

STAFF REPORT

Planning & Zoning Commission: January 13, 2003
Board of County Commissioners: February 5, 2003

APPLICANT: Dr. Brian O'Sullivan **FILE NUMBER:** H-03-02

PURPOSE: Rezoning from Planned Development Project (Multifamily) to Office-Professional (OP) or Planned Development Project (Office-Professional)

GENERAL LOCATION: East side of Millwood Road, approximately 230' south of Northcliffe Boulevard

LEGAL DESCRIPTION: Lot 5, Block 1147, Spring Hill, Unit 17, as per plat thereof recorded in Plat Book 9, Pages 31 - 46, of the Public Records of Hernando County, Florida in Section 7, Township 23 South, Range 18 East

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(OP)	Undeveloped
South: PDP(MF)	Multifamily, undeveloped
East: PDP(MF)	Undeveloped
West: PDP(MF)	Multifamily

SUMMARY OF REQUEST

The petitioner requests a rezoning from PDP(MF) to OP (Office Professional). The staff has included a request for PDP(OP) for consideration. The subject property is located on the east side of Millwood Road, approximately 230' south of Northcliffe Boulevard.

FACTUAL INFORMATION

1. The property is currently zoned PDP(MF).
2. The property comprises approximately six-tenths of an acre.
3. The subject property is currently undeveloped.
4. The subject property has access from Millwood Road.
5. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
6. 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 development.

7. The property is located in a flood zone C.
8. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources.
9. Florida Water Services has indicated that central water and sewer are available to serve the subject site.
10. There are adequate public facilities available to serve the subject property.
11. The area is characterized by multifamily uses and undeveloped lots.
12. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests rezoning the subject parcel from PDP(MF) to OP for office professional uses. The staff has included PDP(OP) for consideration. Permitted uses in the OP or PDP(OP) districts include day care centers, preschools, places of public assembly, business, professional and nonprofit office use, publicly owned or operated buildings, one single-family dwelling, charitable organizations and hospitals.

The petitioner's narrative indicates he desires to rezone the subject property to OP in order to provide additional drainage and parking infrastructure for his two lots adjacent to the north, which were rezoned to PDP(OP) in 2002. The petitioner has been informed that the two lots to the north were rezoned to PDP(OP) with an approved master plan and performance conditions and that to utilize the subject property in conjunction with development on the two lots to the north requires a revision of the existing master plan. The petitioner has indicated he does not have a proposed site plan. The petitioner has not requested a master plan revision. If the request for the rezoning is approved, the subject property would be developed as a stand-alone development.

Florida Water Services has indicated that central water and sewer are available to serve the subject site. However, the petitioner has proposed serving the site with central water and septic.

The petitioner did not submit a site plan for consideration. If the request is approved, the petitioner will have to meet all of the required LDRs, including appropriate parking, for the development.

The original Spring Hill Master Plan was laid out with various land uses which include commercial, residential (SF and MF), parks, community facilities and churches. The subject site is within the interior of an area originally defined as MF. However, the parcels to the north were rezoned in 2002 from PDP(MF) to PDP(OP). The BCC has indicated that the appropriate boundary for office/professional uses along Northcliffe Boulevard could be extended to the west to Landover Boulevard, where a traffic signal is to be installed in 2003. The Planning staff is of the opinion that it is inappropriate to allow office-professional uses into the heart of a neighborhood that is expected to develop with multifamily residential uses.

Spring Hill has established deed restrictions for this site. The deed restrictions on this lot would allow for multifamily uses only. Although the County does not enforce deed restrictions, it does take such restrictions into consideration when determining the character of the neighborhood.

Since the site is suitable for gopher tortoise habitat, there is the potential for this species of special concern to be present. A preliminary survey should be conducted to determine if any listed species are present. If any are present, the petitioner would be required to comply with all applicable Florida Fish and Wildlife Conservation Commission (FWC) regulations.

If the petitioner's request is approved, access will be provided from Millwood Road. The County Engineer had no comments.

FINDINGS OF FACT

The area is characterized by multifamily uses and undeveloped lots.

The subject property is located within the Residential land use category on the adopted Future Land Use Map. The mapping criteria of the Comprehensive Plan indicates that office/professional uses are allowable in the Residential land use category with the appropriate land use approvals.

Policy 1.01H(2) encourages the protection of existing and future residential areas from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment. The proposed office/professional use would change the character of the area. The parcels to the east, west and south of the subject property are zoned for multifamily residential development. The staff would not support extending the office professional zoning along this residential street into this area designated for multifamily development.

It is the staff's opinion that the proposed use would be incompatible with the surrounding area and inconsistent with the County's adopted comprehensive plan.

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, which may include review by the Development Review Committee (DRC).

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 deny the petitioner's request to rezone from PDP(MF) to OP.

FINDINGS OF FACT:

At their January 13, 2003 hearing, the Planning & Zoning Commission found that recommending approval of the rezoning from PDP(MF) to PDP(OP) with performance conditions was appropriate because the petitioner's proposed limited OP uses of parking area and retention pond would not be incompatible with the surrounding MF land uses, the proposed limited OP uses would serve as a buffer between the OP uses on the parcels along Northcliffe Boulevard and the MF uses to the south and rezoning the property to allow for limited OP uses would not be inconsistent with the adopted Comprehensive Plan.

P&Z RECOMMENDATION:

The Planning & Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from PDP(MF) to PDP(OP) 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, including review of the proposed use through the DRC process.
2. A site plan shall be submitted prior to the BCC hearing.
3. The site shall be served by central water and sewer service.
4. A 6'-high buffer of 80% opacity shall be provided along the south and east lot lines.
5. The subject property is not authorized for habitable space.

ADDITIONAL INFORMATION:

As of January 27, 2003, a site plan has not yet been received. The applicant's representative provided a site plan at the February 5, 2003 BCC hearing.

BCC ACTION:

The Board of County Commissioners voted 5-0 to adopt Resolution #2003-27 approving the rezoning from PDP(MF) to PDP(OP) 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, including review of the proposed use through the DRC process.
2. The site shall be served by central water and sewer service.
3. A 6'-high buffer of 80% opacity shall be provided along the south and east lot lines.
4. The subject property is not authorized for habitable space.