

**STAFF REPORT**

Planning & Zoning Commission: November 8, 2004  
Board of County Commissioners: December 8, 2004

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**APPLICANT:** Investment Group of Florida, LLC **FILE NUMBER:** H-04-67

**PURPOSE:** Rezoning from PDP(RUR)/Planned Development Project (Rural) to PDP(SF)/Planned Development Project (Single Family)

**GENERAL**

**LOCATION:** North side of Cortez Boulevard, east side of WPA Road

**LEGAL**

**DESCRIPTION:** A portion of Section 33, Township 22 South, Range 20 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: 1

**STAFF FINDINGS:**

Surrounding Zoning

North: AG  
South: AG, C-1, C-2  
East: AG  
West: AG, C-3

Surrounding Land Uses

Single family, AG, undeveloped  
SF, industrial, DRAs  
Mobile home, agriculture  
SF, MH, cemetery, undeveloped

**SUMMARY OF REQUEST**

The petitioner requests to rezone from PDP(RUR) to PDP(SF). The subject property is located on the north side of Cortez Boulevard and the east side of WPA Road.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(Rural).
2. The property comprises approximately 156 acres.
3. The site contains a farm and pasture.
4. The site appears to contain specimen and majestic trees.

5. The subject property has access from Cortez Boulevard and WPA Road.
6. The subject property is located within residential and rural land use classifications on the adopted Future Land Use Map.
7. The on-site soil types include Arredondo fine sand, Blichton loamy fine sand, Candler fine sand, Floridana variant loamy fine sand, Flemington fine sandy loam, Nobleton fine sand, and Sparr 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 flood zones C and A.
9. The property is located within the Bystre Lake flood study area.
10. The subject property contains wetlands and SPAs, but no WHPAs according to County data resources.
11. The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site.
12. There are adequate public facilities available to serve limited development on the subject property.
13. The area is characterized by agricultural, rural residential and institutional uses, mobile home parks, and undeveloped parcels.
14. The petitioner has not requested any deviations from the County's LDRs.

**STAFF DISCUSSION**

The petitioner requests to rezone the subject property from PDP(Rural) to PDP(SF) in order to develop the 156 acre subject property with 156 SF homes on minimum one-half-acre lots. The site is part of a larger 175 acre site that was rezoned from AG to PDP (Rural) in 1999. The approval of the 1999 rezoning allowed 26 homesites on the 175 acre 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, including receiving DRC approval for the proposed use.

2. The site is approved for all of the permitted uses within the AR zoning district and an additional AG use for the parking of a commercial vehicle.
3. The minimum setbacks for the lots created shall be those allowed in the AG zoning district. External setbacks shall be consistent with the PDP regulations for a rural development.
4. The petitioner shall be required to reconfigure the master plan to place roads out of the regulatory flood areas. Roads shall be placed at or above the regulatory flood elevation.
5. An engineered design of the roads shall be provided to ensure that the roads will accommodate the traffic associated with the subdivision.
6. There shall be a maximum of 26 lots created.
7. The minimum lot size allowed is 2.5 acres.
8. Building pads must be at or above the regulatory flood elevation.
9. All wellhead risers must at or above the regulatory flood elevation.
10. Engineering drainage design for stormwater management shall be provided as part of the subdivision approval.
11. A homeowner's association for the subdivision shall be created. Membership in the association shall be mandatory.
12. The petitioner shall submit a revised master plan within 30 days of approval indicating the reconfigured road layout and demonstrating a buildable envelope of development on each lot or the zoning approval shall be null and void.
13. All potential buyers will be noticed the property is within a flood zone.
14. On all deeds there will be placed a statement that the roads are private and the maintenance of the roads is not the responsibility of the County.
15. The developer shall provide to each potential lot purchaser a drawing showing the buildable envelope of the lot above the flood plain.
16. All wells in the development must be located a minimum of 200 feet from the cemetery.

The narrative and plan provided indicate that the SF lots will have 25' front, 10' side, and 50' rear setbacks, with 50' setbacks from Cortez Boulevard. The PDP rules require a 125' setback from Cortez Boulevard.

