

STAFF REPORT

HEARINGS: Planning & Zoning Commission: December 11, 2023
Board of County Commissioners: January 9, 2024
Planning & Zoning Commission: February 12, 2024
Board of County Commissioners: March 12, 2024

APPLICANT: Oak Development Group LLC on Behalf of Panther I LLC

FILE NUMBER: H-23-54

REQUEST: Rezoning from AR (Agricultural/Residential) and AG (Agricultural) to PDP(SF)/ Planned Development Project (Single Family) with deviations

GENERAL LOCATION: Between the east side of Eakin Street, approximately 230' from its intersection with Atlanta Avenue, and the west side of Lomita Wren Road, approximately 300' from its intersection with Mirage Avenue

PARCEL KEY NUMBERS: 343015, 103907

APPLICANT'S REQUEST

The petitioner requests a rezoning of the subject property from AR (Agricultural/Residential) and AG (Agricultural) to PDP(SF)/ Planned Development Project (Single Family) with deviations. The petitioner is requesting approval of 190 dwelling units on 53.28 acres (3.57 du/ac). The petitioner is requesting the following lot sizes and lot widths:

There are two minimum lot sizes proposed:
50' width x 110' length (5,500 total lot size)
70' width x 110' length (7,700 total lot size)

The 70' wide lots have been proposed along the perimeter of the project where existing residential lots exist. The 50' wide lots are proposed internal to the site and/or if adjacent to additional open space or other buffer considerations such as stormwater features.

Deviations Requested:

- Front setbacks: 20' (deviation from 25')
- Side Setbacks: 5' (deviation from 10')
- Double Frontage: 10' (deviation from 25')
- Minimum Lot Width: 50' (deviation from 60')
- Minimum Lot Size: 5,500 Sq. Ft. (deviation from 6,000 Sq. Ft.)

SITE CHARACTERISTICS

Site Size: 53.28 Acres

**Surrounding Zoning;
Land Uses:** North:R-1C; Single Family and Undeveloped
South:R-1C, AR; Single Family and Undeveloped
East:R-1C; Single Family and Undeveloped
West:AR; Undeveloped

Current Zoning: AR (Agricultural/Residential) and AG (Agricultural)

**Future Land Use
Map Designation:** Residential

ENVIRONMENTAL REVIEW

Soils: Candler Fine Sand, Basinger Fine Sand/Depressional

Comments: Candler Fine Sand provides habitat suitable for gopher tortoises (a listed species) and commensal species. A comprehensive faunal (wildlife) survey shall be prepared by a qualified professional and submitted during the construction plans stage of development. The petitioner is required to comply with all applicable FWC regulations and permitting.

Protection Features: There are neither Protection Features (Wellhead Protection Areas (WHPA) nor Special Protection Areas (Special Protected Areas (SPAs) on this site according to county data.

Hydrologic Features: There are no Hydrologic Features (Sinkholes, Karst Sensitive Areas, and Wetlands) on this property according to county data.

Comments: There is a water feature on the property that is designated “Palustrine-unconsolidated bottom permanently flooded-excavated” according to Southwest Florida Water Management District (SWFWMD). It is the responsibility of the petitioner to coordinate development permitting with SWFWMD.

Habitat: The subject property is designated Sandhill, Wet Prairie, and Artificial Impoundment Reservoir 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).

Comments: Invasive plant species if present are to be removed during the development process.

Water Quality: The proposed development is within the Weeki Wachee River Basin Management Action Plan (BMAP), the Weeki Wachee Outstanding Florida Springs (OFS) Group and the Weeki Wachee Springs Priority Focus Area.

Comments: Implementation of Florida Friendly Landscaping™ principles, techniques, and materials designed to conserve water and reduce pollutant loading to Florida’s waters is required. The petitioner must meet the minimum requirements of Florida Friendly Landscaping™ publications and the Florida Yards and Neighborhoods Program for required plantings and buffers, as applicable.

Natural vegetation is to be retained in the buffers and enhanced with trees and vegetation to meet 80% opacity requirement.

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.

Flood Zone: The subject properties are in the X flood zone with portions in the AE flood zone.

SCHOOL DISTRICT REVIEW

The applicant 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.

UTILITIES REVIEW

The Hernando County Utilities Department (HCUD) reviewed the application and provided the following comments:

- HCUD does not currently supply water or sewer service to these parcels.
- There is an existing 16-inch water main that runs along the east side of Commercial Way.

