

STAFF REPORT

Planning & Zoning Commission: March 8, 2004
Board of County Commissioners: April 14, 2004
Planning & Zoning Commission: April 12, 2004
Board of County Commissioners: May 12, 2004
Planning & Zoning Commission: May 10, 2004
Board of County Commissioners: June 9, 2004

APPLICANT: Liax Inc. **FILE NUMBER:** H-04-16

PURPOSE: Rezoning from AG (Agricultural) to C/PDP (NC)/(Neighborhood Commercial), (MF)/(Multifamily) and (OP)/(Office Professional) with a Reduction in Setbacks

GENERAL

LOCATION: South side of Cortez Boulevard, approximately 0.75 of a mile east of Lykes Dublin Road

LEGAL

DESCRIPTION: A portion of Sections 29 and 30, Township 22 South, Range 19 East, Hernando County, FL

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0 LETTER OF CONCERN: 1

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: AG	AG
South: AG	AG
East: AG	AG
West: AG	AG

SUMMARY OF REQUEST

The petitioner requests to rezone from AG to C/PDP (NC), (MF) and (OP) with a reduction in setbacks. The subject property is located on the south side of Cortez Boulevard, approximately 0.75 of a mile east of Lykes Dublin Road.

FACTUAL INFORMATION

1. The property is currently zoned AG.
2. The property comprises approximately 38 acres.
3. The site is currently undeveloped.
4. The subject property is heavily wooded and appears to contain specimen, but no majestic, trees.
5. The subject property has access from Cortez Boulevard.
6. The subject property is located within rural and residential land use classifications on the adopted Future Land Use Map.
7. The Hernando County Soil Survey indicates the on-site soil types include Micanopy loamy fine sand and Nobleton fine sand.
8. The property is located in a flood zones AH and C.
9. The subject property contains wetlands and a SPA, but no WHPAs, according to County data resources. Peck Sink is adjacent to the eastern boundary of the subject property and is defined as a vulnerable feature by the County's GPO. It therefore has a Special Protection Area (SPA) with a 500 foot buffer which covers a portion of the subject property.
10. The City of Brooksville notes the subject property is located within the city's first right to serve area. Central water is located approximately a half-mile east of the subject property. Central sewer is located approximately three-quarters of a mile east of the subject property.
11. There are adequate public facilities available to serve the subject property.
12. The area is characterized by rural residential uses and undeveloped parcels.
13. The petitioner requests reductions in setbacks from Cortez Boulevard from 125' to 75' and from the proposed frontage road from 35' to 25', which are deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner initially submitted a request to rezone approximately 61.4 acres from AG to C/PDP (GC), (MF) and (SF) with a reduction in setbacks. This request was scheduled for the P&Z in

March; however, the petitioner requested a postponement. Subsequently, the petitioner has modified the request to rezone approximately 38 acres from AG to C/PDP(NC), (MF) and (OP) in order to develop the property with neighborhood commercial and office professional and/or multifamily uses. The petitioner proposes developing 5.5 acres of the site with 55,000 square feet of neighborhood commercial uses and 20 acres of the site with a maximum 200,000 square feet of office professional uses or 300 multifamily units. The PDP rules allow development of a mixture of uses on a project; however, they do not provide the ability to designate a land use pod for either one use or another at the discretion of the developer. If the request is approved, the petitioner will be required to provide a revised plan designating the use for each pod.

The petitioner requests a reduction in setbacks from 125' to 75' along Cortez Boulevard and from 35' to 25' along the proposed reverse frontage road; these are deviations from the County's LDRs. The BCC has approved reduction in setbacks from 125' to 75' from property lines along arterial roads in the past, where a frontage road is provided. The petitioner has not provided justification for the reduced setbacks from the reverse frontage road. The Planning staff is of the opinion the standard 35' setback from the proposed reverse frontage road is appropriate. The Planning staff does not object to the proposed 35' setback from the other property lines, nor to the proposed 20' separation distance between neighborhood commercial, office professional and multifamily buildings.

The plan submitted does not indicate the arrangement of parking proposed nor the number of parking spaces proposed. If the request is approved, the developer will be required to provide parking as required per the County parking LDRs.

The plan submitted does not indicate where signage will be located on the subject property. Signage on the property will be subject to the County sign ordinance.

The Planning staff is of the opinion that if the request is approved, the plan be approved with conditions promoting pedestrian interconnection within the site by the provision of sidewalks along the street network and interconnection between land use pods.

The petitioner indicates the project is located within the City of Brooksville's service area and a water and sewer agreement will be negotiated with the appropriate utility. The City of Brooksville notes the subject property is located within the city's first right to serve area. The City of Brooksville indicates central water is located approximately a half-mile east of the subject property, near the intersection of Mobley Road and Clinton Boulevard. Central sewer is located approximately three-quarters of a mile east of the subject property, near the intersection of Cortez Boulevard and Clinton Boulevard.

The subject property is located on Cortez Boulevard. Under the County's development regulations, the petitioner will be required to provide a frontage road across the property, at no cost to the

County, upon demonstration of need and demand by the County. The petitioner proposes a reverse frontage road.

The petitioner proposes two (2) access points on Cortez Boulevard, one is a right-in/right-out/left-in and the other is a right-in/right-out only. The County Engineer indicates that if the request is approved, turn lanes would be required. The County Engineer has indicated that the petitioner should be required to stub out to the west lot line in order to facilitate future connection between the subject property and future north/south interconnections between Cortez Boulevard and Wiscon Road.

According to County data resources, the subject property contains a Class 2 wetland as defined by the Comprehensive Plan. These wetland areas and the associated 100-year floodplain are directly connected to the Peck Sink Complex which lies directly adjacent to the eastern property line of the subject property.

The project plan provided labels the 100 year flood elevation at 65 feet. According to the adopted FEMA Flood Insurance Rate Map the 100 year flood elevation is 70 feet. According to the "Peck Sink Watershed Study Final Report" prepared by Dames & Moore for the County in 1992, the 100 year flood elevation for this node is 70.94 feet. FDOT commissioned a report from Andreyev Engineering on the Peck Sink Watershed which was issued in October, 1995. This report collected more site specific data and modeled the 100 year, 24 hour storm event. The closest sampling point modeled in the report was the upper sink of the Peck Complex which is approximately 250 feet east of the subject property. This study produced a 100-year flood elevation at 74 feet for this location. There is currently a cooperative study of the Peck Sink basin underway which will further refine these elevations. The study is expected to be completed by early 2005. If this project is approved, all finished floor elevations and roadways will be required to be constructed above the 100 year floodzone according to the best available data at the time. Staff would also recommend that any floodwater conveyances on the property remain unaltered.

Due to the unique nature of the Peck Sink complex and its rapid and direct contribution to the underlying aquifer, staff would recommend a 75 foot natural buffer measured from the jurisdictional wetland line of any wetland area contiguous to the Peck Sink Complex. Additionally, staff would recommend all landscaping in any approved development adhere to the principles concerning fertilizer and pesticide use as described in the DEP/IFAS publication "Best Management Practices for Protection of Water Resources in Florida". In order to comply with the County's Groundwater Protection Ordinance (GPO), any development in this area would also need to ensure that there be no direct stormwater discharge to any wetland area which is directly connected to Peck Sink. Additionally, any stormwater discharged from this site must be treated to conform to predevelopment water quality levels. This area of the County is prone to sinkhole formation. Staff would recommend geophysical/geotechnical testing on DRAs in any approved development in this area. Floral & Faunal surveys would also be recommended to determine any listed species requirements on this property. Staff noted specimen and possible majestic trees present during a site

visit which should be noted and considered in any future project design. Any wetlands and 100 year floodzone areas would need to be clearly indicated on any future plans.

