

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: November 5, 2018

RE: Indian River Land Trust, Inc. Request to Amend the Comprehensive Plan to Re-designate ± 11.59 Acres From C/I, Commercial/ Industrial to M-1, Medium Density Residential-1 (up to 8 units/acre); and Simultaneous Request by Schwerin Asset Advisors, LLC's to Amend the Comprehensive Plan to Re-designate ± 11.44 Acres From M-1, Medium Density Residential-1 (up to 8 units/acre), to C/I, Commercial/ Industrial; (LUDA 2006090171-81055) (Legislative)

It is requested that the following information be given formal consideration by the Board of County Commissioners at its regular meeting of November 20, 2018.

DESCRIPTION AND CONDITIONS

This is a request by Indian River Land Trust, Inc. and Schwerin Asset Advisors, LLC to simultaneously swap the land use designation of two separate properties and to subsequently rezone those properties. Subject property 1, depicted in Figure 1, is ± 11.59 acres, is owned by Indian River Land Trust, Inc., and is located at the southeast corner of 79th Street and U.S. Highway 1. For this property, the request is to re-designate ± 11.59 acres from C/I, Commercial/ Industrial to M-1, Medium Density Residential-1 (up to 8 units/acre), and to rezone those ± 11.59 acres from CL, Limited Commercial District, to RM-6, Multi-Family Residential District (up to 6 units/acre). Subject property 2, depicted in Figure 2, is ± 11.44 acres, is owned by Schwerin Asset Advisors, LLC., and is located at the northeast corner of 41st Street and U.S. Highway 1. For this property, the request is to re-designate ± 11.44 acres from M-1, Medium Density Residential-1 (up to 8 units/acre) to C/I, Commercial/ Industrial, and to rezone ± 0.83 acres of the ± 11.44 acres from RM-6, Multi-Family Residential District (up to 6 units/acre) to OCR, Office, Commercial, Residential District and to rezone the remaining ± 10.61 Acres of that property from RM-6, Multi-Family Residential District (up to 6 units/acre), to CL, Limited Commercial District. The purpose of the request is to secure the land use designation and zoning necessary to allow Subject Property

1 to be developed with residential uses and Subject Property 2 to be developed with commercial uses.

While Indian River County code Section 800.07(3)(d) requires a rezoning application to be filed simultaneous with a future land use designation amendment application when the proposed land use does not conform to the existing zoning; the process for consideration of each application is slightly different. Rezoning applications require 1 public hearing before the Planning and Zoning Commission (recommendation to the Board) and 1 public hearing before the Board of County Commissioners (adoption). Future land use designation amendment applications require 1 public hearing before the Planning and Zoning Commission (recommendation) and 2 public hearings before the Board of County Commissioners (1 transmittal public hearing to decide whether or not to transmit the amendment to state and regional review agencies, and then the final adoption public hearing). At this stage, the Board of County Commissioners is to consider the future land use designation amendment application for transmittal to state and regional review agencies. No formal review of the rezoning application will occur until the final public hearing. For that reason, a full rezoning analysis is **not** provided in this report but will be provided in the future report prepared for the final hearing. At that final public hearing the rezoning will be quasi-judicial.

FIGURE 1

Indian River Land Trust, Inc. Property Location Map



FIGURE 2
Schwerin Asset Advisors, LLC Property Location Map



Comprehensive Plan Amendment Review Procedures

Although the number of standard plan amendments that the County may consider each year is not limited, the frequency with which the County can amend its comprehensive plan is regulated. According to the County's Comprehensive Plan, standard plan amendment application submittals are currently limited to four times per calendar year. For that reason, the county accepts standard plan amendment applications only during the months of January, April, July, and October. In this case, the subject application was submitted during the July 2018 window. No other plan amendment applications were received in that window.

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

Following the Planning and Zoning Commission action, the Board of County Commissioners 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 plan amendment is transmitted, state and regional review agencies will review the amendment as it pertains to each agency's focus area. Review agencies will then send their comments directly to the county and the State Land Planning Agency. Subsequent to staff and/or the applicant addressing any issues that were raised by the review agencies, a second and final Board of County Commissioners public hearing is conducted. If the Board approves the request, 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 amendment package is complete, unless a challenge is filed by an affected party.

Planning and Zoning Commission Action

On October 11, 2018, the Planning and Zoning Commission recommended that the Board approve the proposed amendment for transmittal to State and Regional Review Agencies and to approve the proposed associated rezoning that will be considered by the Board at the final public hearing.

