

STAFF REPORT

Planning & Zoning Commission: April 11, 2005
Board of County Commissioners: May 11, 2005
Planning & Zoning Commission: May 9, 2005
Board of County Commissioners: June 8, 2005

APPLICANT: Gabriella Darling **FILE NUMBER:** H-05-36

PURPOSE: Rezoning from AR-2 (Agricultural-residential) to PDP(GC)/Planned Development Project (General Commercial) with a C-2 use for a Light Construction Service Establishment

GENERAL

LOCATION: East side of Summer Street, north side of Horn Avenue

LEGAL

DESCRIPTION: Lot 25, Potterfield Garden Acres, Section M, as per the plat thereof recorded in Plat Book 5 Page 66, of the Public Records of Hernando County, Florida in Section 26 Township 22 South, Range 18 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 1

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: AR-2	Undeveloped
South: C-2	Vacant
East: AR-2	Church
West: AR-2	Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from AR-2 to PDP(GC) with a C-2 use for a light construction service establishment. The subject property is located on the east side of Summer Street and the north side of Horn Avenue.

FACTUAL INFORMATION

1. The property is currently zoned AR-2.
2. The property comprises approximately 4.1 acres.

3. The site is undeveloped.
4. The site contains no majestic or specimen trees.
5. The subject property has access from Horn Avenue and Summer Street.
6. The subject property is located on the fringe of residential and commercial 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 central water, but not sewer, is available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial, institutional, 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 the subject property from AR-2 to PDP(GC) with a C-2 use for a light construction service establishment. The petitioner proposes 35' perimeter setbacks, which meet or exceed the setbacks required by the LDRs. The petitioner proposes a 5' enhanced natural buffer along the northern and eastern boundaries. The northern and eastern boundaries are adjacent to parcels zoned AR-2. The PDP rules require a non-residential PDP use to provide a minimum 5' buffer adjacent to parcels zoned for residential, agricultural-residential or agricultural uses.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site.

In August 2004, the BCC approved rezoning requests on properties to the east of the subject property. The rezoning approvals allowed OP, C-1 and limited C-2 uses north of Horn Avenue with performance conditions requiring improvements to Winter Street and the Cortez Boulevard/Winter Street intersection and the construction of a roadway north of and parallel to Horn Avenue providing interconnection between Fall Street and Winter Street.

The subject property has access from Horn Avenue and Summer Street. The narrative and plan indicate access is proposed from Horn Avenue.

The roadways required by previous rezonings in the vicinity have not been constructed between Fall and Winter Streets. It is the staff's opinion that the request is premature and incompatible with the surrounding area until the roadways have been developed. The County Engineer indicates that if the request is approved, the petitioner would be required to participate in improvements to Winter Street, the Cortez Boulevard/Winter Street intersection and Summer Street.

The property is located proximate to a section of Cortez Boulevard that is no longer able to pass the required adequate public facility review. The staff is in the process of analyzing the alternatives for increasing the capacity along Cortez Boulevard. If approved, the developer could participate in a fair share contribution for improvements as part of the transportation mitigation.

The subject property contains a WHPA-2 for a public supply well. The proposed use is allowable within this designation.

The City of Brooksville and the FDOT have been notified of the request; no responses have yet been received.

FINDINGS OF FACT

The area is characterized by commercial, institutional and mobile home residential uses, and undeveloped parcels. The AR-2 parcels to the north and west are undeveloped. A church has been operating to the east of the subject property. The commercial property to the south is vacant.

Policy 1.01L(3) indicates new commercial rezoning shall be initiated within commercial nodes and regional commercial overlay districts, as indicated on the Future Land Use Map Series, except for Specialty Commercial, Neighborhood Commercial, and appropriate infill areas. The subject property is located on the fringe of residential and commercial land use classifications on the adopted Future Land Use Map. The residential land use category allows commercial extending from commercial nodes with a functioning frontage road and office professional land use with performance conditions being met. The Planning staff is of the opinion that although the site is on the fringe of a commercial land use area, commercial zoning is premature until the roadway infrastructure is improved to accommodate previously approved commercial zoning north of Horn Avenue.

Policy 1.01L(8) indicates that during the land use approval process for higher intensity commercial uses, appropriate buffering will be considered to maintain a separation from existing or proposed residential uses. The buffering method may include lower intensity commercial or multifamily uses creating a pattern of higher to lower intensity. The Planning staff is of the opinion C-1 and limited C-2 uses would be incompatible with the AR-2 zoning to the north, east and west of the subject property.

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. AR-2 zoned parcels are located to the north, east and west of the subject property. The Planning staff is of the opinion that rezoning the subject property to allow C-1 and limited C-2 uses would allow the encroachment of incompatible commercial uses into the rural residential area.

The staff is of the opinion that rezoning from AR-2 to PDP(GC) with a C-2 use for a light construction service establishment is inappropriate, based on the following conclusions:

1. Approval of the request is premature until the roadway infrastructure in the area is improved
2. The proposed zoning would be incompatible with the surrounding land uses.
3. The proposed zoning is inconsistent 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 # _____ denying the petitioner's request to rezone from AR-2 to PDP(GC).

P&Z RECOMMENDATION:

At their April 11, 2005 meeting, the Planning & Zoning Commission acknowledged that the petition would have to be readvertised for a future hearing date.

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 AR-2 to PDP(GC) with a C-2 use for a light construction service establishment.

P&Z RECOMMENDATION:

At their May 9, 2005 hearing, based on the information provided, the Planning and Zoning Commission made the following findings:

1. The proposed rezoning is consistent with the County's adopted Comprehensive Plan and is compatible with the surrounding land uses subject to compliance with all performance conditions set forth.

The Planning and Zoning Commission voted 3-2 to recommend the BCC adopt resolution # _____ approving the petitioner's request to rezone from AR-2 to PDP(GC) with a C-2 use for a light construction service establishment, 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 developer shall provide a 10' buffer with 80% opacity along the north and east property lines.
3. The setback from Horn Avenue shall be 75'.

NOTE:

The petitioner's plan does not meet the performance conditions recommended by the P&Z. If the BCC approves the request, the staff recommends the following performance condition be added:

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.

BCC ACTION:

On June 8, 2005, the Board of County Commissioners voted 3-2 to adopt Resolution #2005-157 denying the petitioner's request to rezone from AR-2 to PDP(GC) with a C-2 use for a light construction service establishment.