

**STAFF REPORT**

Planning & Zoning Commission: October 9, 2006  
Board of County Commissioners: November 8, 2006

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**APPLICANT:** Elizabeth M Mertes **FILE NUMBER:** H-06-101

**PURPOSE:** Rezoning from PDP(SF) /Planned Development Project (Single Family) to C-1 (General Commercial) or C-3 (Neighborhood Commercial)

**GENERAL**

**LOCATION:** South of Philatelic Avenue, north of Hartley Road, west of Deltona Boulevard

**LEGAL**

**DESCRIPTION:** Lot 9, Block 1470 of Spring Hill Unit 21 as per the plat thereof recorded in Plat Book 9, Page 81-96 of the Public Records of Hernando County FL, located in Section 14, Township 23 South, Range 17 East

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

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

**STAFF FINDINGS:**

Surrounding Zoning

North: PDP( GHC)  
South: PDP(REC)  
East: PDP(REC) & (GHC)  
West: PDP(SF)

Surrounding Land Uses

Offices and Commercial Strip Center  
Delta Woods Park  
Delta Woods Park  
Undeveloped

**SUMMARY OF REQUEST**

The petitioner has submitted a request to rezone the subject property from PDP(SF) Planned Development Project (Single Family) to C-1 (General Commercial) or C-3 (Neighborhood Commercial).

**FACTUAL INFORMATION**

1. The property is currently zoned Planned Development Project (Single Family).
2. The property comprises approximately 0.40 acres.

3. The site is undeveloped.
4. The site does not contain majestic and specimen trees.
5. The subject property has access from Deltona Boulevard, Hartley Road and Philatelic Drive.
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 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 central water and sewer capacity are available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The surrounding area is characterized by single family home and commercial use.
13. The petitioner has not requested any deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner is requesting a rezoning of the subject property from PDP(SF) Planned Development Project (Single Family) to C-1 (General Commercial) or C-3 (Neighborhood Commercial). The petitioner has not indicated the intended use on the site other than potentially a convenience store.

The subject property is a platted residential lot within Spring Hill. There may be deed restrictions associated with the property. Although the county does not enforce deed restrictions, it does take them into consideration in reviewing land use requests.

The subject property is located along Deltona Boulevard. Deltona Boulevard is currently operating at level of service (LOS) F. Deltona Boulevard is scheduled to be three laned in this area in 2007/2008.

The Utilities Department has indicated that central water and sewer capacity are available to serve the subject site. Water Service: There is an existing 8-inch waterline on the west side of Deltona Blvd. and a 4-inch waterline on the north side of Hartley Road. There is an existing 10-inch sewer force main on the east side of Deltona Blvd in front of the parcel. Utility system upgrades may be required to supply this development depending on proposed flows. Sufficiency of available capacity cannot be determined until submittal of a site plan and proposed flows. 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 County Engineer has reviewed the request and indicated that access to the site should not be allowed to Deltona Boulevard or Hartley, a residential street.

The subject property is located southwest of an area designated as commercial on the Spring Hill Master Plan.

### **FINDINGS OF FACT**

The subject property is located within a residential land use classification on the adopted future land use map.

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 not located within a commercial node.

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 property north of the property is zoned general commercial, the property to the southwest is zoned residential. The subject property does not meet the commercial infill policies as provided for in the adopted comprehensive plan.

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 1.01H(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. Zoning the subject property to either C-1 or C-3 would introduce commercial intensities into an established residential area. The requested rezoning is not compatible with the surrounding area.

The rezoning from Planned Development Project (Single Family) /PDP(SF) to C-1 (General Commercial) or C-3 (Neighborhood Commercial) is inappropriate, based on the following conclusions:

1. There is no frontage road system extending from the existing commercial area.
2. The proposed request does not meet the commercial infill policies as provided for in the adopted Comprehensive Plan.
3. The proposed request would be detrimental to the existing residential area.
4. 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 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, 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 PDP(SF) /Planned Development Project (Single Family) to C-1 (General Commercial) or C-3 (Neighborhood Commercial).

**P&Z RECOMMENDATION:**