

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

TO: Jason E. Brown; County Administrator

THROUGH: Phillip J. Matson, AICP; Community Development Director

THROUGH: Bill Schutt, AICP; Chief, Long Range Planning

FROM: Matt Kalap, Long-Range Planner

DATE: January 31, 2020

RE: CEMEX Construction Materials Florida, LLC Request to Rezone +/-6.13 Acres from A-1 to IG; +/-15.85 Acres from A-1 to CH; and +/- 4.78 Acres from IG to CG (RZON96020133-85706) [**Quasi-Judicial**]

It is requested that the following information be given formal consideration by the Board of County Commissioners at its regular meeting of February 11, 2020.

DESCRIPTION AND CONDITIONS

This is a request from CEMEX Construction Materials Florida, LLC, the owners of the subject properties, to rezone ±6.13 acres (Property 1) located north of 53rd Street and west of the Florida East Coast Railway and the existing CEMEX cement facility (3150 53rd Street, Vero Beach, FL 32967), from A-1, Agricultural District (up to 1 unit/5 acres), to IG, General Industrial District; ±15.85 acres (Property 2) located west of and adjacent to subject Property 1 from A-1, Agricultural District (up to 1 unit/5 acres), to CH, Heavy Commercial District; and ±4.78 acres (Property 3) located west of and adjacent to subject Property 2 from IG, General Industrial District, to CG, General Commercial District.

Note: The current A-1 zoning designations of Parcels 1 and 2 are considered remnant “holding zones” within the Urban Service Area (USA) until the property owner, based on market conditions, requests a rezoning consistent with the property’s land use designation. The purpose of this request is to secure the zoning necessary to develop the properties with uses appropriate in the USA and permitted in the requested zoning districts.

Planning and Zoning Commission Action

On December 12, 2019, the Planning and Zoning Commission voted 6 - 0 to recommend that the Board of County Commissioners approve this rezoning request with a condition that, prior to the BCC public hearing, the applicant meet with representatives of Hawk’s Nest Golf Course, the property owner north of the subject properties. The parties are to meet and discuss proposed plans for the site and potential impacts to the Hawk’s Nest Golf Course, with County staff reporting the meeting results to the BCC (see PZC minutes, Attachment 8). The applicant and the Hawk’s Nest representatives have since met, as reflected in correspondences attached to this report (see Attachments 9, 10, and 11). A summary of that meeting is provided later in this report in the analysis section.

Existing Land Use Pattern

The subject area of the county consists of a mixture of commercial, industrial, recreational, conservation, and residential uses. As shown on Figure 1, Subject Properties 1, 2, and 3 are adjacent to each other and are located along the north side of 53rd Street and along the south side of the North Relief Canal, just west of the FEC Railway and East of Lateral H Canal. Subject Property 1 contains a portion of the existing CEMEX Construction Materials site and a portion of a man-made lake from a former mining operation. Subject Property 2 primarily contains the man-made lake, but also contains vegetation along its northern most side and a small island that has previously been identified by county staff as containing an active bird rookery. Subject Property 3 is undeveloped and contains vegetation. A more detailed review of the existing land use pattern and zoning districts by property is provided on the next two pages.

Figure 1 - Aerial image of Subject Properties and Surrounding Uses



Subject Property 1

Subject Property 1 contains a portion of the existing CEMEX Construction Materials site and a portion of a man-made lake from a former mining operation. Figures 2 and 3 show that the property to the south/southwest of Subject Property 1 is currently zoned A-1 Agricultural District (up to 1 unit/5 acres) and to the southeast, IG General Industrial District. Those properties contain a Titan America LLC cement facility (IG zoned) and a portion of a man-made lake from a prior mining operation (A-1 zoned). The property to the north across the North Relief canal is currently zoned RM-4 Multiple Family Residential District (up to 4 units/acre) and contains the Hawk's Nest Golf Course. To the east of Subject Property 1 is the existing CEMEX facility, zoned IG General Industrial District and the FEC Railway. To the west of Subject Property 1 is Subject property 2 (which is zoned A-1).

Subject Property 2

Subject property 2 primarily contains a man-made lake from a previous mining operation, but also contains a small island with a bird rookery and vegetation, and along Subject Property 2's northern border is vegetation and the North Relief Canal. As shown in Figures 2 and 3, the property to the south of Subject Property 2 is zoned A-1, Agricultural District (up to 1 unit/5 acres) and contains a portion of a man-made lake from a prior mining operation. The property to the north contains a golf course and is zoned RM-4, Multiple Family Residential (up to 4 units per acre). The property directly to the west is Subject Property 3, which is currently zoned IG, General Industrial. That property is vacant and undeveloped. The property to the east is Subject Property 1 (discussed above).

Subject Property 3

Subject Property 3 is undeveloped and contains vegetation. Figures 2 and 3 show that property to the southeast of Subject Property 3 is currently zoned A-1 Agricultural District (up to 1 unit/5 acres) and property to the southwest of Subject Property 3 is zoned PD, Planned Development district. The A-1 zoned portion contains a portion of Lateral H Canal and vacant land that is part of the former mining operation to the southeast. The PD zoned portion contains a portion of Lateral H Canal and land that is in conservation (part of Waterway Village). To the West (across Lateral H Canal) is land zoned PD, that contains a vegetated conservation area that is part of Waterway Village. Land to the Northwest across the North Relief Canal is zoned RM-4 Multiple Family Residential District (up to 4 units/acre) and contains the Indian River County Utilities Rapid Infiltration Basin facility. Property to the north of Subject Property 3 is also zoned RM-4 and contains the North Relief Canal and the Hawk's Nest golf course.