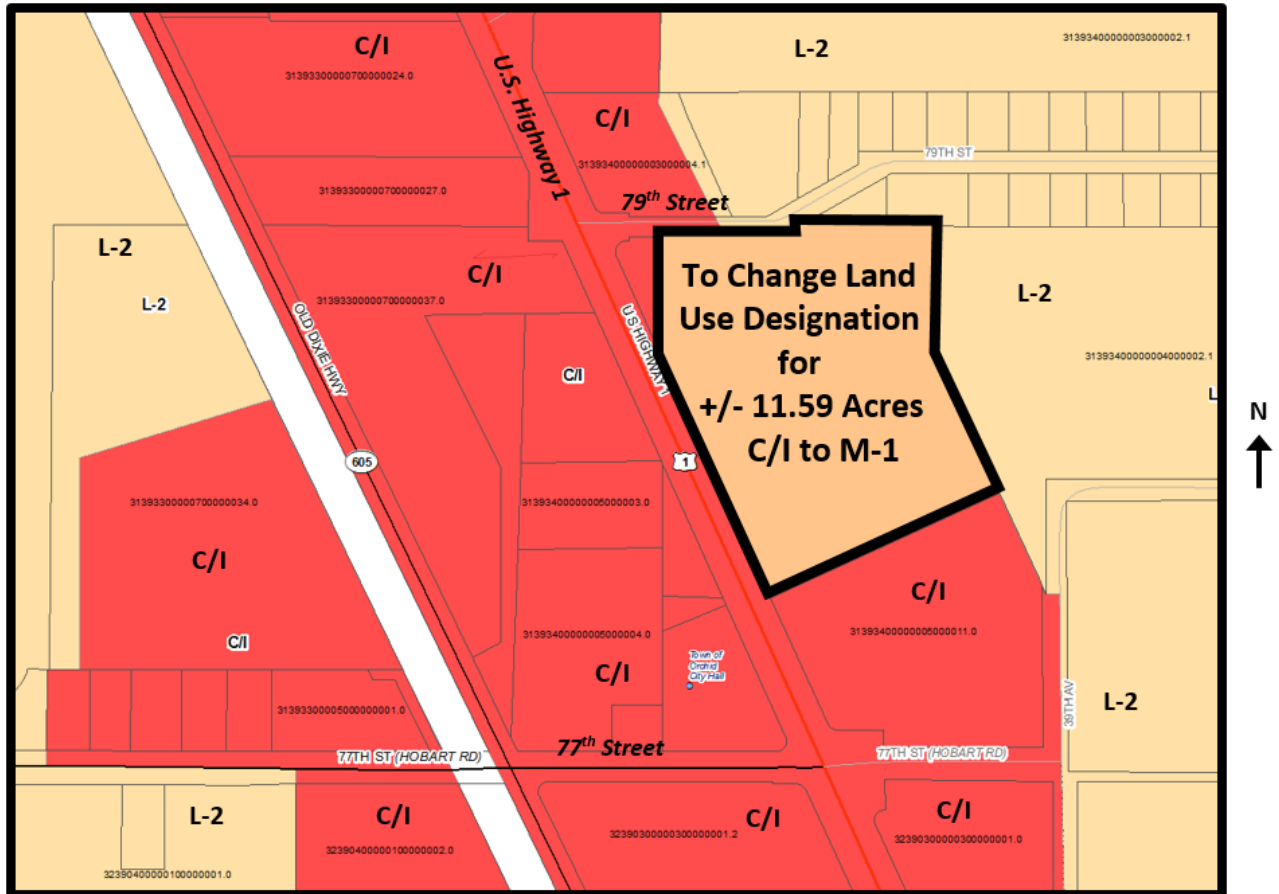
Future Land Use Pattern

Subject Property 1

As shown in Figure 3, Subject Property 1 and properties to the north (with frontage on U.S. Highway 1), west (across U.S. Highway 1), and south are designated C/I, Commercial/Industrial, on the county's future land use map. The C/I designation permits various commercial and industrial zoning districts. Properties to the north (without frontage on U.S. Highway 1) and properties to the east are designated L-2, Low-Density Residential-2 (up to 6 units/acre), on the county's future land use map. The L-2 designation permits residential uses with densities up to 6 units/acre. Subject Property 1 is designated C/I on the county's future land use map.

