

**STAFF REPORT**

Planning & Zoning Commission: August 11, 2003  
Board of County Commissioners: September 10, 2003

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**APPLICANT:** Peter DeNunzio **FILE NUMBER:** H-03-48  
P-03-11C

**PURPOSE:** Rezoning from C-1 (Commercial) and PDP(GHC)/(General Highway Commercial) to PDP(GC)/(General Commercial) with an additional C-2 use of miniwarehouses and associated outdoor storage, and a reduction in setbacks, and Conditional Plat approval for Hernando Square Plaza North Revised Phase 2

**GENERAL LOCATION:** West of US 19, south of Flyway Drive, located west and east of Exultant Drive

**LEGAL DESCRIPTION:** Lot 3, Hernando Square Plaza North Phase 2, as per plat thereof recorded in Plat Book 32, Page 11, of the Public Records of Hernando County, Florida in Section 10, Township 23 South, Range 17 East and Lots 11 and 12, Block 45, Township of Berkeley, as per plat thereof recorded in Plat Book 4, Page 10, of the Public Records of Hernando County, Florida in Section 10, Township 23 South, Range 17 East

**FILE STATUS:** All legal obligations have been completed.

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

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(SF), PDP(GHC)	Regency Oaks, SF, undeveloped
South: PDP(SF), PDP(GHC)	DRA, Undeveloped
East: PDP(GHC), C-1, C-2	Commercial, undeveloped
West: PDP(GHC), PDP(SF)	Regency Oaks, DRA

**SUMMARY OF REQUEST**

The petitioner requests to rezone from C-1 and PDP(GHC) to PDP(GC) with an additional C-2 use of miniwarehouses and associated outdoor storage with a reduction in setbacks. The subject property is located approximately 500' west of US 19, 400' south of Flyway and west and east of Exultant Drive.

**FACTUAL INFORMATION**

1. The property is currently zoned C-1 and PDP(GHC).

2. The property comprises approximately 7.5 acres.
3. The site is currently undeveloped.
4. The subject property has access from US 19, Flyway Drive and Exultant Drive.
5. The subject property is located within a commercial land use classification on the adopted Future Land Use Map.
6. 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.
7. The property is located in a flood zone C.
8. The subject property contains no wetlands, WHPAs or SPAs according to County data resources.
9. The Utilities Department has indicated that central water and sewer are available to serve the subject site.
10. There are adequate public facilities available to serve the subject property.
11. The area is characterized by commercial and single family residential uses and undeveloped parcels.
12. The petitioner has requested a multiple setback reductions, which are deviations from the County's LDRs.

### **STAFF DISCUSSION**

The petitioner has requested to rezone the subject property from C-1 and PDP(GHC) to PDP(GC) with an additional C-2 use of miniwarehouses and associated outdoor storage with a reduction in setbacks. The petitioner has indicated he intends to develop the property with miniwarehouses and associated outside storage.

The property currently consists of one lot west of Exultant Drive approximately 7.13 acres in size and two lots east of Exultant Drive consisting of approximately 0.37 acres combined. The plan submitted indicates the subject property consists of four (4) lots: Lots 3A and 3B (each approximately an acre in size, located west of Exultant Drive), Lot 3C (approximately 5.13 acres, located west of Exultant Drive) and Lot 3D (approximately 0.37 acres in size, located east of Exultant Drive). The subdivision request is currently under review and has not yet been approved.

The plan submitted indicates that miniwarehouse storage would be located on the 5.13 acres of the property west of Exultant Drive. Outdoor storage of RVs and boats is proposed to be located in the northeast area of the 5.13 acre lot. Two one-acre lots with C-1 uses are proposed with access to Exultant Drive. The miniwarehouse office and additional parking for Outback Steakhouse are proposed for the portion of the property east of Exultant Drive. The plan provided does not indicate the number of parking spaces to be provided. If the request is approved, the developer must provide the number of parking spaces as required by the LDRs.

The Planning staff is of the opinion that if the request is approved, the proposed development should be constructed in accordance with the commercial design standards for commercial development whose total gross building area is less than 25, 000 square feet as provided for in the County's LDRs regardless of the total gross building area of the project.

