

ZONING CRITERIA NARRATIVE



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1. Identify the proposed zoning district requested:

The proposed zoning district requested is Phosphate Mining Industrial (PM-I).

<u>2. Identify which Comprehensive Plan Goals, Objectives, and Policies (GOPs) the proposed</u></u> zoning district map amendment furthers and explain how it furthers such GOPs:

Please see Comprehensive Plan consistency analysis at Tab 3.

3. Describe the existing land use pattern:

The area of the County where the proposed DeSoto Mine is located is largely comprised of agricultural use or native lands/habitats. Map 1, attached hereto, depicts the existing land uses within and adjacent (in the County) to the mine boundary. The majority of the mine area is in agricultural use including improved pasture (47 percent) and row crops/citrus (14 percent). This percentage understates agricultural use because much of the native habitat also is grazed. There are also rural residential uses but no commercial or industrial development. The Existing Land Use map in the Comprehensive Plan denotes the mine area as Rural.

The 2040 Future Land Use Map (FLUM) designates the entire mine site as Rural/Agricultural, see Map 2. The entire property is overlain by the Generalized Phosphate Mining Overlay Designation ("GPMOD"). The Rural/Agricultural land use category allows residential development up to one dwelling unit per 10 acres and covers 73.4 percent of the County. The existing zoning is Agricultural 10 (A-10) and Phosphate Mining-Industrial (PM-I). Map 4, attached hereto, depicts the zoning districts in proximity to the mine. The A-10 district allows residential development up to one dwelling unit per 10 acres. Residential development in the PM-I district is by approval of a special exception use and then only as support for agriculture or mining. The land use categories that support suburban to urban level development comprise only approximately 6 percent of the land area of DeSoto County and are located in areas far removed from the DeSoto Mine location.

The existing development pattern in the County is along US Highway 17, State Roads 70 and 72, State Road 31, and County Road 769. This development corresponds generally to the proximity of Arcadia and the community nodes of Nocatee, Fort Ogden and Lake Suzy/Southwest DeSoto. The 2040 FLUM reflects these growth trends and concentrates future development in these areas, which are not located in proximity to the proposed DeSoto Mine.

The agricultural uses within the mine boundary comprise approximately 4 percent of the County land in the Rural/Agricultural land use category. In 2005, the data and analysis section of the Comprehensive Plan estimated that 92 percent of the County was in rural land, of which the entire DeSoto Mine acreage in agricultural use would be approximately 3 percent. The maximum estimated acreage of agricultural use that would be disturbed and un-reclaimed at any one time during the life of the mine is approximately 7,650 acres or about between 2.1 and 2.8 percent of the County's rural land.

Post-reclamation, over 4,000 acres of agricultural lands will be replaced with wetlands (including lakes), streams, and forested uplands. With the exception of the wetlands and streams, all areas outside of the clay settling footprints will be available for all types of development within the 25-year mining/reclamation schedule. Once mined and reclaimed, the currently zoned PM-I areas can be rezoned to A-10 to allow for agricultural development or residential development.

4. Identify whether the change will create an isolated district unrelated to adjacent and nearby districts:

The proposed amendment will not create an isolated district unrelated to adjacent and nearby districts. Of the 14,057.50 acres of land proposed for rezoning, more than 14,032 of those acres abut land that is already zoned PM-I. The lone exception is a 21.5-acre parcel that is across a road from PM-I land, but otherwise surrounded by property zoned A-10. "Isolated" is not defined in DeSoto County's Comprehensive Plan or Code of Ordinances, however, Merriam Webster defines "isolated" as "being in a place or situation that is separate from others." As the proposed rezoning request would cause the lands newly zoned PM-I to literally touch lands historically zoned PM-I, it cannot by definition be classified as "isolated." Rather, the proposed amendment would *expand* the existing PM-I zone.

The lands proposed for rezoning are currently zoned A-10. Accordingly, if this rezoning request is granted, the newly expanded PM-I zone will abut property zoned A-10. However, the permissible uses of properties within these zones are largely the same and the two zones are compatible. Further, adjacency of PM-I and A-10 would not create a new situation, but rather would preserve the status quo in DeSoto County as PM-I lands currently abut A-10 lands. The proposed rezoning also would not create any isolated A-10 districts, but all such classed lands would remain contiguous.

The proposed rezoning would, in fact, unite two currently separate PM-I zoning districts, curing some existing isolation on the zoning map. Prior to mining, these lands would retain their current agricultural land use, and following mining, would be returned to a similar compatible land use all consistent with the A-10 designated lands nearby. This ensures the property will remain related to and integrated with the surrounding area.

5. Describe 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:

The proposed rezoning will not adversely impact the availability of adequate public facilities consistent with level of service ("LOS") standards. A discussion of consistency with the LOS standards established for each public facility is provided below.

a. <u>Roadways (LOS D):</u>

Transportation Element ("TE") Policy 1.1.1 and Capital Improvements Element ("CIE") Policy 1.2.1 both establish the following peak hour/peak directional LOS standards for collector, arterial, local, and limited access facilities in the County:

ROADWAY TYPE	STATE ROAD	STATE ROAD	COUNTY
	URBANIZED	OUTSIDE	ROAD
	AREA	URBANIZED AREA	
ALL	D	С	D

Mosaic commissioned a transportation analysis for the DeSoto Mine (on enclosed CD) consistent with these LOS standards, the DeSoto County Land Development Regulations (the "LDRs"), and the criteria outlined in Florida Statutes, and the Florida Administrative Code. The analysis assumed the following facts regarding the proposed mine:

- At full capacity the mine will have approximately 300 employees.
- The product from the mine will be shipped via rail.
- The access to the main plant area will be via SR 70.

Because the standard traffic engineering publication containing trip generation numbers does not contain trip generation data for mines, the trip generation data utilized in the analysis was estimated based upon data from the Four Corners Mine. The DeSoto Mine is proposed to operate similarly to the Four Corners Mine, except the product from the DeSoto Mine will be shipped via rail, whereas the product from the Four Corners Mine is shipped via truck.

Mosaic's traffic consultant utilized the following methodology to estimate the traffic associated with the DeSoto Mine:

- 1. AM and PM peak hour counts were conducted at the Four Corners Mine entrance road to the plant
- 2. During the counts in # 1, above, the number of product trucks was documented
- 3. As of the date of the counts, there were 567 employees at the Four Corners Mine of which approximately 300 employees report to work at the Four Corners plant
- 4. These trip rates were applied to the projected mine employees to estimate the traffic associated with the proposed DeSoto Mine

Based on this information, the DeSoto Mine is estimated to attract approximately 36 trip ends during the AM street peak hour and 55 trip ends during the PM street peak hour.

