



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

8/5/2021

Subject:

4090 Aurora Pines, LLC (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to RES 6. (21PZ00030) (Tax Account 2702879) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of Future Land Use designation from RES 4 (Residential 4) to RES 6 (Residential 6).

Summary Explanation and Background:

The applicant is seeking to change the Future Land Use designation on 6.21 acres of land from RES 4 to RES 6 to be consistent with the proposed TR-1-A (Single-Family Mobile Home) zoning which is part of an existing mobile home park. A companion rezoning application has been submitted to request a change of zoning from TR-3 (Mobile Home Park) to TR-1-A.

The RES 6 land use designation affords a transition in density between the higher urbanized areas and lower density land uses. This land use designation permits a maximum density of up to six (6) units per acre, except as otherwise may be provided for within the Future Land Use Element.

To the north of the subject property, across White Road, is Village Glen Manufactured Home Park, to the east is a single-family resident, to the south across Aurora Road is a Church, vacant residential land, a single-family residence and Indian River Groves and Gardens.

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

The Board may wish to consider Chapter 2021-195, Laws of Florida, and the potential delay until the following elements are incorporated into the Comprehensive Plan.

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

At a minimum, the above listed rights should be considered as part of the Board's decision.

On July 26, 2021, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Upon receipt of ordinance, please execute, file with the State, and return a copy to Planning and Development



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

August 6, 2021

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 21-17, which was filed in this office on August 6, 2021.

Sincerely,

Anya Grosenbaugh
Program Administrator

AG/lb



August 6, 2021

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item H.5., Small Scale Comprehensive Plan Amendment (21S.04)

The Board of County Commissioners, in regular session on August 5, 2021, conducted the public hearing and adopted Ordinance No. 21-17, setting forth the fourth Small Scale Comprehensive Plan Amendment of 2021, (21S.04) changing the Future Land Use designation from RES 4 to RES 6 (21PZ00030), with inclusion of applicant's waiver. Enclosed is the fully-executed and a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK**

for Donna Scott
Kimberly Powell, Clerk to the Board

/cld

Encls. (2)

ORDINANCE NO. 21-17

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FOURTH SMALL SCALE PLAN AMENDMENT OF 2021, 21S.04, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2021 as Plan Amendment 21S.04; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 21S.04; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and
OFFICIALLY FILED WITH THE SECRETARY OF STATE ON AUGUST 5, 2021

WHEREAS, on July 12, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 21S.04, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on August 5, 2021, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 21S.04; and

WHEREAS, Plan Amendment 21S.04 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 21S.04 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 21S.04 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 21S.04, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 5 day of AUGUST, 2021.

ATTEST:


Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By:


Rita Pritchett, Chair

As approved by the Board on August 5, 2021.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

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:

- 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.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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 of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- 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.
 3. 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.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 21S.04 (21PZ00030)
Township 27, Range 36, Section 14

Property Information

Owner / Applicant: 4090 Aurora Pines LLC

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

Requested Future Land Use Map Designation: Residential 6 (RES 6)

Acreage: 6.21 acres

Tax Account #: 2702879

**Site Location: On the north side of Aurora Road approximately 677 feet west of
Turtlemound Road**

Commission District: 5

Current Zoning: Mobile Home Park (TR-3)

Requested Zoning: Single-Family Mobile Home (TR-1-A)

Background & Purpose

The applicant is seeking to amend the Future Land Use designation on 6.21 acres of land from Residential 4 (RES 4) to Residential 6 (RES 6). The subject property currently has a Future Land Use designation of RES 4.

On the north side of Aurora Road, from Harlock to Turtlemound Road, the Future Land Use designation has been Agricultural (AGR) since the adoption of the Brevard County Comprehensive Plan in September, 1988. In 2001 and 2002, there were Future Land Use changes from AGR to RES 4 on the north side of Aurora Road and from AGR to RES 6 and Residential 15 (RES 15), on the south side of Aurora Road.

The applicant is seeking to change the Future Land Use designation from RES 4 to RES 6 to be consistent with the Zoning of Single-Family Mobile Home (TR-1-A) with an existing mobile home park.

A companion rezoning application was submitted accompanying this request for a Zoning change from Mobile Home Park (TR-3) to Single-Family Mobile Home (TR-1-A).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Across White Road, Village Glen Manufactured Housing Park	TR-3	RES 4
South	Across Aurora Road, Church, Vacant Residential Land, Single-Family Resident and Indian River Groves and Gardens	AU,RR-1, IN(L)	RES 6, RES 15
East	Single-Family Resident	RR-1	RES 4
West	Two (2) Manufactured Houses and one (1) Single-Family Residence	TR-1, RR-1	RES 4

To the north of the subject property, across White Road, is Village Glen Manufactured Housing Park, to the east is a single-family resident, to the south across Aurora Road is a Church, vacant residential land, a single-family residence and Indian River Groves and Gardens.

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;

There has been a historical existing manufactured home park use pattern established along this segment of Aurora Road since approximately 1958.

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 within the past three (3) years.

Policy 1.2

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.

The subject property is served with potable water by the City of Melbourne.

- 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.

This Future Land Use Amendment request to change from RES 4 to RES 6 will require a connection to a centralized sewer system.

Residential 6 (maximum of 6 dwelling units per acre)

Policy 1.6

The Residential 6 land use designation affords a transition in density between the higher urbanized areas and lower intensity land uses. This land use designation permits a maximum density of up to six (6) units per acre, except as otherwise may be provided for within this element. The Residential 6 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 6 land use designation; or

To the south of the subject site, across Aurora Road, are Future Land Use designations of Residential 6 (RES 6) and Residential 15 (RES 15)

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than six (6) units per acre and areas with density of less than six (6) units per acre; or

Traditionally, transition areas are considered to be a density buffer between land uses. In this case, there are pockets of higher density with the majority being RES 4.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 6.

This is not in an area of Unincorporated Brevard County that is adjacent to an Incorporated area.

- D. A 25% density bonus to permit up to 7.5 dwelling units per acre may be considered where the Planned Unit Development concept is utilized, 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 seeking a Planned Unit Development.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site

is within the City of Melbourne's service area for potable water. The subject parcel will be required to connect to a centralized sewer system. The school concurrency indicates there is enough capacity for the total of projected and potential students from the Aurora Pines development.

Environmental Resources

Mapped resources include Hydric Soils/Wetlands, Aquifer Recharge Soils, Floodplain, 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 the request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 21PZ00030**

Applicant: Moia for Gray

FLU Request: RES 4 to RES 6

Note: Applicant wants to retain trailer park use and include a single-family residence.

P&Z Hearing Date: 07/12/21; **BCC Hearing Date:** 08/05/21

Tax ID No: 2702879

- 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:

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

The subject parcel contains mapped hydric soils, an indicator that wetlands may be present on the property. 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. A wetland determination will be required. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any to any land clearing activities, site plan design or building permit submittal.

