

REZONING CASE H-24-10

STAFF REPORT

RECOMMENDATIONS/ACTIONS

STAFF RECOMMENDATION TO PLANNING & ZONING COMMISSION JUNE 3, 2024

It is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt a resolution approving the petitioner's request for a rezoning from R-1C to PDP(MF)/ Planned Development Project (Multifamily) with deviations and performance conditions listed in **Appendix A** of this Staff Report.

PLANNING AND ZONING BOARD ACTION JUNE 10, 2024

It is recommended that the Board of County Commissioners adopt a resolution approving the petitioner's request for a rezoning from R-1C to PDP(MF)/ Planned Development Project (Multifamily) with deviations and performance conditions.

INTRODUCTORY INFORMATION

HEARINGS: Planning & Zoning Commission: June 10, 2024
Board of County Commissioners: July 30, 2024

APPLICANT: Fanta Land Corp

FILE NUMBER: H-24-10

REQUEST: Rezoning from R-1C to PDP(MF)/ Planned Development Project (Multifamily) with deviations

GENERAL LOCATION: East side of Coommercial Way (US Hwy 19), approximately 482' south of its intersection with Yellow Hammer Road; west side of Necklace Warbler Avenue just north of its intersection with Florida Wren Avenue

PARCEL KEY NUMBER(S): 676325, 554509

APPLICANT’S REQUEST

The petitioner requests a rezoning of the subject property from R-1C (Residential) to PDP(MF)/ Planned Development Project (Multifamily) to construct a multifamily complex with twelve (12) dwelling units. The petitioner shows the access point for the development on Necklace Warbler Avenue, with no access provided to Commercial Way (US Hwy 19).

Requested Deviations

- A fifty (50) foot reduction in the setbacks against Commercial Way (US 19) changing them from 125' to 75'.

SITE CHARACTERISTICS

Site Size: 1.14 Acres

Surrounding Zoning; Land Uses:

| | |
|--------|--|
| North: | R-1C (Residential); Undeveloped. |
| South: | PDP(GC)/ Planned Development Project (General Commercial) with specific C-2 uses for Auto & Truck repair (including a body and welding shop) and a Cabinet Shop (H-13-14, master plan has expired); Undeveloped. |
| East: | R-1C (Residential); Single Family Residence |
| West: | R-1C (Residential); Undeveloped. |

Current Zoning: AG (Agricultural)

**Future Land Use
Map Designation:** Commercial

ENVIRONMENTAL REVIEW

Soils: Basinger Fine Sand covers a small portion of the southwestern corner of the property. The remaining area has Candler Fine Sand with 0-5% slopes.

Protection Features: The County does not currently have access to the Well Head Protection Area (WHPA) Geographic Information Systems data or the Special Protection Areas (Special Protected Areas (SPAs) data.

Comment: The petitioner is not requesting any uses that are prohibited within the Wellhead Protection Area (WHPA). It is the responsibility of the property owner to hire qualified and licensed consultants to determine the presence of a Wellhead Protection Area (WHPA) on the site, if requested by the County.

Hydrologic Features: This is a karst sensitive area. According to the Florida Sinkhole Types for this area designated as "Bare or thinly covered limestone". There are no sinkholes or wetlands on the property according to the Department of Environmental Protection GIS Dataset.

Habitat: The subject property is designated Upland with deep sand substrate; xeric; panhandle to central peninsula; frequent fire (1-3 years); open canopy of longleaf pine and/or turkey oak with wiregrass understory according to FWC CLC mapping (Florida Cooperative Land Cover Classification System that combines Florida Land Use Cover and Classification System with fish and wildlife data).

Comment: Invasive plant species if present are to be removed during the development process.

Water Quality: The proposed development is within the Chassahowitzka-Homosassa Basin Management Action Plan (BMAP), the Chassahowitzka Outstanding Florida Springs (OFS) Group and the Chassahowitzka-Homosassa Priority Focus Area (PFA).

Comment: Implementation of Florida Friendly Landscaping™ principles, techniques, and materials designed to conserve water and reduce pollutant loading to Florida's waters is required. This will be addressed during the permitting phase of development.

Flood Zone: The subject property has a small portion of the property in an AE flood zone. The remaining property is in the X flood zone.

UTILITIES REVIEW

The Hernando County Utilities Department (HCUD) reviewed the petitioner's request and provided the following comments:

- HCUD does not currently supply water or sewer service to these parcels.
- Water and sewer service are not available to these parcels.
- HCUD has no objection to the requested zoning change from R1C to PDP(MF) to allow a two-story 12-plex housing development, subject to Health Department approval of an appropriate Onsite Sewage Treatment and Disposal System for the project.

