

Planning & Zoning Commission: May 10, 2004
Board of County Commissioners: June 9, 2004
Planning & Zoning Commission: June 14, 2004
Board of County Commissioners: July 14, 2004

APPLICANT: Rolph Family Trust, Jane L. Rolph Trustee **FILE NUMBER:** H-04-24

PURPOSE: Rezoning from R-1C (Residential) and C-2 (Commercial) to C-2 (Commercial) or PDP (HC)/Planned Development Project (Highway Commercial)

GENERAL

LOCATION: North of Cortez Boulevard, north and south of Horn Avenue, east of Fall Street

LEGAL

DESCRIPTION: Lot 23, Section M, Potterfield Garden Acres, as per plat thereof recorded in Plat Book 5, Page 66 of the Public Records of Hernando County, Florida and a portion of Section 26, Township 22 South, Range 18 East, Hernando County, FL

FILE STATUS: All requirements necessary to conduct the public hearing have been satisfied.

CITIZEN RESPONSE: FOR: 1 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: R-1C
South: AR-2, PDP(GHC)
East: C-2, OP, R-1C
West: C-2, AR-2

Surrounding Land Uses

Undeveloped
Undeveloped
Single family, commercial, undeveloped
Mobile home, commercial

SUMMARY OF REQUEST

The petitioner requests to rezone from R-1C to C-2. The Planning staff has included a request to rezone from R-1C and C-2 to PDP (HC) for consideration. The subject property is located north of Cortez Boulevard, north and south of Horn Avenue, east of Fall Street.

FACTUAL INFORMATION

1. The property is currently zoned R-1C and C-2.
2. The property comprises approximately 5.7 acres.

3. The subject property has been partially developed with a realty office, a single family house and a garage.
4. Portions of the subject property are heavily wooded. The subject property appears to contain no majestic or specimen trees.
5. The subject property has access from Cortez Boulevard, Horn Avenue and Fall Street.
6. There is a commercially designated strip area identified on the adopted future land use map along SR 50 in this area.
7. 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.
8. The property is located in a flood zone C.
9. The subject property contains a WHPA-2, but no wetlands or SPAs according to County data resources.
10. The Utilities Department has indicated that central water is available to serve the subject site. A sewer force main is located on the northern side of Horn Avenue. The Utilities Department cannot determine the sewage flow to be generated from development on the site from the information the petitioner has provided. Therefore, the Utilities Department cannot determine if central sewer service is available to the subject property, as defined by County ordinance.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial and residential development and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone the entire subject property to C-2. The subject property consists of three (3) parcels. The southernmost parcel is zoned C-2 and R-1C. The northern two (2) parcels are zoned R-1C.

The subject property includes a parcel located on Cortez Boulevard, a principal arterial roadway. The County's frontage road ordinance requires property along Cortez Boulevard to provide a frontage road

at no cost to the County, upon demonstration of need and demand by the County. The County Engineer concurs with the petitioner's assertion that Horn Avenue functions as the frontage road in the area.

The plan submitted indicates two (2) aprons located on the southern parcel, providing access to Cortez Boulevard. The County Engineer has indicated access to Cortez Boulevard should be limited to one right-in/right-out access.

The two southern parcels have access to Horn Avenue. Horn Avenue is a local roadway owned by the Turnpike Enterprise. The Turnpike Enterprise acknowledges that eventually ownership of the roadway will be transferred to the County. The two northern parcels have access to Fall Street. Fall Street is a County-owned, "emergency maintained," unpaved trail. The Planning staff is of the opinion that if the request is approved, access to Fall Street should be prohibited.

The Utilities Department has indicated that central water is available to serve the subject site. A sewer force main is located on the northern side of Horn Avenue. However, the availability of central sewer service as defined by ordinance cannot be determined from the information provided. The Utilities Department has indicated capacity exists to serve the site with central water and sewer service.

The subject property lies within a WHPA-2 for a public supply well according to County data resources. Most of the permitted uses within the C-2 zoning category are allowable within this designation.

The FDOT has been informed of the request; no reply has yet been received. The Turnpike Enterprise has no comment on the rezoning request. The City of Brooksville has indicated it has no concerns regarding this rezoning request.