Considering development in the vicinity of the mine, Mosaic's traffic consultant estimated that 50% of project traffic was going to or coming from the east via SR 70, and 50% was going to or coming from the west via SR 70. SR 70 is currently a two-lane, undivided facility in the vicinity of the mine with a posted speed limit of 60 MPH. The consultant anticipated that mining activities would continue for 15 years.

Ultimately, the transportation analysis determined the percentage of the adopted LOS consumed by DeSoto Mine-related traffic. It concluded that mine-related traffic would consume less than five percent (5%) of the adopted LOS of SR 70 in the vicinity of the project. The analysis also concluded that there will be surplus capacity within the vicinity of the mine and the roadways servicing the mine will continue to operate within the adopted LOS.

Finally, in connection with its proposed shipment of product via rail, Mosaic also commissioned a separate traffic analysis to evaluate the potential traffic impacts from a new rail crossing of SR 70. Mosaic's traffic consultant estimated that there will be up to eight (8) trains per day entering and exiting the mine and crossing SR 70, and that these trains will take approximately ten (10) minutes to cross SR 70. To evaluate the impact the proposed railroad crossing would have on the operation of SR 70, the crossing was treated as if it were a signal. The characteristics were then input into traffic analysis software to evaluate the operation. With background plus project traffic, SR 70 was projected to operate at an acceptable LOS with the addition of the proposed railroad crossing. Traffic is projected to flow freely on SR 70 94% of the day.

b. <u>Potable Water (102 gallons per person per day):</u>

Potable Water Element ("PWE") Policy 1.1.1 provides that "[t]he County's Level of Service for potable water supply shall be 102 gallons per person per day." Capital Improvements ("CIE") Policy 1.2.1(4) provides that "[t]he level of service for Potable Water is 95 gallons per day per capita."

The County's LOS methodology for potable water is based on population. As noted above, according to BEBR (available online at <u>https://www.bebr.ufl.edu/population/data</u>), as of April 1, 2020, the population of unincorporated DeSoto County was estimated to be 29,096.

Although Mosaic anticipates that the DeSoto Mine will create employment opportunities, both directly with the mine and in related service industries, this does not mean that the mine will increase the residential demand for potable water services. The underlying maximum residential density established by the Rural/Agriculture designation will remain the same, and in any case the proposed mine will not include a residential component of any kind. Consequently, the DeSoto Mine will have no impact on the adopted LOS standards for potable water.

With respect to domestic and other ancillary water uses, the DeSoto Mine's beneficiation plant facility will include office space with bathrooms and kitchens. These bathrooms and kitchens will include several toilets and sinks that rely upon potable water, but there are currently no potable water services available in the area. Instead, Mosaic will rely upon an Individual Water Use Permit from the Southwest Florida Water Management District ("SWFWMD") to meet these needs.

With respect to water supply sources for mine operations, they will include rainfall captured within the active footprint of the mine and beneficiation plant, groundwater contained in the overburden sands and the ore matrix materials, and groundwater withdrawn from the mine production wells at the Ft. Green Mine. Water from the wells at the Ft. Green Mine will be transported via a pipeline originating at the well site(s) and extending for a distance of approximately 40 miles through Polk, Hardee, and DeSoto Counties to the DeSoto Mine.

c. <u>Sanitary Sewer (80 gallons per capita per day):</u>

Sanitary Sewer Element ("SSE") Policy 1.1.1 and Capital Improvements Element ("CIE") Policy 1.2.1(2) also provide that the level of service for Sewer is 80 gallons per day per capita.

The County's LOS methodology for sanitary sewer is based on population. According to the Bureau of Economic and Business Research ("BEBR") (available online at <u>https://www.bebr.ufl.edu/population/data</u>), as of April 1, 2020, the population of unincorporated DeSoto County was estimated to be 29,096.

Although Mosaic anticipates that the DeSoto Mine will create employment opportunities, both directly with the mine and in related service industries, this does not mean that the mine will increase the residential demand for sanitary sewer services. The underlying maximum residential density established by the Rural/Agriculture land use category will remain the same, and in any case the proposed mine will not include a residential component of any kind. Consequently, the DeSoto Mine will have no impact on the adopted LOS standards for sanitary sewer.

The management of domestic sewage will be conducted through properly designed, constructed, and managed septic systems that will be permitted and installed in accordance with DeSoto County building codes and applicable state rules. Small amounts of detergents and solvents will be used in the offices and shops of the plant area for personal hygiene and plant maintenance. These materials will be treated within the onsite domestic wastewater treatment system or managed as solid wastes.

d. Solid Waste (2.75 pounds per capita per day):

Solid Waste Element ("SWE") Policy 1.1.1 provides that "[t]he County's minimum level of service for solid waste will be 2.75 pounds per person per day, which will be utilized to plan for future demand." Capital Improvements ("CIE") Policy 1.2.1(3) provides that "[t]he level of service for Solid Waste is 4.62 pounds per day per capita."

The County's LOS methodology for solid waste is based on population. As noted above, according to BEBR (available online at <u>https://www.bebr.ufl.edu/population/data</u>), as of April 1, 2020, the population of unincorporated DeSoto County was estimated to be 29,096.

Although Mosaic anticipates that the DeSoto Mine will create employment opportunities, both directly with the mine and in related service industries, this does not mean that the mine will increase the residential demand for solid waste services. The underlying maximum residential density established by the Rural/Agriculture land use category will remain the same, and in any case the proposed mine will not include a residential component of any kind. Consequently, the DeSoto Mine will have no impact on the adopted LOS standards for solid waste.