ENGINEERING REVIEW

The County Engineer reviewed the petitioner's request and provided the following comments:

- The petitioner shall obtain all applicable permits from Hernando County and other applicable permitting agencies. These permits include, but are not limited to, a right-of-way use permit, an access management or drainage permit from the Florida Department of Transportation (FDOT), and/or a Gopher Tortoise Relocation Permit from the Florida Fish and Wildlife Commission (FWC).
- Necklace Warbler Avenue shall be considered the reverse frontage road for the project and is to be paved from Yellow Hammer Road south to Florida Wren Avenue using a frontage road cross section design with a sidewalk on one side.
- Connect the building to the sidewalk along Commercial Way (US 19) and to the sidewalk constructed along Necklace Warbler.

LAND USE REVIEW

The subject parcel is located toward the north end of the County. The property directly to the south has a PDP that allows C-2 uses for Auto & Truck repair (including a body and welding shop) and a Cabinet Shop, which has an expired master plan. Prior to developing the parcel, the owner will need to present a master plan to the Planning and Zoning Board as well as the Board of County Commissioners. The residential protection standards will apply to the adjacent properties when going through the rezoning process.

Setbacks

The petitioner requests a deviation to reduce the western setback by fifty (50) foot changing them from 125' to 75'. The western side of the property is adjacent to Commercial Way (US Hwy 19). The setback is 125' to accommodate frontage roads and access points on the Functionally Classified Road network. The County Engineer indicated the use of Necklace Warbler Avenue as the frontage road with removes the need to have 125' available for road construction.

Comment: Staff finds this request reasonable and recommends approval for this deviation.

Buffers

The complex is required to be permanently screened from adjacent properties by a fence or a wall between five (5) and eight (8) feet tall or evergreen hedge with a minimum of five (5) feet at the time of planting. The petitioner proposes an increase in the buffers on the eastern and western boundaries to ten (10) feet.

Staff recommends increasing the southern buffer, out of concern that a five (5) foot buffer adjacent to an autobody shop will not provide adequate privacy or noise reduction for the future residents. A well planted buffer that is ten (10) feet wide, with the recommended masonry wall located on the inside of the buffer will help reduce noise and visual conflict between the two land-uses.

Comment: Staff recommend the use of a masonry wall against the interior of the southern and western property lines and an increase in the size of the southern buffer by five (5) feet making it ten (10) feet wide, providing enough room for the masonry wall and the plantings.

COMPREHENSIVE PLAN REVIEW

Future Land Use Map, Commercial Category

The Comprehensive Plan provides guidance with regards to the future development of the County, especially along major commercial corridors. Multifamily development can be appropriate in the commercial future land use, as long as there are performance conditions established that will protect the future residents and the surrounding commercial land uses.

Strategy 1.04A(6): The Commercial Category provides for commercial uses including products and services along major corridors and at roadway intersections to serve residents and visitors on both a localized and regionalized basis. The Commercial Category recognizes existing commercial use corridors along U.S. Highway 19 and State Route 50 and existing and planned commercial nodes at intersections of arterial and/or collector roads. The Commercial Category includes small unmapped existing commercial properties. The Commercial Category also recognizes the ability to designate infill parcels for commercial use lying in proximity to and between, but not necessarily contiguous to, other existing commercially designated properties. Publicly owned lands along the commercial use corridors that are made available for surplus may be considered to have a Commercial designation, if the agency proceeds through the Comprehensive Plan Amendment process to amend the future land use map, in accordance with Section 163.3184, F.S.

Objective 1.04G: The Commercial Category allows primarily retail, office, and commercial service uses with an overall average gross floor area ratio of 0.35 but also includes limited industrial, recreational, and institutional uses. *Residential and mixed uses may be allowed subject to locational criteria and performance standards.*

Strategy 1.04G(1): Commercial development as envisioned on the Future Land Use Map is intended primarily for locations at major intersections and along major corridors where service to local and regional markets are enhanced by transportation patterns. New commercial zoning is directed to these mapped areas. Commercial areas that are not mapped but are allowed under this Future Land Use Category include neighborhood commercial and specialty commercial uses as described in this Plan, commercial approved as part of mixed-use developments, commercial designated by planned development districts, the infill development of existing commercial areas, commercial areas extending from designated commercial nodes, and pre-existing commercially developed and designated areas. Frontage roads and cross-access between commercial uses is required where needed in accordance with the provisions of this Plan and adopted land development regulations.