- There is an existing 10-inch sewer force main that also runs along the east side of Commercial Way.

Comments: HCUD has no objection to the submitted zoning change from AR and AG to PDP(SF) to allow the development of 190 single family homes, subject to a utility capacity analysis and connection to the central water and sewer systems at time of vertical construction, with the stipulation that the developer will need to provide utility placement details showing the locations of all utilities on the conditional plat for lots with side setbacks of less than 10'.

The shortest distance between the water and sewer mains lining Commercial Way and the subject property, is approximately 2,300'. The more likely placement of new water and sewer mains for this development would follow Atlanta Avenue, proceeding up Eakin Street for a total approximate distance of 3,175'.

TRANSPORTATION

The roads in the Royal Highlands subdivision are a mixture of limerock and paved rural local roads¹. The roads are paved that have been done so through an MSBU. There are four (4) proposed access points to the development. Two access points are on Eakin Street which dead ends to the north and is a rural local road designed to accommodate larger lot sizes and low expected vehicle traffic. The Hi-Way Farms subdivision has access to a single road (Eakin) which dead ends to the north.

Eakin Street turns into Atlanta Avenue approximately 300' south of the subject property and ends with direct access onto Commercial Way. Atlanta and Eakin may be unpaved limestone roads. One access point to Lomita Wren Road, which is a local rural roadway, and one access point at Masked Duck Road, also a local road, which currently dead ends at the subject parcel.

There are no transit stops or routes along these roads.

ENGINEERING REVIEW

The subject site is located between the east side of Eakin Street, approximately 230' from its intersection with Atlanta Avenue, and the west side of Lomita Wren Road, approximately 300' from its intersection with Mirage Avenue. The petitioner is proposing five (5) points of access for the proposed project. Two (2) of the proposed access points are for future connectivity (southwest and northeast corners). Immediate connections will be provided to Eakin Street

¹ Rural roads are characterized by moderate to low posted speeds, infrequent access points to that road, small travel lane widths (10' or less), lack pavement markings (no center line or exterior lane lines), lack of formal curbs or shoulders and low estimated Average Annual Daily Trips (AADT).

and Lomita Wren. The County Engineer reviewed the petitioner’s request and provided the following comments:

- This site contains a large area of flood Zone “AE, (El.21.5)” in the east of the site, and a small area of Zone “AE,(El.22.3)” in the northeasterly corner.
- There are also two areas of shallow flooding less than 1 foot deep.
- A Traffic Access Analysis is required. Any improvements identified by the analysis will be the responsibility of the developer.
- All Roadways shall meet Hernando County Design Standards.
- Sidewalks will be required throughout the project.
- Improvements to adjacent roadways are required and will be the responsibility of the Developer.

LAND USE REVIEW

Setbacks, Lot Sizes and Lot Widths:

Proposed Minimum Lot Size and Widths:

- 50' x 110' for a minimum lot size of 5,500 square feet (deviation from 60' and 6,000 Sq. Ft.)
- 70' x 110' for a minimum lot size of 7,700 square feet.

Proposed Minimum Building Setbacks:

- Front: 20' (deviation from 25')
- Side: 5' (deviation from 10')
- Rear: 20'
- Secondary Front Yard/Corner Lots: 10' (deviation from 25')

Comments: The petitioner is requesting deviations to both the front and side setbacks for the proposed development. Recent deviations to both these setbacks, on like projects, have resulted in unforeseen consequences with parking and utilities equipment. Reductions to the front setbacks from the required 25' to 20' would reduce the driveway length, thereby causing vehicles block sidewalks, furthermore, causing more street parking which restricts the drive aisles for delivery trucks, emergency vehicles and garbage trucks.

Additionally, a reduction to side setbacks have resulted in access issues between the homes into rear yards due to AC units and other ancillary uses and the placement/access of utility equipment, especially on curved road and/or cul-de-sacs.

Staff recommends that the minimum side setback be held at 7.5' and the front setback at 25'. Additionally, the request for a reduction on secondary yard

frontage from 25' to 10' is not justified and should meet the minimum standards of the County LDRs.

Buffer:

A buffer shall be required between a Planned Development Project land use which is multifamily or non-residential and a land use, external to the PDP, which is residential, agricultural-residential or agricultural.

The buffer shall consist of a minimum five-foot landscaped separation distance. The multifamily or nonresidential use located on such lot shall be permanently screened from the adjoining and contiguous properties by a wall, fence, and/or approved enclosures. Such screening shall have a minimum height of five (5) [feet] and a maximum height of eight (8) feet, or an evergreen hedge with a minimum height of five (5) feet at the time of planting.