The petitioner requests a reduction in setbacks. The plan submitted indicates Lots 3A, 3B and 3C would have a front setback of 25' from Exultant Drive. The Planning staff would not support a reduction in setbacks from the minimum 35' required from the roadway frontage. Nor would the Planning staff recommend the requested front lot line setback on Lot 3D from 35' to 10'. The plan indicates a 20' side setback on Lot 3C adjacent to the commercial to the south west and a 10' setback adjacent to the DRA to the southwest. The Planning staff objects to the request for a reduction in setbacks adjacent to the DRA. Activities on the subject property are clearly visible from across the DRA. The plan indicates a 50' setback from the rear/northwest and rear/north and side/northeast lot lines of Lot 3C and from the northeast and east side lot lines on Lot 3A, exceeding the 35' and 20' setbacks required. The Planning staff does not object to the 50' setbacks proposed. The plan indicates 15' setbacks on Lot 3C adjacent to the proposed one-acre commercial lots, less than the 20' required, and 15' setbacks from the rear lot lines on Lots 3A and 3B, less than the 35' setbacks required. The petitioner proposes 10' side setbacks on Lot 3D adjacent to the Outback Steakhouse property. The Planning staff would not support these requests for setback reductions without justification provided. The plan provided indicates a 75' setback from US 19 on Lot 3D. The Planning staff would not object to the 75' setback, because other properties in the area have received similar reductions in setbacks from US 19.

The plan submitted indicates a 12' buffer wall easement located adjacent to the Regency Oaks subdivision. The PDP rules require nonresidential PDPs to provide a 5' vegetative buffer with screening adjacent to residential uses. The petitioner indicates the Regency Oaks property contains an 8' wall adjacent to the subject property. The Planning staff is of the opinion that if the request is approved, the petitioner should provide a revised plan indicating a vegetated buffer within the 12' buffer area indicated, with understory landscaping and trees planted every 25'.

The Utilities Department has indicated that central water and sewer are available to serve the subject site.

The petitioner indicates a free-standing sign of less than 150 square feet is proposed on the property east of Exultant Drive. This is consistent with the County LDRs.

The plan submitted indicates four driveways on the property west of Exultant Drive. The County Engineer has reviewed the request and has indicated that the property to the west may have a maximum of two

driveways accessing Exultant Drive and no access to Flyway Drive. The County Engineer indicates the property east of Exultant Drive may not have access to US 19. The County Engineer requests that if the request is approved, the access management plan be subject to his approval.

The FDOT, SWFWMD and the Gulf Coast Conservancy have been notified of the petition; 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 subdivision is located to the north and northwest of the subject property. Residential uses and undeveloped properties are located to the northeast of the subject property. A DRA is located to the west of the property. Commercial uses and vacant properties are located to the south and east of the subject property.

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

Policy 1.01H(2) encourages the protection of existing and future residential areas from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment. The subject property is located adjacent to an area characterized by residential development. The Planning staff is of the opinion the proposed uses would be compatible with the surrounding uses with proposer design standards.

Policy 1.01L(8) indicates that during the land use approval process for higher intensity commercial uses, appropriate buffering will be considered to maintain a separation from existing or proposed residential uses. The buffering method may include lower intensity commercial or multifamily uses creating a pattern of higher to lower intensity. The Planning staff is of the opinion that rezoning the subject property to allow for the C-1 uses currently allowed and one additional C-2 use of miniwarehouses with outside storage and a reduction in setbacks would result in an intensity appropriate between the commercially-zoned parcels to the south and east and the residential uses to the north.

It is the staff's opinion that rezoning the subject property from C-1 and PDP(GHC) to PDP(GC) with an additional C-2 use of miniwarehouses and associated outdoor storage and a reduction in setbacks, with performance standards, would not be incompatible with the surrounding area nor inconsistent with the Comprehensive Plan.