Per Section 62-3724(4) of the floodplain ordinance, the parcel may be subject to compensatory storage for fill brought onto the parcel. Please see floodplain section in NRM comments for more information.

The subject property contains a mapped polygon of SJRWMD FLUCCS code 4110-Pines Flatwoods forest. Per Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. A tree survey will be required a time of site plan submittal. Land clearing is not permitted without prior authorization by NRM.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Eau Gallie sand and Valkaria sand) as shown on the USDA Soil Conservation Service Soils Survey map, an indicator that wetlands may be present on the property. 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. A wetland determination will be required. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any to any land clearing activities, site plan design or building permit submittal.

Aquifer Recharge Soils

Valkaria sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain

Portions of the subject parcel are located within a mapped isolated floodplain as identified by FEMA, and as shown on the FEMA Flood Map. Per Section 62-3724(4) of the floodplain 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. 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. 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. Delineation of floodplains shall use best available pre-alteration ground elevation data. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM prior to any grading, filling or land alteration activities.

Protected and Specimen Trees

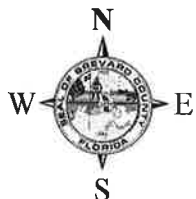
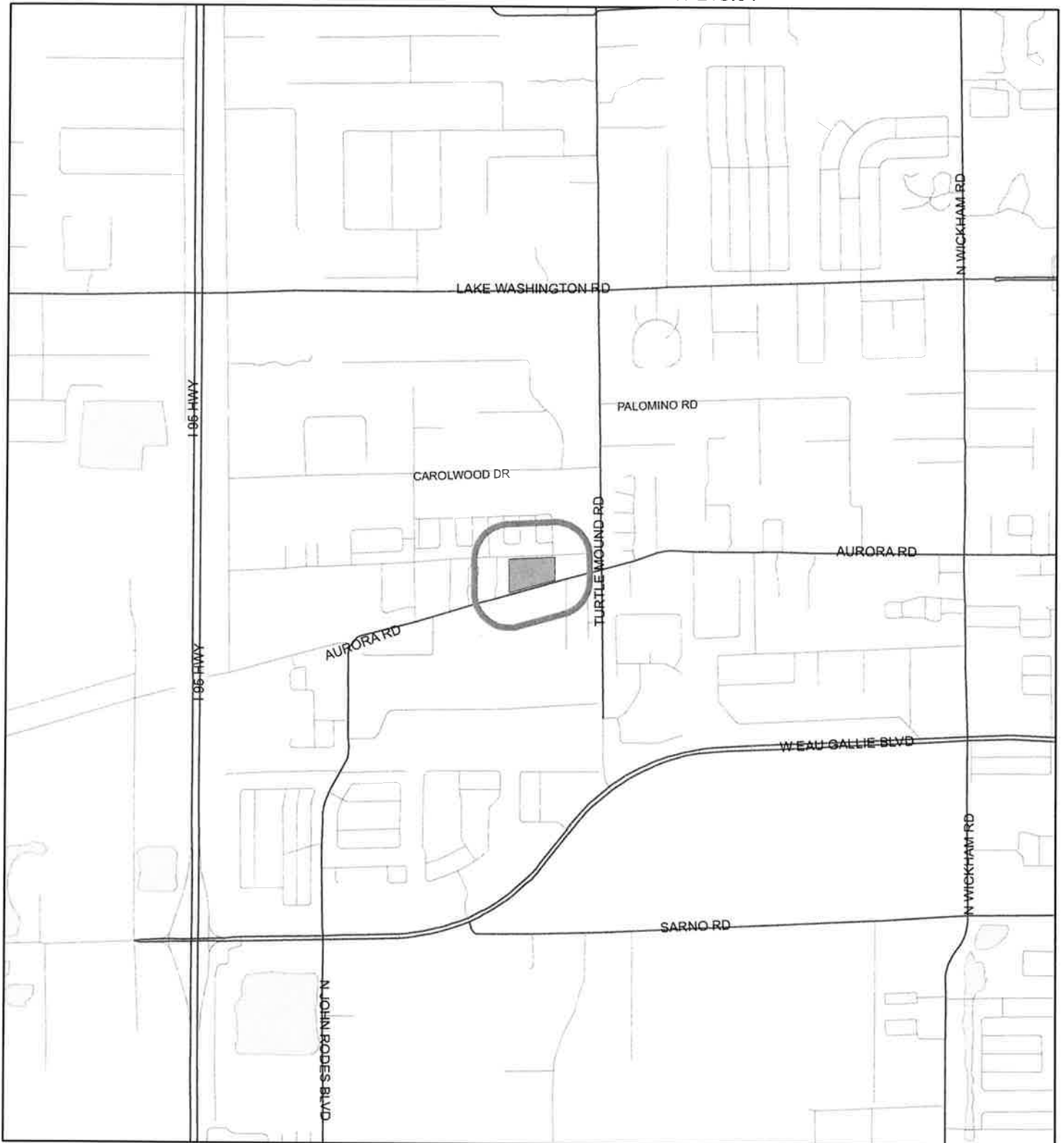
The subject property contains a mapped polygon of SJRWMD FLUCCS code 4110-Pines Flatwoods forest. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and may be found on the property. Per 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. A tree survey will be required a time of site plan submittal. Per Section 62-4339, parcels greater than 2.5 acres shall meet canopy preservation 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. 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.

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.

LOCATION MAP

4090 AURORA PINES, LLC
21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

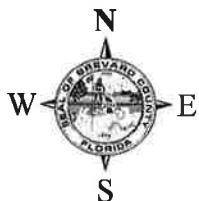
Produced by BoCC - GIS Date: 5/7/2021

Buffer
Subject Property

ZONING MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/7/2021

Subject Property

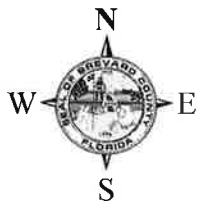
Parcels

Zoning

FUTURE LAND USE MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

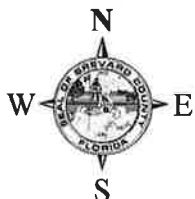
— Subject Property
 □ Parcels

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/7/2021

PROPOSED FUTURE LAND USE MAP

4090 AURORA PINES, LLC
21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

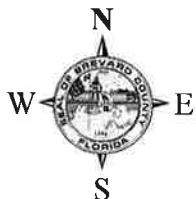
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/7/2021

AERIAL MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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Produced by BoCC - GIS Date: 5/7/2021

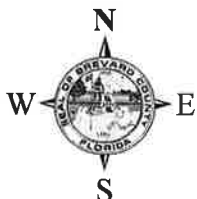
 Subject Property

 Parcels

NWI WETLANDS MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2021

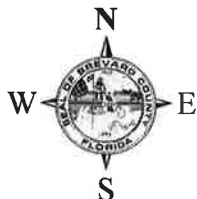
National Wetlands Inventory (NWI)

	Estuarine and Marine Deepwater		Freshwater Pond
	Estuarine and Marine Wetland		Lake
	Freshwater Emergent Wetland		Other
	Freshwater Forested/Shrub Wetland		Riverine
	Subject Property		Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2021

SJRWMD FLUCCS WETLANDS

-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

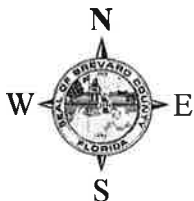
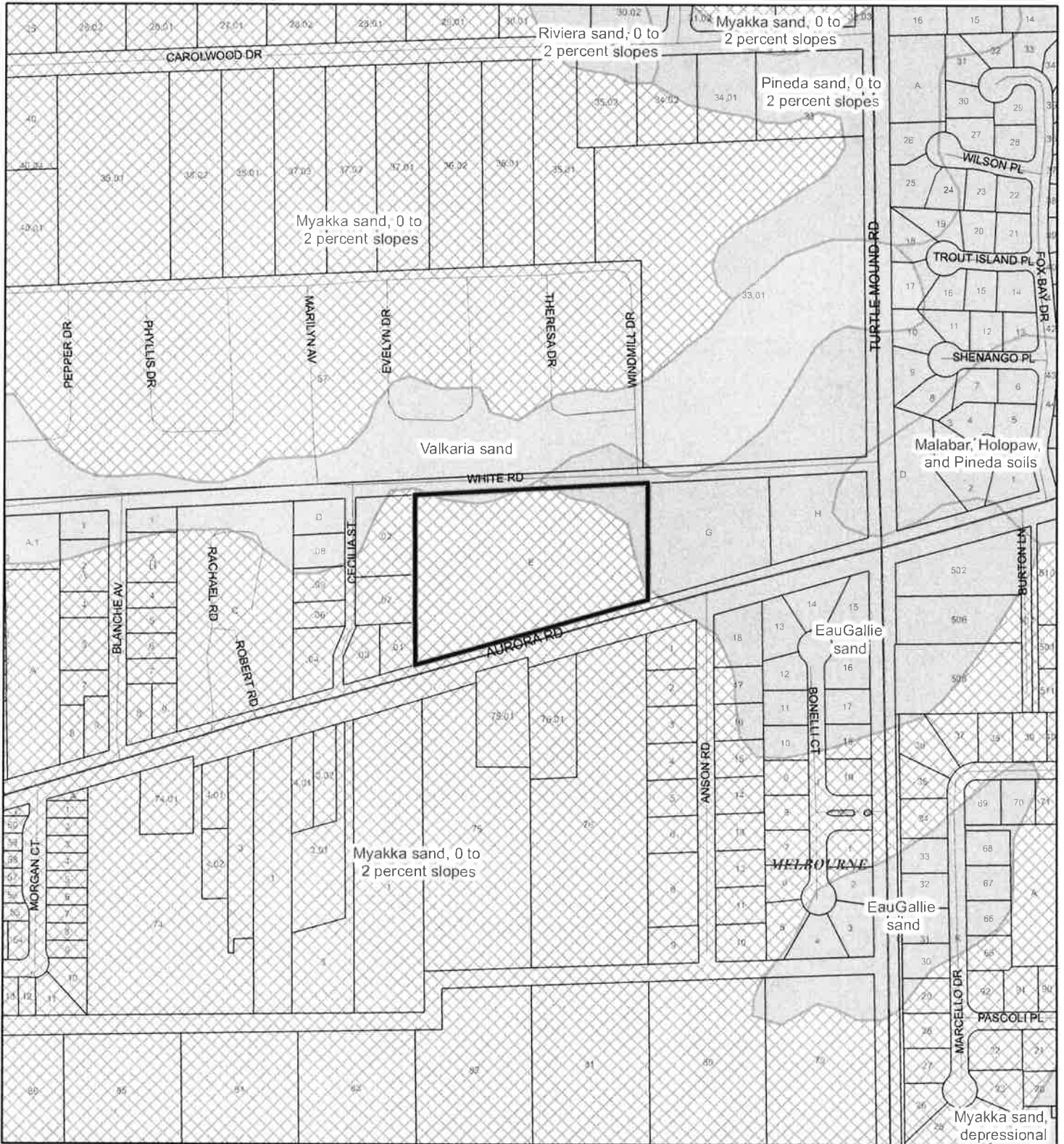
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2021

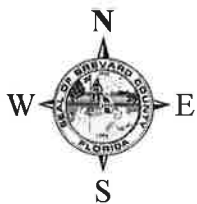
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

4090 AURORA PINES, LLC
21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

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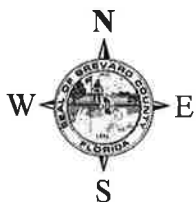
Produced by BoCC - GIS Date: 5/7/2021

FEMA Flood Zones

- | | | |
|------------------|------------|---|
| A | AO | X |
| AE | Open Water | |
| AH | VE | |
| Subject Property | Parcels | |

COASTAL HIGH HAZARD AREA MAP

4090 AURORA PINES, LLC
21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet


This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/7/2021

 Subject Property

 Parcels

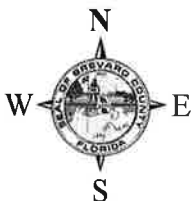
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2021

 Subject Property

 Parcels

Septic Overlay

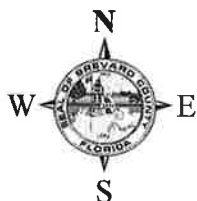
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

4090 AURORA PINES, LLC
21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2021

 Subject Property

 Parcels

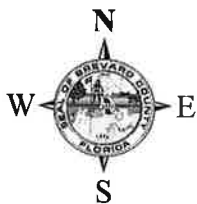


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

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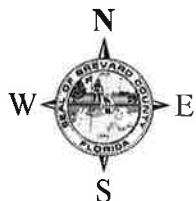
Produced by BoCC - GIS Date: 5/7/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

4090 AURORA PINES, LLC

21PZ00030 SMALL SCALE AMENDMENT 21S.04



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/7/2021

SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property Parcels



BOARD OF COUNTY COMMISSIONERS

Application Pages
21PZ00030
Aurora Pines

Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

21S.04

Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21 PZ00030

Existing FLU: RES 4 Existing Zoning: TR-3

Proposed FLU: RES 6 Proposed Zoning: _____

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

Michael Gray 4090 Aurora Pines LLC
Name(s) Company
457 Montreal Avenue Melbourne FL 32935
Street City State Zip Code
mgray@gmx.com 412-303-5872
Email Phone Cell

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☐ Contract Purchaser ☒ Other EOR

Bruce Moia, P.E. MBV Engineering, Inc.
Name(s) Company
1250 W Eau Gallie Blvd, Ste H Melbourne FL 32935
Street City State Zip Code
brucem@mbveng.com 321-253-1510
Email Phone Cell

APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☒ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element _____
- ☐ Other Amendment (CP): _____
- ☐ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: _____

Acreage of Request: 6.21

Reason for Request:

To retain existing trailer park use and include SFR.