The Hernando County School Board has indicated that if the request is approved, elementary school students will be assigned to Moton Elementary School, middle school students will be assigned to Powell Middle School and high school students will be assigned to Hernando High School. The School Board estimates this project has the potential to generate approximately 100- 120 students. The School Board notes that the additional students would be accommodated with current permanent capacity or by adding portable classrooms.

The FDOT has been notified of the request; no response has yet been received.

FINDINGS OF FACT

The area is characterized by rural residential uses and undeveloped parcels. The subject property consists of and is surrounded by undeveloped AG parcels. The P&Z approved a special exception use permit for a hospital on property approximately a half mile west of the subject property. The Planning staff is of the opinion that the character of the corridor along Cortez Boulevard between the hospital and the city will be changing due to development associated with the new hospital location.

The subject property is located within rural and residential land use classifications on the adopted Future Land Use Map. Approximately half of the subject property is located within the residential future land use category. The remainder of the subject property is located within the rural land use category. The mapping criteria indicates residential land uses as established in the residential land uses category are allowed on land located in the rural land uses category where it lies within 1,320' of a residential classification. The portion of the subject property located within the rural land use category lies within 1,320' of a residential classification. Land uses allowed in the residential category include single family densities up to 5.4 units per acre, resort residential and ancillary land uses such as recreation, churches and community centers. Land uses which can be located in this category with performance conditions being met include multifamily housing up to 16 units per acre, rural residential, neighborhood commercial, commercial extending from commercial nodes with a functioning frontage road, unless it is determined that wetlands or existing development make frontage road extension unfeasible, office and professional, schools, hospitals and minor public facilities.

Policy 1.01A(9) indicates the LDRs shall establish a Planned Development Project (PDP) district which can be used for single use or mixed use projects, with flexibility in standards allowed if projects provide environmental protection, landscaping, open space, public facilities, innovative planning design or other appropriate public benefits. The Planning staff is of the opinion that a mixed-use PDP is appropriate at this location with a selection and intensity of uses consistent with the comprehensive policies and compatible with the environmental conditions at this location.

The mapping criteria for the rural land use category indicates the classification includes properties with physical limitations, such as flood plains and sinkholes. The subject property contains Class 2 wetlands, an associated 100-year floodzone directly connected to the Peck Sink Complex and an area of 100 year floodzone on the south side of the subject property along Wiscon Road. The Planning staff is of the opinion the environmental conditions on the property limit the appropriate intensity of development on the subject property.

The petitioner proposes 5.5 acres of neighborhood commercial uses. Policy 1.01M(2) indicates that neighborhood commercial nodes may be located in the residential or rural future land use categories. The criteria indicates that neighborhood commercial nodes will have a maximum node size of five (5) acres, will not be located in conservation areas or environmentally sensitive areas, will be located on collector or arterial roads except when proposed as part of an integrated, mixed-use planned unit development, will not degrade the proper functioning of the adjacent roads below the established levels of service, will be proximate to population areas to support the proposed use, and will not compromise the integrity of residential areas. The subject property is located at a median opening; consequently it is the Planning staff's opinion that this location is appropriate for a neighborhood commercial node. The plan should be modified to reduce the size to a maximum of five (5) acres.

The petitioner proposes developing approximately twenty (20) acres with either a maximum of 200,000 square feet of office professional uses or a maximum of 300 multifamily units. The County's PDP rules would allow a mixture of uses in a land use pod; however, they would not allow a land use area to be designated office professional or multifamily. If the rezoning request is approved, a revised master plan would have to be provided indicating the location and size of the land uses approved. The master plan submitted indicates pods A, B and C located along SR 50. Pod D is an interior pod with no frontage on SR 50. The Planning staff is of the opinion that if the request is approved, office professional development should be designated on Parcel "A," and multifamily development should be approved on Parcel "D". Staff does not object to neighborhood commercial on Pods B and C; however, the area should be limited to 5 acres.

