

**STAFF REPORT**

Planning & Zoning Commission: December 13, 2004  
Board of County Commissioners: January 12, 2005

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**APPLICANT:** Crystal Waters Development **FILE NUMBER:** H-04-73

**PURPOSE:** Rezoning from PDP(SF)/Planned Development Project (Single Family), C-2 (Highway Commercial) and AG (Agricultural) to PDP(SF)/Planned Development Project (Single Family) with a Reduction in Setbacks and a Waiver of the Frontage Road Requirement

**GENERAL**

**LOCATION:** East side of US 19, south side of Bourassa Boulevard

**LEGAL**

**DESCRIPTION:** A portion of Section 13, Township 22 South, Range 17 East, Hernando County, FL

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

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**CITIZEN RESPONSE:** FOR: 1 AGAINST: 0

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: C-2, CPDP	Undeveloped
South: PDP(GHC), AG	Campground
East: AG	Single family, undeveloped, Tooke Lake
West: CPDP, PDP(GHC)	Undeveloped

**SUMMARY OF REQUEST**

The petitioner requests to rezone from PDP(SF), C-2 and AG to PDP(SF) with a reduction in setbacks and a waiver of the frontage road requirement. The subject property is located on the east side of US 19 and the south side of Bourassa Boulevard.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(SF), C-2 and AG.
2. The property comprises approximately 63.65 acres.

3. The site is undeveloped.
4. The site appears to contain specimen trees, but no majestic trees.
5. The subject property has access from US 19 and Bourassa Boulevard.
6. The subject property is located within commercial and residential land use classifications on the adopted Future Land Use Map.
7. The Hernando County Soil Survey indicates the on-site soil types include Basinger fine sand and 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 zones C and A.
9. The subject property contains wetlands, but no WHPAs or SPAs, according to County data resources.
10. The Utilities Department has indicated that water and sewer capacity is available to serve the subject property. Pursuant to County Ordinance, central water and sewer are deemed not available.
11. Central water and sewer service would be required to serve the project at the intensity proposed. The petitioner has indicated the project will be served by central water and sewer which would require a water and sewer agreement with the County.
12. There are adequate public facilities available to serve development on the subject property.
13. The area is characterized by residential and commercial uses and undeveloped parcels.
14. The petitioner has requested a reduction in the setbacks from 125' to 35' along US 19 and a waiver of the frontage road requirement, which are deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner requests to rezone from PDP(SF), C-2 and AG to PDP(SF) in order to develop the site with 183 single family homes. The narrative indicates the petitioner proposes SF lots with a minimum lot size of 8,000 square feet.

The plan shows a 1.17 acre park with lake access in the southwest corner of the property. The Planning staff is of the opinion that if the request is approved, the petitioner should provide a minimum of 5% of the subject property as usable open space.

The BCC approved a rezoning from C/PDP (MF) and C-2 to C/PDP (SF) and C-2 on the property in 1988 to allow a commercial and residential subdivision including 135 SF units of approximately 0.2 acres each. The development was to be a limited access community with private roads. The BCC approved the request with conditions requiring the petitioner negotiate a water and sewer agreement with the County, extend the southern terminus of the frontage road to provide for future connection to the south, create a conservation easement along Tooke Lake to ensure that no development occurred below the DER jurisdictional line except at two (2) designated access points. The BCC also allowed the developer to use the southern commercial lot for an interim sewage plant site if County service was not available, but once central services were available, the petitioner was to connect to County services at their expense with no credits given. In 1981, the BCC approved an interim water treatment plant on the subject property. The plant was never constructed.

