

**INDIAN RIVER COUNTY, FLORIDA
M E M O R A N D U M**

TO: Board of County Commissioners

THROUGH: John Titkanich, Jr.; County Administrator

PREPARED BY: Chris Balter; Chief, Long Range Planning

DATE: May 15, 2023

RE: Theta Capital Partners, LLC. request to Rezone Approximately
±10.37 Acres from CL, Limited Commercial District to CG, General
Commercial District (RZON2023020007-94181) [**Quasi-Judicial**]

It is requested that the following information be given formal consideration by the Indian River County Board of County Commissioners at its regular meeting on June 20, 2023.

DESCRIPTION AND CONDITIONS

The applicant requests to rezone ±10.37 acres located south of and adjacent to 71st Street, north of and adjacent to 69th Street, from CL, Limited Commercial District to CG, General Commercial District. The purpose of this request is to secure the zoning necessary to develop site with uses permitted in the CG zoning district. The subject site is depicted in (Attachment 1).

Existing Land Use Pattern

This portion of the county consists of a mixture of commercial, industrial, residential uses, and vacant land. The subject properties are currently zoned CL, Limited Commercial District. To the north of the subject properties is vacant commercial land, to the west is developed industrial land, to the south and east is developed commercial land.

Zoning District Differences

In terms of permitted uses, there are both similarities and differences between the existing CL district and the proposed CG district (see Attachment 4). The respective zoning districts' purpose statements best illustrate the differences between the zoning districts. These purpose statements, found in the County's Land Development Regulations (LDRs), are as follows:

CL: Limited Commercial District: The CL, Limited Commercial district is intended to provide areas for the development of restricted commercial activities. The CL district is intended to accommodate the convenience retail and service needs of area residents, while minimizing the impact of such activities on any nearby residential areas.

CG: General Commercial District. The CG, General Commercial district, is intended to provide areas for the development of general retail sales and selected service activities. The CG district

is not intended to provide for heavy commercial activities, such as commercial service uses, heavy repair services nor industrial uses.

Analysis

The following analysis is per Chapter 902: Administrative Mechanisms, Section 902.12(3) which states that all proposed amendments shall be submitted to the Planning and Zoning Commission, which shall consider such proposals in accordance with items (a) through (k) of Section 902.12(3).

Item A - Whether or not the proposed amendment is in conflict with any applicable portion of the land development regulations.

Staff cannot identify any conflicts with the proposed rezoning and any of the land development regulations.

Item B - Whether or not the proposed amendment is consistent with all elements of the Indian River County Comprehensive Plan.

The goals, objectives, and policies are the most important parts of the comprehensive plan. Policies are statements in the plan that identify the actions that the County will take in order to direct the community's development. As courses of action committed to by the County, policies provide the basis for all County land development decisions. While all comprehensive plan policies are important, some have more applicability than others in reviewing rezoning requests. Of particular applicability for this request are Future Land Use Element Policies 1.17, 1.18, and 1.43.

Future Land Use Element Policies 1.17 and 1.18

Future Land Use Element Policy 1.17 states that all commercial/industrial uses must be located within the County's Urban Service Area. Future Land Use Element Policy 1.18 states that the commercial/industrial land use designation allows uses, subject to applicable zoning district regulations, that include business and personal services, retail, office, and storage/warehousing uses.

Since the subject property is located within the County's Urban Service Area and the requested CG district is intended for uses permitted within the commercial/industrial land use designation, the request is consistent with Future Land Use Element Policies 1.17 and 1.18.

Future Land Use Element Policy 1.43

Future Land Use Element Policy 1.43 provides criteria that the Board of County Commissioners may use to determine whether or not a proposed zoning district is appropriate for a particular site. Below are tables listing the specific rezoning criteria from Policy 1.43, the CG zoning district, and staff determinations of how the criteria have been met.

Table 1 SUBJECT PROPERTY #1 Proposed General Commercial (CG) Zoning District		
Review Criteria	Meets Criteria?	Comments
1. Along arterial roads and major intersections	Yes	U.S. Highway 1 is a principal arterial road.
2. Separated from residential development	Yes	The closest residential development is separated from the subject site by U.S. Highway 1 and CL zoned property.
3. Separated from industrial areas	Yes	Industrial zoned property is located to the west across Old Dixie Highway and the FEC Railroad tracks.
4. Near retail and office areas	Yes	Many of the commercially zoned properties in this area are or will be developed for retail and/or office uses.

Item C - Whether or not the proposed amendment is consistent with existing and proposed land uses.

The proposed amendment for the subject properties is designated C/I, *Commercial/Industrial* on the Future Land Use Map. Since CG zoning is allowed in the C/I designation, the proposed zoning district is consistent with the Future Land Use Map designation. The properties surrounding the subject sites consist primarily of residential uses, commercial uses, and vacant sites.

Item D - Whether or not the proposed amendment is in compliance with the adopted county thoroughfare plan.