The petitioner proposes locating office uses at a maximum intensity of 10,000 square feet per acre on 20 acres of the subject property, in an area designated as residential and rural on the Comprehensive Plan. The petitioner indicates in the narrative that the opening of Brooksville Regional Hospital to the west of the subject property will create significant demand for office uses in the area. The Planning staff is of the opinion that isolated office professional uses would not be appropriate at this location due to the remoteness from commercial nodes, other properties zoned for commercial uses, any existing commercial development and the hospital site, however, they will be appropriate if developed as part of the proposed PDP, in conjunction with the proposed neighborhood commercial and multifamily land uses. The residential land use category allows office professional uses with performance conditions.

The petitioner requests in the narrative the flexibility to develop approximately 20 acres of the subject property with multifamily development at a density of 15 du/ac. Policy 1.01F(7) provides

criteria and standards for determining appropriate locations for higher residential densities greater than 4.0 du/ac. The criteria includes proximity to existing or designated commercial areas or corridors or major employment centers, direct access to arterial or collector roadways or access to arterial or collector roadways via limited use of local roadways, provision of appropriate County services, provision of open space beyond minimum County standards, preservation/conservation/enhancement of high quality, ecologically viable environmentally sensitive areas, and consideration of other applicable goals, objectives and policies contained in the Comprehensive Plan. It is staff's opinion that medium density multifamily would be more appropriate on the property due to the Peck Sink-affiliated floodwater conveyance area and the distance to the designated commercial area.

Policy 1.01G(3) establishes a medium density MF zoning district permitting residential development consisting of densities not to exceed 9.6 units per acre. The Planning staff is of the opinion that if the request is approved, multifamily development should be developed up to a maximum of 9.6 units per acre.

The Planning staff is of the opinion that the request to rezone from AG to C/PDP (NC), (MF) and (OP) with a reduction in setbacks, is appropriate, with performance conditions, based on the following conclusions:

1. The rezoning would be consistent with the Comprehensive Plan and would be consistent with the County's Land Development Regulations subject to compliance with all performance conditions herein.
2. The permitted uses allowed in the PDP (NC), PDP (MF) and PDP (OP) zoning categories, at appropriate intensities, will be compatible with the surrounding land uses and environmental conditions.

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.

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 a rezoning from AG to C/PDP (NC), (MF) and (OP) with a reduction in setbacks, 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, and complete all applicable development review processes.
2. The developer shall provide the reverse frontage road as indicated in the plan.
3. Minimum setbacks for the Neighborhood Commercial and Office pods are approved as follows:

From Cortez Boulevard:	75'
From the reverse frontage road:	35'
From other lot lines:	35'
4. Minimum setbacks for the Multifamily pod are approved as follows:

Minimum separation between buildings:	15'
Minimum building setbacks from internal vehicular accessways:	25'
From the reverse frontage road:	35'
From other lot lines:	35'
5. The developer shall provide turn lanes as required by the County Engineer.
6. The developer shall provide a roadway connection to the west lot line from the full median along SR 50 to provide a future roadway connection to Wiscon Road.
7. Office professional uses are approved on Parcel "A."
8. Neighborhood commercial uses are approved on Parcels "B" and "C."
9. The neighborhood commercial pods are approved for a combined total of five (5) acres.
10. Multifamily uses with a maximum density of 9.6 units per acre are approved on Parcel "D."
11. Sidewalks shall be provided along the street network and shall provide interconnection between land use pods.
12. All wetlands, sinkholes and their associated SPA's, and 100 year floodplain shall be delineated and shown on all future plats and construction drawings.

