

STAFF REPORT

Planning & Zoning Commission: June 10, 2004

Board of County Commissioners: July 14, 2004

APPLICANT: CCT West Coast, Inc. **FILE NUMBER:** H-04-12

PURPOSE: Rezoning from AG (Agricultural) to PDP(GC)/(General Commercial) with a Reduction in Setbacks and a Waiver of the Frontage Road Requirement

GENERAL

LOCATION: East side of US 41, approximately 860' south of Powell Road

LEGAL

DESCRIPTION: A portion of Section 17, Township 23 South, Range 19 East, Hernando County, FL

FILE STATUS: All requirements necessary to conduct the public hearing have been satisfied.

CITIZEN RESPONSE: FOR: 0 AGAINST: 1

STAFF FINDINGS:

Surrounding Zoning

North: C-2, PDP(HC)
South: AG
East: C-2, AG
West: C-2, PDP(HC)

Surrounding Land Uses

Undeveloped
Single family
Undeveloped
Commercial, undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from AG to PDP(GC) with a reduction in setbacks and a waiver of the frontage road requirement. The subject property is located on the east side of US 41, approximately 800' south of Powell Road.

FACTUAL INFORMATION

1. The property is currently zoned AG.
2. The property comprises approximately a quarter-acre.
3. The site is currently undeveloped.

4. The subject property is wooded, but appears to contain no majestic or specimen trees.
5. The subject property has access from US 41.
6. The subject property is located within a commercial land use classification on the adopted Future Land Use Map.
7. The Hernando County Soil Survey indicates the on-site soil types include Flemington fine sandy loam, Micanopy loamy fine sand and Nobleton fine sand.
8. The property is located in a flood zone C.
9. The subject property contains a SPA but no wetlands, or WHPAs according to County data resources.
10. The Utilities Department has indicated that central water and sewer are not available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial and residential uses, and undeveloped parcels.
13. The petitioner has requested reductions of the front setback from 125' to 55', of the side setback from 20' to 10' and of the rear setback from 35' to 10', and has requested a waiver from the frontage road requirement, which are deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone the property from AG to C-1 or PDP(GC) in order to develop the property with a two-story 1,600 square foot office building. Office uses are permitted in the OP or C-1 zoning categories. The uses permitted in the C-1 zoning category are allowed in the PDP(GC) zoning category.

The petitioner requests setback reductions. The LDRs require a 125' setback from US 41, a 20' side setback and a 35' rear setback. The petitioner proposes a 55' setback from US 41, a 10' side setback and a 10' rear setback. The petitioner justifies the request for the setback reductions by citing the small size of the quarter-acre parcel and the widening being performed on US 41. In order to provide the petitioner with a reasonable building envelope, the staff would not object to a reduction in the front setback. The BCC has allowed reductions in front setbacks to 75' through review of a PDP. The staff would not object a reduction from 125' to 75' however we believe the 55' requested is excessive. The staff would not object to granting 10' side and rear setbacks in order to allow the petitioner a reasonable use of the property.

The property is located on US 41. Under the County's development regulations, the petitioner will be required to provide a frontage road across the property, at no cost to the County, upon demonstration and need of the County. The petitioner requests a waiver from the requirement to provide a frontage road. The County Engineer has indicated that if the rezoning is approved the frontage road requirement not be waived in order to provide for an optimally functioning frontage road system in the area. Due to the relatively limited development in this area, it is premature to eliminate the frontage road at this time.

The petitioner's access will be from US 41. The plan shows two (2) access points on US 41. The petitioner will have to apply to the FDOT for driveway permits. US 41 is a divided highway. No median break is located along the subject property's frontage. If the request is approved, access will be limited to right-in/right-out only, which the petitioner has acknowledged. County Engineer requests that if the rezoning is approved, the site should be limited to one access point.

The plan submitted shows six (6) parking spaces provided. The LDRs require offices to provide four (4) spaces per one thousand (1,000) square feet of building area plus three (3) spaces per doctor/dentist. If the request is approved, the petitioner shall provide the minimum parking required by the LDRs.

The petitioner proposes serving the proposed development with well and septic. The Utilities Department has indicated that central water and sewer are not available to serve the subject site. The subject property is located on poorly drained soils, which may affect the septic tank performance. The petitioner acknowledges in the narrative that the soils onsite are poorly drained. During their visit to the site, the staff observed swampy conditions to the north and west of the subject property. The septic and drainfield are required to be 100' from the potable well and 15' from the designed high water line of the DRA. Due to the configuration and size of the property, staff has concerns about the ability to serve the subject property with well and septic and meet all the applicable land development regulations. The staff has contacted the Health Department but has received no comments at this time.

According to County data resources the subject property lies within a SPA due to its proximity to two sinkholes on adjacent properties. Any development on this property would have to adhere to the County's Groundwater Protection Ordinance in regards to prohibited uses within a SPA.

The subject property is located within the Airport Influence Zone. The uses proposed are not restricted from the Airport Influence Zone. The Airport Director has indicated he has no objections to the proposal.

The FDOT and the City of Brooksville have been notified of the petition; no responses have yet been received.

FINDINGS OF FACT

The area is characterized by commercial and residential uses and undeveloped parcels.

The subject property is located within the commercial land use category on the adopted Future Land Use Map. Land uses such as commercial, recreation, office and professional, minor public facilities and minor institutional are allowed.

The staff is of the opinion that rezoning to PDP(GC) with a reduction in setbacks and a waiver of the frontage road requirement is inappropriate, based on the following conclusions:

1. The subject property can not be served by central water and sewer service at this time and appears to be too small to accommodate a private well and septic system and meet the applicable land development regulations.
2. It is premature to waive the frontage road requirement in this area at this time.

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 adopt resolution #_____denying the rezoning from AG to PDP(GC) with a reduction in setbacks and a waiver of the frontage road requirement.

P&Z RECOMMENDATION:

The Planning and Zoning Commission voted 5-0 to recommend the BCC adopt resolution #_____denying the request to rezone from AG to PDP(GC) with a reduction in setbacks and a waiver of the frontage road requirement.

BCC ACTION:

The BCC voted 5-0 to adopt resolution #2004-179 denying the request to rezone from AG to PDP(GC) with a reduction in setbacks and a waiver of the frontage road requirement.