

STAFF REPORT

HEARINGS: Planning & Zoning Commission: April 11, 2022
Board of County Commissioners: May 10, 2022

APPLICANT: Artistic Homes Enterprises, Incorporated

FILE NUMBER: H-21-84

REQUEST: Rezoning from PDP(REC)/Planned Development Project (Recreational) to PDP(SF)/Planned Development Project (Single-Family)

GENERAL LOCATION: Between Bay Drive and Colma Street, approximately 460' northwest of Belmont Road

PARCEL KEY NUMBERS: 325963

APPLICANT'S REQUEST:

The applicant is requesting a rezoning from PDP(REC)/Planned Development Project (Recreational) to PDP(SF)/Planned Development Project (Single-Family) to construct 10 single-family homes on a 5-acre site. The minimum lot sizes proposed are 21,500 square feet. The site was previously designated as a park site on the original Spring Hill Master Plan. The site was declared as surplus, and the petitioner purchased the property from the County.

The petitioner has indicated the use of individual advanced sewage septic systems for each lot in accordance with Section 28-99 of the Hernando County Code of Ordinances which states, in part, in planned development projects on a central water supply, the minimum lot size requirements per individual sewage disposal may be modified provided the overall density of the project does not exceed one (1) septic tank per twenty-one thousand five hundred (21,500) square feet and is subject to approval by the County Planning and Zoning Commission. However, the site is adjacent to County-owned property with a potential Special Protection Area (SPA) sinkhole which must be evaluated by a Florida Registered Geotechnical Professional Engineer in accordance with Sec. 28-265 of the Hernando County Code of Ordinances. Should it be determined that there is an active Special Protection Area on the site that cannot be abandoned, the petitioner shall have to reduce the total number of lots to 5.

SITE CHARACTERISTICS:

Site Size: 5 acres

Surrounding Zoning &

Land Uses:

North: PDP(SF); existing single-family residential
South: PDP(SF); existing single-family residential
East: PDP(SU); Hernando County Drainage Retention Area
West: PDP(SF); existing single-family residential

Current Zoning:

PDP(REC)

Future Land Use

Map Designation:

Residential

ENVIRONMENTAL REVIEW:

Soil Type:

Candler Fine Sand/0-5% slopes

Comments:

Soils and habitat are suitable to support gopher tortoises (a listed species). Burrow surveys are required prior to individual lot development. Florida Fish and Wildlife Commission (FWC) permitting is required for burrows that cannot be avoided during clearing or development of individual lots.

Hydrologic

Features:

There are no Wellhead Protection Areas or wetlands on the subject site according to County data resources.

Protection

Features:

The property does not contain a sinkhole, however, there is a sinkhole to the south on property retained by the County. The sink feature has associated AE floodplain and wetland at the bottom (the sinkhole is classified as a Special Protection Area (SPA) in the County's Groundwater Protection Ordinance).

Comments:

The site is adjacent to County-owned property with a potential Special Protection Area (SPA) sinkhole, which would restrict density to 1 dwelling unit per acreage in accordance with the Groundwater Protection Ordinance (GPO (Section 28-265)). A Geotechnical Evaluation by a Florida Registered Geotechnical Professional Engineer will be required prior to development. The evaluation will determine the potential mitigation of the sink and whether the sink can be abandoned. It should be noted that the sink feature is accepting the stormwater for the undeveloped area. It should also be noted that there appears to be a high number of reported sinkhole claims that surround this area.

If a karst feature is present, the SPA associated with the sink will consist of a setback of 500-feet measured from the outer boundary of the vulnerable feature. The following applicable uses are prohibited within the 500-foot setback: new residential subdivisions with a density of greater than one unit per acre that are not served by central sewer and discharging untreated stormwater to the sink (karst) feature. The majority of the property falls within the 500-foot setback and would be subject to a reduction in the number of lots.

Should the sink not qualify for abandonment, then the SPA associated with the sink will consist of a setback of 500-feet measured from the outer boundary of the vulnerable feature which restricts new residential subdivisions with a density of greater than one unit per acre that are not served by central sewer. The site in question will be served by septic systems, falls within the 500-foot setback and would be subject to an increased minimum lot size of one unit/acre.

Habitat: The property is vacant and shown as Urban Open Forested according to FWC CLC mapping (Florida Cooperative Land Cover Classification System that combines Florida Land Use Cover and Classification System with fish and wildlife data). Property has suitable habitat for gopher tortoise.

**Archaeological/
Historical** There are no archaeological or historical site according to County data resources.

Water Quality: This project is located within the Weeki Wachee Priority Focus Area (PFA) identified by FDEP as contributing nutrients to the Weeki Wachee Riverine System. Providing information on Florida friendly landscaping techniques and proper fertilizer use is another opportunity to educate property owners on water quality. These materials are designed to address and help reduce nutrient pollution.

