

**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; Planner, Long Range Planning

DATE: April 12, 2021

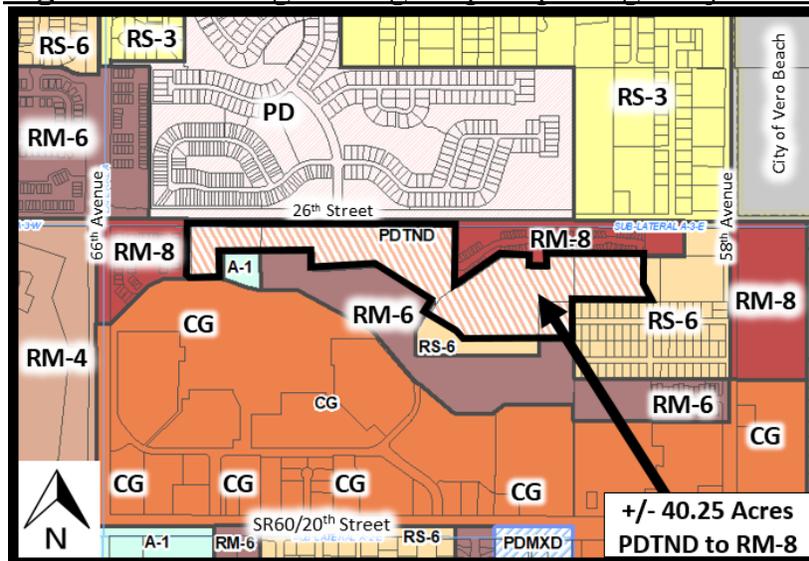
RE: Sunnyside Up 1, LLC's Request to Rezone Approximately ±40.25 Acres Located North of the Indian River Mall, Between 66th and 58th Avenues and, South of 26th Street from PDTND, Planned Development Traditional Neighborhood Design to RM-8, Multiple Family Residential District (up to 8 units/acre) (RZON2008050077-88741) [Quasi-Judicial]

It is requested that the following information be given formal consideration by the Indian River County Board of County Commissioners (BCC) at its regular meeting of April 20th 2021.

DESCRIPTION AND CONDITIONS

This request is to rezone ±40.25 acres located south of and adjacent to 26th street approximately ±775 feet east of 66th avenue and approximately ±700 feet west of 58th avenue and north of the Indian River Mall, from PDTND, *Planned Development Traditional Neighborhood Design*, to RM-8, *Multiple Family Residential District (up to 8 units per acre)*. The purpose of this request is to secure the zoning necessary to develop the ±40.25 acre site at a density consistent with the density allowed by the site's comprehensive plan land use designation. The subject site is depicted in the image below (Figure 1).

Figure 1 - Existing Zoning Map Depicting Subject Site



Planning and Zoning Commission Action

On March 11th 2021 a public hearing to consider this rezoning request was held before the Indian River County Planning and Zoning Commission (PZC). There were multiple interested individuals from the community in attendance. Five of whom, from the Woodfield Planned Development, spoke and expressed concerns regarding potential impact from construction activities, impacts of new trips (traffic) and, aesthetics once a use is developed on the site. A petition from the Woodfield Planned Development signed by approximately 150 residents was also presented that expressed concerns related to traffic and construction anticipated from potential development of the site (petition on file in the Community Development Department).

At the public hearing the PZC listened to and acknowledged the concerns from the public. Clarification was provided regarding the rezoning process and the fact that there is no site plan proposed as part of the rezoning. Clarification was also provided that any future proposed site plan will be reviewed by the County and at that time site design, impact on roadways, and construction issues would be reviewed/considered. The PZC offered to have staff notify those interested via e-mail when a site plan proposal is submitted for review.

