



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

12/1/2022

Subject:

Protea Senior Living Melbourne, LLC (Michael Allen) requests a change of zoning classification from RU-1-9, RU-1-13, and IN(H), with an existing BDP, to IN(L), with removal of existing BDP, and adding a new BDP (22Z00047) (Tax Accounts 2606013, 2606015, 2606018, & 2606020) (District 4)

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 zoning classification from RU-1-9 (Single-Family Residential), RU-1-13 (Single-Family Residential), and IN(H) (Institutional Use, High-Intensity), with an existing BDP (Binding Development Plan), to IN(L) (Institutional Use, Low-Intensity), with removal of existing BDP, and adding a new BDP.

Summary Explanation and Background:

The applicants are requesting to change the zoning of four parcels totaling 6.35 acres to IN(L) for the purpose of having consistent zoning over all the parcels. Currently, the parcels are zoned IN(H), RU-1-9 and RU-1-13. With the inclusion of the single-family zoned properties, it would allow for a unified development plan to include all properties east of Old Dixie Hwy. The proposed ALF (Assisted Living Facility) and ILF (Independent Living Facility) are permitted uses with conditions within the proposed zoning classification. The IN(H) zoned portion of the property already allows for the proposed uses.

The applicant intends to provide multiple elements of senior adult living that enables a resident to transition in place from independent living to medical care as the needs of the resident change. The applicant has submitted a concept plan; however, it has not been reviewed for compliance with the County's Code of Ordinances. The number of dwelling units include 79 assisted living units, 72 independent living units, and 22 medical care rooms (173 units).

The existing BDP, recorded December 2009, implemented the following conditions:

- 1) Developer/Owner prohibits any resident who has been convicted of a felony, entered a guilty plea of nolo contendere or has been found not guilty by reason of insanity from residing on the property and same with staff.
- 2) Prohibit the dormitory from being regulated by, operated by or associated with any jail, prison or correctional facility or system.

- 3) Limit the dormitory to 47 residents until such time consistency with the facility standards permits additional residents; in any event the dormitory shall be limited to 68 people including both residents and staff.
- 4) Maintain the board on board, stockade, six-foot high fence adjacent to Old Dixie Highway within 30-days after the recordation of the BDP.
- 5) Establish semi-annual meetings with the neighbors (residents bounded by Otter Lane on the north, railroad tracks on the west, US Highway 1 on the east and Pineda Causeway on the south). Meetings will provide open communications between the Developer/Owner and the neighbors to discuss items of mutual concern.
- 6) County Permitting, Enforcement and Planning and Zoning Offices shall perform semi-annual inspections for the purposes of determining if the property complies with all applicable County code regulations. Inspections shall be performed yearly if no violations are found after two years.
- 7) Environmental Health Services shall perform yearly inspections for the purpose of determining if the property conforms to regulations pertaining to the following: function of the septic tank and drain field; function of the water supply; sanitary conditions for personal hygiene; and conducive conditions for the harborage of pests. Developer/Owner shall pay an inspection fee established by Environmental Health Services.

The proposed BDP eliminates the aforementioned conditions and offers the following specific conditions to help mitigate potential impacts of the development in the surrounding area:

- 1) Developer/Owner shall provide a 15-foot buffer on the entire portion of the property.
- 2) Developer/Owner shall limit density to 28 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
- 3) Developer/Owner shall limit ingress and egress to Old Dixie Highway.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area and if proposed BDP conditions mitigate potential impacts.

On November 14, 2022, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return a copy to Planning and Development.

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, 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 zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other 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 development 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:

- 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.



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

22Z00047

Protea Senior Living Melbourne, LLC

RU-1-13 (Single-Family Residential), RU-1-9 (Single-Family Residential) and IN(H) (Institutional – High Intensity) with existing BDP (Binding Development Plan) to IN(L) (Institutional – Low Intensity) with new BDP

Tax Account Numbers: 2606020, 2606018, 2606015, 2606013
Parcel I.D.s: 26-37-19-DS-*-14.01, 26-37-19-DS-*-13.05, 26-37-19-DS-*-13, 26-37-19-DS-*-12.05
Location: East side of Old Dixie Highway, approximately 90-feet south of Otter Creek Lane (District 4)
Acreage: 6.35

Planning & Zoning Board: 11/14/2022

Board of County Commissioners: 12/01/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-13, RU-1-9 and IN(H) w/existing BDP	IN(L) w/new BDP
Potential*	<ul style="list-style-type: none"> • 1 SFR unit (RU-1-9 portion) • 2 SFR units (RU-1-13 portion) • 5.33-acres High-intensity institutional uses 	6.35-acres Low-intensity institutional uses
Can be Considered under the Future Land Use Map	YES NC, CC	YES NC, CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicants are requesting to change the zoning of four (4) parcels totaling 6.35-acres to IN(L) for the purpose of having consistent zoning over all the parcels. Currently, the parcels are zoned IN(H), RU-1-9 and RU-1-13. With the inclusion of the single-family zoned properties, it would allow for a

unified development plan to include all properties east of Old Dixie Hwy. The proposed ALF (Assisted Living Facility) and ILF (Independent Living Facility) are permitted uses with conditions within the proposed zoning classification.

The smallest parcel is the southern upside-down triangular portion measuring 0.17-acres. The parcel is undeveloped and zoned RU-1-9. The next parcel to the north is 0.66-acres of undeveloped land and is zoned RU-1-13. There is another parcel to the north directly off Old Dixie Highway also zoned RU-1-13. This parcel is undeveloped and is 0.3 acres. The northern and largest parcel is 5.33 acres with four (4) existing buildings and zoned IN(H) with a BDP. The request is for all parcels to be rezoned to IN(L), removing the old BDP, and replacing with a new BDP.

The applicant intends to provide multiple elements of senior adult living that enables a resident to transition in place from independent living to medical care as the needs of the resident change. The applicant has submitted a concept plan; however, it has not been reviewed for compliance with the County's Code of Ordinances. The number of dwelling units include 79 assisted living units, 72 independent living units, and 22 medical care rooms (173 units).

An ILF and an ALF are different. In an ILF, the residents are able to continue living an independent lifestyle. Such use is subject to the following conditions under Sec. 62-1836.5:

- Facility is intended to be occupied by adults over 55 years of age,
- Scheduled private transportation by bus or van to local shops and medical facilities provided at least twice weekly to each resident,
- Meal service consisting of at least two meals per day per resident, prepared at the direction of a licensed dietician,
- On-site management personnel shall be provided by the facility and staffed 24 hours a day,
- Housekeeping or linen service shall be provided at least once a week.

In an ALF the residents rely on the staff to meet their dependent lifestyle and must comply with the following conditions under Sec. 62-1826:

- Not less than 250 square feet of floor space per assigned resident,
- There shall be one bathroom per two bedrooms with not less than 75 square feet per assigned resident,
- Centralized cooking and dining facilities shall equal 30 square feet per assigned resident

On July 6, 1961, per Zoning Resolution **Z-512**, the zoning classification of Tax Account 2606013 was changed from GU to RU-1. On June 1, 1972, per Zoning Resolution **Z-2980**, a new zoning classification was implemented changing the zoning from RU-1 to RU-1-9 (Single-Family Residential).

Tax Account 2606015 (0.66 acres) and Tax Account 2606018 (0.3 acres) along Old Dixie Highway, were originally zoned GU. On May 26, 1987, Zoning Resolution **Z-7798** changed the zoning from GU to RU-1-13 (Single-Family Residential).

On Tax Account 2606020, Zoning Resolution **Z-11531** changed the Future Land Use from NC (Neighborhood Commercial) to CC (Community Commercial); the zoning was changed from IN(L) with a BDP, to IN(H), removing the old BDP and replacing with a new one on December 15, 2009. There was a request to replace the BDP, **18PZ00088**, filed July 9, 2018; however, the BDP was not recorded within the 120-day time period required by Section 62-1157; therefore, pursuant to this section, as of June 7, 2019, the application was considered to have been withdrawn. The property

retained the existing BDP, recorded in ORB 6082, Pages 71-77, recorded on December 16, 2009.

The existing BDP implemented the following conditions:

- 1) Developer/Owner prohibits any resident who has been convicted of a felony, entered a guilty plea of nolo contendere or has been found not guilty by reason of insanity from residing on the property and same with staff,
- 2) Prohibit the dormitory from being regulated by, operated by or associated with any jail, prison or correctional facility or system,
- 3) Limit the dormitory to 47 residents until such time consistency with the facility standards permits additional residents; in any event the dormitory shall be limited to 68 people including both residents and staff,
- 4) Maintain the board on board, stockade, six-foot high fence adjacent to Old Dixie Highway within 30-days after the recordation of the BDP,
- 5) Establish semi-annual meetings with the neighbors (residents bounded by Otter Lane on the north, railroad tracks on the west, US Highway 1 on the east and Pineda Causeway on the south). Meetings will provide open communications between the Developer/Owner and the neighbors to discuss items of mutual concern,
- 6) County Permitting, Enforcement and Planning and Zoning Offices shall perform semi-annual inspections for the purposes of determining if the property complies with all applicable County code regulations. Inspections shall be performed yearly if no violations are found after two years,
- 7) Environmental Health Services shall perform yearly inspections for the purpose of determining if the property conforms to regulations pertaining to the following: function of the septic tank and drain field; function of the water supply; sanitary conditions for personal hygiene; and conducive conditions for the harborage of pests. Developer/Owner shall pay an inspection fee established by Environmental Health Services,

Land Use

The three (3) subject parcels to the south are currently designated as NC (Neighborhood Commercial). The northern parcel is currently designated as CC (Community Commercial). The proposed IN(L) zoning may be considered in the Future Land Use Element.

As a result of their intrinsic nature and scale of intensity, offices, non-retail and neighborhood commercial activities may be utilized as transitional activities to afford buffering between higher and lower intensity uses, including transportation corridors.

