

November 14, 2022

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 Department



SUBJECT: Special Exception Actions by the Planning and Zoning Commission on November 14, 2022

For the Board's information, on November 14, 2022, 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, November 15, 2022, to inform the petitioner(s) of the P&Z action(s). According to Appendix A, Zoning, Article V, Section 8(l) 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, December 14, 2022, 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, January 10, 2022, (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: November 14, 2022

APPLICANT: Donald Whitehead, Jr.

FILE NUMBER: SE-22-11

REQUEST: Special Exception Use Permit for a Place of Public Assembly, namely, a Venue for Special Events

GENERAL LOCATION: South of Cortez Boulevard (SR 50) across from Dorsey Smith Road

PARCEL KEY NUMBER: 1791341

APPLICANT'S REQUEST:

The petitioner is requesting a Special Exception Use Permit for a Place of Public Assembly, namely, a venue for Special Events. The subject site is a 30.0-acre parcel which will host concerts, weddings, food trucks and various community events. The petitioner is requesting 52 events per year, of which six (6) would be concert events (attendance may vary). Concert events will be limited to Fridays and Saturdays and would not start earlier than 3:00 PM. All other events will be based on customers' preferred dates and times but would not exceed County Noise Ordinance regulations. All parking will be contained onsite; off-duty deputies will be utilized for traffic control. No permanent structures are proposed at this time.

SITE CHARACTERISTICS:

Site Size: 30.0 acres

Surrounding Zoning & Land Uses: North: AG, AR; Undeveloped, Mobile Homes
South: AG; Undeveloped
East: AG; Undeveloped
West: AR; Undeveloped, Mobile and Single family

Current Zoning: AG (Agricultural)

Future Land Use Map Designation: Rural

UTILITIES REVIEW:

The Hernando County Utilities Department (HCUD) has indicated they currently do not supply water or sewer service to this parcel. Water and sewer service are not available to this parcel. HCUD has no objections subject to Health Department approval of any upgrades/improvements necessary to the existing Onsite Sewage Treatment and Disposal System due to the increased usage.

Comments: The petitioner proposes utilizing portable restrooms.

ENGINEERING & TRANSPORTATION REVIEW:

The site is located at the southeast corner of Cedar Lane and Cortez Boulevard (SR 50). The petitioner has proposed two (2) access points to provide adequate egress/ingress for all events. A location driveway is proposed at Cedar Lane and the second along Cortez Boulevard. The County Engineer has reviewed the request and indicated the following:

- This site contains three areas of 1% annual chance floodplain. Development within the floodplain requires specific permitting and mitigation to preserve floodplain volume.
- Development on the site must conform to the stormwater design requirements of Hernando County Facility Design Guideline and Southwest Florida Water Management District Environmental Resource Permit process.
- Cedar Lane driveway access is currently a residential connection, (installed with right-of-way Use permit #21-297). The driveway must be upgraded to commercial connection standard and may require paving from the edge of the roadway to the property line. Driveway will require a right-of-way use permit. Refer to Hernando County Facility Design Guideline IV-25.
- The petitioner must provide traffic control before, during and after all events.

LAND USE REVIEW:

Setbacks

Existing Building Setbacks:

Front: 125'
Side: 35'
Rear: 50'

Comments: The proposed tent and any other amenities related to the special events must meet the minimum setback requirements of the Agricultural District. The petitioner has not proposed any additional structures at the present time. Any future expansions related to the special events must meet the minimum building setbacks and will require an amendment to the Special Exception Use Permit.

Parking

County LDRs require minimum off-street parking ratios based on the type of use and/or overall square footage.

Comment: The parking ratio for Public Assembly & Recreation use is 0.3 spaces per seat/person. The petitioner has indicated a large open field for parking. The petitioner shall ensure that attendance does not exceed the ability of the property to adequately provide parking. No parking shall be allowed in the right-of-way.

Lighting

County LDRs require lighting that enhances the visual impact of the project on the community and to specifically address lighting intensity levels and glare accordingly. Commercial buildings and projects shall be designed to provide safe, convenient, and efficient lighting for pedestrians and vehicles.

Comments: The petitioner has indicated the use of portable light towers for the subject property. If approved, lighting should be designed with cutoff fixtures in order to retain all light on-site and prevent any light spillage onto neighboring properties.

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 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, the Special Exception Use Permit 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 Rural land use classification on the adopted Future Land Use Map and is characterized by agricultural lots.