After taking and considering public comment, the PZC voted 5 - 0 to recommend that the Board of County Commissioners approve the rezoning request. For reference, the March 11th 2021 PZC minutes are included as Attachment 3 to this report

Existing Land Use Pattern

As shown in Figure 2, the properties surrounding the subject site consists of the Indian River Mall, natural/vegetated area (under a conservation easement), commercial retail uses, multiple-family residential uses, and single-family residential uses. Additionally, the subject site is in close proximity to employment opportunities that are within the State Road 60 and 66th Avenue Commercial/Industrial node. The subject site contains five separate vacant parcels each of which are vegetated with native and invasive vegetation.

Figures 3 and 4 show that the parcels directly to the south of the subject site are currently zoned A-1, *Agricultural District (up to 1 unit per 5 acres)*; RM-6, *Multiple Family Residential District (up to 6 units per acre)*; RS-6, *Single Family Residential District (up to 6 units per acre)*; and CG, *General Commercial District*, which includes the Indian River Mall. Parcels directly to the east are zoned RS-6, *Single Family Residential District (up to 6 units per acre)*, further east beyond those parcels is the Palm Estates condominium development (zoned RM-8). The properties to the north are currently zoned PD, *Planned Development* and contains the Woodfield residential subdivision. Also directly north of the subject site is the Bella Rosa residential subdivision zoned RM-8, *Multiple Family Residential District (up to 8 units per acre)*. Directly to the west is land zoned RM-8, *Multiple Family Residential District (up to 8 units per acre)* which is currently developed with the Bella Vista Isles residential subdivision.

