

**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

PREPARED BY: Chris Balter, Planning and Development Services Director

DATE: January 15, 2025

SUBJECT: Appeal of Planning and Zoning Commission Decision on Rezoning Request by Red Jazmine Land Company, LLC

BACKGROUND:

Red Jazmine Land Company, LLC has appealed the Planning and Zoning Commission's November 14, 2024 decision to deny the request to rezone approximately 4.2 acres from CL (Limited Commercial District) to CH (Heavy Commercial District). The applicant asserts that the denial was based on misapprehensions and incompatibilities that are legally unfounded. Below is an analysis of the reasons for denial, staff's findings, and a response to the arguments in the appeal.

ANALYSIS:

Reason for Denial:

1. Incompatibility with Surrounding Uses:

- The subject property directly abuts a legal, nonconforming residential structure and is surrounded predominantly by CL zoning. Rezoning to CH allows for the introduction of higher intensity uses, including manufacturing and major repair services, that are inconsistent with the existing limited commercial and residential uses.
- The appeal's claim that U.S. Highway 1 serves as a sufficient buffer overlooks the property's proximity to residential development on the same side of U.S. Highway 1 (west side) as the existing residential use, which creates potential conflicts in terms of noise, traffic, and visual impact.

2. Failure to Meet Comprehensive Plan Criteria:

- **Policy 1.43 of the Comprehensive Plan:** The property fails key criteria for CH zoning, specifically:
 - Lack of adjacency to railroad tracks or proximity to industrial uses.
 - Insufficient separation from residential development.
 - Refer to the attached staff report for the analysis of these items
- While the proposed CH zoning aligns broadly with the Commercial/Industrial (C/I) Future Land Use designation, the requested rezoning disrupts the balanced development pattern intended by the Comprehensive Plan.

3. Existing Development Pattern:

- The surrounding area is characterized by limited commercial uses that support nearby residential communities. Rezoning to CH would disrupt this established pattern and could allow for further incompatible development.

4. Availability of Alternative Sites:

- Within a two-mile radius, there are several undeveloped parcels currently zoned CH and are more suitable for higher-intensity commercial uses. This availability undermines the need to rezone the subject property.

5. Potential Impacts on Public Interest:

- Introducing CH zoning in this location could negatively affect adjacent residential neighborhoods, contrary to the public interest and the goals of the Comprehensive Plan. The current CL zoning appropriately balances the needs of commercial development and residential protection.

RESPONSE TO APPEAL CLAIMS:

1. Alleged Misapprehension of Compatibility:

- The appeal's argument that "alleged incompatibility with a non-conforming use is a non sequitur" misrepresents the issue. The denial is based on the incompatibility of CH zoning's permitted uses with the broader character of the surrounding area, not solely the non-conforming residential structure, and staff's analysis is logical and consistent.

2. U.S. Highway 1 as a Buffer:

- While U.S. Highway 1 provides a transportation corridor, it does not negate the need for land use compatibility. Higher-intensity uses permitted under CH zoning could create negative externalities that impact residential areas east of the highway.

3. Emerging Zoning Patterns:

- The appeal's claim of an emerging CH zoning pattern is unsupported. The immediate vicinity predominantly consists of CL zoning and residential uses, with CH parcels located farther along the corridor where they are buffered by industrial or general commercial areas and meet the comprehensive plan criteria.

4. Compliance with Procedural Requirements:

- The staff report confirms that the rezoning request was reviewed comprehensively under applicable Land Development Code and Comprehensive Plan criteria. The denial reflects adherence to these standards. Also, all required public notice, advertising, and public hearing procedures outlined in the County's land development regulations were followed.

5. Consistency with the Comprehensive Plan:

- The appeal's assertion that the rezoning is consistent with the Comprehensive Plan omits critical context. There are six (6) zoning districts in the county that could be allowed within an area designated with a C/I future land use category. However, not

all of these districts would be appropriate in all areas of the county, While CH zoning is allowed under the C/I designation, the specific site conditions and surrounding development pattern render this rezoning request inconsistent with Policy 1.43.

CONCLUSION AND RECOMMENDATION:

Based on staff's thorough analysis and findings, the Board of County Commissioners is advised to uphold the Planning and Zoning Commission's denial of Red Jazmine Land Company, LLC's rezoning application.

The request is inconsistent with the Comprehensive Plan, incompatible with surrounding land uses, and contrary to the public interest. Maintaining the current CL zoning protects the balance between commercial and residential uses in this area and aligns with the County's long-term development goals.

ATTACHMENT:

1. Appeal Letter
2. 11-14-2024 Planning and Zoning Commission Staff Report
3. Unapproved 11-14-2024 Planning and Zoning Commission Meeting Minutes