

INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM

TO: Jason E. Brown; County Administrator

THROUGH: Stan Boling, AICP
Community Development Director

THROUGH: Sasan Rohani, AICP
Chief, Long-Range Planning

FROM: Bill Schutt, AICP
Senior Economic Development Planner, Long Range Planning

DATE: March 26, 2018

RE: Schwerin and Other's Request to Rezone ± 9.94 Acres from MED to CG (RZON-99070136-80287) & County's Request to Rezone ± 0.20 Acres from MED to CG (RZON-2018010067-81006)

It is requested that the following information be given formal consideration by the Board of County Commissioners at its regular meeting of April 3, 2018.

DESCRIPTION AND CONDITIONS

This request consists of two separate but related requests to rezone a combined total of ± 10.14 acres from MED, Medical District to CG, General Commercial District. The first request "Schwerin and Others", is a combined request from three separate land owners. That request consists of ± 9.94 acres of land and seven separate properties representing 98.03% of the overall ± 10.14 total land area proposed to be rezoned. The second request "Colley Property", initiated by the County, is to rezone ± 0.20 acres, representing 1.97% of the overall ± 10.14 total land area proposed to be rezoned. As shown in Figure 1, the "Colley Property" is surrounded on three sides by properties included as part of the ± 9.94 acre "Schwerin and Others" rezoning request. Also as depicted on Figure 1, the subject properties are located at the southeast corner of U.S. Highway 1 and 41st Street. The purpose of this request is to allow the properties to be developed with commercial uses.

History/Background

On January 25, 2018, the Planning and Zoning Commission (PZC) held a public hearing to consider the ± 0.20 acre "Colley Property" rezoning application along with a much larger ± 17.94 acre "Schwerin and Others" rezoning application request (total ± 18.14 acres of land) from MED, Medical District to CG, General Commercial District. At that public hearing, letters of objection from adjacent/nearby property owners were presented to the PZC. At that meeting, adjacent and nearby property owners from the Casa Bella Subdivision, along with representatives of the Casa Bella of Vero Beach Home Owners Association, Inc. (Casa Bella HOA) voiced concerns regarding the overall size of the area proposed to be rezoned, the potential uses allowed in the CG zoning

district, the proximity of the proposed CG zoned area to their community, and the degree to which they received notice for the public hearing. Based on concerns expressed at the meeting, the PZC voted 5 – 0 to continue the public hearing at the February 8, 2018 PZC meeting, providing time for residents to research the request. After the January 25th meeting, staff invited the applicant and representatives from the Casa Bella HOA to meet together “on neutral ground” at the County Administration building.

On February 6, 2018, representatives from the Casa Bella HOA met with representatives for the “Schwerin and Others” rezoning application, and County staff. From that meeting, the two sides agreed to support a modified rezoning request that removed the easternmost 8 acres (closest to the Casa Bella Subdivision) from the rezoning request, thereby keeping those 8 acres in the existing MED, Medical District. At that meeting, there were also discussions between the HOA and the applicant regarding a voluntary restrictive covenant to limit the uses on the ±9.94 acre “Schwerin and Others” property to be rezoned under the modified request. The applicant has provided an executed voluntary declaration of restrictions that will limit uses on the ±9.94 acre property. That document is being held in escrow by the County Attorney and is to be recorded if the rezoning request is approved.

At the February 8, 2018 PZC meeting, the PZC continued the public hearing, took public comment, and voted 5-0 to recommend that the Board of County Commissioners approve the modified rezoning request to rezone the western ±10.14 acres of the original request from MED, Medical District to CG, General Commercial District, including the ±9.94 acre “Schwerin and Others” properties and the ±0.20 acre “Colley Property”.

Colley Property

As noted earlier in this agenda item, the “Colley Property” is surrounded on three sides by property included as part of the “Schwerin and Others” rezoning request. The fourth side of the property fronts on 41st Street.

The “Colley Property” is not included as part of the “Schwerin and Others” rezoning request, but is included as a separate request initiated by the County. This separate request was filed by County staff for several reasons indicated below.

