

STAFF REPORT

Planning & Zoning Commission: May 8, 2006

APPLICANT: Hy-top Drive Thru **FILE NUMBER:** CU-06-14

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

GENERAL

LOCATION: North side of Spring Hill Drive, approximately 250' west of Whitewood Avenue

LEGAL

DESCRIPTION: Spring Hill Unit 13, Block 858, Lot 21 as per the plat thereof recorded in Plat Book page Hernando County, Florida in Section 21, Township 23 South, Range 18 East, Hernando County, FL

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: PDP(SF)
South: PDP(GHC)
East: PDP(GHC)
West: PDP(GHC)

Surrounding Land Uses

SF
Commercial Strip Center
Real Estate Office
Commercial Strip Center

SUMMARY OF REQUEST

The petitioner has submitted a request for a temporary use, namely a portable hot dog cart. The subject request is proposed adjacent to an existing developed commercial building on a property along Spring Hill Drive.

FACTUAL INFORMATION

1. The property is currently zoned PDP(GHC).
2. The property comprises approximately 1/2 acre.

3. The subject site is developed with a commercial building being utilized as Hy-Top Drive Thru.
4. The site contains does not contain majestic and specimen trees.
5. The subject property has vehicular access to Spring Hill Drive and a pedestrian connection to a platted one-way alley.
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 or SPAs. County data resources indicate the property is within a WHPA 2.
10. County records indicate central water is available to serve the subject site.
11. There are adequate public facilities available to serve limited development of the subject property.
12. The subject property is located within a developed commercial area.
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 unit (truck) to sell hot dogs. The petitioner indicates the sales will occur between 10:30 am to 3:00 pm. The hot dog sales are proposed to occur on the property of an existing drive through convenience store. The owner of the hot dog truck is the same owner as the convenience store. County LDRs allow temporary sales in the parking lot of a commercial business no more than 4 times during a calendar year for an aggregate duration of no more than 60 days. The petitioner has indicated that the hot dog sales will occur year round consequently, a conditional use permit is required.

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 is the owner of the business on the property and will utilize the bathrooms on-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 County Engineer had no comments.

FINDINGS OF FACT

The area is characterized by commercial uses. The location of the proposed hot dog truck is in front of the existing business on site.

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 unit 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 neighborhood. 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 Hytop Drive Thru shall be available to the petitioner and his 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.