## CONDITIONAL PLAT ISSUES

Submitted with the rezoning petition is a request for conditional plat approval for Hernando Square Plaza North Revised Phase 2. The project will consist of 4 commercial lots on 7.5 acres. Lot 3D currently exists as a tract. There may be issues associated with the development of this lot. Access to all 4 lots shall be from Exultant Drive.

The conditional plat has been reviewed by the various agencies and the following comments were made:

Hernando Utilities - Hernando County will provide central water and sewer service.

Planning Department:

1. Indicate the existing right-of-way width for Exultant Drive on the conditional plat.
2. Indicate which existing Drainage Retention Area(s) will be used for this project.
3. Provide location of proposed drainage easements on the conditional plat.
4. Provide a 5' access reservation strip along US 19 on lot 3D.

**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, which may include review by the Development Review Committee (DRC).**

**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 # \_\_\_\_\_ approving the petitioner's request to rezone from C-1 and PDP(GHC) to PDP(GC) with an additional C-2 use of miniwarehouses and associated outdoor storage and 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, including review of the proposed use through the DRC process.

2. The property to the west of Exultant Drive may have a maximum of two driveways accessing Exultant Drive.
3. The subject property shall have no access to Flyway Drive and US 19.
4. The access management for the site shall be subject to the County Engineer's approval.
5. The development shall meet the commercial design standards for commercial development whose total gross area is less than 25,000 square feet as provided for in the County's LDRs, regardless of the size of the project.
6. The setbacks are approved as follows:

From US 19:	75'
From side lot lines:	20'
From Exultant Drive:	35'
From Flyway Drive:	50'
From rear lot line adjacent to Regency Oaks:	50'
7. The petitioner shall provide a revised plan before the BCC hearing indicating a 12' vegetated buffer adjacent to Regency Oaks and the DRA, with understory landscaping and trees planted every 25'.
8. The petitioner shall provided a revised plan within 30 days or the rezoning shall be null and void.

**CONDITIONAL PLAT:**

The Planning Staff recommends that the Planning and Zoning Commission approve the conditional plat of Hernando Square Plaza North Revised Phase 2 subject to the conditional plat being revised in 30 days to show the following or it shall become null and void:

1. The conditional plat shall expire in two (2) years if no further approvals in the subdivision process are obtained.
2. Indicate the existing right-of-way width for Exultant Drive on the conditional plat.
3. Indicate which existing Drainage Retention Area(s) will be used for this project.
4. Provide location of proposed drainage easements on the conditional plat.
5. Provide a 5' access reservation strip along US 19 on lot 3D.

**P&Z RECOMMENDATION:**

On August 11, 2003, the Planning and Zoning Commission voted 5-0 to recommend the Board of County Commissioners adopt Resolution # \_\_\_\_\_ approving the petitioner's request to rezone from C-1 and

PDP(GHC) to PDP(GC) with an additional C-2 use of miniwarehouses and associated outdoor storage and a reduction in setbacks, with the following modified 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, including review of the proposed use through the DRC process.
2. The property to the west of Exultant Drive may have a maximum of two driveways accessing Exultant Drive.
3. The subject property shall have no access to Flyway Drive and US 19.
4. The access management for the site shall be subject to the County Engineer's approval.
5. The development shall meet the commercial design standards for commercial development whose total gross area is less than 25,000 square feet as provided for in the County's LDRs, regardless of the size of the project.
6. The setbacks are approved as follows:

From US 19:	75'
From side lot lines:	20'
From Exultant Drive:	35'
From Flyway Drive:	50'
From rear lot line adjacent to Regency Oaks:	50'
7. The petitioner shall provide a revised plan before the BCC hearing indicating a 12' vegetated buffer adjacent to Regency Oaks and the DRA, with understory landscaping and trees planted every 25'.
8. The petitioner shall provided a revised plan within 30 days or the rezoning shall be null and void.
9. The outside storage area shall be covered.
10. The applicant shall meet with the homeowners association and indicate to the BCC before their hearing whether the homeowners association requests the outside storage area to be covered.

