

**STAFF REPORT**

Planning & Zoning Commission: September 13, 2004  
Planning & Zoning Commission: September 27, 2004  
Planning & Zoning Commission: October 4, 2004  
Board of County Commissioners: October 13, 2004

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**APPLICANT:** Jackie and Carol Enterprises, Inc. **FILE NUMBER:** H-04-50

**PURPOSE:** Rezoning from R-1B (Residential) and C-2 (Highway Commercial) to PDP(HC)/Planned Development Project (Highway Commercial) with a reduction in setbacks

**GENERAL**

**LOCATION:** East side of US 41, south side of VFW Road

**LEGAL**

**DESCRIPTION:** Lots 1-15 and Lots 32-36, Block 7 and Lots 1-6, Block 8, of Johnson Heights as per the plat thereof recorded in Plat Book 4, page 12 of the Public Records, Hernando County FL, and a portion of land in Section 33, Township 22 South, Range 19 East, Hernando County, FL

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

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: C-1	Undeveloped
South: R-1B	Single family, church
East: R-1B	Single family, junkyard
West: C-2, C-1	Auto sales, veterinarian

**SUMMARY OF REQUEST**

The petitioner requests to rezone from R-1B (Residential) and C-2 (Highway Commercial) to PDP(HC)/Planned Development Project (Highway Commercial) with a reduction in setbacks. The subject property is located on the east side of US 41 and the south side of VFW Road.

**FACTUAL INFORMATION**

1. The property is currently zoned R-1B and C-2.

2. The property comprises approximately 2.12 acres.
3. A portion of the site has been developed with a used car sales establishment.
4. The site appears to contain specimen, but no majestic, trees.
5. The subject property has access from US 41, VFW Road and Ingram Street.
6. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
7. The on-site soil types include Blichton loamy fine sand and Nobleton fine sand.
8. The property is located in a flood zone C.
9. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources.
10. The City of Brooksville has indicated that central water and sewer are not available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial, residential and insitutional uses, and undeveloped parcels.
13. The petitioner has requested a reduction in the front setback from 125' to 75', which is a deviation from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner requests to rezone the property from C-2 and R-1B to PDP (HC) with a reduction in setbacks in order to develop the site with commercial uses. The site has been partially developed with a used car sales establishment, South 41 Auto Sales.

The petitioner requests a reduction in setbacks from 125' to 75' from US 41, which is a deviation from the County's LDRs. The BCC has approved reduction in setbacks from 125' to 75' from property lines along arterial roads in the past, where a reverse frontage road is provided. The petitioner proposed providing a reverse frontage road. If the request is approved, the LDRs will require 35' setbacks from Ingram Street, VFW Road and the reverse frontage road.

The subject property is located on US 41, a principal arterial roadway. The County's frontage road ordinance requires property along US 41 to provide a frontage road at no cost to the County, upon demonstration of need and demand by the County. The petitioner proposes providing a reverse frontage road along the rear of the subject property. The County Engineer does not object to the location of the proposed reverse frontage road. The subject property has access from US 41, VFW Road and Ingram Street. The plan indicates two (2) access points on US 41. The County Engineer has indicated that if the request is approved, only one access point on US 41 should be allowed.

The City of Brooksville has indicated that the subject property is located within its "first right to serve area"; however, central water and sewer are not available to serve the property at this time.

The FDOT has been notified of the request; no response has yet been received.

### **FINDINGS OF FACT**

The area is characterized by commercial, residential and institutional uses, and undeveloped parcels. A junkyard is located to the east of the subject property. A car sales establishment and a veterinarian's office are located to the west of the subject property, across US 41. Residential uses and a church are located to the east and south of the subject property. Undeveloped parcels are located to the north and west.

