

## STAFF REPORT

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

---

**APPLICANT:** James Sterling **FILE NUMBER:** H-06-100

**PURPOSE:** Rezoning from AG(Agricultural) to C-1 (General Commercial) or CM-1 (Commercial Marine)

### GENERAL

**LOCATION:** Approximately 500' south of the intersection of Calienta Street and Shoal Line Boulevard, on the east side of Shoal Line Boulevard

### LEGAL

**DESCRIPTION:** A portion of Sections 12 and 13, Township 23 South, Range 16 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

North: C-1, C-2 & AG

South: C2

East: CV

West: C-2; CM-1; C-1

#### Surrounding Land Uses

Undeveloped; convenience store

Marina

Undeveloped

Marina; Motel

### SUMMARY OF REQUEST

The petitioner has submitted a request to rezone the subject property from AG (Agricultural) to Commercial. The petitioner has indicated the proposed future use of the property is for a dive shop to include sales of diving equipment and diving instruction. The Development Department indicated that the petitioner's proposal would be allowable within the Commercial Marine-1 zoning district. The petition was advertised for a rezoning to C-1 (General Commercial) or CM-1 (Commercial Marine).

### FACTUAL INFORMATION

1. The property is currently zoned AG (Agricultural).
2. The property comprises approximately 1.63 acres.
3. The site is undeveloped.

4. The site does not appear to contain majestic and specimen trees.
5. The subject property has access from Shoal Line Blvd (CR 587), a major collector roadway.
6. The subject property is mapped within a conservation land use classification on the adopted Future Land Use Map.
7. The on-site soil type is Udalfic Arent S-Urban Land Complex.
8. The property is located in a flood zone AE.
9. The subject property contains a Class 1 wetland, and Special Protection Areas (SPA), but no Wellhead Protection Areas (WHPA) according to County data resources.
10. The Utilities Department has indicated that central water and sewer are available to serve the subject site.
11. There are adequate public facilities available to serve the subject property.
12. The petitioner has not requested any deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner is requesting a rezoning of the subject property in order to allow construction of a two story structure that will operate as a dive shop, with associated diving lessons, on the subject property.

The petitioner submitted a sketch of the subject property which depicts a future building at the south end of the project, with a 35' setback from Shoal Line Boulevard. The minimum setback requirement along Shoal Line Boulevard is 75'. The petitioner requested a setback reduction in the request; however, has been advised since the application is not a planned development project and reduction cannot be considered. The petitioner has been advised if the zoning is approved, a variance would have to be applied for as the petitioner proceeds in the development process.

A portion of the subject property is designated as a SPA associated previously with a mining area. The mining has ceased and the area is now designated as conservation on the future land use map.

The Utilities Department has indicated that central water and sewer are available to serve the subject site. There is an existing 8-inch waterline on the eastside of Shoal Line Blvd and a 12-inch waterline on the west side of Shoal Line Blvd. There is an existing 8-inch gravity sewer system in Shoal Line 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 County Engineer has reviewed the request and had no comments.

The County's Transportation Planner has indicated that Shoal Line Boulevard operates at level of service (LOS) C.

The Southwest Florida Water Management District has indicated that the canal just south of the proposed project serves as a fireline to protect the urban interface from prescribed fire and wildfire. At the proposed location, there is an herbaceous/shrub wetland that affords some protection from fire, but may also serve to promote fire under certain conditions. Therefore, the District would appreciate the opportunity to work with the petitioner as he designs his facilities to ensure that the any development will be sufficiently protected from wildfires and prescribed burns; to explore opportunities to minimize/mitigate impacts that may occur from prescribed fire management; and, to ensure that the property will be developed in a manner that will not unnecessarily impede the District's ability to adequately manage the Preserve. Also, the petitioner should be made aware that fire is routinely utilized on the Preserve, and that smoke and ash may infrequently be present.

### **FINDINGS OF FACT**

The subject property is located along Shoal Line Boulevard in an area developed with commercial uses and marine commercial uses.

The subject property is mapped within a conservation land use classification on the adopted Comprehensive Plan. The mapping criteria of the comprehensive plan indicates that within the coastal zone, any unmapped uplands within the conservation land use designation which have direct access to the County roadway network shall be considered to have a residential land use designation which potentially allows all of the land uses specified in the adopted Comprehensive Plan. The subject property contains uplands and has direct access to Shoal Line Boulevard, a county collector roadway.

The adopted comprehensive plan provides for the establishment of zoning categories and land development regulations to provide for the location of specialty commercial uses which do not normally function within commercial nodes. Marine commercial districts are considered specialty districts and must be located proximate to existing waterways, including the Gulf of Mexico, Weeki Wachee River, and the Withlacoochee River; provide some water dependent service or product; provide for the minimization of adverse impacts on the waterways they are proximate to. Given the proximity of the proposed property to the established commercial marine uses, the subject request meets the criteria of the comprehensive plan relative to specialty commercial zoning.

According to County data resources the subject property contains a Class 1 wetland. Policy 6.05A(3) of the County's Comprehensive Plan prohibits the removal, alteration or encroachment within a Class 1 wetland unless there are no other feasible or practical alternatives that will permit a reasonable use of the land or there is an overriding public benefit. There appears to be adequate area on the site outside of the wetland for development; consequently, the staff would not support rezoning the entirety

of the property, just the area outside of the wetland. The applicant has been advised and is agreeable to a limit on the area to be rezoned.

The rezoning from Agricultural to CM-1 (Commercial Marine) on a portion of the project is appropriate, based on the following conclusions:

1. CM-1 (Commercial Marine) zoning on the portion of the site outside of the wetland is consistent with the Specialty Commercial uses allowed in the adopted Comprehensive Plan.
2. The subject property is an appropriate location for Specialty Commercial uses.
3. The proposal on a portion of the site is 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, it is recommended the Planning and Zoning Commission recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request to rezone from Agricultural to CM-1 (Commercial Marine) on the portion of the site outside of the wetland. The petitioner shall delineate the wetland within 30 days so that the zoning file can be finalized.

It is understood that 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.

**P&Z RECOMMENDATION:**