

Meeting Date
September 23, 2014



AGENDA	
Section	Public Hearing
Item No.	I.C.

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	PUBLIC HEARING, RE: BOARD CONSIDERATION OF REASONABLE ACCOMMODATION PURSUANT TO SECTION 62-1835.9 (1) (B) AND SECTION 62-305; 1003 GREEN ROAD, ROCKLEDGE (DISTRICT 2)
DEPT/OFFICE:	PLANNING AND DEVELOPMENT DEPARTMENT / ZONING OFFICE

**Requested Action:**  
 Take action on a request for a reasonable accommodation pursuant to section 62-305 to allow a group home facility within 500 feet of residential zoning pursuant to section 62-1835.9.

**Summary Explanation & Background:**

On August 11, 2014, the Planning and Zoning Board heard item 14PZ-00047, John & Lauray Aitcheson's request to change their zoning from RU-1-13 to the IN(L) zoning classification and recommended approval of the IN(L) zoning classification on the subject property for the purposes of having a group home with a maximum of eight assigned residents.

The subject property does not meet the condition specified in 62-1835.9(1)(b) governing group homes that requires the facilities to maintain a radius of 500 feet from single-family zoning. The subject property abuts single-family zoning to the west and south.

Pursuant to paragraph 3 of section 62-1835.9, a request for reasonable accommodation can be sought and evaluated pursuant to section 62-305. It is the policy of the county to provide fair access to housing for persons with disabilities and all other persons protected by the Federal Fair Housing Act, including providing reasonable accommodation in the application of the zoning regulations governing residential uses pursuant to federal law.

Without the reasonable accommodations only 1-6 residents could be housed at this facility. The applicants already have an approval under group home number (GH-125) for up to six (6) residents.

Fiscal impact: There will be no impact to the General Fund.

POC: Cynthia Fox Phone: 633-2070 Ext: 52660; Fax 633-2152; E-Mail [Cynthia.fox@brevardcounty.us](mailto:Cynthia.fox@brevardcounty.us)

**Clerk to the Board instruction:**

**Exhibits Attached:** John & Lauray Aitcheson's request for reasonable accommodations;  
 Zoning Staff report for August 11, 2014 for item # (14PZ-00047).

<b>Contract /Agreement (If attached):</b>		<b>Reviewed by County</b>		<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>PR</b>	<input type="checkbox"/>
<b>County Manager</b>		<b>Assistant County Manager</b>					<b>Department Director / Extension</b>		
Stockton Whitten		Mel Scott, AICP					Robin M. Sobrino, AICP, Director, Planning and Development Dept. Ext. 5-2069 <i>Robin M Sobrino</i>		



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972

September 24, 2014

**M E M O R A N D U M**

**TO:** Robin Sobrino, Planning and Development Director Attn: Cynthia Fox

**RE:** Item I.C., Board Consideration of Reasonable Accommodation Pursuant to Section 62-1835.9(1)(B) and Section 62-305 for 1003 Green Road, Rockledge

The Board of County Commissioners, in special session on September 23, 2014, approved reasonable accommodation pursuant to Section 62-305, to allow a group home facility within 500 feet of Residential Zoning pursuant to Section 62-1835.9(1)(B).

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

## ZONING APPEAL PRESENTATION

September 4, 2014

**Presented To:** Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way, Building A, Room 114

**Presented By:** Lauray Aitcheson, Property Owner  
1003 Green Road, Rockledge, FL 32955

**Re: Case #** 14PZ-00047

**Address:** 1003 Green Road, Rockledge, FL

First and foremost, thank you for granting me the change of zoning classification from RU-1-13 to IN(L) on .29 acres, located on the southwest corner of Green Rd. and Fiske Blvd (1003 Green Road, Rockledge), zoning hearing held on August 11, 2014. As part of your approval, the County Attorney requested that a request of reasonable accommodations be submitted at the next hearing held on September 4, 2014. In compliance with your request, here is our formal request for reasonable accommodations.

### Request for Reasonable Accommodations under **Section 62-305**

Our Assisted Living Facility (ALF) will be located in a low- to moderate-income neighborhood located in the City of Rockledge. Our target population is disabled Veterans and Senior citizens of Rockledge and the Viera area. Our home will be centrally located and accessible from a variety of main highways (Fisk Boulevard, I95, and Interstate 520). Our residents will have access to mass transportation (bus stops are available just a few steps from our front door, on the corner of Fisk Boulevard and Green Road); as well as parks and recreational facilities (Larry L Schultz Park across the street); VA Hospital (just a few miles down of Fisk Boulevard/Stadium Parkway); and Churches and shopping centers, which are just a few blocks away.

Our facility is designed to meet our residents' needs and enhance their quality of life. Our services, just to name a few, will include a compassionate and caring staff (24-hour a day); medication management; assistance with activities of daily living; three delicious home cooked meals; daily housekeeping and weekly laundry; daily resident safety checks; regular health and wellness assessments; scheduling of doctor's appointments; recreational, cultural, and social activities; and religious services and monthly outings. Our facility meets ADA requirements; such as a wheelchair ramp, handicap toilets, showers, and sinks. We pride ourselves in providing ample private suites and semi-private suites that offer cable and internet service with security and sprinkler systems.

Our facility will target Disabled Veterans and Seniors seeking to maintain their independence in a comforting and encouraging supportive group facility. Our objective is to provide our Disabled Veterans and Seniors a personalized, worry-free lifestyle filled with support and care.

### **Sec. 62-305 Paragraph 1**

Without the approval of reasonable accommodation that we seek, Disabled Veterans and Seniors will be denied the opportunity to enjoy housing of their choice in a community of their choice. Section 62-305, paragraph 1, affords such accommodation to be granted by the County if the request relief is reasonable. There are only two facilities, Viera Manor and VA Hospital, in the area that accommodate special needs for disabled veterans; thus, currently limiting the amount of beds available to Disabled Veterans and Seniors.

### **Sec. 62-305 Paragraph 2 a**

The requested accommodation imposes no financial or administrative burden on County services, such as, but not limited to, law enforcement, utilities and public works, traffic safety, public safety, and public transportation.

### **Sec. 62-305 Paragraph 2 b**

The requested accommodation requires no alteration of the ordinance, zoning regulations, comprehensive plan and the neighborhood.

### **Sec. 62-305 Paragraph 2 c**

The requested accommodation does not undermine legitimate purposes and/or adversely impact existing zoning.

### **Sec. 62-305 Paragraph 3 a**

Disabled Veterans and Seniors have a need for housing that offers assisted living and care; assistance with eating, bathing, dressing, and ambulation; medication management; scheduling of doctor's appointments; housekeeping services; and homes that offer wheelchair ramps, ADA approved toilets, sinks, laboratories, and showers.

### **Sec. 62-305 Paragraph 3 b**

The requested modification would potentially benefit those Disabled Veterans and Seniors who are seeking living assistance facilities in the city of Rockledge and Viera. Disabled Veterans and Seniors will have the opportunity to enjoy housing of their choice in the community of their choice without the burden of having to find housing in another city or county because of the lack thereof. The facility will provide the excellent care they seek; moreover, it will be centrally located in proximity to the VA hospital, parks, churches, and access to public transportation – just a few steps away.

The requested accommodation will enable our residents the opportunity to enjoy a supportive, secure, and compassionate environment, while remaining in the community of their choice, close to friends and family.

Commission District # 2 (14PZ-00047)  
 Initial Hearing Dates: P&Z 08/11/14 BCC 09/04/14

**REZONING REVIEW WORKSHEET**

**Applicant Name: JOHN E. AND LAURAY AITCHESON**

**Request: RU-1-13 to IN(L)**

**Subject Property:**

**Parcel ID#: 25-36-17-01-00-30**  
**Tax Acct#: 2509876**  
**Location: Southwest corner of Green Rd., and Fiske Blvd.**  
**Address: 1003 Green Rd., Rockledge**  
**Acreage: 0.29 acre.**

**Consistency with Land Use Regulations**

- YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
- YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
- YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-13 Group Home	IN(L) Assisted Living Facility
<b>Potential*</b>	6 residents	8 residents
<b>Can be Considered under FLU MAP</b>	YES RESIDENTIAL 15	YES

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

**ADT PM Peak**

	<b>ADT</b>	<b>PM Peak</b>		
Trips from Existing Zoning	14.22	1.8	Segment Number	44
Trips from Proposed Zoning	18.96	2.4	Segment Name	I-95/Barnes to Eyster
Maximum Acceptable Volume (MAV)	35,000	3,185	Acceptable LOS	E
Current Volume	21,880	1,991	Directional Split	
Volume With Proposed Development	N/A	N/A	ITE CODE 620 6 existing beds increasing to 8. Less than 5 ADT increase De Minimus Exempt	
Current Volume / MAV	62.5%	62.5%		
Volume / MAV with Proposal	No change	No change		
Current LOS	E	E		
LOS With Proposal	E	E		

## Land Use Compatibility

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

The request is for the IN(L) zoning classification. IN(L) is an institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature. The surrounding properties are zoned RU-1-13 to the north and west with RU-1-11 to the south. To the west, the subject property abuts Fiske Blvd. This area of Rockledge is characterized by single-family residential development. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

## Environmental Constraints

\* Does the project appear to meet county use or density restrictions based upon:  
\* Refer to NRMD's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Not Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Not Mapped	Surface Water Protection	NA
Floodplains	Not Mapped	Habitat for Protected Species	Not Mapped

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRMD's comments follow these staff comments.

**Other Considerations:** The subject property is currently developed with a 2,205 square foot single-family home. Currently the home is being utilized as a group home, level 1 with a maximum of six residents. The zoning regulations define a group home as "a facility in which the owners or operators are subject to licensing and approval by the state department of children and families, and where the owners or operators provide basic care, personal services and supervision necessary to meet the physical, emotional and social needs of assigned residents..."

A group home level 2 which would allow up to 14 residents is not permitted in single-family residential zoning and would require rezoning the property to multi-family zoning. A change to multi-family would likely be incompatible with the existing development patterns. Therefore the applicants are requesting the institutional light zoning classification, IN(L), which would allow an assisted living facility or a group home with up to 14 residents for their eight desired residents.

A group home, level 1 use with a maximum of six residents is a permitted use with conditions pursuant to **section 62-1835.9** in all single-family zoning classifications.

All group homes shall comply with the following, as applicable:

- (1) *Dispersal of facilities and notification to the county.*
  - a. The minimum distance between level I facilities in single-family or multi-family zoned areas shall be 1,000 feet. Notification to the county shall occur at the time of home occupancy pursuant to F.S. § section 419.001(2).
  - b. The minimum distance between level II facilities in multi-family zoned areas and other group homes shall be 1,200 feet. Such facilities shall also maintain a radius of 500 feet from an area of single-family residential zoning.

This request should be evaluated pursuant to **section 62-305** for reasonable accommodation standards and procedures. It is the policy of the county to provide fair access to housing for persons with disabilities and all other persons protected by the Federal Fair Housing Act, including providing reasonable accommodation in the application of the zoning regulations governing residential uses pursuant to federal and state law.

- (1) The persons requesting relief must demonstrate that the requested accommodation is appropriate and that, without the accommodation, they would be denied the opportunity to enjoy housing of their choice in the community of their choice. Once this standard is met, the burden shifts to the county to determine whether the requested accommodation is unreasonable.
- (2) In making a determination as to whether a requested accommodation is reasonable, the following standards shall be applied:
  - a. Whether the requested accommodation imposes an undue financial or administrative burden on county services, such as but not limited to, law enforcement, utilities, public works, traffic safety, public safety and public transportation; or
  - b. Whether the requested accommodation requires a fundamental alteration of the ordinance, zoning regulations, comprehensive plan and the neighborhood; or
  - c. Whether the requested accommodation undermines legitimate purposes and effects of existing zoning.
- (3) The following factors shall be weighed in considering reasonable accommodation:
  - a. Special needs created by the disability;
  - b. Potential benefit that can be accomplished by the requested modification, which may include:
    1. Opportunity to enjoy support, security, location, services, proximity to work or friends provided in a group home in the community of choice;
    2. Opportunity to plan a residential community with special amenities;
  - c. Potential impact on surrounding uses;
  - d. Physical attributes of the property and structures thereon;
  - e. Choice of alternative accommodations which may provide an equivalent level of benefit; and
  - f. Whether, in the case of a determination involving a single family dwelling, the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents.
  - g. Other considerations when evaluating requests for reasonable accommodation:
    1. Character of the neighborhood and zoning classification (residential or non-residential);
    2. Residential character of the house (consistency of interior and exterior with single-family usage); and
    3. Parking needs of residents.
- (4) Procedures for evaluating reasonable accommodation.
  - a. Requests for reasonable accommodation shall follow the application and public hearing procedure set forth in Article II, Division 6 of this chapter.
  - b. In the event that a request for reasonable accommodation is not decided within 60 days of the date of application, the request shall be automatically granted. This time period may be extended upon agreement of both parties.