Figure 2 - Aerial Imagery Depicting the Subject Site and Adjacent Uses

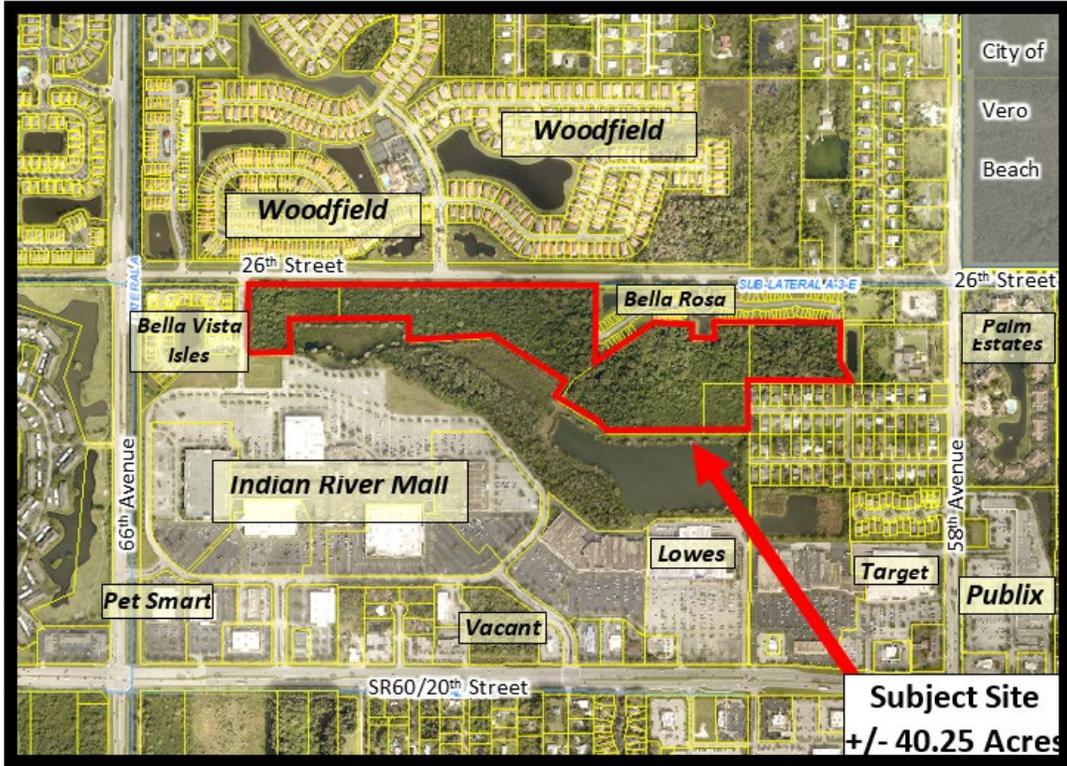


Figure 3 - Existing Zoning Map Depicting Subject Site