The subject property is located within a residential land use classification on the adopted Future Land Use Map. Land uses allowed in the residential category include single family densities up to 5.4 units per acre, resort residential and ancillary land uses such as recreation, churches and community centers. Land uses which can be located in this category with performance conditions being met include multifamily housing up to 16 units per acre, rural residential, neighborhood commercial, commercial extending from commercial nodes with a functioning frontage road, unless it is determined that wetlands or existing development make frontage road extension unfeasible, office and professional, schools, hospitals and minor public facilities.

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.

Policy 1.01O(4) indicates infill commercial development can occur only within the strip commercial areas as described in Policy 1.01O(1). Policy 1.01O(1) indicates strip commercial will only be allowed along commercial corridors which have significant existing commercial development, remaining parcels are generally zoned commercial and commercial development is expected to continue. The subject property is located south, east and northeast of parcels zoned C-1 and C-2. Commercial development is located to the north, west, east and south of the subject property.

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.

The Planning staff is of the opinion that C-2 commercial uses at this location west of a future reverse frontage road, would be compatible with the existing commercial and residential uses to the east.

The staff is of the opinion that rezoning from C-2 and R-1B to PDP(HC) with a reduction in setbacks is appropriate, based on the following conclusions:

1. The proposed rezoning would be compatible with the surrounding land uses.
2. The proposed rezoning would be consistent with the Comprehensive Plan.

**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 RECOMMENDATION:**

Pursuant to the findings of fact outlined in the staff's report, the Planning staff recommends the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request to rezone from R-1B (Residential) and C-2 (Highway Commercial) to PDP(HC)/Planned Development Project (Highway Commercial) with a reduction in setbacks, with 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, and complete all applicable development review processes.
2. The developer shall provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. The setbacks shall be as follows:

From US 41:	75'
From Ingram Street and VFW Road:	35'
From the reverse frontage road:	35'
4. A maximum of one access point on US 41 shall be allowed.

5. A master plan shall be provided within 30 days of BCC approval reflecting the zoning conditions or the rezoning shall become null and void.

**P&Z RECOMMENDATION:**

On September 13, 2004, the Planning and Zoning Commission voted 5-0 to postpone this petition until the September 27, 2004, P&Z meeting at 11:30 A.M. due to the threat of Hurricane Ivan.

On September 27, 2004, the Planning and Zoning Commission voted 3-0 to postpone this petition until the October 4, 2004, P&Z meeting at 10:30 A.M. due to the on-going recovery efforts from Hurricane Jeanne.

**P&Z RECOMMENDATION:**

On October 4, 2004, the P&Z voted 4-0 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request to rezone from R-1B (Residential) and C-2 (Highway Commercial) to PDP(HC)/Planned Development Project (Highway Commercial) with a reduction in setbacks, with the following unmodified 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, and complete all applicable development review processes.
2. The developer shall provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. The setbacks shall be as follows:

From US 41:	75'
From Ingram Street and VFW Road:	35'
From the reverse frontage road:	35'
4. A maximum of one access point on US 41 shall be allowed.
5. A master plan shall be provided within 30 days of BCC approval reflecting the zoning conditions or the rezoning shall become null and void.

**BCC ACTION:**

On October 13, 2004, the Board of County Commissioners voted 5-0 to adopt Resolution #2004-272 approving the petitioner's request to rezone from R-1B (Residential) and C-2 (Highway Commercial) to PDP(HC)/Planned Development Project (Highway Commercial) with a reduction in setbacks, with 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, and complete all applicable development review processes.
2. The developer shall provide a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. The setbacks shall be as follows:

From US 41:	75'
From Ingram Street and VFW Road:	35'
From the reverse frontage road:	35'
4. A maximum of one access point on US 41 shall be allowed.
5. A master plan shall be provided within 30 days of BCC approval reflecting the zoning conditions or the rezoning shall become null and void.

**NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE ON THIS ZONING APPROVAL MUST BE CONSISTENT WITH THE APPROVED MASTER PLAN, DEVELOPER'S NARRATIVE, DEVELOPER'S REPRESENTATIONS ON THE RECORD AND THE APPROVAL CONDITIONS BY THE BCC.**