

## INDIAN RIVER COUNTY, FLORIDA

### MEMORANDUM

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**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:** February 23, 2017

**SUBJECT:** TRANSMITTAL HEARING: County Initiated Request to Amend (Update) Mixed Use Policy 5.6 of the Future Land Use Element (FLUE) of the County's Comprehensive Plan

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It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of March 7, 2016.

#### **DESCRIPTION AND CONDITIONS**

This is a county-initiated request to amend the text of the Future Land Use Element of the county's comprehensive plan. The proposed amendment is a result of one item from a list of economic development initiatives authorized by the Board of County Commissioners (Board) in 2013. The list included an evaluation of commercial zoning and mixed use allowances along SR60 in the area of 66<sup>th</sup> Avenue and the adjacent Indian River State College (IRSC) campus. That initiative required coordination with property owners, including representatives from IRSC and an adjacent land owner regarding land use, shared infrastructure, and future property development. Those efforts and the mixed use concept were reported to the Board at its October 18, 2016 meeting under Commissioner Zorc's matter. From the coordinated efforts, a draft proposal to modify Mixed Use Policy 5.6 of the County's Comprehensive Plan to achieve shared goals was presented to the Board for consideration at its November 15, 2016 meeting (see attachment #1). At that meeting, the Board directed staff to proceed with a formal comprehensive plan amendment. Staff has since initiated the comprehensive plan amendment (see attachment #2).

#### **Comprehensive Plan Amendment Review Procedures**

Although the number of plan amendments that the county may consider is not limited, the County's Comprehensive Plan regulates the frequency with which the county may amend its comprehensive

plan. According to the county's Comprehensive Plan, plan amendments are limited to four times per calendar year. For that reason, the county accepts general plan amendment applications only during the "window" months of January, April, July and October. In this case, the subject application was submitted during the October 2016 window, and was the only application submitted during that window. The application was started by staff as a "place holder" to allow time to work through details and coordinate with potential affected land owners prior to obtaining formal direction from the Board to consider whether or not to proceed with the request. Based on the Board's action taken at its November 15, 2016 meeting, staff is processing the subject amendment.

The procedures for reviewing a comprehensive plan amendment involve several steps. First, the Planning and Zoning Commission (PZC), as the Local Planning Agency, conducts a public hearing to review the request. At the public hearing, the Commission makes a recommendation to the Board of County Commissioners (Board) to approve, approve with modifications, or deny the requested amendment.

Following PZC action, the Board conducts two public hearings. The first of those hearings is for a preliminary decision on the amendment request. At that hearing, the Board determines whether or not the amendment warrants transmittal to state and regional review agencies for their consideration.

If the amendment is transmitted, state and regional review agencies review the amendment as it pertains to each agency's area of focus. Review agencies then send their comments directly to the county and the State Land Planning Agency. Subsequent to staff and/or the applicant addressing any issues raised in the review agency comments, a second and final Board public hearing is conducted. If the Board approves the request at the final hearing, then the approved amendment is submitted to the State Land Planning Agency and to the other review agencies. The amendment becomes effective 31 days after the State Land Planning Agency determines that the approved amendment submittal is complete, unless a challenge is filed by an affected party.

### **PZC Action**

At its regular meeting of January 26, 2017, the Planning & Zoning Commission conducted a public hearing, considered the subject amendment, and voted 5-0 to recommend that the Board of County Commissioners approve the proposed amendment (see attachment #3). At the hearing, a representative from IRSC was present and Attorney Christopher Marine representing the adjacent property/owner developer informed the Commission that his client and IRSC were entering into an agreement on shared infrastructure and a parcel swap and were in support of the proposed amendment.

### **Board Transmittal Public Hearing**

The subject "transmittal" public hearing is the second step in the Comprehensive Plan amendment process. At this time, the Board of County Commissioners must decide whether or not to transmit the proposed amendment to state and regional review agencies. If the Board votes to transmit this amendment, it will be scheduled for a final Board hearing in June or July.

### **Proposed Amendment: Board Initiative**

In 2013, the Board authorized staff to pursue a number of economic development initiatives. Many

initiatives have been acted upon by the Board, including an LDR change for building heights in the I-95/SR60 industrial area adjacent to the CVS distribution center, reduction in commercial/industrial impact fees, expansion of Go-Line bus system hours, and an economic positioning initiative conducted in coordination with the Chamber of Commerce. One initiative staff pursued that had not been formally considered by the Board until recently involves an evaluation of commercial zoning and mixed use allowances along SR60 in the area of 66<sup>th</sup> Avenue and the adjacent Indian River State College (IRSC) campus. In pursuit of that initiative staff evaluated zoning and mixed use opportunities in the subject area (see attachment #4) and coordinated with IRSC staff and the owner of land at the adjacent SR60/66<sup>th</sup> Avenue intersection, together with his engineer, regarding land use, shared infrastructure, and future property development. There is now agreement in concept for a potential mixed use project on re-configured private property that provides for shared infrastructure that will serve and help integrate a re-configured IRSC campus and adjacent commercial and residential uses. Those coordination activities and a special mixed use concept were reported to the Board at its October 18, 2016 meeting under Commissioner Zorc's matter, and then formally considered by the Board at its November 15, 2016 meeting.