The PDP perimeter setbacks for residential developments require 125' from Cortez Boulevard, 25' from the front, 10' from the side, and 20' from the rear. If approved, the petitioner would be required to maintain a minimum 125' setback from SR 50, 25' from WPA Road, and 20' from the north and east boundaries of the project.

The petitioner proposes a community park in the center of the subject property where a barn currently exists.

The plan shows a 10' landscape easement along the Cortez Boulevard and WPA Road frontage, and the project perimeter boundary. The County's landscaping regulations would require a 20' vegetative buffer adjacent to the right-of-way line of SR 50 which is not reflected on the plan. Additionally, County LDRs require that new single family and multifamily development with more than 20 units provide at least one treed roadway/access way for motor vehicles extending through the length or width (whichever is greater) of the development with a vegetative buffer at least 10' in width. The petitioner would be required to meet the applicable LDRs.

The petitioner proposes serving the site with central water and septic tanks. The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site.

Portions of the subject property are within the FEMA and Bystre Lake 100-year floodplains. The petitioner submitted a survey with the request which indicates that there are approximately 101 acres within the 100 year flood area, which is consistent with County mapping resources.

Portions of the subject property are located within floodplains which may impact construction on the site. It is the staff's opinion that if the project is approved, all roadways and finished floor elevations within the floodplain would be required to be above the 100-year flood elevation.

The wetlands would be required to be delineated on any future development plans. Any alteration, encroachment, or removal of wetlands shall adhere to all federal and state permitting and mitigation procedures. The subject property contains a Special Protection Area (SPA) according to County data resources. The County's Groundwater Protection Ordinance (GPO) limits septic tank densities to one per acre within a SPA. Additionally, discharge of untreated stormwater into a karst feature is prohibited by the GPO.

The subject property possibly contains gopher tortoises, Southeastern American kestrels, and/or Florida burrowing owls. If these or any other listed species are present, Florida FWC shall be contacted prior to development of the subject property.

The Hernando County School Board has indicated that elementary school students will be allocated to Eastside Elementary School, middle school students to D. S. Parrott Middle School and high school students to Hernando High School. The School Board estimates the proposal would add approximately 52 students to the school district, which 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.

The petitioner proposes two (2) access points on WPA Road. The County Engineer indicates that the southern access point on WPA Road is located too close to Cortez Boulevard to accommodate a turn lane. The County Engineer indicates that if the request is approved, the southern access point on WPA Road should be replaced with an access point on Cortez Boulevard. The County Engineer notes that if the request is approved, improvements to Cortez Boulevard and WPA Road may be required, including the provision of turn lanes. The internal roadways are proposed to be public within a 60' right-of-way. The County Engineer indicates that the plan contains cul-de-sacs longer than the 600' maximum length allowed. If the request is approved, the roadways will have to meet the roadway design guidelines. The narrative indicates that the roadways will be extended to the east to provide access to adjacent properties.

Additionally, County development regulations require the provision of a frontage road across the property at no cost to the County upon demonstration of need and demand by the County. The plan submitted by the petitioner does not make any accommodations for a future frontage road.

Approximately 19 acres located to the northeast of the subject site was part of the 1999 zoning to PDP(Rural). If the request to rezone the 156 acres to PDP (SF) is approved, this approximately 19 acre property will remain zoned PDP(Rural) with an invalid master plan. The 19 acre property could not be developed without a revised master plan.

The City of Brooksville has no comments regarding the request. The FDOT has been notified of the request; no response has been received as of yet.

### **FINDINGS OF FACT**

The area is characterized by agricultural, rural residential and institutional uses, mobile home parks, and undeveloped parcels. Lakeside Acres Mobile Home Subdivision is located northwest of the subject property. Countryside Estate Mobile Home Park is located approximately 900' west of the subject property. There is a cemetery to the west of the subject property. Surrounding development includes larger AG lots with agricultural and low-density rural residential uses. AG parcels with a minimum size of approximately 2.5 acres are located to the west, AG parcels with a minimum size of approximately 10 acres are located to the east, AG parcels with a minimum size of 5 acres and larger are located to the north and south. The Planning staff is of the opinion the proposed development would be incompatible with the existing development in the surrounding area.

