

**STAFF REPORT**

Planning & Zoning Commission: September 13, 2004  
Board of County Commissioners: October 13, 2004  
Planning & Zoning Commission: October 11, 2004  
Board of County Commissioners: November 10, 2004  
Board of County Commissioners: December 8, 2004

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**APPLICANT:** Longview Equities, Inc. **FILE NUMBER:** H-04-52

**PURPOSE:** Rezoning from AR (Agricultural-Residential) and C/PDP(MF) and (GHC)/Combined Planned Development Project (Multifamily) and (General Highway Commercial) to PDP(MF)/Planned Development Project (Multifamily)

**GENERAL**

**LOCATION:** East side of Oxley Road, south side of Cortez Boulevard (SR 50), west side of Emerson Road

**LEGAL**

**DESCRIPTION:** A portion of Sections 26 and 35, Township 22 South, Range 19 East, Hernando County, FL

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

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 15  
PETITION OF OPPOSITION: 1 with 241 signatures

**STAFF FINDINGS:**

Surrounding Zoning

Surrounding Land Uses

North: C-2 and PDP(GHC)

Undeveloped

South: AG(Agricultural)

Moton Elementary School

East: AG(Agricultural)

Undeveloped

West: PDP(MF)(GHC) and  
AR (Agricultural-Residential)

Single Family Homes & Undeveloped

**SUMMARY OF REQUEST**

The petitioner has submitted a request to rezone this approximately 40 acre tract from AR, PDP(GHC) and (MF) to PDP(MF) for development of a multifamily complex. The property is located on the south side of SR 50, east of Oxley Road, west of Emerson Road.

**FACTUAL INFORMATION**

1. The property is currently zoned AR, C/PDP(MF) and (GHC).
2. The property comprises approximately 40 acres.
3. The site is currently undeveloped and appears to contain specimen and majestic trees.
4. The subject property has access from Emerson Road, SR 50 and Oxley Road.
5. The subject property is located on the cusp of the commercial and residential land use classifications on the adopted Future Land Use Map.
6. The on-site soil types are blichton loamy fine sands and flemington fine sands.
7. The property is located in a flood zone C; however, a portion is located within the Bystre Lake 100 year flood area.
8. The subject property contains a small wetland, but no WHPAs or SPAs according to County data resources.
9. The property is located within the City of Brooksville first right to serve area. The City has indicated that water and sewer is available to serve the subject property.
10. There are adequate public facilities available to serve the subject property.
11. The surrounding area is comprised of uses which include undeveloped land, rural residential and educational facilities.
12. The petitioner has not requested any deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner has submitted a request for approval of a 450 unit multifamily complex on approximately 40 acres. A portion of the subject property (approximately 27 acres) was part of a zoning petition approved in 1988 to PDP(Multifamily) and (Commercial). A substantial portion of the commercially zoned area was purchased by the Florida Department of Transportation. The petitioner is reconfiguring the previous project by inclusion and rezoning of approximately 13 acres of AR zoning, and elimination of the commercial zoning.

The multifamily component of the previously approved zoning case included approximately 23 acres with a maximum gross density of 12 units per acre. Conditions of the previous approval are as follows:

1. The developer negotiating a water and sewer agreement with the City of Brooksville and hooking into the City water and sewer systems.

2. The multifamily portion of the project will have a maximum gross density for the 23.4 acres of multifamily of 12 units per acre. The developer shall be required to demonstrate the ability to meet the land use intensity ratios of the development regulations at 12 units per acre.
3. The developer shall provide accel/decel or storage lanes at all project entrances according to applicable County and FDOT standards.
4. The developer shall participate in the cost of signalization at the CR 571/SR 50 intersection and the reserve frontage road/SR 571 intersection should those improvements be warranted. Extractions will be applied to impact fees.
5. The three (3) commercial outparcels shall not have direct access to SR 50 or CR 571 and access reservation strips shall be provided adjacent to these ROWs to prevent such access.

The petitioner is proposing access to the subject property via Oxley Road, an unimproved roadway, and Emerson Road, a paved roadway. The internal roadways are proposed to be private. The property 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 plan submitted does not make any provisions for the required frontage road.

An amenity area is depicted on the plan. The petitioner has indicated in a supplemental narrative that the area will be developed with a community center and a pool. Walking and jogging trails will start from this area and weave throughout the development.

