

**STAFF REPORT**

Planning & Zoning Commission: March 10, 2003

Board of County Commissioners: April 9, 2003

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**APPLICANT:** Donald Penna **FILE NUMBER:** H-03-11

**PURPOSE:** Rezoning from PDP (MF)/(Multifamily) to PDP (OP)/(Office Professional) with a reduction in setbacks

**GENERAL**

**LOCATION:** South side of Spring Hill Drive, approximately 500' west of Omaha Circle

**LEGAL**

**DESCRIPTION:** Lot 16, Block 159, Spring Hill, Unit 3, as per plat thereof recorded in Plat Book 7, Pages 80-86, of the Public Records of Hernando County, Florida all located in a portion of Section 27, Township 23 South, Range 17 East

**FILE STATUS:** All legal obligations have been completed.

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

Surrounding Zoning

North: PDP(MF)  
South: PDP(SF)  
East: PDP(MF)  
West: PDP(MF)

Surrounding Land Uses

Multifamily  
Greenbrier Lake  
SF, parking lot  
SF

**SUMMARY OF REQUEST**

The petitioner requests to rezone from PDP (MF) to PDP (OP). The Planning staff has included a reduction in setbacks for consideration. The subject property is located on the south side of Spring Hill Drive, approximately 500' west of Omaha Circle.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP (MF).
2. The property comprises approximately a half-acre.
3. The site is currently undeveloped.

4. The subject property has access from Spring Hill Drive.
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 contains a WHPA-2, but no wetlands 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 a mixture of multifamily and single family residential uses.
12. The petition has been advertised for a reduction in the rear setback from 35' to 20' and a side setback from 20' to 10'. Setback reductions are deviation from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner requests rezoning the subject parcel from PDP(MF) to PDP(OP). Permitted uses in the 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 indicates in the narrative that he intends to develop the lot with a medical office.

The petitioner originally proposed including a portion of the lot to the east of the subject property in the rezoning request. The revised site plan submitted erroneously indicates parking on the lot to the east and access from the subject property to the parking on the lot to east. The Planning staff would recommend that if the request is approved, the petitioner be required to submit a revised site plan showing development only on the subject property. The site plan shows a 1,792 square foot office building located in the rear of the lot. The site plan indicates the proposed building is intended to provide offices for two doctors.

The petitioner has indicated setbacks consistent with the MF zoning category along the side and rear; however, if the request is approved, the minimum setbacks for the PDP(OP) district would apply. Minimum development standards for existing special business/commercial lots in Spring Hill are 50' front, 20 rear and zero side. The subject property and adjacent MF lots have minimum development standards of front and rear: 25', side: 10'. If the request is approved, the staff would support minimum development setbacks consistent with the MF zoning category. The petition has been adequately advertised to consider varying the setback requirements.

The LDRs indicate the minimum parking space requirements for a medical office for two doctors is 4 spaces per 1,000 square feet of office space plus three spaces per doctor. The site plan provides more than the minimum parking required. If the request is approved, the petitioner will have to meet all of the required LDRs, including appropriate parking, for the development.

Florida Water Services has indicated that central water and sewer are available to serve the subject site. The Planning staff is of the opinion that if the request is approved, the petitioner should be required to connect to central services.

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 located in an area originally defined as MF. The BCC approved rezoning from PDP(MF) to PDP(OP) of parcels located approximately 100' to the west in 2001.

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.

A maximum of ten (10) living units is allowed on the subject property per the Spring Hill master plan. Under the current multifamily zoning, approximately 33 trips would be generated on the property. General office use would produce approximately 34 trips; medical office use would produce approximately 110 trips.

A lot approximately 750' to the west of the subject property was rezoned from multifamily to office professional uses, with a performance condition prohibiting medical office uses, because of concerns the BCC had about traffic generated by medical office uses. The petitioner has indicated the proposal is for medical offices.

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.

The petitioner has proposed one right-in/right-out access point for the site. The petitioner had originally included the common parking lot and one of the condominium units on the lot to the east in the request and has verbally indicated he may attempt to have these areas rezoned to office-

professional in the future. The Planning staff and the County Engineer are of the opinion that if the lots to the east are submitted for OP development in the future, access should be limited. It is the staff's opinion that if the request is approved, access should be limited to a temporary driveway until such time as a coordinated project is submitted and final access and interconnection determined.

The property is within a WHPA 2 as designated by the Groundwater Protection Ordinance. The proposed use is not prohibited within a WHPA 2.

### **FINDINGS OF FACT**

The area is characterized by multifamily and single family residential development. Five parcels to the west of the subject property have recently been rezoned from PDP(MF) to PDP(OP). The subject property is located between parcels zoned PDP(MF). The properties to the east and west are developed with single family homes. The lots to the north are developed with multifamily and single family development.

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 subject property is located between lots zoned for multifamily uses that have been developed with single family homes. The Planning staff is of the opinion that the subject property is not an appropriate location for office professional uses.

It is the staff's opinion that the proposed use would not be compatible with the surrounding single family residential development and would be 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 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 to rezone from PDP (MF) to PDP (OP) with a reduction in setbacks.

**P&Z RECOMMENDATION:**

The Planning & Zoning Commission voted 5-0 to postpone consideration of this petition to the April 14, 2003 hearing at 9:00 a.m.

**NOTE:**

On March 28, 2003, the applicant's representative submitted a letter withdrawing the application.

**BCC ACTION:**

On April 9, 2003, the BCC acknowledged the petitioner's withdrawal.