Comments: The petitioner must meet the minimum requirements of Florida Friendly Landscaping™ publications and the Florida Yards and Neighborhoods Program for design techniques, principles, materials, and plantings for required buffers, as applicable.

The Builder/Developer shall provide new property owners with Florida-Friendly Landscaping™ Program information and

encourage the use of the principles, techniques, and landscaping recommendations. Information on the County's Fertilizer Ordinance and fertilizer use is to be included. Educational information is available through Hernando County Utilities Department.

Invasive plant species, if present, will need to be removed during the development process.

Flood Zone: None

UTILITIES REVIEW:

The Hernando County Utilities Department (HCUD) does not currently supply water or sewer service to this parcel. Sewer service is not available to this parcel. There is an existing 8-inch water main that runs along the south side of Bay Drive, and an existing 6-inch water main that runs along the north side of Colma Street.

The HCUD has no objection to the requested zoning change from PDP(REC) to PDP(SF) to allow 10 single-family homes, subject to a water capacity analysis, connection to the central water system at time of vertical construction, and Health Department approval of Enhanced Onsite Sewage Treatment and Disposal Systems for the development.

SCHOOL DISTRICT REVIEW:

No comments were received from the Hernando County School District regarding this application.

A formal application for School Concurrency Analysis should be submitted to the School District no less than thirty (30) days prior to submission for approval of a site plan, conditional plat, or functional equivalent. The administrative fee for this application is \$500.00. Should the School District then find sufficient capacity neither exists, nor is anticipated to exist within three (3) years from the issuance of such approval, the School District will require, as a condition of any such approval, a Capacity Improvement Agreement or a Proportionate Share Mitigation Agreement with the School Board, to offset the demand for public school facilities created by the proposed development.

ENGINEERING REVIEW:

The petitioner is not proposing any road infrastructure for the subject site and plans on utilizing the existing roadway network for access. The County Engineer has no comments on the subject application.

LAND USE REVIEW:

Setbacks:

The petitioner has proposed the following setbacks for the individual lots within the development:

- Front: 25'
- Sides: 10'
- Rear: 25'

Buffer:

The petitioner has not proposed any buffers for the subject development. If approved, the petitioner shall provide a 5' buffer, enhanced to 80% opacity, along the perimeter adjacent to existing residential development.

Lot Sizes and Layout

The Hernando County Code of Ordinances, Section 28-99 – Restrictions as to number of systems per lot provides the regulatory framework for new residential developments utilizing septic tanks for wastewater disposal:

Sec. 28-99. - Restrictions as to number of systems per lot.

- a. In residential developments where a central water supply system is utilized, a maximum of one individual sewage disposal system per twenty-one thousand five hundred (21,500) square foot lot is allowed.
- b. In residential developments where individual wells are utilized, a maximum of one individual sewage disposal system per each one (1) acre lot is allowed.
- c. In planned development projects on a central water supply, the minimum lot size requirements per individual sewage disposal may be modified provided the overall density of the project does not exceed one (1) septic tank per twenty-one thousand five hundred (21,500) square feet and is subject to approval by the county planning and zoning commission.

Comments: The petitioner is requesting 10 lots with a minimum lot size of 21,500 square feet for the 5-acre subject site. The 10 lots requested would equate to an average of one septic tank per 21,500 square feet of site area. This distribution would meet the minimum septic tank density of 1 tank per 21,500 square feet of site area, in accordance with Section 28-99(C) of the Code of Ordinances. However, the site appears to contain an active sinkhole which would be evaluated by a Florida Registered Geotechnical Professional prior to development. The geotechnical evaluation shall indicate whether a SPA is present; based on the outcome of this geotechnical evaluation, the petitioner shall either be required to abandon the SPA or follow all related Land Development

Regulation requirements for SPA's including the density limitation of 5 lots.

COMPREHENSIVE PLAN REVIEW:

Future Land Use Element

Strategy 1.04A(3): The ***Residential Category*** accommodates residential growth clustered in and around urbanized areas and those areas that maximize the efficient use of infrastructure contained in long-range facilities plans of the County.

Residential Category
Objective 1.04B:

The Residential Category allows primarily single family, duplex, resort and multi-family housing and associated ancillary uses such as recreational and institutional. Office and certain commercial uses may be allowed subject to the locational criteria and performance standards of this Plan. Residential density shall not exceed 22 dwelling units per gross acre.

Strategy 1.04B(2): Future residential development will be planned to locate where the Residential Category predominates on the Future Land Use Map as determined by the availability of facilities and services, the need to accommodate future growth, the strategies to discourage the proliferation of urban sprawl, and the impacts to natural resources, including groundwater.