The subject property is located within the City of Brooksville's first right of refusal area. The city has indicated that water and sewer is available to serve the subject property. The petitioner would be required to negotiate a water and sewer agreement to serve the project.

The transportation coordinator has indicated that there is adequate capacity along SR 50 to serve the subject property.

The concept of the petitioner's development is a MF project with 450 units. The petitioner has indicated that they do not currently have specific building architecture or design standards for the development. The only detail provided regarding the MF product is that the height will be no more than 3 stories, a density of 11.2 units per acre, and the proposed setbacks. The County's LDRs have standards relating to MF development which address building design and building materials, minimum open space requirements, pedestrian circulation, accessway standards, setbacks, and other aesthetic considerations. If approved, the project would have to meet the minimum standards provided for in the County's LDRs regarding MF development.

The petitioner has indicated that the proposed internal setbacks are front: 35' (from the centerline of the roads), 10' sides (with minimum 20' between buildings), 20' rear and a 25' perimeter setback. The County's LDRs provide minimum setbacks of 25' from the edge of pavement of internal vehicular

accessways, a minimum of 15' between buildings and a project perimeter setback of 20'. There would be no side and rear setbacks because there are no lots being proposed. The project would be required to meet the minimum ordinance standards indicated above.

The surrounding area includes a mixture of uses including undeveloped land, rural residential development and institutional uses. Moton Elementary School is located to the south of the subject property. There are four tracts indicated along the western boundary of the project for inclusion into the development. These tracts are currently zoned AR. There is rural residential development along Oxley Road across the road from these AR parcels. It is the staff's opinion that approving MF to this depth along Oxley Road would not be compatible with the existing rural residential nature of the area. The staff would not object to the approval of the northern approximately 620' of AR land along Oxley because the existing zoning west of Oxley at this point is PDP(GHC) and (MF).

The Hernando County School Board has indicated that the current school zones are as follows: Elementary (K-5) - Moton Elementary School; Middle (6-8) - D.S. Parrott Middle School; High (9-12) - Hernando High School. This project is estimated to add approximately 150 students to the School System. These additional students could not be accommodated by current permanent capacity. The students could only be accommodated by adding additional permanent capacity, adding portables, redrawing of school boundaries, or a combination of these options.

A relatively large portion along the front of the project, down Oxley Road, is located within the Bystre Lake 100 year floodplain and floodplain buffer. The plan does not indicate the location of the floodplain. The narrative submitted by the petitioner indicates that the project is within the Bystre Lake 100 year floodplain but there are no plan details as to how the floodplain issues will be addressed. It is the staff's opinion that the potential flooding issues have not been adequately addressed on the plan.

Any site alterations shall insure that there is no net loss of storage within the 100 year floodplain. All finished floor elevations within the floodplain and floodplain buffer would have to be above the 100-year flood elevation, and all roadways should be above the 100-year flood elevation for the adjacent Bystre Lake floodplain basin.

The subject property contains a wetland on the southern property line according to County data resources. Any removal, encroachment, or alteration of the wetland shall adhere to all state and federal wetland permitting and mitigation procedures.

### **FINDINGS OF FACT**

The subject property is mapped on the cusp of the residential and commercial land use classifications as identified on the adopted Comprehensive Plan. Land uses allowed within the commercial classification include commercial, office professional, recreation, minor public facilities, and minor institutional; residential units may be allowed.

Policy 1.01F(7) provides criteria for determination of appropriate locations of higher residential densities greater than 4.0 units per acre which include such things as proximity to existing or designated commercial areas or corridors or major employment centers, direct access to arterial or collector roadways, service by water and sewer facilities, provision of open space beyond minimum county standards, aesthetic or architectural quality. The subject property is north of a developed institutional use, has direct access to a collector roadway, and can be served by central water and sewer services. There is a mapped commercial node at Emerson Road and SR 50.

Policy 1.01F(7) of the Comprehensive Plan indicates criteria and standards to be considered in determining appropriate locations of higher residential densities greater than 4.0 dwelling units per acre. These criteria and standards include direct access to arterial or collector roadways or access to arterial or collector roadways via limited use of local roadways, and the character and density of existing or approved residential developments of close proximity.

It is the staff's opinion that the four (4) properties indicated as "tracts" on the plan would not be appropriate being rezoned to PDP(MF) given the existing rural residential development. The staff would have no objections to inclusion of the existing AR property located north of the tract at the corner of Oxley Road and SR 50 as we believe that property meets the criteria and standards in the comprehensive plan; however, we believe additional information regarding the flooding issues should be provided prior to approval.