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☒ An approval of this application does not entitle the owner to a development permit.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

[Signature]
Signature of Property Owner or
Authorized Representative

4/13/21
Date

State of Florida

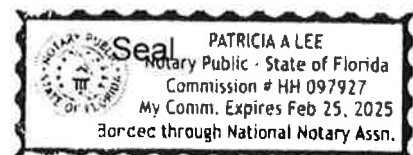
County of Brevard

Subscribed and sworn before me, by ☒ physical presence or _____ online notarization,

this 13th day of, April, 2021, personally appeared

Michael Gray, who is personally known to me or produced
well known as identification, and who did / did not take an oath.

[Signature]
Notary Public Signature



Office Use Only:

Accela No. 21P200030 Fee: \$1219⁰⁰ Date Filed: 5/4/21 District No. 5

Tax Account No. (list all that apply) 2702879

Parcel I.D. No.

27 36 14 76 E
Twp Rng Sec Sub Block Lot/Parcel

Planner: JHart Sign Issued by: _____ Notification Radius: _____

MEETINGS

DATE

TIME

<input checked="" type="checkbox"/> P&Z	<u>7/12/21</u>	<u>3pm</u>
<input type="checkbox"/> PSJ Board	_____	_____
<input type="checkbox"/> NMI Board	_____	_____
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>8/5/21</u>	<u>5pm</u>

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials _____

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

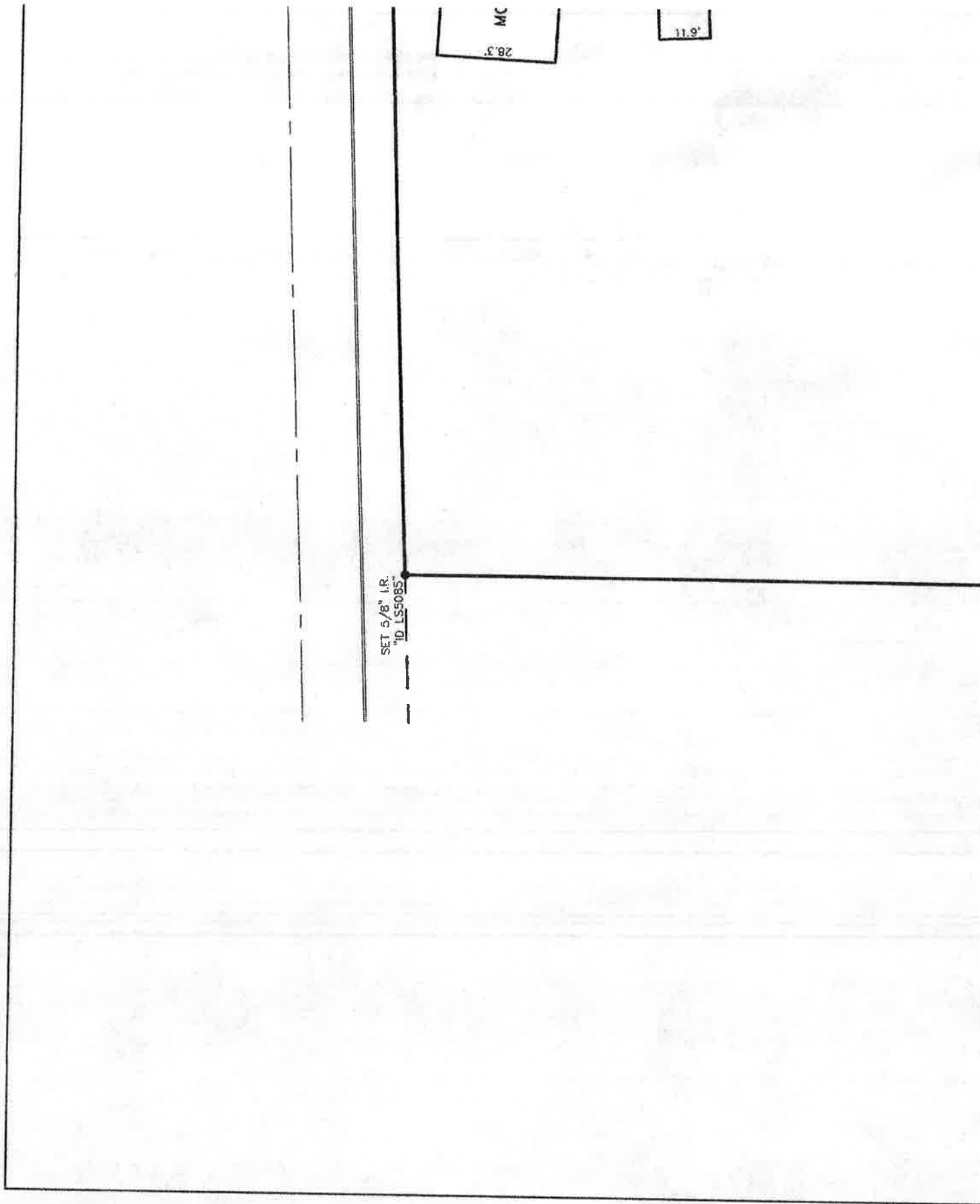
☐ Yes ☐ No If yes, list _____

Location of subject property:

North side of Aurora Rd, approximately 677 ft
West of Turtle mound Rd

Description of Request:

RES4 to RES6





School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699
Mark W. Mullins, Ed.D., Superintendent

May 12, 2021

Mr. Kyle Harris
Associate Planner
Planning & Development Department
Brevard County Board of County Commissioners
2726 Judge Fran Jamieson Way
Viera, Florida 32940

**RE: Proposed Aurora Pines Development
School Impact Analysis – Capacity Determination CD-2021-11**

Dear Mr. Harris,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account 2702879 (Parcel ID: 27-36-14-76-E) containing approximately 6.21 acres in District 5, Brevard County, Florida. The proposed single-family development includes 10 homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2020-21 to 2025-26 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2020-2021 to 2025-26* which is attached for reference.

