

## STAFF REPORT

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**HEARINGS:** Planning & Zoning Commission: June 13, 2022  
Board of County Commissioners: July 12, 2022

**APPLICANT:** Todd Mooney

**FILE NUMBER:** H-23-29

**REQUEST:** Rezoning from PDP(OP)/Planned Development Project (Office Professional) and PDP(SF)/Planned Development Project (Single Family) to PDP(MF)/Planned Development Project (Multifamily) Deviations

**GENERAL LOCATION:** South side of Cortez Boulevard, approximately 700' east of Nightwalker Road

**PARCEL KEY NUMBERS:** 1170618, 346717

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### APPLICANT'S REQUEST:

On September 13, 2022, the Board of County Commissioners voted to deny the petitioner's request for a Master Plan revision with a rezoning from PDP(OP)/Planned Development Project (Office Professional) and PDP(SF)/Planned Development Project (Single Family) to PDP(MF)/Planned Development Project (Multifamily) and PDP(OP)/Planned Development Project (Office Professional) with specific C-1 uses and Deviations. The request was for a development of 20,000 square feet of retail, and a maximum of 500 units of multifamily apartments allocated across eleven (11) buildings.

The petitioner's current request is for a rezoning from PDP(OP)/Planned Development Project (Office Professional) and PDP(SF)/Planned Development Project (Single Family) to PDP(MF)/Planned Development Project (Multifamily) with Deviations to develop an approximate 17.82-acre portion of the subject site with 350 multifamily units. The multifamily project will provide a clubhouse and 60' (4-story) high buildings. The petitioner has not proposed a specific number of buildings. The petitioner has not proposed access to the west (Brent Lawn Street) and has proposed a 40' dedicated buffer tract for the portion of the project that neighbors the existing residential homes.

### Deviations Requested:

- A deviation from the maximum building height (45'), to 60'. Building height within 200' of the western boundary is proposed to be limited to 45'.
- A waiver of the frontage road requirement along Cortez Boulevard.

**SITE CHARACTERISTICS:**

**Site Size:** 44.89 acres

**Surrounding Zoning & Land Uses:** North: AG; Undeveloped  
South: AG; Boy Scout Camp  
East: AG; Power Line Easement, Boy Scout Camp  
West: PDP(SF); Single Family

**Current Zoning:** PDP(SF) (MF) (OP)/Planned Development Project (Single Family, Multifamily and Office Professional)

**Future Land Use Map Designation:** Residential

**ENVIRONMENTAL REVIEW:**

**Soil Type:** Candler Fine Sand, Tavares Fine Sand

**Habitat:** Wet prairie, natural lakes and ponds, freshwater non-forested wetland, and remnants of mixed hardwood-coniferous forest 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).

**Comments:** Candler Fine Sand provides habitat suitable for gopher tortoises (a listed species) and commensal species. A comprehensive faunal (wildlife) survey shall be prepared by a qualified professional. The petitioner is required to comply with all applicable FWC regulations and permitting.

**Hydrologic Features:** The subject property contains a large Class 1 wetland and unmapped Special Protection Areas (SPA), according to County data resources.

**Comments:** The property is karst sensitive and contains a submerged cavern system within the wetland area. It is an unmapped Special Protection Areas (SPA). According to the Groundwater Protection Ordinance (GPO), Special Protection Areas (SPA) are subject to a restriction. A SPA associated with a karst feature will consist of a setback of 500-foot measured from the outer boundary of the vulnerable feature. The proposed list of C-1 uses are permitted within the 500-foot designated SPA buffer.

A subsurface geologic assessment (performed after the relocation of gopher tortoises present on the site), floral/faunal aquatic species

survey and report prepared by a qualified professional shall be used in the design and layout of the project and shall be submitted to the County at the development of each phase to ascertain that efforts have been made to avoid impacts to subsurface karst sensitive features. The evaluation shall also include a stormwater design plan to prevent runoff, provide treatment, and avoid adverse stormwater impacts to the Class 1 wetland.

A 50-foot wetland buffer shall be required measured from the jurisdictional wetland line. The buffer shall be planted with native vegetation to control erosion. Additionally, a conservation easement shall be required and must include the wetland, wetland buffer, and karst sensitive undeveloped uplands for key #346717. The proposed boardwalk is a permitted use.

The Class 1 wetland and associated buffer areas shall include a conservation easement in favor of the developer and including a third-party right of enforcement in favor of the County pursuant to Section 704.06(8), Florida Statutes on the master plan and construction drawings.

