

STAFF REPORT

Planning & Zoning Commission: April 14, 2003

Board of County Commissioners: May 14, 2003

APPLICANT: Herbert Miller **FILE NUMBER:** H-03-17

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

GENERAL

LOCATION: South side of Chalmer Street, west side of Portillo Road

LEGAL

DESCRIPTION: Lots 17 and 18, Block 971, Spring Hill, Unit 16, as per plat thereof recorded in Plat Book 9, Pages 18 - 30, of the Public Records of Hernando County, Florida in Section 18, Township 23 South, Range 18 East

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: PDP(MF)
South: PDP(MF), PDP(OP)
East: PDP(MF)
West: PDP(MF), PDP(OP)

Surrounding Land Uses

Multifamily
Undeveloped
Multifamily, Undeveloped
Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from PDP (Multifamily) to PDP (Office Professional) with a reduction in setbacks. The subject property is located on the south side of Chalmer Street and on the west side of Portillo Road.

FACTUAL INFORMATION

1. The property is currently zoned PDP (MF).
2. The property comprises approximately 1.14 acres.
3. The site is currently undeveloped.

4. The subject property has access from Chalmer Street and Portillo 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 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 residential development and undeveloped lots.
12. The petitioner has requested a reduction in setbacks, which is a deviation from the County's LDRs.

STAFF DISCUSSION

The petitioner requests rezoning the subject parcel from PDP(MF) to PDP(OP) for office professional uses. 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 narrative provided indicates the petitioner requests the PDP (OP) zoning in order to develop the site with medical offices and out-patient facilities. Medical offices and out-patient facilities are permitted uses in the PDP (OP) category per the Development Department.

The initial master plan submitted by the petitioner indicated that the subject property would be developed with the property immediately to the west. The property to the west is subject of a rezoning request to office professional scheduled for review by the BCC on April 9, 2003. The petitioner has been advised that in order for the western lot to be developed in conjunction with the subject property, a master plan revision would have to be requested and approved by the BCC. The petitioner revised the master plan to reflect only the subject properties.

The minimum setbacks for multifamily development on the lot would be 25' for the front and rear, and 10' for the side yard. The PDP rules would require setbacks as follows for OP uses: 35' from

Chalmer Street and Portillo Road, 20' from the side and 35' from the rear. The petitioner has requested a reduction to 20' along the southern property line of lot 17. The petitioner has provided no justification for the reduction in setbacks. It is the staff's opinion that if the request is approved, the petitioner should be required to maintain a minimum 35' setback from Chalmer and Portillo, 20' from any OP zoned property, and 35' from any MF zoned property.

The master plan provided shows two (2) buildings with a total of 9,250 square feet of office space and 65 parking spaces on the subject property. The master plan indicates the development is to include offices for four doctors.

The Planning staff is of the opinion that if the request is approved, a 6'-high buffer of 80% opacity should be provided along the south lot line adjacent to the multifamily-zoned lot.

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 water and sewer service.

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 twenty (20) dwelling units is allowed on Lot 18 and a maximum of four (4) dwelling units is allowed on Lot 17 the Spring Hill master plan. Under the current multifamily zoning, approximately 121 trips would be generated on the property. General office use would produce approximately 76 trips; medical office use would produce approximately 251 trips.

The master plan provided indicates driveways on Chalmer Street and Portillo Road. The County Engineer did not object to the proposed access points. Any proposed access points will have to meet the County LDRs.

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.

FINDINGS OF FACT

The area is characterized by multifamily development and undeveloped parcels. The subject property is located between parcels zoned for multifamily uses to the north, east and south and parcels zoned for office professional uses to the west.

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 lots to the north, east and south are zoned PDP(MF). The subject property is located in an area characterized by multifamily residential development and served by local streets. The Planning staff is of the opinion that office professional development is more appropriately located on roadways of greater than local road status, in an area where office professional uses would be anticipated.

It is the staff's opinion that the proposed rezoning 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 PDP (OP) 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 lots zoned for office professional uses.
2. Office professional uses are compatible with multifamily uses.
3. Portillo Road is a suitable location for office professional, because it provides a connection between Mariner Boulevard and Northcliffe Boulevard.

The Planning & Zoning Commission found that rezoning the subject property from PDP(MF) to PDP(OP) would be not incompatible with the surrounding land uses and not inconsistent with the Comprehensive Plan if approved with performance conditions. The P&Z voted 3-2 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. The development shall be served by central water and sewer.
3. The minimum setbacks shall be as follows:

From Portillo Road and Chalmer Street:	35'
From lot lines adjacent to property zoned for OP uses:	20'
From lot lines adjacent to property zoned for MF uses:	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 lots zoned for office professional uses.
2. Office professional uses are compatible with multifamily uses.
3. Portillo Road is a suitable location for office professional, because it provides a connection between Mariner Boulevard and Northcliffe Boulevard.

The BCC found that rezoning the subject property from PDP(MF) to PDP(OP) would be not 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 #2003-140 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 development shall be served by central water and sewer.
3. The minimum setbacks shall be as follows:

From Portillo Road and Chalmer Street:	35'
From lot lines adjacent to property zoned for OP uses:	20'
From lot lines adjacent to property zoned for MF uses:	35'
4. The Petitioner shall provide a 6' buffer of 80% opacity against residential lots.

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.