**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:**

Staff would recommend the request be postponed until the October 11, 2004, P&Z hearing.

**P&Z RECOMMENDATION:**

On September 13, 2004, the Planning and Zoning Commission voted 5-0 to postpone this petition until the October 11, 2004, P&Z meeting at 9:00 a.m.

**BCC ACTION:**

On October 13, 2004, the BCC voted 5-0 to postpone this petition until the November 10, 2004, BCC Land Use Hearing at 9:00 a.m.

**NOTE:**

Subsequent to the September 13, 2004, P&Z meeting, the staff met with the petitioner to discuss issues relative to the plan in more detail. The petitioner coordinated with the County's Engineering Department to review data relative to the Bystre basin. The 100 year flood elevation is 101.5' for this node. The petitioner has provided a revised master plan addressing issues relative to the flood issues associated with this site.

The staff does not support rezoning the property indicated as Tracts 1-4 on the plan due to compatibility issues associated with the existing development in the area. While the staff has not changed their position regarding inclusion of these properties, the revised plan submitted by the petitioner proposes an enhanced buffer in the area along Oxley to include a 50' wide natural and improved buffer in an attempt to enhance compatibility with the surrounding area.

Additionally, the staff further discussed the required frontage road with the County Engineer. Due to the purchase of the area at the northeast corner of SR 50 and Emerson Road by the FDOT, and the environmental limitations east of Emerson Road along SR 50, extension of a frontage road across the property does not appear to accomplish anything with regards to facilitation of traffic. Mitchell Road exists approximately 1800' south of the subject property and provides a connection between Oxley Road and Emerson Road.

The staff recommends the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the rezoning from AR, PDP(MF) and (GHC) to PDP(MF) on a portion of the subject property, excluding the portion reflected as Tracts 1-4 on the master plan, 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. There is a minimum 25' perimeter project setback.
3. Oxley Road must be improved to county standards to a point 50' past the project entry.
4. The project is approved for MF uses at a density of 11.2 units per acre.
5. Internal setbacks: Per the MF development standards

6. The petitioner shall negotiate an agreement with the City of Brooksville for the provision of water and sewer services.
7. Any site alterations shall insure that there is no net loss of storage within the 100 year floodplain.
8. All finished floor elevations within the floodplain and floodplain buffer would have to be above the 100-year flood elevation.
9. All roadways should be above the 100-year flood elevation for the adjacent Bystre Lake floodplain basin.
10. A revised master plan shall be submitted removing Tracts 1-4 from the project boundary within 30 days of approval or the zoning shall be null and void.

**P&Z RECOMMENDATION:**

On October 11, 2004, the P&Z voted 4-1 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the rezoning from AR, PDP(MF) and (GHC) to PDP(MF) ~~on a portion of the subject property, excluding the portion reflected as Tracts 1-4 on the master plan,~~ 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. There is a minimum 25' perimeter project setback.
3. Oxley Road must be improved to county standards to a point 50' past the project entry.
4. The project is approved for MF uses at a density of 11.2 units per acre.
5. Internal setbacks: Per the MF development standards
6. The petitioner shall negotiate an agreement with the City of Brooksville for the provision of water and sewer services.
7. Any site alterations shall insure that there is no net loss of storage within the 100 year floodplain.
8. All finished floor elevations within the floodplain and floodplain buffer would have to be above the 100-year flood elevation.

9. All roadways should be above the 100-year flood elevation for the adjacent Bystre Lake floodplain basin.
- ~~10. A revised master plan shall be submitted removing Tracts 1-4 from the project boundary within 30 days of approval or the zoning shall be null and void.~~
11. The majestic trees on the property shall be noted on the conditional plat.
12. The developer shall coordinate with the School Board in order to minimize the MF development's traffic impacts on Moton Elementary School.
13. The developer shall provide a 50' vegetative buffer, including the existing natural vegetation, along Oxley Road.

**BCC ACTION:**

On November 10, 2004, the Board of County Commissioners voted 5-0 to postpone the petition until the December 8, 2004, BCC hearing at 9:00 a.m.

On December 8, 2004, the Board of County Commissioners voted 5-0 to deny the rezoning from AR, PDP(MF) and (GHC) to PDP(MF).