

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 22S.10 (22SS00007)*  
**Township 21, Range 35, Section 08**

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**Property Information**

**Owner / Applicant:** Ethylmay Kirk and Robert Kirk

**Adopted Future Land Use Map Designation:** Recreation (REC)

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

**Acreage:** 2.12 acres

**Tax Account #:** 3018268

**Site Location:** South side of Brockett Road approximately 975 feet east of U.S. Highway 1.

**Commission District:** 1

**Current Zoning:** Government Managed Lands (GML) and Agricultural Residential (AU)

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

**Background & Purpose**

The applicant is seeking to amend the Future Land Use designation on 2.12 acres of land from Recreation (REC) to Residential 4 (RES 4) to provide a second access point to four adjacent properties 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. The proposed development will be limited to a density of four (4) units per acre. At only 70 feet in width, the subject property is only suitable for construction of an access road.

A separate small scale amendment application was submitted for the proposed development requesting a Future Land Use Map designation change from Residential 2 (RES 2) to Residential 4 (RES 4) (22SS00008) on 35.36 acres in order to provide a consistent Future Land Use Map designation that will encompass the entire proposed development. A companion rezoning application (22Z00029) was submitted accompanying this request for a zoning change from RU-1-11, SR, GML, and AU to RU-1-7, with a Binding Development Plan 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
<b>North</b>	Vacant & Existing Manufactured Housing	GML & TR-1	REC & RES 4
<b>South</b>	Vacant	RU-1-7	RES 4
<b>East</b>	Vacant	RU-1-11	RES 4
<b>West</b>	Unplatted Single-Family Residential	AU	RES 4

Immediately adjacent to the subject property on the northside is vacant County owned land. To the north of the County property are the Oakwood and Oakwood Village subdivisions, zoned TR-1 with established manufactured housing. To the east is vacant residential land which will be developed residentially with the subject parcel providing secondary access to Old Dixie Highway. Immediately adjacent to the subject property on the south is vacant residential land and to the west is existing large lot, single-family residential development which is unplatted.

## 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 existing RES 4 Future Land Use Map designations on the east, west and south. To the north of the vacant County owned land, there is existing residential development with a RES 4 Future Land Use Map designation.***

- 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 between land use densities greater than 4 dwelling units per acre and areas of land use densities that are 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 Aquifer Recharge Soils, Indian River Lagoon Nitrogen Reduction Overlay and Protected Species (Scrub Jay and Gopher Tortoise).

This 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.

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 #22SS00007**

**Applicant:** Genoni

**FLU Request:** REC to RES-4

**Note:** Applicant wants to develop 197 lots connected to this parcel

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

**Tax ID No:** 3018268

- 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:**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species

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.

The subject parcel contains mapped aquifer recharge soils 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.

### **Land Use Comments:**

#### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pomello and Paola fine 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**

The parcel is 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.