

DEVELOPMENT DEPARTMENT REPORT

The agenda request before the Planning Commission is an Official Zoning District Atlas (OZDA) amendment application (RZ 2016-05) filed by Mosaic Fertilizer, LLC to change from Agriculture 10 (A-10) to Phosphate Mining-Industrial (PM-I) the zoning district of 14,053.40+ acres of land generally located north of SW Adams Road, south of the DeSoto/Hardee County line, west of NE County Road 661, and east of the DeSoto/Manatee/Sarasota County line. The application is before the Planning Commission because Code of Ordinances Chapter 20, Land Development Regulations, Article XI, Division 7 requires the Planning Commission, sitting as the Local Planning Agency (LPA) to hold at least one public hearing with due public notice on an OZDA (i.e., rezoning) amendment application and to make a recommendation on the application to the Board of County Commissioners. *The Development Director recommends the Planning Commission enter into the record the Development Department Report and all other competent substantial evidence presented at the hearing, adopt findings and conclusions to support the recommendation, and forward the record to the Board of County Commissioners with a recommendation that the proposed Ordinance be adopted.*

I. BACKGROUND

On June 26th, 2000, IMC-Agrico Company changed their name to IMC Phosphates Company, who on October 22nd, 2004 changed their name to Mosaic Phosphates Company, who merged on July 29th, 2005 into Mosaic



Fertilizer, LLC (MFL), a subsidiary of the Mosaic Company (NYSE: MOS). MOS is the world's leading integrated producer and marketer of concentrated phosphate and potash. MOS employs nearly 15,000 persons in six countries, 3,000 persons in Florida, and participates in every aspect of crop nutrition development.

MOS mines phosphate rock from nearly 200,000 acres of Mosaic-owned land in Central Florida, and they mine potash from four mines in North America, primarily in Saskatchewan, Canada. Their products are processed into crop nutrients, and then shipped via rail, barge and ocean-going vessel to their customers in the major agricultural centers of the world.

Phosphate has significant economic importance in Florida, yet according to a 2002 survey, 70% of Florida residents claimed that they were uninformed about the industry. Residents who are aware of phosphate mining and fertilizer manufacturing in Florida tend to have strong opinions either in favor or in opposition to its presence.

On December 14th, 2016, MFL filed with the DeSoto County Development Department three development order applications. The first application is an Official Zoning District Atlas amendment (also called a rezoning) to change the zoning district from Agriculture 10 (A-10) to Phosphate Mining-Industrial (PM-I) of land totaling 14,053.40± acres and generally located north of SW Adams Road, south of the DeSoto/Hardee County line, west of NE County Road 661, and east of the DeSoto/Manatee/Sarasota County line. This includes 9,482.4 acres that MFL owns fee simple and over 4,575.1 acres for which it has minerals interests/controlling rights (See Attachment 1). Attachments 2A through 2E is an MFL provided map displaying the General Phosphate Mining Overlay (GPM-O) designation or category boundaries with a solid red line. The properties already zoned PM-I district are colored white, the properties proposed to be rezoned PM-I district are colored light brown and bounded by a garnet dashed line, and the remaining properties within the GPM-O that are not affected by this



rezoning application are colored a light purple, which represents lands zoned Agricultural 10 district.

The second application is for the Phosphate Mining Master Plan (PMMP) while the third application is for the Operating Permit (OP). This Development Department Report only addresses the rezoning application. Separate Development Department Reports will be prepared for each of the other applications.

Zoning District Regulations. On June 7th, 1973, the Board adopted Ordinance No. 1973-3, which ordinance adopted zoning district regulations and a zoning district map for the unincorporated areas of DeSoto County. This initial zoning district regulations and zoning district map did not provide for any mining zoning districts and did not even include definitions of mining, excavation, or extraction.

On September 29th, 1981, the Board adopted Ordinance No. 81-10, which ordinance repealed Ordinance No. 1973-3 and established new zoning district regulations and zoning district map. The new zoning district regulations included the “Phosphate Mining and Earth Moving District (M-I)” and the new Zoning District Map rezoned 8,985-acres of land to M-I district. Since that time, there have not been any site specific rezoning applications to the M-I zoning district. On May 25th, 1993, the Board adopted Ordinance No. 1993-03, which among other things, changed the name of the zoning district to Phosphate Mining-Industrial (PM-I).

DeSoto County Comprehensive Plan. The DeSoto County Comprehensive Plan is a state mandated long-term plan primarily intended to provide for the County’s physical development and growth. Initially adopted in the early 1990’s, the DeSoto County 2040 Comprehensive Plan contains 14 chapters or elements governing such things as future land use, transportation, housing, infrastructure (i.e., potable water, sanitary sewer, solid waste, stormwater management or drainage, and aquifer recharge), parks and recreation, and the like. State law also requires that



Comprehensive Plans be implemented through such things as adoption of Land Development Regulations (which include but are not limited to such requirements as zoning district regulations, subdivision regulations, off-street parking and off-street loading regulations, and sign regulations), five-year capital improvement plans, the annual budget, and interlocal agreements.

The 2010 DeSoto County Comprehensive Plan, adopted April 23rd, 1991, contained few provisions governing mining and phosphate mining. Future Land Use Element (FLUE) Policy L.1.1 provided that the extraction of mineral resources may be permitted in all future land use classifications subject to all applicable local regulations and FLUE Policy L.1.2 required a reclamation plan as part of the extractive use permit (See Attachment 3).

On September 28th, 2010, the DeSoto County Board of County Commissioners (Board) adopted Ordinance No. 2010-26, which amended the FLUE by adding an objective and implementing policies pertaining to creation of a Generalized Phosphate Mining Overlay (GPM-O) designation (See Attachment 4). The Ordinance also amended the 2030 Future Land Use Map (FLUM) by identifying a 25,000-acre area displaying where the GPM-O designation would apply. Although the Ordinance did not include a legal description for the GPM-O designation boundaries, the legal description provided with the Comprehensive Plan text amendment application was used to prepare the GPM-O designation boundaries. The Board's establishment of the GPM-O designation ensured that phosphate mining activities could no longer occur countywide but were limited in application to the area defined by the GPM-O designation.

On January 27th, 2015, the DeSoto County Board of County Commissioners adopted Ordinance No. 2015-01 (See Attachment 5), which amended the Comprehensive Plan's Definitions Element (DE), the FLUE, and the Conservation Element (CE). The DE amendments revised the definition of reclamation and added definitions for restoration, ecological value, mitigation, and phosphate mining corridor. The FLUE



amendments modified Policy 1.12.2 on Conservation Overlay designation uses, Policy 1.12.6 on wetlands, Policy 1.12.10 on environmentally sensitive lands and historically significant resources, and Policy 1.12.b.3 on Generalized Phosphate Mining Overlay designation development standards. The CE amendments modified Policy 1.5.6 on mitigation activities, Policy 1.5.9 and Policy 1.6.4 on prohibited mining areas, Policy 1.7.10 on ecological value, Policy 1.7.11 on mitigation and reclamation, and Policy 1.9.7 on regulating phosphate mining.

