

STAFF REPORT

HEARINGS: Planning & Zoning Commission: November 13, 2006
Board of County Commissioners: December 13, 2006
Planning & Zoning Commission: February 12, 2007
Board of County Commissioners: March 14, 2007
Planning & Zoning Commission: May 14, 2007
Board of County Commissioners: June 20, 2007
Planning & Zoning Commission: June 11, 2007
Board of County Commissioners: July 11, 2007
Planning & Zoning Commission: August 13, 2007
Board of County Commissioners: September 12, 2007

APPLICANT: 5051 Gulf to Lake LLC

FILE NUMBER: H-06-89

PURPOSE: Rezoning from R-1A (Residential) and PDP(OP)/Planned Development Project(Office Professional) to C-1 (General Commercial)

GENERAL

LOCATION: Approximately 370' north of Spangler Road, east side of Broad Street (US 41)

LEGAL

DESCRIPTION: Lots 1-6, Block 12 Garden Grove, and Lots 7-14, Block 7, Garden Grove according to the plat thereof as recorded in Plat Book 3, Pages 36-54, of the public records in a portion of Section 17, Township 23 South, Range 19 East, Hernando County, FL

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

CITIZEN

RESPONSE: Correspondence received as of the date of this report? Yes No

APPLICANT'S REQUEST:

The petitioner is requesting to rezone platted lots from R-1A (Residential) and PDP(OP)/Planned Development Project(Office Professional) to C-1 (General Commercial) in order to develop a 20,000 square foot and a 5,000 square foot retail structure on 3.26 acres. If C-1/(General Commercial) is approved, all C-1 uses will be allowed.

SITE CHARACTERISTICS:

Site Size: 3.26 acres

Surrounding Zoning; Land Uses: North: R-1A/OP; Undeveloped, Single Family, Mobile Homes
South: R-1A; Undeveloped, Single Family, Mobile Homes
East: R-1A; Mobile Homes
West: AG; Undeveloped

Current Zoning: R-1A (Residential)

Future Land Use Map Designation: Residential

Flood Zone: C

SITE CIRCUMSTANCES:

Pursuant to the petitioner's request, on November 13, 2006, the Planning and Zoning Commission voted 5-0 to postpone consideration of the proposed request until their February 12, 2007, hearing at 9:00 a.m. On December 13, 2006, the BCC voted 4-0 to postpone consideration of the proposed request until their March 14, 2007, hearing at 9:00 a.m.

This petition was not fully advertised pursuant to Board policy due to an incomplete adjacent property list provided by the applicant; therefore, no action was taken at the February 12, 2007, P&Z or March 14, 2007, BCC hearings. The petition was readvertised for the May 14 P&Z and June 20 BCC hearings.

On April 30, 2007, the petitioner submitted a master plan. Due the date received, staff did not have adequate time to review the newly submitted master plan. It was recommended that the Planning and Zoning Commission either deny the original request or postpone consideration of the request for 30 days, in order for staff to review the master plan from the petitioner.

At their May 14, 2007, meeting, the Planning and Zoning Commission voted 5-0 to postpone consideration of the request until June 11, 2007, at 9:00am, in order for staff to review the master plan from the petitioner.

NOTE: Prior to the May 14, 2007, Planning and Zoning hearing, staff received a master plan for the subject site. Thereafter, several attempts were made to clarify whether the request for a straight euclidian zoning was being revised to a PDP zoning.

On May 29, 2007, the petitioner submitted a letter requesting a change from the initial request of C-1/(General Commercial) to a straight euclidian OP/(Office Professional). Furthermore, the letter stated that the site plan previously submitted was intended for informational purposes only.

The issue for the Planning and Zoning Commission is whether to extend the nonresidential corridor further north along Broad Street (Hwy 41). Although office professional uses are consistent with the residential land use designation, the alternate request still represents an encroachment into an area that is developed residentially. It is still recommended that the Planning and Zoning Commission recommend the Board of County Commissioners deny the petitioner's request.

ENVIRONMENTAL REVIEW:

Soil Type: Flemington Fine Sand

Hydrologic

Features: The subject property contains no wetlands or Special Protection Areas (SPA), according to County data resources.

Protection

Features: The subject property contains no Well Head Protection Areas (WHPA) according to County data resources.

ENGINEERING & TRANSPORTATION REVIEW:

The proposed site has access to Broad Street (US 41). Though the property backs up to Deepwood Street along the eastern property line, no access has been proposed to this street. The petitioner has indicated on their master plan, that an easement for a frontage road easement will be reserved.

The County's frontage road ordinance requires properties along US 41 to provide a frontage road at no cost to the County, upon demonstration of need and demand by the County.

The County Engineer indicates that if the request is approved, the petitioner should be limited to one access point on US 41 and should provide an additional 32' of ROW along US 41 to help ensure adequate capacity can be maintained on the roadway.

The Transportation Planning Coordinator has indicated that the capacity along US 41 is operating at LOS B in this area.

In the long range thoroughfare plan, US 41 will need to be expanded to a six-laned facility in this area; however, no improvements have been planned and programmed at this time. Expansion of the roadway to a six-lane section would result in additional right-of-way per FDOT requirements along the front of the subject property. The master plan submitted depicts a drive aisle within the front setback area. When US 41 is expanded in the future, this area would be impacted to an extent that could affect any future business developed on the site. The Transportation Planning Coordinator has indicated additional right-of-way will be required due to FDOT future expansion of Broad Street (US 41) to six (6) through lanes with additional turn lanes for the Spring Hill Drive/Broad Street (US 41) intersection.

The FDOT has been notified of the request; no responses has been received. The petitioner must contact the FDOT for review of existing or planned driveway connections to the State Highway System; the FDOT may require further roadway improvement along the roadway and/or modifications to an existing driveway.