NOTES:

Given the configuration of Lot 3D, the majority of the Planning and Zoning Commissioners did not object to the setback reduction along Exultant Drive from 35' to 10'. Commissioner Nicholson did not object to a reduction of some amount; however, indicated that the minimum reduction possible should be considered. The petitioner was requested to provide more specific information about the reduction for the BCC hearing.

Subsequent to the P&Z hearing, the petitioner provided a layout of Lot 3D. The petitioner is indicating a 30' x 40' building on the site with a 17' setback from Exultant Drive, and a 5' setback from the eastern property line adjacent to Outback Steakhouse for BCC consideration. The layout is included in this packet. If the BCC approves the rezoning request with the setback reduction on parcel labelled lot 3D, the following condition should be added:

11. The minimum setbacks for the parcel indicated as lot 3D are approved as follows:
- |                |     |
|----------------|-----|
| from Exultant: | 17' |
| from US 19:    | 75' |
| from side:     | 5'  |
| from north:    | 10' |

Also, subsequent to the P&Z meeting staff clarified condition #7 to read, “.....with understory landscaping and trees planted every 25'.” The intent of the condition was to require adequate buffering between Regency Oaks and the DRA but did not accomplish that objective as initially presented in the staff's recommendation.

**P&Z FINAL ACTION ON THE CONDITIONAL PLAT:**

On August 11, 2003, the Planning and Zoning Commission voted 5-0 to approve the conditional plat of Hernando Square North Revised Phase 2 subject to the following modified conditions:

1. The conditional plat shall expire in two (2) years if no further approvals in the subdivision process are obtained.
2. Indicate the existing right-of-way width for Exultant Drive on the conditional plat.
3. Indicate which existing Drainage Retention Area(s) will be used for this project.
4. Provide location of proposed drainage easements on the conditional plat.
5. Provide a 5' access reservation strip along US 19 on lot 3D.
6. The rezoning request for this development must be approved by the Board of County Commissioners or this conditional plat will become null and void.

**BCC ACTION:**

On September 10, 2003, the Board of County Commissioners voted 4-1 to adopt Resolution # 2003-250 approving the petitioner's request to rezone from C-1 and PDP(GHC) to PDP(GC) with an additional C-2 use of miniwarehouses and associated outdoor storage and 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, including review of the proposed use through the DRC process.
2. The property to the west of Exultant Drive may have a maximum of two driveways accessing Exultant Drive.
3. The subject property shall have no access to Flyway Drive and US 19.
4. The access management for the site shall be subject to the County Engineer's approval.
5. The development shall meet the commercial design standards for commercial development whose total gross area is less than 25,000 square feet as provided for in the County's LDRs, regardless of the size of the project.
6. The setbacks are approved as follows:

From US 19:	75'
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7. The petitioner shall provide a revised plan before the BCC hearing indicating a 12' vegetated buffer adjacent to Regency Oaks and the DRA, with understory landscaping and trees planted every 25'.
8. The petitioner shall provided a revised plan within 30 days or the rezoning shall be null and void.
9. The minimum setbacks for the parcel indicated as lot 3D are approved as follows:

from Exultant:	17'
from US 19:	75'
from side:	5
from north:	10'
10. Outside lighting shall be below eave level.
11. Outside storage is allowed for a max of 2 years from the date of the issuance of the C.O. for the buildings.

12. Buildings against the DRA and between the outside storage area and Regency Oaks would have to be constructed before any outside storage is allowed and the remaining boundaries not surrounded by buildings would have to be fenced with an opaque fence of pvc or similar material and the site boundaries would have to have 12' vegetative buffer.

**NOTE: It was the intent of condition #12 to have the entire boundary of Regency Oaks blocked by buildings before the outside storage could commence.**

**NOTE: Development should notify the homeowner's association of Regency Oaks when the building plans are brought in for commercial review.**

**NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE ON THIS ZONING APPROVAL MUST BE CONSISTENT WITH THE APPROVED MASTER PLAN, DEVELOPER'S NARRATIVE, DEVELOPER'S REPRESENTATIONS ON THE RECORD AND THE APPROVAL CONDITIONS BY THE BCC.**