The proposed BDP eliminates the aforementioned conditions and offers the following specific conditions to help mitigate potential impacts of the development in the surrounding area:

- 1) Developer/Owner shall provide a 15-foot buffer on the entire portion of the property:

Brevard County Code Sec 62-4342 requires a Type “B” roadway buffer. This buffer classification shall be required for all development excluding individual single-family homes not within platted subdivisions. This buffer shall be landscaped, be located adjacent to any public road and have a minimum width of 15 feet. There shall be no parking or structures other than permitted signage located within this vegetated area.

2) Developer/Owner shall limit density to 28 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations:

There are no density cap requirements for an ALF since it is within a commercial FLU designation. However, the BDP does not limit other allowable uses within the IN(L) zoning classification such as school or an athletic complex as outlined on pages 8-9 of this report.

3) Developer/Owner shall limit ingress and egress to Old Dixie Highway:

Ingress and egress can only be obtained from Old Dixie Highway. Operational improvements will be addressed during the site plan review process. The combined ALF and commercial uses could generate between 586 and 626 vehicles per day (vpd). Combined, both projects meet our roadway capacity criterion and will require a Transportation Impact Analysis (TIA).

Based on the submitted concept plan, the applicant is proposing three (3) full access driveways along Old Dixie Highway, with one (1) access point already existing, limiting ingress and egress. According to the proposed Site Plan, the landscape buffer ranges between 15 feet and 20 feet, meeting the required buffer around the property. This plan has not been reviewed by other County departments to ensure code compliance and other regulations. At the time of Site Plan, County staff will review proposed improvements to support the use such as access, stormwater, and other site related infrastructure.

Applicable Land Use Policies

FLUE Policy 1.4 – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the CC Future Land Use designation.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The proposed use(s) would have hours of operation depending on staffing needs which is around the clock. The lighting plans will be submitted during Site Plan review. There is no anticipation to be any odor or noise levels. Traffic projections are within acceptable LOS levels consistent with current LOS activity.

- 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 request.

- 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 are three (3) FLU designation (NC, CC, and REC) within 500-feet of this site. There have been no FLU amendments within the past three (3) years.

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

There has been one zoning action within 0.5-mile in the preceding three (3) years. 20BC11993 is a Single-Family Residence that is currently being constructed and is directly across Old Dixie Highway from the northern most subject property.

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

Zoning Action 21Z00003 is for the development of a warehouse and is currently being Site Planned. This zoning action was filed April 14, 2021. Building Permit 20BC11993 is for a Single-Family Residence which was filed June 16, 2020, and is under construction.

Zoning Application 22Z00048 (Humane Society of Brevard County) is requesting a change of zoning classification from GU and BU-1 (General Retail Commercial) to all BU-1 on a 0.87-acre parcel to the north of these parcels to establish a consistent Future Land Use and zoning classification across the entire property. This application should follow the same public hearing schedule as this request.

These are the only zoning actions within 0.5 miles in the preceding three (3) years that have not yet been constructed.

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

No material violation of relevant policies has been identified.

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

The character of the surrounding area is a mixture of GU, BU-1, Highway 1 exit ramp, Highway 1, SR (Suburban Residential), RR-1 (Rural Residential), AU (Agricultural Use), and RU-1-9. To the northeast is a business zoned BU-1. To the northwest is undeveloped property zoned GU. To the south is the exit ramp from Highway 1 connecting to the Pineda Causeway. To the east is Highway 1. To the west is are two (2) single-family residences, the northern parcel is zoned SR and the southern parcel is zoned RR-1. Continuing south is another parcel zoned AU with a single-family residence on it. The southernmost portion is two (2) single-family residences zoned RU-1-9. To the south is the exit ramp from Highway 1 to Pineda, and to the east is Highway 1.

There is no IN(L) in the area; however, the northernmost parcel was previously zoned IN(L) with a BDP prior to 2009. The purpose of the institutional use zoning classification is to provide for private, nonprofit or religious uses which are intended to service the needs of the public for facilities of an educational, religious, health, or cultural nature. Low intensity uses are those that are of such limited scale and impact that they are compatible with residential uses or neighborhood commercial land use designations. High intensity uses are more suited to community commercial or industrial areas. Low intensity use is designated on the official zoning maps as IN(L) and high intensity is designated as IN(H).

To the east is U.S. Highway 1, to the south is the Pineda Causeway on ramp and then 800 feet away to the west are railroad tracks.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Commercial Building & Undeveloped	BU-1 & GU	CC & NC
South	Highway 1 Exit Ramp	N/A	N/A
East	Highway 1	N/A	N/A
West	SF Residences	SR, RR-1, AU & RU-1-9	NC

The BU-1 zoning classification allows retail commercial land uses on minimum 7,500 square-foot lots, and does not permit warehousing or wholesaling.

The GU zoning classification is a holding category, allowing single-family residences on five-acre lots with a minimum width and depth of 300 feet, and a minimum house size of 750 square feet.

The SR zoning classification permits one single-family residence on a minimum of 0.5 acres, having a width of not less than 100-feet and a depth of not less than 150-feet, and a minimum house size of 1,300 square feet.

The RR-1 classification permits one single-family dwelling on an area of not less than one acre, having a width and depth of not less than 125-feet, and a minimum floor area of 1,200 square feet. The RR-1 classification also permits the raising/grazing of animals including horses.

The AU zoning classification permits single-family residences and agricultural uses on 2.5-acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. The AU classification also permits the raising/grazing of animals, fowl, and beekeeping.

The RU-1-9 zoning classification permits one single-family residence on an area of not less than 6,600 square feet having a width of not less than 66-feet and depth of not less than 100-feet, and a minimum house size of 900 square feet.

The location of low intensity (IN(L)) and high intensity (IN(H)) institutional zoning classifications shall be subject to the following standards.

1. *Low intensity.* Where the proposed use requires a low intensity institutional designation, the parcel shall be subject to the following location standards.
 - a. Permitted in all residential land use designations and in the neighborhood commercial land use designation.
 - b. Access to a roadway classified as a local street or higher.
 - c. Pedestrian access required.
 - d. Building scale and design compatible with the surrounding neighborhood.
2. *High intensity.* Where the proposed use requires a high intensity institutional designation, the parcel shall be subject to the following location standards.
 - a. Permitted in the community commercial land use designation.
 - b. Access to a roadway classified as an arterial or higher.
 - c. Access to a roadway classified as a collector or higher in established community commercial areas.
 - d. Intrusion into residential areas shall be limited. High intensity institutional uses shall be located in areas where commercial development is planned or established.

Uses listed below in Residential/Health, Education, and Religious/Cultural designation are either "Permitted", "Permitted with Conditions" or "Not Permitted" based on the intensity of each use:

Use	Low Intensity*	High Intensity
Residential/Health		
Assisted living facility (Sec. 62-1826)	Permitted with conditions	Permitted with conditions
Group homes	Permitted with conditions	Permitted
Hospital (Sec. 62-1836)	Not permitted	Permitted with conditions
Independent living facility (Sec. 62-1836.5)	Permitted with conditions	Permitted with conditions
Medical clinic (Sec. 62-1832)	Not permitted	Permitted with conditions
Nursing home (Sec. 62-1841.6)	Permitted with conditions	Permitted
Treatment and recovery facility (Sec. 62-1826)	Not permitted	Permitted with conditions
Education		
College, university, or seminary	Not permitted	Permitted
Dormitory	Not permitted	Permitted
School, private or parochial	Permitted	Permitted
Sorority/fraternity	Not permitted	Permitted
Religious/Cultural		
Athletic Complexes and Stadiums (Sec. 62-1825)	Permitted with conditions	Permitted with conditions
Cemetery and Mausoleum (Sec. 62-1831.3)	Permitted with conditions	Permitted
Civic, Philanthropic or Fraternal Organization (Sec. 62-1831.4)	Permitted with conditions	Permitted with conditions
Community center	Permitted	Permitted

Convent or monastery	Permitted	Permitted
Crematorium (Sec. 62-1834)	Permitted with conditions	Permitted with conditions
Museum	Permitted	Permitted
Worship, place of (Sec. 62-1831.5)	Permitted with conditions	Permitted with conditions

The change in zoning classification from high intensity to low intensity could be considered down-zoning.

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S. Highway 1, between Post Road and Pineda Causeway, which has a Maximum Acceptable Volume (MAV) of 59,900 trips per day, a Level of Service (LOS) of D, and currently operates at 57.50% of capacity daily. This rezoning is anticipated to increase the MAV utilization by 0.72%. The corridor is anticipated to operate at 58.22% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

Central sewer is located across the ROW of Highway 1, 260 feet east of the subject property. Potable water is located to the north of the top parcel's property line through the City of Cocoa.

Environmental Constraints

- Wetlands
- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject properties contain wetlands as depicted on applicant's submittal. The wetland delineation will require agency verification. Per Section 62-3694(c)(4), the proposed Institutional land development shall be considered commercial as set forth in Section 62-3694(c)(3).

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Old Dixie Highway is not an MQR in this location. An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table.

Section 62-3694(c)(3)c has allowances for wetland impacts for commercial land development activities on properties designated for commercial or industrial land uses on the Future Land Use

Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use.

Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact Natural Resources Management at (321) 633-2016 prior to any site plan design or permit submittal.

The northern parcel (Tax Account 2606020) 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 use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding area and if proposed BDP conditions mitigate any off-site impacts.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #22Z00047

Applicant: Michael Allen for Protea Senior Living

Zoning Request: RR-1-13, RU-1-9, IN(H) with BDP to IN(L) & replace BDP

Note: Applicant wants to rezone for development of an assisted and independent living facility.

