

STAFF REPORT

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

APPLICANT: Barbara Hazelton **FILE NUMBER:** H-06-82

PURPOSE: Rezoning from AR-2 (Agricultural Residential) to PDP(GC)/Planned Development Project (General Commercial)

GENERAL

LOCATION: East side of Weeping Willow Street, south side of Chelsey Road

LEGAL

DESCRIPTION: A portion of Section 28, Township 22 South, Range 18 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: C-1
South: C-2
East: AR-2
West: C-2 and PDP(MH)

Surrounding Land Uses

Undeveloped
Arby's restaurant
Forest property, tower and building
Auto Parts store; High Point

SUMMARY OF REQUEST

The petitioner has submitted a request to rezone the subject property from AR-2 (Agricultural-Residential) to PDP(GC)/Planned Development Project(General Commercial).

FACTUAL INFORMATION

1. The property is currently zoned AR-2.
2. The property comprises approximately 1 acre.
3. The subject site has been developed with a SF home.
4. The site does not contain majestic and specimen trees.

5. The subject property has access from Weeping Willow, Chelsey Road, and the frontage road.
6. The subject property is located within a commercial 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 SPA's, 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 limited development on the subject property.
12. The area includes a mixture of commercial and residential uses.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner has submitted a request to rezone this site from AR-2 to General Commercial. If the request is approved, any use within the C-1 zoning category could potentially be developed on the site.

The property is located on the east side of Weeping Willow Street, south of Chelsey Road behind an existing Arby's. Chelsey Road, is an unimproved roadway located along the northern boundary of the subject property. The site has an existing driveway to Weeping Willow Drive.

The petitioner has submitted a master plan which indicates that the existing home on the site will be removed and replaced with an approximately 8,800 square foot building. The petitioner indicates a 75' setback from Weeping Willow, a 35' setback from Chelsey Road, 20' from the east property line and from the frontage road to the south. The LDRs require that the setback from the frontage road to the south be a minimum of 35'.

According to county data resources the subject property contains Candler Fine Sands, a soil that is indicative of Gopher Tortoises, a protected listed species of special concern.

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

The County Engineer has reviewed the request and indicated that the project should access both the frontage road to the south and Chelsey Road to the north. The petitioner is proposing access to the site in the middle of the property along Weeping Willow where the site distance is limited; consequently, access to Weeping Willow should not be allowed. Chelsey Road would have to be upgraded along the north of the project to and including the driveway to provide adequate access.

The Utilities Department indicated that there is an existing 8-inch waterline on the north side of Service Road and a 6-inch waterline on the east side of Weeping Willow Street. There is an existing 8-inch gravity sewer line in Service Road. 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 Transportation Planning Coordinator indicates that there is no longer capacity available along SR 50. If the project is not concurrent, the developer has the option of either delaying development or entering into an agreement to address the transportation issues at that time.

FINDINGS OF FACT

Policy 1.01L(1) of the Future Land Use Element provides for the establishment of a Commercial Land Use Category, in which land uses such as commercial, recreation, office and professional, minor public facilities, incidental residential units in commercial buildings, single and multi-family residential dwelling units only when part of an integrated transportation and utilities master plan for the affected commercial node or strip commercial area, and minor institutional are allowed.

Policy 1.01L(3) of the Future Land Use Element states that new commercial rezoning shall be initiated within commercial nodes and regional commercial overlay districts, as indicated on the adopted Future Land Use Map Series, except for Specialty Commercial, Neighborhood Commercial, and appropriate infill areas. The subject property is located within a commercial land use designation on the adopted Comprehensive Plan.

The proposed rezoning is appropriate with performance conditions, based on the following conclusions:

1. Approval of PDP(GC) would not be inconsistent with the surrounding land uses.

2. The proposed rezoning would be consistent with the Comprehensive Plan and would be consistent with the County's Land Development Regulations subject to compliance with all performance conditions herein.
3. The requested rezoning is consistent with the commercial future land use category.

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 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:

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 petitioner's request to rezone from AR-2 to PDP(GC) with the following performance standards:

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. Setbacks are approved as follows:

From Weeping Willow: 75'
From the eastern boundary: 20'
From Chelsey Road: 35'
From the south frontage road: 35'
3. Access shall be limited to Chelsey Road, and the frontage road to the south.
4. Chelsey Road must be upgraded to meet minimum county standards along the project's northern boundary up to and including their entrance.

5. The petitioners shall enter into a developer's agreement which will require them to pay their proportionate fair share of offsite transportation improvements to mitigate impacts associated with development of the project.
6. 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.

P&Z RECOMMENDATION: