

STAFF REPORT

Planning & Zoning Commission: August 13, 2003

APPLICANT: Howard Delaine **FILE NUMBER:** CU-03-11

PURPOSE: Conditional Use Permit for a Temporary Use, namely Take-out Barbeque

GENERAL

LOCATION: South of Martin Luther King Jr. Boulevard (FKA Summit Road), and east of Josephine Street

LEGAL

DESCRIPTION: Lots 6, 7 and 8, Block 2, Brooksville Manor, as per plat thereof recorded in Plat Book 4, Page 16, of the Public Records of Hernando County, Florida in Section 26, Township 22 South, Range 19 East, Hernando County, FL

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: City of Brooksville	Single family, vacant
South: R-1B	Vacant
East: C-1	Commercial
West: C-1	Vacant

SUMMARY OF REQUEST

The petitioner has submitted a request for a renewal of a conditional use permit for a temporary use, namely a take-out restaurant operated from a portable unit. The subject property is located at the intersection of Martin Luther King Jr. Boulevard and Josephine Street.

FACTUAL INFORMATION

1. The property is currently zoned C-1.
2. The property comprises approximately 0.30 of an acre.
3. The site is currently developed with a one-story vacant structure, a temporary take-out barbeque enterprise and a gravel parking lot.

4. The subject property has direct access to Martin Luther King Jr. Boulevard.
5. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
6. The on-site soil types is Nobleton fine sand.
7. The property is located in flood zone C.
8. The subject property is served by water and sewer service.
9. The petitioner must obtain all applicable permits from the Health Department.
10. Adequate public facilities are available to serve development on the property.
11. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources.
12. The petitioners have submitted a narrative which indicates they request the Conditional Use Permit so that they can operate a take-out barbeque restaurant.

STAFF DISCUSSION

The petitioner is requesting to renew a two-year conditional use permit for a temporary use, namely a take-out barbeque restaurant operated from a portable structure. The site is located at the intersection of Martin Luther King Jr. Boulevard and Josephine Street. The petitioner's narrative indicates the take-out restaurant would operate on Fridays and Saturdays between 11 a.m. and 11 p.m. The narrative indicates one employee assists the owner.

The property is currently developed with a vacant commercial structure. The site plan indicates the take-out restaurant is operated out of two temporary structures next to the vacant commercial structure. The barbeque is smoked in an aluminum screened structure. Food preparation and sales are conducted in a trailer structure.

The County development regulations require temporary uses meet specific performance standards, including obtaining driveway access permits, providing adequate parking in conformity with the required standards for the use without reducing the required parking for the established permitted activity, keeping a covered trash or garbage receptacle with a plastic liner on the site, and providing adequate restroom facilities. The petitioner's site plan will be subject to review by the Development Review Committee (DRC) which will determine if he meets the minimum standards for the use.

Staff observed the unpaved parking area next to the trailer. County development regulations would require one space per customer service window plus one space per employee of the largest shift. The petitioner has indicated there is one pass-through window and one employee in addition to the owner, therefore three spaces of paved parking are required. The petitioner has previously indicated verbally that he poured concrete and spread gravel for the parking area and he can accommodate a minimum of five parked cars. Staff has observed area in the paved shoulder for parking as well. The petitioner has previously indicated verbally that he provides a covered trash receptacle with a plastic liner on the site.

The petitioner's site plan does not show any restrooms provided. The petitioner has provided a notarized letter from the owner of the adjacent commercial parcel indicating the petitioner has use of his restroom facilities between 8 a.m. and 9 p.m. seven days a week.

FINDINGS OF FACT

The subject property is located within the residential category on the adopted Future Land Use Map. The subject parcel is zoned C-1, as are the adjacent parcels to the east and west. The petitioner owns the residential parcels to the south. Across the street are vacant parcels and parcels developed with single family homes within the City of Brooksville. The staff finds the petitioner's request as proposed neither inconsistent with the Comprehensive Plan nor incompatible with the surrounding area.

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 use, which may include review by the Development Review Committee (DRC).

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 renew the Conditional Use Permit for a temporary use, namely a take-out barbeque restaurant operated from a portable unit for a period of two years because it is staff's opinion that the request is not inconsistent 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 maintain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including receiving DRC approval for the proposed use.
2. Development is to be maintained in accordance with the petitioner's previous approval.

P&Z ACTION:

The Planning and Zoning Commission voted 5-0 to renew the Conditional Use Permit for a temporary use, namely a take-out barbeque restaurant operated from a portable unit for a period of two years conditioned upon the following performance conditions:

1. The petitioner must maintain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including receiving DRC approval for the proposed use.
2. Development is to be maintained in accordance with the petitioner's previous approval.