

January 8, 2024

MEMORANDUM

TO: Honorable Chairman and Members of the Board of County Commissioners

VIA: Jeffrey Rogers, County Administrator
County Administrator's Office

FROM: Cesar Omar DePablo, ~~Senior Planner~~ *Planning Manager*
Planning Department

SUBJECT: Special Exception Actions by the Planning and Zoning Commission on January 8, 2024

For the Board's information, on January 8, 2024, the Planning and Zoning Commission (P&Z) held a duly advertised public hearing to consider an advertised request for a Special Exception(s). Attached to this memorandum is (are) the staff report(s) and action(s) of the P&Z on the special exception request(s) at that scheduled public hearing.

A notification letter was sent on Tuesday, January 8, 2024, to inform the petitioner(s) of the P&Z action(s). According to Appendix A, Zoning, Article V, Section 8(1) of the Hernando County Code of Ordinances, the Board of County Commissioners, by a majority vote, may decide to review any special exception decision rendered by the P&Z. If at least a majority (three (3) members) of the governing body do not vote to review the P&Z decision within thirty (30) days, which would be Wednesday, February 7, 2024, the P&Z decision shall be deemed final and subject only to review by the circuit court. The review of the decision by the BCC shall be at a public hearing held within sixty (60) days of the P&Z decision. The board has the authority to continue, on its own motion, to a later date a final decision on any special exception matter pending before it for review.

The review of decision by the BCC would occur on the regular BCC hearing date of Tuesday, March 12, 2024, (calculated from the date of P&Z decision). "Public notice" for this hearing shall mean publication of notice of the time, place and purpose of such hearing one (1) time in a newspaper of general circulation in the county, such publication to be at least five (5) days prior to such hearing, and such notice shall be posted in a conspicuous place or places around such lots, parcels, or tracts of land as may be involved in the hearing. Affidavit proof of the required publication and posting of the notice shall be presented at the hearing.

The Board may affirm, modify, or reverse the decision of the P&Z at the hearing.

Copies: Applicant's File

STAFF REPORT

HEARINGS: Planning & Zoning Commission: January 8, 2024

APPLICANT: Alejandro Crespo

FILE NUMBER: SE-23-07

PURPOSE: Special Exception Use Permit for a Pigeon Aviary

GENERAL LOCATION: North side of Covent Garden Road, approximately 325' west of Wren Road

PARCEL KEY NUMBER: 726888, 726897

APPLICANT'S REQUEST:

The petitioner is requesting a Special Exception Use Permit on the subject property(s) zoned as R-1C(Residential) district to allow the petitioner to keep and maintain a pigeon aviary or pigeon loft as emotional support animals and to participate in competitive pigeon racing. The Hernando County Land Development Code provides for pigeon aviaries within AR (Agricultural/Residential) districts and the request seeks an exception to allow the aviary in the currently zoned R-1C(Residential) property. This is a request for a reasonable accommodation for a qualifying service-related disability pursuant to the Fair Housing Act

The proposed use of the subject property includes the use of an existing accessory structure that is 372 square feet (31'x12') to house pigeons. The roof is 13' high at its highest point and 9 feet high at its lowest point. The current aviary sits on a parcel that is roughly half an acre, but the applicant also owns an additional parcel adjacent to this parcel that brings the total property to almost one (1) full acre. A typical competitive pigeon aviary has around 150 pigeons. The petitioner's aviary houses 127 pigeons.

Pigeon aviaries are distinguishable from a chicken coop in several ways. Competitive racing pigeons are provided a specific organic food and dietary supplement that are designed to eliminate the spread of germs and keep the pigeons in healthy conditions. Furthermore, the aviary is cleaned daily, and any feces are removed and disposed of with solid waste collection. The feces are placed into garbage bags and then into garbage bins that are picked up on the weekly regular schedule by the applicant's garbage disposal service to be disposed on County sanctioned landfills.

Pigeon racing is also not a year-round competitive sport. The racing season usually runs from July to December. During the offseason, the pigeons are kept in the pigeon loft and are not released.

SITE CHARACTERISTICS:

Site Size:	0.94 acres
Surrounding Zoning and Land Uses:	North: R1-C: Single Family South: R1-C: Single Family East: R1-C: Single Family West: R1-C: Single Family
Current Zoning:	R1-C (Residential)
Future Land Use Map Designation:	Residential

LAND USE REVIEW:

Building Setbacks

Front:	25'
Side:	10'
Rear:	20'
Accessory Structures:	5'

Comments: The pigeon aviary is considered an accessory structure and must meet the minimum accessory structure setbacks for the R1-C (Residential) zoning district. Furthermore, the aviary shall be shield by an opaque fence from neighboring parcels

A special exception use permit is an additional use which may be granted by the Planning and Zoning Commission (P&Z) in accordance with the Land Development Regulations (LDRs). As part of the review, the P&Z must determine that the tract of land is suitable for the type of special exception use proposed by virtue of its location, shape, topography, and nature of surrounding development. The P&Z has the ability to assign reasonable conditions to the approval.

The special exception use permit is a land use determination only. All applicable development rules would have to be met if the permit is approved. Furthermore, Special Exception Use Permits shall be in compliance with the minimum Special Exception Use General Standards, Appendix A, Article V, Section 8(B) of the Hernando County Code.

If a developer fails to obtain a building permit for the vertical construction of the principal or primary building or the special exception use is not established within a period of not

more than two (2) years from the approval date, then the special exception use permit shall be null and void.

COMPREHENSIVE PLAN REVIEW:

The subject property is located within the Residential Land Use classification on the adopted Future Land Use Map. The area is characterized by half acre R1-C (Residential) parcels. The petitioners request, although specifically permitted in the AR (Agricultural/Residential) zoning districts, is being requested on the subject site as part of Reasonable Accommodation under the Fair Housing Act due to the subject site not qualifying for a rezoning.

FINDINGS OF FACT:

The request for a Special Exception Use Permit for a Pigeon Aviary is appropriate based on the following conclusions:

1. The proposed use is compatible with the surrounding area, is not adverse to the public interest, and is consistent with the County's adopted Comprehensive Plan with appropriate performance conditions.
2. The request meets the minimum requirements for Reasonable Accommodation.

NOTICE OF APPLICANT RESPONSIBILITY:

The special exception 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 Concurrency. 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. Homeowner 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 RECOMMENDATIONS:

It is recommended that the Planning and Zoning Commission approve the petitioner's request for a Special Exception Use Permit for a Pigeon Aviary, with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.

P&Z SPECIAL EXCEPTION RESULTS FROM JANUARY 8, 2023, PG. 5

3. The subject site shall be limited to a single pigeon aviary.
4. The pigeon aviary shall be screened by an opaque fence and shall not be visible from neighboring parcels.
5. The pigeon aviary shall be kept clean, and the industry's Best Management Practices shall be followed to ensure no odor leaves the subject site.
6. Pigeon waste shall be disposed of in accordance with the Hernando County Health Department.
7. The Special Exception shall run with the petitioner and shall not be transferable should the parcel be sold.

P&Z ACTION:

On January 8, 2024, the Planning and Zoning Commission voted 5-0 to deny the petitioner's request for a Special Exception Use Permit for a Pigeon Aviary due to incompatibility with the surrounding area.