

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

TO: Board of County Commissioners

THROUGH: John A. Titkanich, Jr., County Administrator

FROM: Cindy Thurman; Senior Planner, Long Range Planning

DATE: November 4, 2024

RE: Consideration of an Ordinance of Indian River County Florida Amending the Zoning Ordinance, and the Accompanying Zoning Map for Approximately ±22.28 Acres from CG, General Commercial District to OCR, Office, Commercial, Residential District (2023060145-97024) [**Quasi-Judicial**]

It is requested that the data presented herein be given formal consideration by the Board of County Commissioners at its regular meeting of December 17, 2024.

DESCRIPTION AND CONDITIONS

The subject properties consist of ±22.28 acres of undeveloped land in the northern area of the County. The properties lie along the west side of U.S. Highway 1, approximately .65 miles north of 85th Street (CR 510). The properties are southwest of the City of Sebastian’s jurisdiction and north and west of the Wabasso School. With approximately 580 feet of U.S. Highway 1 frontage, the property extends westward to the FEC railroad right-of-way line.

The subject properties are in the middle of an area zoned CG, General Commercial. The applicant requests to rezone the subject properties from CG, General Commercial District to OCR, Office, Commercial, Residential District. While the CG, zoning allows general commercial uses such as retail commercial, OCR permits professional offices, health clinics, and multiple-family dwellings. There is no other OCR zoning present in the area on the west side of U.S. Highway 1.

The purpose of this request is to secure the zoning necessary to develop the site with uses permitted in the OCR zoning district such as exclusively for residential use. The requested OCR zoning designation is consistent with the subject property’s C/I, Commercial/Industrial future land use designation therefore, no future land use designation change is required as part of this amendment.

Existing Land Use Pattern

The subject properties are currently zoned CG, General Commercial and is located within a largely undeveloped commercial node, extending from east to west between the U.S. Highway 1 corridor and the FEC railroad right-of-way. The commercial node, running north to south, comprises predominantly vacant and underutilized commercial properties, interspersed with older

nonconforming residential and commercial structures that present opportunities for future redevelopment.

To the north of the properties, there are primarily large-lot nonconforming residential homes and businesses. To the south and east lies the Wabasso School. The CG zoning in this area permits a range of general commercial uses along the U.S. Highway 1 corridor, including general retail establishments, big-box stores, drive-through restaurants, and professional/medical offices. In contrast, the OCR, Office, Commercial, Residential district is intended to allow for a more integrated mix of low-intensity office, restricted commercial, and residential uses, with a maximum residential density of up to eight units per acre.

The east side of U.S. Highway 1 is characterized by designated residential zoning, with future land use patterns established by the County. While commercial development within this node has not progressed as rapidly as in other parts of the County, vacant residential and commercial parcels remain available, indicating continued potential for development in the area.

Zoning District Differences

In terms of permitted uses, there are both similarities and differences between the existing CG district and the proposed OCR district. While the CG zoning allows general commercial uses such as retail commercial, OCR permits professional offices, health clinics, and multiple-family dwellings. The respective zoning districts' purpose statements best illustrate the distinctions between the zoning districts. These purpose statements, found in the County's Land Development Regulations (LDRs), are as follows:

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, or industrial uses.

OCR: Office, Commercial, Residential District: The OCR, Office, Commercial, Residential district is intended to provide areas for the development of restricted office, commercial, and residential activities in a manner that will be compatible with surrounding neighborhoods. The OCR district is further intended to provide land use controls to ensure the separation of potentially incompatible activities, such as intense commercial uses, from established residential areas.

Analysis

The following analysis is per Chapter 902: Administrative Mechanisms, Section 902.12(3), which states that all proposed amendments shall be submitted to the Planning and Zoning Commission, which shall consider such proposals in accordance with items (a) through (k) of Section 902.12(3).

Item A - Whether or not the proposed amendment is in conflict with any applicable portion of the land development regulations (LDRs).

While the request for the proposed amendment does not conflict with the county’s land development regulations, the resulting zoning district of OCR, raises concerns regarding potential land use incompatibilities with adjacent properties. The rezoning could introduce a mix of uses that may not be compatible with the surrounding land uses, potentially placing dissimilar uses in close proximity.