Rural Category

Objective 1.04C: The Rural Category allows agriculture, agricultural commercial, agri-industrial, recreation, agritourism and residential land uses of a rural character. Certain neighborhood commercial uses may be allowed subject to locational criteria and performance standards. Residential density is 0.1 dwelling units per gross acre (1 unit per ten gross acres) except where otherwise indicated by the strategies listed herein and incorporated into the land development regulations.

Agricultural Lands Retention Strategies

Objective 1.04E: Agricultural pursuits are recognized as an important part of the economy and culture of Hernando County. The retention of agriculture will be pursued through multiple strategies in order to support traditional agriculture and changes in agricultural trends.

Strategy 1.04E(3): The review of development proposals in rural lands may include identification of productive farmland and agricultural operations in close proximity to the proposed development to ensure the compatibility of the proposed development with existing and potential agricultural operations and to minimize potential land use conflicts.

Comments: The subject site is in a rural area characterized by large agricultural tracts and is located adjacent to Cortez Boulevard. The proposed number of events (52) is compatible with the surrounding area subject to appropriate performance conditions.

FINDING OF FACTS:

The request for Special Exception Use Permit for a Place of Public Assembly, a venue for Special Events, is appropriate based on the following conclusions:

1. The request is consistent with the County's adopted Comprehensive Plan and is compatible with the surrounding land uses.
2. The proposed use is compatible with the area and not adverse to the public interest subject to compliance with all performance conditions

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 Place of Public Assembly, namely, a venue for Special Events, 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.
2. Minimum Building Setbacks:
 - Front: 125'
 - Side: 35'
 - Rear: 50'
3. The petitioner shall designate on-site areas for parking. Parking areas may include alternative paving techniques as approved by the Zoning Administrator.
4. Cutoff fixtures shall be used so that all light is retained on-site and spillage onto neighboring residential uses is avoided.
5. The number of events shall be limited to fifty-two (52) per calendar year.
6. Concerts shall be limited to Friday and Saturday.
7. No overnight stays shall be permitted.
8. Any future expansions or changes related to the special events, or the construction of any future new buildings shall require an amendment to the special exception use permit.
9. Adequate restroom facilities in accordance with the requirements of the Health Department shall be provided for all events.
10. The Driveways shall be required to meet County Standards.
11. Cedar Lane driveway access is currently a residential connection, (installed with right-of-way Use permit #21-297). The driveway must be upgraded to commercial connection standard and may require paving from the edge of the roadway to the

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property line. Driveway will require a right-of-way use permit. Refer to Hernando County Facility Design Guideline IV-25.

12. The petitioner shall utilize of duty officers for traffic control before, during and after all events.

P&Z ACTION:

On November 14, 2022, the Planning and Zoning Commission voted 4-0 to approve the petitioner's request for a Special Exception Use Permit for a Place of Public Assembly, namely, a venue for Special Events, with the following modified 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.
2. Minimum Building Setbacks:
Front: 125'
Side: 35'
Rear: 50'
3. The petitioner shall designate on-site areas for parking. Parking areas may include alternative paving techniques as approved by the Zoning Administrator.
4. Cutoff fixtures shall be used so that all light is retained on-site and spillage onto neighboring residential uses is avoided.
5. The number of events shall be limited to fifty-two (52) per calendar year.
6. Concerts shall be limited to Friday and Saturday.
7. No overnight stays shall be permitted.
8. Any future expansions or changes related to the special events, or the construction of any future new buildings shall require an amendment to the special exception use permit.
9. Adequate restroom facilities in accordance with the requirements of the Health Department shall be provided for all events.
10. The Driveways shall be required to meet County Standards.
11. Cedar Lane driveway access is currently a residential connection, (installed with right-of-way Use permit #21-297). The driveway must be upgraded to commercial connection standard and may require paving from the edge of the roadway to the property line. Driveway will require a right-of-way use permit. Refer to Hernando County Facility Design Guideline IV-25.
12. Events shall begin no earlier than 3:00 PM and end no later than 10:00 PM.

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42. 13. The petitioner shall utilize of duty officers for traffic control before, during and after all events.