Mosaic intends to rely upon the Section 16 Landfill to provide for offsite disposal of construction and demolition waste, as well as non-hazardous solid waste, while the proposed beneficiation plant is in operation. The Section 16 Landfill has adequate capacity to serve the solid waste needs of the mine. Small amounts of detergents, solvents, oils, and greases used in the offices and shops of the plant area will be managed as provided below:

• Used oil filters will be collected in drums and picked up by vendor for off-site crushing and disposal in accordance with appropriate waste regulations

- Waste grease will be collected and stored at onsite-designated locations in approved containers and disposed of or recycled by appropriate methods
- Batteries will be collected in approved locations throughout the facility and picked up for recycling by an appropriate vendor
- Vehicle tires will be exchanged by tire distributor. Tires that are found or dumped on mine property will be collected and transported to a landfill permitted to handle this class of wastes
- Trash will be collected in dumpsters located throughout the plant site and will be picked up and emptied by vendor for disposal at the County landfill
- Additional roll-off containers will be used for construction debris and emptied on an asneeded basis
- Spent solvents will be collected and recycled by an appropriate vendor
- Used oil generated in various locations throughout the plant and mine will be stored in above ground storage tanks or drums
- Tanks and drums will be pumped out by vendor for recycling at their facility

Offices, warehouses, and labs will also produce typical administrative solid wastes, primarily paper. This material will be collected and transported to the County landfill or recycled as available.

e. <u>Parks and Recreation (20-acres/1000 persons)</u>:

Recreation and Open Space ("ROSE") Policy 1.1.1 provides as follows:

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.

Capital Improvements ("CIE") Policy 1.2.1(5) provides that "[t]he level of service for total Park acreage is 10 acres per 1,000 populations."

Although Mosaic anticipates that the DeSoto Mine will create employment opportunities, both directly with the mine and in related service industries, this does not mean that the mine will increase the residential demand for parks and recreation. The underlying maximum residential density established by the Rural/Agriculture designation will remain the same, and in any case the proposed mine will not include a residential component of any kind.

For all of the above reasons, the proposed rezoning will not adversely impact the availability of adequate public facilities (specifically roadways, potable water, sanitary sewer, solid waste, parks and recreation), consistent with applicable LOS standards.

6. & 7. Whether the existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for changes & explain what changed or changing conditions make the passage of the proposed amendment necessary:

As they currently exist, the existing district boundaries are illogically drawn in relation to existing conditions on the property. Further, the existing conditions on the site reflect changes in conditions since the original agricultural zoning district designation was placed on the property at the time zoning was first implemented in DeSoto County in or around 1973. See response to criterion 14 below detailing DeSoto County historic zoning actions.

Historical Zoning Action

On September 29, 1981, the DeSoto County Board of County Commissioners ("Board") adopted a new zoning scheme that designated 8,985 acres the "Phosphate Mining and Earth Moving District." In creating this zoning district, the Board acknowledged the existence of phosphate reserves in this area, and the likelihood that some entity would seek to extract those reserves in the future. Since that time, Mosaic and IMC-Agrico, the then owner of the property merged, and Mosaic has acquired the mineral interest in additional lands, thus making those areas appropriate for mining as well. See Map 3 depicting the Ownership Interests.

Comprehensive Planning

On September 28, 2010, the DeSoto County Board of County Commissioners adopted Ordinance No. 2010-26, which amended the Future Land Use Element (FLUE) of the Comprehensive Plan by adding an objective and implementing policies pertaining to creation of a Generalized Phosphate Mining Overlay Designation. This overlay designation acknowledges the valuable phosphate reserves of the county and attempts to "ensure the orderly development of phosphate mining activity, including the extraction of mineral resources and reclamation of mined land in a manner compatible with the overall development of the County." While the Comprehensive Plan acknowledges the inevitability of phosphate mining, it does not amend the underlying zoning to reflect such a use. This leads to contradiction in the various layers of regulation. All of the land proposed for rezoning is located within the GPMOD, and in fact, when combined with the land currently zoned PM-I, occupies almost the entire GPMOD. This represents a changed condition that has now been established as an existing condition. Therefore, the current district boundaries are illogically drawn in relation to the existing condition of the GPMOD and should be amended per this application.

Ownership of Land

It should be noted that Mosaic now controls nearly all of the mineral interests within the Generalized Phosphate Mining Overlay Designation (discussed in more detail below). This represents a changed condition since the initial establishment of the A-10 zoning district designation on the Property. Mosaic's land ownership and interests here are divided between fee simple interest / warranty deeds, mineral interest warranty deeds and permitting agreement lands. Mosaic owns 9,482.40 acres in fee simple and has mineral interests/controlling rights over 4,575.10 acres. Copies of Mosaic's fee simple / warranty deeds and mineral interest warranty deeds are provided along with our permitting agreements for lands owned by Mr. Hollingsworth in Tabs 6 & 7. The 1994 MI (surface rights) deeds were granted by IMC-Agrico Company and IMC Development Corporation and conveyed to V.C.H Citrus, V.R. Hollingsworth, III, as Trustee, and to James & Robert Brewer over certain lands located north and south of SR. 70 in

Township 36 & 37 South, Range 23 East. With the entirety of the property now owned by Mosaic, other forms of development will not occur. The current district boundaries are illogically drawn in relation to the existing condition of ownership of mineral rights and should be amended per this application.

Mining Logistics

In order to maximize recovery of the phosphate resource, it is necessary to develop a mine and waste disposal plan that consists of large contiguous areas. The draglines that will be used for mining are large machines that require considerable space to operate. They are approximately 95 ft. wide (depending on the make and model) and have a "reach" or radius of swing of 280 to 330 ft. from the center of the dragline to the maximum reach of the bucket for digging or dumping. The logistics for operating the draglines require a minimum space to dig down to the ore; deposit the ore in the slurry well for pumping to the beneficiation plant; and allow space for all other mining related activities to support the mining operation. The ditch and berm system that surrounds the mine averages 250 feet in width alone, and the infrastructure needed to support mining—washers, beneficiation plants, clay settling areas, etc.—occupy hundreds, if not thousands, of acres. For this reason, some of the parcels now zoned PM-I are too small for efficient phosphate extraction. Therefore, the current district boundaries are illogically drawn in relation to the existing condition of parcel size and should be amended per this application.

Need for Phosphate

The area within the GPMOD has phosphate underlying the surface as determined by numerous scientific/geological publications, including those published by the Florida Geological Survey. Any area that is avoided causes phosphate to be left in the ground, and it is generally impracticable to retrieve that resource at a later time. In the absence of an adequate supply of reserves to maintain production and product demand, domestic phosphate production will dwindle and food supply dependence on foreign rock supply will increase. After several decades of mining, available phosphate reserves are being depleted and access to those that remain becomes increasingly critical. This depletion of the resource constitutes a changed condition. Further, the current district boundaries are illogically drawn in relation to the existing condition of the presence of phosphate and should be amended per this application.