P&Z Hearing Date: 11/14/22; **BCC Hearing Date:** 12/01/22

Tax ID Nos: 2606013, 2606015, 2606018, & 2606020

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands
- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject properties contain wetlands as depicted on applicant's submittal. The wetland delineation will require agency verification. Per Section 62-3694(c)(4) the proposed Institutional land development shall be considered commercial as set forth in Section 62-3694(c)(3).

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Old Dixie Highway is not an MQR in this location. An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table.

Section 62-3694(c)(3)c has allowances for wetland impacts for commercial land development activities on properties designated for commercial or industrial land uses on the Future Land Use Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use.

Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

The northern parcel (Tax ID No. 2606020) 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 use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

Land Use Comments:

Wetlands

The subject properties contain hydric soils (Pompano sand, 0 to 2 percent slopes), an indicator that wetlands may be present on the property. The applicant provided a wetlands delineation depicting two wetlands; Wetland 1 (0.26 acres) on the southern portion of the property, and Wetland 2 (0.45 acres) on the northern portion of the property. The wetland delineation will require agency verification.

Section 62-3694(c)(4) states that Institutional land development on properties which contain wetlands and which are designated on the Future Land Use (FLU) Map as Neighborhood Commercial (NC) or Community Commercial (CC) shall be considered commercial as set forth in Section 62-3694(c)(3). The property shall have sufficient infrastructure available to serve the use. The northern parcel (Tax ID No. 2606020) has a FLU designation of CC, and the southern parcels (Tax ID Nos. 2606013, 2606015, and 2606018) have FLU designations of NC.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Old Dixie Highway is not an MQR in this location. An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table. Note that parcels may need to be combined to comply with Section 62-3694(c)(3), if applicable.

Section 62-3694(c)(3)c has allowances for wetland impacts for commercial land development activities on properties designated for commercial or industrial land uses on the Future Land Use Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or

industrial use. Note that parcels may need to be combined to comply with Section 62-3694(c)(4), if applicable.

Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Wetlands proposed for impact shall be assessed using methodologies established in the Countywide Wetlands Study, prepared BKL, Inc. Consulting Ecologists (September 30, 2013), to determine if they meet the criteria of High Functioning Wetlands or Landscape Level Wetlands. Impacts to high functioning and landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or of overriding public benefit.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and Pompano sand, 0 to 2 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The northern parcel (Tax ID No. 2606020) 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 use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

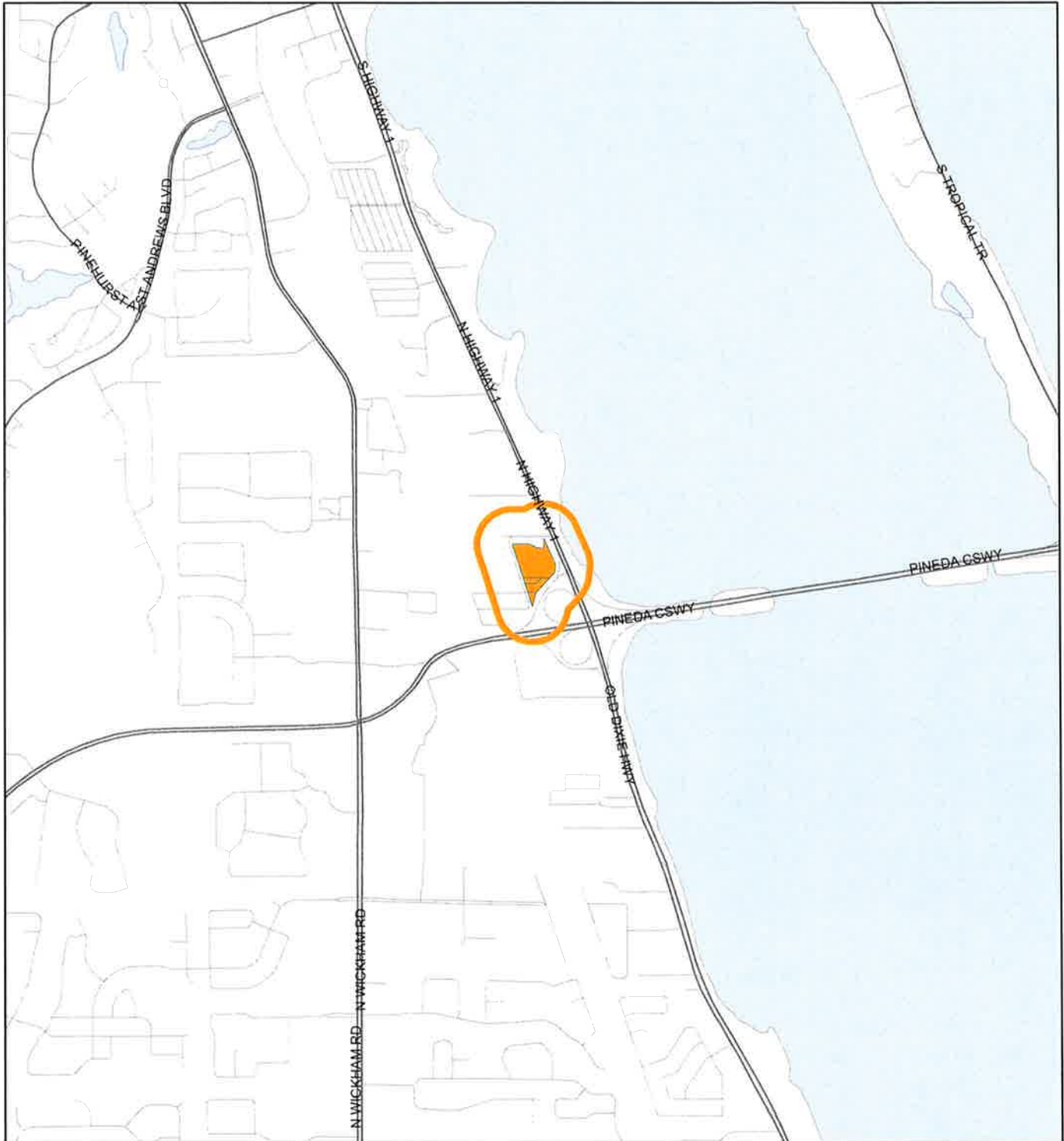
Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is mapped Florida Scrub Jay occupancy approximately 450 feet southwest of the subject property area. 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.

LOCATION MAP
PROTEA SENIOR LIVING MELBOURNE LLC
22Z00047



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: 9/7/2022

- Buffer
- Subject Property

22Z00047



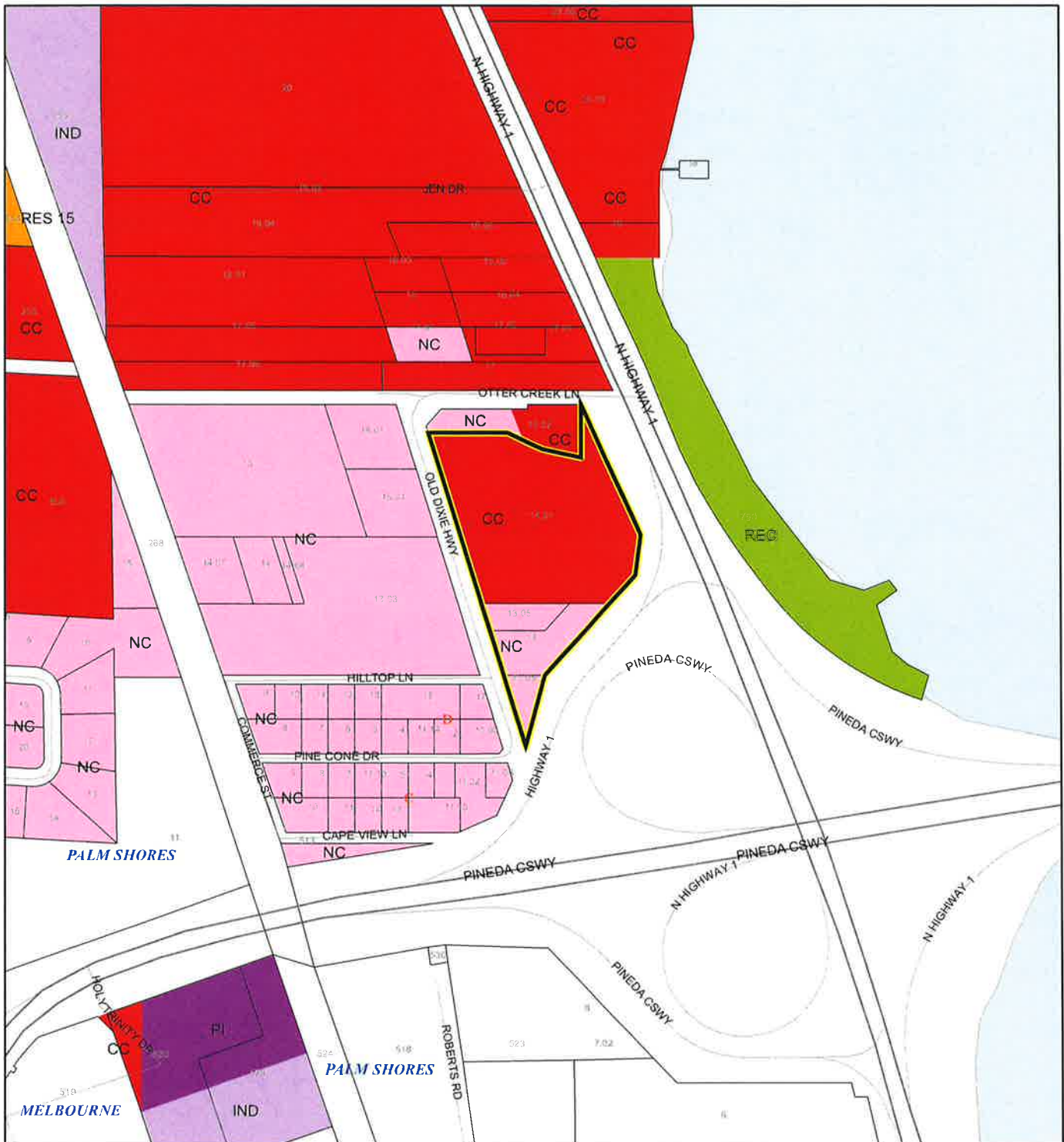
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

 Zoning

FUTURE LAND USE MAP

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047



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.

