

STAFF REPORT

HEARINGS: Planning & Zoning Commission: December 11, 2023
Board of County Commissioners: January 9, 2024

APPLICANT: Silverstone Investment

FILE NUMBER: H-23-58

REQUEST: Rezoning from C-3 (Neighborhood Commercial) to PDP(CM)/ Planned Development Project (Commercial Marine) and PDP(NC)/Planned Development Project (Neighborhood Commercial) with a Specific C-1 (General Commercial) Use with Deviations

GENERAL LOCATION: South side of Cortez Boulevard, approximately 480' west of Avenue of the Palms

PARCEL KEY NUMBERS: 89727, 89736

APPLICANT'S REQUEST

The petitioner requests a rezoning from C-3 (Neighborhood Commercial) to PDP(CM)/ Planned Development Project (Commercial Marine) and PDP(GC)/Planned Development Project (General Commercial) from C-3 (Neighborhood Commercial) to PDP(CM)/ Planned Development Project (Commercial Marine) and PDP(NC)/Planned Development Project (Neighborhood Commercial) with a Specific C-1 (General Commercial) Use for two (2) adjacent parcels. The petitioner has indicated rezoning a 0.16-acre parcel from C-3 (Neighborhood Commercial) to PDP(CM)/ Planned Development Project (Commercial Marine) to utilize the parcel for boat storage and boat rentals. The second parcel has an existing long-standing restaurant (built 1960) which has been closed but is currently under renovation.

The petitioner's request is to rezone the parcel from C-3 (Neighborhood Commercial) to PDP(NC)/Planned Development Project (Neighborhood Commercial) with a Specific C-1 (General Commercial) use for restaurant with or without alcohol dispensation to bring the existing restaurant into zoning conformance. The existing C-3 (Neighborhood Commercial) limits restaurants to 40 seats. The existing restaurant has traditionally seated 100 plus patrons and the petitioner would like to continue providing up to 120 seats.

The petitioner requests a deviation from the minimum restaurant parking standards to accommodate the historic seating capacity of the restaurant. The County LDRs (Land Development Regulations) require 60 seats based on the proposed 120 seats; The petitioner requests a deviation to require 50 parking spaces instead.

SITE CHARACTERISTICS

Site Size: 0.64 acres

**Surrounding Zoning;
Land Uses:** North: AG (Agricultural); Conservation
South: R-1B; Single Family
East: CM-1; Dry Boat Storage/Marina
West: C-3; Undeveloped

Current Zoning: C-3 (Neighborhood Commercial)

**Future Land Use
Map Designation:** Residential

ENVIRONMENTAL REVIEW

Soil Type: Aripeka-Okeelanta-Lauderhill Association and Udalfic Arents-Urban Land complex (dredge material)

Hydrologic Features: The property is situated along a canal and contains no mapped wetlands.

Protection Features: The property contains no Special Protection Area (SPA), Wellhead Protections Areas (WHPA), or known archaeological/historical sites according to County data resources.

Habitat: The property is developed and shown as medium density according to FWC CLC (Florida Cooperative Land Cover Classification System that combines Florida Land Use Cover and Classification System with Fish and wildlife data) mapping. The property is not expected to have listed protected species.

Flood Zone: AE

UTILITIES REVIEW

The Hernando County Utilities Department (HCUD) currently provides water and sewer service to Parcel Key #89736. HCUD has no objection to the request, subject to a sewer capacity analysis to determine if capacity is available to accommodate the increased number of seats.

ENGINEERING REVIEW

The County Engineer reviewed the petitioner’s request and provided the following comments for both proposed uses:

Boat Rental

- Cortez Boulevard is classified as a Collector Roadway and a sidewalk will be required along the entire frontage of Cortez Boulevard.
- The Driveway and parking layout will have to meet County standards at the time of development.

Restaurant

- A Traffic Access Analysis is required. Any improvements identified by analysis will be the responsibility of the developer.
- Turn Lanes may be required on Cortez Boulevard per the recommendations of the Traffic Access Analysis. This will be the responsibility of the developer.
- Cortez Boulevard is classified as a Collector Roadway and a Sidewalk will be required along the entire frontage along Cortez Boulevard.
- The Parking Layout and Driveway will need to be updated to current County standards.
- Adequate parking spaces, meeting Hernando County Standards, must be provided on property for both boat rental and restaurant uses.
- No parking shall be permitted in the right-of-way by Ordinance.
- A right-of-way use permit is required for connection to Cortez Boulevard.