Within the GPM-O, Mosaic owns in fee simple 18,051.7 acres and 4,987.1-acres for which it has minerals interests/controlling rights, for a total of 23,038.8-acres. Of this land, 8,985.4-acres already are zoned PM-I district.

II. PROPOSED ORDINANCE

Attachment 6 is an Ordinance of the DeSoto County, Florida Board of County Commissioners amending the Official Zoning District Atlas identified in Land Development Regulations Article 2, Zoning Districts and Requirements, Section 20-31, Establishment of Zoning Districts; granting Mosaic Fertilizer, LLC an Official Zoning District Atlas amendment (RZ 2016-05) to change from Agriculture 10 (A-10) to Phosphate Mining-Industrial (PM-I) the zoning district of 14,053.40+ acres of land generally located north of SW Adams Road, south of the DeSoto/Hardee County line, west of NE County Road 661, and east of the DeSoto/Manatee/Sarasota County line, the legal description which is included in Exhibit A; providing for codification; and providing for an effective date.

III. DATA & ANALYSIS

The Applicant has the burden of proof to demonstrate on the record and through competent substantial evidence that the application conforms to



the LDR requirements for rezoning applications. Competent substantial evidence can be interpreted as evidence that:

- is legally sound (sufficient and admissible under the rules of evidence, although it doesn't have to comply with courtroom formality);
- is real (non-speculative, non-hypothetical) and based on facts (more than conjecture, unsupported generalized statements, surmise, mere probabilities, guesses, whims, or caprices);
- is reliable (credible, believable);
- is material (pertinent, relevant);
- tends to prove the points (facts, elements, standards) that must be proven (not just create a suspicion or could equally support another result);
- establishes a reasonable, substantial justification (basis of fact) for the point argued; and
- a reasonable mind would accept it as enough (adequate) to support the argued for conclusion.

LDR Article XI, Administration and Enforcement, Division 7 addresses Official Zoning District Atlas (i.e., rezoning) amendment and LDR text amendment applications. LDR Section 20-1650 defines Official Zoning District Atlas as scaled-based maps of the unincorporated area of the County depicting the land features, roads and property lines overlaid with Zoning District boundaries adopted by the DeSoto County Board of Commissioners and certified and dated by the Chairman, as may be amended from time to time. Zoning District symbols are depicted within each boundary.

A. Application requirements. Land Development Regulations Section 20-1496 establishes two prerequisites for the filing of an Official Zoning District Atlas amendment as shown below.



1. *Initiation. Section 20-1496(a) restricts the persons who may initiate an Official Zoning District Atlas amendment to the following:*
 - *Board of County Commissioners;*
 - *Planning Commission;*
 - *Board of Adjustment;*
 - *Any other department of agency of the County; or*
 - *Any person other than those listed above; provided, however, that no person shall propose an amendment for the rezoning of property (except as agent or attorney for an owner) which he does not own. The name of the owner shall appear on each application.*

On December 14th, 2016, Michael J. Deneve, Senior Director Mine Permitting & Regulatory Affairs, filed on behalf of the property owner, Mosaic Fertilizer, LLC (MFL) a written General Development Order and Official Zoning District Atlas (GDO/OZDA) amendment application and fee (RZ #2016-05) with the Development Department, which application is included herein by reference and which is on file with the Planning and Zoning Division. Based on the above, the Development Director concludes the application is **in conformance** with LDR Section 20-1496(a) because the application was filed by a property owner representative.

2. *Filing requirements. Section 20-1496(b) provides that all proposals for zoning amendments shall be submitted in writing to the Development Department, accompanied by all pertinent information required by the LDR and the application along with payment of the application fee.*

As noted above, a written General Development Order and Official Zoning District Atlas (GDO/OZDA) amendment

application and fee was filed with the Development Department. The written application was filed in a three-ringed binder, which binder included a transmittal letter, a table of contents, and eight tabs covering the following topics respectively: rezoning application, list of tables, list of maps, deeds and permitting agreements, retained mineral interest, permitting agreements, merger documents, and a compact disk that includes the full application. The application subsequently was amended by written letter dated May 18, 2018, which is incorporated herein by reference and which is on file with the Planning and Zoning Division. Both the application and the supplemental application are available on the County website at <http://desotobocc.com/>. Based on these findings, Development Director concludes the application is **in conformance** with LDR Section 20-1496(b) because a written application containing pertinent information was filed along with an application fee.

B. Staff review. LDR Section 20-1497 addresses staff review.

- 1. Section 20-1497(a) provides that upon receipt of an application, the Development Director shall determine whether the application is complete. If the application is complete, it will be accepted for review. If the application is incomplete, the Development Director shall specify in writing the additional information required in order for the application to be processed. No further action shall be taken on the application until the additional information is submitted and determined to be complete.*

The Development Director finds the application was filed on December 14th, 2016, but the LDR does not specify the time the Development Director has to determine whether or not a rezoning application is complete. Notwithstanding, the Development Director has interpreted the time frames

established in Section 20-1380, Procedures for Review of Major Developments, to be applicable to development order applications (such as re-zonings, special exception uses and variances). That procedure requires the Development Director to make a determination on the completeness of an application within five (5) working days. If the application is incomplete, the Director must notify the applicant in writing of any deficiencies. The Development Director reviewed the application for “technical” completeness and determined the application was complete but the Development Director did not issue to MFL a Notice of Completeness letter. Based on these interpretations and findings, the Development Director concludes the application became complete on December 21st, 2016. Thus, the Development Director concludes the application is complete and that the application has been processed **in conformance** with LDR Section 20-1497(a).

2. *Section 20-1497(b) provides that after receipt of a complete application, the Development Director shall distribute the application for review by County staff and/or the Development Review Committee.*

The Development Director finds the application package was distributed to Development Review Committee (DRC) members and the DRC comments are included herein as Attachment 7. Thus, the Development Director concludes the application has been processed **in conformance** with the requirements of LDR Section 20-1497(b) based on the finding that the application package was distributed to the DRC for review and comments.

