

STAFF REPORT

Planning & Zoning Commission: September 11, 2006

APPLICANT: Luis G. Molinet **FILE NUMBER:** CU-06-18

PURPOSE: Conditional Use Permit for a Temporary Use, namely a portable cart

GENERAL

LOCATION: South side of Spring Hill Drive, west of Marble Avenue

LEGAL

DESCRIPTION: Spring Hill Unit 11 Blk 687 Lot 1 located in a portion of Section 21, Township 23 South, Range 18 East, Hernando County, FL

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

Citizen correspondence received as of the date of this report? Yes No

STAFF FINDINGS:

Surrounding Zoning

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

Surrounding Land Uses

Private Institution/Church
Single Family
Undeveloped
Commercial

SUMMARY OF REQUEST

The petitioner has submitted a request for a temporary use, namely a portable hot dog cart. The subject request is proposed within a commercially zoned parcel that has been developed with Crowder Hardware. The property is located along Spring Hill Drive.

FACTUAL INFORMATION

1. The property is currently zoned PDP(GHC)(General Highway Commercial).
2. The property comprises approximately 0.63 acres.
3. The subject site is developed with a commercial building being utilized as Crowder Hardware.
4. The site does not contain majestic and specimen trees.

5. The subject property has access from Spring Hill Drive and Marble Avenue.
6. The subject property is located within a commercial land use classification on the adopted Future Land Use Map.
7. The property is located in a flood zone C.
8. The subject property does not contain any wetlands or Special Protection Areas but does contain a Wellhead Protection Area-1 according to County data resources.
9. The Utilities Department has indicated that central water and sewer are available to serve the subject site.
10. There are adequate public facilities available to serve development on the subject property.
11. The subject property is located within a developed commercial area.
12. The proposed temporary roadside stand is a portable unit which is only allowable if a conditional use permit is obtained.

STAFF DISCUSSION

The petitioner requests a conditional use permit for a temporary use, namely a portable cart to sell hot dogs. The petitioner indicates the sales will occur Monday through Saturday between 7:00 am to 5:00 pm and Sundays between 10:00 am to 4:00 pm. The hot dog sales are proposed to occur on the property of an existing hardware store. County land development regulations (LDRs) allow temporary sales in the parking lot of a commercial business no more than 4 times during a calendar year for an aggregate duration of no more than 60 days as a permitted use. The petitioner has indicated that the hot dog sales will occur year round consequently, a conditional use permit is required.

The petitioner's application indicates the conditional use permit is being sought permanently. A conditional use permit is intended to be used as a special permit which temporarily allows uses not otherwise permitted by the ordinance. The Planning and Zoning has the ability to grant a conditional use permit for a period up to two years. The owner of the property has authorized the petitioner to seek the conditional use permit for the temporary use.

As a temporary use, the request is subject to review through the County's development process and must meet standards including a site plan, driveway access permits, adequate parking, a covered trash receptacle with a plastic liner and adequate restroom facilities. The hot dog cart is located along Spring Hill Drive, out of the right of way, and adjacent to existing parking on the site. As situated, the cart does not impede traffic flow or cause any site distance issues.

FINDINGS OF FACT

The area is characterized by commercial and single family uses. The location of the proposed hot dog cart is in front of the existing business on site.

The subject property is located within a commercial land use classification on the adopted Future Land Use Map.

The staff is of the opinion that the proposed use at the intensity proposed is appropriate, based on the following conclusion:

1. The proposed use would be consistent with the surrounding area and consistent with the adopted comprehensive plan.

The conditional use permit process is a land use determination and does not constitute a permit for either construction, 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:

It is recommended the Planning and Zoning Commission approve the Conditional Use Permit for a temporary use, namely a portable unit for a period of 2 years the request is consistent with development in the area and would not adversely affect the surrounding neighborhood. Approval should be conditioned upon 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 temporary use shall be located on the site as indicated on the plan.
3. The restrooms at Crowder Hardware shall be available to the petitioner and his patrons.
4. The temporary use shall utilize the existing parking on the site.

5. The temporary use, including the structure, must be removed if the primary business on the property ceases to operate.
6. The temporary use, including the structure, must be removed upon termination of the conditional use permit or if the temporary use ceases to operate.