Since initially approached by a representative for the “Schwerin and Others” for their rezoning request, County staff requested that the applicant attempt to contact the owners of the “Colley Property” to request that that property be included in the overall “Schwerin and Others” rezoning request. At that time, staff expressed concern that it would not be desirable to exclude the ±0.20 acre “Colley Property” from the rezoning request. If the “Colley Property” is not rezoned with the other properties, that small property would have a more restrictive and more isolated zoning district from that of surrounding properties, making it difficult to develop in the future without a separate request for rezoning to CG.

After that initial meeting with representatives for the “Schwerin and Others” rezoning request, multiple efforts were made to identify the current owner of the “Colley Property” and to obtain their authorization to rezone that property in conjunction with the seven properties included in the “Schwerin and Others” rezoning request. Through research conducted by the agent for the

“Schwerin and Others” rezoning request and research conducted by County staff, it appears that the listed owner of the “Colley Property”, Annie B. Colley, passed away in 2007 and it appears that since that time or even earlier the tax bills for the property have been sent to and paid by a relative that lives in Miami.

Both the agent for the “Schwerin and Others” rezoning request and County staff sent certified letters notifying the taxpayer and family relatives of the proposed rezoning request to see if they desire to also rezone the “Colley Property” from MED to CG, consistent with the overall “Schwerin and Others” rezoning request. Lacking any formal response at that time (positive or negative) from the “Colley Property” owner or authorized representative, County staff for the reasons noted above, initiated a rezoning request from MED to CG for the “Colley Property”.

After sending the initial certified letters, staff took additional steps to keep the “Colley Property” taxpayer of record informed of the progression of the rezoning application. Those steps involved phone calls, e-mails, additional certified letters, and letters sent via standard U.S. mail. While County staff spoke over the phone with Clifford Colley (son of Annie B. Colley and identified tax payer of record) regarding the details of the proposed rezoning, no formal position on the proposed rezoning (positive or negative) was verbally provided by Mr. Colley. Likewise, while staff has kept Mr. Colley informed of the rezoning application progress and while staff has provided opportunities for Mr. Colley to take a position (verbally or in writing) on the rezoning request, to date, Mr. Colley has not provided County staff with a formal position on whether he supports or does not support the rezoning request. A detailed list of the County’s correspondence with Mr. Colley is included in Attachment 9.

With respect to public notice requirements, Section 125.66(4)(a) of Florida Statutes establishes special notice requirements for county initiated rezoning requests of privately owned land of less than 10 acres in size. In addition to following normal public notice requirements, the County must notify by mail each affected real property owner at least 30 days prior to the date of the public hearing set for the rezoning request. The notice must set a time and place for one or more public hearings on the proposed rezoning ordinance or resolution. As shown in Attachment 9, the County has both met and exceeded this requirement.

By initiating a coincidental rezoning of the “Colley Property”, staff is providing the owner an opportunity to participate in the “Schwerin and Others” rezoning request and providing the Board of County Commissioners the opportunity to rezone the “Colley Property” as a County initiative if the Board so chooses. If prior to the April 3, 2018 Public Hearing county staff receives correspondence from the property owner or tax payer of the “Colley Property” that correspondence will be shared with the Board of County Commissioners.

Existing Land Use Pattern

This portion of the county consists of commercial/warehouse uses, residential uses, and vacant land, all lying within the Urban Service Area. As shown on Figure 1, the subject properties are vacant. Figures 2 and 3 show that the property to the south is zoned PD, Planned Development and MED, Medical District. The PD zoned property contains a combination of office/retail/warehouse uses and the MED zoned property is vacant. The property to the west across U.S. Highway 1 is zoned CG, General Commercial and contains a retail/warehouse use, a nonconforming residential

use, and vacant land. The property to the north (across 41st Street) is zoned RM-6, Residential Multi-family (up to 6 units per acre) and is vacant. To the east, the property is zoned MED, Medical District and is vacant.

