

STAFF REPORT

Planning & Zoning Commission: August 8, 2005
Board of County Commissioners: September 14, 2005

APPLICANT: Donald Whiting **FILE NUMBER:** H-05-65

PURPOSE: Rezoning from PDP(SF)/Planned Development Project (Single Family) to PDP(OP)/Planned Development Project (Office Professional) with a Reduction in Setbacks

GENERAL

LOCATION: South side of Spring Hill Drive, east side of Deering Avenue

LEGAL

DESCRIPTION: Lot 1, Block 483, Spring Hill, Unit 8, as per plat thereof recorded in Plat Book 8, Pages 27 - 37, of the Public Records of Hernando County, Florida in Section 30, Township 23 South, Range 18 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 1
PETITION AGAINST: 1 with 14 signatures

STAFF FINDINGS:

Surrounding Zoning

North: PDP(SU)
South: PDP(SF)
East: PDP(SF)
West: PDP(SU)

Surrounding Land Uses

PHCC
Single family
Single family
Church

SUMMARY OF REQUEST

The petitioner requests to rezone from PDP(SF) to PDP(OP) with a reduction in setbacks. The subject property is located on the south side of Spring Hill Drive and the east side of Deering Avenue.

FACTUAL INFORMATION

1. The property is currently zoned PDP(SF).
2. The property comprises approximately one-third of an acre.

3. The site has been developed with a single family house.
4. The site contains no majestic or specimen trees.
5. The subject property has access from Spring Hill Drive and Deering Avenue.
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 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 single family residential and institutional uses.
13. The petitioner has requested a reduction in setbacks from 75' to 35' along Spring Hill Drive, which is a deviation from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone from PDP(SF) to PDP(OP) with a reduction in setbacks in order to operate an office on the property. Permitted uses in the PDP(OP) district include day care centers, preschools, places of public assembly, business, professional and nonprofit office use, publicly-owned or -operated buildings, one single-family dwelling, charitable organizations and hospitals.

In July 2004, the BCC denied the same petitioner's request to rezone the property from PDP(SF) to PDP(OP) with a reduction in setbacks. The BCC found that the proposed rezoning would not be compatible with the surrounding residential land uses, the petitioner had not demonstrated compliance with the County LDRs for parking, and the proposed rezoning was not consistent with the adopted Comprehensive Plan.

The site has been developed with a single family house. The petitioner proposes tearing down the house and redeveloping the site with a 2,200 square foot office building. The petitioner requests a reduction in setbacks from Spring Hill Drive from 75' to 35'. The petitioner does not provide justification for the setback reduction. The Planning staff is of the opinion the setback reduction request indicates the subject property is not of sufficient size to accommodate the proposed use.

The petitioner proposes 35' setbacks from Deering Avenue, the side and rear, which meet the minimum setbacks for a commercial PDP. If the request is approved, the PDP rules require buffers between non-residential PDP land uses and residential uses external to the PDP.

The master plan provided indicates ten (10) parking spaces on the site. County development regulations require the petitioner provide 4 parking spaces per 1000 square feet of office area. The number of parking spaces proposed meets the County LDRs.

The original Spring Hill Master Plan was laid out with various land uses which include commercial, residential (SF and MF), parks, community facilities and churches. The subject site is located in an area originally defined as SF.

Spring Hill has established deed restrictions for this site. The deed restrictions on this lot would allow for detached single family residential uses only. Although the County does not enforce deed restrictions, it does take such restrictions into consideration when determining the character of a neighborhood.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site. A force main is located approximately 1,450' east of the subject property on the east side of Mariner Boulevard.

The plan indicates access from Deering Avenue. If the request is approved, the County Engineer would not object to the proposed location for the access.

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

FINDINGS OF FACT

The surrounding area is characterized by single family residential and institutional uses. The subject property is located on a block in which the land uses are limited to single family residential. A church is located on the block to the west. Churches are frequently located at the boundaries of the commercial districts in the Spring Hill Master Plan. The Planning staff is of the opinion that commercial development should be restricted to the west of the church in this area.

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 the appropriate land use approvals.

Policy 1.01H(2) indicates existing and future residential areas are to be protected from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment. The subject property is located in an area zoned for and characterized by single family residential development.

The Planning staff is of the opinion that rezoning the subject property from PDP(SF) to PDP(OP) would not be appropriate, based on the following conclusions:

1. The proposed rezoning would encroach into an established residential area.
2. The setback reduction requested has not been justified.
3. The proposed rezoning is not consistent with the County's adopted Comprehensive Plan and is not compatible with the surrounding land uses.

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 PDP(SF) to PDP(OP) with a reduction in setbacks.

P&Z RECOMMENDATION:

The Planning and Zoning Commission voted 3-1 to recommend the Board of County Commissioners adopt Resolution # _____ denying the petitioner’s request to rezone from PDP(SF) to PDP(OP) with a reduction in setbacks.

Note:

The initial motion to deny the petitioner’s request ended with a 2-2 vote. In order to move the petition forward to the BCC, Commissioner DeWitt voted to support the motion to deny the request; although, he made it clear for the record that he was not opposed to the request. Comm. Nicholson abstained from voting due to a voting conflict.

BCC ACTION:

The Board of County Commissioners voted 3-2 to adopt resolution #2005-250 approving the petitioner’s request to rezone from PDP(SF) to PDP(OP) with a reduction in setbacks as follows:

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 minimum setbacks are as follows:

From Spring Hill Drive:	40'
From Deering Avenue:	35'
From east:	35'
From south:	35'
3. The petitioner shall install a vegetative buffer and fence or wall 5' to 8' in height along the east and south property lines of the subject property.
4. The office development on the site shall be new construction. The existing SF home shall be removed.
5. The new building constructed on the site is required to provide the residential architectural features as proposed by the petitioner in the visual representation, in addition to meeting the county’s commercial design standards.
6. Access to the site is approved only on Deering Avenue as indicated on the master plan.

NOTES:

On September 20, 2005, The BCC voted 3-2 to approve resolution 2005-250 affirming the zoning from PDP(SF)/Planned Development Project (Single Family) to PDP(OP)/Planned Development Project (Office Professional) with a Reduction in Setbacks and affirming the performance conditions.

Development must meet applicable commercial design standards as indicated in condition 5, and the Development Department should ensure that any garbage receptacles are hidden from view.

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.