<u>8. Explain why the proposed change will not adversely influence living conditions in the area:</u>

The proposed rezoning will not adversely influence living conditions in the area. In fact, the proposed rezoning is likely to have a positive effect.

Land Use

Mosaic seeks to rezone 14,053.50 acres of land from A-10 to PM-I to accommodate phosphate mining and related activities in order to incorporate these lands into what will be an overall 18,287-acre DeSoto Mine. The DeSoto Mine area is designated on the DeSoto County FLUM as Rural/Agricultural and included within the GPMOD designation, both of which identify phosphate mining as an allowable land use.

Prior to mining and post-reclamation, the predominant use of the Property and the DeSoto Mine will be agricultural use. The lands immediately adjacent to the Property and the DeSoto Mine will also remain predominantly in agricultural use. Accordingly, post-reclamation the Property and the DeSoto Mine will be used in the same manner as adjacent agricultural lands.

During mining, the predominant use of the Property and the DeSoto Mine will be phosphate mining and related activities. Phosphate mining is a reasonable use of the Property and will not result in an increase in residential density or other development intensity that would increase demands on public infrastructure greater than currently allowed in the Rural/Agricultural land use category or the A-10 zoning district. Phosphate mining is typically conducted in areas surrounded by agricultural development. The extent to which phosphate mining and related activities could create incompatibilities with adjacent lands due to noise, vibration, light, and dust is addressed in the following subsection.

Noise, Vibration, Light, and Dust

Mining Operations

Mining operations require the use of draglines, bulldozers, and other mobile equipment, which generate noise when operating. Lights on the draglines are used to illuminate the mining area for efficient and safe operation at night. Climatic conditions sometimes 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.

DeSoto County's Land Development Regulations ("LDRs") require that mining excavation 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. (See LDRs § 20-974(c)(2)a.-c.) 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. Additionally, there are no schools near the proposed DeSoto Mine, and the closest neighborhood is located approximately two miles to the south of the mine boundary.

Environmental Consulting & Technology, Inc. ("ECT") measured noise levels adjacent to many of Mosaic's draglines and supporting ore extraction operations. Levels typically measured are 62 decibels (A-weighted-dBA) at a distance of 250 feet, 56 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 LDRs' setback requirements will ensure that neighbors will not experience mining-generated sound levels in excess of the EPA recommendations.

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 LDRs' setback requirements will ensure nearby residents do not sense vibrations from the dragline mining operations.

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 mine excavation is equivalent to daylight, the maximum illumination level measured at a distance of 600 feet away was less than the illumination generated by a full moon. The LDRs' setback requirements will ensure that nearby residences will not experience excessive illumination levels due to adjacent mining activities.

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 BMPs to minimize the potential for fugitive dust generation: (1) minimize the area of cleared barren areas; (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 has found these measures to be very effective in reducing the generation and transport of fugitive dust.

Beneficiation Plant

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 uses are 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 do not generate fugitive dust on windy days. Dust in the plant area, if any, will be limited to vehicle traffic on paved roads.

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 regulations. 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., grocery store or hotel parking lot). Directional lighting will be used to provide safe working conditions in all plant areas, including elevation structures; lights on elevated structures will be shielded. Light levels at the plant site boundaries will be similar to the boundaries of commercial uses.

The phosphate rock product will be shipped by rail. CSX, not Mosaic, 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.

Economic Impacts

According to the *Economic Impacts of Development and Operations of the Mosaic Phosphate Mine in DeSoto County, Central Florida Final Project Report to the Mosaic Company* (UF IFAS Sept. 5, 2018) (the "Economic Impact Analysis"), DeSoto County will realize several significant economic benefits from the proposed DeSoto Mine that will positively influence living conditions in the area.

The impacts of development capital expenditures associated with the proposed DeSoto Mine were estimated at 1,427 job-years, \$53.17 million (M) in labor income (employee wages, benefits, proprietor income), \$81.18 M in value added contribution to Gross Regional Product (GRP), and \$163.21 M in industry output or revenues, including direct, indirect, and induced multiplier effects. The total job-years (one job for one year) would represent an average of 285 jobs over the five year development period. In addition, mine development spending in the county will generate \$4.06 M in tax revenues to state and local governments and \$11.47 M in federal government taxes.

The total impact of annual mining operations revenues in the county were estimated at 777 jobs, \$39.57 M in labor income, \$139.15 M in value added, and \$275.71 M in output. The displaced agricultural land uses for citrus and beef cattle (pasture) production valued at \$0.83 M will have an offsetting negative impact of -17 jobs, -\$0.77 M in value added, and \$27,000 in state-local

taxes. The total combined impacts in the county of mine development and operations, net of agricultural production losses, are estimated at 2,187 job-years, \$92.17 M in labor income, \$219.56 M in value added, and \$437.55 M in output. The combined total included employment impacts of 1,211 direct job-years, indirect multiplier effects of 273 job-years, and induced effects of 703 job-years.

As an annual average, these impacts represent 1,045 jobs, \$49.63 M in labor income, \$154.61 M in value added, and \$306.98 M in industry output, that constitute 8.5 percent and 21.0 percent of total county employment and GRP, respectively, in 2016.

Mining operations will generate annual tax revenues in DeSoto County of \$19.24 M to state and local governments, and \$12.31 M to the federal government. The largest state-local operating impacts will be severance taxes for phosphate (\$10.80 M, calculated at \$1.80 per ton of ore), sales tax (\$3.60 M) and property tax (personal and other, \$2.81 M). The largest federal tax impacts are to payroll taxes for social insurance (Social Security), both employer and employee portions (\$5.17 M), and personal income tax (\$2.74 M). Mine development in the county over the five year period will generate state and local government tax revenues of \$4.06 M, including \$1.68 M in sales tax and \$1.31 M in property tax, plus \$11.47 M in federal tax revenues, including payroll taxes (\$6.40 M) and personal income tax (\$3.75 M).

For all of the above reasons, the proposed rezoning will not adversely influence living conditions in the area. In fact, the proposed rezoning is likely to have a positive effect.