Figure 1

Aerial image of subject properties and surrounding uses



(Existing zoning and proposed zoning maps are on next page)

Figure 2
Existing Zoning of Subject Properties

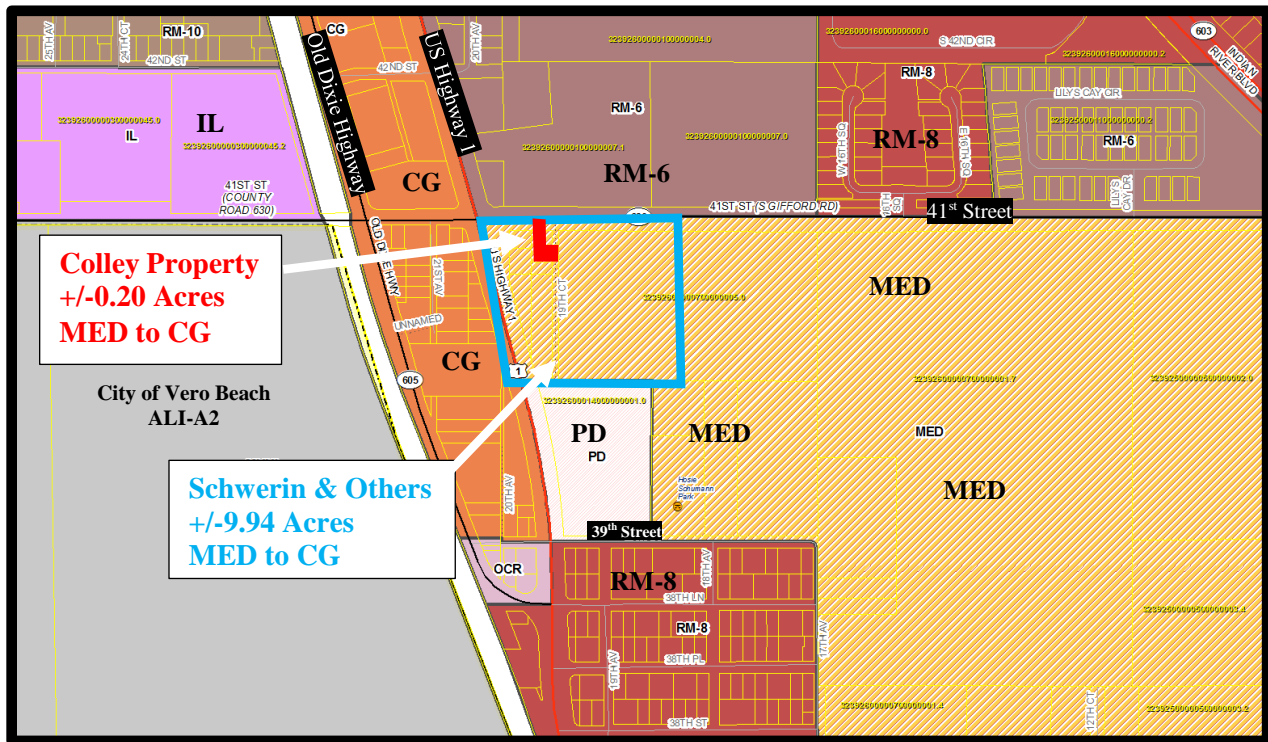
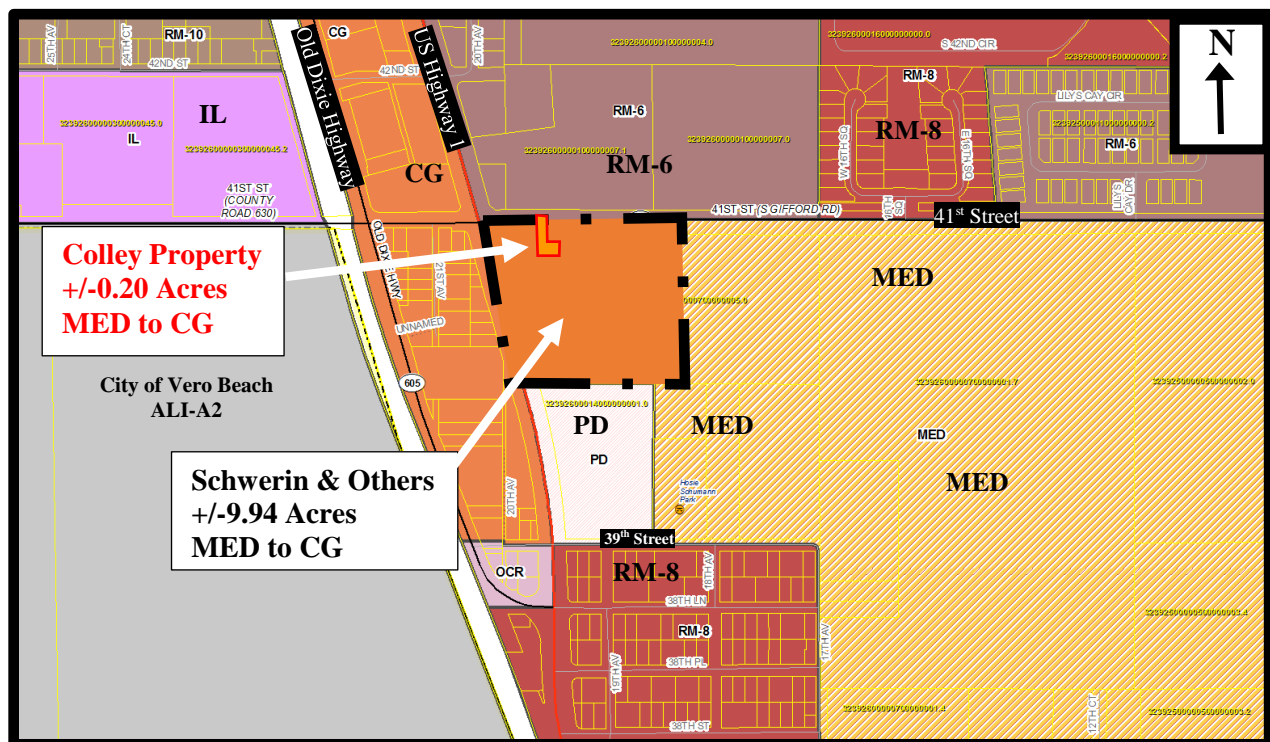