Based on the evaluation of commercial zoning and mixed use opportunities, staff's conclusion is that a mixed use PD (Planned Development) process is the best approach for integrating a potentially re-configured and growing IRSC campus and developing adjacent property for commercial and multi-family development in a preferred mixed use development form. Any such PD project would provide a special mix of uses and accommodate proper expansion of a unique community asset and resource (IRSC). It is also staff's conclusion that such a project would be located in a "preferred location" (the area adjacent to a Commercial Industrial Node, the IRSC campus, and SR 60/66<sup>th</sup> Avenue intersection), and would warrant special mixed use criteria. In order to allow an appropriately large mixed use development plan for the subject area and to ensure provision of shared infrastructure, the County's existing mixed use policy needs to be amended. Following that approach, on November 15, 2016 staff presented to the Board draft proposed changes to the mixed use policy (FLUE Policy 5.6) that provide for a large, special mixed use project that appropriately integrates commercial and residential uses with the adjacent IRSC campus and guarantees appropriate shared infrastructure improvements. At that meeting, the Board agreed with staff's analysis and approach, provided input on the initial draft amendment, and directed staff to initiate a comprehensive plan text amendment for future land use policy 5.6. Based on the Board's input, and subsequent input from the Planning and Zoning Commission (PZC), staff has made a few changes to the initial wording of the proposed policy amendment and has initiated the formal amendment process.

At its January 26, 2017 meeting, the PZC conducted a public hearing and voted unanimously to recommend approval of the proposed amendment. During the hearing, the PZC discussed initially proposed wording which somewhat loosely described a "preferred location area" and the possibility of more strictly limiting the amendment to the SR 60/66<sup>th</sup> Avenue and IRSC campus area, given the special characteristics of that area. Based on the PZC discussion, staff reconsidered the "preferred location" wording and made a few additional, post-PZC meeting changes to the proposed amendment. As a result, the current (revised) version of the proposed policy limits the "preferred location" area to the area adjacent to the SR 60/58<sup>th</sup> Avenue C/I node, the IRSC campus, and the SR 60/66<sup>th</sup> Avenue intersection. Based on that revision, the proposed policy applies to only one area of the county; the area generally depicted in attachment 8.

As proposed, the subject text amendment will revise policy 5.6 of the Future Land Use Element. The proposed revisions are shown as underlined and ~~strike thru~~ in attachment #5.

## **ANALYSIS**

When staff drafted Future Land use Element Policy 5.6 as part of the county's 2010 EAR based comprehensive plan amendments, the policy was structured to be somewhat restrictive but could be applied to a number of areas in the county. The policy limited the allowable uses in a mixed use project, limited the overall project size, established timing requirements for permitting and constructing commercial square footage, required certain design elements, and imposed various other restrictions and limitations.

Currently, Policy 5.6 provides an allowance for mixed use (residential and commercial uses) Planned Developments (PDs) to locate within residentially designated areas along major roadways. Incorporated within Policy 5.6 are various conditions and limitations that ensure that mixed use PDs are compatible with surrounding residential areas.

As structured, the proposed amendment establishes special mixed use criteria for the "SR 60/IRSC preferred location area"; the area adjacent to the SR60/58<sup>th</sup> Avenue node, the IRSC campus at 66<sup>th</sup> Avenue, and the SR 60/66<sup>th</sup> Avenue intersection. Special criteria for the SR 60/IRSC preferred location area include an increase in the mixed use PD project maximum area from 40 acres to 80 acres. The proposed preferred location criteria also allow an increased proportion of project area for commercial use from 25% to up to 50% with a cap of 30 acres, and an increase in individual commercial building maximum area from 25,000 sq. ft. to 60,000 sq. ft. Proposed criteria also require provision of significant infrastructure improvements for SR60 access, 66<sup>th</sup> Avenue access, a bridge over Lateral A canal, and signalization at 66<sup>th</sup> Avenue/"18<sup>th</sup> Street". The proposed criteria require the applicant/developer to coordinate with County Public Works and IRSC with respect to those improvements. Finally, proposed changes allow for development of more commercial area "up front" together with a requirement for completing or entering into a developers agreement for completion of the infrastructure improvements referenced above.

