

STAFF REPORT

Planning & Zoning Commission: April 14, 2003

Board of County Commissioners: May 14, 2003

APPLICANT: Arthur Alimonos **FILE NUMBER:** H-03-16

PURPOSE: Rezoning from AR-2 (Agricultural/Residential-2) to PDP (GC)/(General Commercial) with a reduction in setbacks

GENERAL

LOCATION: North side of County Line Road, approximately 920' west of Springtime Street, approximately 1600' east of Peachtree Drive

LEGAL

DESCRIPTION: Lots 79 and 80, El Pico, an unrecorded subdivision, located in a portion of Section 36, Township 23 South, Range 17 East, Hernando County, FL

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: AR-2
South: Pasco County
East: AR-2
West: AR-2

Surrounding Land Uses

SF, MH, Undeveloped
Trucking company, auto repair, office
Undeveloped
Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from AR-2 to PDP (GC) with a reduction in setbacks. The subject property is located on the north side of County Line Road, approximately 920' west of Springtime Street and approximately 1600' east of Peachtree Drive.

FACTUAL INFORMATION

1. The property is currently zoned AR-2.
2. The property comprises approximately 6.88 acres.
3. The site is currently undeveloped.

4. The subject property has access from County Line 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 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, but not sewer, is available to serve the subject site.
10. There are adequate public facilities available to serve a limited development on the subject property.
11. The area is characterized by rural residential uses, commercial uses and undeveloped parcels.
12. The petitioner has requested a reduction in the front setback from 125' to 75', which is a deviation from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone the subject property from AR-2 to PDP(GC) with a reduction in setbacks. The petitioner proposes developing the southern approximately 6.88 acres of an approximately 19.3 acre parcel. The petitioner proposes developing the subject property into four commercial tracts, one of which is to be developed with a restaurant. If the petitioner intends to create lots in the future, a subdivision approval would have to be obtained.

The petitioner requests a reduction in the front setback from 125' to 75' along County Line Road. The petitioner justifies the reduction in setback request with his provision of a reverse frontage road. The County Engineer notes the widening planned for County Line Road will necessitate the 125' front setback from County Line Road. If the request is approved, the Planning staff would recommend the request for the reduction in setbacks not be granted. The other setbacks indicated on the site plan meet the PDP requirements.

The site plan indicates three access points to County Line Road. The major access from County Line Road is indicated to be a 90' right of way in the center of the project. This major access would serve as access to the two commercial areas in the rear which do not have direct access to County

Line Road. The other two proposed access points to County Line Road are 26'-wide driveways located east and west of the major access to County Line Road. The County Engineer notes that according to the plans for the widening of County Line Road, no median breaks are anticipated along the subject property's frontage; consequently any access would be limited to right-in/right-out only. The County Engineer requests that if the request is approved, access be limited to the one central access as indicated on the master plan submitted, to be designed to the County's access design standards.

The site plan indicates 66 parking spaces provided on the lot on which the 150-seat restaurant is proposed. If the request is approved, the petitioner will be required to provide parking spaces as required by the LDRs.

The site plan indicates two signs located on either side of the central access point. The height and area of the signs is not indicated. Any signage for the proposed development would have to meet the requirements of the County's LDRs regarding signs.

A buffer, consisting of a 5' landscaped separation distance, is required between a non-residential PDP land use and a land use, external to the PDP, which is residential, agricultural-residential or agricultural. If the request is approved, the petitioner will be required to permanently screen the subject property along the north, east and west sides with a wall, fence and/or approved enclosure. In addition, the petitioner will be required to meet the landscaping requirements of the all applicable LDRs.

The petitioner indicates sanitary sewer is available through Florida Water Services, however, FWS has indicated that the site is outside of their territory for sewer. The petitioner has indicated central water is not available, however, FWS has indicated central water is available to serve the site. FWS notes that the closest water main is on Mariner Boulevard and it would be the petitioner's responsibility to design and extend the water to their site. The Planning Department recommends that if the request is approved, the site be served by central water.

The Pasco County Zoning/Code Compliance Administrator has indicated she has no objections to the rezoning request.

FINDINGS OF FACT

The area is characterized by rural residential uses and undeveloped parcels on the north side of County Line Road. The Pasco County side of County Line Road contains commercial development and undeveloped parcels.

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 subject property is not adjacent to commercially zoned property extending from a commercial node. The subject property is approximately 1000' east of and approximately 700' west of commercially zoned property and approximately 2000' west of a commercial node.

Policy 1.01L(3) indicates new commercial rezoning shall be initiated within commercial nodes and regional commercial overlay districts, as indicated on the adopted Future Land Use Map Series, except for Specialty Commercial, Neighborhood Commercial and appropriate infill areas.

Policy 1.01O(2) indicates expansion of the existing strip commercial areas shall not be allowed except for appropriate infill commercial development. Policy 1.01O(4) indicates infill commercial development can occur only within the strip commercial areas as described in Policy 1.01O(1).

Policy 1.01O(1) indicates strip commercial will only be allowed along commercial corridors which have significant existing commercial development, remaining parcels are generally zoned commercial and commercial development is expected to continue. The Planning staff is of the opinion the subject property is not appropriate for infill commercial development.

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 in an area zoned for rural residential development and characterized by rural residential uses and undeveloped parcels.

It is the staff's opinion that the proposed use would not be compatible with the surrounding rural residential uses and would be not consistent 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 AR-2 to PDP (GC) with a reduction in setbacks.

P&Z RECOMMENDATION:

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

1. The surrounding area has existing commercial uses.
2. The proposed use could be characterized as infill commercial.
3. Commercial development can be appropriately located on County Line Road.

The Planning & Zoning Commission found that general commercial uses would not be incompatible with the surrounding 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 rezoning from AR-2 to PDP (GC) 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. Minimum setbacks are approved as follows:

From County Line Road:	125'
From side lot lines:	35'
From rear lot line:	35'

BCC ACTION:

At their May 14, 2003 hearing, based on the information provided, the Board of County Commissioners (BCC) made the following findings:

1. The surrounding area has existing commercial uses.
2. The proposed use could be characterized as infill commercial.
3. Commercial development can be appropriately located on County Line Road.

The BCC found that general commercial uses would not be incompatible with the surrounding land uses and not inconsistent with the Comprehensive Plan if approved with performance conditions. The BCC voted 3-1 to adopt Resolution #2003-144 approving the rezoning from AR-2 to PDP (GC) 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. Minimum setbacks are approved as follows:
 - From County Line Road: 125' from the now existing Right of Way line
 - From side lot lines: 35'
 - From rear lot line: 35'
3. The petitioner will connect to Florida Water Services or their successor for sewer service and may utilize a private well until central water is deemed available.
4. The petitioner will provide the necessary Right-of-Way for expansion of County Line Road.

NOTE: There shall be only one access to County line Road.

NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE ON THIS ZONING APPROVAL MUST BE CONSISTENT WITH THE APPROVED MASTER PLAN, DEVELOPER'S NARRATIVE, DEVELOPER'S REPRESENTATIONS ON THE RECORD AND THE APPROVAL CONDITIONS BY THE BCC.