<u>9. Explain why the proposed change will not create or excessively (a) increase traffic congestion (b) or otherwise affect public safety.</u>

See detailed discussion of roadway capacity above in response to criterion number 5. The 300 employees who will work at the mine during peak production will work staggered shifts. This will reduce the already minimal increase in traffic on State Road 70 and the surrounding area, thus minimizing the potential for vehicle collisions. The entrance to the plant will be located to ensure vehicles entering and exiting the facility have a clear line of sight in both directions. No vegetation that will inhibit this line of site will be permitted to grow near the entrance. In addition, Mosaic is planning a private railroad spur to support mining operations at the DeSoto Mine. The proposed alignment is approximately 11.3 miles long and runs, generally, from east to west beginning at County Road 661 and ending just south of State Road 70. The alignment encounters four (4) locations where bridge sections will convey the track over protected wetland or state managed water bodies, and one road crossing at State Road 70. The road crossing will need to be permitted by the Florida Department of Transportation ("FDOT"). This private rail spur will be built to CSX's safety specifications, which conform to the design and supporting calculations of the American Railway Engineering and Maintenance-of-Way Association ("AREMA") Manual of Railway Engineering, Volume 2, 2011 and the Precast/Prestressed Concrete Institute ("PCI") Bridge Design Manual, 2011. CSX's safety requirements are rigorous, addressing everything from common sense safety features—such as curbs and handrails on all bridge crossings-to detailed scientific specifications for impact loading, longitudinal force, and more.

The train is expected to cross State Road 70 ten times per day. CSX requires road crossings be designed to provide proper sight distances. A triangular sight distance envelope must be maintained for 300 feet along the track either side of the crossing and 100 feet along the road from the nearest track; the sight distance shall be maintained to a height of 3.75 feet above the pavement. CSX may require other safety measures such as automatic grade crossing warning devices (flashing lights, gates, etc.). Safety features are also part of the FDOT review and permitting process and are necessary for a permit to be obtained. FDOT's Design Manual specifies factors such as roadway type; volume of vehicular, railroad, pedestrian, and bicycle traffic; speed of vehicular traffic, and any crash data must all be considered when determining which safety features are appropriate. Available road crossing safety features include signs, pavement markings, flashing light signals and automatic gates.

By using rail to transport phosphate rock, Mosaic will avoid the potential traffic hazard of large trucks traveling on the two-lane State Road 70. Rail transport is generally thought to be safer than vehicular transport. According to the Florida Department of Highway Safety and Motor Vehicles, in 2017 there were 402,385 vehicle crashes in the state. Comparable rail data could not be found for the state of Florida, however, nationally there were only 9,347 railroad incidents that year.

10. Whether the proposed change will not create a drainage problem:

The proposed rezoning will not create drainage problems. First, drainage facilities will be constructed to meet the County LOS requirements. Second, the drainage system associated with the mine development proposed for this property has been thoroughly scrutinized and approved by the Department of Environmental Protection and its sufficiency is evidenced by the Environmental Resource Permit ("ERP") that was issued on April 7, 2017.

First, DE Policy 1.1.1 provides that "[t]he LOS standard for stormwater drainage facilities shall be designed to accommodate the 25-year, 24-hour design storm to meet the water quality and quantity standards." Capital Improvements ("CIE") Policy 1.2.1(6)(a) similarly provides that "[t]he level of service for Drainage is: ... The 25-year, 24-hr design storm event to meet the water quality and quantity standards."

The proposed DeSoto Mine's stormwater management plans and BMPs are protective to the public health, safety and welfare of the citizens of DeSoto County. The primary objective of the proposed ditch and berm system(s) is to capture surface water runoff that originates within disturbed areas of the mine and to prevent it from leaving the site, so as to not allow surface water quality impacts from non-point source stormwater runoff. This surface water management practice is required under the NPDES permit program.

According to Mosaic's Stormwater Management Plan, the design of individual ditch and berm segments is conducted in accordance with standard engineering practices considering the size and characteristics of the capture area that will report to the system. The systems are designed to safely contain and convey the runoff generated by a 25-year, 24-hour storm event to the mine water recirculation system. The captured water is subsequently routed to be treated (clarified) for re-use within the mine operation or discharged through permitted NPDES outfalls. In essence, the ditch

and berm system serves to both protect water quality as well as provide an alternate water supply that offsets groundwater pumping needs.

There is also a Stormwater Management Plan for the proposed railroad spur. That report details the methodology used in the design of the Stormwater Management Plan, including stormwater routing along the alignment, location and sizing of treatment ponds, outflow details from detention ponds and design of all crossings (RR crossing and road crossings). The report also provides the calculations used in sizing the stormwater treatment facilities, and treatment of stormwater from bridge crossings. The system is designed to safely contain and convey the runoff generated by a 25-year, 24-hour storm event to meet water quality and quantity standards.

Second, DE Policy 1.1.2 provides that "[t]o control water quantity, peak post-development runoff shall not exceed peak pre-development runoff rates." CIE Policy 1.2.1(6)(b) similarly provides that "[p]eak post-development runoff shall not exceed peak pre-development runoff rates."

Mosaic's pre-post hydrologic modeling analysis shows that peak flows at offsite critical points following a 25-year 24-hour rainfall event will be slightly lower in the post-reclamation conditions than they are in the pre-mining conditions.

Finally, DE Policy 1.1.3 provides as follows:

To control water quality, treatment of stormwater runoff shall be required for all development, redevelopment, and infill areas. The stormwater treatment system, or systems, can be project specific or serve sub-areas within the County, regardless of the area served. Stormwater discharge facilities shall be designed so as to not lower the receiving water quality or degrade the receiving water body below the minimum conditions necessary to maintain their classifications as established in, but not limited to, Chapter 62-302, F.A.C. It is intended that all standards in these citations are to apply to all development and redevelopment and that any exemptions or exceptions in these citations, including project size thresholds, do not apply for concurrency determinations.

Capital Improvements ("CIE") Policy 1.2.1(6)(c) similarly provides as follows:

Stormwater runoff shall be required for all development, redevelopment and, when expansions occur, existing developed areas. The stormwater treatment system or systems can be project specific, or serve sub-areas within the County regardless of the area served and in accordance with the SWFWMD Basis of Review for ERP Applications the stormwater treatment systems must provide a level of treatment for the runoff from the first one (1) inch of rainfall for projects in drainage basins of 10 acres or more, or as an option, for projects or project subunits with drainage basins less than 10 acres, the first one-half (1/2) inch of runoff, from the design storm in accordance with the SWFWMD Basis of Review for ERP Applications in order to meet the receiving water quality standards of Rule 62-302, F.A.C and 40D-4, F.A.C. Stormwater discharge facilities shall be designed so as to not lower the receiving water quality or degrade the receiving water body below the minimum conditions necessary to maintain their classifications as established in Chapter 62-302, F.A.C. It is intended that all standards in these citations are to

apply to all development and redevelopment and that any exemptions or exceptions in these citations, including project size thresholds, do not apply for concurrency determinations.