Any removal, encroachment or alteration of these wetlands shall require permitting and mitigation by the appropriate state and federal agencies.

**Protection Features:** The property is located within a Class 2 Wellhead Protection Area (WHPA) according to County data resources.

**Comments:** The proposed uses are permitted within the WHPA-2

**Resources/ Features:** There no archaeological sites according to County data resources.

**Water Quality:** This project is located within the Weeki Wachee Priority Focus Area identified by FDEP as contributing nutrients to the Weeki Wachee Riverine System. Implementation of Florida Friendly Landscaping™ principles, techniques, and materials are designed to conserve water and reduce pollutant loading to the aquifer.

**Comments:** 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.

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

**Flood Zone:** C and AE (associated with wetland)

**SCHOOL BOARD REVIEW:**

No comments were received from the Hernando County School District on the subject application.

The applicant 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.

**UTILITIES REVIEW:**

The Hernando County Utility Department (HCUD) has indicated that it does not currently supply water or sewer service to this parcel. There are existing 20-inch and 14-inch water mains that run along the south side of Cortez Boulevard on the north property line of this project. There is an existing 6-inch sewer force main approximately 0.7 miles to the west on the north side of Cortez Boulevard, and an existing 6-inch sewer force main approximately 1.2 miles to the east on the south side of Cortez Boulevard. HCUD has no objection to the request subject to a utility capacity analysis and connection to the central water and sewer systems at time of vertical construction.

**ENGINEERING & TRANSPORTATION REVIEW:**

The subject site is located on the south side of Cortez Boulevard, approximately 700' east of Nightwalker Road. The petitioner requesting a waiver of the frontage road requirement. Access is proposed to SR 50 with a potential emergency exit west to Brent Lawn Street)

The County Engineer reviewed the request and indicated the following:

- This property contains areas of flood Zone “AE” and Zone “A”. One of the floodplain areas is directly connected to the aquifer.
- The Department of Public Works (Engineering Division) supports the petitioner’s request for a waiver of the frontage road requirement.
- A sidewalk is required to connect to SR 50/Cortez Blvd. multi use path.
- A traffic access analysis is required to be submitted at the time of site development; this traffic analysis is required to include a queuing analysis. Any improvements identified by the Traffic Access Analysis will be the responsibility of the developer.
- A full connection to Brent Lawn Street is required, as it provides access to a signalized intersection.

- A Cul-De-Sac or Turn Around is required at the Eastern end of the proposed road. The design of the Cul-De-Sac is to meet Hernando County Standards to allow for a Pierce 105' Aerial Ladder Fire Apparatus to safety turn around.
- A Round-a-bout design is required at the intersection of the three internal to the project roadways.
- Parcels located along S.R. 50/Cortez Blvd. are required to obtain an FDOT (Florida Dept. of Transportation) Access Management permit and possibly a FDOT Drainage permit at the time of site development.

## LAND USE REVIEW:

### Building Setbacks

#### Parcel A Proposed Setbacks:

- North: 125'
- East: 15'
- South: 125'
- West: 125'
- Wetland: 50'

### Building Height

The maximum building height is forty-five (45) feet and/or three (3) stories. No building shall exceed three (3) stories, or forty-five (45) feet in the R-3 district unless one foot shall be added to the required front and side yards for each foot of building height over forty-five (45) feet in addition to the general yard requirements for the zoning district.

**Comments:** The petitioner has indicated a maximum height of 60' (4-Story). Building height within 200' of the western boundary will be limited to 45'.

### Buffers

A buffer shall be required between a Planned Development Project land use which is multifamily or non-residential and a land use, external to the PDP, which is residential, agricultural/residential, or agricultural.

The minimum commercial buffer shall consist of a five-foot landscaped separation distance. The multifamily or nonresidential use located on such lot shall be permanently screened from the adjoining and contiguous properties by a wall, fence, and/or approved enclosures. Such screening shall have a minimum height of five (5) feet and a maximum height of eight (8) feet, or an evergreen hedge with a minimum height of five (5) feet at the time of planting.

Proposed Buffers:

- SR 50: 25'
- West: 40' landscape buffer at 80% opacity for the portion directly neighboring residential homes (west) and a 25' natural vegetative buffer on the balance of the buffer as it heads south
- Wetland: 25'

**Open Space**

The LDRs have design standards required for PDP(MF)/Planned Development Project (Multifamily). The design standards require a minimum of 15% of the gross area be provided as open space. If approved, the petitioner must provide the required open space as required by the County's LDRs.