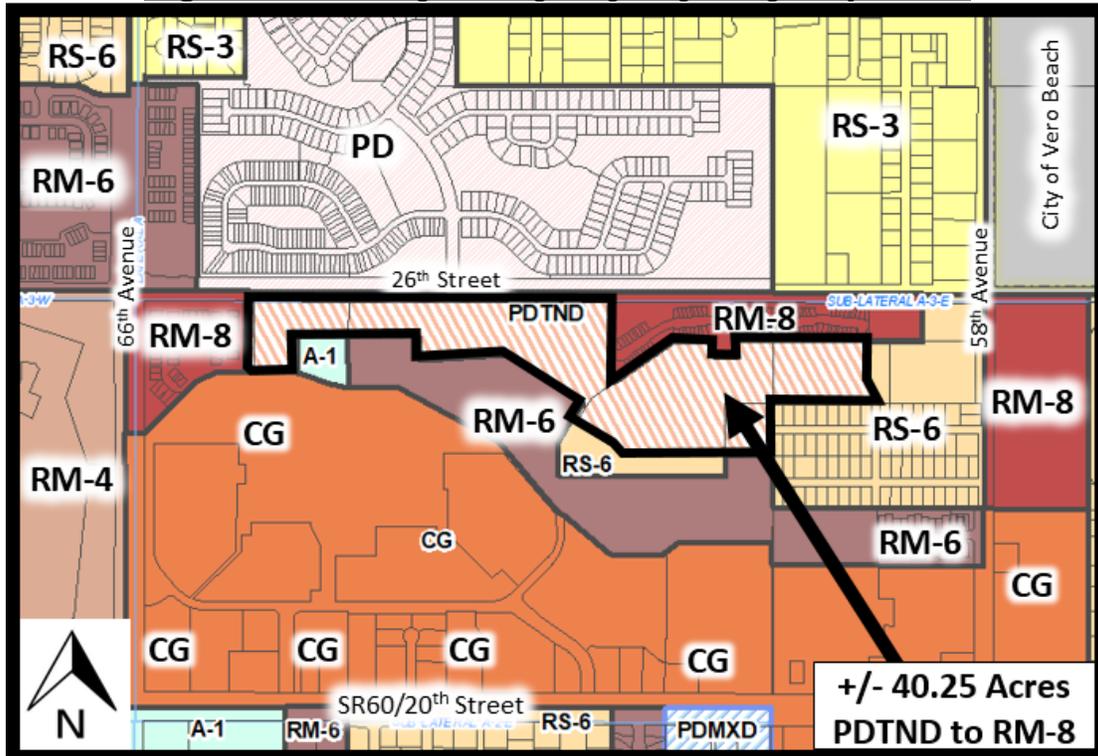


Figure 4 - Map Depicting the Proposed Zoning of Subject Site

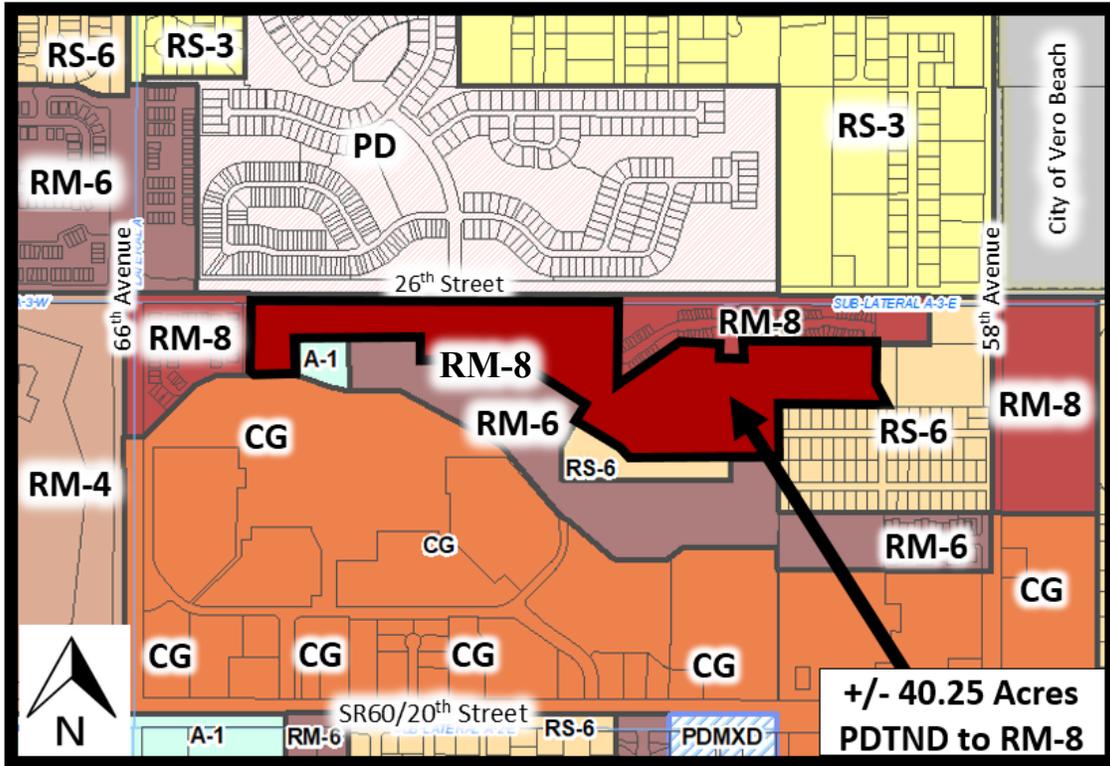
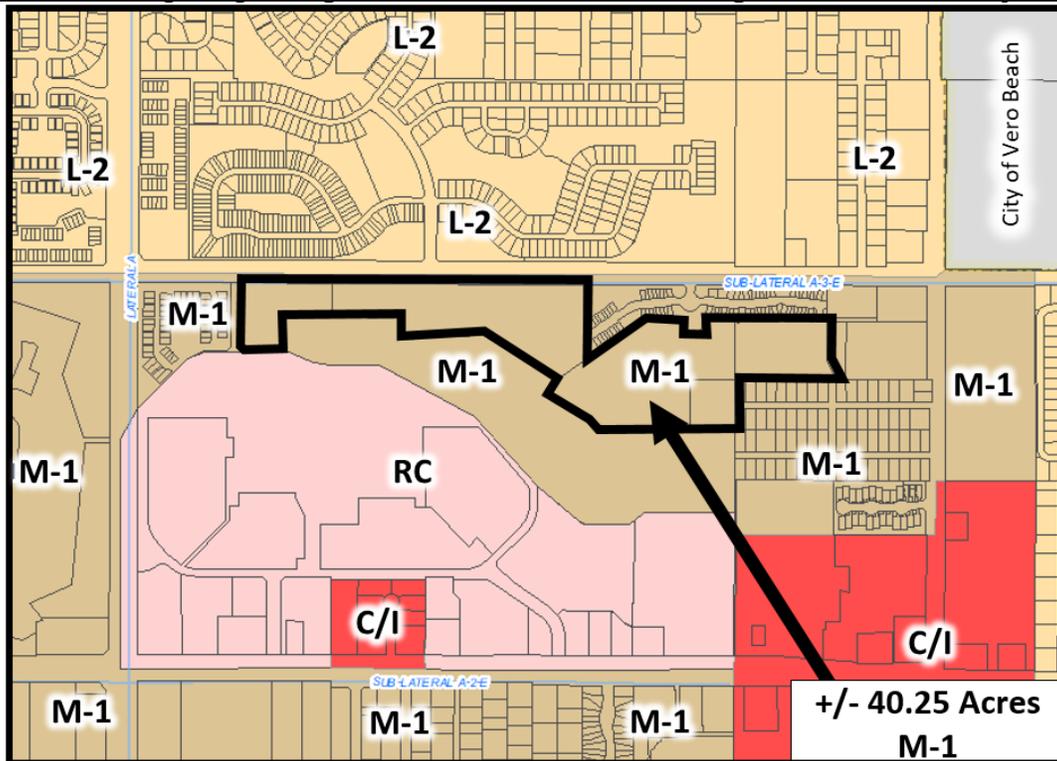