Single-Family Homes		10	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	2.8	3
Middle	0.08	0.8	1
High	0.16	1.6	2
Total	0.52		6

Planning & Project Management
Facilities Services
Phone: (321) 633-1000 x11418 • FAX: (321) 633-4646



**FISH Capacity (including relocatables) from the
Financially Feasible Plan (FFP) Data and Analysis for School Years 2020-21 to
2025-26**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Sabal	785	785	785	785	785
Johnson	997	997	997	997	997
Eau Gallie	2,221	2,221	2,221	2,221	2,221

Projected Student Membership

School	2021-22	2022-23	2023-24	2024-25	2025-26
Sabal	564	584	594	580	581
Johnson	710	694	727	773	805
Eau Gallie	1,642	1,726	1,741	1,758	1,783

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2021-22	2022-23	2023-24	2024-25	2025-26
Sabal	-	-	-	-	-
Johnson	-	-	-	-	-
Eau Gallie	-	-	-	-	-

**Cumulative Students Generated by
Proposed Development**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Sabal	3	3	3	3	3
Johnson	1	1	1	1	1
Eau Gallie	2	2	2	2	2

**Total Projected Student Membership (includes
Cumulative Impact of Proposed Development)**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Sabal	567	587	597	583	584
Johnson	711	695	728	774	806
Eau Gallie	1,644	1,728	1,743	1,760	1,785

**Projected Available Capacity =
FISH Capacity - Total Projected Student Membership**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Sabal	218	198	188	202	201
Johnson	286	302	269	223	191
Eau Gallie	577	493	478	461	436

At this time, Sabal Elementary School, Johnson Middle School and Eau Gallie High School are projected to have enough capacity for the total of projected and potential students from the Aurora Pines development.

This is a **non-binding** review; a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



Karen M. Black, AICP Candidate
Manager – Facilities Planning & Intergovernmental Coordination
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2020-2021 to 2025-26*

Copy: Susan Hann, Assistant Superintendent of Facility Services
File CD-2021-11

David G. Lindemann, AICP, Director of Planning & Project Management,
Facilities Services
File CD-2021-11

Brevard County Public Schools

Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service Data and Analysis for School Years 2020-21 to 2025-26



Summary		2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Highest Utilization Elementary Schools:		87%	90%	100%	100%	100%	100%
Highest Utilization Middle Schools:		87%	89%	90%	98%	99%	99%
Highest Utilization Jr / Sr High Schools:		81%	81%	80%	86%	94%	96%
Highest Utilization High Schools:		93%	99%	99%	99%	99%	100%

School	Type	Grades	Utilization Factor	School Year 2020-21			School Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25			School Year 2025-26		
				FISH Capacity	10/09/19 Member-ship	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
Allen	Elementary	PK-6	100%	751	596	78%	751	679	80%	751	652	87%	751	681	81%	773	758	96%	795	791	99%
Anderson	Elementary	K-6	100%	884	618	70%	884	617	70%	884	687	78%	884	696	79%	884	702	79%	884	713	81%
Apollo	Elementary	K-6	100%	902	785	87%	902	801	89%	902	777	86%	902	755	84%	902	757	84%	902	744	82%
Atlanta	Elementary	PK-6	100%	739	633	86%	739	660	89%	739	625	85%	739	624	84%	739	616	83%	739	610	83%
Audubon	Elementary	PK-6	100%	761	469	62%	761	470	62%	761	471	62%	761	476	63%	761	475	62%	761	484	64%
Cambridge	Elementary	PK-6	100%	765	519	68%	765	525	69%	765	503	66%	765	494	65%	765	469	61%	765	458	60%
Cape View	Elementary	PK-6	100%	570	302	53%	570	283	50%	570	277	49%	570	269	47%	570	253	44%	570	254	45%
Carroll	Elementary	K-6	100%	751	593	79%	751	593	79%	751	530	71%	751	553	74%	751	559	74%	751	540	72%
Challenger 7	Elementary	PK-6	100%	573	477	83%	573	493	86%	573	443	77%	573	423	74%	573	406	71%	573	398	69%
Columbia	Elementary	PK-6	100%	751	405	54%	751	400	53%	751	455	61%	751	514	68%	751	533	71%	751	547	73%
Covina	Elementary	PK-6	100%	711	499	70%	711	532	75%	711	475	67%	711	436	61%	711	396	56%	711	376	53%
Croft	Elementary	PK-6	100%	1,154	703	61%	1,154	746	65%	1,154	743	64%	1,154	737	64%	1,154	740	64%	1,154	741	64%
Croton	Elementary	PK-6	100%	795	480	60%	795	530	67%	795	615	77%	795	622	78%	795	627	79%	795	635	80%
Discovery	Elementary	PK-6	100%	980	560	57%	980	550	56%	980	494	50%	980	500	51%	980	507	52%	980	503	51%
Endeavour	Elementary	PK-6	100%	990	608	61%	990	646	65%	990	589	59%	990	581	59%	990	528	53%	990	527	53%
Enterprise	Elementary	K-6	100%	729	536	74%	729	584	80%	729	525	72%	729	520	71%	729	512	70%	729	492	67%
Faughan	Elementary	PK-6	100%	789	577	73%	789	590	75%	789	598	76%	789	630	80%	789	676	86%	789	700	89%
Gemini	Elementary	K-6	100%	711	426	60%	711	457	64%	711	401	56%	711	384	54%	711	379	53%	711	383	54%
Goldview	Elementary	PK-6	100%	777	439	56%	777	450	58%	777	528	68%	777	522	67%	777	537	69%	777	545	70%
Harbor City	Elementary	PK-6	100%	629	345	55%	629	378	60%	629	379	60%	629	416	66%	629	412	66%	629	407	64%
Holland	Elementary	PK-6	100%	605	410	68%	605	485	80%	605	429	71%	605	430	71%	605	416	69%	605	417	69%
Imperial Estates	Elementary	K-6	100%	729	605	83%	729	608	83%	729	615	84%	729	627	86%	729	644	89%	729	648	89%
Indianapolis	Elementary	PK-6	100%	798	662	83%	798	694	87%	798	683	86%	798	675	85%	798	668	84%	798	649	81%
Jupiter	Elementary	PK-6	100%	930	679	73%	930	656	71%	930	705	76%	930	806	87%	930	876	94%	930	926	100%
Lockman	Elementary	PK-6	100%	892	632	71%	892	609	68%	892	592	66%	892	555	63%	892	541	61%	892	518	58%
Longleaf	Elementary	PK-6	100%	790	568	72%	790	577	73%	790	585	74%	790	595	75%	790	603	76%	790	602	76%
Manatee	Elementary	K-6	100%	998	868	87%	998	896	90%	998	908	91%	998	908	91%	998	918	92%	998	914	92%
McAuliffe	Elementary	PK-6	100%	918	669	73%	918	657	72%	918	591	64%	918	594	65%	918	561	61%	918	570	62%
Meadowlane Intermediate	Elementary	3-6	100%	1,114	772	69%	1,114	839	75%	1,114	853	77%	1,114	915	82%	1,114	968	87%	1,114	998	90%
Meadowlane Primary	Elementary	K-6	100%	824	661	80%	824	724	88%	824	634	77%	824	687	83%	824	687	83%	824	689	85%
Mia	Elementary	PK-6	100%	707	428	61%	707	442	63%	707	432	61%	707	428	61%	707	418	59%	707	408	58%
Mills	Elementary	PK-6	100%	725	389	54%	725	422	58%	725	398	55%	725	409	56%	725	418	57%	725	408	58%
Oak Park	Elementary	PK-6	100%	968	603	62%	968	590	60%	968	542	56%	968	514	53%	968	484	50%	968	482	50%
Ocean Breeze	Elementary	PK-6	100%	854	508	59%	854	545	64%	854	465	54%	854	462	54%	854	455	53%	854	429	50%
Palm Bay Elem	Elementary	PK-6	100%	983	573	58%	983	596	61%	983	653	66%	983	736	75%	983	770	78%	983	773	79%
Pinewood	Elementary	PK-6	100%	569	470	83%	569	486	85%	569	493	87%	569	504	88%	569	510	90%	569	516	91%
Port Malabar	Elementary	PK-6	100%	852	648	76%	852	631	74%	852	616	72%	852	612	72%	852	617	72%	852	625	73%
Quest	Elementary	PK-6	100%	1,152	795	69%	1,152	882	77%	1,152	853	75%	1,152	915	82%	1,152	968	87%	1,152	998	90%
Riviera	Elementary	PK-6	100%	777	561	72%	777	578	74%	777	561	72%	777	561	72%	777	561	72%	777	561	72%
Roosevelt	Elementary	K-6	100%	599	263	44%	599	247	41%	599	242	40%	599	230	38%	599	207	35%	599	193	32%
Sabal	Elementary	PK-6	100%	785	549	70%	785	564	72%	785	584	74%	785	594	76%	785	580	74%	785	581	74%
Saturn	Elementary	PK-6	100%	976	794	81%	976	841	86%	976	825	85%	976	839	86%	976	825	85%	976	825	85%
Sea Park	Elementary	PK-6	100%	461	272	59%	461	298	65%	461	287	62%	461	288	62%	461	294	64%	461	288	62%
Sherwood	Elementary	PK-6	100%	609	393	65%	609	416	68%	609	379	62%	609	381	63%	609	386	63%	609	379	62%
South Lake	Elementary	K-6	100%	481	367	76%	481	397	83%	481	367	76%	481	367	76%	481	367	76%	481	367	76%
Sunrise	Elementary	PK-6	100%	700	700	100%	700	693	99%	700	693	99%	700	693	99%	700	693	99%	700	693	99%
Sunrise	Elementary	K-6	100%	755	594	79%	755	616	81%	755	571	76%	755	579	77%	755	546	73%	755	535	71%
Surfside	Elementary	PK-6	100%	541	438	81%	541	457	84%	541	430	79%	541	412	76%	541	398	74%	541	400	74%
Tropical	Elementary	K-6	100%	910	682	75%	910	725	80%	910	623	68%	910	603	66%	910	565	62%	910	547	60%
Turner	Elementary	PK-6	100%	874	529	61%	874	525	60%	874	502	58%	874	475	55%	874	448	51%	874	430	49%
University Park	Elementary	PK-6	100%	811	432	53%	811	471	58%	811	438	54%	811	438	54%	811	438	54%	811	438	54%
Viera Elem	Elementary	K-6	100%	1,012	384	38%	1,012	643	64%	1,012	613	61%	1,012	697	69%	1,012	748	73%	1,012	741	73%
Westside	Elementary	K-6	100%	857	671	78%	857	684	80%	857	617	72%	857	641	75%	857	663	77%	857	663	77%
Williams	Elementary	PK-6	100%	715	482	67%	715	484	68%	715	463	65%	715	444	62%	715	425	59%	715	396	55%
Elementary Totals				42,996	29,621		42,996	30,667		42,996	30,387		42,996	31,384		42,996	31,483		42,996	43,392	31,487

