

**REVISED
STAFF REPORT**

Planning & Zoning Commission: February 14, 2005
Board of County Commissioners: March 9, 2005
Planning & Zoning Commission: April 11, 2005
Board of County Commissioners: May 11, 2005

APPLICANT: Nancy P. Desai **FILE NUMBER:** H-05-13

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

GENERAL

LOCATION: South side of Cortez Boulevard, east side of Twin Dolphin Drive

LEGAL

DESCRIPTION: Lot 58, Sunhill, as per plat thereof recorded in Plat Book 6, Page 80, of the Public Records of Hernando County, Florida in Section 34, Township 22 South, Range 18 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 1

STAFF FINDINGS:

Surrounding Zoning

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

Surrounding Land Uses

Undeveloped
Undeveloped
Undeveloped
Single family

SUMMARY OF REQUEST

The petitioner requests to rezone from R-1C to C-1. The subject property is located on the south side of Cortez Boulevard, east side of Twin Dolphin Drive.

FACTUAL INFORMATION

1. The property is currently zoned R-1C.
2. The property comprises approximately 0.97 of an acre.

3. The site is undeveloped.
4. The site contains no majestic or specimen trees.
5. The subject property has access from Cortez Boulevard, an arterial roadway, and Twin Dolphin Drive.
6. The subject property is located on the fringe of residential and commercial land use classifications 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, but not sewer, is available to serve the subject site.
11. State Road 50 between High Point Boulevard and the Suncoast Parkway does not pass the required adequate public facility review.
12. There are adequate public facilities available to serve limited development on the subject property.
13. The area has been developed with commercial and single family 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 R-1C to C-1 in order to develop the site with a restaurant. A restaurant would be one of the permitted uses in the C-1 general commercial zoning category. If the request is approved, new buildings will be required to meet the minimum commercial setbacks.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site.

The subject property has access to 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 subject property has access from Cortez Boulevard and Twin Dolphin Drive. The County Engineer indicates that if the request is approved, the frontage road will be continued across the property from the east, connecting to Twin Dolphin Drive and the eastern intersection of Twin Dolphin Drive and Cortez Boulevard eliminated. The Planning staff is of the opinion that if the request is approved, the frontage road should be constructed at the time the site is developed.

The property is located on Cortez Boulevard. Subsequent to the staff's initial review of the request, the section of Cortez Boulevard between High Point Boulevard and the Suncoast Parkway is no longer able to pass the required adequate public facility review. The staff is in the process of analyzing the alternatives for increasing the capacity along Cortez Boulevard in this area; however, have not resolved the details. Development and enhancement of parallel collector roadways to State Road 50 could serve to add capacity in this area. A parallel roadway south of SR 50 has been identified on the Comprehensive Plan, although the specific design and route has not been completed. The developer could participate in a fair share contribution for improvements as part of the transportation mitigation.

The subject property lies within a WHPA-2 for a public supply well. The proposed use is allowable within this designation.

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

FINDINGS OF FACT

The area contains commercial and single family uses, and undeveloped parcels. The subject property is located within a platted single family residential subdivision. Single family lots are located to the west and south of the subject property. The C-1 parcel to the east is proposed to be developed with a hotel. The adjacent site is currently under construction.

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 on the fringe of residential and commercial land use classifications on the adopted Future Land Use Map. The residential land use category allows commercial extending from commercial nodes with a functioning frontage road and office professional land use with

performance conditions being met. The Planning staff is of the opinion that although the site is on the fringe of a commercial land use area and will be served by a frontage road, it is inappropriate to allow C-1 uses on the subject parcel due to its location within a platted single family residential subdivision and adjacent to a lot containing a SF lot. However, the staff is of the opinion office professional zoning with performance conditions would be an appropriate transition between the commercial uses and single family zoning.

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 subject property is located between parcels zoned C-1 and R-1C. The Planning staff is of the opinion that C-1 uses are not appropriate at this location within a platted single family residential subdivision.

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 subject property is located within the eastern fringe of a platted single family residential subdivision. The subject property is adjacent to a lot developed with a single family house. The subject property has access from Twin Dolphin Drive, a local road. The Planning staff is of the opinion that rezoning the subject property to C-1 would allow the encroachment of incompatible commercial uses into the single family neighborhood. The Planning staff is of the opinion that allowing office professional uses with performance conditions would be more appropriate as a transition between the C-1 zoning to the east and the SF zoning to the west.

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(OP) 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. General commercial (C-1) would be incompatible with the existing residential uses.
3. Office professional zoning would be compatible with the surrounding land uses.

