

STAFF REPORT

Planning & Zoning Commission: September 13, 2004
Planning & Zoning Commission: September 27, 2004
Board of County Commissioners: October 13, 2004
Planning & Zoning Commission: October 11, 2004
Board of County Commissioners: November 10, 2004

APPLICANT: Winnie and Thomas Yang and Kenneth Yang **FILE NUMBER:** H-04-56

PURPOSE: Rezoning from AG (Agricultural) to C/PDP(GC) and (OP)/Combined Planned Development Project (General Commercial) and (Office Professional) with a reduction in setbacks

GENERAL

LOCATION: South side of SR 50, approximately 1,900' east of Lykes Dublin Road

LEGAL

DESCRIPTION: A portion of Section 30, Township 22 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: 0

STAFF FINDINGS:

Surrounding Zoning

Surrounding Land Uses

North: AG
South: AG
East: AG
West: AG

Undeveloped
Undeveloped
Undeveloped
Hospital under construction

SUMMARY OF REQUEST

The petitioner requests to rezone from AG (Agricultural) to C/PDP(GC) and (OP)/Combined Planned Development Project (General Commercial) and (Office Professional) with a reduction in setbacks. The subject property is located on the south side of SR 50, approximately 1,900' east of Lykes Dublin Road.

FACTUAL INFORMATION

1. The property is currently zoned AG.

2. The property comprises approximately 16.5 acres.
3. The site is currently undeveloped.
4. The site appears to contain specimen, but no majestic, trees.
5. The subject property has access from SR 50.
6. The subject property is located within residential and rural land use classifications on the adopted Future Land Use Map.
7. The Hernando County Soil Survey indicates the soil types include Blichton loamy fine sand, Kendrick fine sand, Micanopy loamy fine sand and Sparr fine sand.
8. The property is located in a flood zone C.
9. The subject property contains wetlands and SPAs, but no WHPAs, according to County data resources.
10. The subject property is located within the City of Brooksville's first right of refusal area. The City has indicated that central water and sewer is presently not available to serve the subject property.
11. Hernando County Utilities has water and sewer capacity available to serve the area.
12. There are adequate public facilities available to serve the subject property.
13. The area is characterized by undeveloped parcels. The new Brooksville Regional Hospital is under construction on the parcel west of the subject property.
14. The petitioner has reductions in setbacks from 125' to 75' along SR 50 and from 35' to 20' along the rear lot line, which are deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone the approximately 16.5 acre AG property to C/PDP (GC) and (OP) in order to develop the property with general commercial and office professional uses. The petitioner proposes subdividing the parcel into nine lots. The County has not received a request to subdivide this property. The plan provided proposes approximately 2.3 acres of GC uses along Cortez Boulevard and approximately 10 acres of OP uses in the southern two-thirds of the property.

The plan proposes developing the 2.3 acre GC parcel with a 27,600 square foot building. The plan proposes subdividing the approximately 10 acre OP area into eight (8) lots, with an average size of 1.25

acres, containing a building with an average size of 15,000 square feet. The plan shows located in the northeast quadrant of the property are a wetlands area, 2 DRAs and a portion of an FDOT DRA.

The petitioner requests a reduction in setbacks from 125' to 75' along Cortez Boulevard, which is a deviation from the County's LDRs. The BCC has approved reduction in setbacks from 125' to 75' from property lines along arterial roads in the past, where a frontage road is provided. The petitioner proposes providing a reverse frontage road. The Planning staff does not object to the proposed 75' setback. The plan shows a 35' setback from the access road along the western boundary line and 25' setback from the eastern boundary line. The PDP rules require a minimum setback of 20' from the side lot lines. The plan shows a 20' setback from the south lot line. The PDP rules require a minimum 35' setback from the rear lot line. The petitioner has provided no justification for the reduction in the rear setback from 35' to 20'. The Planning staff is of the opinion that if the request is approved, the minimum setback from the south lot line should be 35'. The petitioner indicates setbacks from the frontage road will be 35', which is consistent with the LDRs. The petitioner proposes minimum internal side setbacks will be 10'; the Planning staff does not object to the proposed minimum internal side setbacks.

The plan submitted does not indicate the arrangement of parking proposed nor the number of parking spaces proposed. If the request is approved, the developer will be required to provide parking as required per the County parking LDRs.