Comments: The petitioner is proposing a 20' landscape buffer with a 6' high opaque fence or wall along the entire perimeter of the project with the exception of those areas designated open space or wetlands.

Access:

To establish minimum access requirements to single family and multifamily subdivisions, the Board of County Commissioners adopted a policy requiring two (2) means of access for subdivisions. The policy serves to provide more than one-way in and one-way out for residents of a subdivision, alternate routes for emergency services, interconnection between subdivisions, a shortened drive time for residents to the entrance/exits, and access points for travel direction outside of the development. A minimum of two (2) access points must be provided to serve any new subdivision or development pod with more than 50 units. If approved, individual single family and multifamily pods that exceed 50 units must meet the two (2) means of access per pod.

Additionally, Hernando County Land Development Regulations require that new single family and multifamily developments with more than 50 units provide at least one treed roadway/access way for motor vehicles extending through the length or width (whichever is greater) of the development with a vegetative buffer at least 10' in width.

Comments: The petitioner is proposing five (5) points of access for the proposed project. Two (2) of the proposed access points are for future connectivity (southwest and northeast corners). Immediate connections will be provided to Eakin Street and Lomita Wren.

Neighborhood Park:

All developments with 50 dwelling units or more shall provide and maintain a neighborhood park system for use by the residents of the subdivision in accordance with the requirements of the LDRs. The proposed phase contains more than 50 dwelling units. Neighborhood parks may count towards the minimum open space requirements. The amount of land provided and maintained as a neighborhood park shall be 1.0 acre for the first 50 dwelling units plus 1/100th of an acre for each dwelling unit over 50 up to 250 dwelling units, for a maximum of

3.0 acres. If approved, the development must meet the minimum neighborhood park requirements as required by the County's LDRs. Individual single family and multifamily pods that exceed 50 dwelling units must provide a neighborhood park.

Comments: The petitioner is proposing a 2.4 acre centralized neighborhood park in accordance with the Hernando County Land Development Regulations.

Natural Vegetation:

Projects greater than twenty (20) acres shall designate an area of at least seven percent (7%) of the total project area as preserved natural vegetation and no construction activity can occur in this area. Preserved natural vegetation areas must be a minimum of twenty thousand (20,000) square feet. If approved, the petitioner must provide a minimum of seven percent (7%) natural vegetation. Preserved natural vegetation and/or planted native vegetation may be used to meet all or part of the requirement for open space if it is a minimum of fifteen (15) feet in width.

Comments: The petitioner has indicated approximately 26.0 acres of open space for the proposed project. The area designated for open space also includes floodplain, and wetland.

Fire Protection Plan:

Hernando County LDRs require that a fire protection plan be completed for residential developments with lot sizes less than 60' in width.

Comments: If approved, the petitioner shall submit a fire protection plan with the Conditional Plat in accordance with Hernando County LDRs.

COMPREHENSIVE PLAN REVIEW

The subject site is located within the Residential Land Use designation on the County's Adopted Comprehensive Plan. The area is characterized by approximately 208 parcels within 1,000 feet of the subject property. One-hundred thirty-one (131) of these parcels are 20,000 square feet and over, 64 of the 131 parcels are over one (1) acre. The land use density for these 208 parcels 1.17 DU/Acre).

The petitioner is requesting approval of 190 dwelling units (DU) on 53.28 acres of land, for a density of 3.57 DU/Acre. The larger of the two subject parcels abuts the Royal Highlands subdivision on the north, south and east property boundaries. The smaller of the two parcels is in the Hi-Way Farms subdivision.

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(1): Commercial and institutional uses within the Residential Category are generally associated with medium and high density residential development and may include neighborhood commercial, office professional, recreational, schools, and hospitals. Minor public facilities that do not unduly disturb the peaceful enjoyment of residential uses may also be allowed.

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 petitioner is proposing 190 units on 53.28 acres for an overall density of 3.57 du/ac

Planned Development Projects and Standards

Strategy 1.10C(1): A Planned Development Project (PDP) is designed as an integral unit with one or more land uses utilizing a Master Plan to illustrate and describe the site layout and characteristics including, but not limited to, uses and use restrictions, density and intensity, site and building layout and design, site coverage and designated open space, construction and phasing plans, and other detailed information about the project.

