

STAFF REPORT

Planning & Zoning Commission: July 12, 2004
Board of County Commissioners: August 11, 2004
Planning & Zoning Commission: August 9, 2004
Board of County Commissioners: September 8, 2004

APPLICANT: Kjell Aanonsen **FILE NUMBER:** H-04-39

PURPOSE: Rezoning from AR-2 (Agricultural-Residential) to C-1 (General Commercial)

GENERAL

LOCATION: West side of Sunshine Grove Road, south side of Taft Street

LEGAL

DESCRIPTION: Lot 1, Block D, Pottersfield Garden Acres, as per plat thereof recorded in Plat Book 5, Page 20, of the Public Records of Hernando County, Florida in Section 28, Township 22 South, Range 18 East

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

CITIZEN RESPONSE: FOR: 1 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: AR-2
South: C-1
East: AG
West: AR-2

Surrounding Land Uses

Undeveloped
Builders' association office
Brookridge, power lines
Single family

SUMMARY OF REQUEST

The petitioner requests to rezone from AR-2 to C-1. The subject property is located on the west side of Sunshine Grove Road and on the south side of Taft Street.

FACTUAL INFORMATION

1. The property is currently zoned AR-2
2. The property comprises approximately 5 acres.

3. The site contains a mobile home.
4. The site is wooded but contains no specimen or majestic trees.
5. The subject property has access from Sunshine Grove Road and Taft Street.
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 contains a WHPA-2, but no wetlands or SPAs, according to County data resources.
10. The Utilities Department has indicated that central water, but not sewer, is 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 residential, institutional and rural residential uses, and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone from AR-2 to C-1. The site contains a mobile home. Permitted uses in the C-1 district include general commercial uses, such as comparison goods stores, convenience goods stores, personal service establishments, hotels, motels, gasoline service stations, day care centers, preschools, places of public assembly, business, professional and nonprofit office use, public offices, one single-family dwelling, charitable organizations and hospitals.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site.

The site has access from Sunshine Grove Road and Taft Street. Sunshine Grove Road is a collector road. Sunshine Grove Road is scheduled to be widened to four (4) lanes within the next five (5) years. The section of Sunshine Grove Road adjacent to the subject property is scheduled to be widened within the next 2 - 3 years. The County Engineer indicates the improvements to Sunshine Grove Road will make it a divided highway. If the request is approved, the petitioner's access to Sunshine Grove Road will be limited to right-in/right-out access. Taft Street is a local road. Taft Street is paved in front of the subject property. The County Engineer indicates that if the request is approved, the petitioner should be required to provide 30' of ROW from Taft Street's centerline.

The subject property lies within a WHPA-2 for a public supply well according to County data resources. The proposed use is allowable within this designation.

FINDINGS OF FACT

The area contains residential, institutional and rural residential uses, and undeveloped parcels. Brookridge Mobile Home Park is located to the east. The area to the north and west is developed with low-intensity rural residential uses. The Hernando Builders' Association office is located to the south of the subject property. Commercial uses are located south of the subject property. Rural residential uses are located north of the subject property.

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. Land uses which can be located in this category with performance conditions 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 located north of a commercial strip along Cortez Boulevard. The Planning staff is of the opinion the current AR-2 zoning is appropriate given the infrastructure in the area.

Policy 1.01L(3) indicates new commercial rezoning shall be initiated within commercial nodes and regional commercial overlay districts, as indicated on the Future Land Use Map Series, except for Specialty Commercial, Neighborhood Commercial, and appropriate infill areas. The subject property does not meet this criteria.

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 between rural residential and office/professional uses.

Commercial development is located to the south along Cortez Boulevard. The Planning staff is of the opinion this is not an appropriate infill area.

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 Planning staff is of the opinion that C-1 commercial uses are not compatible with the surrounding low-density rural residential uses.

The Planning staff is of the opinion that rezoning the subject property from AR-2 to C-1 would not be appropriate, based on the following conclusions:

1. The proposed rezoning would be inconsistent with the Comprehensive Plan.
2. The proposed rezoning would be incompatible 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 # _____ denying the petitioner's request to rezone from AR-2 to C-1.

P&Z RECOMMENDATION:

On July 12, 2004, the Planning and Zoning Commission voted 5-0 to postpone consideration of this petition to their August 9, 2004, meeting at 9:00 a.m.

BCC ACTION:

On August 11, 2004, the BCC voted 5-0 to postpone consideration of this petition to their September 8, 2004, meeting at 9:00 a.m.

REVISED REQUEST:

The petitioner has submitted a revised petition requesting rezoning to OP (office professional) instead of C-1. The Planning staff is of the opinion that it would be inappropriate to rezone the subject property to OP because it would encourage strip office/commercial development along Sunshine Grove Road, north of the designated commercial node boundary at Jacqueline Road. Further, it is the staff's opinion that the existing AR-2 zoning is appropriate given the current land use pattern and lack of sewer infrastructure in the area. The Planning staff is also of the opinion that although OP uses can be compatible with multifamily uses and commercial uses, OP uses would not be compatible with the existing low-density rural residential uses.

P&Z RECOMMENDATION:

At their August 9, 2004 hearing, based on the information provided, the Planning and Zoning Commission made the following findings:

1. The proposed office professional uses, with performance standards, would be compatible with the surrounding land uses.
2. The proposed office professional uses are consistent with the adopted Comprehensive Plan.

The P&Z voted 3-1 to recommend the BCC adopt Resolution # _____ approving the petitioner's request to rezone from AR-2 (Agricultural-Residential) to OP(Office Professional) 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, and complete all applicable development review processes.
2. The petitioner shall pave Taft Street from Sunshine Grove Road to the western boundary of the subject site.
3. A minimum 35' buffer of 80% opacity shall be located along the western boundary of the property. Any trees within the buffer shall remain in their natural state with additional plantings being required to meet the required opacity.
4. There shall be two right-in/right-out access drives as approved by the County Engineer.*
5. The petitioner shall provide additional right-of-way along Taft Street as required by the County Engineer.

***NOTE:**

If the BCC decides to rezone the subject property, it is the staff's opinion condition number 4 should be modified as follows:

4. There shall be a minimum of two access drives to the subject property, one to Taft Street and one to Sunshine Grove Road. There shall be no more than two access drives to Sunshine Grove Road, both limited to right in/right out.

BCC ACTION:

The BCC voted 5-0 to adopt Resolution #2004-225 approving the petitioner's request to rezone from AR-2 (Agricultural-Residential) to OP(Office Professional) 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, and complete all applicable development review processes.
2. The petitioner shall pave Taft Street from Sunshine Grove Road to the western boundary of the subject site.
3. A minimum 35' buffer of 80% opacity shall be located along the western boundary of the property. Any trees within the buffer shall remain in their natural state with additional plantings being required to meet the required opacity.
4. There shall be a minimum of two access drives to the subject property, one to Taft Street and one to Sunshine Grove Road. There shall be no more than two access drives to Sunshine Grove Road, both limited to right in/right out.
5. The petitioner shall provide additional right-of-way along Taft Street as required by the County Engineer.

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.