

STAFF REPORT

Planning & Zoning Commission: January 9, 2006
Board of County Commissioners: February 8, 2006

APPLICANT: Wardrich Properties, Inc. **FILE NUMBER:** H-06-07

PURPOSE: Rezoning from R-1A (Residential) to PDP(HC)/Planned Development Project (Highway Commercial) with a Reduction in Setbacks

GENERAL

LOCATION: East side of US 19, north side of Ridge Road

LEGAL

DESCRIPTION: Lots 28- 37, Block A, Highland Lakes, 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: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: C-2, R-1A
South: R-1A
East: R-1A
West: C-2, R-3

Surrounding Land Uses

Mobile home, lake
Undeveloped
Undeveloped, lake
Undeveloped

SUMMARY OF REQUEST

The petitioner request to rezone from R-1A to PDP(HC) with a reduction in setbacks. The subject property is located on the east side of US 19 and the north side of Ridge Road.

FACTUAL INFORMATION

1. The property is currently zoned R-1A.
2. The property comprises approximately three (3) acres.
3. The site is undeveloped.

4. The site does not contain majestic or specimen trees.
5. The subject property has access from US 19 and Ridge Road.
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 Tavares 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 zones A and C.
9. The subject property contains a WHPA-1 and wetlands, but no 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.
11. There are adequate public facilities available to serve the subject property.
12. The area is characterized by commercial and rural residential uses, and undeveloped parcels.
13. The petitioner has requested a reduction in setbacks from 125' to 75' from US 19, which is a deviation from the County's LDRs.

STAFF DISCUSSION

The petitioner request to rezone from R-1A to PDP(HC) with a reduction in setbacks. The petitioner has not proposed a specific use for the property. If the request is approved, all permitted uses in the C-2 zoning district would be allowed.

The petitioner has provided a plan showing the following setbacks: 75' from US 19, 20' from the northern property line, 35' from the eastern/rear and southern property line. The LDRs require a 125' setback from US 19. The petitioner requests a reduction in setbacks from US 19 from 125' to 75' with the provision of a reverse frontage road. The BCC has approved a reduction in setbacks in previous cases when a reverse frontage road is provided.

The narrative makes reference to a 5' vegetative buffer, but none is shown on the plan. The PDP rules requires nonresidential PDPs to provide a minimum 5' vegetated buffer adjacent to properties

containing residential, agricultural or agricultural uses. The property to the east is zoned for single family residential uses but has not yet been developed.

The petitioner proposes serving the site with central water and sewer service. The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site. A 16" water line is located on the west side of US 19. Connection to the water line will require crossing US 19 at the developer's expense. An 8" sewer force main is located on the east side of US 19. Connection to the sewer force main will require installing a sewer pump station at the developer's expense. 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 US 19 and Ridge Road. If the subject request is approved, the petitioner will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County. The plan shows a reverse frontage road located to the rear of the property. The petitioner proposes one access point to US 19 and one to Ridge Road via the proposed reverse frontage road. The County Engineer indicates that if the request is approved, no access to US 19 shall be allowed. The County Engineer did not object to the proposed reverse frontage road, except to indicate that the frontage road should be located to the west as it approaches the north property line. A lake is located to the northeast of the subject property.

The majority of the subject property is within a WHPA-1 for a public supply well. Certain uses allowed within the PDP(HC) designation may utilize underground storage tanks prohibited in a WHPA-1 by the Groundwater Protection Ordinance. The applicant should be aware that this use constraint is present on the subject property.

The subject property contains lake frontage, a Class 1 wetland , and a area of 100-year floodplain according to County data resources. Any proposed development shall provide a 25' vegetated buffer upland of the wetland line and stormwater management system which prevents the discharge of untreated stormwater into the Class 1 wetland and lake. All finished floor elevations would need to be above the regulatory 100-year flood elevation.

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

FINDINGS OF FACT

The area is characterized by commercial and rural residential uses, and undeveloped parcels. A mobile home is located on C-2 zoned property to the north. The properties to the east, west and south are undeveloped.

The subject property is located within a residential land use classification on the adopted Future Land Use Map. Policy 1.01O(4) indicates infill commercial development can occur only within the

strip commercial areas as described in Policy 1.01O(1). Policy 1.01O(1) indicates strip commercial will only be allowed along commercial corridors which have significant existing commercial development, remaining parcels are generally zoned commercial and commercial development is expected to continue. C-2 property is located adjacent to the subject property's north lot line. The Planning staff is of the opinion the subject property does not meet the criteria for infill commercial development, because the closest commercial zoning to the south is located approximately 550' south of the subject property.

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 single family and mobile home residential development. The Planning staff is of the opinion the proposed highway commercial zoning would allow the encroachment of incompatible uses that are destructive to the character and integrity of the residential environment.

The staff is of the opinion that the approval of the rezoning from AG to PDP(HC) with a reduction in setbacks is not appropriate based on the following conclusions:

1. Highway commercial zoning would not be compatible with the surrounding area.
2. Highway commercial zoning is not 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 # _____ denying the petitioner's request to rezone from R-1A to PDP(HC) with a reduction in setbacks.

P&Z RECOMMENDATION:

The Planning and Zoning Commission made the following findings based on information provided at the hearing:

1. The subject property is not an appropriate location for single family residential development.
2. General commercial zoning with performance conditions is compatible with the surrounding land uses.
3. General commercial zoning is consistent with the County’s adopted Comprehensive Plan.

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 R-1A to PDP(GC) with a reduction in setbacks, 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. A temporary entrance to US 19, limited to right-in/right-out access only, shall be allowed on a temporary basis until the reverse frontage road is provided.
3. Buffering with 80% opacity shall be provided adjacent to the single family zoning to the east.
4. Lighting shall be designed to have minimal impact to the single family zoning to the east.

NOTE:

The Planning staff recommends that if the BCC approves the request, the following performance conditions be considered:

5. The petitioner will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County. The reverse frontage road shall be designed as required by the County Engineer, including realignment to the west as it approaches the north property line:
6. The setbacks are approved as follows:

From US 19:	75'
From the north property line:	20'
From the east property line:	35'
From the south property line:	35'

7. Any proposed development shall provide a 25' vegetated buffer upland of the wetland line and a stormwater management system which prevents the discharge of untreated stormwater into the Class 1 wetland and lake.
8. All finished floor elevations would need to be above the regulatory 100-year flood elevation.

BCC ACTION:

On February 8, 2006, the BCC voted 5-0 to postpone the petition until the March 15, 2006 BCC meeting at 9:00 a.m.

On March 15, 2006, the Board of County Commissioners voted 5-0 to adopt Resolution # 2006-77 approving the rezoning from R-1A to PDP(GC) with a reduction in setbacks 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. A temporary entrance to US 19, limited to right-in/right-out access only, shall be allowed on a temporary basis until the reverse frontage road is provided.
3. Buffering with 80% opacity shall be provided adjacent to the single family zoning to the east.
4. Lighting shall be designed to be non-polluting low intensity to the single family zoning to the east.
5. The petitioner will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County. The reverse frontage road shall be designed as required by the County Engineer, including realignment to the west as it approaches the north property line:
6. The setbacks are approved as follows:

From US 19:	75'
From the north property line:	20'
From the east property line:	35'
From the south property line:	35'
7. Any proposed development shall provide a 25' vegetated buffer upland of the wetland line and a stormwater management system which prevents the discharge of untreated stormwater into the Class 1 wetland and lake.

8. All finished floor elevations would need to be above the regulatory 100-year flood elevation.

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.