Middle School Concurrency Service Areas												
	7-8	90%	1,505	1,135	75%	1,505	1,136	75%	1,505	1,076	71%	1,505
Central	Middle	90%	938	800	85%	938	787	84%	938	846	90%	938
DeLaura	Middle	90%	938	800	85%	938	787	84%	938	846	90%	938
Hoover	Middle	90%	680	468	69%	680	480	71%	680	468	69%	680
Jackson	Middle	90%	654	566	87%	654	583	89%	654	558	85%	654
Jefferson	Middle	90%	854	647	76%	854	640	75%	854	632	74%	854
Johnson	Middle	90%	997	710	71%	997	710	71%	997	727	73%	997
Kennedy	Middle	90%	813	666	82%	813	638	78%	813	606	75%	813
Madison	Middle	90%	781	470	60%	781	475	61%	781	445	57%	781
McNair	Middle	90%	611	407	67%	611	390	64%	611	448	73%	611
Southwest	Middle	90%	1,177	804	67%	1,177	886	75%	1,177	879	75%	1,177
Stone	Middle	90%	1,024	775	76%	1,024	754	74%	1,024	896	84%	1,024
Middle Totals			10,035	7,570		10,035	7,492		10,035	7,500		10,055
												8,015
												10,055
												8,182

Junior / Senior High School Concurrency Service Areas												
	Jr / Sr High	PK, 7-12	90%	2,084	1,572	75%	2,084	1,578	76%	2,084	1,587	80%
Cocoa	Jr / Sr High	90%	2,084	1,572	75%	2,084	1,578	76%	2,084	1,587	80%	2,084
Cocoa Beach	Jr / Sr High	90%	1,466	984	66%	1,466	1,000	68%	1,466	914	62%	1,466
Space Coast	Jr / Sr High	90%	1,857	1,501	81%	1,857	1,505	81%	1,857	1,455	78%	1,857
Jr / Sr High Totals			5,407	4,037		5,407	4,083		5,407	4,108		5,407
												4,310
												5,407
												4,260

Senior High School Concurrency Service Areas												
	9-12	95%	1,446	1,087	75%	1,446	1,081	75%	1,446	1,082	76%	1,446
Astronaut	High	95%	1,446	1,087	75%	1,446	1,081	75%	1,446	1,082	76%	1,446
Bayside	High	95%	2,257	1,568	69%	2,257	1,869	83%	2,257	2,046	91%	2,257
Eau Gallie	High	95%	2,221	1,805	82%	2,221	1,642	74%	2,221	1,741	78%	2,221
Hennepin	High	95%	2,314	1,899	82%	2,314	1,980	86%	2,314	2,081	90%	2,314
Merit Island	High	95%	2,370	2,112	89%	2,370	2,148	91%	2,370	2,354	97%	2,370
Palm Bay	High	95%	1,891	1,489	79%	1,891	1,494	79%	1,891	1,517	80%	1,891
Roadside	High	95%	2,602	1,336	51%	2,602	1,288	50%	2,602	1,827	70%	2,602
Satellite	High	95%	1,701	1,518	89%	1,701	1,624	95%	1,701	1,664	97%	1,701
Titusville	High	95%	1,516	1,412	93%	1,516	1,411	93%	1,516	1,393	92%	1,516
Viera	High	95%	1,848	1,230	67%	1,848	1,391	75%	1,848	1,428	77%	1,848
High Totals			22,441	17,352		22,441	17,845		22,441	19,809		22,701
												19,809
												19,809
												19,891

