

**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

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

**PURPOSE:** Rezoning from AG (Agricultural) to C/PDP (GC)/(General Commercial), (MF)/(Multifamily) and (SF)/(Single Family) with a Reduction in Setbacks

**GENERAL**

**LOCATION:** South side of Cortez Boulevard, north side of Wiscon Road, 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.

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

**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 (GC), (MF) and (SF) with a reduction in setbacks. The subject property is located on the south side of Cortez Boulevard, north side of Wiscon Road, 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 61.4 acres.

3. The site is currently undeveloped.
4. The subject property has access from Cortez Boulevard and Wiscon Road.
5. The subject property is located within rural and residential land use classifications on the adopted Future Land Use Map.
6. The Hernando County Soil Survey indicates the on-site soil types include Blichton loamy fine sand, Homosassa mucky fine sandy loam, Kendrick fine sand, Micanopy loamy fine sand and Nobleton fine sand.
7. The property is located in a flood zones AH and C.
8. The subject property contains wetlands, but no WHPAs or SPAs, according to County data resources.
9. 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.
10. There are adequate public facilities available to serve the subject property.
11. The area is characterized by rural residential uses and undeveloped parcels.
12. 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 requests to rezone the property from AG to C/PDP(GC), (MF) and (SF) in order to develop the property with commercial and office space, 100 MF dwelling units and 70 SF dwelling units. The petitioner proposes developing 8 acres of the site with either 80,000 square feet of the proposed commercial or office space or the proposed 100 MF dwelling units, depending on market demand for either commercial or MF residential uses.

The petitioner requests a reduction in setbacks from 125' to 75' from Cortez Boulevard, from 35' to 25' from the proposed reverse frontage road, and from 10' to 5' from the side lot lines and from 20' to 15' from the rear lot lines, which 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 20' separation distance between commercial and multifamily buildings.

The petitioner proposes developing the southern 14 acres with 70 SF units. The Planning staff does not object to the proposed 75' setback from Wiscon Road and the proposed 20' perimeter setback. The Planning staff does not object to the proposed 25' front, 5' side and 15' rear setbacks.

The petitioner proposes a minimum SF lot size of 6,000 square feet with 50' lot widths. All residential PDPs with lots which have lot widths of less than 60' at the building line are required to submit a fire protection plan upon filing of a conditional plat. If the request is approved, the developer must provide a fire protection plan as required per the LDRs at the time of conditional plat submittal. A conditional plat has not yet been filed for this project.

The plan provided shows no open space or recreational areas provided within the proposed SF development area. The Planning staff is of the opinion that if the request is approved, open space should be provided within the SF development. The LDRs require multifamily to reserve a minimum of fifteen (15) percent of the gross site for open space. The Planning staff is of the opinion that if the request is approved, a minimum five (5) percent of the SF development area should be reserved for recreational open space.

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 petitioner proposes one access on Wiscon Road, to serve the SF development. No interconnection is proposed between the proposed GC/OP/MF uses in the northern portion of the property and the SF uses in the southern portion, due to the intervening wetland and floodplain.

The County Engineer indicates that if the request is approved, turn lanes would be required.

According to County data resources, the subject property contains a Class 2 and Class 3 wetland as defined by the Comprehensive Plan. These wetland areas and their associated 100-year floodplain are directly connected to the Peck Sink Complex which lies approximately a quarter mile to the east of the subject property. There is also an area of 100 year floodplain on the south side of the subject property along Wiscon Road which is not displayed on the plan provided.

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. There is currently a study of the Peck Sink basin underway which will further refine these elevations. The study is expected to be completed by early 2006. 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.

If this project is approved staff would recommend all landscaping in the development adhere to Florida Yards and Neighborhoods principles concerning fertilizer and pesticide use due to the proximity to Peck Sink. In order to comply with the County's 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. This area of the County is prone to sinkhole formation. Staff would recommend 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 50-60 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 subject property is located within rural and residential land use classifications on the adopted Future Land Use Map. Approximately the northern quarter of the subject property is located within

the residential future land use category. The rest of the subject property is located within the rural land use category.

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 and Class 3 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 locating commercial and/or office uses at an intensity of 10,000 square feet per acre on approximately the northern 25 acres of the subject property, in an area designated as residential and rural on the Comprehensive Plan. The petitioner asserts in the narrative that the opening of Brooksville Regional Hospital to the west of the subject property will create significant demand for commercial and office uses in the area. 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 northern 25 acres meets this criteria. The residential land use category would allow office/professional, neighborhood commercial and commercial extending from commercial nodes with a functioning frontage road, unless it is determined that wetlands or existing development make frontage road extension unfeasible, with the appropriate land use approvals.

Policy 1.01O(4) indicates infill commercial development can occur only within the strip commercial areas as described in Policy 1.01O(1). Policy 1.01O(1) indicates strip commercial will only be allowed along commercial corridors which have significant existing commercial development, remaining parcels are generally zoned commercial and commercial development is expected to continue. The Planning staff is of the opinion commercial and office/professional uses are not 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.

The petitioner proposes developing approximately eight (8) acres with either commercial and/or office uses, or multifamily development, depending on market conditions. 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 commercial 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 petitioner requests in the narrative the flexibility to develop approximately 8 acres of the subject property with multifamily development at a density of 12.5 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. The Planning staff is of the opinion the proposed location for multifamily development at the density proposed is not appropriate due to its remoteness from existing or designated commercial areas, lack of provision of open space and potential impacts to the environmentally-sensitive Peck Sink-affiliated floodwater conveyance area.

The petitioner proposes locating SF development at an intensity of 5 dwelling units per acre on property located within the rural land use category. The Comprehensive Plan policies would not support the location of SF at the proposed intensity in the rural land use category. The mapping criteria for the rural land use category indicates that residential development is allowed at a density no greater than 1 unit per 10 acres, except in designated pre-existing rural communities and in areas located within 1,320' of a residential classification. The Planning staff is of the opinion the SF development as proposed is not appropriate, as the site for the location is neither within one of the five (5) pre-existing rural communities nor within 1,320' of the residential classification.

The Planning staff is of the opinion that the request for the establishment of the master plan should be denied based on the following conclusions:

1. The proposed development is not compatible with the rural uses permitted in the surrounding area.
2. The proposed commercial and office/professional uses do not meet the Comprehensive Plan's criteria for commercial development in the residential land use category.
3. The proposed multifamily development at the density proposed does not meet the Comprehensive Plan's criteria for high-density MF development.
4. The density of the proposed SF development is not consistent with the Comprehensive Plan's standards for residential uses in the rural land use category.
5. Concerns about the environmental sensitivity of the subject property due to the presence of the Peck Sink-affiliated floodwater conveyance area on the property.
6. The intensity of the proposed development is not appropriate due to the location of the floodplain on the property.

**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 deny the petitioner's request to rezone from AG to C/PDP (GC), (MF) and (SF) with a Reduction in Setbacks.

**P&Z RECOMMENDATION:**

On March 8, 2004, the Planning and Zoning Commission voted 5-0 to postpone consideration of this petition to their April 12, 2004, meeting at 9:00 a.m. On April 12, 2004, the Planning and Zoning Commission voted 5-0 to postpone consideration of this petition to their May 10, 2004, meeting at 9:00 a.m.

**BCC ACTION:**

On April 14, 2004, the Board of County Commissioners voted 4-0 to postpone consideration of this petition to their May 12, 2004, meeting at 9:00 a.m. On May 12, 2004, the Board of County Commissioners voted 4-0 to postpone consideration of this petition to their June 9, 2004, meeting at 9:00 a.m.