Outside of the perimeter berm, bypass ditches will help water flow around the mine, ensuring the berm does not impede natural drainage outside of the mine and controlling the volume of water that has to be managed inside the active mine site. Inside the perimeter berm, about 12 miles of ditches and trenches constituting the recirculation system will be available for water storage. Prior to storm events, excess water that has already been filtered through the recirculation system will be discharged through permitted outfalls to ensure sufficient storage capacity is available to manage the pending storm.

Mosaic is committed to ensuring the success of this system. Eleven surface water flow monitoring stations will be placed throughout the watersheds and sub-watersheds that exist throughout the mine site. Spikes or drops in surface water flow will indicate changes in nonpoint source water entering the stream. The recorded data will be reduced and summarized in terms of daily, monthly, and annual means, minimums, and maximums. This information will be submitted to the County annually upon the commencement of mining. After mining, the land will be reclaimed and the area restored to its natural hydrologic conductivity. Reclamation materials will be compared to baseline measurements already taken to assure the new landforms drain similarly to those disturbed by mining, and monitoring will be conducted post reclamation.

For all of these reasons, the proposed rezoning will not create drainage problems.

<u>11. Explain why the proposed change will not seriously reduce (a) light to adjacent areas</u> <u>and (b) air to adjacent areas:</u>

The proposed rezoning will not seriously reduce light and air to adjacent areas. In connection with the potential reduction of air to adjacent areas caused by fugitive dust, please see Mosaic's response to criterion 8 above.

Vertical Structures

It is possible that certain vertical structures associated with mining activity could cast shadows on adjacent properties, thereby reducing light and air to these areas. The following vertical structures are proposed to be located within the DeSoto Mine boundaries.

Mining of the DeSoto Mine reserves will be accomplished using conventional Florida phosphate surface mining techniques employing electrically powered draglines. The mine will likely utilize four draglines but that number may change in the future in response to changing mine strategies, economics, and regulatory requirements.

Additionally, in order to recover the orebody reserves associated with the DeSoto Mine, mine infrastructure must be constructed. This infrastructure will generally consist of the beneficiation plant, general offices and shops, waste material management (i.e. clay settling areas), sand tailing stockpiles, and other infrastructure.

Various building structures will be required to provide administrative office space, maintenance shops, laboratory facilities, warehouse capacity, and other functions. These structures will be located within the plant site footprint and will not exceed the height of the beneficiation plant.

Setbacks

The DeSoto County LDRs, specifically § 20-974(c)(2)a.-c.) provide strict setback requirements for the DeSoto Mine's construction and mining activities. Setback requirements benefit the public welfare by ensuring that mining activities are kept certain specified distances from adjacent (non-mining) property owners and uses. The County's LDRs include setbacks for such items as mining excavations, beneficiation facilities, settling ponds, and stockpiles.

With respect to mining excavations, the applicable setbacks are as follows:

- Five hundred (500) feet from the property line of a church, public park boundary, or cemetery.
- One thousand (1,000) feet from the property line of any school, unless a greater distance is required due to the particular location of a school and surrounding topography.
- One thousand (1,000) feet from the closest portion of a permitted dwelling unit existing at the time of the Phosphate Mining Master Plan approval, or two hundred (200) feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever is the greater setback distance.
- Two hundred (200) feet from any existing public right-of way, or public easement for drainage, utility or public road purposes.
- Five hundred (500) feet from the boundary or survey line of an officially designated historical site which is not located within the mine boundary.
- Two hundred (200) feet from the property line in areas not controlled by the conditions above.

With respect to beneficiation facilities and clay settling areas, the applicable setbacks are as follows:

- No settling ponds shall be constructed within five hundred (500) feet of the property of a church, public park boundary or cemetery.
- No settling ponds shall be constructed within one thousand (1,000) feet from the property line of any school.
- No settling ponds shall be constructed within one thousand (1,000) feet from the closest portion of a permitted dwelling unit existing at the time of the Phosphate Mining Master Plan approval, or two hundred (200) feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever is the greater setback distance.
- No settling pond shall be constructed within five hundred (500) feet from any existing public right-of-way, or public easement for drainage, utility or public road purposes.
- No settling pond shall be constructed within five hundred (500) feet from the boundary or survey line of an officially designated historical site, which is not located within the mine boundary.

- No settling pond shall be constructed within two hundred (200) feet from the property line in areas not controlled by the conditions above, including agricultural use.
- No beneficiation plant shall be constructed within one thousand (1,000) feet of the applicant's property line.

With respect to stockpiles, the applicable setbacks are as follows:

- Five hundred (500) feet of the property of a church, public park boundary or cemetery.
- One thousand (1,000) feet from the property line of any school, unless a greater distance is required due to the particular location of a school and surrounding topography.
- One thousand (1,000) feet from the closest portion of a permitted dwelling unit existing at the time of the Phosphate Mining Master Plan approval, or two hundred (200) feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever is the greater setback distance.
- Two hundred (200) feet from any existing public right-of way, or public easement for drainage, utility or public road purposes.
- Five hundred (500) feet from the boundary or survey line of an officially designated historical site which is not located within the mine boundary.
- Two hundred (200) feet from the property line in areas not controlled by the previous five bullets, including agricultural use.
- 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.

Unless the adjacent property owner grants Mosaic a setback reduction or waiver (in which case the reduced setback or waiver will apply), Mosaic will observe all required setbacks for mining activities, which alone will ensure that mining-related activities and structures will not cause a reduction of light and air to adjacent property owners. But in addition to the County's setback requirements, other facts also ensure that mining-related activities and structures will not cause a reduction of light to adjacent property owners.

Nearly all of the mining-related structures referenced herein (specifically, the beneficiation plant, clay settling areas, and stockpiles) will be concentrated within the western half of the mine (along the mine's western boundary) and separated from the Manatee County-DeSoto County line by additional lands that will not form part of the mine but are owned or controlled by Mosaic.

With respect to adjacent property owners to the west of the mine, it will be virtually impossible for them to experience a reduction of light due to mining activities, because the distances between those structures and their properties will be too great and with respect to adjacent property owners along the southeast boundary of the mine near SR 72, these properties will be located to the east of the beneficiation plant, clay settling areas, and stockpiles, which means they cannot physically cast shadows on them or reduce their light.