FIGURE 3

Subject Property 1 - Indian River Land Trust, Inc. Land Use Designation Amendment Request

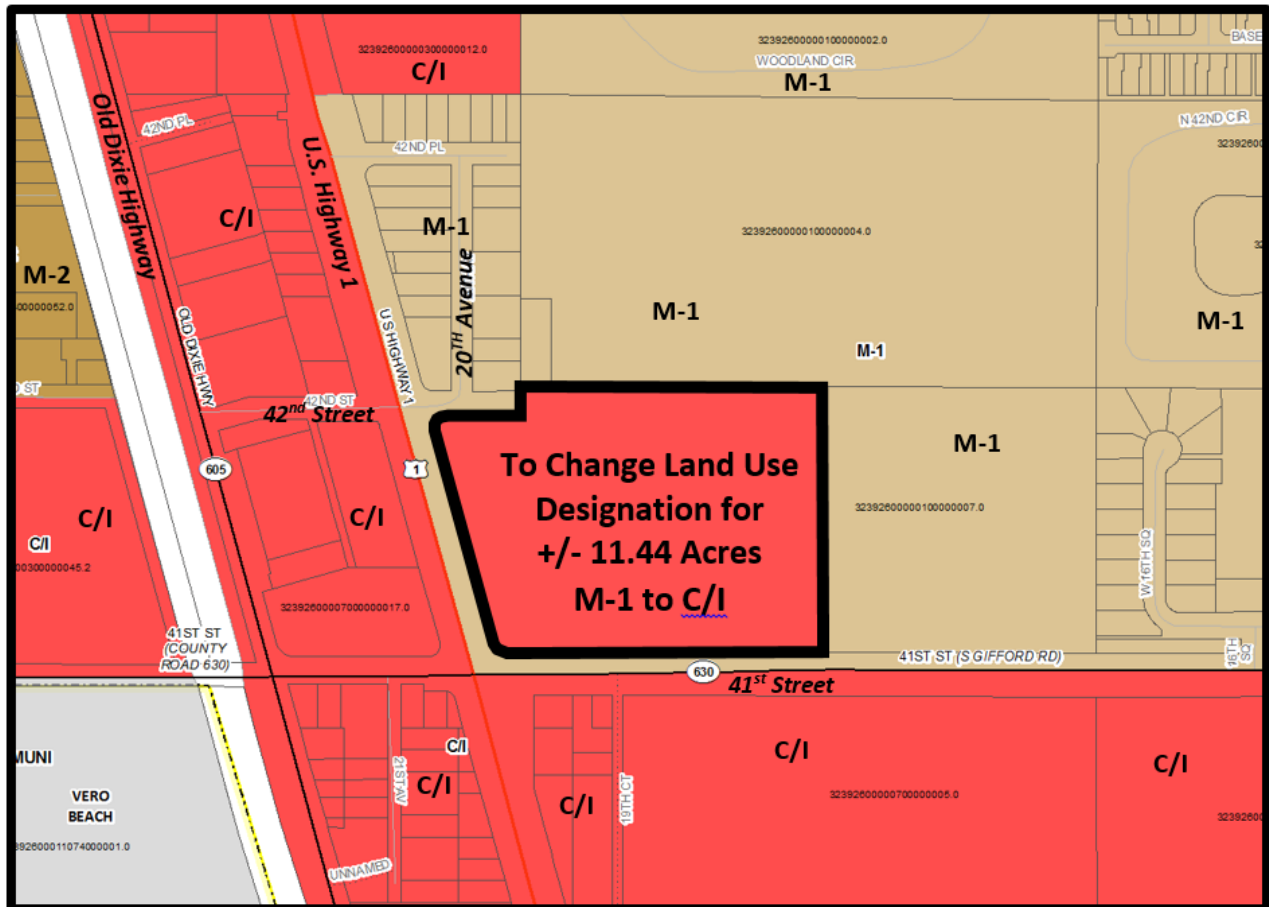


Subject Property 2

Subject Property 2 and parcels to the north and east have a land use designation of M-1, Medium Density Residential-1 (up to 8 units/acre) on the county's future land use map (see Figure 4). The M-1 designation permits various residential and institutional uses. Properties west (across U.S. Highway 1) and south (across 41st Street) of Subject Property 1 are designated C/I, Commercial/Industrial on the county's future land use map. The C/I designation permits commercial and industrial uses. Subject Property 2 is designated M-1, Medium Density Residential-1 (up to 8 units/acre) on the county's future land use map.