3. *Section 20-1497(c) provides that upon completion of review, the Development Department shall prepare a staff report and schedule review of the application at a public hearing by the Planning Commission.*

This Development Department Report is the staff report required by this section and the Development Director has tentatively scheduled the application for the June 5th and 6th, 2018 Planning Commission public hearing. On March 23rd, 2017, the Development Director transmitted to MFL a request for additional information in the form of a draft staff report, a copy of which is available on the County's website. MFL subsequently provided a supplemental response on May 18th, 2018.

Thus, the Development Director concludes the application has been processed **in conformance** with LDR Section 20-1497(c) because a staff report has been prepared and a Planning Commission public hearing date have been scheduled.

C. Planning Commission Report. LDR Section 20-1498(a) provides that the report and recommendations of the Planning Commission to the Board of County Commissioners shall show that the Planning Commission has studied and considered the proposed change in relation to the 15 factors listed below.

1. *Whether the proposed change would be consistent with the Goals, Objectives and Policies of the Comprehensive Plan.*

Florida Statutes Section 163.3194(3)(a) defines consistency as: "A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government."



Florida Statutes Section 163.3164(9) defines “compatibility” as “a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.”

This analysis focuses on consistency of the rezoning application with the Interim 2040 Future Land Use Map (FLUM) and consistency of the rezoning application with the Comprehensive Plans Goals, Objectives, and Policies (GOP).

The Development Director’s initial review of consistency of the rezoning application with the FLUM concluded the maps did not clearly establish that all of the properties to be rezoned were located within the Generalized Phosphate Mining Overlay (GPM-O) boundaries. Subsequently, the Development Director caused a more detailed consistency review to be conducted, which provided for the GPM-O designation legal description and boundaries to be compared and contrasted against the rezoning legal descriptions, property identification numbers, and rezoning maps filed by MFL. This more detailed review resulted in the Development Director’s discovery that one parcel (i.e., PIN 15-37-24-0000-0067-0000) to be rezoned was not located within the GPM-O boundaries. MFL’s response acknowledges that the above parcel is outside of the GPM-O boundaries and the application and legal description was amended to remove that parcel from the rezoning application. Based on the above, the Development Director now concludes the rezoning application is **consistent** with the FLUM because the land to be rezoned is entirely located within the GPM-O boundaries.

Attachment 8 is a list of Comprehensive Plan GOPs that pertain to phosphate mining and rezoning applications and that



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analysis reveals that the rezoning application is **consistent** with the Comprehensive Plan's GOPs.

In summation, the Development Director concludes the rezoning application **is consistent** with the Comprehensive Plan.

2. *The existing land use pattern.*

The area designated GPM-O on the Interim 2040 FLUM is an irregularly-shaped area of about 25,000+ acres that generally is located north of SW Adams Road, south of the DeSoto/Hardee County line, west of NE County Road 661, and east of the DeSoto/Manatee/Sarasota County line. Attachment 2A shows the area to be rezoned includes:

- 9,478.3 acres that MFL owns in fee simple; and
- 4,575.1 acres for which MFL has minerals interests or controlling rights.

The Development Director's written request for additional information noted that the existing land use pattern could not be clearly discerned from the application. To facilitate review, the Development Director caused staff to prepare a series of 24" by 36" Geographic Information System maps for the areas being rezoned, which map series are available in the Planning and Zoning Division office and which are incorporated herein by reference. The map series provides an aerial photograph as the base map and it shows:

- The GPM-O designation boundaries;
- The boundaries of the property to be rezoned;



- The existing land use of the property to be rezoned based upon the DeSoto County Property Appraiser's (DCPA) land use classification;
- A boundary displaying a 1,000 foot radius around the property to be rezoned, which coincides with those landowners to be notified about the rezoning application; and
- The existing land use of property around the property to be rezoned based upon the DCPA land use classification.

In addition to the map series, the Development Director verified the existing land use pattern through ground visits conducted on November 29th, 2017 and May 18th, 2018, and through an aerial flight of the property proposed for May 23rd, 2018.

The Development Director has chosen to describe the existing land use pattern based upon the SmartCode Transect Zone descriptions (See Attachment 9). The SmartCode is a model transect-based planning and zoning document based on environmental analysis. It addresses all scales of planning, from the region to the community to the block and building and provides a logical system for categorizing existing land use patterns. The Florida Department of Transportation (FDOT) has recently adopted the document titled "Completing Florida's Streets Context Classification", which uses the SmartCode's Transect Zone descriptions and other methodologies to determine the appropriate roadway treatments along state roadways.

Based upon the transect zone descriptions, the ground and aerial site visits, and the above described land use map series, the existing land use pattern can be described as predominantly rural, which is characterized primarily by agricultural lands with woodlands and wetlands and scattered



buildings. As noted above, this rural classification is supported by the DCPA land use classification, which shows the area designated Generalized Phosphate Mining Overlay contains substantial lands devoted to pastureland, orchards, and croplands.

The application suggests that during the short-term (5 years or less), MFL will cause few, if any, changes in the existing land use pattern. First, a rezoning approval does not authorize mining and mining related activities. Such activities may only take place when all permit approvals have been secured. Second, neither the Army Corp of Engineers nor the Board of County Commissioner has issued permit approval for the phosphate mining operation. Third, assuming permit approvals are eventually received, it will take years to develop the infrastructure necessary for phosphate mining excavation activities to take place.

During the mid-term (5 to 10 years) and long-term (to 2040), there will be a temporary disruption of the existing land use pattern as phosphate is excavated and extracted from the land. Subsequent to the extraction of phosphate, the lands will be reclaimed and returned back to its predominantly agricultural use and natural land use pattern. This process of mining and reclaiming land within a one square mile section takes approximately 5 to 7 years to complete.

Finally, when phosphate mining activities are terminated, all the land will be reclaimed and the existing land use pattern will be reinstated. Based upon the above, the Development Director concludes the rezoning to PM-I is **in conformance** with the factor on the existing land use pattern.

3. *The creation of an isolated district unrelated to adjacent and nearby districts.*

The application states the proposed amendment will not create an isolated district unrelated to adjacent and nearby districts. Attachments 2A through 2E shows the GPM-O designation boundaries are outlined with a solid red line. Those areas already zoned PM-I district are colored in white, those 13 noncontiguous areas proposed to be rezoned to PM-I district are colored in light brown and bounded with a garnet dashed line, and those areas that will not be zoned PM-I district are colored light purple.

Attachment 2B illustrates an irregularly-shaped 7,210.6-acre area being rezoned that abuts to the east and to the south property already zoned PM-I. Thus, the rezoning of this area does not create an isolated area zoned PM-I district that is unrelated to nearby districts.