Schools of Choice (Not Concurrency Service Areas)												
	K-5	100%	475	395	83%	475	395	83%	475	395	83%	475
Freedom 7	Elementary	100%	475	395	83%	475	395	83%	475	395	83%	475
Stevenson	Elementary	100%	569	505	89%	569	488	86%	569	488	86%	569
West Melbourne	Elementary	100%	618	552	89%	618	531	86%	618	531	86%	618
Edgewood	Jr / Sr High	90%	1,072	937	87%	1,072	942	88%	1,072	942	88%	1,072
West Shore	Jr / Sr High	90%	1,264	967	77%	1,264	967	77%	1,264	967	77%	1,264
Schools of Choice			3,998	3,317		3,998	3,323		3,998	3,323		3,998
												3,323
												3,998
												3,323

Brevard Totals			84,877	61,997		84,877	64,127		84,877	66,147		85,553
												67,143

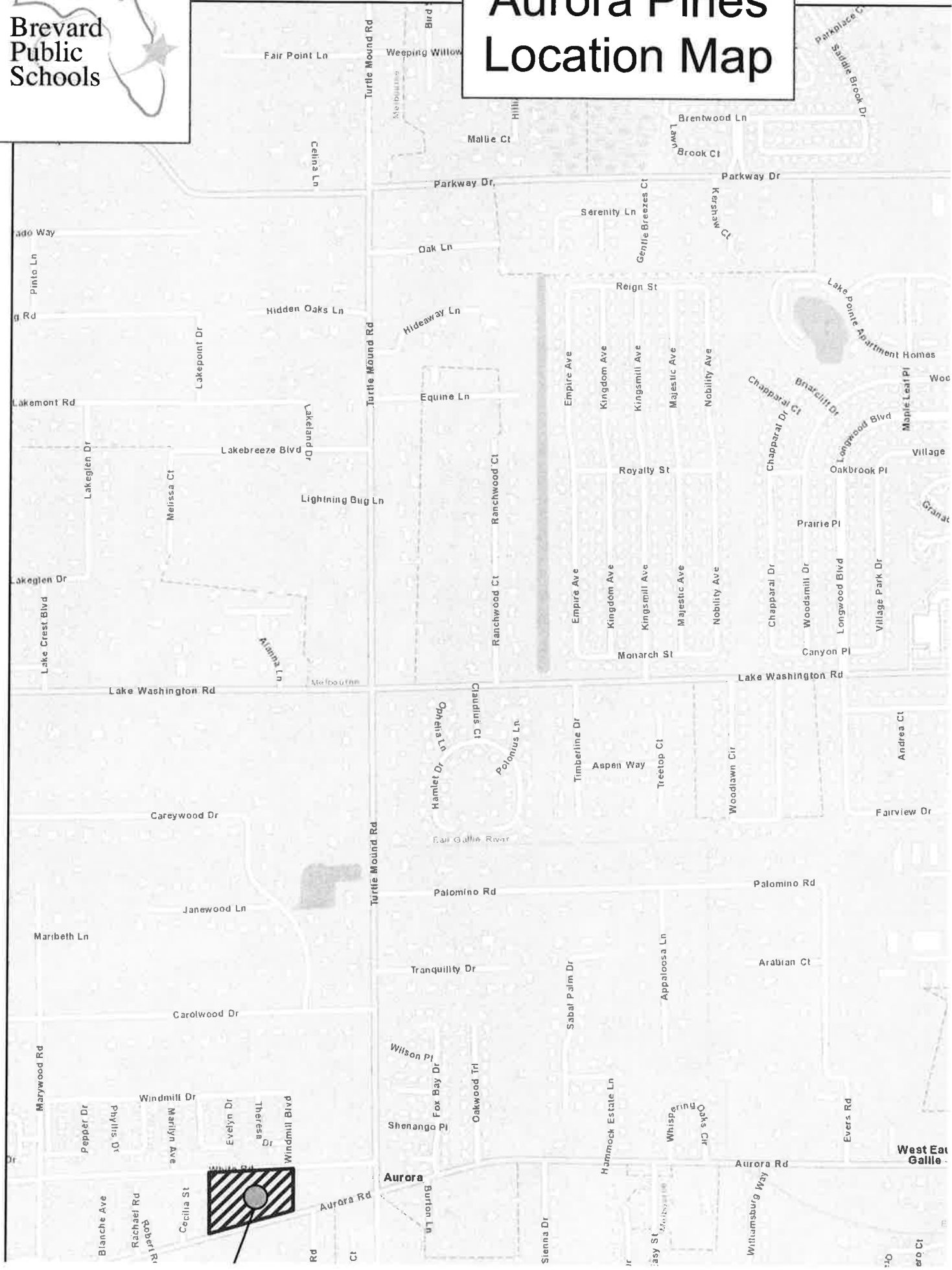
Notes

- FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2020-21 are reported from the FISH database as of August 6, 2020.
- Student Membership is reported from the Fall Final Membership Count (10/09/20).
- Davis Demographics School/Site Enrollment Forecasting Extension for ArcGIS estimates future student populations by analyzing the following data:
 - Development Projections from Brevard County Local Government Jurisdictions
 - Brevard County School Concurrency Student Generation Multipliers (SGM)
 - Student Mobility Rates / Cohort Survival Rates
 - Brevard County Birth rates by zip code
- Davis Demographics estimates are then adjusted using the following factors:
 - PK (Pre-Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
 - Current From/To attendance patterns are assumed to remain constant
 - Non-coded student addresses are assumed to continue in their attendance schools.
 - Charter School Growth.
- In order to maintain utilization rates lower than the 100% Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
- A total of 30 Relocatable Classrooms are assumed to add future student stations as listed below:
 - Primary relocatable classrooms (Grades K-3) = 18 student stations, Intermediate (Grades 4-8) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations
 - Intermediate relocatable classrooms are proposed to be added at Roy Allen Elementary, Riviera Elementary, Saturn Elementary, Sunrise Elementary, and Stone Middle School (Total 19 Classrooms)
 - High school relocatable classrooms are proposed to be added at Melbourne High and Viera High (Total of 11 Classrooms)
- Redistricting was approved for the 2021-22 school year and the projected enrollment for 2021-22 is adjusted for those areas.

Brevard
Public
Schools



Aurora Pines Location Map



PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 12, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Ron Bartcher (D1); Brian Hodgess (D2); Mark Wadsworth, Chair (D4); Joe Buchanan (D4 Alt); Peter Filiberto (D5); and David Bassford (D5 Alt).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Kyle Harris, Planner I; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

At the outset of the meeting, David Bassford announced he had a conflict of interest on Items H.1., H.7., and H.8., and would need to abstain from voting.