FINDINGS OF FACT

The area is characterized by commercial and residential development and undeveloped parcels. Commercial uses are located along Cortez Boulevard. The parcels north of Horn Avenue are developed with mobile homes and single family homes.

There is a commercially designated strip area identified on the adopted future land use map along SR 50 in this area. The commercial land use category allows for a range of commercial intensity from office professional to regional commercial centers provided other goals, objectives and policies (GOPs) within the comprehensive plan can be met.

Policy 1.01L(8) indicates that during the land use approval process for higher intensity commercial uses, appropriate buffering will be considered to maintain a separation from existing or proposed residential uses. The buffering method may include lower intensity commercial or multifamily uses creating a pattern of higher to lower intensity. The Planning staff is of the opinion that rezoning the entire subject property to allow C-2 uses is not appropriate due to the surrounding residential zoning and development and Fall Street's current status as an unpaved trail.

The Planning staff is of the opinion it is appropriate to rezone the parcel located between Cortez Boulevard and Horn Avenue to allow C-2 uses. The parcels to the west and east are zoned C-2. The Planning staff is of the opinion that rezoning to PDP(HC) instead of C-2 is most appropriate because of the need to address the County Engineer's concerns about access management.

The Planning staff is of the opinion that it is appropriate to rezone the middle parcel, on the north side of Horn Avenue, to PDP (OP). The parcel is adjacent to two (2) parcels rezoned from R-1C to OP in 1997. The Planning staff is of the opinion that more intense commercial zoning would not be appropriate at this location, adjacent to existing residential uses and parcels zoned for residential and office professional uses.

Policy 1.01H(2) encourages the protection of existing and future residential areas from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment. The Planning staff is of the opinion that rezoning the northernmost parcel to a commercial zoning category would allow uses incompatible with the surrounding residential uses. The Planning staff is of the opinion that the parcel has inadequate access from Fall Street, which is an unpaved trail.

The staff is of the opinion that it is appropriate to rezone the southernmost parcel to PDP (HC) and the middle parcel to PDP (OP), 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 (HC) and PDP (OP) zoning categories will be compatible with the surrounding land uses if limited to the two southern parcels of the subject property.
3. Rezoning the northernmost parcel would be inconsistent with the Comprehensive Plan and would be incompatible with the surrounding land uses.

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 Concurrency. 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 R-1C and C-2 to C/PDP (HC) and (OP) on approximately the southern two-thirds of the subject property 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 comply with the County's frontage road ordinance.
3. The portion of the property located along SR 50 shall provide access to Horn Avenue.
4. PDP (HC) zoning is limited to the southernmost parcel, aka Lot 23.
5. PDP (OP) zoning is limited to the middle parcel.
6. The northern parcel shall remain zoned R-1C.
7. Minimum setbacks for the PDP(HC) parcel are approved as follows:
 - From Cortez Boulevard: 125'
 - From Horn Avenue: 35'
 - From the side lot lines: 20'
8. Minimum setbacks for the PDP (OP) parcel are approved as follows:
 - From Horn Avenue: 35'
 - From Fall Street: 35'
 - From the east lot line adjacent to OP zoning: 20'
 - From the north lot line adjacent to R-1C zoning. 35'
9. Access to Cortez Boulevard shall be limited to one right-in/right-out access.
10. The middle parcel zoned PDP (OP) shall not have access to Fall Street.
11. The petitioner shall provide a revised plan within 30 days of the 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 postpone consideration of this petition to their June 14, 2004, meeting at 9:00 a.m., so that the P&Z could review this rezoning request and a similar request to rezone parcels to the east at the same time.

BCC ACTION:

The BCC voted 4-0 to postpone consideration of this petition to their July 14, 2004, hearing at 9:00 a.m.

P&Z RECOMMENDATION:

On June 14, 2004, the Planning and Zoning Commission voted 5-0 to postpone consideration of this petition to their July 12, 2004, meeting at 9:00 a.m., so that the P&Z could review this rezoning request and a similar request to rezone parcels to the east at the same time.

BCC ACTION:

The BCC voted 5-0 to postpone consideration of this petition to their August 11, 2004, hearing at 9:00 a.m.