

STAFF REPORT

Planning & Zoning Commission: June 9, 2003

Board of County Commissioners: July 9, 2003

APPLICANT: Richard Unterweger **FILE NUMBER:** H-03-31

PURPOSE: Rezoning from AR-2 (Agricultural-Residential) to C-2 (Commercial)

GENERAL

LOCATION: North side of Marengo Street, approximately 600' east of US 19

LEGAL

DESCRIPTION: Lots 52 & 53, Happy Acres, as per plat thereof recorded in Plat Book 13, Pages 34-36, of the Public Records of Hernando County, Florida in Section 24, Township 22 South, Range 17 East

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0 LETTER OF CONCERN: 1

STAFF FINDINGS:

Surrounding Zoning

North: PDP(GHC)
South: AR-2
East: AR-2
West: AG

Surrounding Land Uses

Undeveloped
Undeveloped
Single family
Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from AR-2 to C-2. The subject property is located in the north side of Marengo Street, approximately 600' east of US 19.

FACTUAL INFORMATION

1. The property is currently zoned AR-2.
2. The property comprises approximately 2.65 acres.
3. The site is undeveloped.
4. The subject property has access from Marengo Street, an unimproved County roadway.

5. The subject property is predominately located within a residential land use category, with a small portion along the southern lot line mapped within the conservation land use classification on the adopted Future Land Use Map.
6. The on-site soil type is Candler fine sands. The soils and habitat are 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. The Utilities Department has indicated that central water and sewer are not available to serve the subject site.
10. There are adequate public facilities available to serve limited development the subject property.
11. The area is characterized by single family homes, mobile homes and undeveloped activity parcels.
12. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The submitted narrative indicates the rezoning is requested for the operation of air conditioning and heating installation and repair service and other similar C-2 uses. The Development Department classifies air conditioning and heating establishments as light construction service establishments requiring C-2 zoning.

Lots 52 and 53 were the subject of a 1988 request to rezone from AR-2 to C-2. The Planning staff recommended denial because the request did not conform with the commercial siting criteria of the adopted Comprehensive Plan and the site, located on an unpaved roadway, lacked suitable infrastructure to service a commercial use. The petition was withdrawn.

The plan submitted shows two (2) buildings, a 10,400 square foot building for retail and office uses and a 8,500 square foot building to house the heating and air conditioning business. If the request is approved, the buildings will have to meet the commercial design standards for commercial buildings containing less than 25,000 square feet of area. The buildings meet the required 35' front, 20' side and 35' rear setbacks for the C-2 commercial district.

The plan indicates 73 parking spaces provided. If the request is approved, the petitioner will be required to provide parking spaces as required by the LDRs.

The edge of the subject property is located approximately 300' to the east of US 19 on Marengo Street. The subject property has access from Marengo Street, a limerock road. The County Engineer indicates that if the request is approved, the developer should be required to pave Marengo Street to the eastern entrance provided.

The plan indicates that the western 50' of the subject property is reserved for a future access road from Marengo Street to the Woodland Waters commercial area. The property adjacent to the site on the west has frontage along US 19. The property along US 19 has an ordinance requirement to provide a frontage road across the property upon demonstration of need and demand by the county. The Woodland Waters master plan approved with a frontage road located approximately 210' from US 19. The petitioner's 50' reserved piece does not appear to align with the frontage road previously designated in 1988 to the north and as indicated does not have the ordinance mandate to provide the frontage road.

The County Health Department indicates that the septic system classification and agency jurisdiction will depend on the type of business and services provided on the site.

The signage is indicated on the plan. Any signs for the proposed development would have to meet the requirements of the County's LDRs regarding signs.

FINDINGS OF FACT

The area is characterized by single family homes, mobile homes and undeveloped parcels. Woodland Waters is located adjacent to the north lot line of the subject property.

The subject property is predominately located within the residential land use category with a small portion of conservation land use category as identified 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 adjacent to commercially zoned property located within a commercial node; however, there is no functioning frontage road extending from the 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. The subject property is not located within a commercial node.

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 subject property is located on a limerock road in an area characterized by rural residential uses. 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 not be 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 C-2.

P&Z RECOMMENDATION:

At their June 9, 2003 hearing, the P&Z recognized the petitioner's verbal withdrawal of the petition.

BCC ACTION:

At their July 9, 2003 hearing, the BCC acknowledged the petitioner's withdrawal of the petition.