*The subject property does not meet the condition that the facilities maintains a radius of 500 feet from single-family zoning. However, per section 3 (below) a request for reasonable accommodation can be sought and evaluated pursuant to section 62-305.*

- c. All distance requirements, stated in subsections a and b above, shall be measured from the nearest point of the existing home or area of single family zoning to the nearest point of the proposed home.
  - d. Written notification to the county for a level II facility shall be provided at the time of site selection, pursuant to F.S. § 419(3)(a). Notification shall contain the specific address or legal description of the site, the residential licensing category, the number of residents and community support requirements. Notification shall also contain a statement from the state indicating the need for and licensing status of the facility and the most recently published data identifying all similar facilities in the county.
  - e. The owner or operator of a group home shall notify the county within 15 days of the discontinued use to enable the county to maintain accurate dispersal record keeping.
- (2) *County procedures for level II group homes.* Pursuant to F.S. § 419(3)(b), the county may:
- a. Determine whether the siting of the level II group home is in accordance with county regulations;
  - b. Deny the siting of the level II group home, based upon one or more of the following:
    - 1. The use does not otherwise conform to existing zoning regulations applicable to other multi-family uses;
    - 2. The use does not meet applicable licensing criteria established by the state;
    - 3. The use would result in such a concentration of level II group homes in the area in proximity to the selected site or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within the minimum standards set forth in subsection (1)(b) shall be considered over concentration that substantially alters the nature and character of the area.
    - 4. Nothing in this section shall permit persons to occupy a group home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.
    - 5. In the event that the county fails to respond to the notification within sixty (60) days of receipt, then the group home may be established at the selected site.
- (3) *Procedures for considering reasonable accommodation.* In circumstances where the standards set forth in this section cannot be met, a request for reasonable accommodation can be sought. Such requests may be evaluated pursuant to section 62-305 or other applicable relief procedures set forth in this chapter.
- (4) *Compliance with state regulations.* Violations of applicable statutes and regulations of the state shall be deemed violations of this division.

The applicants have not yet demonstrated that the facility complies with State requirements. It is anticipated that exterior site work, such as parking for employees and visitors will be required.

**Summary:** The applicants wish to rezone the property to IN(L) for the purposes of having a group home with eight residents. The subject property does not meet the condition that the facilities maintains a radius of 500 feet from single-family zoning. However, per section 62-1835.9, a request for reasonable accommodation can be sought and evaluated pursuant to section 62-305. At this time, a request for reasonable accommodation has not been submitted.

Given the single-family development in the area, the Board may wish to cap the total number of residents and limit the use of the property as a group home given the character of the single-family subdivision.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 14PZ-00047</b>	<b>Owner: John &amp; Lauray</b>
<b>Aitcheson</b>	
<b>Zoning Request: RU-1-13</b>	
<b>P &amp; Z Hearing Date: 08/11/14</b>	<b>BCC Hearing Date: 09/04/14</b>

This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Wetlands Potential/Hydric Soils	Not mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Not mapped	Wildlife	Not Mapped

**Comments:**

**This review relates to the following property: Twp. 25, Rng. 36, Sec. 17; Tax ID No. 2509876**

The owners are advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.