The plan submitted does not indicate where signage will be located on the subject property. Signage on the property will be subject to the County sign ordinance.

The petitioner indicates the project is located within the City of Brooksville's service area. The City of Brooksville has indicated that central water and sewer are not available to serve the subject site at this time. Hernando County Utilities has water and sewer service available in the area to serve the project. If the City elects not to serve the project, the County would be able to provide central services. For purposes of zoning review, adequate public facilities are available to serve the project.

The plan shows an access drive along the western boundary line. The County Engineer objects to the proposed location of the access point on SR 50 at the western lot line because it is too close to the access to the hospital. The County Engineer indicates that if the request is approved, the access point should be located on the eastern side of the parcel fronting on SR 50, between the proposed GC parcel and the wetland area. The plan shows access drives providing access to the proposed office-professional lots. If the request is approved, the petitioner should be required to designate an internal access tract on a revised master plan. Any future conditional plats will be required to show the internal access tract and address maintenance of the tract by the owner(s) of the platted office-professional lots.

The subject property is located on State Road 50, a principal arterial roadway. The County's frontage road ordinance requires property along Cortez Boulevard to provide a frontage road at no cost to the County, upon demonstration of need and demand by the County. The petitioner proposes providing a reverse frontage road. The County Engineer indicates that if the request is approved, the reverse

frontage road on the subject property will be required to connect to the reverse frontage road located on the hospital site.

The subject property lies within a SPA according to County data resources. The proposed land uses are allowable within this designation. If approved the PDP(GC) portion of the property would have gasoline service station as a permitted use. Staff feels that due to the heavy karst activity of the surrounding area that a subsurface investigation of any proposed underground fuel tank locations should be conducted in order to ensure site suitability prior to development.

The subject property contains a Class 3 wetland as defined by the Comprehensive Plan. Any removal, encroachment, or alteration shall adhere to applicable state and federal permitting and mitigation procedures.

The subject property lies within a historical/archeological site associated with State Road 50 according to County data resources. The petitioner should be required to conduct an analysis of the property prior to site development. Any historical or archeological artifacts uncovered during analysis should be reported to the State Office of Cultural and Historic Programs.

The FDOT has been notified of the request; no response has yet been received.

FINDINGS OF FACT

The area is characterized by undeveloped AG parcels. The new Brooksville Regional Hospital is under construction on the parcel to the west of the subject property. The Planning staff is of the opinion that this site, adjacent to the hospital site, is an appropriate location for office-professional uses associated with a hospital.

The subject property is located within rural and residential land use classifications on the adopted Future Land Use Map. Approximately half of the subject property is located within the residential future land use category. The remainder of the subject property is located within the rural land use category. The mapping criteria indicates residential land uses as established in the residential land uses category are allowed on land located in the rural land uses category where it lies within 1,320' of a residential classification. The portion of the subject property located within the rural land use category lies within 1,320' of a residential classification. 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 Planning staff is of the opinion that office professional uses are appropriate on property located in the residential future land use category adjacent to a hospital site.

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.

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 does not meet this criteria. The Planning staff is of the opinion the subject property is not an appropriate location for general commercial uses.

The Planning staff is of the opinion that rezoning from AG to PDP (OP), but not PDP(GC), with a reduction in setbacks, is appropriate, with performance conditions, based on the following conclusions:

1. The permitted uses allowed in the PDP (OP) zoning category would be compatible with the surrounding land uses.
2. The rezoning to PDP(OP), 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.
3. The permitted uses allowed in the PDP (GC) zoning category would be incompatible with the surrounding land uses.
4. The rezoning to PDP(GC), would be inconsistent with the 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.

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 request to rezone from AG to PDP(OP), with a reduction in setbacks, 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 provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. The access to SR 50 shall be located on the east side of the proposed 2.3 acre parcel subject to the County Engineer's approval.
4. The setbacks are approved as follows:

From SR 50:	75'
From the frontage road:	35'
From the west lot line:	20'
From the east lot line:	20'
From the south lot line:	35'
5. Internal side lot lines shall be 10'.
6. The revised plan shall show an internal access tract parcel, with sufficient width for traffic lanes and landscaped strips separating the traffic lanes from the parking areas.
7. Jurisdictional wetland shall be delineated on all future development plans and any removal, encroachment, or alteration of the wetland shall adhere to all state and federal wetland permitting and mitigation procedures.
8. The petitioner should be required to conduct a historical/archaeological analysis prior to site development. Any historical or archeological artifacts uncovered during analysis should be reported to the State Office of Cultural and Historic Programs.
9. The petitioner shall submit a revised plan within 30 days of BCC approval or the zoning shall be null and void.