Figure 3
Proposed Zoning of Subject Properties



Future Land Use Pattern

As shown on Figure 4, the subject properties and surrounding properties to the south, east (across U.S. Highway 1), and west are designated C/I, Commercial/Industrial, on the Comprehensive Plan's Future Land Use Map. Land to the North (across 41st Street) is designated M-1, Medium-Density Residential-1 (up to 8 units/acre). The C/I designation permits various commercial and industrial zoning districts, including the requested CG district. The M-1 designation permits residential uses with densities up to 8 units/acre.

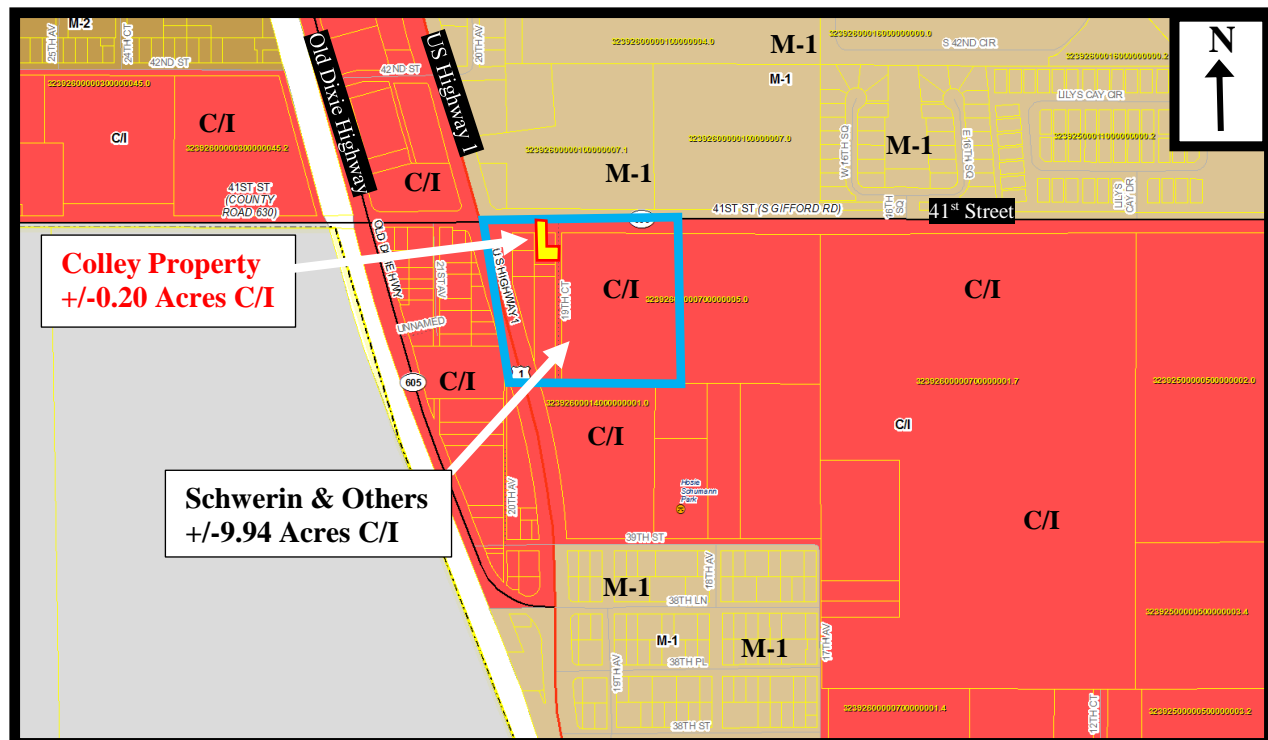
Environment

The Comprehensive Plan does not designate the subject properties as either environmentally important or environmentally sensitive. Review of past aerial photography indicates that the subject properties were previously cultivated as citrus groves. According to Flood Insurance Rating Maps, the subject properties do not contain any designated flood hazard areas.

Utilities and Services

The properties lie within the Urban Service Area of the County. Wastewater service is available to the properties from the Central County Regional Wastewater Treatment Facility, while potable water service is available to the properties from the North County Reverse Osmosis Plant.

Figure 4
Future Land Use of Subject Properties



Transportation System

Two major roads border the areas proposed to be rezoned. The north boundary of both the “Schwerin and Others” rezoning request and the County initiated request for the “Colley Property” abuts 41st Street and the east boundary of the “Schwerin and Others” rezoning request abuts US Highway 1. Classified as an urban collector on the County’s future roadway thoroughfare plan map, 41st Street is a two lane road with approximately 100 feet of public road right-of-way. Classified as an urban principal arterial on the future roadway thoroughfare plan map, US Highway 1 is a four lane road with approximately 120 feet of public road right-of-way. No improvements to these roads are currently programmed. Within the western 1/5th of the area proposed to be rezoned and touching the eastern side of the “Colley Property” is 19th Court. 19th Court is a platted but never built “paper street” with 25 feet of road right-of-way that is shown as dead ending into the property south of the area proposed to be rezoned.

Zoning District Differences

