

STAFF REPORT

Planning & Zoning Commission: October 10, 2005
Board of County Commissioners: November 9, 2005
Planning & Zoning Commission: November 14, 2005
Board of County Commissioners: January 10, 2006

APPLICANT: Longview Equities, Inc. **FILE NUMBER:** H-05-101

PURPOSE: Rezoning from AR-2 to PDP(OP)/Planned Development Project (Office Professional) with a Reduction in Setbacks

GENERAL

LOCATION: South side of Wiscon Road, approximately 650' east of Cortez Boulevard

LEGAL

DESCRIPTION: A portion of Section 35, Township 22 South, Range 18 East, Hernando County, FL

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 1

STAFF FINDINGS:

Surrounding Zoning

North: AR-2, PDP(GHC)
South: AR-2
East: AR-2
West: AR-2

Surrounding Land Uses

Undeveloped
Rural residential
Church
Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from AR-2 to PDP(OP) with a reduction in setbacks. The subject property is located on the south side of Wiscon Road, approximately 650' east of Cortez Boulevard.

FACTUAL INFORMATION

1. The property is currently zoned AR-2.
2. The property comprises approximately 9.57 acres.
3. The site contains vacant buildings.

4. The site does not appear to contain majestic or specimen trees.
5. The subject property has access from Wiscon Road and Milton Avenue.
6. The subject property is located within commercial and rural land use classifications 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 water and sewer capacity is available to serve the subject property. Central water services are available by ordinance, a sewer force main is located approximately 700' west of the subject site.
11. The adequate public facility review indicates that there are capacity issues associated with State Road 50.
12. There are not adequate public facilities available to serve limited development on the subject property.
13. The area is characterized by institutional and rural residential uses, and undeveloped parcels.
14. The petitioner requests a reduction in setbacks from 75' to 25' along Wiscon Road, which is a deviation from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone from AR-2 to PDP(OP) in order to develop the site with professional office uses and a church. Professional offices and places of public assembly are permitted uses in the OP zoning category.

In September 1996, the Planning and Zoning Commission approved a special exception use permit for a religious establishment, namely a church, on the subject property. The LDRs indicate that a special exception shall become null and void if the parcel of land granted the special exception is reduced in size from the original approval size. The narrative and plan provided indicate the subject

property will be subdivided into two (2) parcels. No request for subdivision of the parcel has yet been received by the Planning Department. If the property is subdivided, the special exception use permit shall become null and void.

The petitioner is proposing to create two parcels from the subject property which will be required to obtain subdivision approval pursuant to the LDRs. Future parcel A is located in the northern half of the subject property and comprises approximately 5 acres. Parcel A has one access point on Wiscon Road and one access point to the east to Parcel B's access drive. The narrative indicates Parcel A is proposed to be developed with multiple single-story architecturally attractive office buildings designed to blend in with the residential character of Wiscon Road. The plan shows thirteen (13) office building approximately 3,000 square feet in size. The petitioner has not provided standards to ensure a residential character. If the request is approved, the development will be subject to the "small box" commercial design standards. The plan and narrative indicate the maximum building area is proposed to be 36,000 square feet and the buildings are proposed to be one-story with a maximum building height of 25'. The buildings are proposed to have a 15' separation distance. Parking is provided in the interior of Parcel A. If the request is approved, the petitioner will be required to provide parking as required per the LDRs.

The petitioner proposes the following perimeter setbacks: 25' from Wiscon Road, 20' from the side lot lines and 35' from the rear lot line. The petitioner proposes the following internal lot setbacks for the professional office portion of the property: 25' front, 20' sides and 25' rear. The proposed 25' setback from Wiscon Road requires approval of a reduction from the required minimum setback of 75' from a collector roadway. The petitioner has provided no justification for the setback reduction. The Planning staff is of the opinion that if the request is approved, the perimeter setbacks should be approved as follows: 75' from Wiscon Road, 20' from the side lot lines and 50' from the rear lot line. The minimum rear setback for the AR district is 50'. The Planning staff is of the opinion the setbacks for Parcel A should be as follows: 75' from Wiscon Road, 20' from the west lot line, 20' from the east lot line and 25' from the rear.

