

**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  
Board of County Commissioners: October 19, 2004

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**APPLICANT:** Preferred Development Group **FILE NUMBER:** H-04-53

**PURPOSE:** Rezoning from AG (Agricultural) to PDP(GC)/Planned Development Project (General Commercial) with a reduction in setbacks

**GENERAL**

**LOCATION:** East side of Commercial Way (US 19), north side of Marengo Street

**LEGAL**

**DESCRIPTION:** Tract A, an unrecorded portion of Happy Acres subdivision, located in Section 24, Township 22 South, Range 17 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: 1  
PETITION OF OPPOSITION: 1 with 66 signatures\*  
\*NOTE: Some signatures appeared multiple times on the petition  
PETITION OF OPPOSITION: 1 with 25 signatures

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(GHC)	Undeveloped
South: AG	Undeveloped
East: AR-2	Undeveloped
West: PDP(GHC)	Undeveloped

**SUMMARY OF REQUEST**

The petitioner requests to rezone from AG (Agricultural) to PDP(GC)/Planned Development Project (General Commercial) with a reduction in setbacks. The subject property is located on the east side of Commercial Way (US 19) and the north side of Marengo Street.

**FACTUAL INFORMATION**

1. The property is currently zoned AG.

2. The property comprises approximately 1.52 acres.
3. The site is currently undeveloped.
4. The site contains no majestic or specimen trees.
5. The subject property has access from US 19 and Marengo Street.
6. The subject property is located on the cusp of a commercial node and the residential land use classification on the adopted Future Land Use Map.
7. The on-site soil type is Candler fine sand. Candler fine sand provides a habitat suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.
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 Utilities Department has indicated that water and sewer capacity is available to serve the subject property. Pursuant to County Ordinance, central sewer is deemed available, central water is not.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area contains commercial and rural residential 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 proposes rezoning the approximately 1.52 acre AG property to PDP (GC) in order to develop the site with a convenience store with passenger vehicle fueling stations. The proposed uses are allowed in the PDP(GC) zoning category. If the request for PDP(GC) is approved, any of the uses allowed in the C-1 zoning category would be approved.

The petitioner requests a reduction in setbacks from 125' to 75' from US 19, 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 frontage road is provided. The petitioner proposes providing a reverse frontage road. The petitioner proposes a 75' setback from Marengo Street. The required minimum setback from Marengo Street would be 35'. The petitioner proposes a 35' setback from the reverse frontage road and a 20' setback from the north lot line, which would both be consistent with the LDRs.

The plan provided indicates 23 parking spaces provided. If the request is approved, the developer will be required to provide parking spaces as required by the LDRs.

The subject property is located on US 19, a principal arterial roadway. The County's frontage road ordinance requires property along US 19 to provide a frontage road at no cost to the County, upon demonstration of need and demand by the County. The petitioner proposes access from US 19, until a reverse frontage road is built in the area. The reverse frontage road would connect the Woodland Waters commercial area to Marengo Street. There is a full median opening at Marengo and US 19. Extension of the future frontage road south of the subject property is unlikely due to the environmental issues on the parcel south of Marengo Street.

The petitioner proposes placing half of the frontage road on the subject property and half on the adjacent property to the east. If the request is approved, the frontage road ordinance requires the frontage road serving the subject property to be located only on the subject property, and not on the adjacent property to the east as proposed.

The Woodland Waters master plan was approved with a frontage road located approximately 200' east of US 19. If the request is approved, the reverse frontage road on the subject property will be required to connect to the future frontage road on the Woodland Waters property.

The petitioner proposes providing access from US 19. The County Engineer indicates that if the request is approved, the petitioner should be allowed temporary right-in/right-out access to US 19 until the reverse frontage road is built.

The petitioner proposes connecting to central water and sewer service. The Utilities Department has indicated that central water and sewer capacity are available, central water service will require construction of a waterline under US 19, central sewer service will require installation of a grinder pump station prior to connection.

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

The subject property is approximately 300 feet from a WHPA-1 for a public supply well. Due to the proximity to known sinkhole activity in this area and a public supply well, staff feels that a subsurface investigation of any proposed underground fuel tank locations should be conducted in order to ensure site suitability prior to development.

**FINDINGS OF FACT**

The area contains commercial and rural residential uses and undeveloped parcels. The area to the east is developed with low-intensity rural residential uses. Commercial uses are located west of the subject property, on the west side of US 19. The portion of Woodland Waters which is zoned for commercial uses is located north of the subject property.

The subject property is located on the cusp of a commercial node and the 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. Commercial nodes are located to the north and west of the subject property and the petitioner is proposing to extend the frontage road across their property to Marengo Street. It is the staff's opinion that it is consistent with the adopted comprehensive plan to extend the commercial node with a functioning frontage road to the depth of the subject property. The reverse frontage road would ultimately connect Woodland Waters Boulevard to Marengo Street which both have full median openings at US 19.

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-1 commercial uses at this location west of a future reverse frontage road would be compatible with the existing rural residential uses to the east.

The Planning staff is of the opinion that rezoning the subject property from AG to PDP(GC) with a reduction in setbacks would be 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 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. 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 AG (Agricultural) to PDP(GC)/Planned Development Project (General 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 petitioner must provide a frontage road across the property, at no cost to the County, upon demonstration and need of the County. The frontage road must be located entirely on the subject property.
3. A temporary right-in/right-out access to US 19 is allowed until the reverse frontage road is built.
4. Setback from US 19: 75'
5. The development shall be served by central water and sewer.
6. Lighting associated with the use shall be oriented away from the AR area to the east.
7. A subsurface investigation of any proposed underground fuel tank locations shall be conducted to ensure site suitability prior to development.
8. 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 10:00 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 9:00 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 AG (Agricultural) to PDP(GC)/Planned Development Project (General Commercial) with a reduction in setbacks, with the following unmodified stipulations:

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 petitioner must provide a frontage road across the property, at no cost to the County, upon demonstration and need of the County. The frontage road must be located entirely on the subject property.
3. A temporary right-in/right-out access to US 19 is allowed until the reverse frontage road is built.
4. Setback from US 19: 75'
5. The development shall be served by central water and sewer.
6. Lighting associated with the use shall be oriented away from the AR area to the east.
7. A subsurface investigation of any proposed underground fuel tank locations shall be conducted to ensure site suitability prior to development.
8. 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 postpone consideration of this petition until the October 19, 2004, BCC hearing at 10:45 a.m.

On October 19, 2004, the Board of County Commissioner's voted 4-0 to deny the petition to rezone from AG (Agricultural) to PDP(GC)/Planned Development Project (General Commercial) with a reduction in setbacks.