Attachment 2C shows eight (8) noncontiguous areas totaling 313.7-acres that are proposed to be rezoned to PM-I district. Of these 8 noncontiguous areas, seven (7) abut property zoned PM-I district. The remaining 21.2-acre tract does not abut PM-I property but is nearby other property zoned PM-I or being rezoned to PM-I. Based on the above, it can be concluded that the rezoning of these noncontiguous areas do not create an isolated area zoned PM-I district that is unrelated to nearby district.

Attachment 2D shows three (3) noncontiguous areas totaling 3,134.4-acres that are proposed to be rezoned to PM-I district. All three of these areas abut property zoned PM-I district.

Attachment 2E shows a 3,394.5-acre property that is proposed to be rezoned to PM-I district and it demonstrates that property abuts to the north property already zoned PM-I district.

In conclusion, based upon the above, the Development Director concludes the application is **in conformance** with this factor because the proposed rezoning will not create an isolated PM-I district that is unrelated to adjacent property zoned PM-I district.

4. *The impact on the availability of adequate public facilities consistent with the level of service standards adopted in the comprehensive plan, and as defined and implemented through the DeSoto County concurrency regulations.*

FLUE Policy 1.22.5 establishes level of service standards (LOSS) for the following public facilities: roadways, recreation and open space, solid waste, potable water and sanitary sewer. The application states that rezoning does not authorizing any mining or mining related activities to take place, that the level of service methodology is population based, that the proposed rezoning will not result in increased population because the underlying residential density established by the Rural/Agriculture designation is the same, and, therefore, the rezoning will not impact the availability of public facilities including potable water, sanitary sewer, recreation and open space (there is no residential component), solid waste, and drainage.

FLUE Policy 1.22.5(2)(b) provides that for recreation and open space, failure to provide sufficient supply for projected needs will result in the denial of concurrency. Recreation and Open Space Element Policy 1.1.1 provides the recommended planning level of service (LOS) standard for parks shall be twenty (20) acres of parkland per 1,000 residents. This

standard includes both passive and active County parks and recreational facilities, and includes Regional, Community, Neighborhood, and Mini-parks. The application suggests that due to the fact that the level of service methodology is based on population and the maximum density is governed by the FLUM's underlying Rural/Agriculture designation, which allows one dwelling unit per 10-acres, the proposed rezoning will not generate any addition population that will impact the recreation level of service standard. Based on the above findings, it is concluded the proposed rezoning will not impact the parks and recreation level of service.

FLUE Policy 1.22.5(3)(b) provides that for potable water and sanitary sewer, failure to provide sufficient supply for projected needs will result in the denial of concurrency. For level of service analysis purposes, the potable water LOSS is 102 gallons per person per day while the sanitary sewer LOSS is 80 gallons per capita per day. The application suggests that due to the fact that the level of service methodology is based on population and the maximum density is governed by the FLUM's underlying Rural/Agriculture designation, which allows one dwelling unit per 10-acres, the proposed rezoning will not generate any addition population that will impact the supply of potable water and sanitary sewer. Based on the above findings, it is concluded the proposed rezoning will not impact the potable water and sanitary sewer level of service.

FLUE Policy 1.22.5(2)(b) also provides that for solid waste, failure to provide sufficient supply for projected needs will result in the denial of concurrency. An Engineering Division analysis found that as of January 1st, 2016, about 70 percent of the design capacity for Landfill Zone 4 has been filled. For level of service analysis purposes, the solid waste LOSS is 2.75 pounds per capita per day. The application suggests that due

to the fact that the level of service methodology is based on population and the maximum density is governed by the FLUM's underlying Rural/Agriculture designation, which allows one dwelling unit per 10-acres, the proposed rezoning will not generate any addition population that will impact solid waste facilities. Based on the above findings, it is concluded the proposed rezoning will not impact the solid waste level of service.

Transportation Element Policy 1.1.3 provides the level of service for rural two-lane roadways which are recognized as SIS and FISH facilities, such as State Road 70 and US Highway 17, are designated as "C". All two-lane rural roadways shall also be considered "C." The application suggests several responses regarding roadways. First, the rezoning to PM-I does not authorize MFL to commence phosphate mining activities and the commensurate roadway impacts associated with such development. Those activities cannot occur unless MFL receives the required federal permits and the Board of County Commissioners approves a Phosphate Mining Master Plan (PMMP) and an Operating Permit.

Second, with regard to the maximum number of residential dwelling units that could be built on the property and the concomitant number of roadway trips generated, the PM-I zoning district allows the same maximum number of dwelling units as the A-10 zoning district.

Third, the A-10 zoning district allows some land uses, such as agritourism related development and wholesale agricultural produce transfer stations, that potentially generate more daily and peak hour trip ends than phosphate mining.

Notwithstanding the above, the rezoning application

incorporates references to the transportation analysis included with the PMMP and OP applications as evidence that the traffic generated by the proposed mining activities is less than five percent of the roadway capacities, and that such roadways will continue to operate within adopted levels of service. Based on the above findings, it is concluded the proposed rezoning application will not adversely impact the transportation level of service.

In summation, it is concluded that the rezoning application is **in conformance** with this factor because it will not adversely impact on the availability of adequate public facilities consistent with the adopted level of service standards.

5. *Whether the existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for changes.*

The OZDA shows all the properties to be rezoned to PM-I district are currently zoned A-10 zoning district. The existing condition on the property is the presence of phosphate resources and the A-10 zoning district does not allow phosphate resources to be extracted. Thus, the existing zoning district boundaries are illogically drawn because the A-10 prohibits the property's phosphate resources from being extracted. The PM-I zoning district is the only zoning district that would allow the extraction of those phosphate resources and the rezoning to PM-I consistent with the GPM-O. Thus, the Development Director concludes the application is **in conformance** with this factor because the existing district boundaries are illogically drawn in relation to existing conditions on the property.

6. *Whether changed or changing conditions make the passage of the proposed amendment necessary.*

The changed or changing conditions are the depletion of phosphate resources from other phosphate mining locations, the establishment of the GPM-O designation, and the Florida Department of Environmental Protection's permit to allow phosphate mining within DeSoto County.

After 40+ years of phosphate mining in Polk County, phosphate resources have been depleted and MFL is pursuing phosphate mining operations in other counties, including Sarasota, Manatee, and now DeSoto County. The proposed mining of phosphate in DeSoto County is the logical progression of phosphate mining in the Central Florida Phosphate District, which generally is trending to the south.

In order to contain the area where phosphate mining activities can occur and to ensure the orderly development of phosphate mining activities in DeSoto County, in 2010 the Board adopted Comprehensive Plan amendments pertaining to phosphate mining. The FLUE was amended to add an objective and various policies governing phosphate mining and the FLUM was amended to establish a GPM-O designation that limited the geographic area where phosphate mining activities could occur. These provisions were strengthened in 2015 by additional Comprehensive Plan amendments pertaining to phosphate mining.

