

**STAFF REPORT**

Planning & Zoning Commission: November 8, 2004  
Board of County Commissioners: December 8, 2004

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**APPLICANT:** VLT, Inc. **FILE NUMBER:** H-04-55

**PURPOSE:** Rezoning from AG (Agricultural) to C/PDP(GC) and (SF)/Combined Planned Development Project (General Commercial) and (Single Family) with a Reduction in Setbacks and a Deviation from the Roadway Standards

**GENERAL**

**LOCATION:** South side of SR 50, approximately 1,700' east of Griffin Road

**LEGAL**

**DESCRIPTION:** A portion of Sections 25 and 36, 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: 5

**STAFF FINDINGS:**

Surrounding Zoning

North: C-2, C-4, C/PDP  
South: AG  
East: AG  
West: AR, AG

Surrounding Land Uses

Commercial, undeveloped  
Undeveloped  
Single family, undeveloped  
Single family, undeveloped

**SUMMARY OF REQUEST**

The petitioner requests to rezone from AG to C/PDP(GC) and (SF) with a reduction in setbacks and a deviation from the roadway standards. The subject property is located on the south side of SR 50, approximately 1,500' east of Griffin Road.

**FACTUAL INFORMATION**

1. The property is currently zoned AG.
2. The property comprises approximately 110 acres.
3. The site is currently undeveloped.

4. The site appears to contain majestic and specimen trees.
5. The subject property has access from Cortez Boulevard and Singer Lane.
6. The subject property is located within residential and rural land use classifications on the adopted Future Land Use Map.
7. The on-site soil types include Blichton loamy fine sand, Flemington fine sandy loam and Wauchula fine sand.
8. The majority of the property is located in a flood zone C. A portion of the Byster Lake 100-year flood zone is present on the northeast portion of the property.
9. The subject property contains wetlands, but no WHPAs or SPAs, according to County data resources. Staff located what appears to be an active sinkhole on the northeast portion of the subject property.
10. The City of Brooksville has indicated that the subject property is located within the City's service area. The City has indicated central water and sewer capacity are available to serve the subject site. Central water and sewer services can be made available to serve the project. An extensive length of force main would be required at a substantial cost to extend sewer to the subject property.
11. There are adequate public facilities available to serve limited development on 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 from Cortez Boulevard from 125' to 75' and has requested a cul-de-sac longer than 600', which are deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner proposes developing the approximately 110 acre subject property with single family residential and general commercial uses. Rezoning requests on the subject property have twice been denied by the BCC. At their September 10, 2003, meeting, the BCC denied a request to rezone the subject property from AG to C/PDP to include (OP), (GC), (MF), and (SF) with a reduction in setbacks. The petitioner requested 131 SF units, 250 MF units, and 14 acres of commercial/office. The BCC found that the environmental issues associated with the property had not been adequately addressed, the request was premature, too intense for the location, and incompatible with the rural

residential character of the surrounding area. At their December 10, 2003, meeting, the BCC denied a request to rezone the subject property from AG to C/PDP (GC) and (SF) with a reduction in setbacks. The petitioner proposed to develop the site with 49 lots and 14 acres of commercial. The BCC found that the proposed project was not timely, was premature, inconsistent with the Comprehensive Plan, and too intense to be compatible with the surrounding area.

The petitioner has been asked to address the BCC's previously stated concerns and to note any changes that have occurred in the area that make the proposal more appropriate at this time. The petitioner responded by noting the existing construction and soft drink bottling commercial uses and the existing small to moderate size lots in the Wesleyan Village, Cedar Falls, and Hill N Dale residential developments in the area. The Planning staff notes that the commercial uses in the immediate area are limited to the opposite side of Cortez Boulevard from the subject property and that the immediately surrounding uses to the east, west, and south are low intensity rural residential uses. The petitioner's representative notes that there are no LOS issues on Cortez Boulevard and central water and sewer services can be brought to the site. The rezoning request denied in September 2003 proposed central water and sewer service.

The petitioner proposes locating 150,000 square feet of commercial uses on 14 acres adjacent to Cortez Boulevard along the northern edge of the subject property. The petitioner proposes a reverse frontage road separating the commercial from the residential to the south. The plan shows 279 single family lots on the southern 96 acres with multiple lot sizes: 6,000 square feet, 7,500 square feet and 12,000 square feet.

The plan shows lot widths of 50', 60' and 80'. All residential PDPs with lots which have lot widths of less than 60' at the building line are required to submit a fire protection plan upon filing of a conditional plat. If the request is approved, the developer must provide a fire protection plan as required per the LDRs.

The petitioner requests a reduction in setbacks from 125' to 75' from Cortez Boulevard, due to the provision of the reverse frontage road. The petitioner proposes setbacks for the commercial area as follows: 35' setbacks from the reverse frontage road, 20' side setbacks, and 35' rear setbacks. The petitioner does not indicate the minimum setback from the entrance road which would be 35'.

The petitioner proposes SF internal lot setbacks as follows: 25' front, 5' side, 15' rear setbacks on the 6,000 square foot and 7,500 square foot lots; and 25' front, 7.5' side, and 20' rear setbacks on the 12,000 square foot lots. The setbacks proposed for the 6,000 and 7,500 square foot lots are smaller than the county's conventional zoning categories. The Board has allowed smaller setbacks for lots when the concept of development provides for additional open space areas, clustering of units or some other innovative technique. The petitioner provides no support for these smaller setbacks. The petitioner proposes a 75' setback from the east and west project boundary lines and a 35' setback from the south boundary line in the SF area.

The plan shows a recreational area located near the entrance to the SF area. The recreational area appears to be approximately an acre in size. Typically, the county has required that a minimum of 5% of the total acreage be maintained in open space. If the request is approved, it is the staff's opinion a minimum of five (5) acres, or 5% of the 96 acre residential area, should be reserved for usable open space.

The County's landscaping regulations would require a 20' vegetative buffer adjacent to the right-of-way line of SR 50 which is not reflected on the plan. Additionally, County LDRs require that new single family and multifamily development with more than 20 units, provide at least one treed roadway/access way for motor vehicles extending through the length or width (whichever is greater) of the development with a vegetative buffer at least 10' in width. The petitioner would be required to meet the applicable LDRs.

The plan indicates a 30' natural buffer around the perimeter of the SF development, excluding the drainage retention area in the southwest corner. The Planning staff is of the opinion that if the request is approved, the petitioner be required to provide the natural buffer around the entire perimeter of the SF uses area. Commercial PDPs are required to provide a minimum 5' buffer adjacent to residential, agricultural-residential or agricultural uses external to the PDP. The Planning staff is of the opinion that if the request is approved, the petitioner shall provide a minimum 20' natural buffer between the commercial area and the adjacent properties, which are zoned AG and AR.

If the request is approved, the developer will be required to provide parking as required per the County parking LDRs. Signage on the property will be subject to the County sign ordinance.

SF residential development with lots 1/4 acre or less are required to provide sidewalks. The Planning staff is of the opinion that if the request is approved, the development include sidewalks to provide pedestrian interconnection between the commercial and SF residential areas.

The subject property is located on Cortez Boulevard. 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 plan submitted proposes stubbing the reverse frontage road to the eastern property boundary upon demonstration of need by the County. If the request is approved, the reverse frontage road must be built when the commercial portion is developed in order to prevent direct access to the commercial development from Cortez Boulevard.

Although the subject property has frontage on Cortez Boulevard, it does not have access to a full median cut. According to the site plan provided, the primary access, located at the eastern end of the Cortez Boulevard frontage, would have right-in/right-out/left-in access. The Planning staff is of the opinion that the lack of an alternative roadway network, the uses proposed, the site's location east of Brooksville, and the lack of left-out access would generate a significant number of U-turns

on Cortez Boulevard. The Planning staff is of the opinion the intensity proposed is premature until a denser roadway system is developed in the area.

The plan submitted indicates one entrance into the SF area. The County's LDRs require at the time of conditional plat review, interconnections be considered every 1320'. The Planning staff is of the opinion the SF residential areas should have additional access points to the east and west; however, the area lacks a roadway network to allow such interconnections.

The plan shows a cul-de-sac longer than the maximum 600' in length. The petitioner requests a deviation from the roadway standards for a 700' cul-de-sac. The Planning staff is of the opinion that the if the request is approved, the deviation from the roadway standards should be denied because the petitioner provides no justification for the request.

The petitioner proposes the potential of a private roadway network south of the reverse frontage road. The petitioner indicates that the configuration of gated entrances, if provided, will be coordinated with the County Engineer. The Planning staff objects to the proposed private roadways because the private roadways would preclude opportunities for interconnections in the area. The County Engineer has noted some of the roadway curves and radii do not meet the roadway design guidelines. If the request is approved, the roadways shall be designed to meet the County design guidelines, and the petitioner's access management plan shall be subject to the County Engineer's approval.

