

**STAFF REPORT**

Planning & Zoning Commission: June 9, 2003

Board of County Commissioners: July 9, 2003

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**APPLICANT:** Bridgewater Club Partners, Ltd. **FILE NUMBER:** H-03-35

**PURPOSE:** Master Plan Revision to Allow a Modification of a Fencing Requirement

**GENERAL**

**LOCATION:** West side of Exultant Drive, approximately 1000' west of US 19, approximately 600' south of Breakwater Boulevard

**LEGAL**

**DESCRIPTION:** A portion of Section 10, Township 23 South, Range 17 East, Hernando County, FL

**FILE STATUS:** All legal obligations have been completed.

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(SF)	Regency Oaks
South: PDP(GHC)	Lakewood Plaza
East: PDP(GHC), PDP(SF)	Commercial, Regency Oaks
West: PDP(SF)	Regency Oaks, Primrose Lane

**SUMMARY OF REQUEST**

The petitioner requests a master plan revision to allow a modification of a fencing requirement. The subject property is located on the west side of Exultant Drive, approximately 1000' west of US 19, approximately 600' south of Breakwater Boulevard.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(MF).
2. The property comprises approximately 13 acres.
3. The site is currently being developed with multifamily apartments.

4. The subject property has access from Exultant Drive.
5. The subject property is located within residential and commercial land use classifications on the adopted Future Land Use Map.
6. The on-site soil type is Candler fine sand. Candler fine sand provides a habitat suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.
7. The property is located in a flood zone C.
8. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources.
9. The Utilities Department has indicated that central water and sewer are available to serve the subject site.
10. There are adequate public facilities available to serve the subject property.
11. The area is characterized by commercial, multifamily and single family residential development.
12. The petitioner has not requested any deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner requests a master plan revision in order to modify the fencing requirement on the subject property. In 1997, the BCC approved a request for a rezoning from MF-PDP and R-1C to MF/PDP with Master Plan Approval with conditions, including a condition requiring the petitioner provide a 6' high chain link fence along the property line adjacent to the portion of Regency Oaks designated as the Community Center, and an 8' masonry wall against any residential lots in Regency Oaks. The petitioner was required to provide a 6' masonry wall along the property line adjacent to the portion of Regency Oaks designated as DRA and along the vacated Madison Avenue ROW. The condition indicated that the developer, his heirs and assigns shall be responsible for the maintenance of both sides of the wall in perpetuity.

The petitioner has requested to modify the fencing requirement. A Memorandum of Understanding was executed on September 24, 2002 between the BCC and CED Construction Partners, Ltd., as the agents for Bridgewater Club Partners, Ltd., allowing specific changes to the perimeter fencing if the changes were approved through the zoning process. The petitioner requests to modify the master plan performance condition regarding the perimeter fencing in order to conform with the terms of the 2002 Memorandum, which states "The petitioner shall construct a solid PVC vinyl fence along the boundaries as shown in the attached Exhibit A." Exhibit A indicates a decorative picket/entry

wall along the property's Exultant Drive frontage; 6' vinyl PVC fencing along approximately the eastern two-thirds of the northeast boundary line adjacent to Regency Oaks, the western boundary line adjacent to the Primrose Lane subdivision, and the south boundary line adjacent to commercial property zoned PDP(GHC); and 8' vinyl PVC fencing along the remaining north boundary lines adjacent to Regency Oaks.

The Memorandum of Understanding states “CED Construction recognizes that changes to the fence standards will require submission of a master plan revision to the County for approval. The master plan revision must be completed prior to the issuance of a Certificate of Occupancy for the project.”

The PDP regulations required a buffer between a multifamily PDP and a residential land use external to the PDP. The buffer is to consist of a 5' landscaped separation distance. The multifamily use is to be screened from the adjoining and contiguous properties by a wall, fence and/or approved enclosure. Such screening is to have a minimum height of 5' and a maximum height of 8', or an evergreen hedge with a minimum height of 5' at the time of planting. The petitioner's proposed screening meets the height requirements of the required screening.

The County Engineer notes that in the 1997 master plan, a condition of the approval required the petitioner to construct a walking connection between the adjacent commercial plaza and the project if the interconnection can be resolved with the commercial land owner. The County Engineer indicates that if the request is approved, the petitioner shall provide at a minimum pedestrian access to the Lakewood Shopping Plaza. The Planning staff has observed a sidewalk constructed between the subject property and the shopping plaza parking lot.

SWFWMD and the Gulf Coast Conservancy have been notified of the petition; no responses have yet been received.

### **FINDINGS OF FACT**

The area is characterized by commercial, multifamily and single family residential development. The Planning staff is of the opinion the PVC fencing adequately screens the multifamily development on the subject property from the single family residential development to the north and west. Prior to the agreement between the BCC and CED Construction Partners, Ltd., meetings were held with residents of Regency Oaks regarding the proposed PVC fencing. The proposed fencing was not objectionable to the surrounding neighbors.

The subject property is located within residential and commercial land use classifications on the adopted Future Land Use Map. The petitioner is not requesting a change of the approved multifamily land use approved in 1997.

It is the staff's opinion that the proposed master plan revision to allow a modification of the fencing requirement would not be incompatible with the surrounding area nor inconsistent with the County's adopted comprehensive plan.

**The rezoning process is a land use determination and does not constitute a permit for either construction on, or use of, the property, or a Certificate of Concurrence. Prior to use of, or construction on, the property, the petitioner must receive approval from the appropriate County department(s) for the proposed use, which may include review by the Development Review Committee (DRC).**

**The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any county land use ordinances. Homeowners associations or architectural review committees require submission of plans for review and approval. The applicant for this land use request should contact the local association or the Public Records for all restrictions applicable to this property.**

**STAFF RECOMMENDATION:**

Pursuant to the findings of fact outlined in the staff's report, the Planning staff recommends the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request for a master plan revision to allow a modification of a fencing requirement, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The PVC fencing is approved as indicated on the master plan.
3. All of the conditions, excluding the fencing condition, in the master plan approval for file #H-97-13 are in full force and effect.

**P&Z RECOMMENDATION:**

On June 9, 2003, the Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request for a master plan revision to allow a modification of a fencing requirement, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The PVC fencing is approved as indicated on the master plan.
3. All of the conditions, excluding the fencing condition, in the master plan approval for file #H-97-13 are in full force and effect.

**NOTE:**

At the June 9, 2003 P&Z hearing, the petitioner submitted a revised master plan, indicating 8'-high fencing along the entire west lot line, adjacent to Primrose Lane residential lots. The master plan originally submitted indicated 6' fencing along most of the west lot line. An 8'-high fence is consistent with the County's LDRs, and there were no objections to the proposed increase in height for the fencing. The revised plan indicates the location of the pedestrian access to the adjacent shopping plaza. The Planning staff recommends the BCC approve the revised plan received June 9th.

**BCC ACTION:**

The Board of County Commissioners voted 5-0 to adopt Resolution #2003-198 approving the petitioner's request for a master plan revision to allow a modification of a fencing requirement, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The PVC fencing is approved as indicated on the master plan.
3. All of the conditions, excluding the fencing condition, in the master plan approval for file #H-97-13 are in full force and effect.

**NOTE:** The BCC also approved the revised plan received June 9, 2003.