STAFF REPORT
Planning & Zoning Commission: August 14, 2006
Board of County Commissioners: September 13, 2006

APPLICANT: Robert Wasielewski **FILE NUMBER:** H-06-76

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

GENERAL LOCATION: West side of US 41, approximately 3300' south of Mason Smith Road

LEGAL DESCRIPTION: A portion of lot 60, Garden Grove Farm Lots, as per the plat thereof recorded in Plat Book 4, Page 43 of the Public Records of Hernando County located in a portion of Section 4, Township 23 South, Range 19 East, Hernando County, FL

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

Citizen correspondence received as of the date of this report? Yes ☐ No ☒

STAFF FINDINGS:

Surrounding Zoning		Surrounding Land Uses
North:	AG	Church under construction
South:	AG; C-1	Undeveloped; Sail Inn
East:	AG	Undeveloped
West:	AG	Undeveloped

SUMMARY OF REQUEST.

The petitioner has submitted a request to rezone this site from AG to C-2 (Highway Commercial).

FACTUAL INFORMATION

1. The property is currently zoned AG.

2. The property comprises approximately 1.9 acres.

3. The site has been developed with a SF home.

4. The site does not appear to contain majestic and specimen trees.

5. The subject property has access from US Hwy 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 type is Nobleton sands.

8. The property is located within Flood zone C.

9. The subject property contains a Wellhead Protection Area-1, but no wetlands or Special Protection Areas, according to County data resources.

10. The Utilities Department has indicated that central water and sewer capacity are available to serve the property.

11. There are adequate public facilities available to serve development limited development on the subject property.

12. The surrounding area includes undeveloped, public assembly under construction, commercial and residential uses.

13. The petitioner has not requested any deviations from the County's LDRs.

STAFF DISCUSSION

The petitioner is proposing to rezone the subject property from AG to C-2. If the request is approved, all of the permitted uses in the C-2 zoning category would be allowable on the subject property in accordance with the LDRs. The subject property has access to US 41 which is a 6-lane segment in this area.

The majority of the site is within a Wellhead Protection Area-1 (WHPA-1). Commercial C-1 and C-2 uses with central services are allowable within the WHPA-1 designation with the exception of underground fuel storage tanks, facilities regulated by the Emergency Planning and Community Right-to-know Act of 1986, recycling facilities associated with hazardous materials, and hazardous waste generators other than conditionally exempt small quantity generators or small quantity generators as classified by DEP.

The Transportation Coordinator has reviewed the request and indicated that there are no roadway concerns in the vicinity of the subject property.

The County Engineer has reviewed the request and indicated that 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.

There is a median opening along US 41 to the south of the subject property. If the request is approved, access would be limited to a right-in/right-out.

There is an existing 12-inch water line approximately 7,500-feet south of the property on the north west corner of US 41 and Grand Entrada Blvd. There is an existing 10-inch sewer force main approximately 7,500-feet south of the property on the north west corner of US 41 and Grand Entrada Blvd. 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 FDOT have been notified of the request, no responses have been received.

FINDINGS OF FACT

The area is characterized by single family homes, institutional under construction, commercial and an RV park on the east side of US 41.

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. The subject property is located within a residential land use classification on the adopted Future Land Use Map.

The residential land use designation allows, with performance standards being met, 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. The subject property is not proximate to an existing commercial node and there is no functioning frontage road in the area.

Policy 1.01O(4) of the adopted comprehensive plan states that Infill commercial development may be approved where existing areas having 300 feet or less frontage on arterial or collector roads lie between commercially zoned parcels on the same side of the road so that commercial use of the intervening property(ies) is the most logical land use. The depth of such infill commercial development shall be commensurate with the depth of existing commercial zoning on the proximate parcels which define the infill area. The existing C-1 zoning to south is to a depth of approximately 300', the subject property is approximately 560' in depth. The property to the north is zoned AG with a special exception use permit for a place of public assembly. The proposed rezoning does not meet the commercial infill policies as provided for the in the adopted comprehensive plan.

The rezoning from AG to C-2 (Highway Commercial) is inappropriate, based on the following conclusions:

1. There is no frontage road system existing in the area of the subject property.

2. The proposed request does not meet the commercial infill policies as provided for in the adopted Comprehensive Plan.

3. The proposed request is inconsistent 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 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, it is recommended that the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # _____denying the petitioner's request to rezone from AG to C-2 (Highway Commercial).

P&Z RECOMMENDATION: