

STAFF REPORT

HEARINGS: Planning & Zoning Commission: December 11, 2023
Board of County Commissioners: January 9, 2024

APPLICANT: Rebecca and Ricky Murphy on behalf of MFM Construction Corp.

FILE NUMBER: H-23-61

REQUEST: Rezoning from PDP(OP)/ Planned Development Project (Office Professional) and AG (Agricultural) to PDP(GC)/ Planned Development Project (General Commercial) with deviations

GENERAL LOCATION: West side of U.S. 41 (Broad Street) approximately 2,000 feet from its intersection with Southern Hills Boulevard

PARCEL KEY NUMBER(S): 201481

APPLICANT'S REQUEST

The petitioner requests a rezoning from PDP(OP)/ Planned Development Project (Office Professional) and AG (Agricultural) to PDP(GC)/ Planned Development Project (General Commercial) with deviations to make the existing conditions of the property legal and to establish a single zoning district. The original application requests a rezoning to C-1; however the existing building does not meet the setbacks for the C-1 zoning district. Staff initiated the change to the request from C-1 to PDP(GC) with deviations to accomplish the goal of the applicant or bringing the parcel into compliance with County regulations.

The subject parcel is a part of the "Garden Grove Farm Lots" subdivided in 1926. The subject parcel is 7,718 square feet and was created, by deed, from a much larger parcel in 2004 or 2005. The building present on the parcel was constructed in 1940, before there was zoning in Hernando County. Since the house was constructed before zoning regulations were in place, the subject parcel is a legally non-conforming property.

The requirements placed upon the petitioner by their insurance companies are the reason for this rezoning request.

SITE CHARACTERISTICS

Site Size: 4.2 acres

**Surrounding Zoning;
Land Uses:**

North: AG (Agricultural); Special Use for Public Assembly (SE-04-06)

South: PDP(GC)/ Planned Development Project (General Commercial) (H-22-36); Undeveloped

East: C-3 (Neighborhood Commercial); Mobile Home Park

	West: PDP(GC)/ Planned Development Project (General Commercial) (H-22-36); Undeveloped
Current Zoning:	PDP(OP)/ Planned Development Project (Office Professional) and AG (Agricultural)
Future Land Use Map Designation:	Commercial

ENVIRONMENTAL REVIEW

Soils:	Nobleton File Sand
Protection Features:	There is evidence this property is in the Wellhead Protection Area (WHPA) 2. There are no Special Protected Areas (SPAs) on this site according to county data.
Comment:	None of the current land uses are prohibited in the WHPA-2
Hydrologic Features:	There are no Hydrologic Features (Sinkholes, Karst Sensitive Areas, and Wetlands) on this property according to county data.
Habitat:	The subject property is designated Low Structure Density according to FWC CLC mapping (Florida Cooperative Land Cover Classification System that combines Florida Land Use Cover and Classification System with fish and wildlife data).
Water Quality:	The proposed development is within the Weeki Wachee River Basin Management Action Plan (BMAP), the Weeki Wachee Outstanding Florida Springs (OFS) Group, and the Weeki Wachee Priority Springs Focus Area.
Comment:	Implementation of Florida Friendly Landscaping™ principles, techniques, and materials designed to conserve water and reduce pollutant loading to Florida's waters is required. This will be addressed during the permitting phase of development.
Flood Zone:	The subject property is not in a flood zone.

UTILITIES REVIEW

The Hernando County Utilities Department (HCUD) reviewed the application and provided the following comments:

- HCUD does not currently supply water or sewer service to this parcel.
- Water and sewer service are not available to this parcel.

Comment: HCUD has no objection to the requested zoning change from PDP(OP) and AG to C-1 to allow commercial use of the parcel, subject to Health Department approval of any

improvements that may be necessary to Onsite Sewage Treatment and Disposal System for the parcel's intended commercial business.

TRANSPORTATION

The subject property is on Broad Street (U.S. 41) and shares a lot line with Brooksville Christian Church. At this location Broad Street is a 4-lane divided principal arterial and is maintained by the Florida Department of Transportation (FDOT). Principal arterials serve a large percentage of vehicular travel between cities and other activity centers. They are designed for higher speeds to minimize travel time and distance. There are currently no plans to expand this section of U.S. 41.

There are no bus routes that pass by the subject parcel.

ENGINEERING REVIEW

The County Engineer reviewed the petitioner's request and provided the following comments:

- This property is outside the 1% annual chance storm floodplain.
- This project abuts Broad Street, and a frontage Road is required along the entire frontage of Broad Street (US-41), per Ordinance. *Refer to Hernando County Facility Design Guidelines IV-04 for frontage road requirements.*
- Applicants must make provisions for frontage (or reverse) road.
- A sidewalk is required along one side of the frontage road.
- A sidewalk going all the way across the property frontage of Broad Street is required.
- FDOT access management and FDOT drainage permits required.
- Application was unclear if site is open to public, the parking lot design, parking spaces and handicap spaces must be designed to Hernando County Standards.

Comment: With 32.56' between the road and the building, there is not enough room for the petitioner to accommodate a frontage road. The adjacent parcel to the west and south of the subject property recently rezoned to PDP(GC)/ Planned Development Project (General Commercial) (H-22-36). The master plan for this property shows stub outs for a frontage road which would go through the petitioner's existing building.

The performance conditions for H-22-36 require a sidewalk to be constructed along Broad Street. Staff recommend coordination between the parcel owners to get the best cost and connection for any required sidewalk. The petitioner shall work with the Engineering department to accommodate any sidewalk and frontage road requirements.

The petitioner's business(es) is open to the public by appointment only.