Item B - Whether or not the proposed amendment is consistent with all elements of the Indian River County Comprehensive Plan.

The goals, objectives, and policies are the most important parts of the comprehensive plan. Policies are statements in the plan that identify the actions that the County will take in order to direct the community’s development. As courses of action committed 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 OCR district is intended for uses permitted within the commercial/industrial land use designation, the request is consistent with Future Land Use Element Policies 1.17 and 1.18.

As part of its consistency analysis, staff compared the proposed request to all applicable objectives and policies in the plan and found conflicts with Policy 1.43 of the comprehensive plan.

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 the specific rezoning criteria from Policy 1.43, the OCR zoning district, and staff determinations of how the criteria have not been met in Table 1.

Table 1 SUBJECT PROPERTY Proposed General Commercial (OCR) Zoning District		
Review Criteria	Meets Criteria?	Comments
1. Adjacent to existing office uses.	NO	Adjacent commercial uses on the same side of U.S. Highway 1 are undeveloped. On the east side of U.S. Highway 1, general retail commercial uses are established. Fails to Meet this Criterion.

2. Is a buffer between residential zoning districts and arterial roads or other commercial zoning districts.	NO	The properties are located in an established commercial node with no abutting residential zoning districts. Fails to Meet this Criterion.
3. At node perimeters.	NO	The properties are in the middle of the established C/I node and not located at the perimeter. Fails to Meet this Criterion.

The OCR zoning district is designed to protect residential uses in areas where commercial and residential uses mix. According to county regulations, the district is designed to accommodate office, commercial, and residential developments that are compatible with nearby neighborhoods.

The OCR zoning district permits professional offices and residences. However, most retail, service, and other intense commercial uses are prohibited in the district. The district also allows residential uses as well as compatible office and commercial uses.

Item C - Whether or not the proposed amendment is consistent with existing and proposed land uses.

The proposed amendment for the subject properties are designated C/I, Commercial/Industrial on the Future Land Use Map. Since OCR zoning is allowed in the C/I designation, the proposed zoning district is consistent with the Future Land Use Map designation.

Item D - Whether or not the proposed amendment is in compliance with the adopted county thoroughfare plan.

The property has approximately 580 feet of U.S. Highway 1 frontage and is a four-lane divided highway.

Item E - Whether or not the proposed amendment would generate traffic which would decrease the service levels on roadways below the level adopted in the comprehensive plan.

The proposed rezoning request's Traffic Impact Analysis (TIA) was reviewed and approved by Traffic Engineering Division staff. That analysis showed that all roadway segments within the area of influence would operate at an acceptable level of service with the most intense use of the property under the proposed zoning district.

Item F - Whether or not there have been changed conditions which would warrant an amendment.

The OCR, Office, Commercial, Residential zoning district is typically intended to be located at the perimeter of larger commercial nodes to provide a transition between commercial and residential areas. However, the subject properties are situated in the middle of an existing commercial node that remains largely undeveloped, and these conditions have not significantly changed. To date, no further development has occurred on the west side of U.S. Highway 1, while residential development remains appropriately located and zoned on the east side of the highway.

Item G - Whether or not the proposed amendment would decrease the level of service established in the comprehensive plan for sanitary sewer, potable water, solid waste, drainage, and recreation.

Based upon the analysis conducted by staff, it has been determined that all concurrency-mandated facilities, including stormwater management, solid waste, water, wastewater, and recreation, have adequate capacity to accommodate the most intense use of the subject property under the proposed rezoning. Per Indian River County LDRs, the applicant may be required to pay connection 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. As with all development, a more detailed concurrency review will be conducted during the development review 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 development projects, County regulations call for the concurrency review to be based on the most intense use of the subject property allowed within the requested zoning district.