County development regulations require the provision of a frontage road across the property at no cost to the County upon demonstration of need and demand by the County. The petitioner requests a waiver of the frontage road requirement. The plan design indicates a roadway running north/south from Bourassa to a cul-de-sac at the southern end of the project. There are wetlands to the south of the project which would impede the ability to extend a frontage road along US 19 to the south. The staff has reviewed the design with the County Engineer and we believe that the developer should provide a pedestrian connection to the commercial property to the west of the site. Additionally, the petitioner should be required to extend access to the west for future alignment with the US 19/Glen Lakes Boulevard intersection. This access will allow the residents to access the future Glen Lakes retail commercial uses without having to travel on US 19. Although the petitioner is not proposing to construct a traditional frontage road, it is the staff's opinion that by providing a connection to the commercial property to the west, the roadway through the project will meet the intent of the frontage road requirement.

The petitioner proposes internal lot setbacks as follows: 20' from the front, 7.5' from the sides and 15' from the rear. The petitioner proposes setbacks of 35' from Bourassa Boulevard and US 19. The PDP rules require a 125' setback from US 19. Given the discussion regarding the frontage road as indicated above, the staff would support a reduction in the front setback from 125' to 75' but not to 35'. It is the staff's opinion the 35' setback proposed does not provide adequate separation from US 19. The plan indicates a 15' setback along the east property line. The PDP rules require a 20' setback from the rear perimeter line.

The petitioner proposes access points on US 19 and Bourassa Boulevard. The County Engineer does not object to the proposed access points. The County Engineer requests that if the request is approved, the developer provide 40' of ROW from the centerline of Bourassa Boulevard for future improvements to the roadway.

The petitioner indicates the site will be served by County central services. The Utilities Department has indicated that central water and sewer are not available per the ordinance to serve the subject site. If the request is approved, the developer will have to negotiate an agreement with the County Utilities Department to serve the site with central water and sewer.

The Hernando County School Board indicates elementary students would attend Pine Grove Elementary School, middle school students would attend West Hernando Middle School, and high school students would attend Central High School. The School Board indicates the project would add approximately 61 students to the school system. These additional students could not be accommodated by current permanent capacity. If this development is approved, the students could only be accommodated by adding additional permanent capacity, adding portables, redrawing of school boundaries, or a combination of these options.

The subject property contains a Class 2 wetland and 100-year floodplain associated with Tooke Lake. The 100 year floodplain should be defined on the construction plans for the project, and all finished floor elevations should be above the 100 year flood elevation. In order to protect water quality in the lake, development of lots adjacent to the lake shall maintain a drainage system upland of the wetland line in order to prevent direct stormwater runoff into the wetland and/or lake. Further, the staff is of the opinion a minimum 25' upland buffer should be required between the drainage system and the lake. The 25' buffer should be indicated on the final plat for the project.

The petitioner has applied on approximately 63 acres of land. The lake to the east of the subject property is owned by the petitioner but not included in the petition. It is the staff's opinion that the lake should be included within the zoning approval and designated as a conservation area. The master plan submitted shows the lake area; however, the total parcel was not included in the application. The legal advertisement of the petition would allow the addition of the lake into the overall master plan.

Since the proposed development lies on well-drained soils with rapid percolation, Planning Staff recommends that the Home Owner's Association implement "Florida Yards & Neighborhoods" (FYN) principles to landscaping within the development and distribute FYN materials to new homeowners.

Staff observed an active sinkhole located on Lot 130 of the proposed master plan. This sinkhole is considered a vulnerable feature with an associated 500 foot Special Protection Area (SPA) under the County's Groundwater Protection Ordinance (GPO). A geotechnical investigation shall be conducted in order to delineate this feature and determine the extent of the regulated development area. Any approved master plan shall incorporate this feature into the design.

County data resources show that the subject property contains archeological or historical sites. These sites should be investigated prior to development to determine their significance.

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

**FINDINGS OF FACT**

The area is characterized by residential and commercial uses and undeveloped parcels. Glen Lakes is located to the west. Residential uses are located to the east. Woodland Waters and Tooke Lake are located to the southeast. Commercial uses are located along US 19 in the area.