Figure 5 - Map Depicting the Future Land Use Designation of the Subject Site



Future Land Use Pattern

As shown in Figure 5, the subject site is designated M-1, Medium-Density Residential-1, on Indian River County's Comprehensive Plan Future Land Use Map. The M-1 designation permits single-family and multi-family residential uses with densities of up to 8 units per acre. The properties directly to the east, west and south of the subject site also have an M-1 future land use designation. Also directly to the south of the subject site is the only site in Indian River County with an RC, *Regional Commercial* future land use designation; that site contains the Indian River Mall. The properties to the north of the subject site, across 26th Street, have an L-2 future land use designation. The L-2 future land use designation permits single-family and multi-family residential uses up to 6 units per acre.

Environment

The subject site is currently vacant and vegetated. Prior to development, the site will be reviewed by County Environmental Planning staff for tree preservation requirements under Chapter 927 of the Indian River County Land Development Regulations. Based on County records, no wetlands or any other environmentally sensitive habitat have been identified within the subject site. According to Flood Insurance Rating Maps, the subject site is within Flood Zone X (area of minimal flood hazard). As with all development, a more detailed environmental review will be conducted during the development approval process.

Utilities and Services

The subject site is within the Urban Service Area of the County.

Water Service is available from the North and South County Reverse Osmosis Plants (interlinked), 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 West Regional Wastewater Treatment Plant has sufficient capacity to accommodate the additional demand generated by the subject rezoning request. Per Indian River County Land Development Regulations, the applicant may be required to pay hook-up and other customary fees and comply with other routine administrative procedures. If approved, rezoning does not guarantee any vested rights to receive Water and Wastewater treatment service.

Transportation System

The subject site abuts 26th Street. This roadway is classified as an Urban Minor Arterial road on the Indian River County Roadway Functional Classification Map. Located within an approximate 150-160 foot wide public right-of-way (width varies), this segment of 26th Street is a two lane paved road. Also within this County right-of-way is the Sub Lateral A-3-E Canal. This section of 26th Street is listed in the 5-year Capital Improvements Program (CIP) of the County's Comprehensive Plan. Those improvements include widening 26th Street from two lanes to four lanes beginning at 43rd Avenue and ending at 66th Avenue. In addition to widening, the intersections of 26th street and 58th and 66th Avenues will be improved to accommodate the widening of 26th Street to four lanes. However, while these improvements are listed in the County's

5-year CIP; they are not fully funded and only right-of-way acquisition is planned to occur within the next 5 years.

Historic Approvals on the Subject Site

On March 4th 2003 the BCC approved a rezoning request initiated by Simon Property Group, LP to change the subject site from 4.5 acres of A-1, *Agricultural-1 District*; 16.6 acres of RM-6, *Multiple-Family Residential (up to 6 units/acre)*; and 19.2 acres of RS-6, *Single-Family Residential (up to 6 units/acre)* to RM-8, *Multiple-Family Residential (up to 8 units/acre)* (see Attachment 4). Subsequently on January 20th 2009, the BCC reviewed and approved a request from Sunnyside Up 1, LLC to rezone the subject site from RM-8, *Multiple-Family Residential (up to 8 units/acre)* to PDTND, *Planned Development Traditional Neighborhood Design*. That approval allowed for up to 354 residential units (a mix of single and multiple family) and approximately 32,000 square feet of commercial/retail space with a reverter clause stating that if no project construction had commenced within 10 years from approval of the ordinance, the PD zoning would terminate and revert back to the prior RM-8 zoning. In 2009, the BCC modified this planned development's reverter deadline to increase it by 2 years (see Attachment 5). Subsequently on December 13th 2011, the BCC extended the reverter deadline 7 additional years to January 20th 2029 (see Attachment 6).