For commercial rezoning requests, the most intense use of a property varies with the zoning district. In the case of CG-zoned property, the most intense use (according to County LDRs) is retail commercial with 10,000 square feet of gross floor area per acre. For the OCR rezoning request, the most intense use is retail commercial with 10,000 square feet of gross floor area per acre. The site information used for the concurrency analysis is as follows:

- 1. Size of Area to be Rezoned: ±22.28 acres
- 2. Existing Zoning District: CG, General Commercial District
- 3. Proposed Zoning District: OCR, Office, Restricted Commercial, Residential District
- 4. Most Intense Use of Subject Property Under Existing Zoning District: 222,800 square feet of Retail Commercial
- 5. Most Intense Use of Subject Property Under Proposed Zoning District: 222,800 square feet of Retail Commercial

Item H - Whether or not the proposed amendment would result in significant adverse impacts on the natural environment.

The subject property proposed to be rezoned from CG to OCR is undeveloped. Since the subject property does not contain any land designated by the State of Florida or the U.S. Federal Government as environmentally sensitive or protected land, such as wetlands or sensitive uplands, rezoning the site is anticipated to have no adverse impacts on environmental quality. When development is proposed for the subject site, a more detailed environmental analysis based on the site-specific development proposal will be conducted.

Item I - Whether or not the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern.

Policy 1.43 of the Comprehensive Plan clearly outlines the locational criteria for the OCR, Office, Commercial, Residential zoning district. The subject properties do not meet the appropriate locational standards as set forth in this policy, and rezoning to OCR would not contribute to a logical or orderly development pattern. The intent of the OCR zoning district is to serve as a transitional zone at the perimeter of larger commercial nodes, yet these properties are centrally located within an existing node that remains largely undeveloped.

Item J - Whether or not the proposed amendment would be in conflict with the public interest and is in harmony with the purpose and interest of the land development regulations.

The requested OCR, Office, Commercial, Residential zoning district is not compatible with the surrounding area due to the current lack of development that would support its intended function under the County's Land Development Regulations. Introducing the OCR zoning district at this location does not provide the necessary support for existing development, as the area remains largely undeveloped.

The OCR district is designed to complement and enhance existing development by providing a balanced mix of office, commercial, and residential uses. However, in this instance, the absence of surrounding development undermines the district's intended purpose. As a result, the addition of OCR zoning in this location does not align with the goals of the Land Development Regulations, which seek to ensure that zoning districts serve as complementary frameworks for established development patterns. Therefore, the proposed rezoning fails to meet the criteria for fostering a cohesive and sustainable development pattern in the area.

Item K - Any other matters that may be deemed appropriate by the planning and zoning commission or the board of county commissioners in review and consideration of the proposed amendment such as police protection, fire protection, and emergency medical services.

Based upon the analysis conducted by staff, it has been determined that all concurrency-mandated facilities, including police protection, fire protection, and emergency medical services have adequate capacity to accommodate the most intense use of the subject property under the proposed rezoning.

REQUIRED NOTICE

For this project, staff was required to publish a legal advertisement in the newspaper, send out notice by mail to all property owners within 300 feet of the project site, and post a project notice sign at the project site.

CONCLUSION

The requested OCR, Office, Commercial, Residential zoning district is incompatible with the surrounding area, as it does not provide a supportive framework for existing development in this

largely undeveloped region. The properties are not situated at the perimeter of the commercial node, as is intended for the OCR district, and therefore does not meet the locational criteria outlined in Policy 1.43 of the Comprehensive Plan. Consequently, this request is inconsistent with the established goals, objectives, and policies of the Comprehensive Plan.

Moreover, potential incompatibilities with the County's Land Development Regulations may arise, given that the subject property is not located in an area suitable for the OCR zoning classification. Approving this rezoning request would conflict with the intended purpose of the OCR district and could undermine the orderly development pattern envisioned for this part of the County. Therefore, the proposed zoning change is not aligned with sound planning principles or the regulatory framework guiding land use in the area.

RECOMMENDATION

Based on the analysis, staff cannot recommend that the Board of County Commissioners approve this request to rezone the subject properties from CG to OCR.

ACTION BY Planning and Zoning Commission

On November 14, 2024, the Planning and Zoning Commission voted 5:1, in favor of rezoning the property to OCR, Office, Commercial and Residential Zoning.

ATTACHMENTS

1. Existing Zoning Map
2. Existing Future Land Use Map
3. Rezoning Application
4. Ordinance