



Planning and Development Department

2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

BOARD OF COUNTY COMMISSIONERS

**STAFF COMMENTS
 22Z00029**

**Paul J. Marion, Kimberly Ann Lamattina, Kayla Marie Losat, Jessica Lynn Ripper,
 Robert Clay Kirk and Ethyl May Kirk**

**AU (Agricultural Residential), SR (Suburban Residential), RU-1-11 (Single-family Residential)
 and GML (Government Managed Lands) with Existing BDP to
 RU-1-7 (Single-family Residential) with Removal of Existing BDP and Addition of a New BDP**

Tax Account Numbers: 2102878, 2102918, 2102882, 2102319, 3018268, 2113544
 Parcel I.D.s: 21-35-08-00-12, 21-35-08-00-265, 21-35-08-00-266, 21-35-08-00-17, 21-35-08-00-270, 21-35-07-00-109
 Location: On the south side of Brockett Road approximately 3,115 feet east of US Highway 1 (District 1)
 Acreage: 76.52± acres
 Planning & Zoning Board: 8/15/2022
 Board of County Commissioners: 9/01/2022

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot 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, GML, SR, and RU-1-11 with BDP	RU-1-7 with BDP
Potential*	<ul style="list-style-type: none"> • 0 SFR unit in AU • 0 SFR units in GML • 61 SFR units in SR • 128 SFR units in RU-1-11 	306 single-family units**
Can be Considered under the Future Land Use Map	NO RES 2, RES 4, and REC	YES; RES 4***

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** A BDP proposing to limit development to 4 units per acre has been submitted by the applicant. ***Two companion applications have been submitted by the applicant: **22SS00007**, if approved would change the Future Land Use designation on 2.12 acres from Recreation (REC) to Residential 4 (RES 4) and **22SS00008**, if approved would change the Future Land Use designation on 35.36 acres Residential 2 (RES 2) to Residential 4 (RES 4). Section 62-1255 Exhibit A requires RU-1-7 consistency with RES 6.

Background and Purpose of Request

The applicants are requesting to change the zoning of a 76.52± acre property from AU (Agricultural Residential), SR (Suburban Residential), RU-1-11 (Single-family Residential) and GML (Government Managed Lands) with Existing BDP to RU-1-7 (Single-family Residential) with Removal of Existing BDP and Addition of a New BDP in order to develop a single-family subdivision.

The proposed development includes 197 single-family homes according to the School Impact Analysis Report provided by the applicant; however, the maximum potential of 306 units based on density stated in the proposed BDP was analyzed for preliminary concurrency purposes. Per Section 62-2957, subdivisions with 201-350 dwelling units are required to provide two (2) entrances to provide for traffic flow and emergency ingress and egress. The subject property has frontage on Brockett Road to the north and Old Dixie Highway to the west.

The subject property consists of six parcels that are undeveloped. The AU portion of the property (0.01-acre) retains the original zoning (note: this parcel may not be visible on the official zoning map due to its small size). The GML portion (2.12 acres) was administratively rezoned from AU to GML on August 28, 1989 as zoning action Z-8467. The SR and RU-1-11 portions of the property were rezoned from AU to SR and RU-1-11 with BDP on February 22, 2007 as zoning action Z-11321. That BDP, recorded in ORB 5751, Pages 9334-9347, limits the RU-1-11 portion to a total of 128 units and limits the SR portion to a total of 61 units. The BDP also stipulates that not less than 20% of homes built shall be priced as affordable housing and initially sold to households who can qualify only for affordable housing; onsite wet detention ponds be utilized for irrigation; and landscaping shall be Florida grade 1 or Florida Fancy and irrigated by automatic sprinkler systems.

Land Use

The subject property is currently designated as Residential 2 (RES 2), Residential 4 (RES 4), and Recreation (REC). The proposed RU-1-7 zoning cannot be considered consistent with the existing RES 4, RES 2, and REC FLU designations.

Two companion applications have been submitted by the applicant to change the Future Land Use designation to RES 4 on two parcels within the 76.52± acre subject property. **22SS00007**, if approved, would change the Future Land Use designation on 2.12 acres from Recreation (REC) to Residential 4 (RES 4). **22SS00008**, if approved, would change the Future Land Use designation on 35.36 acres Residential 2 (RES 2) to Residential 4 (RES 4).

The applicant has submitted 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.

Applicable Land Use Policies

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 - 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 Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 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.

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 rezone the 76.52± acre subject property to develop 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.

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

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.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-Family Residences; Vacant	AU, TR-2, GML	RES 4, RES 2, REC
South	Vacant	RU-1-7, RR-1	RES 4, RES 2
East	Single-Family Residences and Manufactured/Mobile Homes	SR, AU, TR-2	RES 2
West	Vacant; Single-Family Residences and Manufactured/Mobile Homes	TR-1	RES 4

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

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.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet.

TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet.

TR-2 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on one-half acre lots.

There have been four (4) zoning actions within a half-mile radius of the subject property within the last three years. **21Z00025**, approved by the Board on March 3, 2022, was a request to change AU (Agricultural Residential) to RR-1 (Rural Residential) on a 1.15 acre parcel located 1,540 feet west of the subject property on the west side of US Highway 1. **21Z00026**, approved by the Board on November 4, 2021, was a request to change AU (Agricultural Residential) to SR (Suburban Residential) on a 0.5 acre parcel located 1,940 feet west of the subject property on the west side of US Highway 1. **20PZ00101**, approved by the Board on March 25, 2021, was a request for BDP limiting to 4 units per acre on a 110 acre parcel located south and adjacent to the subject property. **19PZ00010**, approved by the Board on May 2, 2019, was a request to change RRMH-2.5 (Rural Residential Mobile Home) to AGR (Agricultural) on a parcel located 390 feet northeast of the subject property on the west side of Hammock Road.

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 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 indicates that Pinewood Elementary is not projected to have enough 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 Constraints

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

A large portion of the project area is 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.

For Board Consideration

The Board may wish to consider whether the request for RU-1-7 and the proposed BDP limitation without provisions for connection to centralized water and sewer are consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #22Z00029

Applicant: Genoni

Zoning Request: RU-1-11, SR, GML & AU w/ BDPs to RU-1-7 w/ BDP

Note: Applicant wants to develop 197 lots

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

Tax ID Nos: 2102878, 2102918, 2102882, 2102919, 3018268 & 2113544

- 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 zoning 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
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Protected and Specimen Trees

A large portion of the project area is 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.

Portions of the project area are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer 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.

A large portion of the subject property is mapped within an Upland Hardwood Forest. 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.

The subject parcel contains mapped aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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.

Land Use Comments:

Wetlands

A large portion of the project area is mapped with NWI wetlands (freshwater forested/shrub wetland), SJRWMD wetlands (mixed wetland hardwoods & mixed scrub/shrub wetland), and hydric soils (Basinger sand depressional, Copeland-Bradenton-Wabasso complex, Hilolo fine 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 (Pomello sand & Paola sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. 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 Nitrogen Reduction Overlay

Portions of the project area are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer 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 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 subject property is mapped with SJRWMD FLUCCS code 4200-Upland Hardwood Forest. 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. 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.