

**STAFF REPORT**

Planning & Zoning Commission: January 10, 2005  
Board of County Commissioners: February 9, 2005

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**APPLICANT:** Dominic A. & Vivian Delli Carpini **FILE NUMBER:** H-05-01

**PURPOSE:** Rezoning from AG to A/R (Agricultural/Residential) or PDP(SF)/Planned Development Project(Single Family)

**GENERAL**

**LOCATION:** Approximately 880' south of Courts Court, approximately 980' south of Elmwood Road

**LEGAL**

**DESCRIPTION:** A portion of Section 17, Township 23 South, Range 18 East, Hernando County, FL

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

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

**STAFF FINDINGS:**

Surrounding Zoning

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

Surrounding Land Uses

Single family  
Undeveloped  
Undeveloped  
Undeveloped

**SUMMARY OF REQUEST**

The petitioner requests to rezone from AG to A/R. The Planning staff has also advertised PDP(SF) as an option for the BCC to consider. The subject property is located approximately 880' south of Courts Court, approximately 980' south of Elmwood Road.

**FACTUAL INFORMATION**

1. The property is currently zoned AG.
2. The property comprises approximately 2.5 acres.
3. The site contains a house.

4. The site does not appear to contain specimen or majestic trees.
5. The subject property has no frontage on a County roadway. The subject property has access to Courts Court via an easement. The petitioner has not provided interest in the easement.
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 capacity is available to serve the subject site, but service is not available per County ordinance.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by single family residential 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 the subject property from AG to A/R in order to subdivide the 2.5 acre into two (2) parcels, each containing a minimum of one acre. The plan shows two (2) parcels: an approximately 1.01 acre parcel to the north and an approximately 1.49 acre parcel to the south.

The proposed lots meet the minimum size of one acre required in the A/R zoning district. The plan indicates the lots will be able to meet the minimum 50' front, 10' side and 35' rear setbacks for the A/R district.

The staff included the PDP(SF) category because we anticipate the area will be developed with single family residential lots over time. However, given the subject property is surrounded by large

AG parcels and has no direct access to a County roadway, staff is of the opinion PDP(SF) is not an appropriate zoning category for the subject property at this time.

The petitioner requests in the narrative to proceed through the subdivision process concurrently with the rezoning process. The request to create two (2) lots without direct access to a County roadway does not meet the LDRs. The petitioner has requested the BCC consider an appeal to the determination made by staff as part of the rezoning.

The Utilities Department has indicated that central water and sewer are not available to serve the subject site per County ordinance. Lots with a minimum size of one acre are not required to be served by central water and sewer.

The two (2) parcels would have access via an easement to Courts Court. The County Engineer has no comments.

The Hernando County School Board was not available to provide comments prior to report finalization due to the winter break.

### **FINDINGS OF FACT**

The area is characterized by single family residential and rural residential uses, and undeveloped parcels. The subject property is surrounded by larger AG parcels with sizes ranging from over two acres to over 34 acres. The Planning staff is of the opinion the proposed rezoning is not compatible with the surrounding AG parcels and not appropriate due to the lack of infrastructure.

The subject property is located within a residential land use classification on the adopted Future Land Use Map. 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 subject property is approximately 1,000' south of Spring Hill Unit 16. The Planning staff is of the opinion the subject property is located in an area that will eventually be developed with platted single family lots. The Planning staff is of the opinion that the proposed A/R zoning will not be compatible with the platted SF lots anticipated in the future.

The Planning staff is of the opinion that the rezoning request, with performance conditions, is not appropriate, based on the following conclusions:

1. The proposed rezoning is not compatible with the existing surrounding development.
2. The proposed rezoning is inappropriate due to the lack of infrastructure.

3. The creation of two (2) lots on an easement with no direct access to a County roadway is inappropriate and not consistent with the LDRs.
4. The proposed rezoning is not consistent with the County's adopted 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 # \_\_\_\_\_ denying the petitioner's request to rezone from AG to A/R.

**P&Z RECOMMENDATION:**

On January 10, 2005, the Planning and Zoning Commission voted 5-0 to deny the petition.

**BCC ACTION:**

On February 9, 2005, the BCC voted 5-0 to adopt resolution #2005- 41 approving the petitioner's request to rezone from AG to A/R 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.

Further, the Board approved the subdivision split for the parcel into two lots utilizing the existing access with a notice on all deeds for the parcels to include a statement that the access to these parcels is substandard and the County has no responsibility for the maintenance of the access to the lots. Further the County assumes no liability if emergency vehicles cannot access the property.