The subject properties abut U.S. Highway 1 and Old Dixie Highway. U.S. Highway 1 is classified as a Principal Arterial road and Old Dixie Highway is classified as a Major Collector on the future roadway thoroughfare plan map. There are currently no planned road improvements for either roadway.

Item E - Whether or not the proposed amendment would generate traffic which would decrease the service levels on roadways below the level adopted in the comprehensive plan.

The proposed rezoning request’s Traffic Impact Analysis (TIA) was reviewed and approved by Traffic Engineering Division staff. That analysis showed that all roadway segments within the area of influence would operate at an acceptable level of service with the most intense use of the property under the proposed zoning district.

Item F - Whether or not there have been changed conditions which would warrant an amendment.

The applicant states that “due to changes in the economy and employment practices and retail business services, the typical CL, Limited Commercial uses are not favorable for development.” The applicant believes the additional uses permitted in the CG, General Commercial District that are not permitted in the CL, Limited Commercial District are uses that have not been affected by the recent economic trends, which are: Drive-thru restaurants, storage facilities, automotive sales,

storage, and repair, production and distribution facilities, animal boarding, building materials and garden supplies, automotive rentals, and landscape services. Staff can agree that economic changes have taken place.

Item G - Whether or not the proposed amendment would decrease the level of service established in the comprehensive plan for sanitary sewer, potable water, solid waste, drainage, and recreation.

Based upon the analysis conducted by staff it has been determined that all concurrency-mandated facilities, including, stormwater management, solid waste, water, wastewater, and recreation have adequate capacity to accommodate the most intense use of the subject property under the proposed rezoning. Per Indian River County Land Development Regulations, the Applicant may be required to pay connection and other customary fees, and comply with other routine administrative procedures. If approved, rezoning does not guarantee any vested rights to receive water and wastewater treatment service. As with all development, a more detailed concurrency review will be conducted during the development approval process.

As per section 910.07 of the County's LDRs, conditional concurrency review examines the available capacity of each facility with respect to a proposed project. Since rezoning requests are not development projects, County regulations call for the concurrency review to be based upon the most intense use of the subject property allowed within the requested zoning district.

For commercial rezoning requests, the most intense use of a property varies with the zoning district. In the case of CL zoned property, the most intense use (according to County LDRs) is retail commercial with 10,000 square feet of gross floor area per acre. For the CG rezoning request, the most intense use is retail commercial with 10,000 square feet of gross floor area per acre. The site information used for the concurrency analysis is as follows:

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|---|--|
| 1. Size of Area to be Rezoned: | ± 10.37 acres |
| 2. Existing Zoning District: | CL, Limited Commercial District |
| 3. Proposed Zoning District: | CG, General Commercial District |
| 4. Most Intense Use of Subject Property Under Existing Zoning District: | 103,700 square feet of retail commercial |
| 5. Most Intense Use of Subject Property Under Proposed Zoning District: | 103,700 square feet of retail commercial |

Item H - Whether or not the proposed amendment would result in significant adverse impacts on the natural environment.

The subject properties proposed to be rezoned from CL to CG currently the sites are all vacant land. Since the subject properties contain no land designated by the State of Florida or the U.S. Federal Government as environmentally sensitive or protected land, such as wetlands or sensitive

uplands, rezoning the site is anticipated to have no adverse impacts on environmental quality. When development is proposed for the subject site, a more detailed environmental analysis based on the site-specific development proposal will be conducted.

Item I - Whether or not the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern.

The proposed amendment is consistent with the comprehensive plan and the surrounding land uses and will provide for a logical and orderly pattern of uses.

Item J - Whether or not the proposed amendment would be in conflict with the public interest, and is in harmony with the purpose and interest of the land development regulations.

Staff has not identified any detrimental effect to the public welfare, and believes the request is in harmony with the purpose and intent of the land development regulations.

Item K - Any other matters that may be deemed appropriate by the planning and zoning commission or the board of county commissioners in review and consideration of the proposed amendment such as police protection, fire protection, and emergency medical services.

Based upon the analysis conducted by staff, it has been determined that all concurrency-mandated facilities, including police protection, fire protection, and emergency medical services have adequate capacity to accommodate the most intense use of the subject property under the proposed rezoning.

PLANNING & ZONING COMMISSION

At its regular meeting on May 25, 2023 the Indian River County Planning and Zoning Commission voted 5-0 to recommend that the Board of County Commissioners approve the request to rezone the subject properties from CL to CG.

CONCLUSION

The requested CG zoning district is compatible with the surrounding area, is consistent with the goals, objectives, and policies of the Comprehensive Plan and is consistent with the County LDRs. Located in an area deemed suitable for commercial uses, including CG district uses, the subject property meets all applicable criteria to be rezoned to CG. For those reasons, staff supports the request.

RECOMMENDATION

Based on the analysis, staff and the PZC recommend that the Board of County Commissioners approve this request to rezone the subject properties from CL to CG.

ATTACHMENTS

1. Zoning Map
2. Future Land Use Map
3. Rezoning Application
4. Table of Uses for Commercial Zoning Districts
5. Future Land Use to Zoning District comparison table (Source: County LDRs)