Single-Family Housing
Strategy 1.04B(3):

The Residential Category will include zoning for single-family housing, generally averaging a density of 2.5 dwelling units per gross acre to 6.0 dwelling units per gross acre comprised of varying lot sizes and dwelling unit types such as senior housing, villa housing, single family detached housing, and zero lot line housing.

Comments: The subject property is located within a residential land use category. The density proposed is 0.5 dwelling/acre, which is consistent with the density of the surrounding existing residential development.

Utilities Element

Wastewater Treatment Advancements

Strategy 6.03E(2): The County should consider methods to alleviate nutrient pollution from septic tanks including connection to central systems and the appropriate use of advanced on-site systems for single or multiple lots.

Comments: According to the Florida Department of Health in Hernando County, since the subject site is located within the Weeki Wachee Priority Focus Area, the developer will be required to utilize nitrogen reducing systems for each individual residential lot, as the lot sizes requested are under 43,560 square feet.

Conservation Element

Invasive and Noxious Species

Objective 10.01D: Protect plant and animal communities from the spread of invasive and noxious exotic species.

Strategy 10.01D(1): Identify problem areas where invasive exotic vegetation may threaten the functional integrity of upland, wetland and aquatic ecosystems. Plant species included on the State of Florida's Noxious Weed List and on the Florida Exotic Pest Plant Council list for the central Florida region should be included in the inventory.

Strategy 10.01D(6): Implement Florida Friendly Landscaping techniques as a means of increasing vegetation community resiliency and resistance to the recruitment and spread of exotic and noxious plants.

Comments: Invasive plant species are present on the subject site. These species will need to be identified and removed during the development process. In addition, Florida Friendly Landscaping techniques should be implemented as well.

FINDINGS OF FACT:

A rezoning from PDP(REC)/Planned Development Project (Recreation) to PDP(SF)/Planned Development Project (Single Family) is appropriate based on consistency with

the Comprehensive Plan and compatibility with the surrounding areas and subject to appropriate performance conditions.

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 Concurrence. 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. Homeowner 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:

It is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt a Resolution approving the petitioner's request to rezone a property zoned PDP(REC)/Planned Development Project (Recreation) to PDP(SF)/Planned Development Project (Single Family) with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. A comprehensive wildlife survey shall be prepared by a qualified professional if any infrastructure is required. Burrow surveys are required for individual lots prior to clearing and development.
3. The petitioner must meet the minimum requirements of Florida Friendly Landscaping™ publications and the Florida Yards and Neighborhoods Program for design techniques, principles, materials and plantings for required buffer landscaping, as applicable.
4. The Builder/Developer shall provide new property owners with Florida-Friendly Landscaping™ (FFL) Program information and include FFL language in the HOAs covenants and restrictions. Information on the County's Fertilizer Ordinance and fertilizer use is to be included. Educational information is available through Hernando County Utilities Department.
5. The developer shall prepare a capacity analysis at the time of Conditional Plat and connect to the central water system at time of vertical construction.

6. The petitioner shall comply with the Health Department requirements for of onsite nitrogen reducing sewage treatment systems in accordance with the Weeki Wachee Priority Focus Area.
7. Invasive plant species must be identified during the subdivision review and removed during the development process.
8. The petitioner must apply for and receive a Finding of School Capacity from the School District prior to the approval of the conditional plat or the functional equivalent. The County will only issue a certificate of concurrency for schools upon the School District's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of subdivision approval or site plan approval (or functional equivalent) for each level of school without mitigation, or with the execution of a legally binding proportionate share mitigation agreement between the applicant, the School District, and the County.
9. The site appears to be adjacent to an active sinkhole which shall be evaluated by a Florida Registered Geotechnical Professional prior to conditional plat approval. The geotechnical evaluation shall indicate whether a Special Protection Area (SPA) is present; based on the outcome of this geotechnical evaluation, the petitioner shall either be required to abandon the SPA or follow all related Land Development Regulation requirements for SPAs including the reduction in the total number of units to 5. in accordance with Sec. 28-266. If it is determined that the SPA can be abandoned, the recommendations shall be included in the construction drawings for construction plan approval, and the lot size can be reduced to 21,500 square feet for a total of 10 lots provided all the necessary mitigation is completed prior to final plat approval.
10. Minimum Building Setbacks:
 - Front: 25'
 - Sides: 10'
 - Rear: 25'
11. The petitioner shall provide a revised plan in compliance with all the performance conditions within 30 calendar days of BCC approval. Failure to submit the revised plan will result in no further development permits being issued.