FIGURE 4

Subject Property 2 - Schwerin Asset Advisors, LLC Land Use Designation Amendment Request



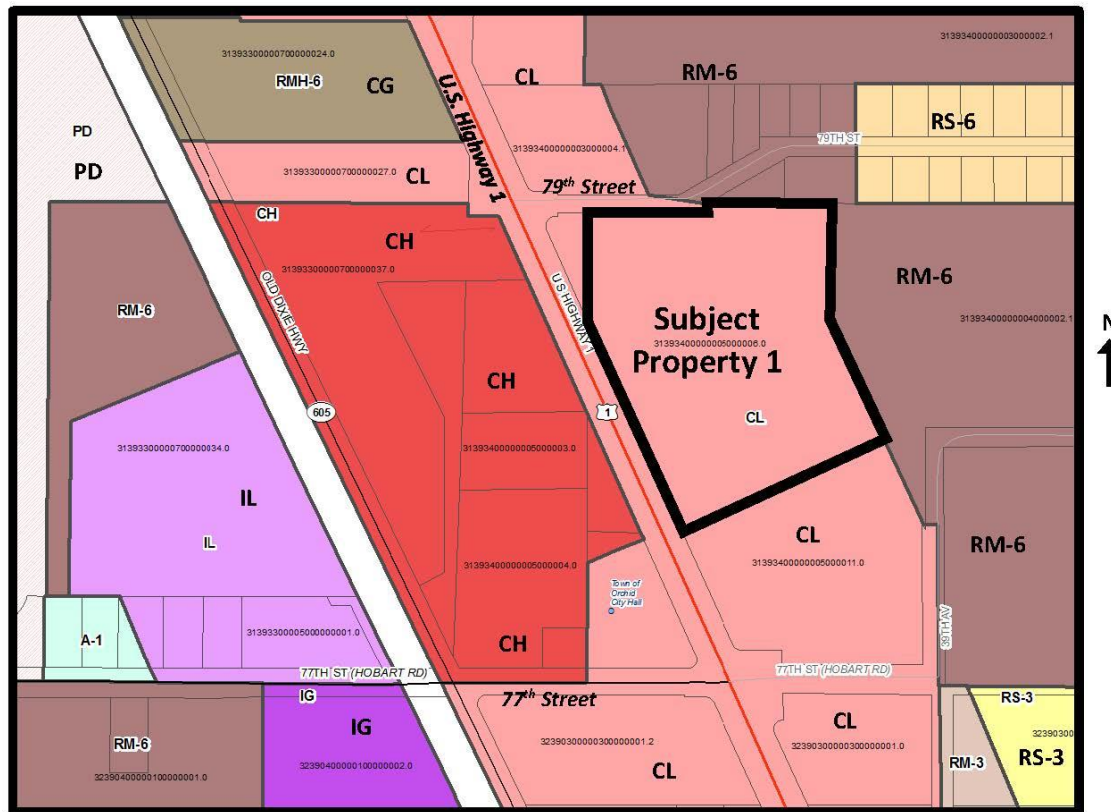
Existing Land Use Pattern and Zoning

Subject Property 1

As shown in Figure 5, Subject Property 1, owned by Indian River Land Trust, Inc., consists of one \pm 11.59 acre parcel. That parcel is zoned CL, Limited Commercial District and is currently undeveloped. To the south, Subject Property 1 abuts Christ the King Presbyterian Church. That property is zoned CL, Limited Commercial District. West of Subject Property 1 across U.S. Highway the land was cleared and plans for a proposed storage facility are currently being reviewed. Those properties are zoned CH, Heavy Commercial and are subject to private deed restrictions that allow for storage facilities. North of Subject Property 1 is 79th Street, which provides access to Hobart Landing, a single family residential subdivision, and across 79th Street are existing retail furniture/home furnishing businesses, zoned CL, Limited Commercial and a parking lot for the Toni Robinson Waterfront Trail (Indian River Land Trust), zoned RM-6, Multi-Family Residential District (up to 6 units/acre). To the east, the abutting parcel is zoned RM-6, Multi-Family Residential District (up to 6 units/acre), and is undeveloped.