The plan shows Parcel B located in approximately 4.5 acres in the southern half of the subject property. Parcel B has one access point on Wiscon Road. The narrative indicates Parcel B will have a private driveway to Wiscon Road. The narrative indicates Parcel B is proposed to be developed with an 11,000 square foot sanctuary, with room for future expansion up to 21,000 square feet. The sanctuary is proposed to be two stories, with a maximum height if 35'. A DRA is proposed along the west lot line. The plan indicates parking will be located to the north, west and south of the sanctuary. If the request is approved, the petitioner will be required to provide parking as required per the LDRs.

The narrative proposes a 25' landscape buffer along Wiscon Road. The 25' buffer is not shown on the plan. A minimum 10' landscaped buffer with 75% opacity at the time of planting is indicated along the south property line. If the request is approved, the staff would recommend the buffer along the south provide 80% opacity. DRAs are proposed along the west, east and south property

lines of Parcel A as part of the buffering plan, and along the west boundary of Parcel B. Relocation of the DRAs from the perimeter of the project subsequent to approval of the master plan will require a master plan revision. The petitioner is not proposing any buffering along the eastern boundary of Parcel B. If approved, the staff would recommend a 5' wide buffer, containing landscaping and screening, along the west of east property lines of the subject property. The plan shows a 10' landscape buffer located between Parcels A and B. The Planning staff does not object to these proposed internal buffers.

The narrative indicates the site will be served by central water and sewer. The Utilities Department has indicated that central water and sewer capacity is available to serve the subject property. Central water is available by ordinance, a sewer force main is located approximately 700' to the west on the south side of Cortez Boulevard. It is the staff's opinion the site should be served by both central water and sewer services.

The subject property has access to Wiscon Road and Milton Avenue. The plan provided shows the two parcels will each have an access point on Wiscon Road. The County Engineer does not object to the proposed access. Milton Avenue is an unpaved local roadway. The 1996 special exception approval included a condition regarding allowing no access to Milton Avenue. The Planning staff is of the opinion it is inappropriate to allow access to the site via this local roadway which serves a rural residential area.

The property is located proximate to a section of Cortez Boulevard which is no longer able to pass the required adequate public facility review. If the request is approved, the petitioner will have to obtain a certificate of concurrency during review of construction plans for commercial development. If the project is not concurrent, the developer has the option of either delaying development or entering into an agreement to address the transportation issues at that time.

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

The City of Brooksville has no comments regarding the rezoning request. The Florida Turnpike headquarters has been notified of the request; no response has yet been received.

FINDINGS OF FACT

The area is characterized by institutional and rural residential uses, and undeveloped parcels. A church is located to the east. The property to the north and west are undeveloped. Rural residential uses are located to the south.

The subject property is located within commercial and rural land use classifications on the adopted Future Land Use Map. The proposed professional office development is to be located in the

northern portion of the subject property, generally within the commercial future land use category. The proposed professional office use is allowed in the commercial future land use category.

The southern portion of the subject property is located generally within the rural future land use category. The petitioner proposes developing the southern portion of the property with a place of public assembly. The Planning staff is of the opinion that a place of public assembly is consistent with the rural future land use classification and appropriate at this location. The LDRs would allow the P&Z to approve a special exception use permit if they believe it is more appropriate than rezoning the property. The LDRs indicate a special exception use of a place of public assembly is allowed in all zoning categories.

The staff is of the opinion that rezoning Parcel A from AR-2 to PDP(OP) and approving a special exception use permit for a place of public assembly on Parcel B is appropriate based on the following conclusions:

1. No justification has been provided regarding the requested reduction in setbacks along Wiscon Road.
2. PDP(OP) zoning on Parcel A is consistent with the County's adopted Comprehensive Plan and the County's land development regulations.
3. PDP(OP) zoning on Parcel B is too intense to be compatible with the surrounding area.
4. A special exception use permit for a place of public assembly on Parcel B would be compatible with the surrounding area.
5. Rezoning to PDP(OP) on Parcel A, and approval of a special exception use permit for a place of public assembly on Parcel B is consistent with the County's adopted Comprehensive Plan and the County's land development regulations.