LAND USE REVIEW

Proposed Boat Rental

Minimum Building Setbacks:

- Front:75'
- Side: 20'
- Rear:35'

Boat Docks:

Any proposed boat docks shall meet the minimum requirements of the Marine Construction Code and the Riverine Protection Ordinance (RPO).

Buffers:

The petitioner has not indicated any buffers or screening for the proposed boat rental and/or dry boat storage.

Comments: Hernando County LDRs require screening of outdoor storage from adjoining and contiguous properties by a wall, fence, or other approved enclosures. Screening shall meet an eighty (80) percent opacity standard. Such screening shall have a minimum height of five (5) feet and maximum of eight (8) feet. In this instance, the primary use is storage, and the entire site must be fenced with a 6' PVC fence supplemented by landscaping in accordance with the requirements of the Community Appearance Ordinance. Screening could include an opaque or chain link fence with slats, and/or landscape buffering.

Landscaping:

The petitioner must meet the minimum requirements of Florida Friendly Landscaping™ publications and the Florida Yards and Neighborhoods Program for design techniques, principles, materials, and plantings for required landscaping.

PROPOSED RESTAURANT USEMinimum Building Setbacks:

- Front:75'
- Side: 20'
- Rear:35'

Comments: The setbacks of the existing restaurant are recognized and shall be deemed legal nonconforming

Parking

The County LDR's require 0.5 parking spaces per seat in a restaurant. The petitioner has indicated the restaurant will have approximately 120 seats. Based on the proposed seating the existing restaurant will be required to provide 60 parking spaces.

COMPREHENSIVE PLAN REVIEW

The subject site is in the Residential Land Use designation on the County's Comprehensive Plan. The area is characterized by C-3 (Neighborhood Commercial) and CM-1 (Commercial Marine) along Cortez Boulevard and R-1B (Residential) south across from the canal. The petitioner is requesting a C-1 (Commercial Use) for restaurant and CM-1 (Commercial Marine) for dry boat storage and boat rentals.

Specialty Commercial Category

Strategy 1.04G(11): Specialty Commercial areas are recognized but generally not depicted on the Future Land Use Map due to their small size and specialized function. The County will provide for land use regulations that recognize and encourage specialty commercial uses important to the traditional economic base, including Agricultural Commercial, Marine Commercial and Heavy Commercial uses.

Strategy 1.04G(13): Marine Commercial uses may be established to accommodate water-dependent uses and to encourage the preservation of recreational and commercial working waterfronts. These areas may distinguish between land uses that serve primarily recreational purposes and those that serve primarily commercial fishing and support-related businesses. Marine Commercial zoning districts shall meet the following criteria:

- a. be located in the Hernando Beach or Aripeka communities;
- b. provide a water-dependent or water-related service or product;
- c. provide for tourist amenities and services;
- d. minimize the adverse impacts on the waterways they are proximate to and on navigation;
- e. are clustered with like uses;
- f. comply with the strategies of adopted community vision plans.

Comments: The petitioners request for boat rental is a specific use limited to the Commercial Marine zoning Districts and are specific to those parcels directly adjacent to waterways. The proposed use is compatible with the CM-1 (Commercial Marine) parcels directly to the west and meets the specialty commercial criteria.

Residential Category

Objective 1.04B: The Residential Category allows primarily single family, duplex, resort and multi-family housing and associated ancillary uses such as recreational and institutional. Office and certain commercial uses may be allowed subject to the locational criteria and performance standards of this Plan. Residential density shall not exceed 22 dwelling units per gross acre.

Strategy 1.04B(1): Commercial and institutional uses within the Residential Category are generally associated with medium and high-density residential development and may include neighborhood commercial, office professional, recreational, schools, and hospitals. Minor public facilities that do not unduly disturb the peaceful enjoyment of residential uses may also be allowed.