The petitioner proposes serving the site with central water and sewer. The subject property is within the City's right to serve area. Central water and sewer service capacity are available to serve the site. Central water and sewer services can be made available to serve the project. An extensive length of force main would be required at a substantial cost to extend sewer to the subject property.

The closest point of connection for city water service is approximately 700' to the northwest at the intersection of Cortez Boulevard and Rosebud Lane. The closest point of location for city sewer service is approximately 8000' to the northwest at the intersection of Martin Luther King Jr. Blvd. and School Street. The City has indicated the developer will have to apply to the City for connection to the City's system. The staff is of the opinion that if the request is approved the entire development should be served by central water and sewer service.

The Hernando County School Board has indicated that elementary school students will be allocated to Moton Elementary School, middle school students to D. S. Parrott Middle School and high school students to Hernando High School. The School Board estimates the proposal would add approximately 95 students to the school district, which could not be accommodated by current permanent capacity. The students could only be accommodated by adding additional permanent capacity, adding portables, redrawing of school boundaries or a combination of these options.

County data resources show that there is a Class 3 wetland as defined by the County's Comprehensive Plan in the northwest portion of the subject property. The wetland appears to be on a slope between the 150 and the 130 foot contour and may constitute a seepage slope. All future plats and construction drawings should delineate this feature. The petitioner would be required to conserve the wetland. Any removal, alteration, or encroachment of this wetland shall be mitigated through applicable state and federal permitting processes.

Staff located what appears to be an active sinkhole on the northeast portion of the subject property. The sink serves as the natural drainage feature on the subject property and portions of the surrounding area. Several confluences lead to the sink. The feature is wet and will need to be delineated. The feature should be investigated to determine the exact type of feature that is present. If designated as a SPA, a 500' buffer will be required (as measured from the outer boundary) in accordance with the GPO. Discharges of untreated stormwater to a SPA would be prohibited. The Florida Yards and Neighborhoods (FYN) Program should be implemented if a SPA is delineated on-site.

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

#### **FINDINGS OF FACT**

The area is characterized by commercial and single family residential uses, and undeveloped parcels. Parcels zoned C-2 and C-4 are located across Cortez Boulevard from the subject property. The Coca-Cola bottling plant and a trucking company are located on the north side of Cortez Boulevard. The subject property is located on the south side of Cortez Boulevard. Development on the south of Cortez Boulevard includes agricultural uses and low-density rural residential uses.

The subject property is located within residential and rural land use classifications on the adopted Future Land Use Map. Approximately the northwest quarter of the subject property is located within the residential land use category. Land uses allowed in the residential category include single family densities up to 5.4 units per acre, resort residential and ancillary land uses such as recreation, churches, and community centers. Land uses which can be located in this category with performance standards being met include 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.

Approximately three-quarters of the subject property is located within the rural land use category. Policy 1.01B(10) indicates residential land uses consistent with those uses allowed in the residential land use category are allowable up to 1,320' into the rural land use category. The mapping associated with the Comprehensive Plan is generalized.

The petitioner proposes developing 96 acres with 279 SF homes at a density of 2.9 units per acres. Policy 1.01F(3) indicates that medium high density zoning districts shall be directed to areas within or adjacent to urbanizing sectors within the County at densities not to exceed 4.0 units per acres. The Planning staff is of the opinion that the subject property is not located within or adjacent to an urbanizing area.

Policy 1.01A(9) indicates the LDRs shall establish a Planned Developed Plan (PDP) district which can be used for single use or mixed use projects, with flexibility in standards allowed if projects provide environmental protection, landscaping, open space, public facilities, innovative planning design or other appropriate public benefits. The Planning staff is of the opinion that if the request is approved, the petitioner should provide appropriate environmental protection regarding the SPA and wetland issues.

Policy 1.01L(7) indicates the County shall establish standards to promote the integration of pedestrian traffic within and between commercial developments and adjacent residential areas. The Planning staff is of the opinion if the request is approved, the petitioner shall provide pedestrian interconnection throughout the subject property.

Policy 1.01A(10) indicates the Comprehensive Plan shall provide a maximum opportunity for application of innovative concepts of site planning in the creation of aesthetically pleasing and natural system preserving living, shopping, and working environments on properties of adequate size, shape and location. The Planning staff is of the opinion the petitioner has not adequately demonstrated how the proposed development will be aesthetically pleasing and has not adequately addressed the flood, SPA or wetlands issues on the property.

The Planning staff is of the opinion that the request to rezone from AG to C/PDP(GC) and (SF) with a reduction in setbacks and a deviation from the roadway standards is not appropriate, based on the following conclusions:

1. The proposed development would be incompatible with the surrounding land uses.
2. The proposed rezoning would be inconsistent with the Comprehensive Plan.

**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 from AG to C/PDP(GC) and (SF) with a reduction in setbacks and a deviation from the roadway standards.

**P&Z RECOMMENDATION:**

At their November 8, 2004, hearing, based on the information provided, the Planning and Zoning Commission made the following findings:

1. The proposed development would be infill development in an urbanizing area.
2. The proposed rezoning, with performance conditions, would be compatible with the surrounding land uses.
3. The proposed rezoning would be consistent with the adopted Comprehensive Plan.

The P&Z voted 3-2 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request to rezone from AG to C/PDP(GC) and (SF) with a reduction in setbacks 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 development shall be served by central water and sewer service.
3. The setback from Cortez Boulevard shall be 75'.
4. The commercial setbacks shall be as follows: 35' from the reverse frontage road, 20' from the side lot lines, 35' from the rear lot lines and 35' from the entrance road.
5. The single family setbacks shall be as follows:

The 6,000 and 7,500 square foot lots shall have setbacks as follows:

Front: 25'    side: 5'    rear: 15'

The 12,000 square foot lots shall have setbacks as follows:

Front: 25'    side: 7.5'    rear: 20'

6. The development shall include 10 acres of park area.
7. The development shall have two access points between the commercial and single family residential areas.
8. The development shall have a 50' buffer with 80% opacity along the east and west property lines.
9. The development shall have a pedestrian connection between the east and west sections.
10. The petitioner shall work with the County Engineer, County staff and the FDOT to try to provide left-in and left-out access for the project.
11. The petitioner shall provide a modified plan prior to the BCC hearing.

**NOTE:**

At this time, the petitioner has not provided a modified plan as required by the P&Z.

The applicant submitted a preliminary floral and faunal survey of the subject property at the November 8, 2004 P&Z meeting. No listed wildlife species were observed during the survey. One listed plant species was observed, needle palm (*Rhapidophyllum hystrix*). This plant is listed as commercially exploited by the Florida Department of Agriculture and Consumer Services. No specific state permitting pertains to the destruction of these plants by a landowner on private land. The floral and faunal survey noted several wetland areas totaling approximately 4 acres on the eastern side of the subject property.

If the BCC elects to approve the petitioner's request, the staff would propose the following modifications to the P&Z recommendation:

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 development shall be served by central water and sewer service.
3. The setback from Cortez Boulevard shall be 75'.

4. The commercial setbacks shall be as follows: 35' from the reverse frontage road, 20' from the side lot lines, 35' from the rear lot lines and 35' from the entrance road.
5. The single family setbacks shall be as follows:  

The 6,000 and 7,500 square foot lots shall have setbacks as follows:  
Front: 25' side: 5' rear: 15'

The 12,000 square foot lots shall have setbacks as follows:  
Front: 25' side: 7.5' rear: 20'
6. The development shall include 10 acres of park area.
7. The development shall have two access points between the commercial and single family residential areas.
8. The development shall have a 50' buffer with 80% opacity along the east, south and west property lines.
9. The development shall have a pedestrian connection between the commercial and residential areas and the east and west sections.
10. The petitioner shall work with the County Engineer, County Staff and the FDOT to try to provide left-in and left-out access for the project.
11. All wetland areas shall be delineated on future plats and construction drawings. Any removal of, alteration of, or encroachment into this wetlands shall be mitigated through applicable state and federal permitting processes.
12. The extent of the sinkhole feature and the 500' SPA buffer shall be delineated on future plats and construction drawings.
13. All roadways and finished floor elevations shall be above the Bystre Lake 100 year flood elevation.
14. The reverse frontage road must be built when the commercial portion is developed.
15. The maximum number of single family lots shall be 279.
16. Development shall occur generally in accordance with the plan submitted.

17. A master plan shall be provided within 30 days of BCC approval reflecting the zoning conditions or the rezoning shall become null and void.

**BCC ACTION:**

On December 8, 2004, the Board of County Commissioners voted 5-0 to adopt Resolution # 2004-322 denying the petitioner's request to rezone from AG to C/PDP(GC) and (SF) with a reduction in setbacks.