FIGURE 5

Subject Property 1 - Indian River Land Trust, Inc. – Portion of IRC Zoning Map

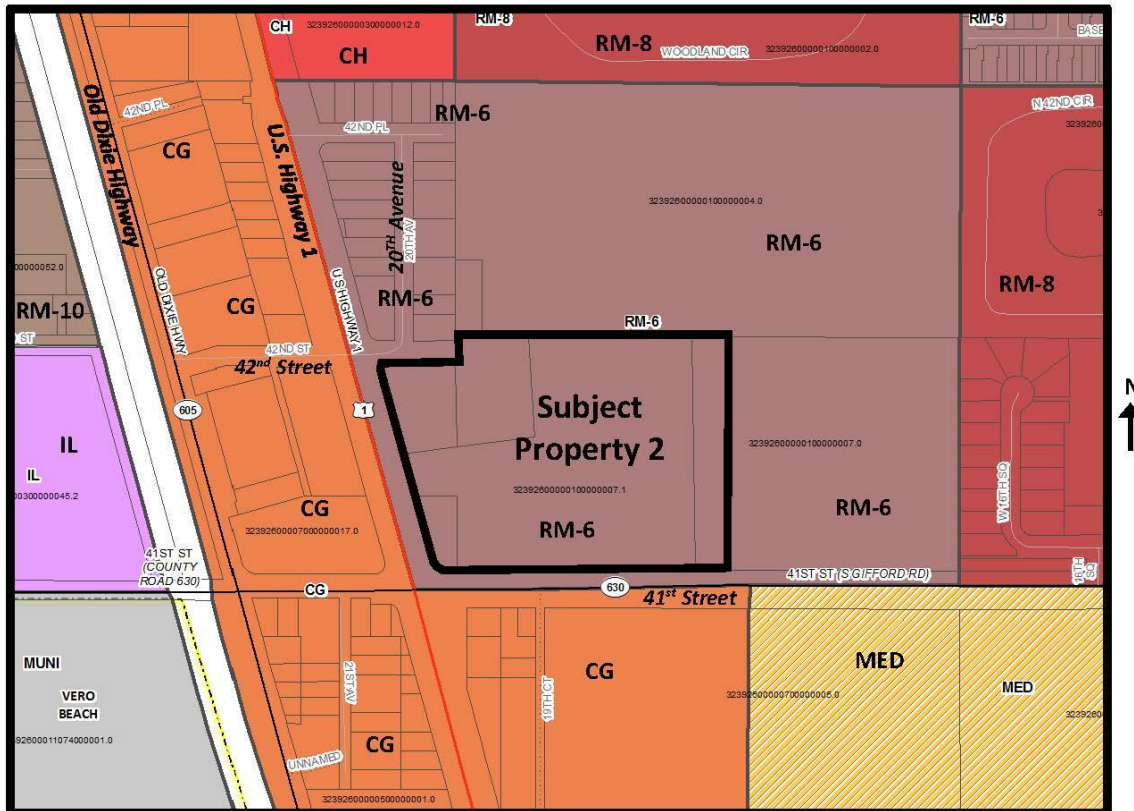


Subject Property 2

As shown in Figure 6, subject Property 2 is located at the northeast corner of 41st Street and U.S. Highway 1 and is zoned RM-6, Multi-Family Residential District (up to 6 units/acre). The Subject Property 2 is undeveloped and contains vegetation. North of Subject Property 2 is the Pinson Subdivision (containing approximately 23 lots, with about half developed with residences) and vacant undeveloped and unplatted land; all of the lots and the vacant unplatted land are zoned RM-6, Multi-Family Residential District (up to 6 units/acre). South of Subject Property 2 across 41st Street is vegetated undeveloped land that is zoned CG, General Commercial District. The land east of Subject Property 2 is owned by the same owner (Schwerin) and is zoned RM-6, Multi-Family Residential District (up to 6 units/acre), is undeveloped and contains vegetation. West of Subject Property 2 is U.S. Highway 1, and across U.S. Highway 1 are various commercial uses, including a gas station with convenience store, and a small retail strip center with various uses. Those properties are zoned CG, General Commercial District.

FIGURE 6

Subject Property 2 - Schwerin Asset Advisors, LLC – Portion of IRC Zoning Map



Environment

Subject Property 1

Subject property 1 has previously been cleared, used for citrus, and has become overgrown with vegetation. Based on County records, no wetlands or any other environmentally sensitive habitat have been identified on the property. According to Flood Insurance Rating Maps, the subject property is within flood zone X: 0.2 percent annual chance of flooding.

Subject Property 2

Subject property 2 has previously been cleared, used for citrus, and has become overgrown with vegetation. Based on County records, no wetlands or any other environmentally sensitive habitat have been identified on the site. According to Flood Insurance Rating Maps, the subject property is within flood zone X.

Utilities and Services

Subject Property 1

The site is within the Urban Service Area of the County. Wastewater service is available to the site from the North Regional Wastewater Treatment Facility, with the nearest connection point being at the intersection of 77th Street and US 1, while potable water service is available from the North and South County Reverse Osmosis Plants, with the nearest connection points being along the US 1 & 79th Street frontages.