The subject property is located within residential and rural land use classifications on the adopted Future Land Use Map. Approximately the southeast half of the subject property is located within the residential land use category. Land uses allowed in the residential category include single family densities ranging from .10 du/acre up to 5.4 units per acre, resort residential and ancillary land uses such as recreation, churches, and community center with the appropriate land use approvals.

A portion of the subject property is located within the rural land use category. Policy 1.01B(10) indicates residential land uses consistent with those uses allowed in the residential land use category are allowable up to 1,320' into the rural land use category. The mapping associated with the Comprehensive Plan is generalized.

Although the property is designated in the residential and rural land use classifications on the future land use map, there are goals, objectives, and policies that provide guidance for determining the appropriate densities. Environmental protection shall be considered in zoning evaluation procedures with reasonable conditions placed upon development approvals. Policy 6.08(A)(2) states that development in flood-prone areas shall generally be less intensive and shall meet the standards established in the County flood plain ordinance. A large portion of the site is located within the Bystre Lake Watershed area. It is the staff's position that although a portion of the site is located in the residential land use classification which could potentially allow a higher density, the environmental constraints on the property make a lower density more appropriate.

The residential land use classification would allow densities ranging from .1 SF unit/acre to 5.4 SF units per acre. Although the 1.0 du/ac density proposed by the petitioner falls within the range of densities allowable, the staff is of the opinion the density proposed is too intense for this location due to its proximity to the rural land use classification, its proximity to the larger AG parcels, and the environmental constraints on the project. The existing zoning would allow 26 lots on 175 acre. It is the staff's opinion that the existing zoning allows a residential density appropriate given the limitations of the site.

The Planning staff is of the opinion that the request to rezone from PDP(Rural) to PDP(SF) is not appropriate, based on the following conclusions:

1. The proposed development is too intense given the amount of the site located within the Bystre Lake flood study area.
2. The proposed development would be incompatible with the surrounding land uses.
3. The proposed rezoning would be inconsistent with the 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 # \_\_\_\_\_ denying the petitioner's request to rezone from PDP(RUR) to PDP(SF).

**P&Z RECOMMENDATION:**

On November 8, 2004, the P&Z voted 5-0 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ denying the petitioner's request to rezone from PDP(RUR) to PDP(SF).

**NOTE:**

The petitioner has provided a revised plan and narrative for the subject property, indicating a higher-density area in the southwest quadrant of the subject property along Cortez Boulevard/SR 50 and lower density development on the remaining 110 acres. The plan shows 135 SF homes sites with a minimum lot size of 6,000 square feet located in the 45 acre southwest quadrant of the subject property. The petitioner indicates these smaller lots would be served by central water and sewer service. The plan shows 20 lots with a minimum lot size of 2.5 acres located in the northern and eastern portions of the subject property. These larger lots are proposed to be served by central water and septic.

The revised concept includes lakefront community parks along the excavated lakes and along SR50, a 20' landscaped buffer included within a 100' open space buffer, located within the required minimum setback of 125' from SR 50.

The revised concept relocates an access point on WPA Road to the north and removes cul-de-sacs longer than 600'. The petitioner has declined to include an access point on SR 50, which would have been consistent with the County Engineer's comments, citing safety concerns. The petitioner instead proposes making improvements to WPA Road.

The Planning staff is of the opinion that the overall 1.0 du/ac density is too intense for this location due to the environmental issues, the surrounding land uses and the proximity to rural future land use

areas and that the 3.0 du/ac density proposed in the southwest quadrant is inappropriate due to its location in a transitional area between rural and residential future land uses.

**BCC ACTION:**

On December 8, 2004, the Board of County Commissioners voted 5-0 to adopt Resolution # 2004-320 denying the petitioner's request to rezone from PDP(RUR) to PDP(SF).