

**STAFF REPORT**

Planning & Zoning Commission: April 12, 2004

Board of County Commissioners: May 12, 2004

Board of County Commissioners: March 9, 2005

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**APPLICANT:** Janis Moore Tucker & Marshall H. Moore **FILE NUMBER:** H-04-17

**PURPOSE:** Rezoning from AG/(Agricultural) to PDP(Rural)/Planned Development Project (Rural) with AR(Agricultural/residential) uses

**GENERAL**

**LOCATION:** North side of Centralia Road, approximately 5,000' east of US 19, south side of Retreat Road

**LEGAL**

**DESCRIPTION:** A portion of Sections 30 & 31, Township 21 South, Range 18 East, Hernando County, FL

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

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

**STAFF FINDINGS:**

Surrounding Zoning

Surrounding Land Uses

North: AR-2

MH, undeveloped

South: R-1C

SF, undeveloped

East: AR-2, AG

MH, SF, Undeveloped

West: AR-2, CV, AG

SF, MH, Conservation, undeveloped

**SUMMARY OF REQUEST**

The petitioner requests to rezone from AG to PDP(Rural) with AR uses. The subject property is located on the north side of Centralia Road, approximately 5,000' east of US 19, south side of Retreat Road.

**FACTUAL INFORMATION**

1. The property is currently zoned AG.
2. The property comprises approximately 200 acres.

3. The subject property is undeveloped.
4. The site may contain majestic and specimen trees.
5. The subject property has access from Centralia Road, Oregon Road, Mocking Wren Road, Retreat Road, Rock Duck Avenue and Peaceful Avenue.
6. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
7. 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.
8. The property is located in a flood zone C.
9. The subject property does not contain any wetlands, WHPAs or SPAs 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 single family residential, rural residential, agricultural and conservation uses, and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

**STAFF DISCUSSION**

The petitioner requests to rezone the property from AG to PDP(Rural) in order to develop the site with a 166 rural residential homesites. The petitioner proposes one-acre single-family homesites with AR uses, limited to horse ownership. The Planning staff is of the opinion that if the rezoning request is approved with equestrian use, horse ownership should be limited as indicated in the LDRs for the AR (agricultural/residential) district, in which grazing livestock is allowed at the rate of one mature animal and offspring less than one year of age per acre.

The petitioner proposes 25' front, 10' side and 20' rear lot setbacks. The Planning staff is of the opinion that if the zoning is approved with equestrian use, the minimum setbacks consistent with the AR district (50' front, 10' side and 35' rear) would be more appropriate.

The plan provided indicates that perimeter lots will have 25' front, 10' side and 20' rear setbacks. The LDRs require an agricultural residential PDP to provide 50' front, 10' side and 35' rear setbacks for the portion of the project adjacent to the project perimeter. If the request is approved, the petitioner would have to meet the applicable setbacks.

The County Utilities Department has indicated that central water and sewer are not available to serve the subject property. If the rezoning request is approved, the proposed development will be served by wells and septic tanks. The LDRs allow the use of wells and septic tanks on lots at least one acre in size.

The Hernando County School Board has indicated that if the request is approved, elementary school students will be assigned to Pine Grove Elementary School, middle school students will be assigned to West Hernando Middle School and high school students will be assigned to Central High School. The School Board estimates the project has the potential to bring approximately 60 - 75 additional students to the three (3) schools. Currently the three (3) schools are at permanent capacity. Additional students would have to be accommodated by adding portable classrooms. The School Board notes it is pursuing property in the area for a future school site, therefore, the schools listed as current zones may change.

The subject property has access to Centralia Road, a major collector roadway. The Transportation Planning Coordinator has indicated Centralia Road has capacity to accommodate the trips to be generated by the proposed rural residential development.

The County Engineer found the access management for the proposed development unacceptable. The County Engineer indicates that if the rezoning request is approved, the petitioner should provide a revised plan showing a maximum of one (1) entrance on Centralia Road, left and right turn lanes on Centralia Road, interior major local roadway(s) designed with traffic calming devices (such as offsets, curves and roundabouts) to prevent speeding on excessively long straightaways, no interior lot driveways directly accessing Centralia Road, connections at Rock Duck Avenue, Peaceful Avenue and Retreat Road and DRA locations indicated. If the request is approved, all the roadways will be required to meet County roadway design guidelines.

The subject property is immediately adjacent to a SWFWMD owned parcel zoned (CV) Conservation. Natural ecosystems in Hernando County are commonly managed using frequent prescribed burns. Due to the use of this land management technique, staff would recommend the developer/builder/owner provide notification to any future property owners indicating the property is located adjacent to conservation land and the property may be impacted by normal land management techniques including prescribed burns.

**FINDINGS OF FACT**

The area is characterized by single family residential, rural residential, agricultural and conservation uses and undeveloped parcels. Subdivisions characterized by rural residential development are located to the north, east and west of the subject property. These subdivisions are zoned AR-2, allowing single family dwellings and mobile homes. Royal Highlands, characterized by single family platted lots smaller than an acre, is located across Centralia Road from the subject property. The Planning staff is of the opinion the proposed development would be compatible with the existing development in the surrounding area.

The subject property is located within a residential land use classification 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. The 0.83 du/ac density proposed by the petitioner is consistent with the densities allowable per the adopted Comprehensive Plan.