For all of the above reasons, the proposed rezoning will not reduce light and air to adjacent areas.

12. Explain why the proposed change will not adversely affect property values in the adjacent area:

The proposed rezoning is unlikely to affect property values in the area as a result of stigmatization, or for any other reason. The history of zoning and land use regulations in the area provide the first predictor that this is true. According to DeSoto County staff, there is no evidence that property values were affected when nearly 9,000 acres were rezoned to PM-I in 1981 or when DeSoto County adopted the 25,000-acres GPMOD in 2010. The second predictor that the proposed rezoning will not adversely affect property values is development patterns in the area of the county where the rezoning is proposed. There are very few residences or businesses nearby, the existing FLUM designation limits the extent of development, and there is only limited demand for additional housing or other development in the area. The property in question has been owned by mining companies for more than 20 years, which landowners who conduct reasonable due diligence would know. Further, mining, in this part of Florida, is a prevalent land use. Reasonable buyers and sellers of properties in these areas should, and typically do, understand this and expect mining activity and the reclamation of nearby lands.

Mining is a temporary land use. Any negative effects that may exist from mining operation noise, line of sight to dragline, etc.—is not permanent. Further, reclamation follows mining in a rolling fashion, meaning the entire mine site is not being disturbed simultaneously and reclamation—return of the land to its original condition—follows behind. In general, initial replanting of vegetation will be completed no later than two years following completion of mining operations. This pattern limits the "negative effects" of mining, and after reclamation, environmentally sensitive areas are often placed under perpetual conservation easements. This guaranteed greenspace is sometimes attractive to land buyers. Also, stringent local and state regulations require minimization of factors such as nuisance light, noise, vibration, and dust. Adjacent property owners are further protected by buffering and screening requirements.

There are no phosphate mines in DeSoto County to conduct a before-and-after property value analysis on, however, a comparison of recent sales show land near the PM-I zoning district sold for an average of \$9,952 gross per acre, while land further away sold for an average of \$8,906 gross per acre, according to Matt P. Ray, president of Cantrell Ray Real Estate, LLC. An analysis of pre- and post-phosphate mining property values in nearby Manatee and Hardee counties shows no negative effect on property values, and possibly reflects the opposite result. In Hardee County, for example, vacant land for residential and/or agricultural use located near recently mined land sold for a mean of \$8,370 per gross acre, compared to \$7,338 per gross acre further from the mine. In Manatee County, vacant land for residential and/or agricultural use sold for an average of \$11,365 near recently mined land, and \$9,910 further from the mine.

For these reasons, the proposed rezoning will not adversely affect property values in the adjacent areas by stigmatization or for any other reason.

13. Explain why the proposed change will not be a deterrent to the improvement or development of adjacent property in accord with existing regulations:

The existing regulations guiding development in DeSoto County consist of the Comprehensive Plan and the LDRs. As discussed below, both sets of regulations restrict development of uses other than agricultural development and other rural uses. The mine plan for the DeSoto Mine is consistent with the continued use of the surrounding areas for agricultural and rural uses and, therefore, does not deter improvement or development of adjacent property.

Residential

The FLUE states that projected land use needs are based on existing land use acreage, population, and development trends. Due to the existing PM-I zoning on approximately 36 percent of the proposed mine area, which does not allow for residential development, there has been no development in the area with the exception of agricultural uses. With the entirety of the mine site now owned or otherwise under the control of Mosaic, development will not occur nor would it have been anticipated to have occurred. The FLUE notes that future land use categories are intended to protect agricultural and rural areas and to ensure that development does not occur before public infrastructure and public facilities are in place. There are no public water and sewer facilities within 3 miles of the mine boundary and none are planned. The lack of a plan to provide urban/suburban types of infrastructure effectively demonstrates that the existing regulations support maintaining the rural character of the area.

Commercial

The Rural/Agricultural land use category restricts commercial uses to 3 acres and a separation of 10 miles (FLUE Policy 1.3.6). The mine only has approximately 7 miles of frontage on SR 70. While there are a number of paved roads that terminate at SR 70, there are no paved roads that cross SR 70 along the mine frontage forming a four-way intersection where commercial development would be more likely to be developed. It is possible that a second commercial development could occur along SR 72 although this second location would be within the required 10-mile separation and, therefore, inconsistent with the requirements for commercial uses under the Comprehensive Plan. The only road that connects to SR 72 along the mine frontage is NW Tom Mizell Road. Even with two potential locations, the maximum commercial development, at the maximum impervious surface ratio (0.70), is approximately 183,000 square feet. The more typical commercial development. Commercial development is driven by residential development. Given the lack of anticipated residential development in this area of the County, there is unlikely to be any need for commercial development.

Industrial

Although industrial uses are allowed in the Rural/Agricultural land use category (minimum area of 80 acres), there is very limited infrastructure and no public facilities to support large scale industrial development with significant employment requirements. The most recent industrial development has been along the Charlotte County border adjacent to US Highway 17 and approximately 9 miles from the nearest Interstate 75 interchange. Industrial development in the

mine boundaries would be over 25 miles from the closest I-75 interchanges. Further, any impacts from a mining operation would not disturb use of property for industrial uses as industrial uses typically generate impacts like noise, light, dust, and odors that exceed those of a typical phosphate mining operation.

A review of the existing regulations demonstrates that existing Comprehensive Plan policies severely restrict residential and non-residential use of properties located in the Rural/Agricultural land use designation. Rezoning of the Property to allow mining is consistent with this directive.

In addition, the DeSoto County LDRs already contemplate measures by which mining operations can operate in a manner that is compatible with all forms of surrounding uses. Specifically § 20-974(c)(2)a.-c.) provide strict setback requirements for the DeSoto Mine's construction and mining activities. Setback requirements benefit the public welfare by ensuring that mining activities are kept certain specified distances from adjacent (non-mining) property owners and uses.

14. Explain why the proposed change will not constitute a grant of special privilege to an individual owner as contrasted with the public welfare:

The proposed rezoning will not constitute a grant of special privilege to an individual owner as contrasting with the public welfare.