P&Z RECOMMENDATION:

On April 11, 2022, the Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt a Resolution approving the petitioner's request to rezone a property zoned PDP(REC)/Planned Development Project (Recreation) to PDP(SF)/ Planned Development Project (Single Family) with the following unmodified performance conditions:

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. A comprehensive wildlife survey shall be prepared by a qualified professional if any infrastructure is required. Burrow surveys are required for individual lots prior to clearing and development.
3. The petitioner must meet the minimum requirements of Florida Friendly Landscaping™ publications and the Florida Yards and Neighborhoods Program for design techniques, principles, materials and plantings for required buffer landscaping, as applicable.
4. The Builder/Developer shall provide new property owners with Florida-Friendly Landscaping™ (FFL) Program information and include FFL language in the HOAs covenants and restrictions. Information on the County's Fertilizer Ordinance and fertilizer use is to be included. Educational information is available through Hernando County Utilities Department.
5. The developer shall prepare a capacity analysis at the time of Conditional Plat and connect to the central water system at time of vertical construction.
6. The petitioner shall comply with the Health Department requirements for onsite nitrogen reducing sewage treatment systems in accordance with the Weeki Wachee Priority Focus Area.
7. Invasive plant species must be identified during the subdivision review and removed during the development process.
8. The petitioner must apply for and receive a Finding of School Capacity from the School District prior to the approval of the conditional plat or the functional equivalent. The County will only issue a certificate of concurrency for schools upon the School District's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of subdivision approval or site plan approval (or functional equivalent) for each level of school without mitigation, or with the execution of a legally binding proportionate

- share mitigation agreement between the applicant, the School District, and the County.
9. The site appears to be adjacent to an active sinkhole which shall be evaluated by a Florida Registered Geotechnical Professional prior to conditional plat approval. The geotechnical evaluation shall indicate whether a Special Protection Area (SPA) is present; based on the outcome of this geotechnical evaluation, the petitioner shall either be required to abandon the SPA or follow all related Land Development Regulation requirements for SPAs including the reduction in the total number of units to 5 in accordance with Sec. 28-266. If it is determined that the SPA can be abandoned, the recommendations shall be included in the construction drawings for construction plan approval, and the lot size can be reduced to 21,500 square feet for a total of 10 lots provided all the necessary mitigation is completed prior to final plat approval.
 10. Minimum Building Setbacks:
 - Front: 25'
 - Sides: 10'
 - Rear: 25'
 11. The petitioner shall provide a revised plan in compliance with all the performance conditions within 30 calendar days of BCC approval. Failure to submit the revised plan will result in no further development permits being issued.

BCC ACTION:

On May 10, 2022, the Board of County Commissioners voted 5-0 to adopt Resolution 22-102 approving the petitioner's request to rezone a property zoned PDP(REC)/Planned Development Project (Recreation) to PDP(SF)/ Planned Development Project (Single Family) with the following unmodified performance conditions:

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. A comprehensive wildlife survey shall be prepared by a qualified professional if any infrastructure is required. Burrow surveys are required for individual lots prior to clearing and development.
3. The petitioner must meet the minimum requirements of Florida Friendly Landscaping™ publications and the Florida Yards and Neighborhoods Program for design techniques, principles, materials and plantings for required buffer landscaping, as applicable.
4. The Builder/Developer shall provide new property owners with Florida-Friendly Landscaping™ (FFL) Program information and include FFL language in the HOAs covenants and restrictions. Information on the County's Fertilizer Ordinance and fertilizer use is to be included. Educational information is available through Hernando County Utilities Department.
5. The developer shall prepare a capacity analysis at the time of Conditional Plat and connect to the central water system at time of vertical construction.
6. The petitioner shall comply with the Health Department requirements for of onsite nitrogen reducing sewage treatment systems in accordance with the Weeki Wachee Priority Focus Area.
7. Invasive plant species must be identified during the subdivision review and removed during the development process.
8. The petitioner must apply for and receive a Finding of School Capacity from the School District prior to the approval of the conditional plat or the functional equivalent. The County will only issue a certificate of concurrency for schools upon the School District's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of subdivision approval or site plan approval (or functional equivalent) for each level of

school without mitigation, or with the execution of a legally binding proportionate share mitigation agreement between the applicant, the School District, and the County.

9. The site appears to be adjacent to an active sinkhole which shall be evaluated by a Florida Registered Geotechnical Professional prior to conditional plat approval. The geotechnical evaluation shall indicate whether a Special Protection Area (SPA) is present; based on the outcome of this geotechnical evaluation, the petitioner shall either be required to abandon the SPA or follow all related Land Development Regulation requirements for SPAs including the reduction in the total number of units to 5 in accordance with Sec. 28-266. If it is determined that the SPA can be abandoned, the recommendations shall be included in the construction drawings for construction plan approval, and the lot size can be reduced to 21,500 square feet for a total of 10 lots provided all the necessary mitigation is completed prior to final plat approval.
10. Minimum Building Setbacks:
 - Front: 25'
 - Sides: 10'
 - Rear: 25'
11. The petitioner shall provide a revised plan in compliance with all the performance conditions within 30 calendar days of BCC approval. Failure to submit the revised plan will result in no further development permits being issued.