Policy 1.01F (2) indicates low density zoning districts shall be established to encourage and promote single family development at densities not to exceed 2.5 units per acre and are intended to be the district most utilized for regulating future single family development.

Policy 1.01H(2) indicates existing and future residential areas are to be protected from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment. The subject property is located adjacent to Woodhaven Estates, Leisure Retreats and Leisure Acres, which are subdivisions consisting of lots zoned AR-2 with a minimum size of one acre. The density of the proposed development would be compatible with these surrounding subdivisions.

The Planning staff is of the opinion that rezoning the subject property to PDP(RURAL) with AR uses, allowing single family and limited agricultural uses, would be appropriate.

The staff is of the opinion that the proposed rezoning with performance conditions, is appropriate, based on the following conclusions:

1. The proposed rezoning would be consistent with the Comprehensive Plan and would be consistent with the County's Land Development Regulations subject to compliance with all performance conditions herein.
2. The proposed rezoning will be compatible with the surrounding land uses.

**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.**

**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 # \_\_\_\_\_ approving the petitioner's request to rezone from AG to AR PDP(Rural) subject to 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 receiving development review for the proposed use.
2. The permitted uses and individual lot setbacks are approved per the AR zoning district.
3. A maximum of one (1) access point on Centralia Road is allowed.
4. The developer shall provide left and right turn lanes on Centralia Road.
5. The development shall be served by major local roadway(s) designed with traffic calming devices, as required by the County Engineer.
6. No interior lot driveways shall access Centralia Road.
7. The revised plan shall indicate the DRA locations.
8. The petitioner shall submit a revised plan meeting the performance conditions within 30 days of BCC approval or the rezoning shall be null and void.
9. The developer/builder/owner shall provide notice to future owners indicating the property is adjacent to conservation land and the property may be impacted by normal land management techniques including prescribed burn.

**P&Z RECOMMENDATION:**

At their April 12, 2004, hearing based on the information provided the Planning and Zoning Commission made the following findings:

1. The petitioner has not demonstrated that the proposed rezoning is compatible with the surrounding development pattern.
2. The plan for development does not adequately address interconnection with surrounding property.

The Planning and Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt resolution #\_\_\_\_\_ denying the petitioner's request to rezone from AG to PDP (Rural) with AR uses.

**NOTE:**

Subsequent to the P&Z meeting, the petitioner provided a revised plan proposing changes to address a number of staff's recommendations, including establishing setbacks consistent with the AR zoning district, limiting access to Centralia Road to one access point, providing left and right turn lanes on Centralia Road, providing traffic calming devices on the interior access roadway, and removing direct interior lot access to Centralia Road. Specific roadway design and transportation improvements would have to be approved by the County Engineer at the time of development as the layout provided is conceptual in nature. The petitioner indicated he intends to address the equestrian use issue at the May hearing before the BCC.

**BCC ACTION:**

The Board of County Commissioners voted 4-0 to adopt resolution #2004-121 denying the petitioner's request to rezone from AG to PDP (Rural) with AR uses.

**SUBSEQUENT STAFF RECOMMENDATION:**

On appeal, the Circuit Court determined that BCC's denial of the request was not supported by competent substantial evidence in the record and this was affirmed by the Fifth District Court of Appeal. Certain performance conditions are necessary in connection with the requested rezoning in furtherance of protecting public health, safety and welfare.

The Staff recommends the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request to rezone from AG to AR PDP(Rural) subject to 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 receiving development review for the proposed use.

2. The permitted uses approved are those consistent with the AR zoning district excluding the allowance for grazing livestock at the rate of one mature animal and offspring less than one year of age, per acre. Dimension and area regulations are approved per the AR zoning district.
3. A maximum of one (1) access point on Centralia Road is allowed.
4. The developer shall provide left and right turn lanes on Centralia Road.
5. The development shall be served by major local roadway(s) designed with traffic calming devices, as required by the County Engineer.
6. No interior lot driveways shall access Centralia Road.
7. The developer/builder/owner shall provide notice to future owners indicating the property is adjacent to conservation land and the property may be impacted by normal land management techniques including prescribed burn.

**FINAL BCC ACTION:**

On March 9, 2005, the Board of County Commissioners voted 3-1 to adopt Resolution # 2005-65 approving the petitioner's request to rezone from AG to AR PDP(Rural) subject to 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 receiving development review for the proposed use.
2. The permitted uses approved are those consistent with the AR zoning district excluding the allowance for grazing livestock at the rate of one mature animal and offspring less than one year of age, per acre. Dimension and area regulations are approved per the AR zoning district.
3. A maximum of one (1) access point on Centralia Road is allowed.
4. The developer shall provide left and right turn lanes on Centralia Road.
5. The development shall be served by major local roadway(s) designed with traffic calming devices, as required by the County Engineer.
6. No interior lot driveways shall access Centralia Road.

7. The developer/builder/owner shall provide notice to future owners indicating the property is adjacent to conservation land and the property may be impacted by normal land management techniques including prescribed burn.

**NOTE: The BCC noted in the approval motion the Master Plan submitted to the BCC by the Planning Department under a separate memorandum was the plan approved for this petition.**

**NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE WITH 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.**