FINDING OF FACTS

1. The subject property is currently zoned R-1C, which is not compatible with the Future Land Use designation of "Commercial".
2. Residential uses may be allowed in the commercial future land use subject to locational criteria and performance standards.
3. The requested deviation in the setbacks adjacent to Commercial Way (US Hwy 19) is appropriate due to the layout of the project.
4. The use of the subject property for a small-scale multifamily complex is appropriate due to the increased residential density proposed, provided standards are established that will protect the future residents from the noise and commercial activity that may occur on adjacent properties.

NOTICE OF APPLICANT RESPONSIBILITY

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. Homeowner 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.

The applicant, property owner, or developer is responsible for ensuring the performance conditions established herein are provided to all contractors performing work for this project. All applications submitted for development activity on this project are expected to comply with the performance conditions established herein.

**APPENDIX A
STAFF RECOMMENDATION TO PLANNING AND ZONING
COMMISSION**

APPENDIX A – STAFF RECOMMENDATION TO PLANNING & ZONING COMMISSION

It is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt a resolution approving the petitioner's request for a rezoning from R-1C to PDP(MF)/ Planned Development Project (Multifamily) with deviations and the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. **Planning**
 - A. Allowed Uses in this PDP: Multifamily complex and associated accessory uses.
 - B. Maximum number of Dwelling Units Allowed: Twelve (12)
 - C. Minimum Dwelling Unit Size: 600 square feet
 - D. Setbacks (inclusive of the vegetated buffer)
 - North: 10'
 - South: 10'
 - East: 35'
 - West: 75'
 - E. Minimum Building Separation: 15'
 - F. Building Coverage: 45%
 - G. Building Height: 45' / 3 stories
3. **Buffers and Permanent Screening:**
 - A. The subject property shall be permanently screened from the adjoining and contiguous properties by a vegetated landscaped buffer and a masonry wall. The vegetation shall have a minimum height of five (5) feet and a maximum height of eight (8) feet. The wall shall be a minimum of five (5) feet tall.
 - North: 5'
 - South: 10'
 - East: 10'
 - West: 10'

*Buffer fencing – the required greenery shall be installed on the side of the fence or wall that faces the adjacent property.
 - B. Natural vegetation is to be retained in the buffers and enhanced with trees and vegetation to meet 80% opacity requirement within 12 months. Supplemental planting will be required if the natural buffer does not meet the opacity requirement.
 - C. Vegetated buffers shall remain undisturbed, with the exception of the removal of invasive species or dead trees (without the use of large machinery that would level

the buffer). Buffers may not include any stormwater management facilities, drainage retention areas or utility easements.

4. **Environmental:**

B. **Required Open Space:** 7,449 square feet.

Multifamily Development (*Appendix A, Article VIII, Section 1 (H)(1)(e)*): The minimum open space required for multifamily developments containing twelve (12) or more units shall dedicate a minimum of fifteen (15) percent of the gross site to be maintained in open space. A minimum of fifty (50) percent of the required open space shall be in areas at least five hundred (500) square feet in size with no horizontal dimension less than fifteen (15) feet.

C. **Required Natural Vegetation:** 2,483 square feet.

Preserved natural vegetation and/or planted native vegetation shall be provided per the following standard (*Article II, Section 10-28 (2)*):

Projects on less than two (2) acres must designate an area of at least five (5) percent of the total project area as native vegetation and must plant that area using Florida Friendly Landscaping™. The native vegetation must consist of a single, contiguous area. Preserved natural vegetation may be considered.

D. **Landscaping**

A minimum of fifteen (15) trees per acre shall be either preserved or installed. At least five (5) of those trees shall be shade trees. Unless otherwise approved for removal, specimen and majestic trees shall be preserved.

- I. Invasive plant species if present are to be removed during the development process.
- II. The petitioner must meet the minimum requirements of Florida Friendly Landscaping™ publications and the Florida Yards and Neighborhoods Program for required plantings and buffers, as applicable.

The Builder/Developer shall provide new property owners with Florida-Friendly Landscaping™ Program information and encourage the use of the principles, techniques, and landscaping recommendations. Information on the County's Fertilizer Ordinance and fertilizer use is to be included. Educational information is available through Hernando County Utilities Department.

5. **Engineering:**

- A. The petitioner shall obtain all applicable permits from Hernando County and other applicable permitting agencies. These permits include, but are not limited to, a right-of-way use permit, an access management or drainage permit from the Florida

Department of Transportation (FDOT), and/or a Gopher Tortoise Relocation Permit from the Florida Fish and Wildlife Commission (FWC).

