

STAFF REPORT

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

APPLICANT: Regal Oaks Development Group, Inc. **FILE NUMBER:** H-05-63

PURPOSE: Rezoning from R-1A (Residential) to C-2 (Highway Commercial) including a reduction in setbacks

GENERAL

LOCATION: South side of Cortez Boulevard, west side of Nunn Boulevard, north side of Nancy Avenue

LEGAL

DESCRIPTION: Lots 5-7, Gulfland, as per plat thereof recorded in Plat Book 6, Page 42, of the Public Records of Hernando County, Florida in Section 25, Township 22 South, Range 18 East

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: R-1C	Undeveloped
South: R-1A	Mobile home
East: C-1	Commercial
West: PDP(HC)	Mobile home

SUMMARY OF REQUEST

The petitioner requests to rezone from R-1A to C-2. The subject property is located on the south side of Cortez Boulevard, west side of Nunn Boulevard, north side of Nancy Avenue.

FACTUAL INFORMATION

1. The property is currently zoned R-1A.
2. The property comprises approximately 1.3 acres.
3. The site contains a single family house.

4. The site is wooded and may contain specimen or majestic trees.
5. The subject property has access from Cortez Boulevard, Nunn Boulevard and Nancy Avenue.
6. The subject property is located within a commercial land use classification 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 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 commercial and residential 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-2. No specific future use has been proposed. If the request is approved, all permitted uses in the C-2 zoning district would be allowed.

If the request is approved, new construction will be required to meet the LDRs for commercial development. The subject property has adequate area to accommodate the required minimum setbacks for commercial zoning.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site. A 6" force main is located on the south side of Cortez Boulevard.

The subject property has frontage on Cortez Boulevard, Nunn Boulevard and Nancy Avenue. The County Engineer concurs with the petitioner's assertion that Nancy Avenue serves as a reverse frontage road in the area. The County Engineer supports the petitioner's proposed access on Nunn Boulevard and Nancy Avenue. Since Nancy Avenue is the frontage road in the area, no access to SR 50 would be allowed. The plan submitted by the petitioner is consistent with the LDRs.

The City of Brooksville has no objection to the request.

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

FINDINGS OF FACT

The area is characterized by commercial and residential uses and undeveloped parcels. The BCC approved a rezoning to PDP(HC) on the parcel to the west in 2001, with conditions allowing a reduced setback of 75' from Cortez Boulevard, a 50' minimum setback from Nancy Avenue, one driveway to Nancy Avenue and a temporary driveway to Cortez Boulevard. Beverage 50 is located on the C-1 parcel to the east, across Nunn Boulevard. A mobile home is located to the south on a parcel zoned R-1A. The property to the north, across Cortez Boulevard, is undeveloped.

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.

The staff is of the opinion that rezoning from R-1A to C-2(Highway Commercial) is appropriate, based on the following conclusions:

1. Highway commercial zoning would be compatible with the surrounding land uses along Cortez Boulevard.
2. Highway commercial zoning along Cortez Boulevard is consistent with the County's adopted Comprehensive Plan and the County's land development regulations subject to performance conditions.

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 petitioner’s request to rezone from R-1A to C-2, 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.

P&Z RECOMMENDATION:

The Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from R-1A to PDP(HC), 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.

NOTE:

At the P&Z meeting, the petitioner indicated he wished to have a setback reduction from 125' to 75' from the front lot line along Cortez Boulevard. The petitioner was informed the setback reduction could be accommodated with a PDP approval by the BCC. The P&Z recommended approval of the rezoning to PDP(HC). The request has been advertised so that the BCC can consider a reduction in setbacks. The petitioner has indicated that the minimum setback of 35' from Nancy Avenue has been increased to 50' in order to preserve some trees on the site. The staff does not object to the proposed reduction in setbacks; the BCC approved the same reduction in setbacks on the parcel to the west in 2001 given the existing frontage road, Nancy Avenue. A condition of approval should be added as follows:

2. The minimum setbacks for the project are as follows:
Front (SR 50): 75'
From Nunn: 35'
From Nancy Avenue: 50'
From west: 20'

BCC ACTION:

The Board of County Commissioners voted 5-0 to adopt Resolution #2005-217 approving the rezoning from R-1A to PDP(HC) with a reduction in setbacks, 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 minimum setbacks for the project are as follows:
 - Front (SR 50): 75'
 - From Nunn: 35'
 - From Nancy Avenue: 50'
 - From west: 20'

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.