

**STAFF REPORT**

Planning & Zoning Commission: July 11, 2005  
Board of County Commissioners: August 10, 2005

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**APPLICANT:** Boba Land Group **FILE NUMBER:** H-05-64

**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 Automotive Dealer Establishment, Including the Principal Selling of Used Cars

**GENERAL**

**LOCATION:** West side of US 19, approximately 575' south of Windward Boulevard

**LEGAL**

**DESCRIPTION:** Lot 6, Wal-Mart Center Subdivision, as per plat thereof recorded in Plat Book 19, Pages 90-91, of the Public Records of Hernando County, Florida in Section 21, 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(GHC)	Undeveloped
South: PDP(GHC)	Commercial
East: PDP(GHC)	Timber Pines ALF
West: PDP(GHC)	Communication tower

**SUMMARY OF REQUEST**

The petitioner requests to rezone from PDP(GHC) to PDP(GC) with a C-2 Use of Automotive Dealer Establishment, Including the Principal Selling of Used Cars. The subject property is located on the west side of US 19, approximately 575' south of Windward Boulevard.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(GHC).
2. The property comprises approximately 0.41 acres.

3. The site contains a doughnut shop.
4. The site has been developed and contains no majestic or specimen trees.
5. The subject property has access from a frontage road paralleling Cortez Boulevard.
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, but not sewer, is available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by commercial and institutional 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 automotive dealer establishment, including the principal selling of used cars in order to operate a used car dealership on the site. The site has been developed with a doughnut shop which has been closed. The petitioner indicates he does not intend to expand the existing building, but will provide additional parking area. If the request is approved, any additional parking area must meet the County LDRs.

The subject property has frontage on a frontage road paralleling US 19. The County Engineer does not object to the proposed access.

The petitioner indicates the site is served by central water and sewer service. The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site. The Utilities Department notes a 10" force main is located on the west side of US 19.

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

### **FINDINGS OF FACT**

The area is characterized by commercial and institutional uses, and undeveloped parcels. The subject property is an outparcel of a retail development formerly containing a Wal-Mart store. A restaurant is located to the south. A communication tower is located to the west. An undeveloped property zoned for C-1 uses is located to the north. The Timber Pines assisted living facility is located to the east on the east side of US 19.

Policy 1.01L(1) provides for the establishment of a commercial land use category, in which land uses such as commercial, recreation, office and professional, minor public facilities, and minor institutional uses are allowed. The subject property is located within a commercial land use classification on the adopted Future Land Use Map and is currently zoned PDP(GHC).

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 subject property is zoned PDP(GHC), as are the surrounding parcels. The Planning staff is of the opinion the proposed use is too intense for the surrounding area which has been zoned for and developed with C-1 uses. The Planning staff is of the opinion development on the site should be limited to the currently approved C-1 uses in order to be consistent with the surrounding zoning and land uses.

The staff is of the opinion that the proposed rezoning is inappropriate, based on the following conclusions:

1. The proposed zoning would be incompatible with the surrounding land uses.
2. The proposed zoning would be incompatible with the surrounding zoning.
3. The proposed zoning is inconsistent with the County's adopted 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 PDP(GHC) to PDP(GC) with a C-2 use of automotive dealer establishment, including the principal selling of used cars.

Note: At the P&Z meeting, the petitioner indicated that the actual use on the site would be an automotive rental establishment, not an automotive dealer establishment.

**P&Z RECOMMENDATION:**

At their July 11, 2005 hearing, based on the information provided, the Planning and Zoning Commission made the following findings:

1. Rezoning from PDP(GHC) to PDP(GC) with a C-2 use of automotive rental establishment is consistent with the County's adopted Comprehensive Plan and the County's land development regulations.
2. Rezoning from PDP(GHC) to PDP(GC) with a C-2 use of automotive rental establishment will be compatible with the commercially zoned parcels in the area.

The Planning and Zoning Commission voted 4- 0 to recommend the BCC adopt resolution # \_\_\_\_\_ approving a rezoning from PDP(GHC) to PDP(GC) with a C-2 use of automotive rental establishment, with the following performance condition:

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.

**NOTE:** The petitioner indicated that the actual use on the site would be an automotive rental establishment. It is the staff's position that the rental establishment is accommodated within the broader category of automotive dealer establishment, including the principal selling of used cars, without the need for readvertising. Further, it is the staff's opinion that approval of an automotive rental establishment would not be inconsistent with the adopted Comprehensive Plan; consequently, the staff is in agreement with the P&Z's recommendation.

**BCC ACTION:**

The BCC voted 5-0 to adopt resolution # 2005-218 approving a rezoning from PDP(GHC) to PDP(GC) with a C-2 use of automotive rental establishment, with the following performance condition:

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.

**NOTE: PLEASE NOTE THAT DEVELOPMENT ACTIONS TAKEN IN RELIANCE WITH 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.**