On April 7th, 2017, the Florida Department of Environmental Protection (FDEP) gave notice of issuance of an Environmental Resource Permit (ERP), File No. MMR_331292-001, to Mosaic Fertilizer, LLC. MFL cannot commence operations until it has secured its Army Corp of Engineer permit, received Board

approval for its rezoning application, and received Board approval for its Phosphate Mining Master Plan (PMMP) and Operating Permit (OP) applications. Based upon the above, it is concluded that the application is **in conformance** with this factor because three changed conditions have been identified making the adoption of the rezoning necessary.

7. *Whether the proposed change will adversely influence living conditions in the area.*

The application argues that the proposed rezoning will not adversely influence living conditions in the area. First, rezoning approval does not authorize mining and related activities. Those activities can only occur after receipt of federal, state, and county phosphate mining approvals. Rezoning approval does not prevent any existing agricultural and rural uses from continuing to operate on the property.

Second, there is no evidence that adverse living conditions were created when DeSoto County adopted the 25,000-acre GPM-O designation in 2010. The purpose of the GPM-O designation is to limit phosphate mining activities to that specific area and not to other areas of DeSoto County. Moreover, the GPM-O designation was drawn with the consent of the landowners whose property was located within the GPM-O designation. That is why the boundary has an irregular shape or configuration.

Third, there is no evidence that adverse living conditions were created when nearly 9,000 acres were rezoned to PM-I in 1981.

Notwithstanding the above, assuming *arguendo*, that MFL secures all required permits, the application states that the mining activities will not adversely influence living conditions in



the area. More specifically, it states that issues such as noise, vibrations, light trespass and glare, air pollution and fugitive dust are appropriately mitigated.

Background. Mining operations require the use of draglines, bulldozers, and other mobile equipment, all of which generate noise when operating. Lights are used to illuminate the mining area for efficient and safe operation at night. During certain conditions, climatic conditions combine to increase the potential for fugitive dust generation. Mosaic will employ structural and operational best management practices (BMPs) to avoid or minimize the effects of noise, light, and dust on its DeSoto County neighbors.

Setbacks. The DeSoto County LDR (Article IX, Division 2, Section 20-972 through 20-976) provide strict setback requirements for phosphate construction and mining activities and address excavation, settling ponds, stockpiles and beneficiation facilities. Setback requirements are depicted graphically in Maps 7-2 through 7-6, Tab 13 of the Supplemental Information Document to the PMMP and OP application. These setbacks have been established to minimize the effects of mining on surrounding land uses and to maximize protection of public facilities, natural resources, and the environment. The LDR allows for reductions of setbacks by the consent of adjoining owners.

The LDR require mining excavations be set back 500 feet from the property line of churches, parks, and cemeteries, 1,000 feet from the property line of schools, and 1,000 feet from residential dwelling units. These setback distances will reduce the levels of noise and light on adjacent receiving properties where people could hear or see the machinery because both

sound and light levels decrease as the distance from the source increases. There are no schools near Mosaic's DeSoto Mine.

Noise, in general. Mining activities proposed to be conducted at the DeSoto Mine are not anticipated to increase noise at property lines to levels that exceed the applicable standards established in DeSoto County. While neither the U.S. Environmental Protection Agency (EPA) nor the Florida Department of Environmental Protection have adopted federal or state community noise regulations, the DeSoto County standards are based on recommendations published by EPA. Mosaic has conducted numerous noise studies at its operating facilities that utilize equipment and methods similar, if not identical, to those proposed for the DeSoto Mine that indicates all levels will be below the EPA-recommended levels.

Equipment noise. Environmental Consulting & Technology, Inc. (ECT) has measured noise levels adjacent to many of Mosaic's draglines and supporting ore extraction operations. Levels typically measured are 56 decibels (A-weighted-dBA) at a distance of 500 feet and 50 dBA at a distance of 750 feet. In comparison, 56 dBA is comparable to the noise generated by a coffee maker and 50 dBA is comparable to the noise generated by a refrigerator. The 1,000-foot residential setback will result in typical outside sound levels of 47 dBA and interior sound levels of 32 dBA.

The U.S. Environmental Protection Agency (EPA) found that conventional home construction techniques reduce sound levels by about 15 dBA between outside and inside. In comparison, 47 dBA is comparable to the sound levels in rural areas during day time or the level generated by inside air conditioner air handler fans (not the outside condenser which generates 55 to 60 dBA) and 32 dBA is comparable to a quiet

bedroom at night. Sound levels of less than 40 dBA are required to prevent sleep interruption. Typical indoor residential sound levels are 50 dBA. EPA research found noise levels of less than 60 dBA during daylight hours and less than 55 dBA during night time are not offensive to most people and do not interfere with human activities or sleep. Many community noise ordinances have adopted these levels as noise limits. In comparison, the federal Occupational Safety and Health Administration noise standard is 85 dBA averaged over eight hours, which was adopted to protect worker hearing. Thus, the DeSoto County Land Development Regulations (LDR) setback requirements will ensure that neighbors will not experience mining-generated sound levels in excess of the EPA recommendations.

Equipment vibrations. Similar studies on vibration have indicated that vibration levels from mining activities will not cause damage to property or be noticeable to people offsite. Notably, phosphate mining does not require blasting. Appendix 7-5 of the PMMP and OP application contains example noise, vibration and light studies from the South Fort Meade and Four Corners Mines. Vibrations associated with phosphate mining operations were monitored by scientists at the Florida A&M/Florida State University College of Engineering. All of the measured vibrations were below levels that damage structures or are “easily noticeable to persons”. At distances beyond 200 feet from the dragline, vibrations were below levels “barely noticeable to persons”. The DeSoto County LDR 250 foot setback requirements will ensure nearby residents will not sense vibrations from the dragline mining operations.

Equipment light trespasses and glare. ECT also measured night-time illumination adjacent to Mosaic dragline mining areas. Night-time visual effects are minimized through the use

of directional lighting, with shields added if necessary. While the illumination of the mine excavation is equivalent to daylight, the maximum illumination level measured at a distance of 600 feet away was less than occurs during a full moon. The DeSoto County LDR setback requirement will ensure that nearby residences will not experience excessive illumination levels due to adjacent mining activities, which will not occur for an extended period.

Equipment air pollution/dust. Fugitive dust is generated only if dry, exposed soils are present during windy conditions. Wet soils are often present in DeSoto County because rainfall occurs over 100 days per year, on average. In addition, wind speeds found necessary by EPA to generate fugitive dust do not occur frequently in DeSoto County. Nonetheless, Mosaic employs three Best Management Practices (BMP) to minimize the potential for fugitive dust generation: (1) minimize the area of cleared barren soils; (2) use water trucks to keep internal dirt roads moist; and (3) encircle mining areas with vegetated above-grade berms to serve as wind breaks. EPA research found these measures to be very effective in reducing the generation and transport of fugitive dust.

