

STAFF REPORT

Planning & Zoning Commission: December 12, 2005
Board of County Commissioners: January 11, 2006
Planning & Zoning Commission: January 9, 2006
Board of County Commissioners: February 8, 2006

APPLICANT: Sona Nemethy **FILE NUMBER:** H-05-123

PURPOSE: Rezoning from AG to C-2 (Highway Commercial)

GENERAL

LOCATION: West side of US 41, approximately 1,900' north of Hennes Cove

LEGAL

DESCRIPTION: Lot 58, Garden Grove Farm Lots, as per plat thereof recorded in Plat Book 4, Page 43, of the Public Records of Hernando County, Florida in Section 4, Township 23 South, Range 19 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 1

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: AG	Undeveloped
South: C-1	Undeveloped
East: AG	Undeveloped, DRA
West: AG	Undeveloped

SUMMARY OF REQUEST

The petitioner requests to rezone from AG to C-2. The subject property is located on the west side of US 41, approximately 1,900' north of Hennes Cove.

FACTUAL INFORMATION

1. The property is currently zoned AG.
2. The property comprises approximately 6.2 acres.
3. The site is undeveloped.

4. The site is wooded and may contain specimen trees.
5. The subject property has access from US 41.
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, Micanopy loamy fine sand and Nobleton fine sand.
8. The property is located in a flood zone C.
9. The subject property contains wetlands, but no WHPAs or SPAs, according to County data resources.
10. The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site, however, no existing facilities are available to serve the subject property at this time.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner requests to rezone the subject property from AG to C-2 in order to develop the site with a commercial use. If the petitioner's request is approved, all permitted uses in the C-2 zoning district would be allowed and construction will be required to meet the applicable LDRs for commercial development. The subject property has adequate area to accommodate the commercial setbacks.

The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site, however, no existing facilities are available to serve the subject property at this time. The applicant will have to connect to water and/or sewer if they meet the connection standards of the applicable ordinances at the time they apply for development permits.

The subject property has access to US-41. If the subject request is approved, the petitioner will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.

The subject property contains approximately 2 acres of wetlands according to County data resources. Any removal, alteration or encroachment into these wetlands shall adhere to state and federal permitting and mitigation requirements.

The City of Brooksville has no comments regarding the request. The FDOT has been notified of the request; no response has yet been received.

FINDINGS OF FACT

The area is characterized by undeveloped parcels. A parcel zoned C-1 is located along the subject property's south property line. AG parcels are located to the north and west. The subject property is located approximately 130' south of a property zoned C-2. The subject property is located proximate to Hernando Oaks and Southern Hills Plantation residential subdivisions currently under development.

The subject property is located within a residential land use classification on the adopted Future Land Use Map. 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 north of a property zoned C-1 and is located approximately 130' south of a property zoned C-2. The C-2 zoning to the north has a depth of approximately a third of the subject property's. The Planning staff is of the opinion the subject property meets the criteria for infill commercial development, however, the Planning staff is of the opinion the C-2 zoning is too intense for this area and C-1 uses would be more compatible.

The staff is of the opinion that the approval of the rezoning from AG to C-1 is appropriate based on the following conclusions:

1. Rezoning to C-1 would be compatible with the surrounding area.
2. Rezoning to C-1 is consistent with the County's adopted Comprehensive Plan and the County's land development regulations.

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 rezoning from AG to C-1, 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 will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. Any removal, alteration or encroachment into wetlands shall adhere to state and federal permitting and mitigation requirements.

P&Z RECOMMENDATION:

At their December 12, 2005, meeting, the P&Z acknowledged the petition could not be heard until it had been properly advertised. The petitioner did pick up the sign in a timely manner in order to post the site as required to be adequately advertised to be heard by the P&Z at their January 9, 2005 meeting.

BCC ACTION:

On January 11, 2006, the BCC acknowledged the petition will be readvertised for the February 8, 2006, agenda.

P&Z RECOMMENDATION:

At the January 9, 2006 meeting, the Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt Resolution # _____ approving the rezoning from AG to C-1, 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 will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. Any removal, alteration or encroachment into wetlands shall adhere to state and federal permitting and mitigation requirements.

BCC ACTION:

The BCC voted 5-0 to adopt resolution 2006-38 approving the rezoning from AG to C-1 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 will be required to construct a frontage road across the property, at no cost to the County, upon demonstration of need and demand by the County.
3. Any removal, alteration or encroachment into wetlands shall adhere to state and federal permitting and mitigation requirements.