Subject Property 2

The site is within the Urban Service Area of the County. Wastewater service is available to the properties from the Central County Regional Wastewater Treatment Facility, with the nearest connection points being along the US 1 & 41st Street frontages, while potable water service is available to the properties from the North and South County Reverse Osmosis Plants, with the nearest connection points being along the US 1 & 41st Street frontages.

Transportation System

Subject Property 1

Subject property 1 has frontage on U.S. Highway 1 and on 79th Street. In this area, U.S. Highway 1 is a four lane divided road with approximately 120 feet of existing public road right-of-way, and is classified as a Principal Arterial on the Future Roadway Thoroughfare Plan Map. According to the county's comprehensive plan, this segment of U.S. Highway 1 needs a total of between 120 feet and 160 feet of right-of-way for future roadway needs. 79th Street is a local two lane street with approximately 50 feet of existing public road right-of-way, serving approximately 60 lots/parcels (including the Hobart Landing Subdivision).

Subject Property 2

Two major roads border the area proposed to be rezoned. The south boundary of Subject Property 2 abuts 41st Street and the west boundary of the subject property 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. According to the county's comprehensive plan, this segment of U.S. Highway 1 needs a total of 160 feet of right-of-way for future roadway needs.

ANALYSIS

In this section, an analysis of the reasonableness of the land use amendment application will be presented. Specifically, this analysis will address:

- Plan amendment review standards
- The request's impact on public facilities;
- The request's consistency with the county's comprehensive plan;
- The request's compatibility with the surrounding area; and
- The request's potential impact on environmental quality.

Plan Amendment Review Standards

Unlike most land use designation amendment requests, this request does not involve an increase in land use density or intensity. As proposed, the request involves a reconfiguration, rather than an expansion, of commercial/industrial nodes.

For this reason, the subject request can be characterized differently from most plan amendments. Typically, plan amendments involve increases in allowable density or intensity of development. As such, the typical amendment would result in impacts to public facilities and changes to land use patterns. Consequently, both the county comprehensive plan and state policy dictate that a high standard of review is required for typical plan amendments. This standard of review requires justification for the proposed change based upon adequate data and analysis.

The subject amendment, however, differs significantly from a typical plan amendment request. Instead of proposing density or intensity increases, the subject amendment involves only a locational shift in future land uses without an overall increase in land use density or intensity.

Staff's position is that this different type of plan amendment warrants a different standard of review. Since the typical type of amendment can be justified only by challenging the projections, need assessments, and standards used to prepare the original plan, a high standard of review for that type of request is justified. For amendments simply involving shifts in land uses and no intensity/density increase, less justification is necessary. Staff's position recognizes that no single land use plan map is correct, and that many variations including shifts (swaps) in land uses may conform to accepted land use principles and meet established plan policies.

In March 1998, the county amended its comprehensive plan to specifically allow future land use map amendments that do not increase the county's overall land use density or intensity. That change was recommended in the county's first adopted Evaluation and Appraisal Report (EAR), which was found sufficient by DCA. EAR based amendments, including that recommendation, were adopted by the county and found "in compliance" by DCA. Since that March 1998 amendment, many land use swap amendments have been approved and successfully implemented.

Concurrency of Public Facilities

Both Subject Property 1 and Subject Property 2 are located within the County 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, schools, and recreation. 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 compliance with concurrency requirements. For a land use designation amendment and rezoning request, that review is undertaken as part of the conditional concurrency determination application process.

According to county concurrency regulations, projects which do not increase land use density or intensity are exempt from concurrency requirements. In this case, the subject request is to swap the land use designations and zoning of two properties that are of similar size (slight reduction in size of Commercial/Industrial and slight increase in M-1. Medium Density Residential-1). Consequently, the subject land use amendment and rezoning request is exempt from concurrency review because if approved it would result in a slight decrease in development intensity.

It is important to note that adoption of the proposed land use amendment will not have any additional impact on any public facilities or services. As with all projects, a detailed concurrency analysis will be done in conjunction with review of an application for site development. That concurrency analysis will address facility service levels and demand based on a specific development plan.

Consistency with Comprehensive Plan

Land use amendment requests are reviewed for consistency with all policies of the comprehensive plan. Per the county code, the comprehensive plan may be amended only in such a way as to preserve the internal consistency of the plan. Amendments must also show consistency with the overall designation of land uses as depicted on the Future Land Use Map.

Land use amendment requests must be consistent with all applicable policies of the comprehensive plan, including Section 800.07(4)(a) standards of review. A copy of those standards are included as Attachment 3 to this report. With this land use amendment request, staff determined that the request is consistent with the review standards listed in Section 800.07(4)(a).