13. The best available data shall be used to determine 100 year flood elevations for the subject property. All roadways and finished floor elevations shall be constructed above this elevation.
14. There shall be a 75' natural buffer measured from the jurisdictional wetland line of any wetland area contiguous to the Peck Sink Complex. The area within this buffer shall not be disturbed.
15. All stormwater discharged from the site must be treated to conform to predevelopment stormwater quality levels.
16. All landscaping installation and maintenance shall adhere to the principles concerning fertilizer and pesticide use as described in the DEP/IFAS publication "Best Management Practices for Protection of Water Resources in Florida".
17. All DRA's in the development shall undergo geophysical/geotechnical testing in order to determine the presence or absence of buried karst features and/or voids. This information shall be used to appropriately design the site to avoid potential collapses within the development's drainage infrastructure.
18. The petitioner shall provide a revised plan within 30 days of BCC approval or the rezoning shall be null and void.

P&Z RECOMMENDATION:

On May 10, 2004, the Planning and Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt Resolution # _____ approving a rezoning from AG to C/PDP (NC), (MF) and (OP) with a reduction in setbacks, with the following modified 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, and complete all applicable development review processes.
2. The developer shall provide the reverse frontage road as indicated in the plan.
3. Minimum setbacks for the Neighborhood Commercial and Office pods are approved as follows:

From Cortez Boulevard:	75'
From the reverse frontage road:	35'
From other lot lines:	35'
4. Minimum setbacks for the Multifamily pod are approved as follows:

Minimum separation between buildings:	15'
Minimum building setbacks from internal vehicular accessways:	25'
From the reverse frontage road:	35'
From other lot lines:	35'

5. The developer shall provide turn lanes as required by the County Engineer.
6. The developer shall provide a roadway connection to the west lot line from the full median along SR 50 to provide a future roadway connection to Wiscon Road.
7. Office professional uses are approved on Parcel "A."
8. Neighborhood commercial uses are approved on Parcels "B" and "C."
9. The neighborhood commercial pods are approved for a combined total of five (5) acres.
10. Multifamily uses with a maximum density of 9.6 units per acre are approved on Parcel "D."
11. Sidewalks shall be provided along the street network and shall provide interconnection between land use pods.
12. All wetlands, sinkholes and their associated SPA's, and 100 year floodplain shall be delineated and shown on all future plats and construction drawings.
13. The best available data shall be used to determine 100 year flood elevations for the subject property. All roadways and finished floor elevations shall be constructed above this elevation.
14. There shall be a 75' natural buffer measured from the jurisdictional wetland line of any wetland area contiguous to the Peck Sink Complex. The area within this buffer shall not be disturbed.

NOTE: The petitioner has the option of meeting with SWFWMD and the County to discuss alternatives to the 75' buffer. If a modified buffer can be accomplished which provides for the same level of protection to water quality and the Peck Sink Complex, then an alternative to the 75' buffer may be utilized.

15. All stormwater discharged from the site must be treated to conform to predevelopment stormwater quality levels.

16. All landscaping installation and maintenance shall adhere to the principles concerning fertilizer and pesticide use as described in the DEP/IFAS publication “Best Management Practices for Protection of Water Resources in Florida”.
17. All DRA's in the development shall undergo geophysical/geotechnical testing in order to determine the presence or absence of buried karst features and/or voids. This information shall be used to appropriately design the site to avoid potential collapses within the development's drainage infrastructure.
18. The petitioner shall provide a revised plan within 30 days of BCC approval or the rezoning shall be null and void.
19. The development shall be served by central water and sewer service.

NOTE:

The primary goal of the buffer requirement in condition Number 14 is to protect water quality flowing off of the LIAX property into Peck Sink/the Upper Floridan Aquifer. Staff recommended a 75' natural buffer, not to be disturbed, to be measured from the jurisdictional wetland line of any wetland area contiguous to the Peck Sink Complex. The 75' measurement is based on the County's existing Riverine Protection Ordinance (RPO) as part of the County's Land Development Regulations. The RPO includes a 75' setback specifically for the protection of surface water quality in the major riverine systems in the County.