Figure 2 - Existing Zoning of Subject Properties

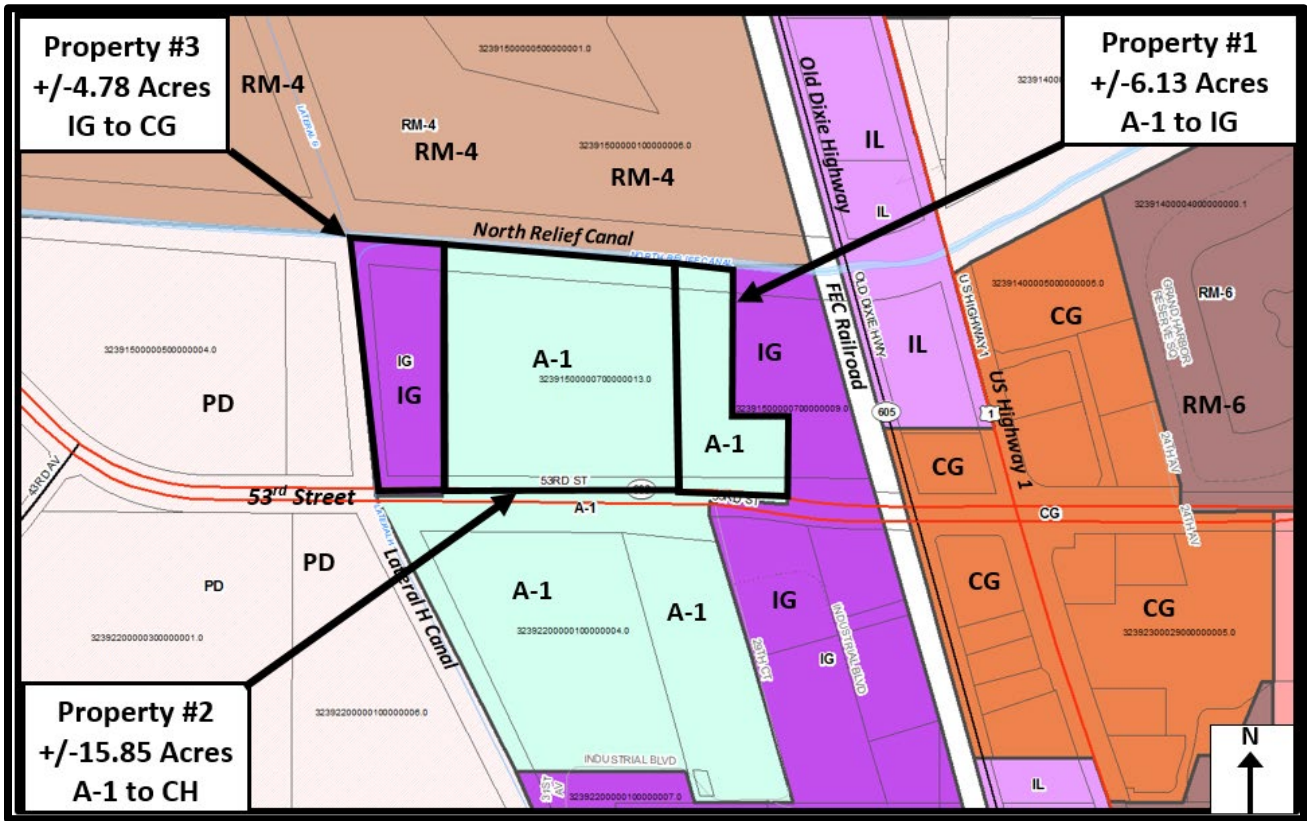


Figure 3 - Proposed Zoning of Subject Properties

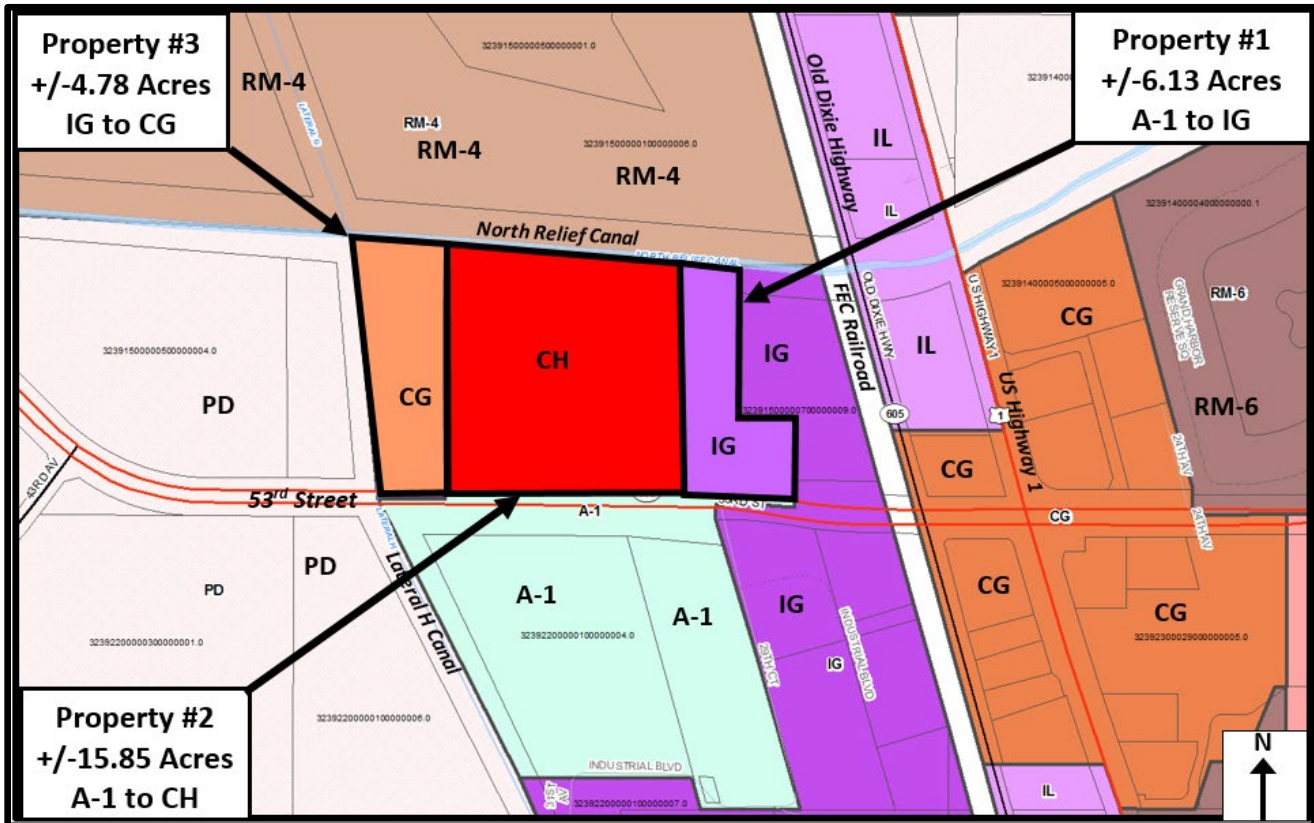
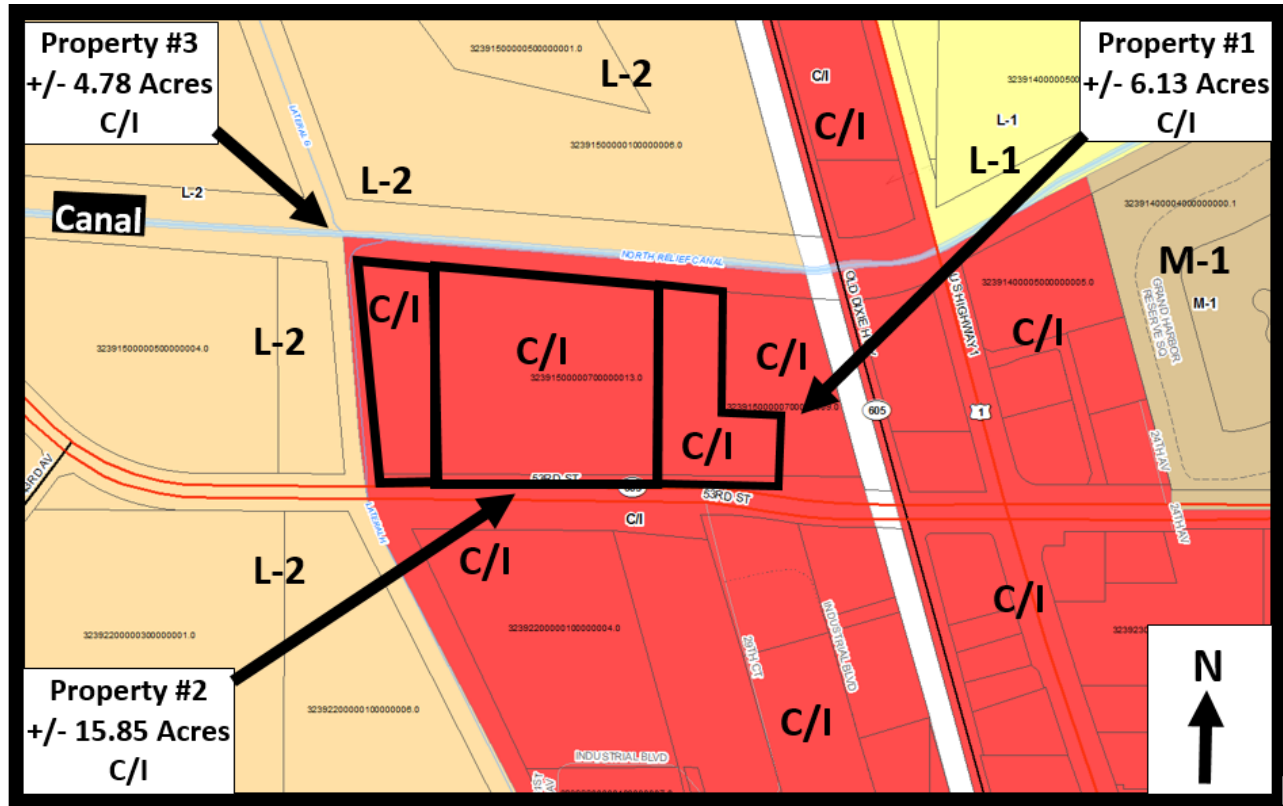


Figure 4 - Future Land Use of Subject Properties



As shown in Figure 4, the subject properties are designated C/I, Commercial/Industrial, on the Comprehensive Plan's Future Land Use Map. The C/I designation permits various commercial and industrial zoning districts. Properties east and south of the subject properties also have a C/I future land use designation. Properties to the north, northwest, and west of the subject properties are designated L-2, Low-Density Residential-2, on the county's future land use map. The L-2 designation permits residential uses with densities up to 6 units/acre.

Environment

Subject Property 1 contains part of a lake from a previous mining operation (FKA Jenkins Sand Mine) and part of the existing CEMEX facility. Subject Property 2 contains vegetation, the remaining part of the lake from the previous sand mining operation, a small island with a bird rookery, and vegetation along the northern border of the lake. Subject Property 3 contains vegetation and is undeveloped. Based on County records, no wetlands or any other environmentally sensitive habitat have been identified on these properties. The County has an interest in maintaining the bird rookery as it has become a highly active site for various species of birds. County staff will work with the owner in the development of the site to try to maintain the bird rookery. According to Flood Insurance Rating Maps, the subject properties are within Flood Zone X (area of minimal flood hazard).

There is currently an approved Environmental Resource Permit from the Florida Department of Environmental Protection and approved plans on file in the County Community Development Department to fill in a large portion of the existing lake, including all of Subject Property #1, and the southern half of both Subject Property #2 and Subject Property #3.

Utilities and Services

The subject properties are within the Urban Service Area of the County.

Water Service is available from the North and South County Reverse Osmosis Plants (interconnected), which currently have sufficient capacity to accommodate the additional demand generated by the subject rezoning request. Wastewater service is available from the Central Regional Wastewater treatment plant. The Central Regional Wastewater Treatment Plant has sufficient capacity to accommodate the additional demand generated by the subject rezoning request. Per County Code, uses that develop on the site will be required to connect to County Water and Sewer service.

Transportation System

The subject properties abut 53rd Street. This roadway is classified as an Urban Principal Arterial road on the future roadway thoroughfare plan map. Located within an approximate 150-220 foot wide public road right-of-way (width varies), this segment of 53rd Street is a four lane divided paved road. There are currently no planned road improvements for this section of 53rd Street listed in the County's Comprehensive Plan.

Zoning District Differences

In terms of permitted uses, there are substantial differences between the existing A-1 and IG districts and the proposed IG, CH, and CG districts (see Attachments 3, 4, and 5). 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:

IG: General Industrial District: The IG, general industrial district, is intended to provide areas where a broad range of industrial activities may locate and operate without significant adverse impacts on nearby properties. The IG district is further intended to promote the establishment of employment centers which are accessible to the transportation system and other necessary urban services.

CH: Heavy Commercial District: The CH, Heavy Commercial District, is intended to provide areas for establishments engaging in wholesale trade, major repair services and restricted light manufacturing activities. The CH district is further intended to provide support services necessary for the development of commercial and industrial uses allowed within other nonresidential zoning districts.

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

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 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 allowed within the requested rezoning district.

For CG, General Commercial rezoning requests, CH, Commercial Heavy rezoning requests, and IG, General Industrial rezoning requests the most intense use of a property varies. In the case of CG zoned property, the most intense use (according to County LDRs) is 10,000 square feet of retail commercial gross floor area per acre. For CH and IG rezoning requests, the most intense use is 20,000 square feet of general industrial gross floor area per acre. The site information used for the concurrency analysis is as follows:

1. Size of Area to be Rezoned: **± 26.76 acres**
2. Existing Land Use Designation: **C/I Commercial/Industrial**
3. Most Intense Use with Existing Zoning:
 - a. Agricultural-1 (A-1): **4 Single-Family Units**
 - b. General Industrial (IG): **95,600 square feet of General Industrial**

Stormwater Management

All developments are reviewed for compliance with county stormwater regulations, which require on-site retention, and preservation of floodplain storage and minimum finished floor elevations when located within a floodplain. In addition, development proposals must meet the discharge requirements of the County's stormwater management regulations. Since the site is located within the Indian River Farms Water Control District (IRFWCD) basin, development on the property will be prohibited from discharging any runoff in excess of two inches in a twenty-four hour period, which is the approved IRFWCD discharge rate.

In this case, the minimum floor elevation level of service standard does not apply, since the property does not lie within a floodplain. Both the on-site retention and discharge standards do apply. The stormwater management level of service standard will be met by limiting off-site discharge to the IRFWCD's maximum discharge rate of two inches in twenty-four hours, and maintaining on-site retention of the stormwater runoff for the most intense use of the property.

As with all development, a more detailed review will be conducted during the development approval process.

Recreation

A review of county recreation facilities and the projected demand that would result from the most intense development that could occur on the property under the proposed zoning district indicates that the adopted levels of service would be maintained.

Concurrency Summary

Based upon the analysis conducted, staff has determined that all concurrency-mandated facilities, including transportation, stormwater management, solid waste, recreation, water, and wastewater, have adequate capacity at this time to accommodate the most theoretically intense use of the subject property under the proposed rezoning.

As with all development, a more detailed concurrency review will be conducted during the development approval process.

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 properties are designated C/I, Commercial/Industrial, on the Future Land Use Map. Since CG, CH, and IG 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 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 IG, CH, and CG districts are 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 for CG, CH, and IG zoning districts and staff determinations of how the criteria are met.

Table 1		
SUBJECT PROPERTY #1		
Proposed General Industrial (IG) Zoning District		
Review Criteria	Meets Criteria?	Comments
1. Along arterial roads and major intersections	Yes	The subject property abuts 53rd Street to the south, which is an Urban Principle Arterial roadway. Nearby to the east, 53 rd Street intersects with US-1 and Old Dixie Highway.
2. Along railroad tracks	Yes	Subject Property 1 is within 300 feet of the railroad tracks. CEMEX, has plans to utilize this property as part of its existing facility to the east, which borders the railroad tracks.
3. Near industrial areas	Yes	The CEMEX facility adjacent to the subject property to the east is zoned IG, General Industrial. Properties to the south across 53 rd Street are also zoned IG and contain industrial uses.
4. Separated from residential development by a major roadway or intervening property	Yes	The subject property is over ¼ mile away from Waterway Village (the nearest residential development).
5. Separated from retail and office areas	Yes	There are no retail or office areas adjacent to the subject property. Retail uses are east of the FEC Railway and Old Dixie Highway.

Table 2 SUBJECT PROPERTY #2 Proposed Commercial Heavy (CH) Zoning District		
Review Criteria	Meets Criteria?	Comments
1. Along arterial roads	Yes	The subject property abuts 53rd Street to the south, which is an Urban Principle Arterial roadway.
2. Along railroad tracks	Yes	Subject Property 2 is owned by CEMEX, which owns the parcel directly to the east. That parcel contains a CEMEX cement plant and borders the railroad tracks.
3. Between general commercial and industrial areas	Yes	As proposed in the rezoning application, Subject Property 2 will be located between proposed General Commercial (Subject Property 3) and General Industrial (Subject Property 1) zoning districts.
4. Separated from residential development	Yes	Subject Property 3, an existing canal right-of-way and a conservation area are located between Subject Property 2 and the developing Waterway Village residential area to the west.

Table 3 SUBJECT PROPERTY #3 Proposed Commercial General (CG) Zoning District		
Review Criteria	Meets Criteria?	Comments
1. Along arterial roads and major intersections	Yes	Subject property abuts 53 rd Street, an Urban Principle Arterial roadway.
2. Separated from residential development	Yes	Lateral H Canal and a conservation area are located between Subject Property 3 and the Waterway Village residential subdivision.
3. Separated from industrial areas	Yes	Industrial zoned property is located over 800 feet to the west. Subject property 2 (proposed for CH zoning) separates Subject Property 3 (proposed for CG zoning) from Subject Property 1 (proposed for IG zoning).
4. Near Retail and Office areas	Yes	Subject Property 3 is located within the 53 rd Street C/I node. Various retail and office uses are located within the node. If Subject Property 2 (directly east of Subject Property 3) is rezoned to CH, that property may be developed with retail and office uses.

Property 1 and Property 2 are both currently zoned A-1, Agricultural District (up to 1 unit/5 acres). The A-1 zoning district is a holding zone until the property owner, based on market conditions, requests a zoning consistent with the property's land use designation. Property 3 is zoned IG, General Industrial District. In this case, the existing IG zoned property is located at the perimeter of a C/I node at a location that does not generally meet the locational criteria of Future Land Use Element Policy 1.43.

Rezoning the subject properties to appropriate alternative zoning districts will allow the land owner to use and/or market the properties for uses consistent with their C/I Future Land Use designation. As reviewed in the preceding tables, the three properties appear to meet the criteria to be rezoned to IG, CH, and CG.

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.

Consistency with the County Land Development Regulations

Rezoning requests must be consistent with all applicable sections of the County LDRs, including Section 902.12(3) standards of review. A copy of those standards are included as Attachment 6 to this report. With this rezoning request, staff determined that the request is consistent with the LDR review standards listed in Section 902.12(3).

Compatibility with the Surrounding Area

Staff's position is that the requested zoning districts are appropriate for the site and that development under the three zoning districts would be compatible with surrounding land uses.

As proposed, the overall +/- 26.76 Acre site will be subdivided into three separate zoning districts in decreasing intensity (IG, CH, and CG) from the railroad tracks to the west to Lateral H Canal. That canal combined with the conservation area to the west of Lateral H Canal provides between +/- 400 and +/- 1,300 feet of separation from residential portions of Waterway Village (the closest residential subdivision) to the nearest point of the proposed CG property (Subject Property 3). Subject Property 2 (proposed CH) is located +/-600 feet from the nearest point of the Waterway Village residential subdivision and Subject Property 1 (proposed IG) is located +/- 1,400 feet from the nearest point of the Waterway Village residential subdivision.

Properties to the south are located within the same C/I Node and contain similar industrial uses and another portion of the former Jenkins sand mining operation. The lake on that property has over time been gradually filled in. While the properties to the south have similar characteristics and the same Future Land Use Designation, they are also separate from subject properties by 53rd Street, which is in a public right-of-way of between 150 and 220 feet in width (varies). 53rd Street is also a newer roadway that has been designed to meet current county road standards, and has limited curb cuts and limited access points (limited potential traffic conflict points). The separation distance and the fact that there are similar uses and the same C/I Future Land Use designation suggest that there will be no incompatibilities.

Property to the east of Subject Property 1 is owned by applicant and contains a portion of the CEMEX, cement facility. No incompatibilities are anticipated between this property and the property to the east as Subject Property 1 is intended to be incorporated as part of the CEMEX operation. Subject Properties 2 and 3 are also owned by applicant.

With respect to the 53rd Street Road frontage, development of the 3 subject properties will be required to comply with the County's "Other Corridor Regulations". Those regulations are found in Section 911.22 of the County's LDRs. With respect to design requirements, the special corridor regulations will provide for such things as shielding of any outdoor lighting fixtures, additional vegetation plantings, and various aesthetic improvements.

Land to the north of the rezoning request is a portion of the Hawk's Nest Golf Course. That Golf Course is separated from Subject Properties 1- 3 by the North Relief Canal, which is located within a 250-foot right-of-way. This canal right-of-way also separates the proposed CG property (nearest property included in rezoning request) from the Indian River County Utilities Department Rapid Infiltration Basin (located to the northwest), which is a permitted wastewater discharge site, and is used when deemed necessary by Utilities.

Given the existing C/I Future Land Use designation of each of the subject properties and properties to the south, the existence of 53rd Street to the south, the existence of Lateral H canal to the west, the existence of the North Relief Canal to the north, and the conservation area to the west and the related separation distances; staff feels the proposed IG, CH, and CG zoning districts for the subject properties are appropriate.

Meeting Between the Applicant and Hawk's Nest Golf Course

On January 9, 2020, the applicant and their representative (Bruce Barkett) met with representatives from Hawk's Nest Golf Course which is located north of the subject properties. E-mails provided by Mr. Barkett dated January 10, 2020 and January 27, 2020 (Attachments 9 and 10) indicate that the applicant and representatives from Hawk's Nest Golf Course exchanged information and discussed concerns about noise, visible structures and what, if any expansion plans are currently planned for the existing CEMEX facility.

Also at that meeting, there was a discussion about the approved Environmental Resource Permit (ERP) from the Florida Department of Environmental Protection (FDEP) held by CEMEX. That permit includes authorization to fill in the southern half of the existing sand mine lake and maintain the northern half of the lake and vegetation (closest to Hawk's Nest Golf Course). While not specifically discussed in the emails, any future expansion of the existing use and any proposed new use for the subject properties will need to meet County site design requirements, including buffering between the Hawk's Nest Golf Course and subject properties. While site design factors are important with development, site design issues are not part of a rezoning request, and should not be part of a rezoning action.

On January 29, 2020, Hawk's Nest Golf Course (The Moorings Club) attorney Kevin Barry provided a letter requesting that CEMEX restrict uses on the property and consider selling Subject Property #3 to The Moorings Club (Attachment 11). While the County cannot conditionally rezone a property to remove uses allowed in the proposed zoning districts, the property owners may choose on their own to place restrictions on the properties. Notwithstanding, County staff's original recommendation to approve the applicant's request as presented to the PZC remains unchanged.

Potential Impact on Environmental Quality

Subject Property 1 is a partially developed/disturbed site currently being partially used by the CEMEX facility. Subject Property 2 contains a lake and associated vegetation related to the old Jenkins Sand Mining operation. Subject Property 3 is a vegetated site. Any proposed removal of native trees on either of the properties associated with site development will be subject to county tree protection requirements, including mitigation of any specimen trees removed, if applicable.

The properties are not designated as environmentally important or environmentally sensitive by the comprehensive plan, and according to Flood Insurance Rating Maps the properties are not located in a flood zone. Development of the site is anticipated to have little or no impact on environmental quality. For those reasons, no adverse environmental impacts are anticipated as a result of rezoning the properties to IG, CH, and CG.

CONCLUSION

The requested IG, CH, and CG zoning districts are compatible with the surrounding area and are consistent with the goals, objectives, and policies of the Comprehensive Plan. Located in an area deemed suitable for commercial and industrial uses, including IG, CH, and CG district uses, the subject properties meet all applicable criteria to be rezoned as proposed. Further, rezoning from to the proposed zoning districts will make the zoning consistent with the properties C/I future land use designation. For those reasons, staff supports the request.

RECOMMENDATION

Based on the analysis, staff and the Planning and Zoning Commission recommend that the Board of County Commissioners approve this request to rezone Subject Property 1 from A-1 to IG, Subject Property 2 from A-1 to CH, and Subject Property 3 from IG to CG.

ATTACHMENTS

1. Summary Page
2. Rezoning Application
3. Table of Uses for Agricultural Zoning Districts
4. Table of Uses for Commercial Zoning Districts
5. Table of Uses for Industrial Zoning Districts
6. Future Land Use to Zoning District comparison table (Source: County LDRs)
7. Section 902.12(3) Standards of Review
8. December 12, 2019 Planning and Zoning Commission meeting minutes
9. Hawk's Nest and CEMEX Meeting Summary Email from Bruce Barkett
10. Follow-up E-mail response to Hawk's Nest representative Kevin Barry
11. January 29, 2020 Letter from Kevin Barry
12. Ordinance