

STAFF REPORT

Planning & Zoning Commission: March 8, 2004

APPLICANT: Lark Napier **FILE NUMBER:** CU-04-05

PURPOSE: Conditional Use Permit for a Temporary Use, namely a Roadside Stand

GENERAL

LOCATION: East side of US 41, South side of Powell Road

LEGAL

DESCRIPTION: A portion of Section 17, Township 23 South, Range 19 East, Hernando County, FL

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: AG
South: C-3
East: AG
West: C-2

Surrounding Land Uses

Undeveloped
Undeveloped
Undeveloped
Commercial

SUMMARY OF REQUEST:

The petitioner requests a conditional use permit for a temporary use, namely a roadside stand. The subject property is located on the east side of US 41, south side of Powell Road.

FACTUAL INFORMATION:

1. The property is currently zoned C-3.
2. The property comprises approximately an acre.
3. The site is currently developed with a convenience store.
4. The subject property has access from US 41 and Powell Road.

5. The subject property is located within a commercial land use classification on the adopted Future Land Use Map.
6. The on-site soil type is Nobleton fine sand.
7. The property is located in flood zone C.
8. The Utilities Department indicates central water, but not sewer, is available to serve the subject property.
9. Adequate public facilities are available to serve a limited development on the property.
10. The area is characterized by commercial and agricultural uses, and undeveloped parcels.
11. The subject property does not contain any wetlands, WHPAs, or SPAs according to County data resources.
12. The proposed temporary roadside stand is a portable unit which is only allowable if a conditional use permit is obtained.

STAFF DISCUSSION

The petitioner has submitted a request for a conditional use permit for a temporary use, namely a roadside stand. The petitioner proposes operating a produce stand in the parking lot of the convenience store on the property. The narrative indicates the petitioner has leased an unpaved 800 square foot area on the north side of the parcel, adjacent to the paved parking lot. The narrative indicates the petitioner proposes to use a 10' x 20' freestanding white canopy with roll-up sides. The hours of operation will be 10:00 a.m. to 6:00 p.m., Monday through Saturday. The narrative indicates that all of the produce will be removed nightly; only the canopy will remain on-site overnight. The petitioner indicates that this will be a family operation with no additional employees.

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 has provided authorization from the property owner to use the restrooms located in the retail store on the site. The narrative indicates the paved parking lot contains 16 parking spaces.

The FDOT and the Airport Director have been notified of the request; no replies have yet been received. The City of Brooksville has indicated it has no objection to the request.

FINDINGS OF FACT

The subject property is located within a commercial land use classification on the adopted Future Land Use Map. The area is characterized by commercial and agricultural uses, and undeveloped parcels.

The staff is of the opinion that the proposed use at the intensity proposed is appropriate, based on the following conclusions:

1. The proposed use will be compatible with the surrounding area and consistent with the adopted comprehensive plan.
2. Adequate access exists to serve the proposal.

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 Roadside Stand for a period of two (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. 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, including receiving development review for the proposed use.
2. The petitioner shall utilize the restrooms at the commercial business on the subject property pursuant to the agreement with the owner.

3. The temporary use may operate only during the hours when the existing permitted use on the property is open.
4. The temporary use may utilize the existing parking on the site.
5. The temporary use must be removed upon termination of the permit, or when the business is no longer operating.

P&Z ACTION:

The Planning and Zoning Commission voted 5-0 to approve the Conditional Use Permit for a Temporary Use, Namely a Roadside Stand for a period of two (2) years 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, including receiving development review for the proposed use.
2. The petitioner shall utilize the restrooms at the commercial business on the subject property pursuant to the agreement with the owner.
3. The temporary use may operate only during the hours between sunrise and sunset.
4. The temporary use may utilize the existing parking on the site.
5. The temporary use must be removed upon termination of the permit, or when the business is no longer operating.