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AERIAL MAP
PROTEA SENIOR LIVING MELBOURNE LLC
22Z00047





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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 Subject Property
 Parcels

NWI WETLANDS MAP

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047



1:4,800 or 1 inch = 400 feet

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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

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047



1:4,800 or 1 inch = 400 feet

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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

22Z00047



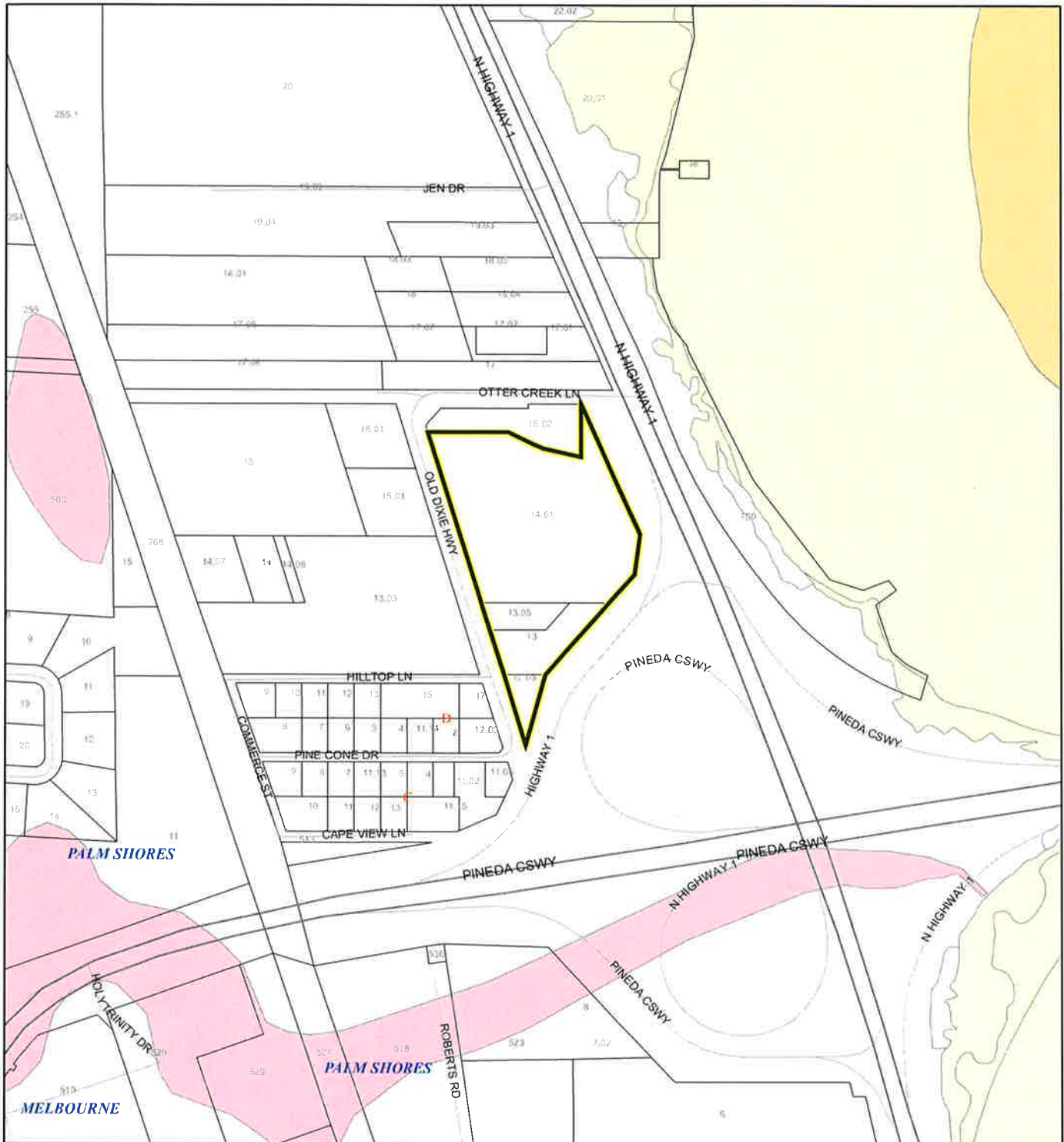
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

☐ Parcels

FEMA FLOOD ZONES MAP

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047



1:4,800 or 1 inch = 400 feet

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FEMA Flood Zones


A	AO	X
AE	Open Water	Parcels
AH	VE	
Subject Property		

22Z00047



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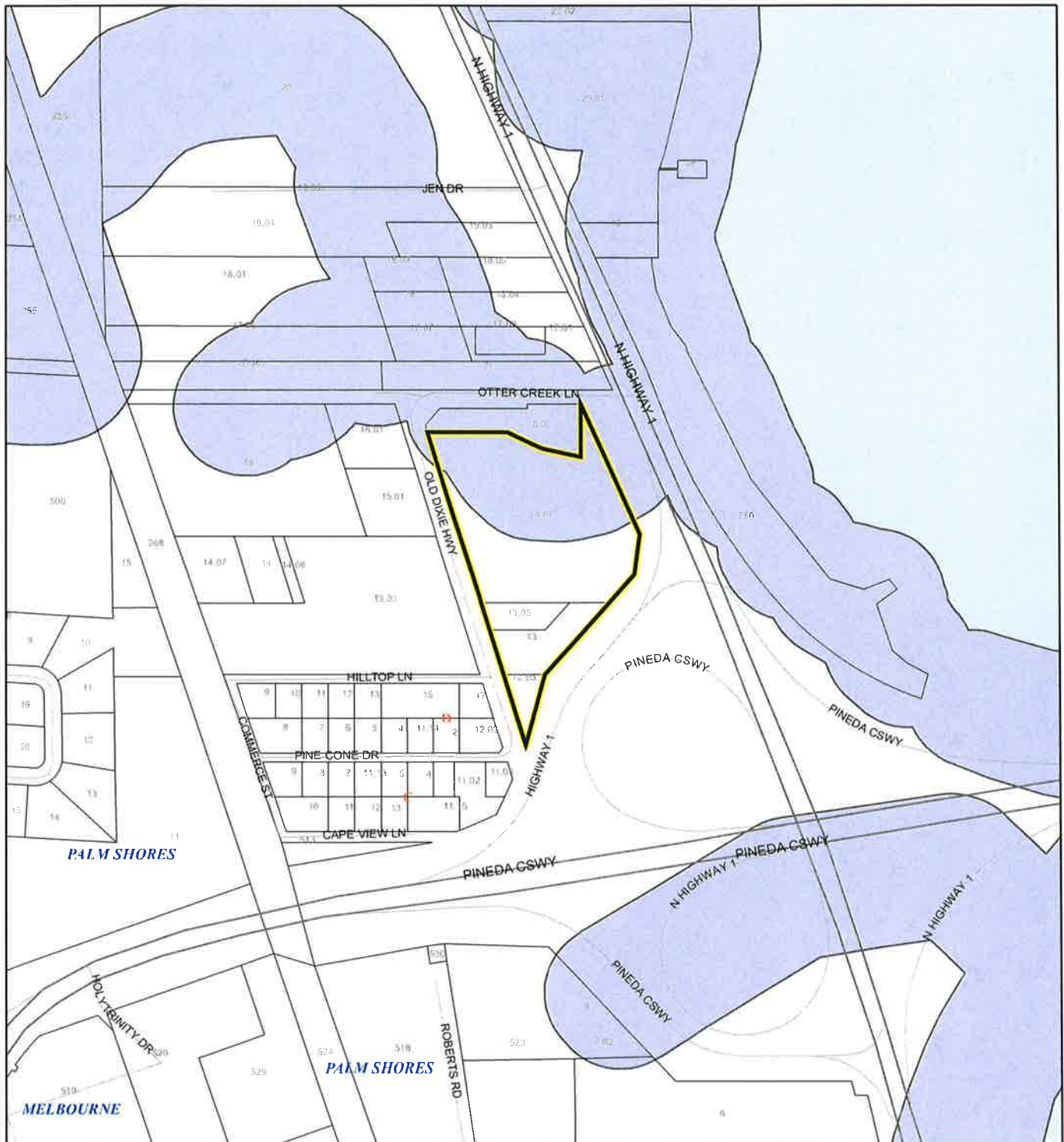
Produced by BoCC - GIS Date: 9/7/2022

- 
- SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/7/2022

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047



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.