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 rezoning Parcel A from AR-2 to PDP(OP) and a special exception use permit for a place of public assembly on Parcel B, 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 perimeter setbacks shall be as follows:
 - From Wiscon Road: 75'
 - From the side property lines: 20'
 - From the rear property line: 50'
3. The internal lot setbacks for Parcel A shall be as follows:
 - From Wiscon Road: 75'
 - From the west lot line: 20'
 - From the east lot line: 20'
 - From the south lot line: 25'
4. The internal lot setbacks for Parcel B shall be as follows:
 - From the north lot line: 35'
 - From the side property lines: 20'
 - From the rear lot line: 50'
5. The developer shall provide a minimum 5' wide landscaped buffer along the east and west property lines of the subject property. A minimum 25' wide landscape buffer is required along the front property line, and a minimum 10' wide landscaped buffer with 80% opacity at the time of planting along the south property line of the subject property.
6. The developer shall provide a 5' landscape buffer along the south lot line of Parcel A and a 5' landscape buffer along the north lot line of Parcel B.
7. The buildings in Parcel A shall have one story with a maximum building height of 25'. The buildings shall have a minimum 15' separation distance.
8. The project shall be served by central water and sewer services.
9. Parcel A shall be provided access to the private driveway on Parcel B.
10. The petitioner shall provide a revised plan in compliance with all of the performance conditions within 30 calendar days of BCC approval. A \$250.00 late submittal fee will be

required in the event the plan is not submitted within the specified time frame. Failure to submit the revised plan within 30 business days from BCC approval will result in the zoning becoming null and void.

P&Z RECOMMENDATION:

On October 10, 2005, the Planning and Zoning Commission voted 5-0 to postpone the petition until 9:00 a.m. at their November 14, 2005 hearing.

NOTE:

Subsequent to the October 10, 2005, hearing, the petitioner submitted a revised master plan and supplemental narrative. The petitioner is no longer requesting a reduction of setbacks along Wiscon Road. The revised plan as proposed meets the minimum LDRs with regards to setbacks.

As indicated in the staff report, the petitioner is proposing to create two parcels from the subject property. The staff recommended approval of Parcel A to PDP(OP), and approval of a place of public assembly on Parcel B. Parcel B remains zoned AR-2. Parcel B includes a minimum 75' wide strip to Wiscon Road which is to be utilized as the access to the Place of Public Assembly. The strip is less than the 100' wide frontage required by the AR-2 district. Staff does not have any objections to the configuration proposed for creation of the two future parcels. Staff would recommend addition of the following condition to the approval:

12. Parcel B may be created with a minimum of 75' of frontage along Wiscon Road.

As an additional item, subsequent to the preparation of the staff report for this request, a standard condition of approval relating to transportation impacts has been codified for inclusion into approvals. The following condition should be added to the staff recommendation relative to the capacity issues on SR 50:

13. The transportation impacts resulting from rezoning the subject property as approved herein will require off-site transportation improvements and mitigation acceptable to the County as a prerequisite for development to proceed; or development shall wait until transportation concurrency is available along the affected corridor. The failure of the parties to agree on the off-site transportation improvements and mitigation, absent the availability of transportation concurrency, will cause the County to withhold subsequent development approvals including, but not limited to, the issuance of building permits.

BCC ACTION:

On November 9, 2005, the BCC voted 5-0 to postpone this petition until the January 10, 2006, BCC hearing at 9:00 A.M.