Beneficiation plant impacts. A beneficiation plant will be located about one mile south of State Road 70 and about one mile east of the Manatee County Line. No residential dwelling units are currently present within one mile of the plant site. The plant will consist of equipment to separate the extracted ore into phosphate rock product and residual sand and clay; administrative offices; and warehouses and equipment repair shops.

Operation of the plant will generate noise and the plant site will be illuminated at night to provide safe working conditions. The

ore separation process mixes the excavated ore with water to form a slurry; therefore, no dust will be generated by the “wet” process. The phosphate rock product will be wet; the wet stockpiles will not generate fugitive dust on windy days. Dust in the plant area, if any, will be limited to vehicle traffic on paved roads.

Ore separation equipment will include vibrating screens; however, the screens will be attached to the plant structure in a manner that will isolate the vibrating equipment. No other equipment or activities at the plant site will create vibrations. Therefore, there will be no vibrations noticeable to people present at the plant site boundary.

Noise in the plant area will approximate 55 to 65 dBA, although levels will be higher immediately adjacent to certain equipment. Sound levels in the plant area will be subject to federal Mine Safety and Health Administration (MSHA) regulations; access to the plant area will be limited to employees and contractors who have current MSHA annual training certificates and their escorted guests. At the boundaries of the plant site, sound levels will be less than 55 dBA.

Illumination of the plant site will include street lights to provide area lighting comparable to a commercial use (e.g., a grocery store or hotel parking lot). Directional lighting will be used to provide safe working conditions in all plant areas, including elevated structures; lights on elevated structures will be directional and shielded. Light levels at the plant site boundaries will be similar to the boundaries of commercial uses.

Rail impacts. Noise and vibrations generated by train traffic will be no different than the existing levels generated by each

train movement through the County, with the exception being train movements across spurs and onto the main line. These movements occur at slow speeds, which reduce both noise and vibration levels.

The phosphate rock product will be shipped by rail. Mosaic will not operate the trains; CSX will operate the trains. CSX noise levels are subject to the Federal Railroad Administration noise regulations published in Title 49 of the Code of Federal Regulations Part 201, which is why community noise ordinances do not regulate train noise. CSX has adopted and implemented a Public Safety, Health, and Environmental Management System to promote, measure, track, and improve its environmental performance and compliance with applicable regulations. This management system includes working with communities to be responsive to community needs.

Noise levels generated by trains traveling to and from the DeSoto Mine will vary and be correlated to the speed of each train; slow-moving trains generate less noise. Due to the short length and need to slow at the turn connecting the main track and the DeSoto Mine spur to meet safety requirements, noise levels in the vicinity of the DeSoto Mine will be generated by slow-moving trains. Train speeds along the remainder of the track north of the mine will be set by CSX.

Based on the above, it is concluded the application is **in conformance** with this factor because evidence has been provided to support a finding that the rezoning will not adversely influence living conditions in the area.

8. *Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety.*

As noted elsewhere in this report, the rezoning application does not authorize MFL to commence phosphate mining activities. Unless the Board subsequently approves the PMMP and the OP and federal permits are secured, no phosphate mining activities can occur. Further, rezoning approval does not prevent any existing agricultural and rural uses from continuing to operate on the property.

If MFL subsequently receives all required permits, the traffic study referenced in the PMMP and OP shows the proposed development will generate a total 36 a.m. peak hour (i.e., 8 – 9 a.m.) trip ends and 55 p.m. peak hour (4 – 5 p.m.) trip ends. The trip distribution analysis shows that SR 70 will be the main beneficiary of the traffic generated from the site and that traffic will be distributed through the arterial and collector roadway network and not through local roadways in the vicinity of the property. The small number of trips generated on SR 70, less than one per minute, will not create excessive traffic congestion.

Notwithstanding the above, the proposed development is projected to generate 141 a.m. peak hour (6 – 7 am) employee/delivery trip ends and 135 p.m. peak hour (3 – 4 p.m.) employee/delivery trip ends.

The application proposes to mitigate the number of trips generated from large truck traffic through the shipment of product via railways instead of large trucks on the roadway. The shipment by rail, however, is projected to avoid 45 a.m. peak hour large truck trips and 14 p.m. peak hour large truck trips. The reduction of large truck traffic should help improve public safety caused by drivers who bypass such traffic. Further, the LDR requires the PMMP and OP provide for a comprehensive safety plan in order to ensure public safety.

The development proposes a new rail crossing on SR 70 and an estimated eight (8) trains per day will be entering/existing the mine and crossing SR 70. It is further estimate it will take each train ten (10) minutes to cross SR 70. Although this will create a major inconvenience for travelers caught at the railroad crossing, it is not projected to increase traffic congestion or create a public safety concern. Based on the above, it can be concluded that the application is **in conformance** with this factor because the proposed rezoning will not create or excessively increase traffic congestion or otherwise affect public safety.

9. *Whether the proposed change will create a drainage problem.*

The application states the proposed rezoning will not create a drainage problem because the rezoning does not authorize mining and related activities. Rezoning approval does not prevent any existing agricultural and rural uses from continuing to operate on the property. Further, the application notes that receipt of a Florida Department of Environmental Protection (FDEP) permit is evidence of compliance with drainage requirements. LDR Section 20-571(6) provides that any development for which stormwater management permits are required by Federal, State, or SWFWMD regulations are exempt from the stormwater management requirements of this division to the extent that such permits include review and consideration of impacts on adjacent property and/or County drainage and provided that the development activities has the necessary permit prior to commencement.

Second, the Development Director concludes that drainage issues are more appropriately addressed during review of the PMMP and OP and not during the rezoning process. Thus, it is

concluded the application **is in conformance** with this factor because the rezoning application does authorize any specific development that would affect drainage.

10. *Whether the proposed change will seriously reduce light and air to adjacent areas.*

The application states the proposed change will not seriously reduce light and air to adjacent areas. First, a rezoning application does not authorize any mining and related activities. Moreover, rezoning approval does not prevent any existing agricultural and rural uses from continuing to operate on the property.