The current rezoning request, if approved, would revert the subject site back to the RM-8 zoning district that was previously approved by the BCC in 2003.

Zoning District Differences

In terms of potential uses, there are a few substantial differences between the existing PDTND district and the proposed RM-8 district. The most notable difference between the existing PDTND district and proposed RM-8 district, is that the proposed RM-8 zoning district allows for a maximum of approximately 322 residential units while the existing PDTND district allows for a total of 354 residential units and 32,000 sq. ft. of commercial floor area. The purpose statement for these zoning districts, found in the County's Land Development Regulations (LDRs), are as follows:

Planned Development Traditional Neighborhood Design: The Planned Development Traditional Neighborhood Design zoning district is established for the following purposes;

- To implement the policies of the comprehensive plan.
- To provide for planned residential communities, containing a variety of building arrangements, planned commercial and tourist commercial centers, planned industrial parks, planned public and quasi-public facilities, or planned multiple use centers which include a diversity of residential, commercial, industrial and public uses that are complementary and compatible with adjacent areas and developed in accordance with an approved development plan.
- To allow diversification of uses, structures, and open spaces in a manner compatible with existing and permitted land uses on abutting properties.
- To reduce energy costs through a more efficient use of land design and smaller networks of utilities and streets than is possible through application of other zoning districts and subdivision requirements.
- To ensure that development will occur according to the limitations of use, design, density,

coverage and phasing stipulated on an approved development plan.

- To preserve the natural amenities and environmental assets of the land by encouraging the preservation and improvement of scenic and functional open areas.
- To encourage an increase in the amount and use of open space areas by permitting a more economical and concentrated use of building areas than would be possible through conventional zoning districts.
- To provide maximum opportunity for application of innovative concepts of site planning in the creation of aesthetically pleasing living, shopping and working environments on properties of adequate size, shape and location.
- To provide an incentive for the development of housing units affordable to households with low and moderate incomes.

In Short, the PDTND district is a flexible zoning district which is intended to provide an appropriate balance between the intensity of development and the adequacy of support services and facilities.

Multiple-Family Residential Districts: The multiple-family districts are established to implement the policies of the Indian River County Comprehensive Plan for managing land designated for residential uses, providing opportunities for multifamily residential units and, ensuring adequate public facilities to meet the needs of residents. These districts are also intended to implement the County's housing policies by providing opportunities for a varied and diverse housing supply.

To compare and contrast these two districts, the RM-8, Multiple-Family Residential district (up to 8 units per acre) and the PDTND, Planned Development Traditional Neighborhood Design district both allow multi-family residential uses. However, the PDTND district allows for 9.5% of the project area to be used for commercial/retail space, while the RM-8 district does not allow for any commercial/retail space. A detailed list of uses allowed in the RM-8 zoning district is included as Attachment 7 to this report.

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;
- Consistency with the County's Land Development Regulations (LDRs)
- Compatibility with the surrounding area; and
- Potential impact on environmental quality.

Impact on Public Facilities

The subject site is 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 (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 RM-8 rezoning requests, the most intense use of a property (according to the County's LDR's) is the maximum number of units that could be built on the site, based on the size of the property and maximum density under the proposed rezoning.

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. As shown on the next page, since the County's concurrency management system assigns a lower land use intensity to uses within the RM-8 district than it does to uses in the approved PDTND district there will be no increase in density or intensity of the uses due to this rezoning request. Therefore, this request is exempt from the county's concurrency determination requirement.