With respect to the goals, objectives and policies, these are the most important parts of the comprehensive plan. Policies are statements in the plan which identify 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 related decisions--including plan amendment and rezoning decisions. While all comprehensive plan objectives and policies are important, some have more applicability than others in reviewing plan amendment and rezoning requests. Of particular applicability for this request are the following policies.

Future Land Use Element Policies 1.13 and 1.14

Future Land Use Element Policies 1.13 and 1.14 state that the M-1, Medium-Density Residential-1, land use designation should be within the urban service area and is intended for urban scale residential development with densities up to 8 units/acre.

Located within the urban service area, Subject Property 1 is appropriate for residential development with a density of up to 8 units/acre. Since the proposed amendment would allow that type of low density residential development on subject property 1, the proposed amendment is consistent with Future Land Use Element Policies 1.13 and 1.14.

Future Land Use Element Policy 1.17

Future Land Use Element Policy 1.17 states that the Commercial/Industrial land use designation should be within the urban service area and in areas that are suitable for urban scale development.

Located within the urban service area, the proposed amendment would allow commercial development on Subject Property 2. Therefore, the proposed amendment is consistent with Future Land Use Element Policy 1.17.

Future Land Use Element Policy 1.20

Future Land Use Element Policy 1.20 states that nodes shall be located along roads with functional classifications appropriate to the level of activity.

The proposed location for the C/I land use designation is at an intersection of a major arterial road and a collector road that both can appropriately serve commercial uses. Therefore, the proposed amendment is consistent with Policy 1.20.

Future Land Use Element Policy 1.22

Future Land Use Element Policy 1.22 states that nodes shall have a designated size based on the intended use, service area population, existing land use pattern and other demand characteristics.

The amount of C/I designated land is based on service area population, the existing land use pattern, and other demand characteristics. The proposed amendment will not alter the amount of C/I designated land but merely shift property designations along US 1 in the central portion of the county. Therefore, the proposed amendment is consistent with Future Land Use Element Policy 1.22.

Future Land Use Element Policy 1.23

Future Land Use Element Policy 1.23 states that C/I node configuration shall provide for the most efficient use of land, and of transportation and other public facilities and services, while eliminating sprawl and strip development.

Relocating the C/I designation to a more densely developed area near the City of Vero Beach, the Gifford community, and the Hospital district provides for an efficient use of C/I designated land that is responsive to market forces.

Future Land Use Element Policy 14.3

Another important policy to consider in plan amendment requests is Future Land Use Element Policy 14.3. That policy requires that one of four criteria be met in order to approve a land use amendment request. Those criteria are:

1. The proposed amendment will correct a mistake in the approved plan;
2. The proposed amendment will correct an oversight in the approved plan;
3. The proposed amendment is warranted based on a substantial change in circumstances affecting the subject property; or
4. 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 land use amendment swap meets Policy 14.3's fourth criterion. Therefore, the proposed amendment is consistent with Policy 14.3.

Summary of Consistency with the Comprehensive Plan

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 plan policies and objectives. Based upon that analysis, staff determined that the request is consistent with the Comprehensive Plan.

Compatibility with the Surrounding Area

Subject Property 1

Subject property 1 is designated C/I, Commercial Industrial. Although designated C/I, the property and adjacent property to the east, designated L-2, Low-Density Residential-2 (up to 6 units/acre), are currently owned by the Indian River Land Trust, Inc., an entity whose mission is to "promote the preservation, conservation and improvement of natural resources and special places in Indian River County, Florida for the benefit of the general public and future generations". To the south is Christ the King Presbyterian Church; a use that is compatible with various residential and commercial zoning districts. To the north the proposed area to be redesignated abuts 79th Street and across 79th Street is C/I designated properties (fronting on U.S. Highway 1) that are zoned CL, Limited Commercial District and L-2 designated properties (east of the C/I designated properties) that are zoned RM-6, residential multi-family (up to 6 units per acre) and contain parcels in the Hobart Landing single-family residential subdivision. To the west is U.S. Highway 1, a major arterial roadway.

Since the requested re-designation of the subject property from C/I to M-1 is a lessening of intensity, and since medium density residential is compatible with adjacent commercial and residential uses, the resulting residential designation will be compatible with the uses of the properties to the north, south and east.

For these reasons, staff feels that the proposed land use amendment will be compatible with surrounding properties.