Second, the serious reduction of light and air to adjacent areas typically is caused either by land development regulations that allow for buildings that are too high in relationship to the building or yard setbacks and air pollution, including fugitive dust emissions. The reduction of light and air due to an improper relationship between building height and setback is common in high intensity urban areas, where residential densities and/or floor area ratios and land costs are high. DeSoto County generally lacks the land values to make vertical construction profitable. Moreover, with regard to mining activities, LDR Section 20-974(c)(2) establishes minimum setbacks ranging from 200 to 1,000 linear feet from the property line for excavation activities, settling ponds and beneficiation facilities, and stockpiles. Furthermore, that Section limits excavated material (ore), sand tailings or stockpile to a height of no more than a slope-line of 35 feet vertical to 500 feet horizontal projected from the nearest point on the permittee's property line, except as approved by the Board at a duly noticed public hearing. Although overburden may be stockpiled in setback areas upon approval of the Board, such approval will

be based on the applicant's submission of proposed mitigation measures or competent and substantial evidence that the placement of overburden in setback areas will not adversely affect the adjacent property based on slope of overburden stockpile, height of overburden stockpile, duration of placement of overburden stockpile, distance of overburden stockpile from property line of adjacent property, and adjacent land use. Consequently, the reduction of light to air is not a serious issue in DeSoto County.

With regard to air pollution and fugitive dust emissions, LDR Sections 20-973(b)(18) and 20-974(c)(6) establishes an environmental monitoring program for air quality. The PMMP and OP applications address measures to reduce fugitive dust emissions. Thus, it is concluded the application is **in conformance** with this factor because the proposed change will not seriously reduce light and air to adjacent areas.

11. *Whether the proposed change will adversely affect property values in the adjacent area.*

The concept of property value being adversely impacted by proximity to an unpleasant business or industry is called stigmatization. The application states the proposed rezoning is not expected to adversely affect property values in the adjacent area. First, rezoning approval does not authorize mining and related activities. Those activities can only occur after receipt of federal, state, and county phosphate mining approvals.

Second, there are very few residences or businesses located in proximity to the areas proposed to be rezoned, the existing FLUM designation limits the extent of development, and there is only limited demand for additional housing or other development in the area.

Third, the rezoning does not place any constraints or limitations on the adjacent property owners' use of their lands. Such owners can continue to operate the uses on their properties consistent with the property's zoning district.

Fourth, there is no evidence that property values were affected when nearly 9,000 acres were rezoned to PM-I in 1981.

Fifth, there is no evidence that property values were adversely impacted when DeSoto County adopted the 25,000-acres GPM-O designation in 2010.

Sixth, mining is a temporary land use occurring at only a portion of the proposed property at any one time. Thus, any lost value will be recaptured once the land is reclaimed and the reclaimed land can support the same land uses that existed prior to mining. Based on the above, it is concluded that the rezoning application is **in conformance** with this factor because the applicant has provided information pertaining to adverse impacts to property values in the adjacent area.

12. *Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.*

The application suggests the proposed zoning district change will not be a deterrent to the improvement or development of adjacent property in accord with existing regulations. First, the proposed rezoning does not cause the generation of traffic or such other conditions so as to impede adjacent property owners from having access onto their property. Traffic is generated subsequent to receipt of all development permits and project construction. Second, the proposed rezoning does not

change the existing stormwater conditions on the property. The existing stormwater conditions will be in existence until such time as all development permits are secured and construction commences. Federal, state, and local stormwater requirements will ensure pre-development stormwater runoff onto any adjacent properties does not exceed post-development runoff.

Third, the proposed rezoning does not change the existing potable water and sanitary sewer conditions on the property. Any change to existing condition will require state, federal, and County permitting approval and the imposition of conditions can help protect the potable water supplies and sanitary sewer conditions of adjacent property owner's.

Fourth, the proposed rezoning does not generate any noise and vibrations. With regard to mining activities, the PMMP and OP applications reference studies demonstrating that noise and vibrations are acceptable when more than 200 feet from the property lines and the LDR required minimum 250 feet setback should avoid serving as a deterrent to the improvement or development of adjacent property.

Finally, the proposed rezoning does not change the physical appearance of the property. Should mining activities be subsequently approved, the use of berms and landscaping can help mitigate the visual impacts associated with such activities. Based on the above, it is concluded the application is **in conformance** with this factor because there is no evidence that the rezoning will deter the improvement or development of adjacent property.

13. *Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.*

The application states the proposed change will not constitute a grant of special privilege to an individual owner as contrasting with the public welfare. First, any person with property that is located within the GPM-O designation could request a similar rezoning to PM-I from the Board. Second, the GPM-O designation protects the public welfare by limiting phosphate mining activities only to that area within its boundaries. Based on the above, it is concluded the application is **in conformance** with this factor based on the finding that the proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

14. *Whether there are substantial reasons why the property cannot be used in accord with existing zoning.*

There are two substantial reasons why the property cannot be used with its existing A-10 zoning district. First, the property to be rezoned has valuable phosphate resources and the A-10 zoning district does not allow the mining of those phosphate resources. Second, the inability to extract those resources represents a substantial diminution in the economic value of the property to the owner and in taxes and fees to the County. The owner's economic value should not be arbitrarily denied. Third, the areas proposed to be rezoned to PM-I district are located within the GPM-O designation. The Board recognized the value of controlling those areas where phosphate mining could occur and adopted a GPM-O designation to ensure the extraction of valuable phosphate resources are limited to certain areas. Thus, it is concluded the application is **in conformance** with this factor because there are substantial reasons why the property cannot be used with its existing A-10 zoning.

15. *Whether the change suggested is out of scale with the surrounding area.*

The Development Director notes that the phrase “out-of-scale” is not defined and can be interpreted various ways, such as by size of the property or intensity of development. The application states the rezoning is not out-of-scale with the surrounding area. First, in 2010 the Board adopted a 25,000-acre GPM-O designation. When adopted, it was envisioned that at some future time, all 25,000-acres would be rezoned to PM-I. The 14,000+ acre rezoning represents 56 percent of the GPM-O. Second, in 1981, the Board adopted a new zoning district map that rezoned nearly 9,000-acres of land to PM-I district. The proposed 14,000-acre rezoning is 1.56 times larger than the initial PM-I rezoning. Third, the rezoning does not change the scale of the maximum allowable residential density. That scale is determined by the underlying Rural/Agricultural designation.

Based on the above findings, it is concluded the application is **in conformance** with this factor some evidence has been provided demonstrating the rezoning is not out-of-scale with the surrounding area.

In summary, the Development Director finds the application has addressed all 15 factors. Based on the totality of the circumstances, the Development Director recommends the Ordinance granting the Official Zoning District Atlas amendment application from A-10 to PH-I be adopted.

- D. Conditions and Safeguards.** LDR Section 12-505 allows the imposition of conditions to safeguard surrounding areas from potential incompatibilities generated by the application.

