

STAFF REPORT

Planning & Zoning Commission: March 13, 2006

Board of County Commissioners: April 12, 2006

APPLICANT: Jim Deka, Outlook Developing **FILE NUMBER:** H-06-19

PURPOSE: Rezoning from AG, R-1A (Residential) and C-2 (Highway Commercial) to PDP(GC)/Planned Development Project (General Commercial) with a Reduction in Setbacks

GENERAL

LOCATION: South side of Cortez Boulevard, south side of Strickland Trail, west side of McKethan Road, north side of Maumee Track

LEGAL

DESCRIPTION: Lots 12 - 27, Block A, Oak Manor, as per plat thereof recorded in Plat Book 6, Page 59, of the Public Records of Hernando County, Florida in Section 10, Township 23 South, Range 21 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: AG, PDP(GHC)

South: PDP(MH)

East: C-2, C-3

West: AG, R-1A

Surrounding Land Uses

Commercial, mobile home

Commercial

Undeveloped

Single family, mobile home

SUMMARY OF REQUEST

The petitioner requests to rezone from AG, R-1A and C-2 to PDP(GC) with a reduction in setbacks. The subject property is located on the south side of Cortez Boulevard, south side of Strickland Trail, west side of McKethan Road and north of Maumee Trace.

FACTUAL INFORMATION

1. The property is currently zoned R-1A and C-2.
2. The property comprises approximately 4.25 acres.

3. The site contains a paved building slab on one of the lots.
4. The site contains majestic and specimen trees.
5. The subject property has access from Cortez Boulevard, McKethan Road, Strickland Trail and Maumee Trak.
6. The subject property is located within commercial, residential and rural 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 zones B and C.
9. The subject property contains a WHPA-1, but no wetlands or SPAs, according to County data resources.
10. The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site.
11. There are adequate public facilities available to serve the subject property.
12. The area is characterized by single family and mobile home residential uses, commercial uses, and undeveloped parcels.
13. The petitioner has requested a reduction in setbacks from 125' to 75' along the front lot line along US 98, which is a deviation from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone from AG, R-1A and C-2 to PDP(GC) with a reduction in setbacks. The petitioner proposes developing the site with a 32,500 square foot building with 20 - 25' x 60' units for general commercial uses, including office and retail uses. The PDP(GC) zoning district allows all of the C-1 uses. The narrative proposes perimeter setbacks as follows: 75' from US 98 and 35' from all other property lines. The plan shows a 121.74' setback from US 98. The Planning staff is of the opinion that if the request is approved, the setbacks should be approved as indicated on the plan.

The petitioner proposes serving the site with central water and sewer service. The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site. An 8" water line is located on the east side of US 98. An 8" sewer force main is located on the west side of US 98, proximate to the subject property. The applicant will have to connect to water and/or sewer if they meet the connection standards of the applicable ordinances at the time they apply for development permits.

The Transportation Planning Coordinator indicates Cortez Boulevard has limited capacity to the east of McKethan Road. The petitioner will have to obtain a certificate of concurrency during review of the conditional plat and capacity may not be available. If the project is not concurrent, the developer has the option of either delaying development or entering into an agreement to address the transportation issues at that time.

The subject property has access to McKethan Road/US 98. 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 plan provided shows a frontage road. The County Engineer indicates that if the request is approved, the petitioner will have to revise the plan to relocate the frontage road intersections with Strickland Trail and Maumee Track approximately 150' to the west of McKethan Road and provide sidewalks along the frontage road.

A portion of the subject property contains a WHPA-1 for a public supply well. The proposed planned development is allowable within this designation. The applicant/owner should note that no underground fuel storage tanks are allowed within the WHPA-1.

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

FINDINGS OF FACT

The area is characterized by single family and mobile home residential uses, commercial uses, and undeveloped parcels. Mobile home residential uses are located to the north and south. Mobile home and single family residential uses are located to the west. The properties to the east are zoned C-3 and C-2 and are undeveloped.

The subject property is located within commercial, residential and rural land use classifications on the adopted Future Land Use Map. 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 northern portion of the property is located within a commercial node. The southern portion of the subject property is located in an appropriate infill area. Commercial zoning is located on the east side of US 98. A portion of the subject property is existing C-2 zoning. The Planning staff is of the opinion it is appropriate to downzone the portion of the property zoned

C-2 to PDP(GC) with the intervening residential and AG properties as a unified plan in order to mitigate impacts to the residential uses to the north, west and south.

The staff is of the opinion that rezone from AG, R-1A and C-2 to PDP(GC) with a reduction in setbacks is appropriate, based on the following conclusions:

1. General commercial zoning would be compatible with the surrounding land uses.
2. General commercial zoning 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 AG, R-1A and C-2 to PDP(GC) 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 petitioner will be required to construct a frontage road across the property, at no cost to the County, when the property is developed.
3. The perimeter setbacks shall be as shown on the plan.
4. The petitioner shall locate the frontage road intersections with Strickland Trail and Maumee Track to comply with the LDRs.

5. 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:

At the March 13, 2006 meeting, the Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt Resolution # _____ approving the petitioner's request to rezone from AG, R-1A and C-2 to PDP(GC) with a reduction in setbacks, 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 will be required to construct a frontage road across the property, at no cost to the County, when the property is developed.
3. The perimeter setbacks shall be as shown on the plan.
4. The petitioner shall locate the frontage road intersections with Strickland Trail and Maumee Track to comply with the LDRs.
5. 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.
6. The petitioner shall increase the buffer along the west property line to 15' with 80% opacity with natural vegetation.(Based on concerns of adjacent owners, staff would have no objections to the increase in buffering)

BCC ACTION:

The BCC voted 5-0 to adopt resolution 2006-102 approving the petitioner's request to rezone from AG, R-1A and C-2 to PDP(GC) 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 petitioner will be required to construct a frontage road across the property, at no cost to the County, when the property is developed.
3. The perimeter setbacks shall be as shown on the plan.
4. The petitioner shall locate the frontage road intersections with Strickland Trail and Maumee Track to comply with the LDRs.
5. 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.
6. The petitioner shall increase the buffer along the west property line to 15' with 80% opacity with natural vegetation.

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.