P&Z RECOMMENDATION:

On September 13, 2004, the Planning and Zoning Commission voted 5-0 to postpone this petition until the September 27, 2004, P&Z meeting at 9:30 a.m. due to the threat of Hurricane Ivan.

NOTE:

At their September 13, 2004, hearing, the Planning and Zoning Commission established a policy specific to the extenuating circumstances associated with the storm allowing a petitioner an automatic postponement from the September 27, 2004, hearing if a minimum of 10 days notice was provided to

the County, letters were sent to the adjacent property owners and the agenda was appropriately noted. The representative for this petition submitted a request to postpone to the October 11, 2004, Planning and Zoning Commission meeting and notice was provided in accordance with this policy.

P&Z RECOMMENDATION:

On September 27, 2004, the Planning and Zoning Commission voted 3-0 to postpone consideration of this petition until the October 11, 2004, P&Z meeting at 10:00 a.m. pursuant to the policy established on September 13, 2004.

BCC ACTION:

On October 13, 2004, the BCC voted 5-0 to postpone this petition until the November 10, 2004, BCC Land Use Hearing at 9:00 a.m.

P&Z RECOMMENDATION:

On October 11, 2004, the P&Z voted 5-0 to recommend the Board of County Commissioners adopt Resolution # _____ approving the request to rezone from AG to PDP(OP), with a reduction in setbacks, with the following modified 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 provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. The access to SR 50 shall be located on the east side of the proposed 2.3 acre parcel subject to the County Engineer's approval.
4. The setbacks are approved as follows:

From SR 50:	75'
From the frontage road:	35'
From the west lot line:	20'
From the east lot line:	20'
From the south lot line:	35'
5. Internal side lot lines shall be 10'.
6. The revised plan shall show an internal access tract parcel, with sufficient width for traffic lanes and landscaped strips separating the traffic lanes from the parking areas.

7. Jurisdictional wetland shall be delineated on all future development plans and any removal, encroachment, or alteration of the wetland shall adhere to all state and federal wetland permitting and mitigation procedures.
8. The petitioner should be required to conduct a historical/archaeological analysis prior to site development. Any historical or archeological artifacts uncovered during analysis should be reported to the State Office of Cultural and Historic Programs.
9. The petitioner shall submit a revised plan within 30 days of BCC approval or the zoning shall be null and void.
10. The development shall be served by central water and sewer.

NOTE:

The Planning & Zoning Commission recommended the BCC approve the request with an additional C-1 use allowing a drug store.

BCC ACTION:

On November 10, 2004, the Board of County Commissioners voted 5-0 to adopt Resolution # 2004-297 approving the request to rezone from AG to PDP(OP) with additional C-1 uses of a drug store and medical supply facility, with a reduction in setbacks, 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 provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. The access to SR 50 shall be located on the east side of the proposed 2.3 acre parcel subject to the County Engineer's approval.
4. The setbacks are approved as follows:

From SR 50:	75'
From the frontage road:	35'
From the west lot line:	20'
From the east lot line:	20'
From the south lot line:	35'
5. Internal side lot lines shall be 10'.

6. The revised plan shall show an internal access tract parcel, with sufficient width for traffic lanes and landscaped strips separating the traffic lanes from the parking areas.
7. Jurisdictional wetland shall be delineated on all future development plans and any removal, encroachment, or alteration of the wetland shall adhere to all state and federal wetland permitting and mitigation procedures.
8. The petitioner should be required to conduct a historical/archaeological analysis prior to site development. Any historical or archeological artifacts uncovered during analysis should be reported to the State Office of Cultural and Historic Programs.
9. The petitioner shall submit a revised plan within 30 days of BCC approval or the zoning shall be null and void.
10. The development shall be served by central water and sewer.

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.