The subject property is located within commercial and residential land use classifications on the adopted Future Land Use Map. The commercial land use classification would allow commercial, recreation, office and professional, minor public facilities, and minor institutional uses with the appropriate land use approvals. The Comprehensive Plan indicates that residential units may be allowed in the commercial land use category. The Planning staff is of the opinion that substantial commercial acreage exists along US 19 to serve the areas's residents.

Land uses allowed in the residential land use classification, with appropriate land use approvals, include single family residential densities up to 5.4 units per acre, resort residential, and ancillary uses such as recreation, churches and community centers. The 2.88 units per acre density proposed falls within the range allowed by the adopted Comprehensive Plan.

The staff is of the opinion that the request to rezone from PDP(SF), C-2 and AG to PDP(SF) with a reduction in setbacks and a waiver of the frontage road requirement is appropriate based on the following conclusions:

1. Provision of a connection to Bourassa, and a connection to the west to align with US 19 and Glen Lakes Boulevard, maximizes conformance with the County's frontage road requirement given the environmental limitations which impede extension of the roadway to the south.
2. The proposed rezoning would be compatible with the surrounding land uses.
3. The proposed rezoning 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 Concurrency. 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 PDP(SF), C-2 and AG to PDP(SF) with a reduction in setbacks and a waiver of the frontage road requirement, 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 access to the west to tie in with the US 19/ Glen Lakes Boulevard intersection, and a connection to Bourassa.
3. The petitioner shall provide a minimum of 5% of the project in usable open space.
4. The developer shall provide 40' of ROW from the centerline of Bourassa Boulevard.
5. The developer shall provide a pedestrian connection to the commercial property to the south.
6. The minimum perimeter setbacks shall be as follows:
  - From US 19: 75'
  - From Bourassa: 35'
  - From the east property line: 20'
  - From the south property line: 20'
7. The minimum internal lot setbacks shall be as follows:
  - Front: 20' Side: 7.5' Rear: 15'
8. The maximum number of SF units shall be 183.
9. Jurisdictional wetlands 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.
10. Lots adjacent to the lake shall maintain a drainage system upland of the wetland line in order to prevent direct stormwater runoff into the wetland and/or lake. A minimum 25' upland

buffer is required between the drainage system and the wetland and/or lake and must be designated on the final plat.

11. The petitioner shall 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.
12. The 100 year floodplain shall be delineated on the construction plans for the project.
13. All roads and finished floor elevations within the floodplain shall be constructed above the 100-year flood elevation.
14. The sinkhole feature on Lot 130 shall be delineated by a geotechnical investigation and should be incorporated into a revised master plan as open space/conservation. A 500 foot buffer around the feature shall be delineated as a SPA and shown on any future plats and construction drawings.
15. All planned DRAs shall undergo subsurface testing to determine the presence of significant karst features or voids.
16. The lake shall be included within the boundary of the master plan area and designated as conservation.
17. A master plan shall be provided within 30 days of BCC approval reflecting the zoning conditions or the rezoning shall become null and void.

**P&Z RECOMMENDATION:**

On December 13, 2004, the P&Z voted 5-0 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request to rezone from PDP(SF), C-2 and AG to PDP(SF) with a reduction in setbacks and a waiver of the frontage road requirement, 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 access to the west to tie in with the US 19/ Glen Lakes Boulevard intersection, and a connection to Bourassa.
3. The petitioner shall provide a minimum of 5% of the project in usable open space.