According to Merriam-Webster, the definition of "privilege" is "a right or immunity granted as a peculiar benefit, advantage, or favor." But the proposed rezoning, if granted, would not confer upon Mosaic the "peculiar benefit, advantage, or favor" of phosphate mining. Instead, it would merely implement the land use planning and zoning design already recognized and approved by DeSoto County over time. Consider:

- On June 7, 1973, the Board adopted Ordinance No. 1973-3, which adopted zoning district regulations and a zoning district map for the unincorporated areas of DeSoto County. These initial zoning district regulations and zoning district map did not provide for any mining zoning districts and did not even include definitions for "mining," "excavation," or "extraction."
- On September 29, 1981, the Board adopted Ordinance No. 81-10, which repealed Ordinance No. 1973-3 and established new zoning district regulations and a zoning district map. These 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 the M-I district. Since that time, there have not been any site-specific rezoning applications to the M-I zoning district.
- On May 25, 1993, the Board adopted Ordinance No. 1993-03, which among other things changed the name of the M-I zoning district to PM-I.
- The 2010 DeSoto County Comprehensive Plan, adopted April 23, 1991, contained few provisions governing mining and phosphate mining. FLUE Policy L.1.1 provided that the

extraction of mineral resources may be permitted in all future land use categories subject to all applicable local regulations and FLUE Policy L.1.2 required a reclamation plan as part of the extractive permit.

- On September 28, 2010, the Board adopted Ordinance No. 2010-26, which amended the FLUE by adding an objective and implementing policies pertaining to the creation of a GPMOD. The purpose of the GPMOD was to identify areas that will likely be targeted for future phosphate mining based upon phosphate ore resource location and ownership. It also ensured that phosphate mining activities could not occur countywide but were limited in application to the area defined by the GPMOD designation.
- On January 27, 2015, the Board adopted Ordinance No. 2015-01, which amended the Comprehensive Plan's Definitions Element (the "DE"), the FLUE, and the Conservation Element (the "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 GPMOD 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.

Mining within the Central Florida Phosphate District has trended south over time, and the proposed DeSoto Mine is merely a logical progression of that trend. However, approximately 14,053.50 acres of land within the County's GPMOD, approximately 56% of the GPMOD are owned by Mosaic but are still zoned A-10, which does not permit phosphate mining, even though the Property is adjacent to lands that are also owned and/or controlled by Mosaic and are properly zoned PM-I – the only zoning district that allows phosphate mining. The Property's existing A-10 zoning is a relic of the past, predating the above-outlined amendments to the comprehensive plan that established the PM-I zoning district and added the GPMOD.

Therefore, the intent of the proposed rezoning is to update the Property's zoning district and incorporate it into the overall 18,287-acre DeSoto Mine. Mosaic cannot feasibly mine the lands that it already owns and that are already zoned PM-I within the GPMOD unless it also incorporates the Property into the DeSoto Mine. Put another way, in order to implement the framework for phosphate mining established by the County, the Property must be rezoned to PM-I.

Given these facts, the proposed rezoning would not be properly characterized as a "privilege" but rather a necessity to fully implement the framework for phosphate mining set up by the County, and fully implementing this framework now does not contrast with the public welfare any more than it did when the County began adopting phosphate mining-specific policies in 1981. To the contrary, phosphate mining is anticipated to economically benefit the public welfare.

Another reason why the proposed rezoning would not be properly characterized as a "privilege" is the fact that Mosaic is not the only owner of lands within the GPMOD. Any other owner of land

that is zoned A-10 within the Rural/Agricultural land use category and GPMOD can request similar rezoning approvals from the County. It is difficult to see how Mosaic could enjoy a rezoning or mining-related "privilege" when that same right could be granted to others.

For all of these reasons, the proposed rezoning will not constitute a grant of special privilege to an individual owner as contrasting with the public welfare.

15. Explain why the property cannot be used in accord with existing zoning:

There are substantial reasons why the property cannot be used in accord with existing zoning. As has been previously discussed in response to criteria 14, the current A-10 zoning designation does not permit phosphate mining, despite the land being positioned within the GPMOD. The purpose of the GPMOD was to ensure the orderly development of phosphate mining activities, and this purpose can only be realized by the rezoning of land within GPMOD to PM-I to allow phosphate mining. The future use of this property for phosphate mining activities has been recognized by the Board since at least 2010 when the GPMOD was created and the current zoning frustrates the logical, forward-thinking demonstrated by this element of the Comprehensive Plan.

As is discussed fully in the response to criteria 6 and 7, the portions of this property that are currently zoned to permit phosphate extraction are too small and dispersed for the efficient operation of a phosphate mine. Development of the property and of those areas already zoned PM-I for uses allowed under the current A-10 zoning would prevent the extraction of significant amounts of phosphate that are known to exist within the GPMOD. Depletion of this resource in other areas necessitates extraction in DeSoto County that can only be accomplished by rezoning the property to PM-I. For these reasons—fulfilling the purpose of the GPMOD and efficient extraction of a vital resource—the property cannot be used in accord with existing zoning.

16. Explain why the change suggested is not out of scale with the surrounding area:

The phrase "out of scale" is not defined in the LDRs and can be interpreted in at least two ways: (1) the size of the proposed rezoning, or (2) the density or intensity of the development. However, regardless of which interpretation is used, the proposed rezoning is not out of scale.

When the GPMOD designation was adopted in 2010, the County logically envisioned that the zoning districts encompassed by it, including the 14,053.50 acres of land that Mosaic is proposing to rezone, could be rezoned to PM-I, because that is the only zoning district that permits phosphate mining activities. Recall that the very purpose of the GPMOD is to identify areas that will likely be targeted for future phosphate mining based upon phosphate ore resource location and ownership. Accordingly, whether rezoning the Property is accomplished piecemeal or in one fell swoop, rezoning the Property is consistent with the precedent established by the County via the GPMOD.

Mosaic's proposal to rezone 14,053.50 acres is not unprecedented. When the Board established the new (at that time) "Phosphate Mining and Earth Moving District (M-I)" in 1981 (later renamed "PM-I"), it effectively rezoned 8,985 acres of land into that zoning district. The proposed rezoning is only about 1.56 times larger than the 1981 rezoning into PM-I. Accordingly, the size of the

proposed rezoning is not out of scale given the purposes of the GPMOD and prior efforts to implement it.

Finally, it is important to note that the underlying Rural/Agricultural land use designation identifies a maximum allowable density and intensity, and the proposed rezoning to PM-I cannot and will not increase it. All lands surrounding the Property are also Rural/Agricultural land use. Therefore, the proposed rezoning will not result in a change that will render the Property out of scale when compared with surrounding land uses.

For all of these reasons, the proposed rezoning is not out of scale with the surrounding area, regardless of whether one considers its proposed size or potential increases in maximum density and intensity.