Comments: The petitioner has indicated that the restaurant has been in existence since the early 1960', which predate the inception of the County Code of Ordinances (1972). The County's PDP/Planned Development Project designation allows for deviations and the adoption of uses from a higher zoning category when meeting certain criteria. The request is to bring the restaurant into conformance by requesting a C-1 (General Commercial) use for "restaurant with or without alcohol dispensation", in order exceed the 40-seat limit of the C-3 (Neighborhood Commercial) zoning district.

Neighborhood Commercial

Strategy 1.04G(9): Neighborhood Commercial areas are recognized but generally not depicted on the Future Land Use Map due to their small size and limited function. Neighborhood commercial areas serve limited local, traditional, or historic markets such as local restaurants and coffee shops, local convenience retail, local gas stations, or similar uses, and generally do not exceed 5 acres in size.

Strategy 1.04G(10): Neighborhood Commercial areas are guided by the following land use criteria:

- a. may be located in Residential or Rural Categories;
- b. have a maximum total size of five (5) acres overall;
- c. are not located in environmentally sensitive areas or the Conservation Category unless associated with a resource oriented tourism use;
- d. are located on collector or arterial roads except as part of a mixed use project;

- e. will not result in degradation of roadway levels of service;
- f. are designed to serve the convenience and personal service needs of nearby residents where such services are not otherwise reasonably available, and are proximate to the population areas supported;
- g. will not compromise the integrity of residential or rural areas;
- h. may be located internal to a mixed use project.

Comments: The subject site is located Cortez Boulevard and adjacent to existing Neighborhood Commercial parcels. The proposed use is consistent with the Comprehensive Plan and compatible with the surrounding area.

FINDING OF FACTS

A rezoning from C-3 (Neighborhood Commercial) to PDP(CM)/ Planned Development Project (Commercial Marine) and PDP(NC)/Planned Development Project (Neighborhood Commercial) with a Specific C-1 (General Commercial) use is appropriate based on the following:

1. The request for PDP(NC)/Planned Development Project (Neighborhood Commercial) with a specific C-1 (General Commercial) is compatible with the surrounding area and not adverse to the public interest.
2. The petitioner's request for parking space reduction is not justified due to the already limited space provided on the existing site. IN order to provide adequate parking and potentially avoid parking in the right-of-way, seating should be reduced to 100 seats which would require the 50 spaces the petitioner has indicated the site already provides. In the event of additional property is provided for parking, the Zoning Administrator may review the change in order to avoid a master plan revision.
3. The request for PDP(CM)/ Planned Development Project (Commercial Marine) is consistent with the Comprehensive Plan and compatible with land uses abutting Cortez Boulevard.

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.

STAFF RECOMMENDATION

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 C-3 (Neighborhood Commercial) to PDP(CM)/ Planned Development Project (Commercial Marine) and PDP(NC)/Planned Development Project (Neighborhood Commercial) with a Specific C-1 (General Commercial) use with 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. The petitioner shall meet the minimum requirements of Florida Friendly Landscaping™ publications.
3. Minimum Building Setbacks:
 - Front: 75'
 - Side: 20'
 - Rear: 35'
4. Any proposed boat docks shall meet the minimum requirements of the Marine Construction Code and the Riverine Protection Ordinance (RPO).
5. Restaurant seating shall be limited to 100 seats to accommodate the appropriate parking.
6. The petitioner shall provide a sewer capacity analysis to determine if capacity is available to accommodate the increased number of seats.
7. Engineering

Boat Rental

- A sidewalk shall be required along the entire frontage of Cortez Boulevard.
- The driveway and parking layout shall meet County standards at the time of development.

Restaurant

- A Traffic Access Analysis shall be required. Any improvements identified by analysis shall be the responsibility of the developer.
- Turn Lanes may be required on Cortez Boulevard per the recommendations of the Traffic Access Analysis. This will be the responsibility of the developer.
- A sidewalk shall be required along the entire frontage of Cortez Boulevard.
- The petitioner shall coordinate the Parking Layout and Driveway with the County Engineer.
- Adequate parking spaces shall meet the minimum standards of the County LDRs for both boat rental and restaurant uses.
- No parking shall be permitted in the right-of-way by Ordinance.
- A right-of-way use permit shall be required for connection to Cortez Boulevard.