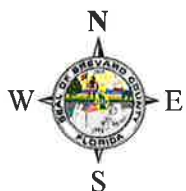
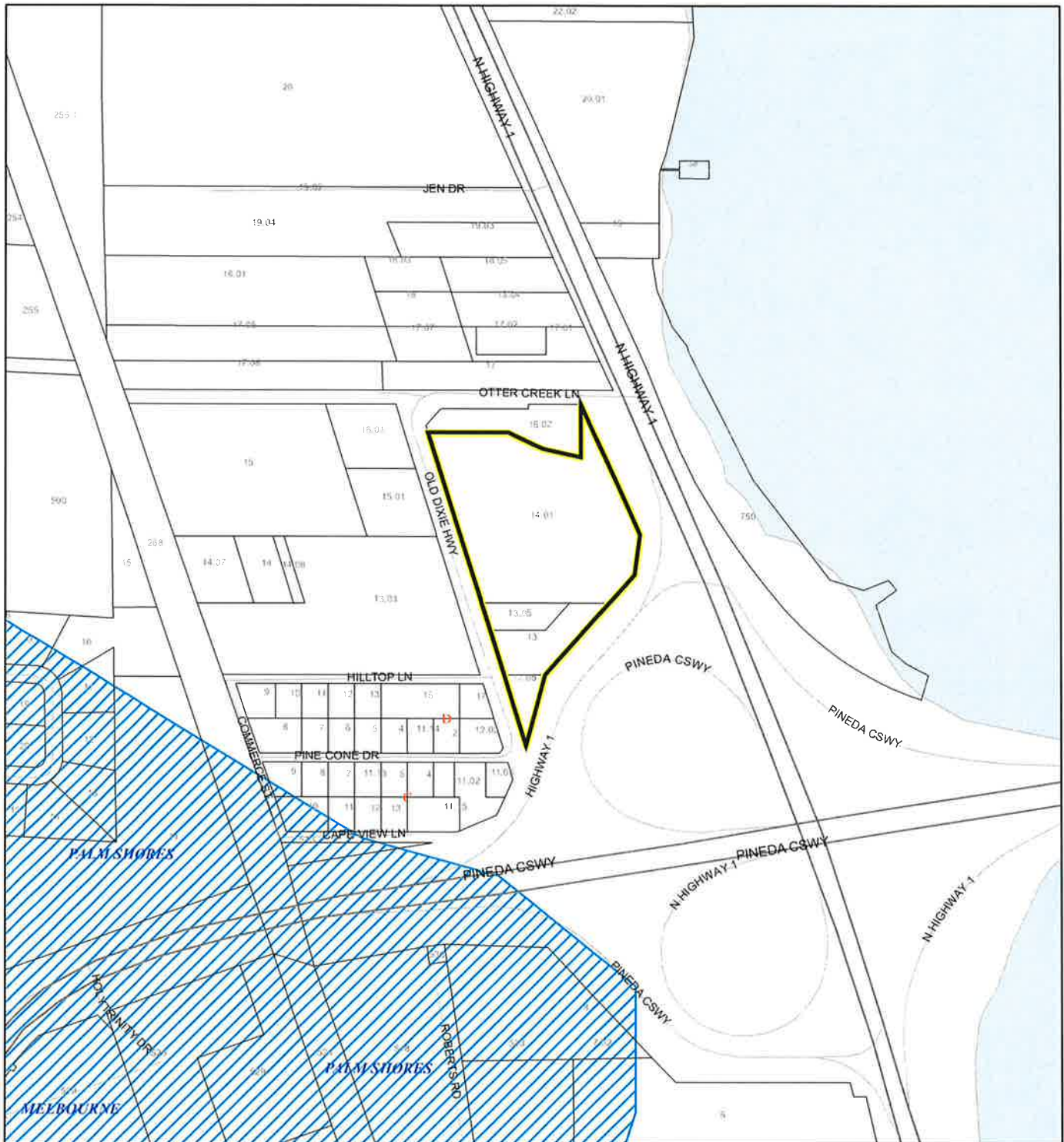
Produced by BoCC - GIS Date: 9/7/2022

- Subject Property
- Parcels
- Eagle Nests FWS 2010

SCRUB JAY OCCUPANCY MAP

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047




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: 9/7/2022

 Subject Property

 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

PROTEA SENIOR LIVING MELBOURNE LLC

22Z00047



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/7/2022

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

Ref: 5696.01

TECHNICAL MEMORANDUM

To: Greg Spiro
Protea Senior Living, Melbourne Florida

From: Kady L. Dearing, PE Kady L. Dearing

Subject: Protea Melbourne Assisted Living Facility – Trip Generation Report

Date: August 5, 2022

Digitally signed by Kady L. Dearing
DN: cn=Kady L. Dearing,
o=LTG Engineering & Planning, ou=Engineering,
c=US, email=kady.l.dearing@ltg-inc.com

INTRODUCTION

LTG, Inc. (LTG) has been retained to prepare a Trip Generation/Traffic Statement for a proposed 179,760 square-foot Assisted Living Facility (ALF) located on the southeast corner of Old Dixie Highway and US 1 in unincorporated Brevard County, Florida. The project intends to provide multiple elements of senior adult living that enables a resident to transition in place from independent living to medical care as the needs of the resident change. The number of dwelling units for each section of the project include 79 assisted living units, 72 independent living units, and 22 medical care rooms (173 dwelling units total).

Access to the development is proposed by three (3) full access driveway connections on Old Dixie Highway. One of the access points (main entrance) is already existing. The preliminary site plan for the project is attached as **Exhibit A**. Build-out is anticipated by year 2025.

In accordance with Brevard County Code of Ordinances, Chapter 62 and the Guidelines on Minimum Requirements for Traffic Impact Analyses, a Traffic Impact Analysis (TIA) is required for developments generating 1,000 or more two-way daily external trips on a weekday or 100 or more peak hour two-way external trips on a weekday.

PROJET TRIP GENERATION

The daily, a.m. and p.m. project trip generation for the proposed development was determined using the Institute of Transportation Engineers (ITE), *Trip Generation Manual*, 11th Edition. The ITE Land Use Code (LUC) used to represent the project is 255 – Continuing Care Retirement Community as it meets the characteristics of the project. The gross total project trip generation is presented in **Table 1**.

Table 1
Daily, A.M. and P.M. Peak-Hour Project Trip Generation
Protea Melbourne ALF

Time Period	Land Use	ITE LUC	Trip Rate Equation	Quantity (X)	Total Trips (T)	Percent Entering	Percent Exiting	Entering Trips	Exiting Trips
Daily	Continuing Care Retirement Community	255	$T = 2.28(X) + 191.69$	173 DU	586	50%	50%	293	293
AM Peak Hour			$T = 0.13(X) + 21.60$		44	65%	35%	29	15
PM Peak Hour			$T = 0.13(X) + 55.26$		78	39%	61%	30	48

As indicated in Table 1, the proposed Melbourne ALF is expected to generate 586 total daily trips, and 78 total p.m. peak-hour trips. Therefore, the project does not meet the County Code requirement threshold requirement for conducting a TIA.

1450 W. Granada Blvd., Suite 2. • Ormond Beach, FL 32174 • Phone 386.257.2571 • Fax 386.257.6996

www.ltg-inc.us

EXHIBIT A

Conceptual Site Plan

Existing BDP
22Z00047
Protea Senior Living

RETURN: Clerk to the Board #27

Prepared by: Lila Buescher
Address: 5925 Old Dixie Highway
Melbourne, FL 32940

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 15 day of Dec, 2009 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Happy Landings Homes, Inc. a Florida corporation (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") In Brevard County, Florida, as more particularly described as Section 19, Township 26, Range 37, Subdivision #DS, Lot 14.01; and

WHEREAS, Developer/Owner has requested the INH zoning classification and desires to maintain the property as a Dormitory for women with children pursuant to the Brevard County Code, Sec. 62-1573; and

WHEREAS, as part of its plan for development of the property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the Improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any Improvements.

2. The Developer/Owner shall prohibit any Dormitory resident who has been convicted of a felony, or entered a plea of guilty or nolo contendere to, or has been found not guilty by reason of insanity of a forcible felony, as defined by F.S. § 776.08 from residing on the property. The Developer/Owner shall prohibit any staff member who has been convicted of a felony, or entered a plea of guilty or nolo contendere to, or has been found not guilty by reason of insanity of a forcible felony, as defined by F.S. § 776.08 from being employed on the property. For the purposes of this agreement, conviction means a determination of guilt resulting from a plea or trial, regardless of whether adjudication

RETURN: Clerk to the Board #27

was withheld or whether imposition of sentence was suspended. The Developer/Owner shall make available for inspection Florida Department of Law Enforcement (FDLE) criminal background records of all Dormitory residents and staff members on the property to the County within 30 days of the recordation of the Binding Development Plan and thereafter, upon request by the County.

3. The Developer/Owner shall prohibit the Dormitory from being regulated by, operated by or associated with any jail, prison or correctional facility or system, including but not limited to contractual agreements.

4. The Developer/Owner shall limit the Dormitory to 47 residents until such time consistency with the facility standards permits additional residents. In any event, the Dormitory shall be limited to 68 people, which includes residents and staff. The maximum number of residents pursuant to these facility standards shall be enforced by the County one year after the recordation of the Binding Development Plan.

5. The Developer/Owner shall maintain the board on board, stockade, six foot high fence adjacent to Old Dixie Hwy. within 30 days of the recordation of the Binding Development Plan.

6. The Developer/Owner shall establish semiannual meetings with the neighbors (defined as those residents bounded by Otter Lane on the north, the railroad tracks on the west, US Highway 1 on the east, and Pineda Causeway on the south). These meetings will provide open communications between the Developer/Owner and the neighbors to discuss items of mutual concern.

7. The County Permitting and Enforcement Department and the Planning and Zoning Office shall perform semiannual inspections for the purposes of determining if the property complies with all applicable County code regulations. Inspections shall be performed yearly if no violations are found after two years. This shall not be construed as to prevent the County Permitting and Enforcement Department from investigating County code generated complaints.

8. Environmental Health Services shall perform yearly inspections for the purpose of determining if the property conforms to regulations pertaining to the following: function of the septic tank and drainfield; function of the water supply; sanitary conditions for personal hygiene; and conducive conditions for the harborage of pests. The Developer/Owner shall pay an inspection fee established by Environmental Health Services.

9. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the



111.1.3

RETURN: Clerk to the Board #27

property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

10. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

11. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on September 1, 2005. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.

12. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year

first written above.

ATTEST:

Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamleson Way
Viera, FL 32940

Mary Bolin, Chairman
As approved by the Board on 12/15/09

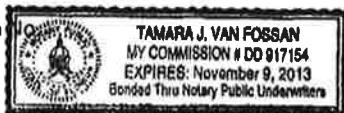
STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 15 day of December, 2009, by Mary Bolin, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced as identification.

