

STAFF REPORT

Planning & Zoning Commission: January 10, 2005

Board of County Commissioners: February 9, 2005

APPLICANT: Mark and Jeryl Weithorn **FILE NUMBER:** H-04-69

PURPOSE: Rezoning from AG to C-1 (General Commercial)

GENERAL

LOCATION: South side of Cortez Boulevard, approximately 680' west of Spring Lake Highway

LEGAL

DESCRIPTION: A portion of Section 4, Township 23 South, Range 20 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:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: AG	Undeveloped
South: AG	Undeveloped
East: C-1	Commercial, undeveloped
West: AG	Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from AG to C-1. The subject property is located on the south side of Cortez Boulevard, approximately 680' west of Spring Lake Highway.

FACTUAL INFORMATION

1. The property is currently zoned AG.
2. The property comprises approximately 8.40 acres.
3. The site is undeveloped.
4. The site appears to contain specimen trees, but not majestic trees.

5. The subject property has access from Cortez Boulevard.
6. The subject property is located generally within a commercial land use classification on the adopted Future Land Use Map.
7. The Hernando County Soil Survey indicates the on-site soil types include Sparr fine sand and Floridana variant loamy fine sand.
8. The property is located in a flood zones A and C.
9. The subject property does contains wetlands, but no WHPAs or SPAs, according to County data resources.
10. The subject property is located within the Bystre Lake 100 year flood plain.
11. The Utilities Department has indicated that central water and sewer are not available to serve the subject site per County ordinance.
12. There are adequate public facilities available to serve limited development on the subject property.
13. The area contains commercial and agricultural uses, 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 AG to C-1. If the request is approved, the setbacks would be as follows: 125' from Cortez Boulevard, 20' from the side lot lines, and 35' from the rear lot line.

The Utilities Department has indicated that central water and sewer capacity is available, but service is not available to serve the subject site per County ordinance.

The subject property is located on Cortez Boulevard. If the subject request is approved, the petitioner will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County. The County owns a parcel adjacent to a portion of the subject property's east property line; the property has not yet been developed with a service road.

The County Engineer indicates the petitioner shall provide a frontage road on the property to connect to the east.

The majority of the subject property is located within the Bystre Lake 100 year flood plain. Mitigation for flood plain encroachment will be required for fill volume placed within the flood plain. Additional mitigation will be required for any impact to jurisdictional wetlands. Frontage road may also be required or variance due to lack of connectivity, due to the wetlands located to the west of the site.

The subject property contains wetlands according to County data resources. All wetlands shall be delineated on future plans and any removal, alteration, or encroachment into the wetlands shall adhere to state and federal permitting and mitigation. The subject property is within Bystre lake 100-year floodplain. All roadways and finished floor elevations shall be above the 100-year flood elevation.

The City of Brooksville has no concerns about the request. The FDOT has been notified of the request; no reply has yet been received.

FINDINGS OF FACT

The area contains commercial and agricultural uses, and undeveloped parcels. The properties to the north, west and south are undeveloped. A convenience store and gas station are located to the east.

Policy 1.01L(3) indicates new commercial rezoning shall be initiated within commercial nodes and regional commercial overlay districts, as indicated on the Future Land Use Map Series, except for Specialty Commercial, Neighborhood Commercial, and appropriate infill areas. The subject property is located generally within a commercial land use classification on the adopted Future Land Use Map.

Policy 1.01L(6) indicates the LDRs shall be written to encourage planned development zoning along arterial roads or in multiple land use developments to ensure compatible land uses and maximize coordination of facilities and access. The subject property is located on Cortez Boulevard, an arterial roadway. The Planning staff is of the opinion that if the request is approved, conditions regarding the coordination of the frontage road and access will need to be addressed in order for traffic to operate efficiently in the area.

The staff is of the opinion that rezoning from AG to PDP(GC) is appropriate, based on the following conclusion:

1. The coordination of the frontage road and access are best addressed by performance conditions as part of a PDP approval.
2. The coordination of environmental issues are best addressed by performance conditions as part of a PDP approval.

3. The C-1 uses allowed by the PDP(GC) category 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 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 adopt Resolution # _____ approving the rezoning from AG to PDP(GC), 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 shall provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. All roadways and finished floor elevations shall be above the 100-year flood elevation.
4. All wetlands shall be delineated on future plans and any removal, alteration, or encroachment into the wetlands shall adhere to state and federal permitting and mitigation.

P&Z RECOMMENDATION:

On January 10, 2005, the Planning and Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt Resolution # _____ approving the petitioner's request to rezone from AG to C-1, 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. The petitioner shall provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. All roadways and finished floor elevations shall be above the 100-year flood elevation.
4. All wetlands shall be delineated on future plans and any removal, alteration, or encroachment into the wetlands shall adhere to state and federal permitting and mitigation.
5. Access to SR 50 shall be right-in/right-out only.
6. The developer shall negotiate with the County Utilities Department for central water and sewer service.

BCC ACTION:

On February 9, 2005, the Board of County Commissioners voted 5-0 to adopt Resolution # 2005-44 approving the petitioner's request to rezone from AG to PDP(GC), 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 shall provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. All roadways and finished floor elevations shall be above the 100-year flood elevation.
4. All wetlands shall be delineated on future plans and any removal, alteration, or encroachment into the wetlands shall adhere to state and federal permitting and mitigation.
5. Access to SR 50 shall be right-in/right-out only.
6. The developer shall negotiate with the County Utilities Department for central water and sewer service.