

**STAFF REPORT**

Planning & Zoning Commission: April 11, 2005

Board of County Commissioners: May 11, 2005

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**APPLICANT:** Jasmine Group LLC **FILE NUMBER:** H-05-27

**PURPOSE:** Rezoning from C-2 (Highway Commercial) and C-3 (Neighborhood Commercial) to PDP(GC)/ Planned Development Project (General Commercial) with a Reduction in Setbacks and Deviations from the Residential Protection Standards

**GENERAL**

**LOCATION:** North side of Jefferson Street, west side of Jasmine Drive

**LEGAL**

**DESCRIPTION:** A portion of Section 26, 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:**

Surrounding Zoning

North: R-1B  
South: C-1, C-2  
East: R-1B, AG  
West: C-1, R-1B

Surrounding Land Uses

Single family  
Commercial, undeveloped  
Undeveloped  
Single family

**SUMMARY OF REQUEST**

The petitioner requests to rezone from C-2 and C-3 to PDP(GC) with a reduction in setbacks and deviations from the residential protection standards. The subject property is located on the north side of Jefferson Street and the west side of Jasmine Drive.

**FACTUAL INFORMATION**

1. The property is predominately zoned C-3, with C-2 designation for a billboard sign.
2. The property comprises approximately one acre.

3. The site has been mostly cleared, although a treed buffer remains along the northern, western and eastern sides of the property. There is a wooden billboard along the west.
4. The site contains no majestic or specimen trees.
5. The subject property has access from Jefferson Street and Jasmine Drive.
6. The subject property is located within a commercial land use classification on the adopted Future Land Use Map.
7. The on-site soil type is Blichton loamy fine sand.
8. The property is located in a flood zone C.
9. The subject property contains a SPA, but no wetlands or WHPAs, according to County data resources.
10. The City of Brooksville has indicated that the subject property is located within the City's First Right to serve area.
11. There are adequate public facilities available to serve limited development of the subject property.
12. The area is characterized by commercial and single family residential uses, and undeveloped parcels.
13. The petitioner has requested a reduction in setbacks and deviations from the residential protection standards, which are deviations from the County's LDRs.

### **STAFF DISCUSSION**

The petitioner requests to rezone the subject property from C-2 and C-3 to PDP(GC) in order to develop the site with a gas station and convenience store. Uses consistent with the C-1 zoning district are allowed in a PDP(GC). The proposed uses are allowed in the PDP(GC) zoning category.

The narrative and plan submitted by the petitioner indicates the site will be developed with an approximately 3,000 square foot convenience store with 12 fueling stations.

The subject property was initially zoned R-1B, and was rezoned to OP in 1989. Subsequent to 1989, the site was rezoned to C-3 (neighborhood commercial) with C-2 designation for a billboard sign.

The petitioner's plan indicates a front setback of 100' from the required 125', and setbacks from the north and the west from 35' to 20'. The property was granted a variance in 1989 when the property was zoned OP to allow 100' setbacks from SR 50, and 20' setbacks from the west and north property lines. The zoning administrator has indicated that the setback variance runs with the land.

The petitioner has requested multiple deviations from the residential protection standards as follows:

1. Reduce required 100' distance for placement of speakers from any single family residential district property line to 50'.
2. Reduce required 100' distance for buildings containing alcoholic beverage dispensation establishments, convenience stores, or automotive and truck repair establishments from residential property lines to 50'.
3. Reduce required 100' requirement for commercial activities which include customer entrances, drive-up windows, ordering boxes, or loading/unloading areas from operating between the hours of 12 midnight and 7:00 a.m. within 100' of any single family residential district property line to 50'.

The standards above were designed to enhance compatibility between single family zoned property and commercial operations. The property to the north and to the west of the subject site are zoned residential and have established SF uses.

The property as zoned would allow development of the site with a convenience goods store provided that there are not more than two (2) checkout lanes and two (2) vehicle fueling stations. Additionally, the C-3 zoning district has a maximum lot size of 3 acres, the subject site comprises approximately an acre. The C-1 district allows more uses than the C-3 district, and would allow a convenience store with 12 vehicle fueling stations. The intensity of the proposed convenience store is considerably more intense than what would be permitted by the existing zoning. The petitioner is proposing a wall and screening between the commercial use and the residential use, and has indicated that lighting at the property line will be less than one lumen. The petitioner is requesting to reduce the setbacks required by the residential protection standards by half which in staff's opinion is significant. It is our position that the provision of the wall does not adequately justify the reductions requested.

The petitioner has indicated that there will be no impacts to the infrastructure because of the small number of new trips that will be generated by the new use. The transportation coordinator has indicated that at least 100 additional PM peak hour trips would be generated from the proposed use.

The petitioner is proposing to serve the property with central water, and an onsite septic facility. The City of Brooksville has indicated that the subject property is located within the City's First

Right to serve area. To receive water and sewer service, line extensions may be required including crossing Jefferson Street/SR 50. The petitioner would have to contact the City for the provision of central water services.

The subject property has access from Jefferson Street and Jasmine Drive. The County Engineer indicated that the driveway along Jasmine does not appear to meet minimum design standards. If the request is approved, the driveway would have to be reconfigured to meet the rules.

A portion of the subject property contains a SPA. The proposed land use is allowable within this designation.

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

### **FINDINGS OF FACT**

The area is characterized by commercial and single family residential uses, and undeveloped parcels. Single family uses are located to the north and west. A Hess gas station/convenience store is located to the south on a parcel zoned C-1. Undeveloped C-2 parcels are located to the southeast. Undeveloped AG parcels are located to the east.

The subject property is located within a commercial strip identified on the adopted future land use map at the Cortez Boulevard/Jefferson Street/Jasmine Drive intersection. The commercial land use category allows for a range of commercial intensity from office professional to regional commercial centers provided other goals, objectives and policies (GOPs) within the comprehensive plan can be met.

Policy 1.01L(8) indicates that during the land use approval process for higher intensity commercial uses, appropriate buffering will be considered to maintain a separation from existing or proposed residential uses. The buffering method may include lower intensity commercial or multifamily uses creating a pattern of higher to lower intensity. The Planning staff is of the opinion that the C-3 uses currently allowed on the property without deviations from the LDR would be compatible with the existing residential uses in the area.

The staff is of the opinion that the request to rezone from C-2 and C-3 to PDP(GC) with a reduction in setbacks and deviations from the residential protection standards is not appropriate, based on the following conclusions:

1. The proposed rezoning with reduced setbacks and deviations from the residential protection standards would be incompatible with the surrounding land uses.
2. The proposed rezoning is too intense for the subject property given the size, configuration and proximity of existing residential uses.

3. Use of an onsite septic system would not be appropriate given the configuration of the property, and the environmental issues associated with the site.
4. The requested rezoning with the requested reduction in setbacks and deviations from the residential protection standards is not 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 # \_\_\_\_\_ denying the petitioner's request to rezone to PDP(GC) with a reduction in setbacks and deviations from the residential protection standards.

**P&Z RECOMMENDATION:**

At their April 11, 2005 meeting, the Planning and Zoning Commission voted 5-0 to recommend the BCC adopt resolution # \_\_\_\_\_ denying the petitioner's request to rezone to PDP(GC) with a reduction in setbacks and deviations from the residential protection standards.

**BCC ACTION:**

On May 11, 2005, the BCC voted 5-0 to adopt resolution #2005-140 denying the petitioner's request to rezone to PDP(GC) with a reduction in setbacks and deviations from the residential protection standards.