

STAFF REPORT

Planning & Zoning Commission: August 9, 2004
Board of County Commissioners: September 8, 2004

APPLICANT: Von Nessen Land Trust #1 **FILE NUMBER:** H-04-47

PURPOSE: Rezoning from R-1A (Residential) to C-2 (Highway Commercial)

GENERAL

LOCATION: South side of Cortez Boulevard, approximately 820' west of Grove Road

LEGAL

DESCRIPTION: A portion of Section 34, 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: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

Surrounding Land Uses

North: PDP(GC)
South: R-1A
East: C-1
West: C-1

Undeveloped
Undeveloped
Commercial
Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from R-1A to C-2. The subject property is located on the south side of Cortez Boulevard, approximately 820' west of Grove Road.

FACTUAL INFORMATION

1. The property is currently zoned R-1A.
2. The property comprises approximately 3.9 acres.
3. The site is currently undeveloped.
4. The site appears to contain no majestic or specimen trees.

5. The subject property has access from Cortez Boulevard.
6. The subject property is located within a commercial land use classification on the adopted Future Land Use Map.
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 and sewer capacity is available to serve the subject property.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial uses and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone the subject property from R-1A to C-2. The narrative indicates incorrectly that the parcels to the west and east are zoned C-2. They are zoned C-1. The site is vacant.

The subject property is 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 Utilities Department has indicated that central water and sewer capacity are available to serve the subject site. The Utilities Department has indicated that a 6" force main runs along SR 50 in the front of the subject property. The petitioner could construct a pump station or connect at the existing connection at the Elks Lodge. The Planning staff is of the opinion that if the request is approved, the petitioner should be required to connect to central water and sewer service.

The subject property lies within a WHPA-2 for a public supply well according to County data resources. The proposed land use is allowed within this designation.

The City of Brooksville, the FDOT, and the Turnpike Enterprise have been notified of the request; no responses have yet been received.

FINDINGS OF FACT

The area is characterized by institutional and commercial uses, and undeveloped parcels. To the north is undeveloped commercial property and an ALF. Commercial uses including the National Cremation Society and a signmaker are located adjacent to the subject property's eastern property line. An Elks Club is located to the east. The parcel to the west is undeveloped.

The subject property is located within 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 subject property to allow C-2 uses is not appropriate due to the adjacent C-1 and R-1A parcels.

The staff is of the opinion that rezoning from R-1A to C-1 is appropriate, based on the following conclusion:

1. C-1 zoning will be compatible with the surrounding area and consistent with the 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 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 the rezoning from R-1A to C-1, 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 petitioner must provide a frontage road across the property, at no cost to the County, upon demonstration and need of the County.
3. The petitioner shall connect to central water and sewer service.

P&Z RECOMMENDATION:

The Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from R-1A to C-1, with the following unmodified 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 petitioner must provide a frontage road across the property, at no cost to the County, upon demonstration and need of the County.
3. The petitioner shall connect to central water and sewer service.

BCC ACTION:

The Board of County Commissioners voted 5-0 to adopt Resolution # 2004-223 approving the rezoning from R-1A to C-1, 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 petitioner must provide a frontage road across the property, at no cost to the County, upon demonstration and need of the County.

3. The petitioner shall connect to central water and sewer service.