UTILITIES REVIEW:

The Utilities Department has indicated that water and sewer capacity are available to serve the project. There is an existing 12-inch waterline on the west side of US 41 approximately 3,000' south of the parcel, including road crossing. There is an existing 10-inch sewer force main on west side of US 41, across the street from the parcel.

Capacity of the existing infrastructure is dependent on the engineer's estimated flows for this parcel. Existing water and sewer upgrades may be required to supply the proposed development. 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. All required improvements will be at the applicant expense.

LAND USE REVIEW:

The petitioner's site plan indicates that the property will have a 20' vegetative buffer along the south property line and a 10' vegetative buffer along the north. The petitioner has not indicated any buffering along the east; however, the site plan indicates a drainage retention and natural area along the property line. The PDP rules require minimum five (5) foot buffers between non-residential PDP land uses and residential uses external to the PDP. The vegetative buffer may include berms, fences, or walls. If the request is approved, the petitioner would have to meet all applicable LDRs related to buffering in order to prevent noise pollution into neighboring residential uses.

The proposed development would have to meet the minimum architectural design standards for commercial development pursuant to the County's LDRs.

The petitioner has not indicated any provisions for lighting of the subject property. If approved, the petitioner must provide full or semi-cutoff fixtures as require by the County LDR, in order to retain all light on site and prevent any light spillage into neighboring residential uses.

The plan depicts 125 parking spaces. If the request is approved, the petitioner will be required to provide parking meeting the LDRs.

The petitioner’s master plan meets the minimum commercial setbacks.

Proposed Minimum Perimeter Setbacks:

Front (Broad St): 125'
Rear: 35'
Side: 20'

COMPREHENSIVE PLAN REVIEW:

The area is characterized by office professional, single family, mobile home residential uses, and undeveloped parcels.

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.

Comment: The proposed project is located within a Residential land use classification and encroaches into an established residential neighborhood.

Policy 1.01L(3) 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.

Comment: The subject property is located approximately 950' north of parcels zoned PDP(GC)/Planned Development Project (General Commercial) and approximately 225' outside the commercial node as illustrated on the County’s adopted comprehensive plan.

Policy 1.01O(4) of the adopted comprehensive plan states that infill commercial development may be approved where existing areas having 300 feet or less frontage on arterial or collector roads lie between commercially zoned parcels on the same side of the road so that

commercial use of the intervening property(ies) is the most logical land use. The depth of such infill commercial development shall be commensurate with the depth of existing commercial zoning on the proximate parcels which define the infill area.

Comment: The subject site is approximately 1000' or more from any commercially zoned parcels on the north or south, and does not meet the commercial infill policy.

Based upon the policies of the plan, the rezoning of the subject property to C-1 (General Commercial) is inappropriate based on the following conclusions:

1. The petitioner's request is inconsistent with the adopted comprehensive plan.
2. The petitioner's request does not meet applicable commercial infill policies.
3. C-1(General Commercial) zoning designation is too intense for, and not compatible with, the surrounding uses.

NOTICE OF APPLICANT RESPONSIBILITY:

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 RECOMMENDATIONS:

It is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # _____ denying the petitioners request to rezone from R-1A (Residential) and PDP(OP)/Planned Development Project(Office Professional) to C-1 (General Commercial).

P & Z ACTION:

At the June 11, 2007, meeting, the Planning and Zoning Commission voted 5-0 to postpone the petitioner's request to rezone R-1A (Residential) and PDP(OP)/Planned Development Project(Office Professional) to C-1 (General Commercial). The petitioner submitted a letter requesting a change from the initial request of C-1/(General Commercial) to a straight euclidian OP/(Office Professional). Furthermore, the letter stated that the site plan previously submitted was intended for informational purposes only. The Planning and Zoning recommended, and the petitioner agreed, to modify the request from straight OP(Office Professional) to PDP(OP)/Planned Development Project (Office Professional). Subsequently, the petition was postponed until August 13, 2007, in order to provide staff with a site plan addressing the Boards concerns for the Office Professional request.

BCC ACTION:

Subsequent to action by the Planning and Zoning Commission to postpone consideration of this petition to their August 13, 2007, hearing, the Board of County Commissioners voted 5-0 at their June 20, 2007, hearing to postpone consideration to their September 12, 2007, hearing at 9:00 a.m.

NOTE:

Per the Planning and Zoning Commissions' request, the petitioner submitted a revised site plan with the recommendations of limiting structures and parking to the east boundary of the PDP(OP) parcel to the north and providing the needed retention for the subject site along the remaining east portion against the R-1A. The petitioner proposes a 20,000 square foot office professional building and a 5,000 square foot storage building.

The submitted master plan shows one access point, unto US 41. The petitioner has reserved 50' feet along US 41 for a future frontage road. The petitioner has indicated a minimum 20' foot landscape buffer along the south property line where no DRAs are proposed and a minimum 20' foot landscape buffer along the east property line, with a transition into a 0.31 acre natural open space on the property's south east corner.

Building setbacks are proposed as follows:

Front (US 41):	125'
Side:	20'
Rear:	35'

The Staff has reviewed the proposed plan and still is of the opinion that the commercial development should not be continued north of the existing commercial node. There is a

historic Office professional zoning abutting this property which is currently not developed commercially. The Staff feels that the continued approval and development even to an office professional zoning will lead to strip zoning of the State Highways in contravention to the adopted commercial siting policies of the comprehensive plan.

STAFF RECOMMENDATION:

It is still recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # _____ denying the petitioners request to rezone from R-1A (Residential) and PDP(OP)/Planned Development Project(Office Professional) to PDP(OP).