In terms of permitted uses, there are both similarities and differences between the existing MED district and the proposed CG district, however the number and range of permitted uses allowed within the CG district is greater than in the MED district (see Attachment 6). 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 provided on the next page.

MED: Medical district. The MED, medical district, is intended to provide a variety of uses which support a major medical facility, and to protect such major medical facility from encroachment by land uses which may have an adverse effect on the operation and potential expansion of the facility. Land uses that could cause an adverse effect would generally include those uses that are likely to be objectionable to neighboring properties because of noise, vibration, odors, smoke, amount of traffic generated, or other physical manifestations.

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.

History of MED Zoning for this Area

As part of the County’s 1996 Evaluation and Appraisal Report it was recommended that a large area around and near the hospital (Indian River Medical Center) have its Future Land Use designations re-designated from residential to commercial in order to reserve the land for possible future medical and related uses. Soon thereafter, on March 17, 1998, the County amended the Future Land Use map changing ±182 acres within the 37th Street/US Highway 1 Medical Commercial Node to C/I, Commercial Industrial, extending the node to 41st Street, including the subject properties.

Because the newly designated C/I future land use designated area contained properties that had various residential zoning districts that were not permitted within C/I designated areas, the County

initiated a rezoning of those properties to MED, Medical District consistent with the C/I land use designation. In July of 1999, the Board of County Commissioners approved the rezoning of ±136 acres to MED (±46 acres were previously rezoned as part of a land owner's request). That county initiated rezoning included all of the properties that are the subject of the two CG rezoning applications currently being considered. A copy of the staff report which contains a map showing the extent of the rezoning for that request is included as Attachment 7 to this item. Before and after the 1999 expansion of the MED-zoned area, the County has rezoned some properties within the overall MED-zone area from MED to other commercial districts where those properties were located at the perimeters of the overall MED-zoned area along US 1 or Indian River Boulevard.