LAND USE REVIEW

The permitted uses in the C-1 zoning district are:

- (a) Comparison goods stores¹
- (b) Convenience goods stores with a limit of 12 vehicle fueling stations
- (c) Personal service establishments²
- (d) Domestic and business service establishments
- (e) Domestic and business repair establishments
- (f) Business, professional, and nonprofit organization offices
- (g) Public offices
- (h) Business training schools
- (i) Restaurants with or without alcohol dispensation
- (j) Indoor commercial amusement establishments
- (k) Indoor motion picture theaters
- (l) Motels
- (m) Hotels
- (n) Automobile parking establishments
- (o) Gasoline service stations with a limit of 12 vehicle fueling stations
- (p) Light building material establishments
- (q) Mortuaries, funeral homes
- (r) Antique stores
- (s) Alcoholic beverage dispensation package and restaurants only
- (t) Retail food stores
- (u) Veterinary clinics with air conditioned, sound-attenuated runs
- (v) Light marine establishments
- (w) Fire stations and state, county, and municipal police stations
- (x) Light domestic rental establishments

¹ Comparison goods stores include the sales of: Clothing, Shoes, Apparel accessories, Furniture, Appliances, Home furnishings, and Retail pet stores.

² Personal service establishments include Beauty and barber services, Garment mending, Alteration and related minor, pressing services, Laundry and dry cleaning pickup services, Self-service or coin-operated laundromat, Fur repair, and storage services, Shoe shining, shoe repair and hat cleaning service, Watch, clock and jewelry repair services, Commercial photographic services, and Tattoo/Body Piercing services.

- (y) Auto parts establishments
- (z) Dry cleaning establishments
- (aa) One (1) single-family dwelling unit (minimum of six hundred (600) square feet) per commercial parcel in conjunction with the operation of business on the premises; such single-family dwelling unit shall be an integral part of the principal business structure and located behind or above that portion of the business structure devoted to service to the public
- (bb) Day care centers and preschools
- (cc) Automobile service establishments limited to four (4) service bays
- (dd) Places of Public Assembly
- (ee) Fraternal organizations
- (ff) Secondhand stores
- (gg) Retail plant nurseries with outside storage limited to plants and packaged products
- (hh) Auto glass establishments
- (ii) Aircraft parts establishments
- (jj) Nursing care homes
- (kk) Light construction service establishments
- (ll) Call Centers

The setbacks for the C-1 district are:

- North: 20'
- South: 20'
- East: 125'
- West: 35'

Deviations

According to the survey submitted by the petitioner, the existing building has the following setbacks:

- North: 7.05'
- South: 12.03'
- East: 32.56'
- West: 26.52'

Deviations are needed to make the subject parcel compliant. The petitioner's insurance companies are requiring the petitioner to complete various construction projects on the exterior of the building, reconstructing the front stairs and potentially installing a ramp on the side of the building for example. The petitioner has no plans to expand the building, but they do need to address the issues the insurance company identifies to keep their coverage.

Staff propose the following setbacks, which will only serve to accommodate potential repairs that are required of the petitioner, not any expansion of the building:

- North: 6'

- South: 10'
- East: 30'
- West: 20'

Comment: The setbacks proposed by staff will serve to bring the existing building into compliance with the zoning and allow the petitioner enough room to reconstruct the stairs at the front of the building according to the current building code and accommodate any changes to the exterior of the site that are required by the County or the petitioner's insurance companies.

COMPREHENSIVE PLAN REVIEW

Future Land Use Map, Commercial Category

Strategy 1.04A(6): The Commercial Category provides for commercial uses including products and services along major corridors and at roadway intersections to serve residents and visitors on both a localized and regionalized basis. The Commercial Category recognizes existing commercial use corridors along U.S. Highway 19 and State Route 50 and existing and planned commercial nodes at intersections of arterial and/or collector roads. The Commercial Category includes small unmapped existing commercial properties. The Commercial Category also recognizes the ability to designate infill parcels for commercial use lying in proximity to and between, but not necessarily contiguous to, other existing commercially designated properties. Publicly owned lands along the commercial use corridors that are made available for surplus may be considered to have a Commercial designation, if the agency proceeds through the Comprehensive Plan Amendment process to amend the future land use map, in accordance with Section 163.3184, F.S.

Comment: The PDP(GC)/ Planned Development Project (General Commercial) zoning district matches the intended uses for the Commercial future land use.

FINDING OF FACTS

1. The building on the subject parcel was constructed in 1940.
2. The subject parcel was created around 2005 through the deed process.
3. The parcel is currently considered a legal non-conforming lot.
4. The land use activity is permitted in the C-1 zoning district under "personal professional services".
5. A master plan is not required since the parcel is already developed.

NOTICE OF APPLICANT RESPONSIBILITY

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. Homeowner 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

It is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt a resolution approving the petitioner's request for a rezoning from PDP(OP)/ Planned Development Project (Office Professional) and AG (Agricultural) to PDP(GC)/ Planned Development Project (General Commercial) with deviations.

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. Planning
 - a. Permitted uses in this PDP are: All C-1 uses.
 - b. Setbacks: (deviations from Article IV, Section 3D)
 - North: 6' (deviation from 20')
 - South: 10' (deviation from 20')
 - East: 30' (deviation from 125')
 - West: 20' (deviation from 35')
3. Engineering
 - a. The petitioner shall work with the County Engineer to accommodate any sidewalk and frontage road requirements.
 - b. FDOT access management and FDOT drainage permits may be required.
 - c. Parking lot design, parking spaces and handicap spaces must be designed to Hernando County Standards.
4. The petitioner shall contact the Health Department to receive approval of improvements that may be necessary to onsite sewage treatment and disposal system for the parcel's intended commercial business.