The core properties within the "SR 60/IRSC preferred location area" are controlled by IRSC and one other land owner (see attachment #6), although other adjacent properties could be added under one master plan PD area (see attachment 8). Under the existing mixed use policy, a mixture of residential and commercial uses are allowed in that area, but at a limited scale (40 acres maximum) and without guarantees of shared infrastructure that will integrate the project with the IRSC campus. The proposed mixed use policy while allowing a greater amount of acreage to be developed (80 acres maximum) and a greater percentage of commercial development, comes with guarantees of providing shared infrastructure, including access to SR 60 and 66<sup>th</sup> Avenue, and integration into the IRSC campus. With mixed use Planned Developments (PDs), those guarantees will be implemented through the County's existing PD review and approval process.

Through a mixed use PD "area master plan" approach, there is a unique opportunity to accommodate and integrate residential, commercial, and institutional (college) uses. Such an approach will require property reconfiguration to properly and logically consolidate owner/developer property and IRSC campus property and to ensure properly located major infrastructure improvements including shared

access roads to SR60 and 66<sup>th</sup> Avenue, a bridge over the Lateral A canal, and a traffic signal at 66<sup>th</sup> Avenue and “18<sup>th</sup> Street”. These elements have been discussed by IRSC and the adjacent land owner and both have agreed in concept upon a roadway design and access plan and property reconfiguration (see attachment #7). This agreement in concept provides a new opportunity to jointly master plan the County’s major public college campus and adjacent property into a preferred development form (mixed use).

As shown in the attached sketch, in concept IRSC and the private land owner would retain similar acreage, with IRSC, the private land owner, and potential commercial development benefiting from direct access and exposure on both SR 60 and 66<sup>th</sup> Avenue. IRSC would retain ownership of the eastern portion, resulting in a more consolidated and better configured campus boundary, and as an institutional use would serve to buffer the potential commercial uses from the residentially designated neighborhoods located further east. While IRSC and the adjacent land owner have agreed in concept to a potential roadway design and access plan, that plan is not part of the mixed use policy revisions. Rather, attachment #6 merely serves to illustrate a possible component of a mixed use project in the “SR 60/IRSC preferred location” that could be developed under the proposed mixed use policy amendment.

If the mixed use policy amendment is approved, the “master plan” concept of the private land owner and IRSC will need to be implemented through execution of appropriate documents to re-align property ownership and the private land owner, in cooperation with IRSC, will need to apply for a mixed use PD and obtain approval through the County’s PD review process. With the proposed 80 acre maximum size for a “preferred location” mixed use PD, a potential PD plan could serve as an area “master plan” and simultaneously address land and infrastructure development on the east and west sides of 66<sup>th</sup> Avenue and the western portion of IRSC’s +/- 140 acre campus (see attachment #8). The proposed amendment provides incentives for a developer to apply for one larger “master plan” sized mixed use PD to cover both sides of 66<sup>th</sup> Avenue (as opposed to two separate PD’s covering each side of 66<sup>th</sup> Avenue separately) and to provide the significant level of shared infrastructure improvements required under the proposed criteria.

As proposed, the mixed use policy will allow up to 50% of commercial development (not to exceed 15 acres) to occur before required SR 60 access and 66<sup>th</sup> Avenue access infrastructure improvements are constructed or bonded-out. Allowing some significant commercial development to occur early on in the project may allow the developer to more easily fund the shared access infrastructure costs (perhaps \$1.5 million - \$2.5 million) and phase in development of the rest of the mixed use PD based on market demand.

At the November 15, 2016 Board meeting and at the January 26, 2017 PZC meeting, a concern was raised regarding completion of residential development in conjunction with completion of commercial development within a “preferred location” mixed use project. Specifically, the concern was raised that the entire commercial component could be developed with no obligation to complete residential units within a set timeframe. Although the proposed amendment does not require completion of residential units prior to completion of the commercial development, it does require that prior to completion of more than 50% of the commercial area, the infrastructure serving the residential portion of the project must be constructed or bonded-out and conceptual plan or final plan approval must be obtained for all residential development. That restriction, as proposed, ensures at a minimum that ready to build multi-family residential areas will be in place prior to completion of the

commercial development. Staff notes that the County's limited experience with mixed use projects fronting SR 60 (Pointe West and The Reserve at Vero) indicates that commercial development may actually lag the residential development.

In developing the proposed modifications to the mixed use policy, staff coordinated with IRSC staff and the adjacent land owner and his project engineer and attorney. Through that process, the proposed amendment went through several revisions and is currently in a form consistent with the Board's direction and acceptable to IRSC and the adjacent property owner.

If adopted, the proposed Policy 5.6 changes will accommodate the mixed use PD concept discussed by IRSC, the adjacent land owner, and staff but will leave the Board as the ultimate decision-maker for any specific mixed use PD project proposal. Any project-specific decision will be made through the PD review and approval process which will involve a public hearing before the Planning and Zoning Commission and a public hearing before the Board.

### **Consistency with Comprehensive Plan**

Comprehensive Plan amendment requests are reviewed for consistency with all applicable policies of the comprehensive plan. As per section 800.07(1) of the county code, the "Comprehensive Plan may only be amended in such a way as to preserve the internal consistency of the plan.

For a proposed amendment to be consistent with the plan, the amendment must be consistent with the goals, objectives and policies of the comprehensive plan. Policies are statements in the plan, which identify actions 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 related decisions-including plan amendment decisions. While all comprehensive plan objectives and policies are important, some have more applicability than others in reviewing plan amendment requests. Of particular applicability for this request is Policy 14.3.

### **Future Land Use Element Policy 14.3**

In evaluating a comprehensive plan amendment request, the most important consideration is Future Land Use Element Policy 14.3. This policy requires that one of four criteria be met in order to approve a comprehensive plan amendment request. These criteria are:

- The proposed amendment will correct an oversight in the approved plan;
- The proposed amendment will correct a mistake in the approved plan;
- The proposed amendment is warranted based on a substantial change in circumstances; or
- The proposed amendment involves a swap or reconfiguration of land use designations at separate sites, and that swap or reconfiguration will not increase the overall land use density or intensity depicted on the Future Land Use Map.

In this case, the proposed comprehensive plan amendment meets Policy 14.3's first and third criteria. When policy 5.6 was adopted, the policy was structured to be too restrictive. In retrospect, it appears that restricting development size and restricting development timing to the extent that the current policy 5.6 does so was an oversight with respect to the special area adjacent to IRSC and the SR60 and 66<sup>th</sup> Avenue intersection. Due to that oversight, the existing policy does not adequately provide

the opportunity to master plan the IRSC campus and adjacent property into a preferred mixed use form with adequate shared infrastructure. In addition, the recent agreement in concept between IRSC and a key adjacent land owner to re-configure land and coordinate shared infrastructure is a previously unanticipated opportunity and a substantial change in circumstances that warrants special criteria and changes to Policy 5.6.

### **Summary of Consistency with the Comprehensive Plan**

While Policy 14.3 is 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 County's Comprehensive Plan.

### **Companion Land Development Regulation Changes**

As structured, the county's comprehensive plan provides overall policy direction, while the county's land development regulations (LDRs) provide more detailed rules to implement those policies. In the case of mixed use projects in residential areas, Policy 5.6 is relatively detailed and specific. Even so, Section 915.20 of the county's land development regulations (LDRs) contains more detailed requirements for mixed use projects. If Policy 5.6 is amended as proposed, the LDRs will need to be changed to be consistent with the updated Policy 5.6. Consequently, staff will initiate an LDR amendment to modify Section 915.20 if the Board agrees to transmit the subject comprehensive plan amendment to the state. In so doing, staff will ensure that the necessary LDR changes will be considered by the Board at its final adoption hearing for the Policy 5.6 amendment. Prior to the final Board hearing, staff will present the companion LDR changes to the Planning and Zoning Commission for its consideration and recommendation to the Board.

### **CONCLUSION**

Staff's position is that amending Future Land Use Policy 5.6, as proposed, is the best approach for integrating the expanding IRSC campus with commercial and multi-family development on adjacent property in a preferred mixed use Planned Development (PD) form. Any PD project developed under the proposed criteria will provide a special mix of uses, will provide for significant shared infrastructure improvements, and will accommodate proper expansion of a unique community asset and resource (IRSC). It is also staff's position that such a project would be located in a "preferred location" and would warrant special mixed use criteria, as contained in the proposed amendment.

### **RECOMMENDATION:**

Based on the analysis, staff and the Planning and Zoning Commission recommend that the Board of County Commissioners:

1. Adopt the attached resolution for transmittal of the proposed comprehensive plan text amendment to the state and regional review agencies.

2. Announce its intention to hold and advertise a final public hearing at the adoption stage of the plan amendment process (tentatively planned for June or July 2017).

**ATTACHMENTS:**

1. Minutes from November 15, 2016 BCC meeting
2. Comprehensive Plan Text Amendment Application
3. Unapproved Minutes from the January 26, 2017 PZC Meeting
4. Analysis of Zoning and Mixed Use in the Area of SR 60/66<sup>th</sup> Avenue
5. Proposed Policy 5.6 Comprehensive Plan Text Amendment
6. SR60/58<sup>th</sup> Avenue Node Map
7. Sample Conceptual Lay-out of Mixed Use and IRSC Campus
8. Sample “Master Plan” Area
9. Transmittal Resolution (includes Appendix A proposed Comprehensive Plan Text Amendment)

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