Subject Property 2

According to county land use policy, sites such as the Schwerin Asset Advisors, LLC property that front on major roads may be appropriate for a C/I land use designation. Not all property fronting major roads, however, is appropriate for a commercial land use designation. For that reason, the county has various commercial land use policies.

In this case, land to the south of the subject property, across 41st Street, and land to the west, across U.S. Highway 1, are currently designated C/I. Because those properties have a commercial land use designation, there will be no compatibility problems between those properties and the requested C/I land use designation of the subject property.

Since the properties to the north and east have an M-1, Medium Density Residential-1 (up to 8 units/acre), land use designation, these properties could potentially be impacted by changing the subject property to commercial. In this case, however, land immediately adjacent to the east, and a large portion of land immediately adjacent to the north/north east is owned by the applicant (Schwerin) and is currently zoned RM-6, Residential-Multifamily (up to 6 units per acre). Looking further east, the subject property is over 600 feet away from the single family developed Casa Bella Subdivision.

The proposed combination of CL, Limited Commercial zoning, and OCR, Office, Commercial, residential zoning being considered by the Board in conjunction with the land use amendment request at the final public hearing will serve as commercial districts that will provide a transition between US 1 and residential properties in the area. With respect to the CL zoning district, that district is intended for limited commercial activity for nearby residents. Limited commercial is considered an appropriate zoning to be located next to multi-family zoning, particularly when any commercial development on the property will be designed to mitigate impacts on adjacent residential properties through the use of setbacks, vegetative buffers, and other design elements. With respect to the northwest corner of the overall property, that property is partially separated from the existing Pinson Subdivision by the right-of-way for 42nd Street. In addition, the proposed OCR, Office, Commercial, Residential zoning district in that area restricts commercial uses even further than the CL, Limited Commercial District. Similar to the CL zoning district, any commercial development on the property will be designed to mitigate impacts on adjacent residential properties through the use of setbacks, vegetative buffers, and other design elements.

Based on the recent rezoning of similar property to the south (across 41st Street) and concerns expressed from residents of the Casa Bella Subdivision, the applicant was encouraged by County

staff to reach out to the Casa Bella Home Owner's Association (HOA) to review the subject land use amendment and rezoning requests. As a courtesy, and based on a request from the Casa Bella HOA to be notified of any proposed zoning changes in the area, staff e-mailed copies of both the Planning and Zoning Commission and Board of County Commissioners newspaper public hearing advertisements to the HOA prior to publication, and also e-mailed and mailed surrounding property owner letters notifying them of the public hearings.

With respect to future uses allowed and potential development in close proximity to the Casa Bella Subdivision, the applicant's attorney informed staff and the Planning and Zoning Commission that he has coordinated with the Casa Bella HOA attorney and has voluntarily agreed to commit to the HOA to do the following:

1. Place use restrictions in favor of the HOA on Subject Property 2 (same as the private deed restrictions recorded earlier this year for the property at the southeast corner of U.S. Highway 1 and 41st Street) to prohibit certain uses considered objectionable to the Casa Bella Home Owners Association; and
2. Retain residential zoning on the remaining property between the Casa Bella Subdivision and Subject Property 2.

Potential Impact on Environmental Quality

Subject Property 1

Subject property 1 is an altered site (previously used for citrus) which contains no environmentally important land, such as wetlands or sensitive uplands. Thus, development of the site is anticipated to have little or no impact on environmental quality. For this reason, no adverse environmental impacts associated with this request are anticipated.

Subject Property 2

Subject property 2 is an altered site, which like Property 1 was previously used for citrus. Overall, the environmental impact will be the same for the requested C/I, land use designation and the present M-2 land use designation. Therefore, no additional, adverse environmental impacts associated with this request are anticipated.

For these reasons, the proposed amendment is not anticipated to adversely impact environmental quality.

CONCLUSION

The proposed amendment is consistent with the comprehensive plan, is compatible with surrounding land uses, and will cause no adverse impacts on the environment or provision of public services. The proposed changes accommodate an efficient land use pattern and facilitate economic development at a site located close to a highly developed area along US 1 near a major medical node and Gifford. 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 adopt the attached resolution for transmittal of the proposed future land use map amendment to the State and Regional Review Agencies and announce its intention to hold and advertise a final public hearing at the adoption stage of the plan amendment process to consider the plan amendment and associated rezoning request.

ATTACHMENTS

1. Summary Pages
2. Land Use Amendment and Rezoning Request Applications
3. Section 800.07 – Procedures for Comprehensive Plan Amendments
4. Unapproved minutes of the October 11, 2018 Planning and Zoning Commission meeting
5. Transmittal Resolution

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