

STAFF REPORT

Planning & Zoning Commission: December 12, 2005

Board of County Commissioners: January 11, 2006

Planning & Zoning Commission: January 9, 2006

Board of County Commissioners: February 8, 2006

APPLICANT: Mark Maloney and Richard Klinger **FILE NUMBER:** H-05-120

PURPOSE: Rezoning from AG to A/C (Agricultural/Commercial)

GENERAL

LOCATION: East side of Sunshine Grove Road, approximately 500' south of Olympic Village Lane

LEGAL

DESCRIPTION: Lots 15A and 15B, Gulf Florida Highlands, Unit 1, an unrecorded subdivision, located in a portion of Section 4, 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: 0

STAFF FINDINGS:

Surrounding Zoning

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

Surrounding Land Uses

Mobile home
Undeveloped
Undeveloped
Mobile home

SUMMARY OF REQUEST

The petitioner requests to rezone from AG to A/C. The subject property is located on the east side of Sunshine Grove Road, approximately 500' south of Olympic Village Lane.

FACTUAL INFORMATION

1. The property is currently zoned AG. The property contains a special exception use permit for the retail sale of agricultural products grown on the premises.
2. The property comprises approximately 4.78 acres.

3. An ornamental plant nursery with retail sales is being developed on the site.
4. The site contains no majestic or specimen trees.
5. The subject property has access from Sunshine Grove Road.
6. The subject property is located within a rural 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, however service is not currently available for the subject property.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by 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 from AG to A/C. The narrative indicates the petitioner intends to continue to operate an ornamental plant nursery on the site, sell garden products (such as mulch, statuary, paving materials), provide landscape design services and install products sold by the nursery. A garden supply and nursery and landscape services are land use allowed in the A/C zoning district.

On October 4, 2004, the Planning & Zoning Commission approved the petitioner's request for a Special Exception Use Permit for Retail Sales on the Premises of Permitted Agricultural Products and Services Produced on the Premises with a parking deviation, 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. Any future buildings or structures must meet the AG dimension and area regulations.
3. The petitioner shall obtain Health Department approval for the use of well and septic.
4. If parking demand is such that said grass, lawn or other material is caused to be damaged or destroyed to the extent that said grass or lawn ceases to grow, or the other material otherwise causes a nuisance to the neighborhood, then paving may be required by the Zoning Administrator.

The plan shows a parking area towards the front of the property in the northwest corner and a driveway leading to a residence to be located to the rear of the property. The plan indicates landscaped areas throughout the property; the narrative indicates the purpose of the proposal is to demonstrate the qualities of the horticultural products for sale.

Development on the subject property must meet the minimum setbacks for the underlying zoning category. The setbacks for the A/C district require 75' setbacks from Sunshine Grove Road, 20' setbacks from north and south lot lines and a 35' setback from the east lot line. The plan submitted shows a building meeting these setbacks. If the request is approved, the petitioner will be required to meet the applicable county LDRs.

The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site, however service is not currently available for the subject property. The applicant will have to connect to water and/or sewer if they meet the connection standards of the applicable ordinances at the time they apply for development permits.

The subject property has access from Sunshine Grove Road, a major collector roadway. The County Engineer indicates that if the request is approved, the petitioner shall provide 80' of ROW from the Sunshine Grove Road centerline.

FINDINGS OF FACT

The area is characterized by rural residential uses and undeveloped parcels. The area is characterized by a large number of AG-zoned parcels.

The subject property is located within a rural land use classification on the adopted Future Land Use Map. Agricultural commercial activities uses are allowed in the rural future land use category.

Policy 1.01B(7) indicates the County shall establish a procedure to evaluate the potential conversion of agricultural lands to non-agricultural uses which incorporates a site assessment process that considers such things as adjacent land uses, viability of adjacent parcels for continued or future agricultural use, compatibility of proposed use with existing land characteristics, comprehensive development plans, available infrastructure and viability of the subject site including soils. The Planning staff is of the opinion that due to the existing rural residential uses in the area, rezoning the entirety of the subject property would not be appropriate. Staff would not object to rezoning a portion of the subject property which would allow the petitioner the ability to conduct retail sales of certain nursery products while limiting the overall scale and impacts to the area.

If the rezoning is approved on the portion of the property as recommended by the staff, it is our position that the status of the special exception use permit on the remainder of the property would not be affected

The Planning staff is of the opinion that the request for a rezoning from AR to A/C on a portion of the subject property is appropriate, based on the following conclusions:

1. Agricultural-commercial zoning on a portion of the subject property would be compatible with the surrounding land uses.
2. Agricultural-commercial zoning on a portion of the subject property 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 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 petitioner's request to rezone from AG to A/C, 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 A/C zoning is limited to the west half of lot 15A.
3. The petitioner shall provide 80' of ROW from the Sunshine Grove Road centerline.

P&Z RECOMMENDATION:

On December 12, 2005, the P&Z voted 5-0 to postpone hearing the request until the January 9, 2006 meeting at 9:30 a.m.

BCC ACTION:

On January 11, 2006, the BCC voted 5-0 to postpone this petition until the February 8, 2006, at 9:00 a.m.

P&Z RECOMMENDATION:

At the January 9, 2006 meeting, the Planning and Zoning Commission voted 4-1 to recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from AG to A/C, 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 A/C zoning is limited to the west half of lot 15A.
3. The petitioner shall provide ~~80'~~ of ROW from the Sunshine Grove Road centerline per the applicable rules at the time of development (staff is proposing to modify the condition in the event standards change).

BCC ACTION:

On February 8, 2006, the Board of County Commissioners voted 4-1 to adopt Resolution # 2006-36 approving the rezoning from AG to A/C 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 ROW from the Sunshine Grove Road centerline per the applicable rules at the time of development.