

**STAFF REPORT**

Planning & Zoning Commission: March 13, 2006  
Board of County Commissioners: April 12, 2006  
Planning & Zoning Commission: April 10, 2006  
Board of County Commissioners: May 10, 2006

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**APPLICANT:** Newton Oldacre McDonald LLC **FILE NUMBER:** H-06-23

**PURPOSE:** Rezoning from PDP(GHC)/Planned Development Project (General Highway Commercial) to PDP(GC)/Planned Development Project (General Commercial) with a C-2 use of Automobile Service Establishment

**GENERAL**

**LOCATION:** West side of Exultant Drive, west of US 19, approximately 800' south of Pacific Avenue

**LEGAL**

**DESCRIPTION:** Lot 2, Hernando Square Plaza North, as per plat thereof recorded in Plat Book 30, Pages 3 - 4, of the Public Records of Hernando County, Florida in Section 10, Township 23 South, Range 17 East

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

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(GC), PDP(SF)	Miniwarehouses, DRA
South: PDP(GHC), C-2	Commercial
East: PDP(GC), C-2	Undeveloped
West: PDP(GHC), PDP(SF)	Commercial, DRA

**SUMMARY OF REQUEST**

The petitioner requests to rezone from PDP(GHC) to PDP(GC) with a C-2 use of Automobile Service Establishment. The subject property is located on the west side of Exultant Drive, west of US 19, approximately 750' south of Pacific Avenue.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(GHC).

2. The property comprises approximately 1.4 acres.
3. The site is undeveloped.
4. The site contains no majestic or specimen trees.
5. The subject property has access from Exultant Drive.
6. The subject property is located within a commercial 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 is available to serve the subject site.
11. There are adequate public facilities available to serve the subject property.
12. The area is characterized by commercial and single family residential uses, and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner requests to rezone from PDP(GHC) to PDP(GC) with a C-2 use of automobile service establishment in order to develop the site with an automobile service establishment. All C-1 uses are permitted in the PDP(GHC) zoning category. An automobile service establishment limited to four (4) bays is a C-1 use. An automobile service establishment with more than four (4) bay is a use permitted in the C-2 zoning category. The petitioner is proposing an 8 bay facility which requires C-2 zoning.

The plan shows setbacks as follows: 75' from Exultant Drive, 20' side setbacks and a 35' rear setback. The proposed setbacks meet or exceed the minimum setbacks require per the LDRs.

The Utilities Department has indicated that central water and sewer capacity is available to serve the subject site. An 8" water line and an 8" gravity sewer are located on the west side of Exultant Drive.

The plan shows two (2) access points on Exultant Drive. The County Engineer indicates that if the request is approved, the petitioner shall be limited to one access point.

The FDOT, Gulf Coast Conservancy and SWFWMD have been notified of the request; no responses have yet been received.

### **FINDINGS OF FACT**

The area is characterized by commercial and single family residential uses, and undeveloped parcels. The Regency Oaks single family residential subdivision is located to the west of the subject property. The subject property is located between parcels zoned PDP(GHC) and PDP(GC) with a C-2 use of miniwarehouses.

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. The subject property is located in an area zoned for single family residential and general commercial development. The Planning staff is of the opinion the proposed zoning allowing the C-2 use of automobile service establishment would allow the encroachment of incompatible uses that are destructive to the character and integrity of the residential environment and commercial environment.

The Planning staff is of the opinion that rezoning the subject property from PDP(GHC) to PDP(GC) with a C-2 use of automobile service establishment would not be appropriate, based on the following conclusions:

1. The proposed C-2 use is too intense for the subject property.
2. The proposed rezoning would encroach into an established single family residential area.
3. The proposed rezoning is not consistent with the County's adopted Comprehensive Plan and is not compatible with the surrounding land uses.

**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 PDP(GHC) to PDP(GC) with a C-2 use of automobile service establishment.

**P&Z RECOMMENDATION:**

At the March 13, 2006 meeting, the P&Z voted 5-0 to postpone hearing the request until the April 10, 2006 meeting at 9:30 a.m.

**NOTE:**

The petitioner provided a revised plan on March 20<sup>th</sup> with changes intended to mitigate the impacts of the proposed C-2 use on the Regency Oaks single family residential subdivision: the building has been relocated in order to orient the bays toward US 19 and away from Regency Oaks and the vegetative buffer along the north lot line has been increased from 5' to 50'. The Planning staff is of the opinion the subject property is not an appropriate place for a C-2 use of automobile service establishment.