Excerpt of Complete Minutes

4090 Aurora Pines, LLC (Bruce Moia)

A Small Scale Comprehensive Plan Amendment (21S.04) to change the Future Land Use designation from RES 4 (Residential 4) to RES 6 (Residential 6). The property is 6.21 acres, located on the north side of Aurora Rd., approx. 677 ft. west of Turtlemound Rd. (4090 Aurora Rd., Melbourne) (21PZ00030) (Tax Account 2702879) (District 5)

Motion by Peter Filiberto, seconded by Joe Buchanan, to table the request to the July 26, 2021, LPA meeting, due to lack of quorum. The vote was unanimous.

4090 Aurora Pines, LLC (Bruce Moia)

A change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home). The property is 6.21 acres, located on the north side of Aurora Rd., approx. 677 ft. west of Turtlemound Rd. (4090 Aurora Rd., Melbourne) (21Z00016) (Tax Account 2702879) (District 5)

Motion by Peter Filiberto, seconded by Joe Buchanan, to table the request to the July 26, 2021, LPA meeting, due to lack of quorum. The vote was unanimous.

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, July 26, 2021, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Vice Chair Peter Filiberto, at 3:07 p.m.

Board members present were: Ron Barcher (D1); Brian Hodgers (D2); Ben Glover (D3); William Capote (D3); Ron McLellan (D4); Joe Buchanan (D4); Peter Filiberto, Vice Chair (D5); and David Bassford.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Kyle Harris, Planner I; Abby Jorandby, Assistant County Attorney; Tad Calkins, Planning and Development Director; Virginia Barker, Natural Resources Management Director; and Jennifer Jones, Special Projects Coordinator.

David Bassford announced he will abstain from voting on Items H.1. through H.3. due to a conflict of interest.

Excerpt of Complete Minutes

2. 4090 Aurora Pines, LLC (Bruce Moia)

A Small Scale Comprehensive Plan Amendment (21S.04) to change the Future Land Use designation from RES 4 (Residential 4) to RES 6 (Residential 6). The property is 6.21 acres, located on the north side of Aurora Rd., approx. 677 ft. west of Turtle mound Rd. (4090 Aurora Rd., Melbourne) (21PZ00030) (Tax Account 2702879) (District 5) This item was tabled from the 07/12/21 P&Z meeting.

3. 4090 Aurora Pines, LLC (Bruce Moia)

A change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home). The property is 6.21 acres, located on the north side of Aurora Rd., approx. 677 ft. west of Turtle mound Rd. (4090 Aurora Rd., Melbourne) (21Z00016) (Tax Account 2702879) (District 5). This item was tabled from the 07/12/21 P&Z meeting.

Bruce Moia, MBV Engineering, stated there is an existing trailer park on the subject property and approximately 2.6 acres that is vacant and the owns would like to put some single-family homes on the property that would be compatible with the area. The land use is compatible with the surrounding land uses as well as the zoning. He said in order to get the lot size and density they need, they are asking for more than that they think they need. He said he has done a preliminary concept plan and believes 10 lots can be placed on the property. He advised that water and sewer would be brought to the property and an internal roadway system would be constructed, as well as maintaining the mobile home park that has been in existence since the 1950's or 1960's.

Brian Hodgers asked if they will be single-family homes. Mr. Moia replied yes, they will be single-family detached homes. He noted manufactured or mobile homes would be allowed in the zoning classification, but that is not what is being proposed. He added, there are already quite a few mobile home parks in the area, so it wouldn't be out of character, but that is not the intention.

Ben Glover asked if the new lots would be on the eastern part of the property. Mr. Moia replied yes, they would be on the eastern half of the lot. Mr. Glover asked if Mr. Moia will have to put in another accessway. Mr. Moia replied they would be building a road out to Aurora Road and brining in water and sewer.

Peter Filiberto asked if the manufactured homes that are there now are already on sewer and water. Mr. Moia replied he does not believe they are.

No public comment.

Motion by Ben Glover, seconded by Joe Buchanan to approve the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to RES 6. The motion passed unanimously.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of classification from TR-3 to TR-1-A. The motion passed unanimously.

**BREVARD COUNTY
PLANNING AND DEVELOPMENT DEPARTMENT
OWNER/ APPLICANT ACKNOWLEDGMENT AND WAIVER AGREEMENT**

Owner/Applicant: 4090 Aurora Pines LLC

Property Address: 4090 Aurora Rd. Melbourne, FL. 32934

Tax Account: 2702879

Future Land Use Request: Residential 6

Zoning Hearing Date: August 5, 2021

1. Owner/ Applicant hereby acknowledges the recent amendment by Chapter 2021-195, Laws of Florida, to add Section 163.3177(6)(i), Florida Statutes, in order to require Brevard County to adopt and to include a property rights element in the Brevard County Comprehensive Plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021 or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes.
2. Owner/ Applicant further acknowledges that Owner/Applicant has requested a Small Scale Comprehensive Plan Amendment for the above-described property and that Owner/ Applicant understands that as of the date of the Zoning Hearing listed above, Brevard County has not adopted a property rights element pursuant to Section 163.3177(6)(i), Florida Statutes.
3. At this time and being fully apprised of the fact Brevard County has not adopted a property rights element, Owner/Applicant still desires to proceed forward with Owner/Applicant's application and requests that the Brevard County Board of County Commissioners hear and make a decision regarding Owner/Applicant's application for a Small Scale Comprehensive Plan Amendment for the above-described property and by signing this Acknowledgement and Waiver Agreement hereby agrees to the following:

Owner/Applicant has requested the adoption of the above Small Scale Comprehensive Plan Amendment for the above-described property and hereby voluntarily assumes all risk of the same and releases, covenants not to sue, discharges, indemnifies and holds harmless Brevard County, Florida, its officers, employees, representatives, agents and assigns, of and from any and all claims, including all liabilities, actions, damages costs or expenses of any kind arising out of or relating to the Owner/Applicant's requested Small Scale Comprehensive Plan Amendment and further agrees to defend Brevard County in any legal challenge, including any trial and/or appeal, relating to or out of the Owner/Applicant's application and/or Brevard County's adoption of the Owner/Applicant's Small Scale Comprehensive Plan Amendment and Owner/Applicant agrees to pay any costs or

fees incurred by Brevard County as a result of any legal challenge, including trial and/or appeal, for the Owner/Applicant's Small Scale Comprehensive Plan Amendment.

I represent and warrant that I have carefully read and fully understand all of the provisions of this Acknowledgment and Waiver Agreement and hereby voluntarily assume the risk and execute this Acknowledgement and Waiver Agreement on the date contained below.

Owner/Applicant Signature:



Owner/Applicant Printed Name:

Michael Gray

Date: 07/31/2021

Tina Scarisbrick



07/31/2021

Scott Schuetz



07/31/2021