P&Z RECOMMENDATION:

On November 14, 2005, the Planning and Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt Resolution # _____ approving rezoning Parcel A from AR-2 to PDP(OP) and a special exception use permit for a place of public assembly on Parcel B, 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 perimeter setbacks shall be as follows:

From Wiscon Road:	75'
From the side property lines:	20'
From the rear property line:	50'
3. The internal lot setbacks for Parcel A shall be as follows:

From Wiscon Road:	75'
From the west lot line:	20'
From the east lot line:	20'
From the south lot line:	25'
4. The internal lot setbacks for Parcel B shall be as follows:

From the north lot line:	35'
From the side property lines:	20'
From the rear lot line:	50'
5. The developer shall provide a minimum 5' wide landscaped buffer along the east and west property lines of the subject property. A minimum 25' wide landscape buffer is required along the front property line, and a minimum 10' wide landscaped buffer with 80% opacity at the time of planting along the south property line of the subject property.
6. The developer shall provide a 5' landscape buffer along the south lot line of Parcel A, at the time of development of Parcel A. ~~and a~~ 5' landscape buffer shall be provided along the north lot line of Parcel B at the time of development of Parcel B.

7. The buildings in Parcel A shall have one story with a maximum building height of 25'. The buildings shall have a minimum 15' separation distance.
8. The project shall be served by central water and sewer services.
9. Parcel A shall be provided access to the private driveway on Parcel B.
10. The petitioner shall provide a revised plan in compliance with all of the performance conditions within 30 calendar days of BCC approval. A \$250.00 late submittal fee will be required in the event the plan is not submitted within the specified time frame. Failure to submit the revised plan within 30 business days from BCC approval will result in the zoning becoming null and void.
11. Parcel B may be created with a minimum of 75' of frontage along Wiscon Road.
12. The transportation impacts resulting from rezoning the subject property as approved herein will require off-site transportation improvements and mitigation acceptable to the County as a prerequisite for development to proceed; or development shall wait until transportation concurrency is available along the affected corridor. The failure of the parties to agree on the off-site transportation improvements and mitigation, absent the availability of transportation concurrency, will cause the County to withhold subsequent development approvals including, but not limited to, the issuance of building permits.

BCC ACTION:

The Board of County Commissioners voted 5-0 to adopt Resolution #2006-15 approving rezoning Parcel A from AR-2 to PDP(OP) and a special exception use permit for a place of public assembly on Parcel B, 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 perimeter setbacks shall be as follows:

From Wiscon Road:	75'
From the side property lines:	20'
From the rear property line:	50'
3. The internal lot setbacks for Parcel A shall be as follows:

From Wiscon Road:	75'
From the west lot line:	20'
From the east lot line:	20'

From the south lot line: 25'

4. The internal lot setbacks for Parcel B shall be as follows:
 - From the north lot line: 35'
 - From the side property lines: 20'
 - From the rear lot line: 50'
5. The developer shall provide a minimum 5' wide landscaped buffer along the east and west property lines of the subject property. A minimum 25' wide landscape buffer is required along the front property line, and a minimum 10' wide landscaped buffer with 80% opacity at the time of planting along the south property line of the subject property.
6. The developer shall provide a 5' landscape buffer along the south lot line of Parcel A, at the time of development of Parcel A. A 5' landscape buffer shall be provided along the north lot line of Parcel B at the time of development of Parcel B.
7. The buildings in Parcel A shall have one story with a maximum building height of 25'. The buildings shall have a minimum 15' separation distance.
8. The project shall be served by central water and sewer services.
9. Parcel A shall be provided access to the private driveway on Parcel B.
10. The petitioner shall provide a revised plan in compliance with all of the performance conditions within 30 calendar days of BCC approval. A \$250.00 late submittal fee will be required in the event the plan is not submitted within the specified time frame. Failure to submit the revised plan within 30 business days from BCC approval will result in the zoning becoming null and void.
11. Parcel B may be created with a minimum of 75' of frontage along Wiscon Road.
12. The transportation impacts resulting from rezoning the subject property as approved herein will require off-site transportation improvements and mitigation acceptable to the County as a prerequisite for development to proceed; or development shall wait until transportation concurrency is available along the affected corridor. The failure of the parties to agree on the off-site transportation improvements and mitigation, absent the availability of transportation concurrency, will cause the County to withhold subsequent development approvals including, but not limited to, the issuance of building permits.
13. The right-of-way needs associated with the project will be reviewed at the time of development.

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.