

**STAFF REPORT**

Planning & Zoning Commission: July 11, 2005  
Board of County Commissioners: August 10, 2005

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**APPLICANT:** Mahmud U. Ahmed **FILE NUMBER:** H-05-62

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

**GENERAL**

**LOCATION:** North side of Cortez Boulevard, west side of Tree Lane

**LEGAL**

**DESCRIPTION:** Lot 12, Ridge Manor Farms, Unit 1, as per plat thereof recorded in Plat Book 5, Page 38, of the Public Records of Hernando County, Florida in Section 2, Township 23 South, Range 21 East

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

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: R-1C	Single family
South: R3	Multifamily
East: C-1, PDP(SU)	Undeveloped
West: R-1C	Single family

**SUMMARY OF REQUEST**

The petitioner requests to rezone from R-1C to C-1. The subject property is located on the north side of Cortez Boulevard and west side of Tree Lane.

**FACTUAL INFORMATION**

1. The property is currently zoned R-1C.
2. The property comprises approximately 1.5 acres.
3. The site contains a single family house.
4. The site is wooded and appears to contain specimen and majestic trees.

5. The subject property has access from Cortez Boulevard.
6. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
7. The on-site soil types include Basinger fine sand, Candler 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 A and C.
9. The subject property does not contain any wetlands, WHPAs 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. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by single family and multifamily residential uses, 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-1. The petitioner proposes developing the site with a medical facility. A professional office is a permitted use in both the C-1 and OP zoning categories. Any new construction on the site would have to meet the applicable county LDRs including meeting the minimum commercial design standards. The existing single family house would have to be upgraded to meet minimum applicable commercial standards to be used for a professional office. The setbacks for a commercial use on the site are as follows: 125' from Cortez Boulevard, 35' from the side and rear lot lines and 35' from Tree Lane. The subject property is located adjacent to a residential district. If the request is approved, the petitioner will be required to provide a 5' landscaped screened buffer adjacent to lots zoned for SF uses per the LDRs.

The P&Z Commission approved a special exception use permit for a daycare facility on the subject property in 2000, with conditions allowing the maximum number of children in accordance with the

applicable rules, maintenance of the existing buffers along the west and south property lines and provision of a buffer or fence along the north property line.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site. A 4" force main is located on the east side of Tree Lane.

Ridge Manor Farms has established deed restrictions for this site. The deed restrictions on the subject property indicate the site is to be used for single family dwellings. Although the County does not enforce deed restrictions, it does take such restrictions into consideration when determining the character of the neighborhood.

The subject property has frontage 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 Engineer indicates that if the request is approved, the petitioner should provide a frontage road at the time the site is developed.

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

### **FINDINGS OF FACT**

The area is characterized by single family and multifamily residential uses, commercial uses and undeveloped parcels. The parcels to the north and west are zoned R-1C and are developed with single family houses. The parcel to the south, across Cortez Boulevard, is zoned R3 and is developed with multifamily uses. An undeveloped commercial parcel is located to the east, across Tree Lane.

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 in the residential land use classification 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. A commercial node is located to the east of the subject property, on the east side of Tree Lane. The Planning staff is of the opinion that C-1 zoning at this location is not consistent with the adopted Comprehensive Plan.

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 C-1 uses would be incompatible with the R-1C zoning to the north and west of the subject property.

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. Parcels zoned for single family uses are located to the north and east of the subject property. The Planning staff is of the opinion that rezoning the subject property to allow C-1 uses would allow the encroachment of incompatible commercial uses into this area zoned for residential development. 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 single family zoning to the north and 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 conclusions:

1. The coordination of the frontage road and access are best addressed by performance conditions as part of a PDP approval.
2. Office professional zoning would be compatible with the surrounding land uses.
3. General commercial zoning is too intense for this location, would not be compatible with the surrounding land uses and is inconsistent with the County's adopted Comprehensive Plan.
4. Approval of office professional zoning on the subject property 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 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-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. The petitioner shall provide a 10' vegetated buffer along the north lot line.
4. The petitioner shall provide a revised plan prior to the BCC hearing showing a unified plan for lots 12-14 with one access on Cortez Boulevard.

**P&Z RECOMMENDATION:**

The Planning and Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the rezoning from R-1C to PDP(OP) 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. The petitioner shall provide a 10' vegetated buffer along the north lot line.
4. The petitioner shall provide a revised plan prior to the BCC hearing showing a unified plan for lots 12-14 with one access on Cortez Boulevard.
5. The petitioner shall provide 10' of ROW along Tree Lane and shall make improvements to Tree Lane as deemed necessary by the County Engineer. (Note: staff has no objections)

Note: The petitioner did not provide a unified plan for inclusion into the BCC's packet. The petitioner verbally indicated that they believe C-1 is appropriate and consequently would not be submitting a PDP plan.

**BCC ACTION:**

The Board of County Commissioners voted 5-0 to adopt Resolution # 2005-216 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. The petitioner shall provide a 10' vegetated buffer along the north lot line.
4. 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.
5. The petitioner shall provide 10' of ROW along Tree Lane and shall make improvements to Tree Lane as deemed necessary by the County Engineer.

**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.**