Further, in staff's review of other sources on the subject, a range of buffer widths, types and purposes were found. A summary of the findings are as follows:

- < For purposes of protecting water quality:
 - Buffers sizes from river banks were found in a range of 82' to 100' in width.
 - Buffers sizes from wetlands were found in a range from 43' to 87' in width.
- < For purposes of temperature and microclimate regulation:
 - Buffer sizes from river banks were found at 98' in width.
- < For purposes of detrital input and bank stabilization:
 - Buffer sizes from river banks were found at 164' in width.
- < For purposes of minimizing human impact disturbance:

Buffer sizes from wetlands were found at 100-150' in width

The staff's recommendation for a 75' wide buffer measured from the wetland area is consistent with the county LDRs and adopted Comprehensive Plan, and is reasonable in light of the other buffer systems above. Additionally, a buffer of 75' would also serve as a useful separation between the more intense neighborhood commercial/office professional and multifamily land uses proposed, the rural qualities of the adjacent properties, and the natural qualities of the sink complex itself.

BCC ACTION:

On June 9, 2004, the Board of County Commissioners voted 4-0 to adopt Resolution # 149 approving the rezoning from AG to C/PDP (NC), (MF) and (OP) with a reduction in setbacks, 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, and complete all applicable development review processes.
2. The developer shall provide the reverse frontage road as indicated in the plan.
3. Minimum setbacks for the Neighborhood Commercial and Office pods are approved as follows:

From Cortez Boulevard:	75'
From the reverse frontage road:	35'
From other lot lines:	35'
4. Minimum setbacks for the Multifamily pod are approved as follows:

Minimum separation between buildings:	15'
Minimum building setbacks from internal vehicular accessways:	25'
From the reverse frontage road:	35'
From other lot lines:	35'
5. The developer shall provide turn lanes as required by the County Engineer.
6. The developer shall provide a roadway connection to the west lot line from the full median along SR 50 to provide a future roadway connection to Wiscon Road.
7. Office professional uses are approved on Parcel "A."
8. Neighborhood commercial uses are approved on Parcels "B" and "C."
9. The neighborhood commercial pods are approved for a combined total of five (5) acres.

10. Multifamily uses with a maximum density of 9.6 units per acre are approved on Parcel “D.”
11. Sidewalks shall be provided along the street network and shall provide interconnection between land use pods.
12. All wetlands, sinkholes and their associated SPA's, and 100 year floodplain shall be delineated and shown on all future plats and construction drawings.
13. The best available data shall be used to determine 100 year flood elevations for the subject property. All roadways and finished floor elevations shall be constructed above this elevation. All development permits shall be issued based upon conformance with the latest best available data.
14. There shall be a 75' natural buffer measured from the jurisdictional wetland line of any wetland area contiguous to the Peck Sink Complex. The area within this buffer shall not be disturbed.

NOTE: The petitioner has the option of meeting with SWFWMD and the County to discuss alternatives to the 75' buffer. If a modified buffer can be accomplished which provides for the same level of protection to water quality and the Peck Sink Complex, then an alternative to the 75' buffer may be utilized.

15. All stormwater discharged from the site must be treated to conform to predevelopment stormwater quality levels.
16. All landscaping installation and maintenance shall adhere to the principles concerning fertilizer and pesticide use as described in the DEP/IFAS publication “Best Management Practices for Protection of Water Resources in Florida”.
17. All DRA's in the development shall undergo geophysical/geotechnical testing in order to determine the presence or absence of buried karst features and/or voids. This information shall be used to appropriately design the site to avoid potential collapses within the development's drainage infrastructure.
18. The petitioner shall provide a revised plan within 30 days of BCC approval or the rezoning shall be null and void.
19. The development shall be served by central water and sewer service.

NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE ON THIS ZONING APPROVAL MUST BE CONSISTENT WITH THE APPROVED MASTER PLAN, DEVELOPER’S NARRATIVE,

DEVELOPER'S REPRESENTATIONS ON THE RECORD AND THE APPROVAL CONDITIONS BY THE BCC.