Strategy 1.10C(2): Delineation of the allowable density and/or intensity of development shall be contingent upon the ability to provide the adopted level of service of public services and facilities concurrent with project

development as outlined in the adopted land development regulations.

Comments: The proposed residential subdivision is consistent with the Comprehensive Plan Residential Future Land Use Category with appropriate performance conditions.

FINDING OF FACTS

A rezoning from AR (Agricultural/Residential) and AG (Agricultural) to PDP(SF)/ Planned Development Project (Single Family) with deviations is appropriate based on the following:

1. The following requested deviations are not justified and are consider adverse to the public interest:
 - Reductions to the Front Setbacks from 25' to 20'. Development should meet the minimum County LDR Front Setback of 25'.
 - Reduction in Side Setbacks from 10' to 5'. It is recommended that the minimum side setback not be reduce smaller than 7.5'
 - Reduction in Secondary Yard Frontage/Corner Lot from 25' to 10'. The reduction is not justified and should meet the minimum standards of the County LDRs.
2. The proposed development, with the appropriate performance condition, is consistent with the County's adopted Comprehensive Plan and compatible with the surrounding area.

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 denying the petitioner's request for rezoning from AR (Agricultural/Residential) and AG (Agricultural) to PDP(SF)/ Planned Development Project (Single Family) with deviations.

P&Z ACTION:

On December 11, 2023, the Planning and Zoning Commission voted 4-0 to postpone the petitioner's request for a rezoning from AR (Agricultural/Residential) and AG (Agricultural) to PDP(SF)/ Planned Development Project (Single Family), to the February 12, 2024, Planning and Zoning Commission meeting.

BOCC ACTION:

On January 9, 2024, the Board of County Commissioners voted 5-0 to postpone the petitioner's request for a rezoning from AR (Agricultural/Residential) and AG (Agricultural) to PDP(SF)/ Planned Development Project (Single Family) with deviations, in order to allow the petitioner additional time to discuss the proposed development with County staff.

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 for rezoning from AR (Agricultural/Residential) and AG (Agricultural) to PDP(SF)/ Planned Development Project (Single Family) with deviations 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. The petitioner shall provide a comprehensive floral/faunal (wildlife) survey prepared by a qualified professional to identify any listed species present prior to any clearing or development occurring on the property. Furthermore, copies of any required FWC permits shall be provided prior to clearing or 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 landscaping. Retention of large native trees and stands should be maintained to the extent possible.
4. The Builder/Developer shall provide new residential property owners with Florida-Friendly Landscaping™ Program materials and encourage use of the principles, techniques, and landscaping recommendations. Information on the County's Fertilizer Ordinance and fertilizer use shall be included. Educational materials are available through the Hernando County Utilities Department. (Condition dependent on lot ownership and how the site will be developed.)
5. Geotechnical subsurface testing and reporting in accordance with Hernando County's Facility Design Guidelines shall be conducted for all drainage retention ponds within the project.
6. The petitioner shall contact the State Division of Historical Resources, Compliance and Review section, be contacted to determine if there are any State survey requirements for any archaeological features near the subject property.
7. The petitioner shall submit a fire protection plan with the Conditional Plat in accordance with Hernando County LDRs.
8. The petitioner shall provide the minimum required natural vegetation in accordance with the Hernando County Land Development Regulations.
9. The petitioner shall provide the minimum neighborhood park acreage of 2.4 acres exclusive of the drainage retention area in accordance with the Hernando County Land Development Regulations.

10. The petitioner shall provide a water and sewer capacity analysis at the time of conditional plat review and connect to the central water and sewer systems at time of vertical construction.
11. A formal application for School Concurrency Analysis shall 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. 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.
12. The petitioner shall be required to provide a treed boulevard roadway in accordance with the Code requirements.
13. The petitioner shall provide a 20' vegetated buffer and a 6' high opaque fence along the perimeter of the project.
14. Minimum Lot Size and Widths:
 - 50' x 110' for a minimum lot size of 5,500 square feet (deviation from 60' and 6,000 Sq. Ft.)
 - 70' x 110' for a minimum lot size of 7,700 square feet.Minimum Building Setbacks:
 - Front: 25'
 - Side: 7.5' (deviation from 10')
 - Rear: 20'
 - Secondary Front Yard/Corner Lot: 25'
15. Sidewalks shall be required throughout the project.
16. Improvements to adjacent roadways will be required and will be the responsibility of the Developer.
17. 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.