

**STAFF REPORT**

Planning & Zoning Commission: May 8, 2006

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**APPLICANT:** William D. Ruiz **FILE NUMBER:** CU-06-09

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

**GENERAL**

**LOCATION:** East side of US 19, south of PLYNA Street

**LEGAL**

**DESCRIPTION:** Lots 9-16, Block 22 of the New Townsite of Berkley as per the plat thereof recorded in Plat Book 4, Pages 10-1 through 10-4 of the Public Records of Hernando County, Florida in Section 10, Township 23 South, Range 17 East

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

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

Surrounding Zoning

North: R-1C  
South: PDP(HC)  
East: PDP(HC)  
West: PDP(HC)

Surrounding Land Uses

Undeveloped  
Winchester Plaza  
Winchester Plaza  
Winchester Plaza

**SUMMARY OF REQUEST**

The petitioner has submitted a request for a temporary use for a portable concession trailer. The subject property is within a developed commercial center, Winchester Plaza.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(HC).
2. The property comprises approximately 1.5 acres.
3. The subject property has been developed with Winchester Plaza.
4. The site does not contain any specimen or majestic trees.

5. The subject property has access from US 19.
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 does not contain any wetlands, WHPAs or SPAs 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 commercial development.
13. 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 concession trailer to sell hot dogs and other lunch fare. The narrative indicates the concession trailer is a 7' x 14' enclosed trailer. The petitioner indicates the concession stand will be open Monday through Saturday from 10 a.m. to 5:30 p.m.

A conditional use permit is intended to be used as a special permit which temporarily allows uses not otherwise permitted by the ordinance. The P&Z 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 petitioner has provided authorization from the property owner to use the restrooms located in the office on the site. The

staff visited the site and noted there appears to be adequate parking provided for the existing and proposed uses.

The Utilities Department has indicated that central water and sewer are available to serve the subject site. The petitioner's use would not require hook up to central services.

The narrative submitted by the petitioner indicates request for utilize electric power to the unit. The installation would require a twenty foot pole with meter and lockable weather proof disconnect. The development department has indicated that because this is a temporary use, electric service would not be allowed. The petitioner indicates that he will use a generator if he cannot use electric.

The County Engineer had no comments.

### **FINDINGS OF FACT**

The area is characterized by commercial uses. The location of the proposed concession trailer is at the entrance of Winchester commercial plaza.

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:**

The Planning staff recommends the Planning and Zoning Commission approve the Conditional Use Permit for a temporary use, namely a portable concession trailer for a period of 2 years because it

is staff's opinion that the request is consistent with development in the area and would not adversely affect the surrounding area. 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 the Winchester Plaza offices shall be available to the petitioner and patrons.
4. The temporary use shall only operate during the hours of operation of the principal business.
5. The temporary use shall utilize the existing parking on the site.
6. The temporary use, including the structure, must be removed if the primary business on the property ceases to operate.
7. The temporary use, including the structure, must be removed upon termination of the conditional use permit or if the temporary use ceases to operate.