My commission expires

Notary Public

SEAL
Commission



Tamara J. Van Fossan
(Name typed, printed or stamped)

RETURN: Clerk to the Board #27

WITNESSES

Brandi Lebowitz
Brandi Lebowitz
(Witness Name typed or printed)

Stacey Straub
Stacey Straub
(Witness Name typed or printed)

DEVELOPER/OWNER

Happy Landings Homes, Inc
5925 Old Dixie Highway, Melbourne, FL 32940
(Address)

Lila Buescher
Lila Buescher
(Name typed, printed, or stamped)

STATE OF FLORIDA §
COUNTY OF BREVARD §

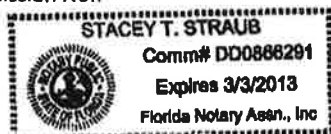
The foregoing instrument was acknowledged before me this 6TH day of Nov., 2009, by Lila Buescher, President of Happy Landings Homes, Melbourne, Florida, who is personally known to me or who has produced as identification.

My commission expires 3/3/2013

Stacey T. Straub
Notary Public

SEAL
Commission No.:

Stacey T. Straub
(Name typed, printed or stamped)



RETURN: Clerk to the Board #27

Exhibit A

Begin at a point on the Westerly right-of-way line of U.S. Highway #1, said point being 187.5 feet East of and 876.07 feet North of the Southeast corner of the NE 1/4 of the SW 1/4 of Section 19, Township 26 South, Range 37 East; thence go North 23 degrees 37 minutes 30 seconds West along said Westerly right-of-way line a distance of 294.57 feet to the point of beginning of the property described in this instrument; thence go North 23 degrees 37 minutes 30 seconds West along said right-of-way line a distance of 120.19 feet; thence West a distance of 110 feet; thence South 0 degrees 3 minutes 48 seconds East a distance of 152.27 feet; thence North 75 degrees 5 minutes 30 seconds East a distance of 163.83 feet to the Point of Beginning.

LESS AND EXCEPT that property deeded to the State of Florida for the use and benefit of the State Road Department.

Commence at the Southeast corner of the NE 1/4 of the SW 1/4 of Section 19, Township 26 South, Range 37 East and run the East line of said NE 1/4 of the SW 1/4 Northerly a distance of 826.17 feet to a point which is the point of beginning of the land to be included in this description; thence for a first course of the property to be included in this description run East 242.96 feet more or less to a point on the West line of the right-of-way of U.S. Highway #1 (State Road #5); thence for a second course of the property to be included in this description run North 23 degrees 37 minutes 30 seconds West along the West line of the right-of-way of U.S. Highway #1 (State Road #5) a distance of 349.13 feet to a point; thence for a third course of the property to be included in this description run South 75 degrees 05 minutes 30 seconds West 163.85 feet to a point; thence for a fourth course of the property to be included in this description return to a point of beginning and go West a distance of 416.04 feet to a point in the center of the old County Road; thence for a fifth course of the property to be included in this description go Northwesterly and down the center of the Old County Road a distance of 367.74 feet to a point 15 feet West of the Northwest corner of lands conveyed to Starl N. Warfield and Amy L. Warfield, his wife, by deed dated October 15, 1962, recorded under Clerk's #323750 in Official Records Book 538, page 220 of the Public Records of Brevard County, Florida; thence for a sixth course of the property to be included in this description run East 15 feet to the Northwest corner of said land described in Official Records Book 538, Page 220; thence for a seventh course of the property to be included in this description run East 230.18 feet to a point; thence for an eighth course of the property to be included in this description run South 64 degrees 20 minutes 58 seconds East a distance of 109.85 feet to a point; thence for a ninth course of the property to be included in this description run Southeasterly to the Westerly terminus of the third course of the property to be included in this description, thereby completing the boundary of the lands to be included in this description.

EXCEPT that portion of the above described property taken under authority of eminent domain in that certain condemnation case filed in the Circuit Court of the Eighteenth Judicial Circuit of Florida in and for Brevard County, styled State of Florida Department of Transportation and Brevard County vs. Beulah Armstrong, et al., Civil Action No. 47922.

RETURN: Clerk to the Board #27

A portion of Lot 14, Indian River Villa (unrecorded Plat) located in Government Lot 3, and the NE 1/4 of the SW 1/4 of Section 19, Township 26 South, Range 37 East, Brevard County, being more particularly described as follows: From the SE corner of the NE 1/4 of the SW 1/4 of said Section 19, run North 00 degrees 20 minutes 40 seconds East, along the East line of said NE 1/4 of the SW 1/4, of Section 19, a distance of 676.16 feet to the Point of Beginning of the herein described parcel; thence West a distance of 265.53 feet to the Easterly Right-of-Way line of Service Road (Old Dixie Highway) as shown on Florida State Road Department Right-of-Way Map for State Road 404 (Pineda Causeway) Sec. 70004-2503; thence North 17 degrees 22 minutes West, along said Easterly Right-of-Way line 157.18 feet; thence East 475.60 feet to the Limited Access Right-of-Way line of aforesaid S.R. 404; thence South 07 degrees 12 minutes 20 seconds West 59.37 feet; thence South 41 degrees 47 minutes 39 seconds West 122.20 feet; thence West 74.27 feet to the Point of Beginning.

RETURN: Clerk to the Board #27

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated 2 October 2007, given by HAPPY LANDINGS HOMES INC., as mortgagor, in favor of the undersigned, PRIME BANK as mortgagee, recorded in Official Records Book 5817, page 6759, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of subordinating the lien of the undersigned's Mortgage to said Binding Development Plan.

WITNESSES:

MORTGAGEE NAME/ADDRESS

PRIME BANK5770 N WICKHAM ROAD, MELBOURNE, FL 32940

(Address)

Rebecca Ellis

Authorized Agent Signature

Rebecca Ellis
(Witness name typed or printed)Dana Kilborne
(Name/title typed, printed or stamped)Sabrina Ammon
(Witness name typed or printed)President/ CEOSTATE OF FLORIDA §COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 5 day of November, 2009, by DANA Kilborne, who is personally known to me or who has produced Florida Drivers License as identification.

My commission expires

Rebecca Ellis
Notary PublicSEAL
CommRebecca Ellis
(Name typed, printed or stamped)

Prepared by: _____
Address: _____

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the
BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of
the State of Florida (hereinafter referred to as "County") and

Protea Senior Living Melbourne LLC, a California Limited Liability Company
(hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard
County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by
this reference; and

WHEREAS, Developer/Owner has requested the _____ IN(L) _____ zoning classification(s)
and desires to develop the Property as
_____ an Assisted/Independent Living and Memory Care Facility _____, and pursuant to the Brevard
County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to
mitigate negative impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their
reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any
way in the construction or maintenance of the improvements. It is the intent of the parties that the

Rev. 11/17/2021

Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

3. Developer/Owner shall provide a 15 foot buffer on the entire portion of the Property.
4. The Developer/Owner shall limit density to 28 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
5. The Developer/Owner shall limit ingress and egress to
Old Dixie Highway
6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
7. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
9. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.



11. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court
(SEAL)

Kristine Zonka, Chair
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by _____, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)



NEIGHBOR ADDRESS LIST

1 - 5850 Old Dale Hwy
2 - 5850 Old Dale Hwy
3 - 5850 Old Dale Hwy
4 - 2670 Pine Cone Drive
5 - 2670 Pine Cone Drive
6 - 2645 Pine Cone Drive
7 - 2645 Pine Cone Drive
8 - 2645 Pine Cone Drive
9 - 5890 Old Dale Highway
10 - 5890 Old Dale Highway
11 - 5950 Old Dale Highway

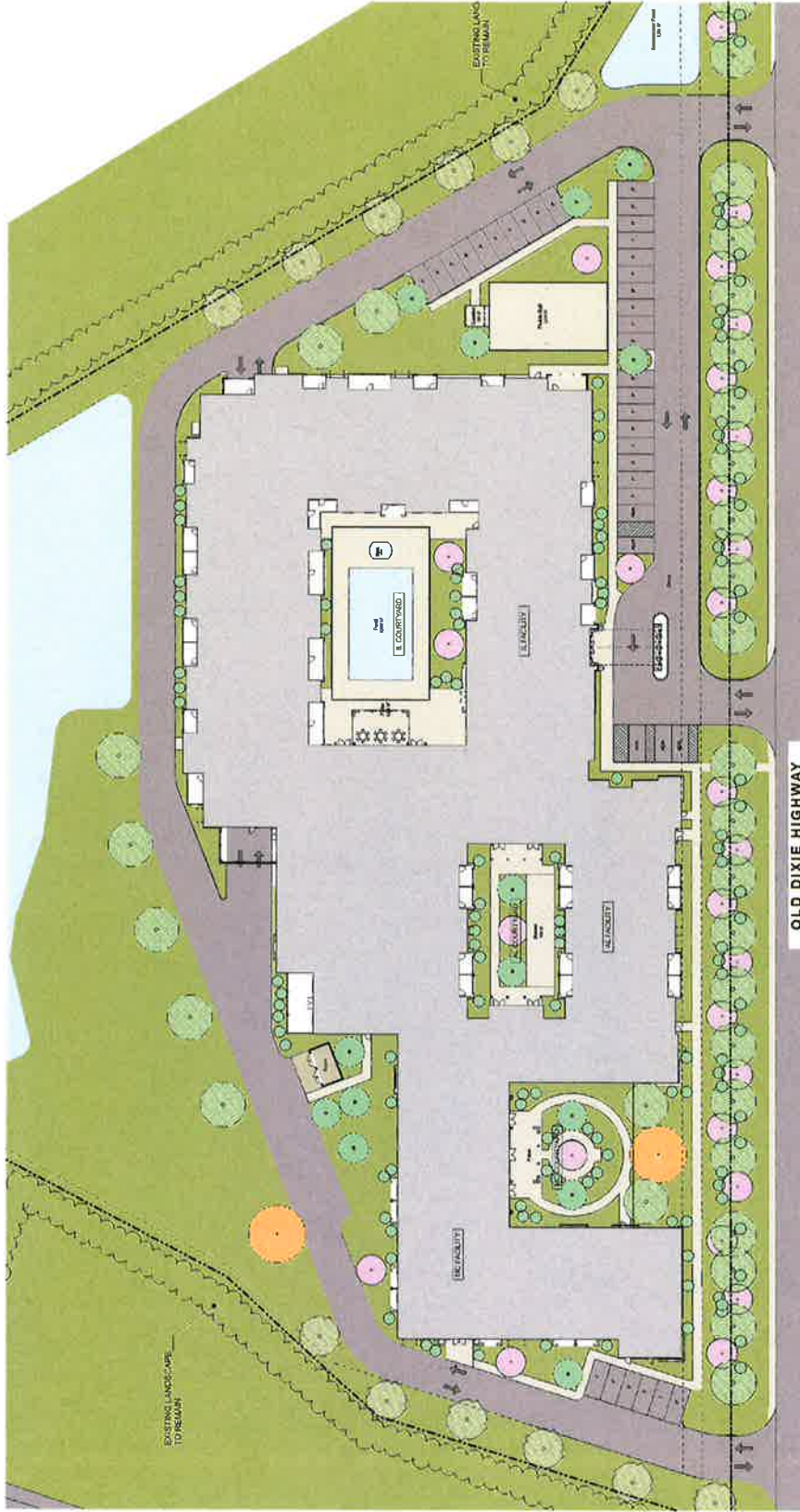
Site Plan
1
PROJECT NO. 2204
DATE: 07/11/2022
BY: J. L. BROWN
K22041 Protea Senior Living

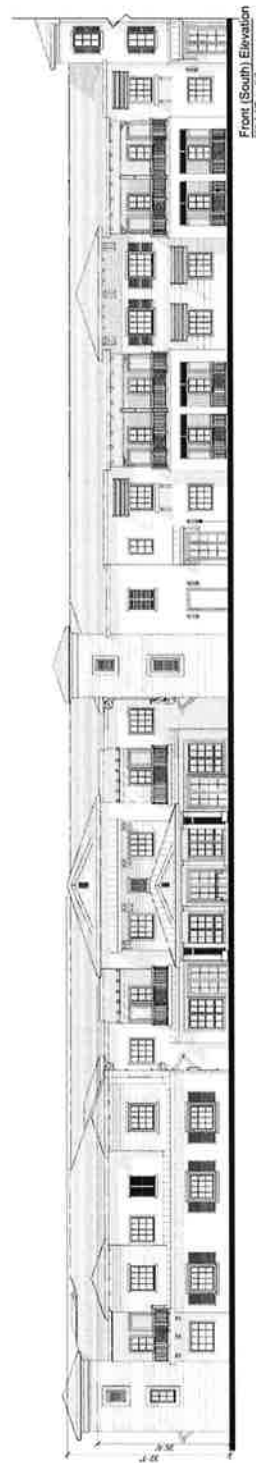
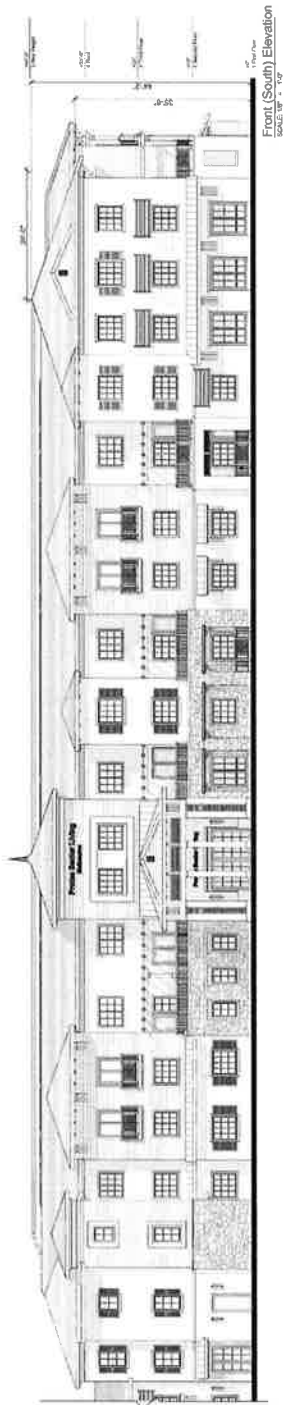
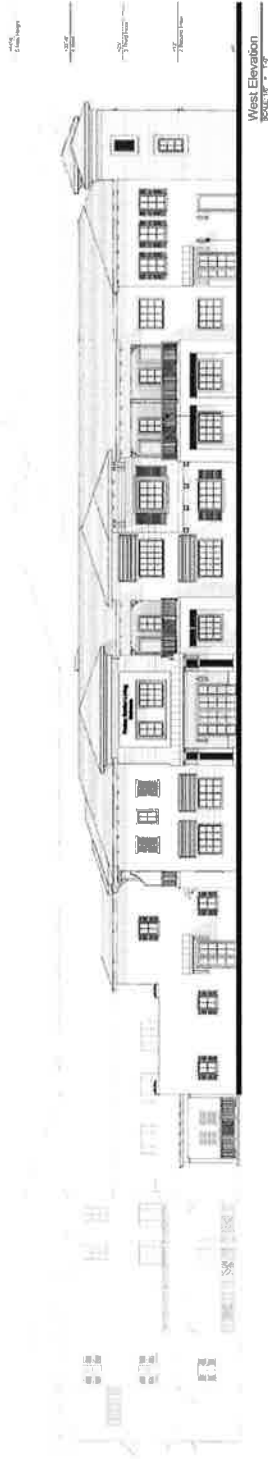
Protea Melbourne
Protea Capital Partners, LLC.
20000 South Highway
Melbourne, FL 32940

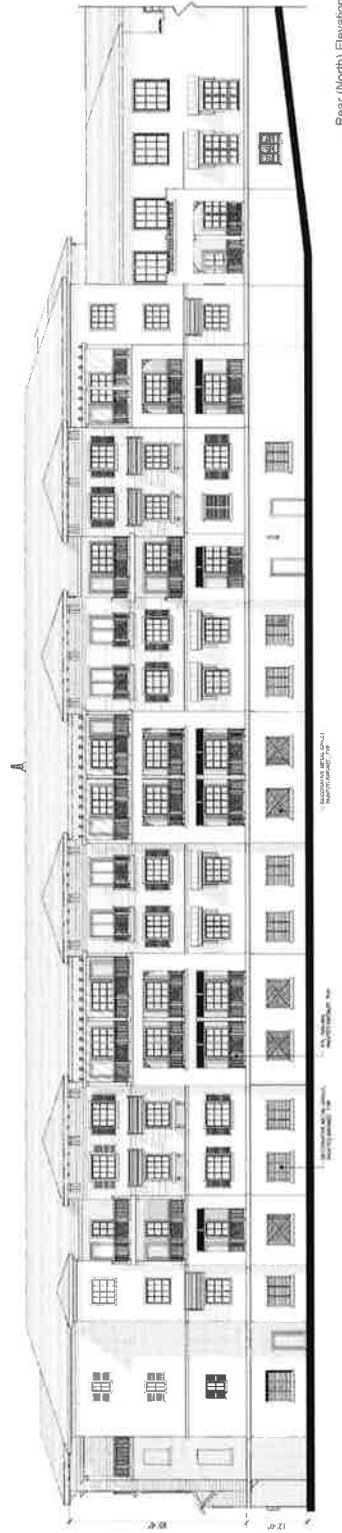
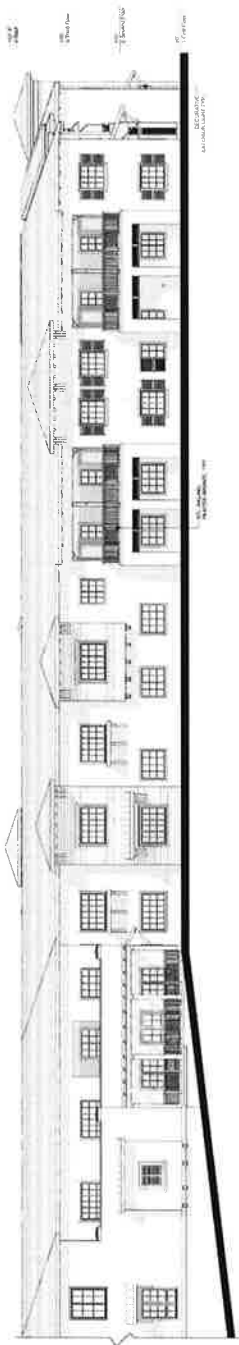
IRWIN PARTNERS
ARCHITECTS
3000 South Highway 200
Melbourne, FL 32940
ARCHITECTURE PLANNING CONSULTING











Protea Melbourne
Protea Capital Partners, LLC.
10000 South US Highway 1
Melbourne, FL 32940

Exterior Elevations
A9
PROJECT NO. 2005
DATE: 01/11/2005
ARCHITECT: Protea Melbourne | 10000 South US Highway 1

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 14, 2022**, 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: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodggers (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Ben Glover, Vice Chair (D3); Liz Alward (D4); Mark Wadsworth, Chair (D4); Logan Luse (Alt. D4); Bruce Moia (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Melissa Wilbrandt, Associate Planner; Paul Body, Planner III; Jane Hart, Planner III; Alex Esseeesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Protea Senior Living Melbourne, LLC (Michael Allen)

A change of zoning classification from RU-1-9 (Single-Family Residential), RU-1-13 (Single-Family Residential), and IN(H) (Institutional Use, High-Intensity), with an existing BDP (Binding Development Plan), to IN(L) (Institutional Use, Low-Intensity), with removal of existing BDP, and adding a new BDP. The property is 6.35 +/- acres, located on the east side of Old Dixie Highway, approx. 90 ft. south of Otter Creek Lane. (Lots 12.05, 13, and 13.05 = No assigned address. In the Palm Shores area; Lot 14.01 = 5925 Old Dixie Hwy., Melbourne) (22Z00047) (Tax Accounts 2606013, 2606015, 2606018, & 2606020) (District 4)

Bruce Moia stated for the record that the applicant has been a client of his in the past, but is not a current client.