1. *The Planning Commission may recommend that a rezoning application or an application to amend the LDR be approved subject to conditions and safeguards, including but not limited to limiting the use of the property to certain uses provided for in the requested zoning district.*

The Development Director concludes that unlike a rezoning to Planned Unit Development, which includes a concept development plan and other development requirements that may be subject to the imposition of conditions, this is a “straight” rezoning and conditions are not warranted. Notwithstanding, conditions may be warranted when the PMMP and OP applications are reviewed.

2. *The Board of County Commissioners, after receiving the recommendation from the Planning Commission on an application for rezoning or an application to amend the LDR, may grant or deny such rezoning or amendment and may make the granting conditional upon such conditions and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the Comprehensive Plan.*

The Board of County Commissioners is tentatively scheduled to consider the application at their duly noticed July 24th and July 25th, 2018 public hearing.

E. Public notice requirements. LDR Section 12508 requires notice of the date, time and place of the public hearings by the Planning Commission and Board of County Commissioners shall:

1. Be sent at least 10 days in advance of the hearings by mail to ten surrounding property owners or all owners of property within 1,000 feet of the property line of the land subject to the Official Zoning District Atlas amendment application; and

2. Have at least one sign posted on each road frontage; and
3. Be advertised in a newspaper of general circulation in DeSoto County at least 10 days prior to each public hearing.

On May 18th, 2018, the Development Director caused written notice of the hearings to be mailed to all property owners and such notice is on file with the Planning and Zoning Division and incorporated herein by reference. The public hearing notice was advertised in the May 20th, 2018 edition of the Charlotte Sun, a newspaper of general daily circulation in DeSoto County, a copy of which is included in the Proof of Publication (See Agenda Item VI) and which is incorporated herein by reference. The public hearing notice also was advertised in the May 24th, 2018 edition of the Arcadian. A photograph of the signs in place has been provided demonstrating compliance with the property posting requirement (See Attachment 10).

IV. ATTACHMENTS

- Attachment 1: Mosaic owned versus leased lands
- Attachment 2A: Official Zoning District Atlas amendment (RZ 2016-05), All Areas
- Attachment 2B: Official Zoning District Atlas amendment (RZ 2016-05) Excerpt, Area 1
- Attachment 2C: Official Zoning District Atlas amendment (RZ 2016-05) Excerpt, Area 2
- Attachment 2D: Official Zoning District Atlas amendment (RZ 2016-05) Excerpt, Area 3



- Attachment 2E: Official Zoning District Atlas amendment (RZ 2016-05) Excerpt, Area 4
- Attachment 3: 2010 Comprehensive Plan, Future Land Use Element (FLUE) Policies L.1.1 and L.1.2
- Attachment 4: Ordinance 2010-16 creating FLUE Objective 1.12.b on Generalized Phosphate Mining Overlay Designation with six implementing policies, amending FLUE Policy 1.1.2 on land use categories, and adding FLUE Policy 1.3.8 on phosphate mining within the Rural/Agriculture designation.
- Attachment 5: Ordinance No. 2015-01
- Attachment 6: Proposed Ordinance rezoning 14,057 acres from A-10 to PM-I district
- Attachment 7: Development Review Committee comments
- Attachment 8: Rezoning application consistency with the Comprehensive Plan
- Attachment 9: SmartCode Transect Zone descriptions
- Attachment 10: Photographs of Public Notice Sign in Place

V. FINDINGS AND CONCLUSIONS

Based upon the information contained in this Development Review Report, the following findings of fact and conclusions of law are offered:

- A. The Interim 2040 Future Land Use Map includes a Generalized Phosphate Mining Overlay (GPM-O) designation totaling about 25,000-acres. Within the GPM-O designation, about 8,985-acres or 36 percent of the area is zoned Phosphate Mining-Industrial (PM-I) district.
- B. Within the GPM-O, Mosaic owns in fee simple 18,051.7 acres and 4,987.1-acres for which it has minerals interests/controlling rights, for a total of 23,038.8-acres. Of this land, 8,985.4-acres already are zoned PM-I district. The Official Zoning District Atlas shows the remaining Mosaic-owned lands are zoned Agriculture 10, which does not allow phosphate mining. Mosaic Fertilizer, LLC, a subsidiary of Mosaic has filed an Official Zoning District Atlas amendment application to rezone the property to Phosphate Mining – Industrial district, the only zoning district that allows phosphate mining.
- C. On December 14th, 2016, MFL filed three development order applications: an Official Zoning District Atlas (OZDA) amendment application, a Phosphate Mining Master Plan (PMMP) application, and an Operating Permit (OP) application. This report solely addressed the OZDA amendment application.
- D. LDR Section 20-1497 requires the OZDA amendment application be complete, that the completed application be distributed to the DRC for review and comment, and that a written staff report be prepared. The Development Director finds those three actions have been taken and conclude the application is in conformance with LDR Section 20-1497.
- E. LDR Section 20-1498(a) requires an Official Zoning District Atlas amendment application be reviewed and assessed against 15 factors. The Development Director has reviewed the application against the 15 factors and concludes the application addresses the 15 factors.

- F. LDR Section 20-1499 allows the imposition of conditions to safeguard surrounding areas from potential incompatibilities generated by the application. The Development Director finds that it is inappropriate to add conditions to a straight rezoning application.
- G. LDR Section 20-1502 establishes due public notice requirements for Official Zoning District amendment applications and the Development Director finds and concludes the application will be in conformance with LDR Section 20-1502.

VI. ALTERNATIVE ACTIONS

The Planning Commission may take one of the following alternative actions:

- A. Enter into the record the Development Department Report and all other competent substantial evidence presented at the hearing, adopt findings and conclusions to support the recommendation, and forward the record to the Board of County Commissioners with a recommendation that the proposed Ordinance be adopted.
- B. Enter into the record the Development Department Report and all other substantial competent evidence presented at the hearing, adopt findings and conclusions to support the recommendation, and forward the record to the Board of County Commissioners with the recommendation that the proposed Ordinance be denied.

VII. RECOMMENDED ACTION

- A. Development Director recommendation. The Development Director recommends the Planning Commission enter into the record the



Development Department Report and all other competent substantial evidence presented at the hearing, adopt findings and conclusions to support the recommendation, and forward the record to the Board of County Commissioners with a recommendation that the proposed Ordinance be adopted.

- B. Planning Commission recommendation. The Planning Commission public hearing dates are scheduled for the June 5th and 6th, 2018 but additional days may be scheduled if the public hearing cannot be concluded on June 6th, 2018.
- C. Board action. The Board public hearing dates are scheduled for the July 24th, and 25th, 2018 public hearing but additional days may be scheduled if the public hearing cannot be concluded on July 25th, 2018.