

STAFF REPORT

Planning & Zoning Commission: April 11, 2005

Board of County Commissioners: May 11, 2005

APPLICANT: Paul Zelewski **FILE NUMBER:** H-05-24

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

GENERAL

LOCATION: East side of US 19, south side of Country Road, west and north sides of Lake Drive

LEGAL

DESCRIPTION: Lots 1 - 3, Block O, Highland Lakes Subdivision, as per plat thereof recorded in Plat Book 5, Page 42, of the Public Records of Hernando County, Florida in Section 25, Township 22 South, Range 17 East

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

CITIZEN RESPONSE: FOR: 6 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: C-2
South: R-1A
East: R-1A
West: PDP(GHC), R-1A

Surrounding Land Uses

Church
Pond; Mobile Homes
Mobile home, undeveloped
Pond; US 19

SUMMARY OF REQUEST

The petitioner requests to rezone from R-1A to C-1. The subject property is located on the east side of US 19, south side of Country Road, west and north sides of Lake Drive.

FACTUAL INFORMATION

1. The property is currently zoned R-1A.
2. The property comprises approximately three-quarters of an acre.
3. The site is undeveloped.

4. The site contains no majestic or specimen trees.
5. The subject property has access from US 19, Country Road and Lake Drive.
6. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
7. The on-site soil types include Candler fine sand and Myakka 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 flood zones C and A.
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 is not available to serve the subject property.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial, institutional, single family and mobile home 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 R-1A to C-1 in order to develop the site with a dental appliance business that does not directly serve the public. The plan shows setbacks consistent with the LDRs: 125' from US 19, 35' from the front lot lines along Country Road and Lake Drive and from the side and rear lot lines.

The Utilities Department has indicated that central water and sewer are not available to serve the subject site. The nearest water line is located approximately 175' to the north. No sewer lines are proximate to serve the subject property.

The subject property has access from US 19, Country Road and Lake Drive. The plan provided indicates access is proposed from Country Road and Lake Drive. The staff reviewed the request

with the County Engineer. The County Engineer indicated that the petitioner will have to address the required frontage road as part of the development of the project.

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

FINDINGS OF FACT

The area is characterized by a mixture of uses which include: commercial, institutional, single family and mobile home residential uses, and undeveloped parcels. A church is located to the north of the subject property. Mobile homes are located to the east and south. Commercial development is located on the west side of US 19.

The subject property is located within a residential land use classification on the adopted Future Land Use Map. The mapping criteria of the Comprehensive Plan indicates that office professional uses are allowable in the residential future land use category with appropriate land use approvals.

The Comprehensive Plan allows commercial uses in the residential land use category if the subject property is located in an appropriate infill area. The property located to the north of the site is zoned C-2, and it is developed with a church. There is a wetland immediately south of the site, followed by property zoned General Commercial and R-1A with a designation for a church. The staff would not support rezoning to general commercial; however, some less intense non-residential use could be accommodated on the site given its location along US 19, and nonresidential zoning to the north.

Policy 1.01H(2) encourages the protection of existing and future residential areas from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment.

The Planning staff is of the opinion that Office Professional would not be destructive to the residential uses in the area. It is the staff's opinion that approval of an Office-Professional district at this location would be consistent with the adopted Comprehensive Plan.

The staff is of the opinion that rezoning from R-1A to C-1 is not appropriate. Staff would recommend PDP(OP)/Planned Development Project (Office Professional) based on the following conclusions:

1. The uses allowed in C-1(General Commercial) would be incompatible with the surrounding land uses.
2. The uses allowed in Office Professional are less intense and would not be destructive to the residential neighborhood to the east.
3. Rezoning the subject property to PDP(OP)/Planned Development Project (Office Professional) is consistent with the County's adopted Comprehensive Plan and compatible

with the surrounding land uses subject to compliance with all performance conditions set forth.

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 deny the petitioner's request to rezone from R-1A to C-1 and adopt Resolution # _____ approving the rezoning to PDP(OP)/Planned Development Project (Office Professional) 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 a frontage road across the property, at no cost to the county, upon demonstration of need and demand by the County.
3. No access to US 19 shall be allowed.
4. 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 April 11, 2005, the Planning and Zoning Commission voted 5-0 to recommend the BCC adopt resolution # _____ approving the rezoning from R-1A to PDP(OP) 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 a frontage road across the property, at no cost to the county, upon demonstration of need and demand by the County.
3. No access to US 19 shall be allowed.
4. 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.

NOTE:

The P&Z indicated that prior to the BCC meeting, the County Engineer and the Planning Staff should coordinate to discuss the widening of Country Road.

BCC ACTION:

On May 11, 2005, the BCC voted 5-0 to adopt resolution #2005-138 approving the rezoning from R-1A to PDP(OP) 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 a frontage road across the property, at no cost to the county, upon demonstration of need and demand by the County.
3. No access to US 19 shall be allowed.
4. 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.

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.**