4. Approval of a developer's agreement to contribute to offsite improvements will assist in mitigation of transportation issues.
5. Rezoning the subject property to office professional is consistent with the County's adopted Comprehensive Plan and the County's land development regulations.

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 R-1C to PDP(OP), 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, at the time the site is developed.
3. A 10' vegetated buffer shall be provided along the west and south property lot lines.
4. Lighting shall be angled away from the SF residential lots.
5. The petitioners shall enter into a developer's agreement which will require them to pay their proportionate fair share of offsite transportation improvements to mitigate impacts associated with development of the project.
6. The petitioner shall provide a revised plan in compliance with all of the performance conditions within 30 calendar days of BCC approval. A \$250.00 late submittal fee will be required in the event the plan is not submitted within the specified time frame. Failure to

submit the revised plan within 30 business days from BCC approval will result in the zoning becoming null and void

P&Z RECOMMENDATION:

On February 14, 2005, the Planning and Zoning Commission voted 5-0 to postpone this petition until the April 11, 2005, P&Z meeting at 9:00 a.m.

BCC ACTION:

On March 9, 2005, the Board of County Commissioners voted 5-0 to postpone the petition until the May 11, 2005, BCC meeting at 9:00 a.m.

P&Z RECOMMENDATION:

At their April 11, 2005 hearing based on the information provided, the Planning and Zoning Commission made the following findings:

1. The proposed request for C-1(General Commercial) would be compatible with the surrounding area with performance conditions.
2. The requested rezoning is consistent with the County's adopted Comprehensive Plan and the County's land development regulations.

On April 11, 2005, the Planning and Zoning Commission voted 5-0 to recommend the BCC adopt resolution # _____ approving rezoning from R-1C 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, at the time the site is developed.
3. A 10' vegetated buffer shall be provided along the west and south property lot lines.
4. Lighting shall be angled away from the SF residential lots and no higher than eave level.

5. The petitioners shall enter into a developer's agreement which will require them to pay their proportionate fair share of offsite transportation improvements to mitigate impacts associated with development of the project.
6. The petitioner shall provide a revised plan in compliance with all of the performance conditions within 30 calendar days of BCC approval. A \$250.00 late submittal fee will be required in the event the plan is not submitted within the specified time frame. Failure to submit the revised plan within 30 business days from BCC approval will result in the zoning becoming null and void.
7. The petitioner shall provide a retaining wall along the west property line to lower the elevation of the building.
8. The petitioner shall provide a buffer with 80% opacity against the adjacent residential area.
9. The development shall be served by central water and sewer service.

Staff Note:

It is the staff's opinion that conditions recommended by the Planning and Zoning would be better addressed through approval of a Planned Development Project(General Commercial)/PDP(GC) than the conventional C-1 zoning category.

BCC ACTION:

On May 11, 2005, the BCC voted 5-0 to adopt resolution #2005-135 approving rezoning from R-1C 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, at the time the site is developed.
3. A 10' vegetated buffer shall be provided along the west and south property lot lines.
4. Lighting shall be angled away from the SF residential lots and no higher than eave level.

5. The petitioners shall enter into a developer's agreement which will require them to pay their proportionate fair share of offsite transportation improvements to mitigate impacts associated with development of the project.
6. The petitioner shall provide a revised plan in compliance with all of the performance conditions within 30 calendar days of BCC approval. A \$250.00 late submittal fee will be required in the event the plan is not submitted within the specified time frame. Failure to submit the revised plan within 30 business days from BCC approval will result in the zoning becoming null and void.
7. The petitioner shall provide a retaining wall along the west property line to lower the elevation of the building.
8. The petitioner shall provide a buffer with 80% opacity against the adjacent residential area..
9. The development shall be served by central water and sewer service.

NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE WITH THIS ZONING APPROVAL MUST BE CONSISTENT WITH THE APPROVED MASTER PLAN, DEVELOPER'S NARRATIVE, DEVELOPER'S REPRESENTATIONS ON THE RECORD, AND THE APPROVAL CONDITIONS BY THE BCC.

NOTE: The transportation impacts resulting from rezoning the property to PDP(GC)(General Commercial) will require off-site transportation improvements as provided by, and hereby conditioned upon, the County and the Applicant entering into a Development Agreement to address and mitigate those off-site impacts. The failure of the parties to agree to and execute a Development Agreement will cause the County to withhold subsequent development approvals including, but not limited to, the issuance of building permits.