ANALYSIS

In this section, an analysis of the reasonableness of the rezoning request will be presented. Specifically, this section will include an analysis of the request's:

- Impact on public facilities;
- Consistency with the county's comprehensive plan;
- Compatibility with the surrounding area; and
- Potential impact on environmental quality.

Impact on Public Facilities

The subject properties are located within the Urban Service Area, an area deemed suited for urban scale development. Within the Urban Service Area, the comprehensive plan establishes standards for: Transportation, Potable Water, Wastewater, Solid Waste, Stormwater Management, and Recreation (reference Future Land Use Element Policy 3.1). Adequate provision of those services is necessary to ensure the continued quality of life enjoyed by the community. To ensure that the minimum acceptable standards for those services and facilities are maintained, the comprehensive plan requires that new development be reviewed for a concurrency determination. For rezoning requests, that review is undertaken as part of the conditional concurrency determination application process.

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

As per section 910.07(2) of the Concurrency Management Chapter of the County's Land Development Regulations, projects which do not increase land use density or intensity are exempt from concurrency requirements. Since the County's concurrency management system assigns the same land use intensity to uses within the CG district as it does to uses in the MED district (10,000 sq. ft. of gross floor area per acre of retail commercial x total property acres) there will be no increase in density or intensity of the uses due to this rezoning request. Therefore, the subject request is exempt from the county's concurrency determination requirement.

Consistency with Comprehensive Plan

Rezoning requests are reviewed for consistency with all applicable policies of the comprehensive plan. Rezoning requests must also be consistent with the overall designation of land uses as depicted on the Future Land Use Map. In this case, the subject property is designated C/I, Commercial/Industrial, on the Future Land Use Map. Since CG zoning is allowed in the C/I designated area, the proposed zoning is consistent with the Future Land Use Map.

Other than the Future Land Use Map, the goals, objectives, and policies are the most important parts of the comprehensive plan. Policies are statements in the plan that identify the actions which 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 the following policies:

- 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 storage/warehousing, retail, office, and service 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 1.42

Future Land Use Element Policy 1.42 indicates that the Board of County Commissioners may deny a rezoning request if the denial serves a legitimate public purpose. That policy further provides that a Board of County Commissioners determination that the requested zoning district is not appropriate for the parcel may also be based upon the absence of the following locational criteria:

For the CG, General Commercial zoning district:

1. Along arterial roads and major intersections
2. Separated from residential development
3. Separated from industrial areas
4. Near retail and office areas

The proposed rezoning meets all of the above listed locational criteria.

- Future Land Use Element Policy 15.1

With this rezoning request, the County initiated the rezoning of the "Colley Property". Pursuant to Future Land Use Element Policy 15.1, for a County initiated rezoning the County must give adequate public notice to landowners of any application to change the land use designation or

zoning of their land. As noted earlier in this report, the County sent a certified letter to the tax payer address of record notifying them of the rezoning application. The County will provide further notice prior to the Board of County Commissioners public hearing consistent with Chapters 125 and 163, Florida Statutes, which require a special 30 day notice to the property owner.

While the referenced policies are particularly applicable to this request, other Comprehensive Plan policies and objectives also have relevance. For that reason, staff evaluated the subject request for consistency with all applicable plan policies and objectives. Based upon that analysis, staff determined that the request is consistent with the Comprehensive Plan.

Compatibility with the Surrounding Area

Staff's position is that either the current MED zoning or the requested CG zoning is appropriate for the site and that development under the requested zoning district will be compatible with surrounding land uses. Generally, sites such as the subject property that front on major roads are appropriate for any one of several different commercial zoning districts, including CL and CG.

Land to the south is zoned PD (Commercial/Light Industrial). The approved PD zoning for that site allows a wide mix of uses, including retail, office, contractor trades, and light industrial (Attachment 8). Since CG and the approved PD allow similar uses, no incompatibilities are anticipated with land to the south.

Land also to the south and to the east is zoned MED. The allowed uses within the MED district are geared to medical uses (offices and clinics, various medical, dental, and health services related uses), and uses that support medical uses (hotels, motels, restaurants and florists). The proposed CG zoning district is considered compatible because it can provide the opportunity to provide more service type uses to compliment uses, workers, and patients in the adjacent MED district and medical node, while also allowing uses that could serve passerby traffic from US 1 (a major arterial road) and nearby neighborhoods. In addition, because retail uses need frontage on or near major roads, properties designated C/I with frontage on U.S. Highway 1, such as the subject properties, are particularly appropriate for CG zoning.