**Natural Vegetation**

Projects greater than twenty (20) acres shall designate an area of at least seven (7) percent of the total project area as preserved natural vegetation and no construction activity can occur in this area. Preserved natural vegetation areas must be a minimum of twenty thousand (20,000) square feet.

**Landscape**

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.

**Access**

To establish minimum access requirements to multifamily subdivisions, the Board of County Commissioners adopted a policy requiring two (2) means of access. The policy serves to provide more than one-way in and one-way out for residents of a subdivision, alternate routes for emergency services, interconnection between subdivisions, a shortened drive time for residents to the entrance/exits, and access points for travel direction outside of the development. A minimum of two (2) access points must be provided to serve any new subdivision or development pod with more than 50 units.

**Comments:** The petitioner is proposing two access points. One full access to SR 50 and potential emergency access to Brent Lawn Street. If approved, the petitioner shall be required to provide two (2) means of access in accordance with County policy and per the requirement of the County Engineer. The Brent Lawn Street access is intended to allow for access to the signalized intersection at July Avenue and SR 50.

**Lighting:**

County LDRs require lighting that enhances the visual impact of the project on the community and to specifically address lighting intensity levels and glare accordingly. Commercial buildings and projects shall be designed to provide safe, convenient and efficient lighting for pedestrians and vehicles.

**Comments:** The petitioner has not indicated lighting for the proposed use. If approved, all lighting should be full cut off fixtures to prevent any light spillage into neighboring parcels.

**COMPREHENSIVE PLAN REVIEW:**

The area is characterized by commercial and single-family homes. The subject property is located within the Residential land use classification on the adopted Future Land Use Map.

**Residential Category**

Objective 1.04B: The Residential Category allows primarily single family, duplex, resort, and multifamily 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.

**Comment:** The petitioner is proposing a 350-unit multifamily development on 44.89 acres which yields a density of 7.80 dwelling units per gross acre.

**Multifamily Housing**

Strategy 1.04B(5): High density zonings are intended for locations in the more intensely developed sections of the County. New residential development of high-density housing shall utilize the Planned Development Project (PDP) process. Regulatory criteria shall include standards that evaluate and address suitability of the location including:

- a. proximity to existing or designated commercial areas, corridors, or employment centers;
- b. direct or limited local access to arterial or collector roadways;
- c. availability of appropriate infrastructure and services capacity at the site including police, fire, emergency medical services, potable water utility supply, sewer utility supply, and primary and secondary school facilities;

- d. protection of high quality environmentally sensitive resources or historic and archaeological resources;
- e. the character and density of existing and approved residential development in the surrounding area.

Strategy 1.04B(6): Multifamily development may be allowed in the Commercial Category pursuant to a Planned Development Project (PDP) Master Plan and related strategies to accommodate infill and/or mixed use development.

**Comment:** The multifamily development is proposed as a PDP/Planned Development Project with a maximum of 350-units on 44.89 acres. The proposed density is 7.8 dwelling units per acre. The proposed project location is suitable for multifamily with appropriate performance conditions.

**Road Network – Frontage Roads**

Objective 5.01B: Maintain and expand a system of frontage roads and cross-access easements parallel to County arterial and collector roads. The frontage road network is designed to enable the creation of shared drives, shared easements, and alternative routes. Frontage road configuration is intended to optimize corridor and roadway network function, maintain capacity on the functionally classified network, and provide aesthetic, safe and convenient access to multiple properties and business sites.

Strategy 5.01B(3): The County should require cross-access easements, shared drives, shared access, and other techniques that optimize the function of the roadway network where frontage roads are not required.

**Comments:** The County Engineer supports a waiver of the frontage road based on the subject site location and inability to further connect the frontage road east. The County Engineer as indicated the petitioner must connect to Brent Lawn Street towards the west in order to provide the development access to the signalized intersection of July Avenue and SR 50.



**Caves**

Strategy 10.02B(7): Land development processes in areas above cave systems will include requirements for a subsurface geologic assessment of the project and a floral/faunal survey to identify the presence of protected species, by qualified professionals, with recommendations regarding the need for mitigation and protection measures.

Strategy 10.02B(8): In areas above cave systems, development approvals will not be issued until scientific information is provided to assure the subsurface karst geologic features and floral/faunal species will not be adversely impacted. A naturally vegetated surface setback with incentives that encourage flexible design shall be formulated to conserve karst systems underlying the property. Subsurface geologic features and their karst connections shall be studied and reviewed by appropriate state agencies with their recommendations and findings used to develop and manage the property. Protection shall be afforded new species.

