

STAFF REPORT

Planning & Zoning Commission: December 12, 2005

Board of County Commissioners: January 11, 2006

Planning & Zoning Commission: February 13, 2006

Board of County Commissioners: March 15, 2006

APPLICANT: Gary T. Dixon et al. **FILE NUMBER:** H-05-115

PURPOSE: Rezoning from PDP(SF)/Planned Development Project (Single Family) to OP (Office Professional) or PDP(OP)/Planned Development Project (Office Professional)

GENERAL

LOCATION: South side of Spring Hill Drive, west side of Port Court

LEGAL

DESCRIPTION: Units 1 and 2, Karen's Court Condominium, as recorded in O.R. Book 1005, Pages 716 - 759, of the Public Records of Hernando County, Florida in Section 27, Township 23 South, Range 17 East FL

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

CITIZEN RESPONSE: FOR: 5 AGAINST: 1

STAFF FINDINGS:

Surrounding Zoning

North: PDP(GHC)

South: PDP(SF)

East: PDP(MF)

West: PDP(SF)

Surrounding Land Uses

Retail plaza

Single family

Single family

Single family

SUMMARY OF REQUEST

The petitioner requests a rezoning from PDP(SF) to OP or PDP(OP). The subject property is located on the south side of Spring Hill Drive, west side of Port Court.

FACTUAL INFORMATION

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

3. The site contains two (2) single family houses.
4. The site contains majestic and specimen trees.
5. The subject property has access from Spring Hill Drive and Port Court.
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 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 single family residential uses, and undeveloped lots.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner initially submitted a request to rezone the subject property from PDP(SF) to PDP(GC). The staff reviewed the request and recommended denial. Subsequently, the petitioner modified the request on the subject property from PDP(SF) to OP or PDP(OP). The staff has prepared a new staff report analyzing the modified request.

The petitioner proposes utilizing the existing two (2) single family homes as future office use. If the request is approved, the existing buildings would have to be upgraded to meet the applicable commercial development standards. Any new construction will be required to meet the applicable LDRs for commercial development. The petitioner has not demonstrated the ability to meet the minimum parking requirements. The staff has some concerns regarding the ability to accommodate

the required parking if the zoning is approved. The petitioner would be required to meet the applicable LDRs.

The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site. An 8" water line is located on the west side of Port Court. A gravity sewer manhole is located in Port Court to the east of the subject property. A 6" sewer force main is located on the south side of Spring Hill Drive. 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 Spring Hill Drive and Port Court. The County Engineer indicates that if the request is approved, access should be limited to a single access from Port Court.

The subject property lies within a Wellhead Protection Area-2 (WHPA-2) according to County data resources. The proposed use is allowable within this designation.

FINDINGS OF FACT

The area is characterized by commercial and single family residential uses, and undeveloped lots. A retail plaza is located north of the subject property, across Spring Hill Drive. Single family uses are located to the south, east and west.

The subject property is located within a residential land use classification on the adopted Future Land Use Map. Offices and professional uses can be located in the residential land use category with performance conditions being met.

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 multifamily residential development and characterized by single family residential development. The Planning staff is of the opinion the proposed office professional zoning would allow the encroachment of incompatible uses that are destructive to the character and integrity of the residential environment.

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

1. The proposed rezoning would encroach into an established single family residential area.
2. 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 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, 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 OP or PDP(OP).

NOTE:

On December 12, 2005, the P&Z voted 5-0 to postpone hearing the request to rezone from PDP(SF) to PDP(GC) until the February 13, 2005 meeting at 9:00 a.m. and on January 11, 2006, the BCC voted 5-0 to postpone hearing the request to rezone from PDP(SF) to PDP(GC) until the March 15, 2006, meeting at 9:00 a.m.

P&Z RECOMMENDATION:

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

1. The proposed rezoning would not encroach into an established single family residential area.
2. The proposed rezoning is consistent with the County's adopted Comprehensive Plan and is compatible with the surrounding land uses.

At the February 13, 2006 meeting, the Planning and Zoning Commission voted 3-2 to recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from PDP(SF) to PDP(OP), 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.

NOTE:

If the BCC approves the petitioner's request, staff would recommend addition of a condition regarding access to the site as follows:

2. Access should be to Port Court with access to Spring Hill Drive limited or precluded. Final determination will be made by the County Engineer at the time of permit request.

BCC ACTION:

The Board of County Commissioners voted 4-1 to adopt Resolution # 2006-73 approving the rezoning from PDP(SF) to PDP(OP) 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. Access should be to Port Court with access to Spring Hill Drive limited or precluded. Final determination will be made by the County Engineer at the time of permit request.

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.