STAFF REPORT

HEARINGS: Planning & Zoning Commission: November 13, 2022

APPLICANT: 3 Horse Distillery, LLC

FILE NUMBER: SE-22-12

PURPOSE: Special Exception Use Permit for a Distillery

GENERAL LOCATION: East side of Gobbler Run, approximately 3,000' south of Oakfork Trail

PARCEL KEY NUMBER: 1377030

APPLICANT'S REQUEST:

The petitioner is requesting a special use permit for a micro-distillery on the subject property to have a ten (10) gallon still, producing 100 gallons or less of "high-quality single malt bourbons". The petitioner is planning on selling the product through local vendors, markets, and community events. There will be no on-site vending of the product and no customer traffic. The building in which the petitioner wishes to operate has its own well and septic connections and would not be connected to central well or sewer.

SITE CHARACTERISTICS:

Site Size: 11.9 Acres

Surrounding Zoning & Land Uses:

North:	AG: Single Family House
South:	AG; Single Family House
East:	AG; Single Family House
West:	AG; Single Family House

Current Zoning: AG (Agricultural)

Future Land Use Map Designation: Rural

UTILITIES REVIEW:

The Hernando County Utilities Department (HCUD) has reviewed the application and indicates they do not currently supply water or sewer service to this parcel and water and sewer service are not available to this parcel. HCUD has no objection to the requested special exception use permit.

ENGINEERING REVIEW:

The site is in the Hidden Oaks Subdivision, between Powell Road and Ayers Road. The County Engineer has reviewed the application and indicates this site contains a large area of 1% annual chance floodplain.

- Development within the floodplain requires specific permitting and mitigation to preserve floodplain volume.
- Development on the site must conform to the stormwater design requirements of Hernando County Facility Design Guideline and Southwest Florida Water Management District (SWFWMD) Environmental Resource Permit process.
- Any public access to the subject property in relation to the distillery use requires a commercial driveway connection and paved handicap parking.

LAND USE REVIEW:

The petitioner has not proposed any new structures at this time.

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 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.

A *special exception* applies to the property for which it is granted and not to the individual who applies for it. A *special exception* which has not been discontinued as provided for herein, voluntarily relinquished by the property owner or has become void by operation of law is transferable to any future owner of the land, but it cannot:

- (i.) be transferred by the applicant/property owner to a different site.
- (ii.) be expanded as to size, density, intensity, number of units or other measurement or limiting factor(s) imposed in connection with its original approval.
- (iii.) be changed as to approved use, or
- (iv.) have new uses added.

Further, the *special exception* shall become null and void if:

- (i) the parcel of land granted the *special exception* is reduced in size from the original approval size (11.9 acres),

- (ii) the use for which the *special exception* is granted is discontinued for a period of two (2) consecutive years or
- (iii) the property owner voluntarily relinquishes the *special exception* use by notifying the county in writing.

Nothing herein shall prevent a property owner that has lost, discontinued, or relinquished any *special exception* use from reapplying by filing a new application and paying all required fees.

FINDINGS OF FACT:

The request for a Special Exception Use Permit for a Micro-Distillery is consistent with the County's adopted Comprehensive Plan. The appearance and feel of the neighborhood will not be altered by the petitioner's proposed micro-distillery. Traffic to the neighborhood will not be increased since no on-site sales are permitted. This special exception use is compatible with the surrounding land uses and is not averse to the public interest subject to compliance with all recommended performance conditions.

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 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. Homeowner's 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 Micro-Distillery 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.
2. The special exception applies to the use of a still in the barn structure only and shall not extend to other buildings that may be on the property.
3. Any expansion of a *special exception* use as to size, density, intensity, number of units or other measurement or limiting factors imposed in connection with its original approval or any change of approved use or any addition of a new use will

be treated as a new application, with the property owner filing a new application and paying all required fees in accordance with this article, and subject to public hearing and approval.

P&Z ACTION:

On November 14, 2022, the Planning and Zoning Commission voted 4-0 to approve the petitioner's request for a Special Exception Use Permit for a Micro-Distillery with the following unmodified 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.
2. The special exception applies to the use of a still in the barn structure only and shall not extend to other buildings that may be on the property.
3. Any expansion of a *special exception* use as to size, density, intensity, number of units or other measurement or limiting factors imposed in connection with its original approval or any change of approved use or any addition of a new use will be treated as a new application, with the property owner filing a new application and paying all required fees in accordance with this article, and subject to public hearing and approval.

STAFF REPORT

HEARINGS: Planning & Zoning Commission: November 14, 2022

APPLICANT: Nathan Randall

FILE NUMBER: SE-22-13

REQUEST: Revision to a Special Exception Use Permit for a Place of Public Assembly, namely a venue for Special Events

GENERAL LOCATION: Northern terminus of Karry Creek Lane

PARCEL KEY NUMBER: 1429760

APPLICANT'S REQUEST:

On February 10, 2020, The Planning and Zoning Commission approved a Special Exception Use Permit for a Place of Public Assembly on a 10.2-acre parcel, namely for a Special Events such as weddings, baby showers, birthdays, family reunions and small corporate events. No permanent structures were proposed at the time, other than developing an adjoining parcel with the petitioner's own home. At the time the use was approved for 12 events per year and hours of 9:00 AM to 9:00 PM for public and until 10:00 for vendors

The petitioner's current request is to revise the existing Special Exception Use Permit to increase the number of events to 24 events per year and extend the public hours to 10:00 PM. This would be in conformance with the noise ordinance. The petitioner has indicated that they have been successfully operating the venue for two years and the requested changes would provide flexibility for certain events throughout the year. No other changes are being requested at this time.

SITE CHARACTERISTICS:

Site Size: 10.2 acres

**Surrounding Zoning;
Land Uses:**

North: R-3; Single Family
South: PDP(MH); Mobile Home Park
East: PDP(MH), R-3; Mobile Home Park, Single Family
West: CV, AR; Church, Conservation

Current Zoning: AG (Agricultural)
Future Land Use
Map Designation: Residential

UTILITIES REVIEW:

The Utilities Department has indicated the subject site is located within the City of Brooksville Utility Department's (CBUD) first right to serve district.

HEALTH DEPARTMENT REVIEW:

The Health Department has reviewed the petitioner's request and indicated sanitary regulations allow for portable toilets on a temporary basis for events provided there are no permanent structures that would require inside plumbing.

ENGINEERING & TRANSPORTATION REVIEW:

The site is located at the southern terminus of Karry Creek Lane. Karry Creek Lane is currently unimproved.

The County Engineer has reviewed the request and indicated the following:

- This site contains areas of floodplain associated with a conveyance. Development within the floodplain requires specific permitting and mitigation to preserve floodplain volume.
- The driveway access to Yontz Road must be a commercial connection. Refer to Hernando County Facility Design Guideline IV-25.

LAND USE REVIEW:

Buffers

The petitioner has indicated that event amenities will maintain a 500' setback from the northern property line to provide adequate buffering from Damac Estates.

Setbacks

Any future expansions or changes related to the special events must meet the minimum building setbacks and will require an amendment to the Special Exception Use Permit.

Lighting

The petitioner shall continue to retain all light on-site and prevent any light spillage onto neighboring residential uses.

Parking

County LDRs require a minimum of 0.3 parking spaces per seat based on maximum occupant load for Places of Public Assembly. The petitioner has indicated that the remaining portions of the 10.2 acres not utilized for the ceremony and reception area are dedicated to event parking.

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 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 and allows primarily single family, duplex, resort, and multi-family housing and associated ancillary uses such as recreational and institutional. The area is characterized by a mobile home park to the east and Damac Estates subdivision to the north.

FINDING OF FACTS:

The request for Special Exception Use Permit for a Place of Public Assembly is appropriate based on the following conclusions:

1. The proposed use is consistent with the County's adopted Comprehensive Plan and compatible with the surrounding area.
2. The additional 12 events per year and the extended public hours from 9:00 PM to 10:00 PM are not adverse to the public interest subject to appropriate performance conditions.

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.

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 RECOMMENDATIONS:

It is recommended that the Planning and Zoning Commission approve the petitioner's request for a Revision to a Special Exception Use Permit for a Place of Public Assembly, namely a venue for Special Events, 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.
2. The number of events shall be limited to twenty-four (24) per calendar year.
3. Hours of operation for events shall be limited to Friday through Sunday from 9:00 AM to 10:00 PM for the public. Vendors shall be off premises by 11:00 PM.
4. All previous performance conditions shall be in full force and effect (SE1913)

P&Z ACTION:

On November 14, 2022, the Planning and Zoning Commission voted 4-0 to approve the petitioner's request for a Revision to a Special Exception Use Permit for a Place of Public Assembly, namely a venue for Special Events, with the following unmodified 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.
2. The number of events shall be limited to twenty-four (24) per calendar year.
3. Hours of operation for events shall be limited to Friday through Sunday from 9:00 AM to 10:00 PM for the public. Vendors shall be off premises by 11:00 PM.
4. All previous performance conditions shall be in full force and effect (SE1913)