

STAFF REPORT

Planning & Zoning Commission: July 14, 2003
Board of County Commissioners: August 13, 2003

APPLICANT: Ryland Homes **FILE NUMBER:** H-03-41

PURPOSE: Master Plan Revision to include a Reduction in Swimming Pool Setbacks

GENERAL

LOCATION: South of Wexford Boulevard, approximately 1500' north of County Line Road

LEGAL

DESCRIPTION: Phase Six of the Wellington at Seven Hills, as per plat thereof recorded in Plat Book 33, Page 24, of the Public Records of Hernando County, Florida in Sections 31 and 32, Township 23 South, Range 18 East and a portion of Section 32, Township 23 South, Range 18 East, Hernando County, FL

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: PDP(MF), PDP(SF), R-1C
South: PDP(GHC), AG
East: C/PDP
West: PDP(SU), PDP(MF)

Surrounding Land Uses

SF, Undeveloped
ALF, Undeveloped
Undeveloped
Suncoast Elementary School

SUMMARY OF REQUEST

The petitioner requests a master plan revision to include a reduction in swimming pool setbacks. The subject property is located south of Wexford Boulevard, approximately 1500' north of County Line Road.

FACTUAL INFORMATION

1. The property is currently zoned C/PDP, PDP(MF), PDP(SF) and PDP(SU).
2. The property comprises approximately 68.29 acres.

3. Single family homes are under construction on the site.
4. The subject property has access from Wexford Boulevard, a private roadway.
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 alterations.
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, although wastewater is outside of their territory.
10. There are adequate public facilities available to serve the subject property.
11. The area is characterized by single family homes, institutional uses and undeveloped parcels.
12. The petitioner requests a reduction in the rear setbacks for swimming pools from 5' to 1', which is a deviation from the County's LDRs.

STAFF DISCUSSION

The petitioner requests a master plan revision for Phases 6 and 7 in the Wellington. The requested modification is for a reduction in rear setbacks from 5' to 1' for swimming pools. The reduction is requested for single family lots having a depth of 110' and which are not adjacent to other single family lots at the rear lot line. The petitioner has not otherwise specified to which lots the reduction request would apply. The master plan indicates lots with rear lot lines not adjacent to other single family lots have rear lot lines adjacent to drainage retention areas. Phase 6 has been platted with multiple lot sizes ranging from approximately 4,950 square feet to 7,700 square feet. Phase 7 has not yet been platted.

The LDRs indicate that in residential districts, swimming pools and swimming pool enclosures must be 5' from the rear lot line.

Pasco County has been notified of the request; no response has yet been received.

FINDINGS OF FACT

The area is characterized by single family homes, institutional uses and undeveloped parcels. The subject property is located within the Wellington in Seven Hills Subdivision. Phase 6 of the Wellington is currently under construction; Phase 7 has not yet been developed. Suncoast Elementary School is located west of the subject property. An ALF is located south of the subject property.

The subject property is located within the residential land use category on the adopted Future Land Use Map. Land uses allowed in the residential category include single family densities up to 5.4 units per acre, resort residential and ancillary land uses such as recreation, churches, and community centers. Land uses which can be located in this category with performance standards being met include multifamily housing up to 16 units per acre, rural residential, neighborhood commercial, commercial extending from commercial nodes with a functioning frontage road, unless it is determined that wetlands or existing development make frontage road extension unfeasible, office and professional, schools, hospitals and minor public facilities.

The PDP category provides petitioners flexibility in the design of the master plan. The subject area has been platted with varying lot sizes from 4,950 square feet to 7,700 square feet. It is not a typical villa-lot pod. The staff has concerns regarding providing proper maintenance of private properties adjacent to the drainage retention areas. The petitioner has provided no justification for the request other than affected lots will not abut other lots.

The planning staff recommends denial of the request for the reduction in rear setbacks for swimming pools because the petitioner has provided no justification for the request.

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, 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 for a master plan revision to include a reduction in swimming pool setbacks.

P&Z RECOMMENDATION:

At their July 14, 2003 hearing, based on the information provided, the Planning and Zoning Commission made the following findings:

1. Reduction in pool setbacks on lots with rear setbacks abutting other residential lots would make the lots incompatible with the surrounding residential lots.
2. Reduction in pool setbacks on lots with rear lot lines within utility easements would not be appropriate where the setback reductions could interfere with underground utilities.
3. Phase 7 lot layout and design can still be revised.

The Planning and Zoning Commission found that the proposed reduction in setbacks on specific lots in Phase 6 would not be incompatible with the surrounding single family residential land uses and not inconsistent with the Comprehensive Plan, if approved with performance conditions. The P&Z voted 4-1 to recommend the Board of County Commissioners adopt Resolution # _____ approving the petitioner's request for a master plan revision for Phase 6 to include a reduction in swimming pool 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, including review of the proposed use through the DRC process.
2. The petitioner will provide a master plan showing the affected lots and revised standards in Phase 6.
3. The petitioner will notify prospective homeowners of the 1' rear swimming pool setbacks.
4. The petitioner shall indicate utility easements on a map before the BCC hearing.

BCC ACTION:

At their August 13, 2003 hearing, based on the information provided, the BCC made the following findings:

1. Reduction in pool setbacks on lots with rear setbacks abutting other residential lots would make the lots incompatible with the surrounding residential lots.

2. Reduction in pool setbacks on lots with rear lot lines within utility easements would not be appropriate where the setback reductions could interfere with underground utilities.
3. Phase 7 lot layout and design can still be revised.

The BCC found that the proposed reduction in setbacks on specific lots in Phase 6 would not be incompatible with the surrounding single family residential land uses and not inconsistent with the Comprehensive Plan, if approved with performance conditions. The BCC voted 5-0 to adopt Resolution # 2003-226 approving the petitioner's request for a master plan revision for Phase 6 to include a reduction in swimming pool 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, including review of the proposed use through the DRC process.
2. The petitioner will provide a master plan showing the affected lots and revised standards in Phase 6.
3. The petitioner will notify prospective homeowners of the 1' rear swimming pool setbacks.
4. The petitioner shall indicate utility easements on a map before the BCC hearing.
5. The petitioner shall modify and record deed restrictions to reflect the reduced setbacks.