Strategy 10.02B(8): In areas above cave systems, development approvals will not be issued until scientific information is provided to assure the subsurface karst geologic features and floral/faunal species will not be adversely impacted. A naturally vegetated surface setback with incentives that encourage flexible design shall be formulated to conserve karst systems underlying the property. Subsurface geologic features and their karst connections shall be studied and reviewed by appropriate state agencies with their recommendations and findings used to develop and manage the property. Protection shall be afforded new species.

**Comments:** The property is karst sensitive and contains a submerged cavern system within the northern portion of wetland area closest to the proposed development. The area is an unmapped Special Protection Area (SPA) which will require a conservation easement for the wetland and karst sensitive area.

**FINDINGS OF FACT**

Rezoning from PDP(OP)/Planned Development Project (Office Professional) and PDP(SF)/Planned Development Project (Single Family) to PDP(MF)/Planned Development Project (Multifamily) Deviations is appropriate based on the following conclusions:

1. The following deviations are justified and are not considered adverse to the public interest:
  - A deviation from the maximum building height (45'), to 60'.
  - Deviation/wavier of the frontage road requirement.

2. The petitioner shall be required to provide a full access connection to Brent Lawn Street.
3. The request is consistent with the County's adopted Comprehensive Plan and is compatible with the surrounding land uses subject to compliance with all performance conditions.

## 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 RECOMMENDATIONS

It is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt a resolution approving the petitioner's request to Rezoning from PDP(OP)/Planned Development Project (Office Professional) and PDP(SF)/Planned Development Project (Single Family) to PDP(MF)/Planned Development Project (Multifamily) Deviations, 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 and the Florida Yards and Neighborhoods Program for design techniques, principles, materials, and plantings for required landscaping, as applicable.
3. 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.

4. The petitioner shall be required to provide a water and sewer capacity analysis and connect to the central water and sewer systems at time of vertical construction.
5. All lighting shall be full cut off fixtures to prevent any light spillage into neighboring parcels.
6. The maximum building height
  - 60' (deviation from 45').
  - Building heights within 200' of the western boundary shall be limited to 45'.
7. A setback of 500-foot measured from the outer boundary of the Special Protection Area (SPA) shall be provided.
8. A subsurface geologic assessment, floral/faunal aquatic species survey and report prepared by a qualified professional shall be used in the design and layout of the project and shall be submitted to the County at the development of each phase to ascertain that efforts have been made to avoid impacts to subsurface karst sensitive features. The evaluation shall also include a stormwater design plan to prevent runoff, provide treatment, and avoid adverse stormwater impacts to the Class 1 wetland.
9. A 50-foot wetland buffer shall be required measured from the jurisdictional wetland line. The buffer shall be planted with native non-invasive vegetation to control erosion. Wetland jurisdiction lines shall be shown on all future surveys and plats.
10. Any removal, encroachment or alteration of these wetlands shall require permitting and mitigation by the appropriate state and federal agencies.
11. A conservation easement shall be required and must include the wetland, wetland buffer, and karst sensitive undeveloped uplands for key #346717. Easement shall be shown on the master plan and construction drawings. The conservation easement shall be provided in favor of the developer and including a third-party right of enforcement in favor of the County pursuant to Section 704.06(8), Florida Statutes.
12. A Traffic Access Analysis shall be required. Traffic Access Analysis shall include a queuing analysis. Any improvements identified by the Traffic Access Analysis will be the responsibility of the developer.
13. The frontage road requirement shall be waived.
14. A FDOT Access management and drainage permit shall be required.

15. Minimum Building Setbacks
  - North: 125'
  - East: 15'
  - South: 125'
  - West: 125'
  - Wetland: 50'
  
16. The petitioner shall be required to provide two (2) means of access in accordance with County policy. Access from Brent Lawn Street shall be one of these required means of access.
  
17. Minimum Buffers:
  - SR 50: 25'
  - West: 40' landscape buffer at 80% opacity for the portion directly neighboring residential homes (west) and a 25' natural vegetative buffer on the balance of the buffer as it heads south
  - Wetland: 25'
  
18. Where stormwater runoff is directed to retention/detention areas adjacent to the direct connections to the aquifer, the developer shall use enhanced treatment methods to reduce nitrogen loading.
  
19. The petitioner shall provide a master plan in compliance with all the performance conditions within 30 calendar days of BCC approval. Failure to submit the revised plan will result in no further development permits being issued.