township 21, Range 35, Section 08*

Property Information

Owner / Applicant: Paul Marion, Kimberly Lamattina, Kayla Losat, Jessica Ripper, Ethylmay Kirk and Robert Kirk

Adopted Future Land Use Map Designation: Residential 2 (RES 2)

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

Acreage: 35.36 acres

Tax Account #: 2102882 and part of 2102878

Site Location: South side of Brockett Road approximately 0.6 miles east of U.S. Highway 1

Commission District: 1

Current Zoning: Suburban Residential 1 (SR)

Requested Zoning: Single-family Residential (RU-1-7)

Background & Purpose

The applicant is seeking to amend the Future Land Use Map designation on 35.36 acres of land from Residential 2 (RES 2) to Residential 4 (RES 4) to establish a consistent Future Land Use Map designation on five (5) adjacent parcels in order to develop a single-family residential subdivision with up to three hundred six (306) single family lots, although available school capacity may limit the development to one hundred ninety-seven (197) single-family lots on approximately 76.52 acres. The proposed development will be limited to a density of four (4) units per acre. Currently, two (2) ten-acre parcels and a 19.03 acre portion of a third parcel already have the necessary Residential 4 (RES 4) Future Land Use Map designation. The larger parcel has approximately 1,300 linear feet of frontage on Brockett Road which can provide primary access to the development from US Highway 1 via Brockett Road.

A separate small scale amendment application was submitted for the proposed development requesting a Future Land Use Map designation change from Recreation (REC) to Residential 4 (RES 4) (22SS00007) in order to provide a second access point to US Highway 1 via Old Dixie Highway. A companion rezoning application was

submitted accompanying this request for a Zoning change from RU-1-11, SR, GML, and AU to RU-1-7 (22Z00029), with a BDP proposing to limit development to 4 units per acre. The proposed RU-1-7 zoning can be considered consistent with the proposed RES 4 FLU designation with a BDP limiting development to 4 units per acre.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Manufactured Housing	TR-2 & AU	RES 2
South	Vacant	AU, TR-2 & SR	RES 2
East	Vacant	RU-1-7	RES 2
West	Vacant	RU-1-11	RES 4

To the north of the subject property are existing manufactured homes on unplatted lots which range in size from 0.71 acres to 11.25 acres, to the east is vacant residential land, to the south is vacant residential land and to the west is vacant residential land which will be developed as a single family residential subdivision as a part of this overall project..

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.

FLUE Policy 1.2 - Public Facilities and Services Requirements

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.

- 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.

As the project's density is 4 units per acre, connection to centralized sewer and potable water could be required under Criterion C, above. Site is currently unimproved and not connected to utilities.

FLUE Policy 1.7 - Residential 4 (maximum of 4 units per acre)

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 immediately adjacent to RES 4 land use designation to the west.

- 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 is not located within a transitional area of land use densities greater than 4 dwelling units per acre and areas of land use densities less than 4 dwelling 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 incorporated areas.

- 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.

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

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant proposes to develop the subject property as a single-family residential subdivision. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

- 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 character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. This request could be considered an encroachment into the RES 2 area which is primarily still vacant land but does contain established manufactured homes on large lots along Brockett Road. These lots range in size from 0.71 acres to 11.25 acres.

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

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

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

There have not been any development approvals immediately adjacent to the subject parcel within the past three (3) years that have not been constructed.

FLUE Administrative Policy #4 - Character of a neighborhood or area.

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.

In general, the character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. Three (3) FLU designations are located within 500 feet of the subject property: RES 2, RES 4, and REC.

The applicants are proposing a 306-unit single-family residential subdivision. The closest established residential neighborhood is located immediately west of the subject property with a range of lot sizes from 0.2-acre to 1-acre lots. To the north of the subject property is vacant land and single-family residences. To the south is vacant residential zoning (approximately 40 acres zoned RU-1-7). To the east are single-family residences, manufactured/mobile homes and vacant land.

The proposed RU-1-7 zoning classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

The proposed residential subdivision will have two access points, on the north via Brockett Road to US Highway 1 and on the west via Old Dixie Highway to US Highway 1. The relatively low density of existing development and the extent of vacant property in the surrounding area suggest that existing neighborhoods will not be materially and adversely impacted by the proposed development.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 - 2. Sporadic or occasional neighborhood commercial uses shall not

preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The Oakwood and Oakwood Village Subdivisions, platted at 4 units per acre, are an established residential neighborhood. These subdivisions are located west and northwest of the proposed development.

An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

There are no non-residential uses in the immediate vicinity of the proposed development.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, from SR 46 to Lionel, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 24.88% of capacity daily. The maximum development potential from the proposed rezoning at 306 single family units increases the percentage of MAV utilization by 2.67%. The corridor is anticipated to operate at 27.54% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

The school concurrency analysis is based on development of 197 single family lots and indicates that Pinewood Elementary is not projected to have sufficient capacity for the total of projected and potential students from the proposed development; however, the adjacent elementary school service area (Mims Elementary) could accommodate the impacts of the proposed development. Madison Middle and Astronaut High are both projected to have enough capacity for the total of projected and potential students from the proposed development.

The nearest potable water connection is approximately 400 feet north of the subject site and serves the Oakwood Village subdivision. There is also another County potable water line approximately one-half mile south of the subject site. Presently, the nearest sanitary sewer force main connections are approximately one mile south of the subject site.

Environmental Resources

Mapped resources include Wetlands/Hydric Soils, Aquifer Recharge Soils, Protected Species and Protected and Specimen Trees.

National Wetlands Inventory (NWI) wetlands have been mapped on the adjacent property on the west side that will developed along with the subject site in a common

development plan, SJRWMD wetlands have been mapped on the subject site, and hydric soils encompass the entire site with a small proportion of the site that also serves as aquifer recharge.

Scrub jay habitat has been mapped on the adjacent property on the west side that will developed along with the subject site in a common development plan and there is potential for existence of Gopher Tortoises on site.

SJRWMD upland forest has been mapped on the adjacent property on the west side that will developed along with the subject site in a common development plan.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Historic Resources

The Florida Master Site File does not contain any record of historical or cultural resources on this site.

For Board Consideration

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item #22SS00008

Applicant: Genoni

FLU Request: RES-2 to RES-4

Note: Applicant wants to develop 197 lots

P&Z Hearing Date: 08/15/22; **BCC Hearing Date:** 09/01/22

Tax ID Nos: 2102882 & portion of 212878

- 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.
- A rezoning or Future Land Use approval by the Board of County Commissioners does not vest the property from meeting the current wetland ordinance. A formal review of current proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State or local agency. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design.

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

A majority of the parcels are mapped with National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils; 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 site plan submittal. 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 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 plan or permit submittal.

There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

A majority of the parcels is forested. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design.

Land Use Comments:

Wetlands

A majority of the parcels are mapped with NWI wetlands (freshwater forested/shrub wetland), SJRWMD wetlands (mixed wetland hardwoods), and hydric soils (Basinger sand depressional, Copeland-Bradenton-Wabasso complex, Hilolo fine sand, Pompano sand, Riviera sand & Anclote sand); 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 site plan submittal. 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 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 plan or permit submittal.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pompano 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.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay

occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. 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 (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

Protected and Specimen Trees

A large portion of the parcels are forested. Protected Trees (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) are included in this FLUCCS code and are likely found on the project area. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design. 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 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. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design. 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. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.