The west perimeter of the area proposed to be rezoned is bordered by US Highway 1, which has 120 feet of public right-of-way. Land on the west side of US Highway 1 is zoned CG. Since the same zoning district is proposed for the subject properties, no incompatibilities will exist to the west.

North of the subject properties is 41st Street, which has 100 feet of public right-of-way. North of 41st Street, property is zoned RM-6. With the 100 feet of road separation combined with any future road landscape/buffer requirements, no incompatibilities are anticipated.

For those reasons, it is staff's position that development of the site under the requested CG district will be compatible with surrounding areas.

Commercial Zoning Pattern Along U.S. Highway 1

The commercial zoning pattern northward from the subject site to 53rd Street between U.S. Highway 1 and Indian River Boulevard includes land zoned CG, General Commercial, CH, Heavy Commercial, and CL, Limited Commercial. Those existing CG zoned areas and combination CG/CH and CG/CL zoned areas have similar depths as the depth of the area proposed in the current “Schwerin and Others” and “Colley Property” CG rezoning applications, as measured from U.S. Highway 1 eastward (see table below).

Zoning Districts	Location	<u>Approximate Depth</u> Measured from U.S. Highway-1 ROW Eastward
Proposed CG (“Schwerin and Others” & “Colley Property” Rezoning Applications)	41 st Street and U.S. Highway 1 (SE corner)	±700 feet (CG)
CG/CH	45 th Street and U.S. Highway 1 (SE corner)	±700 feet (CG/CH Combined)
CG	47 th Street and U.S. Highway 1 (SE corner)	±900 feet (CG)
CG/CL	53 rd Street and U.S. Highway 1 (SE corner)	±900 feet (CG) ±1,300 feet (CG/CL Combined)

Potential Impact on Environmental Quality

The subject properties formerly contained citrus groves and are no longer in their natural state. When an application for development approval is submitted, the County will conduct a detailed review of potential environmental impacts of development on the subject property. Also at that time, the County’s tree protection regulations will be applied. In addition, development of the property under MED or CG zoning will have the same environmental impacts. For these reasons, no adverse environmental impacts associated with this rezoning requests are anticipated.

Supply of MED Zoned Property

According to the County’s current Commercial/Industrial Node data for the US1 – 37th Street Medical C/I Node, that node contains 431.98 acres. Of the 431.98 acres, 174.60 acres of land within the node is either undeveloped (172.04 acres) or is developed with residential uses (2.56 acres) and considered available for potential re-development. Included in the undeveloped acreage is a majority of the ±136 acres of property that the County rezoned from residential to MED zoning in 1999.

Since 1999, only a small portion of the original ±136 acres of property that were subject of the county initiated rezoning from residential zoning to MED zoning has developed. That development is from a +/-6.21 acre commercial/industrial planned development of property with frontage along US Highway 1. The remaining property associated with the 1999 county initiated rezoning has remained undeveloped. Consequently, there does not appear to be a pressing need for the overall amount of vacant MED zoned property within the subject area.

Since 1999, medical office uses have developed on properties that are in close proximity to 37th Street and the Indian River Medical Center. Those include properties along 37th Place and around 11th Circle. Medical office uses have not been developed in further removed properties in the northern and northwestern sections of the MED zoned area.

With respect to the properties included as part of the current rezoning request, those properties have frontage on two major roadways, US Highway 1 and 41st Street. Properties with frontage along major roadways are most attractive to commercial developers because such locations can take advantage of passerby traffic from roadways with high traffic volume and can provide support services to the medical node. This coupled with the distance that these properties are from the Indian River Medical Center and 37th Street makes the properties appropriate for non-MED zoning.

CONCLUSION

The requested CG zoning district is compatible with the surrounding area, is located at the perimeter of a large and vacant MED-zoned area adjacent to a major arterial roadway (US 1), and is consistent with the goals, objectives, and policies of the Comprehensive Plan. The requested rezonings will have no negative impacts on environmental quality, and they meet all applicable criteria to be rezoned to CG. For these reasons, staff supports the requests.