- B. Necklace Warbler Avenue shall be considered the reverse frontage road for the project. This frontage road shall be paved from Yellow Hammer Road south to Florida Wren Avenue using a frontage road cross section with a sidewalk on one side.
- C. The developer shall connect the building to the sidewalk along U.S.19/Commercial Way and to the sidewalk constructed along Necklace Warbler.

6. Utilities

Hernando County Utilities Department (HCUD) approval is subject to the Health Department approval of an appropriate Onsite Sewage Treatment and Disposal System for the project.

7. Schools

The petitioner must apply for and receive a "Finding of School Capacity" from the School District prior to the approval of the conditional plat or the functional equivalent. The County will only issue a certificate of concurrency for schools upon the School District's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of subdivision approval or site plan approval (or functional equivalent) for each level of school without mitigation, or with the execution of a legally binding proportionate share mitigation agreement between the applicant, the School District and the County.

Without Conditional Plat or the functional equivalent in place, the School Districts finding of school capacity expires within one (1) year of issuance.

- 8. The petitioner shall remove any barbed wire and/or electric fencing from the subject parcel prior to the issuance of any Certificate of Occupancy being issued. This includes any areas designated as Buffers and Drainage Retention Areas designated as PDP(Special Use) on plats.
- 9. Prior to the issuance of an approved set of construction plans, the developer shall provide the Department of Public Works and the Planning Department with a contact list of any known contractors and professionals that will be working on the site as well as designating a primary contact should issues arise.
- 10. The petitioner shall provide a revised master plan in compliance with all approved performance conditions within 30 calendar days of BCC approval. Failure to submit the revised plan will result in no further development permits.

**APPENDIX B
PLANNING AND ZONING COMMISSION ACTION:**

PLANNING AND ZONING ACTION:

On the June 10, 2024 hearing, the Planning and Zoning Commission recommend the Board of County Commissioners adopt a resolution approving the petitioner's request for a rezoning from R-1C to PDP(MF)/ Planned Development Project (Multifamily) with deviations and **modified** performance conditions:

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. **Planning**
 - A. Allowed Uses in this PDP: Multifamily complex and associated accessory uses.
 - B. Maximum number of Dwelling Units Allowed: Twelve (12)
 - C. Minimum Dwelling Unit Size: 600 square feet
 - D. Setbacks (inclusive of the vegetated buffer)
 - North: 10'
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 - E. Minimum Building Separation: 15'
 - F. Building Coverage: 45%
 - G. Building Height: 45' / 3 stories
3. **Buffers and Permanent Screening:**
 - D. The subject property shall be permanently screened from the adjoining and contiguous properties by a vegetated landscaped buffer and ~~a masonry wall~~ **vinyl fence**. The vegetation shall have a minimum height of five (5) feet and a maximum height of eight (8) feet. The wall shall be a minimum of five (5) feet tall.
 - North: 5'
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*Buffer fencing – the required greenery shall be installed on the side of the fence or wall that faces the adjacent property.
 - E. Natural vegetation is to be retained in the buffers and enhanced with trees and vegetation to meet 80% opacity requirement within 12 months. Supplemental planting will be required if the natural buffer does not meet the opacity requirement.
 - F. Vegetated buffers shall remain undisturbed, with the exception of the removal of invasive species or dead trees (without the use of large machinery that would level the buffer). Buffers may not include any stormwater management facilities, drainage retention areas or utility easements.

4. Environmental:

- A. A **comprehensive floral and faunal (wildlife) survey** shall be prepared by a qualified professional and submitted as part of the Conditional Plat application stage of development. The petitioner is required to comply with all applicable FWC regulations and permitting. **Required Open Space:** 7,449 square feet.

Multifamily Development (*Appendix A, Article VIII, Section 1 (H)(1)(e)*): The minimum open space required for multifamily developments containing twelve (12) or more units shall dedicate a minimum of fifteen (15) percent of the gross site to be maintained in open space. A minimum of fifty (50) percent of the required open space shall be in areas at least five hundred (500) square feet in size with no horizontal dimension less than fifteen (15) feet.

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Department of Transportation (FDOT), and/or a Gopher Tortoise Relocation Permit from the Florida Fish and Wildlife Commission (FWC).

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- 10. The petitioner shall provide a revised master plan in compliance with all approved performance conditions within 30 calendar days of BCC approval. Failure to submit the revised plan will result in no further development permits.