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| 1. Size of Area to be Rezoned: | ± 40.25 acres |
| 2. Existing Zoning District: | PDTND, Planned Development Traditional Neighborhood Design District |
| 3. Proposed Zoning District: | RM-8, Multiple-Family Residential District (up to 8 units/acre) |
| 4. Most Intense Use of Subject Property Under Existing Zoning District: | 308 Multiple-Family Units, 46 Single-Family Units and, 32,000 sq. ft. of retail/commercial |
| 5. Most Intense Use of Subject Property Under Proposed Zoning District: | 322 Multiple-Family Units |

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 M-1, Medium-Density Residential-1, on the Future Land Use Map. Since RM-8 zoning is allowed in the M-1 district, 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 objectives and policies:

Future Land Use Element Objective 1

Future Land Use Element Objective 1 states that the county will have a compact and energy efficient land use pattern; an overall low density character. By allowing the subject site to be developed in a manner that is consistent with the site’s land use designation, the request allows a more compact and energy efficient land use pattern within the Urban Service Area. This request will also reduce the maximum number of units that could be built on the subject site. For these reasons, the request is consistent with Future Land Use Element Objective 1.

Future Land Use Element Policies 1.13 and 1.14

Future Land Use Element Policy 1.13 states that medium density residential uses shall be located within the Urban Service Area. In addition, Future Land Use Element Policy 1.14 states that the M-1, Medium-Density Residential-1, land use designation is intended for residential uses with densities up to 8 units/acre.

Since the subject property is located within the county's Urban Service Area, is located within an area designated as M-1 on the county’s Future Land Use Map, and the proposed zoning district would permit residential uses no greater than the 8 units/acre permitted by the M-1 designation, the proposed request is consistent with Policies 1.13 and 1.14.

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 is a table listing the specific rezoning criteria from Policy 1.43 for multiple zoning districts and staff determinations of how the criteria are met.

Table 1 Proposed Residential Multiple Family (RM-8) Zoning District		
Review Criteria	Meets Criteria?	Comments
1. Adjacent to other multiple-family areas	Yes	The subject site is adjacent to multiple family districts to the west, south and, northeast.
2. Adjacent to employment centers	Yes	The subject site is adjacent to the Indian River Mall and near commercial uses along State Road 60.
3. Along Arterial and collector roads, particularly to buffer single family areas	Yes	The subject site is along an Urban Minor Arterial road and would act as a buffer to single family areas to the north from more intense development along State Road 60.
4. Adjacent to commercial uses, particularly to buffer single family areas.	Yes	The subject site is adjacent to the Indian River Mall and would buffer single family areas to the north from more intense development along State Road 60.

5. Not abutting single family areas on all sides	Yes	The subject site is not abutting single family areas on all sides. The subject site abuts single family on its east side.
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Future Land Use Element Objective 2

In unincorporated Indian River County, all residential development greater than 0.2 units/acre, and all non-agriculture related commercial/industrial uses will be located within the Urban Service Area, which contains the infrastructure and services needed to accommodate such development.

Any development on the subject site would be within the Urban Services Area of the County.

Future Land Use Element Policy 2.2

Future Land Use Element Policy 2.2 states that the county shall encourage and direct growth into the Urban Service Area through zoning and LDRs. Since the proposed rezoning would allow and encourage more development on the subject property and the subject property is within the Urban Service Area, the request implements Future Land Use Element Policy 2.2.

Transportation Element Policy 8.1

Transportation Element Policy 8.1 states that the County will implement Future Land Use Element policies which restrict urban sprawl, limit strip commercial development, promote infill, encourage TND projects, promote public transportation, and encourage higher intensity uses in major corridors. Since the subject site is proposed to be rezoned to a higher intensity residential use and is within close proximity to SR 60 and Indian River State College, the request supports Transportation Element Policy 8.1

Housing Element Policy 1.9

Housing Element Policy 1.9 is under an overall objective to increase housing affordability. This policy states that the County shall support housing developments near transportation hubs, major employment centers, and mixed use development by expediting the permit process for these types of housing projects. Allowing increased density of multi-family zoning will provide more opportunity for developers to increase the supply of owner occupied and renter occupied housing which can, over time, decrease the cost of housing (supply vs. demand). Since the subject site proposed to be rezoned is within close proximity to SR 60, the Indian River Mall, and Commercial/Industrial Nodes, the request supports Housing Element Policy 8.1.