RECOMMENDATION

Based on the analysis, staff and the Planning and Zoning Commission recommend that the Board of County Commissioners approve both the “Schwerin and Others” request and the county initiated request to rezone the “Colley Property” to CG (General Commercial District) by approving the two attached ordinances.

ATTACHMENTS

1. Summary Page
2. “Schwerin and Others” Rezoning Application
3. “Colley Property” Rezoning Application
4. Approved Minutes of the January 25, 2018 Planning and Zoning Commission meeting
5. Approved Minutes of the February 8, 2018 Planning and Zoning Commission meeting
6. Table of Uses for Commercial Zoning Districts
7. Copy of July 13, 1999 BCC Staff Report for Rezoning ±136 Acres to MED
8. Copy of July 27, 2001 BCC Staff Report for Rezoning ±6.09 Acres from MED to PD
9. County Staff’s Correspondence with “Colley Property” Taxpayer of Record
10. Rezoning Ordinance for “Schwerin and Others”
11. Rezoning Ordinance for “Colley Property”

SUMMARY PAGE

GENERAL

Applicant #1: Schwerin Realty Corp, Warren L. Schwerin, and Michael J. Buchel and Santo Molino

Applicant #2: Indian River County (for Annie B. Colley)

Location: Southeast corner of 41st Street and US Highway 1

Acreage: Schwerin and Others = ±9.94 acres
Colley Property (IRC Initiated) = ±0.20 acres

Land Use Designation: C/I, Commercial/Industrial

Existing Zoning: MED, Medical District

Requested Zoning: CG, General Commercial District

Existing Land Use: Vacant

ADJACENT LAND

North: 41st Street and RM-6, Residential Multi-family (up to 6 units per acre)

South: PD, Planned Development (Commercial/Light Industrial) & MED, Medical Distr.

East: MED, Medical District

West: U.S. Highway 1 and CG, General Commercial District

INFRASTRUCTURE

Wastewater service is available to the site from the Central County Regional Wastewater Treatment Facility, while potable water service is available to the site from the North County Reverse Osmosis Plant.

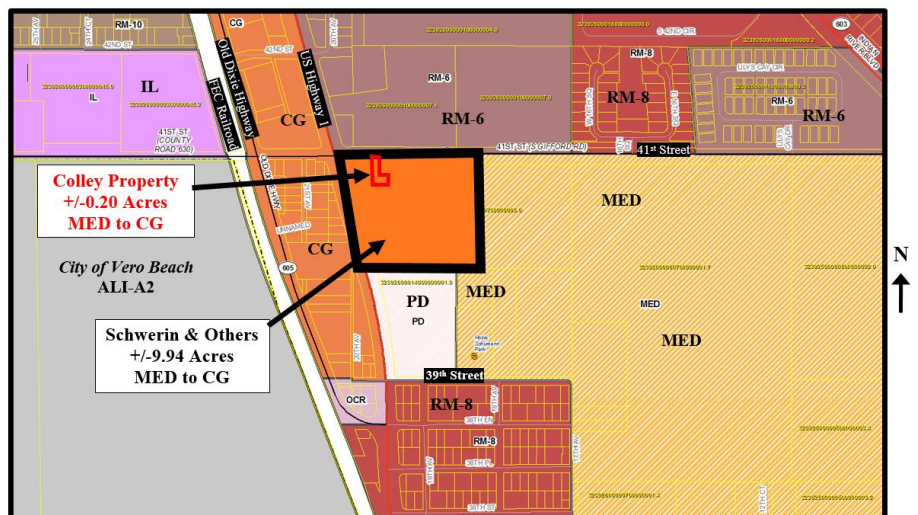
ENVIRONMENTAL CONSTRAINTS

None / Flood Zone X

PUBLIC NOTIFICATION

	Planning and Zoning Commission	Board of County Commissioners
Staff Contact:	Bill Schutt	Bill Schutt
Date Advertised:	1/10/18	3/18/18
# of Surrounding Property Owner Notifications:	27	27
Date Notification Mailed:	1/10/18	3/19/18
Date Sign Posted:	1/10/18	3/19/18

Proposed Zoning of Subject Properties



STAFF RECOMMENDATION

Approval

ATTACHMENT 1