

STAFF REPORT

Planning & Zoning Commission: November 8, 2004
Board of County Commissioners: December 8, 2004

APPLICANT: Leon Kreisler **FILE NUMBER:** H-04-64

PURPOSE: Rezoning from R-1A (Residential) to C-2 (Highway Commercial)

GENERAL

LOCATION: North side of Brandy Drive, approximately 380' west of US 19

LEGAL

DESCRIPTION: Lot 4, Block 15, Weeki Wachee Acres, Unit 2, as per plat thereof recorded in Plat Book 6, Page 46, of the Public Records of Hernando County, Florida in Section 16, Township 23 South, Range 17 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

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

Surrounding Land Uses

Undeveloped
Gulfview Motors, retail plaza
Retail plaza
Mobile home

SUMMARY OF REQUEST

The petitioner requests to rezone from R-1A to C-2. The subject property is located on the north side of Brandy Drive, approximately 380' west of US 19.

FACTUAL INFORMATION

1. The property is currently zoned R-1A.
2. The property comprises approximately a third of an acre.
3. The site is undeveloped.
4. The site contains trees, but appears to contain no majestic or specimen trees.

5. The subject property has access from Brandy Drive.
6. The subject property is located within a commercially designated strip area identified on the adopted Future Land Use Map along US 19 in this area.
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 no 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 commercial and 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 the subject property from R-1A to C-2. If the request is approved, the setbacks would be as follows: 35' from Brandy Drive, 20' from the side lot lines, and 35' from the rear lot line.

The Utilities Department has indicated that central water and sewer are not available to serve the subject site. Construction costs associated with providing water and sewer connections to the property prevent availability per the ordinance.

The subject property has access from Brandy Drive. Middlesex Drive functions as a reverse frontage road in the area. The County Engineer had no comment.

The Gulf Coast Conservancy and SWFWMD have been notified of the request; no responses have yet been received.

FINDINGS OF FACT

The area is characterized by commercial and residential uses, and undeveloped parcels. Gulfview Motors is located south of the subject property, on the south side of Brandy Drive, on a parcel zoned C-2. The subject property is located between parcels zoned C-1. A C-1 zoned commercial retail plaza is located to the east of the subject property. The parcel adjacent to the west lot line of the subject property was rezoned from R-1A to C-1 in 2004.

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. There is a commercially designated strip area identified on the adopted future land use map along US 19 in the this area. Middlesex Drive exists to the south of Brandy Drive and acts as the boundary between the commercial development and zoning to the east, and the residential to the west. The subject property is located to the east of Middlesex Drive. The commercial land use category allows for a range of commercial intensity from office professional to regional commercial centers provided other goals, objectives, and policies (GOPs) within the comprehensive plan can be met.

Policy 1.01L(8) indicates that during the land use approval process for higher intensity commercial uses, appropriate buffering will be considered to maintain a separation from existing or proposed residential uses. The buffering method may include lower intensity commercial or multifamily uses creating a pattern of higher to lower intensity. The subject property is located between parcels zoned C-1 and proximate to parcels zoned R-1A. The Planning staff is of the opinion that C-2 uses are not appropriate at this location.

The staff is of the opinion that rezoning from R-1A to C-1 is appropriate, based on the following conclusions:

1. C-1 zoning would be compatible with the surrounding land uses.
2. C-1 zoning would be consistent 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 rezoning from R-1A to C-1, with the following performance condition:

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.

P&Z RECOMMENDATION:

On November 8, 2004, the P&Z voted 5-0 to recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from R-1A to C-1, with the following unmodified performance condition:

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.

BCC ACTION:

On December 8, 2004, the Board of County Commissioners voted 5-0 to adopt Resolution # 2004-319 approving the rezoning from R-1A to C-1, with the following performance condition:

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.