Greg Spiro, 5458 Avenida Fiesta, La Jolla, California, stated Protea Senior Living are senior living developers with multiple properties in California and Florida. The intention is to develop a comprehensive senior living campus that includes 72 independent living beds, 79 assisted living beds, and 24 memory care units. There are a number of amenities, including pickleball courts, bocce ball, swimming pool, dog park, multiple courtyards, outdoor bar-b-que, dining, and walking trails. Indoor amenities include a dining room, sports bar, fitness center, salon and spa, theater, games room, and multiple activity rooms. He stated the building is well located, close to the Suntree neighborhood, with views of the Indian River, with access to I-95, Viera, and the beaches. He said the intention is to make it the premier senior living facility in Brevard County. As part of the site plan application, they will provide a comprehensive landscape plan that will provide a natural barrier between the facility and the residential neighborhood. He stated a neighborhood meeting was held on August 31, 2022, where the concept plan was shown to the neighbors for comments, and the most significant comment was a concern over the traffic that would be generated by the facility and the impact the traffic would have on Old Dixie Highway, Otter Creek Lane, and the intersection of U.S. Highway 1. On August 5, 2022, Protea commissioned LTG to perform a trip generation traffic statement for the site. The report showed that the expected traffic generated by the community would be less than 78 cars per peak hour; and therefore, it does not meet the County's requirement for conducting a trip impact analysis. Notwithstanding the report, since the neighborhood meeting on August 31st they have spent considerable time with LTG, Allen Engineering, County staff, and FDOT, in an attempt to come up with a plan that would improve accessibility and create a safer driving experience on all three roads. He noted they are not yet in a position to be able to drill down into the issues, but they are looking to improve sight distances at Otter Creek Lane and U.S. 1 to make it

safer and easier to access from the north, and also to potentially improve turning angles. They are also investigating the possibility of widening a portion of Old Dixie Highway from the current 20 feet, to 24 feet, so that it conforms with County standards and allows for easier and safer travel.

Public comment.

Tim Montgomery, 2695 Pine Cone Drive, Melbourne, stated he doesn't know if the culvert beside the wildlife sanctuary will be able to hold the amount of concrete trucks that will be entering the neighborhood during construction. He said he received a drawing of the concept plan in the mail, and he is concerned there are three exits onto Old Dixie Highway. He said with that many exits, he imagines the plan would be for the trucks to come into the first exit and go out through the third exit, and if they did that, it would put a heavy traffic load on Old Dixie Highway. He noted employees will also add to the traffic, and getting in and out of the neighborhood is already very dangerous.

Michael P. Switzer, 5840 Old Dixie Highway, Melbourne, stated access from U.S. 1 to Otter Creek Lane is horrible, just for the residential community of a dozen homes. There have been numerous accidents because of the way it is set up, and if that is the only access to the facility, it will create a difficult and negative impact on the residents who already have a difficult time getting in and out of the neighborhood. He said his other concern is that the conceptual drawing doesn't give an accurate picture of the neighborhood. There are small children in the neighborhood, and the increased traffic is a concern.

Shirley Leslie, 2665 Hilltop Lane, Melbourne, stated she believes the proposed facility is too large for the neighborhood, with the traffic situation being a threat to everyone's safety. She stated the trip generation report from LTG states the project does not meet the code requirement threshold for conducting a transportation impact analysis; however, the staff comments do not mention staff, visitors, deliveries, nor emergency vehicles. Administrative Policies 3 and 4 talk about compatibility with existing or proposed land uses being a factor in determining a rezoning, and that the character of a neighborhood shall be a factor for consideration, as well as the character of the area must not be materially or adversely affected by a proposed rezoning by introducing types of intensity of traffic that is not already present within the identified boundaries of the neighborhood. She stated the proposed binding development plan does not provide for any restriction or requirements place on the developer other than what is provided in County code. She requested the following modifications and additions be made to the proposed BDP: a.) Modify paragraph 5, "Developer/Owner shall utilize ingress and egress at Old Dixie Highway until such time as an alternate access can be determined and provided." b.) Add, "Appropriate signs shall be posted and wetland shall be secured with fencing". c.) Add, "All wet retention ponds and wetlands shall be secured with fencing". d.) Add, "Athletic areas, ambulance receiving area, and air conditioning/heating units shall be located on the property's northernmost portion as to mitigate associated noises from those sources to preserve the quality of life in the existing neighborhoods". (e.) Add, "No dwellings, structures, parking lots, or buildings shall be constructed on the southernmost lot currently zoned RU-1-9 so as to be compatible with the historical current residential NC properties".

Mark Leslie, 2665 Hilltop Lane, Melbourne, stated in 2009 he and other residents went through mediation with the previous owner, and it took a year to come up with a plan that everyone could live with, and that plan resulted in 47 residents, capping out at 68 total, including staff. Now, the new owner is asking for 173 residents, plus personnel, which is much larger than the last request. The treatment and recovery center didn't go anywhere and the application was withdrawn. This developer

today has been the kind of developer the neighbors have wanted for years, and they will do a good job because they have the money, the backing, and the professionalism to do it right, but it's really large. He said he would like find a way to convince FDOT to put in stop lights or deal with the intersection before the project it built. He said the applicant is willing to pay for it, and he has gone to FDOT which has said no. The bottom line is that it is a very dangerous intersection. Turning left onto Hilltop Lane from the south, you can't see the cars waiting to make a U-turn to go into Grills. He stated it is important that the board look at the traffic part of the request.

Alexandra (last name inaudible), 2886 Cape View Lane, stated she appreciates the applicant's willingness to do anything, but it is a small community. She said originally there was one entrance, and now there are three entrances all on Old Dixie Highway, and there will be the new Brightline train coming through at the back of the neighborhood.

Robert Sullivan asked Mr. Spiro if he has considered reducing the density of the project. Mr. Spiro replied the previous BDP was limited to 47 units, but that is not viable.

Mr. Sullivan stated with the with the high-speed offramp going to Pineda Causeway, the chance of getting FDOT to put a traffic light there is nil. He said the residents have valid concerns on the increased traffic, and asked if there is any consideration of going to a maximum of two stories and reducing the total number.

Mr. Spiro replied the issue is that the current zoning of IN(H) requires access off of a major arterial, which would be U.S. 1, but because of the interchange, they cannot do that. He said they have no choice but to downzone to IN(L) in order to get access on Old Dixie. He stated he's had an honest discussion with the neighbors and he would like to make sure there is little traffic congestion because they are investing a lot of money and it is critical to get it right. In terms of reducing the size of the building, 47 units would not work. He said they are extremely limited by the wetlands, which is why they are going to three stories. The issue is really about a unit mix, which is a continuum of care and not just assisted living and memory care, it has independent living as well. Today, to be successful, a facility has to have all three elements, and there is a formula to make it work. He said the facility could be slightly smaller, but it won't make any difference one way or the other to the traffic.

Mark Wadsworth commended Mr. Spiro for his communication with the neighborhood.

Liz Alward stated they are possibly widening the road from 20 feet to 24 feet, and asked if that would include sidewalks. Mr. Spiro replied no, there are no sidewalks.

Ms. Alward noted not all of the residents will have vehicles, so the most vehicles that the neighbors will see are the employees, visitors, and service trucks. Mr. Spiro stated memory care and assisted living residents do not drive.

Henry Minneboo asked if the traffic engineer used the trip generation manual specifically for this use. Mr. Spiro replied yes, they took everything into account, and the bulk of the traffic are the employees and visitors; service trucks are limited.

Bruce Moia stated traffic studies look at every trip to a site, not just the people who live there, and being familiar with the site plan process in Brevard County, he knows anything that is substandard will have to be brought up to current requirements. He said because of the limited access to Pineda Causeway, they will not be able to get access to U.S. 1.

Brian Hodgers stated one of the speakers mentioned two entrances early in the process and now there are three entrances. He noted the southernmost entrance is close to the cluster of homes that make up the community, and asked if there is an option to route that road around the backside of the property and close off that entrance. Mr. Spiro replied one of the reasons they did that was to create additional parking. He said he believes the entrance can be changed, but he cannot commit to it yet.

Mr. Hodgers asked if there is an option to build a bridge over the wetlands for another entrance. Mr. Spiro replied it would be very difficult and very expensive, and they would have to go through the Humane Society property.

Mr. Ball stated the subject property does not have access to Otter Creek Lane. If the board is concerned about access points, it could be a condition in the BDP.

Motion by Liz Alward, seconded by John Hopengarten, to recommend approval of a change of zoning classification from RU-1-9, RU-1-13, and IN(H), with an existing BDP, to IN(L), with removal of existing BDP, and adding a new BDP providing a 15-foot buffer on the entire portion of the property, limiting density to 28 units per acre, and limiting ingress and egress to Old Dixie Highway. The motion passed unanimously.



FLORIDA'S SPACE COAST

DISTRICT 4 COMMISSION OFFICE
2725 Judge Fran Jamieson Way, #C-214
Viera, FL 32940-6698

T: 321 633-2044



December 1, 2022

Commissioner Feltner spoke with Mr. Mark Leslie on November 30, 2022 concerning 22Z0047.