Housing Element Objective 2

Housing Element Objective 2 states that within its residential areas, Indian River County will have adequate sites to accommodate current and anticipated housing demand for all income groups and groups with special housing needs. This objective also states that these sites shall have an appropriate land use and zoning designation which allows for a balanced housing market with a mixture of housing types, including mobile and manufactured homes. Consistent with this objective, the proposed rezoning would allow and encourage more multi-family residential development, which is proposed in response to current and anticipated housing demand.

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 (LDRs)

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 8 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

There are a variety of uses adjacent to the subject site, with the subject site serving as a transitional area from the commercial uses to the south to the lower density residential uses, the church, and the electrical substation, to the north and east. Therefore, it is staff's position that the requested zoning district is appropriate for the site and that development under this zoning district will be compatible with surrounding land uses.

Generally, multi-family residential development is compatible with commercial uses. There are two reasons for this, 1) multi-family development can buffer single-family uses from more intense commercial uses. 2) multi-family development provides more housing choices for residents who want to live near employment opportunities.

Because the subject site is situated between an L-2, *Low-Density Residential-2* neighborhood to the north and, the County's only RC, *Regional Commercial* designated land to the south, the most appropriate use of the subject property is multi-family residential. Multi-family residential on the subject site will serve the community as a transitional area between the regional commercial use (the Indian River Mall) and nearby single-family residences.

A small segment of the subject site's southeast perimeter directly abuts single-family homes (Rivera Estates). The County's LDRs requires that buffers be constructed when multi-family development abuts single-family development.

Due to the large size of the subject site and presence of Native Upland habitat, 10-15% of the site will be required to be set aside as Native Upland habitat. While a fee may be paid in lieu of the set aside, land used as set aside can provide additional buffering to adjacent single-family homes.

All in all, this request is not anticipated to have adverse impacts on surrounding areas. For this reason, staff can confirm that the requested RM-8 zoning is compatible with development in the surrounding area.

Potential Impact on Environmental Quality

The subject site proposed to be rezoned from PDTND to RM-8 currently contains vacant, partially vegetated lands. Since this site contains no land designated as environmentally sensitive or protected, such as wetlands or sensitive uplands, development of the site is anticipated to have minor adverse impacts on environmental quality. Additionally, the most intense use of the site

under the proposed RM-8 zoning is less intense compared to the current PDTND zoning. When new development is proposed for the subject site, a more detailed environmental analysis will be conducted during the development approval process.

CONCLUSION

Based on the analysis, staff has determined that the requested zoning district is compatible with surrounding areas, is consistent with the comprehensive plan, meets all concurrency criteria, will have no negative impacts on environmental quality, and meets all applicable rezoning criteria. Most importantly, the subject site is located in an area deemed suitable for medium density multi-family uses. For these reasons, staff can support this 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 the subject site from PDTND to RM-8 by adopting the proposed rezoning ordinance. This action, if approved by the BCC, will supersede and invalidate ordinance No. 2011-010 (Attachment 6).

ATTACHMENTS

1. Summary Page
2. Rezoning Application
3. Unapproved March 11th 2021 Planning and Zoning Commission Meeting Minutes
4. Ordinance 2003-001 (Approving RM-8)
5. Ordinance No. 2009-020 (PDTND Reverter)
6. Ordinance No. 2011-010 (PDTND Reverter)
7. Section 911.08(4) Table of Uses allowed in Multiple-Family districts
8. Section 902.12(3), Standards of Review
9. Rezoning Ordinance