4. The developer shall provide 40' of ROW from the centerline of Bourassa Boulevard.
5. The developer shall provide a pedestrian connection to the commercial property to the south.
6. The minimum perimeter setbacks shall be as follows:
  - From US 19: 75'
  - From Bourassa: 35'
  - From the east property line: 20'
  - From the south property line: 20'
7. The minimum internal lot setbacks shall be as follows:
  - Front: 20' Side: 7.5' Rear: 15'
8. The maximum number of SF units shall be 183.
9. Jurisdictional wetlands 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.
10. Lots adjacent to the lake shall maintain a drainage system upland of the wetland line in order to prevent direct stormwater runoff into the wetland and/or lake. A minimum 25' upland buffer is required between the drainage system and the wetland and/or lake and must be designated on the final plat.
11. The petitioner shall be required to conduct a historical/archaeological analysis prior to site development. Any historical or archeological artifacts uncovered during analysis shall ~~should~~ be reported to the State Office of Cultural and Historic Programs.
12. The 100 year floodplain shall be delineated on the construction plans for the project.
13. All roads and finished floor elevations within the floodplain shall be constructed above the 100-year flood elevation.
14. The sinkhole feature on Lot 130 shall be delineated by a geotechnical investigation and should be incorporated into a revised master plan as open space/conservation. A 500 foot buffer around the feature shall be delineated as a SPA and shown on any future plats and construction drawings.
15. All planned DRAs shall undergo subsurface testing to determine the presence of significant karst features or voids.

16. The lake shall be included within the boundary of the master plan area and designated as conservation.
17. A master plan shall be provided within 30 days of BCC approval reflecting the zoning conditions or the rezoning shall become null and void.
18. “Florida Yards & Neighborhoods” (FYN) principles shall be implemented to landscaping within the development and FYN materials shall be distributed to new homeowners.

**BCC ACTION:**

On January 12, 2005, the Board of County Commissioners voted 5-0 to adopt Resolution # 2005-21 approving the petitioner’s request to rezone from PDP(SF), C-2 and AG to PDP(SF) with a reduction in setbacks and a waiver of the frontage road requirement, 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 access to the west to tie in with the US 19/ Glen Lakes Boulevard intersection, and a connection to Bourassa.
3. The petitioner shall provide a minimum of 5% of the project in usable open space.
4. The developer shall provide 40' of ROW from the centerline of Bourassa Boulevard.
5. The developer shall provide a pedestrian connection to the commercial property to the south.
6. The minimum perimeter setbacks shall be as follows:
  - From US 19: 75'
  - From Bourassa: 35'
  - From the east property line: 20'
  - From the south property line: 20'
7. The minimum internal lot setbacks shall be as follows:
  - Front: 20' Side: 7.5' Rear: 15'
8. The maximum number of SF units shall be 183.

9. Jurisdictional wetlands 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.
10. Lots adjacent to the lake shall maintain a drainage system upland of the wetland line in order to prevent direct stormwater runoff into the wetland and/or lake. A minimum 25' upland buffer is required between the drainage system and the wetland and/or lake and must be designated on the final plat.
11. The petitioner shall be required to conduct a historical/archaeological analysis prior to site development. Any historical or archeological artifacts uncovered during analysis shall ~~should~~ be reported to the State Office of Cultural and Historic Programs.
12. The 100 year floodplain shall be delineated on the construction plans for the project.
13. All roads and finished floor elevations within the floodplain shall be constructed above the 100-year flood elevation.
14. The large depressional feature on Lot 130 shall be analyzed by a geotechnical investigation and should be incorporated into a revised master plan as open space/conservation if determined to be a sinkhole. If determined to be a sinkhole, a 500 foot buffer around the feature shall be delineated as a spa and shown on any future plats and construction drawings.
15. All planned DRAs shall undergo subsurface testing to determine the presence of significant karst features or voids.
16. The lake shall be included within the boundary of the master plan area and designated as conservation.
17. A master plan shall be provided within 30 days of BCC approval reflecting the zoning conditions or the rezoning shall become null and void.
18. "Florida Yards & Neighborhoods" (FYN) principles shall be implemented to landscaping within the development and FYN materials shall be distributed to new homeowners.
19. The petitioner shall pay his proportionate share of traffic signalization at the Glen Lakes Boulevard and U.S. 19 intersection when warranted.

**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.**