

REVISED STAFF REPORT

Planning & Zoning Commission: August 14, 2006
Board of County Commissioners: September 13, 2006
Planning & Zoning Commission: September 11, 2006

APPLICANT: Hernando Lakewood LLC **FILE NUMBER:** H-06-81

PURPOSE: Rezoning from PDP(REC)/Planned Development Project(Recreation) to PDP(OP)/Planned Development Project(Office Professional) with C-1 uses

GENERAL

LOCATION: North side of Forest Oaks Boulevard, approximately 3800' east of US 19

LEGAL

DESCRIPTION: A portion of lot 2, Forest Oaks Unit 2 Replat according to the Plat thereof as recorded in Plat Book 19, pages 34-35 of the public records of Hernando County, FL, in Section 15, Township 23 South, Range 17 East in 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(REC), PDP(SU)
South: PDP(MF); PDP(SF)
East: PDP(SF)
West: PDP(SU), PDP(PSF)

Surrounding Land Uses

Drainage Retention Area
Multi-Family; Single Family
Single Family
Private Institution; treatment plant

SUMMARY OF REQUEST

The petitioner has submitted a request to rezone the subject property from PDP(REC) to PDP(OP) with an additional C-1 use for a restaurant. The subject property is part of the Forest Oaks Master development plan.

FACTUAL INFORMATION

1. The property is currently zoned PDP(REC).
2. The property comprises approximately 3.1 acres.

3. This property has been developed with a Clubhouse, pool and paved parking.
4. The site does not contain majestic and specimen trees.
5. The subject property has access from Forest Oaks Boulevard functionally classified as a minor collector.
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 Candler Fine Sands. 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 does not contain any wetlands, Wellhead Protection Area (WHPA) or Special Protection Areas (SPA) according to County data resources.
10. The Utilities Department has indicated that central water and sewer are available to serve the subject site.
11. There are adequate public facilities available to serve the subject property.
12. The surrounding area is characterized by single family, multi-family and an assistant living facility.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The subject property is a portion of a tract within the Forest Oaks Development that is designated as a recreation tract. The subject property had been developed with a clubhouse, pool and paved parking. The northern portion of the tract is owned by Hernando County and is a drainage retention area.

The petitioner's proposal is too intense to be compatible with the surrounding land uses in the area.

The petitioner has submitted a request to rezone the property to an Office Professional PDP with an additional use of a restaurant. The C-1 use would have no limitations as to the size and scale of the restaurant provided the applicable LDRs are met. The petitioner's narrative indicates that it is the

intent to convert the existing 4200 square foot clubhouse over to an upscale restaurant. No additional improvements to the footprint of the existing building or the parking area are anticipated. If the request is approved, the petitioner would be required to receive development approval which may result in upgrades to the parking area.

The petitioner further states that they are willing to stipulate an automatic reversion of the zoning for the restaurant in the event that the owner of the property should no longer operate the restaurant.

The P&Z postponed consideration of the request at their August 14, 2006, meeting so that the petitioner and staff could review the request to determine whether there is a way to limit the restaurant usage on the site. The staff met with the County's Legal office and determined that any limitations must be based on intensity and identified such as: seating capacity, operating hours and limiting drive through/drive in restaurants. The petitioner was notified of the issues that could potentially be addressed through the Planned Development Project process. The petitioner has indicated that the capacity of the clubhouse is currently 150 seats, and no increase is proposed. Operating hours proposed to be Tuesday through Sunday from 11:00 a.m. to 11 p.m. The last orders would be taken at 9:30 p.m. so as to allow closing at 11 p.m. Based upon these considerations, the proposed restaurant is still too intense to be compatible with the surrounding land uses.

The county engineer has reviewed the request and indicated that any expansion to impervious surface area would have to provide retention to the 100 year flood.

FINDINGS OF FACT

The surrounding area is comprised of a mixture of uses including established single family, multifamily, and an assisted living facility.

Policy 1.01H(2) of the Future Land Use Element 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, multifamily and office professional uses. Office professional zoning would be compatible with the surrounding area and would not be detrimental to the existing residential in the vicinity.

Policy 1.01L(3) of the Future Land Use Element 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 within a residential land use classification on the adopted Future Land Use Map.

The residential land use designation allows, with performance standards being met, multifamily housing up to 16 units per acre, rural residential, neighborhood commercial, commercial extending

from commercial nodes with a functioning frontage road unless it is determined that wetlands or existing development make frontage road extension unfeasible, office and professional, schools, hospitals and minor public facilities. The subject property is not proximate to an existing commercial node and there is no functioning frontage road in the area. Office professional zoning would be considered with the residential land use designation; however, the C-1 use of a restaurant would not.

The rezoning from PDP(REC) to PDP(OP), excluding the C-1 use for the restaurant, is appropriate, based on the following conclusions:

1. The requested general commercial (C-1) use for a restaurant, with the limitations proposed, is too intense to be compatible with the surrounding area; consequently the request is denied for the C-1 use.
2. Office professional zoning is 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, it is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from PDP(REC) to PDP(OP) with the following performance conditions:

1. The petitioner must obtain all necessary 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 requested C-1 use for a restaurant is not approved.
3. One access shall be allowed to Forest Oaks Boulevard in its current configuration.

4. The buffer adjacent to the SF development to the east shall have a minimum 80% opacity.
5. 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.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission voted 5-0 to postpone consideration of the request until their September 11, 2006, hearing at 9:30 a.m.