

September 11, 2023

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 September 11, 2023

For the Board's information, on September 11, 2023, 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 Wednesday, September 13, 2023, 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, October 11, 2023, 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, November 14, 2023, (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: August 14, 2023

APPLICANT: Jose Andres De La Cruz, Francis Marilyn Abin

FILE NUMBER: SE-23-02

PURPOSE: Special Exception Use Permit for Truck Parking

GENERAL LOCATION: Southern terminus of Courts Court

PARCEL KEY NUMBER: 945847

APPLICANT'S REQUEST:

The petitioner is requesting a Special Exception Use Permit for Truck Parking in order to park a single truck on their parcel. The subject site is a 2.6 acre AR (Agricultural Residential) parcel. County LDRs make provisions for the parking of a single commercial vehicle through a Special Exception Use Permit, when the commercial vehicle is owned by the property owner. The subject site is located 600' south of Courts Court and surrounded by large agricultural parcels.

SITE CHARACTERISTICS:

Site Size: 2.6 acres

Surrounding Zoning and Land Uses:

North: AG: Single Family

South: AG: Single Family

East: AG: Single Family

West: AG: Single Family

Current Zoning: AR (Agricultural Residential)

Future Land Use Map Designation: Residential

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.

ENGINEERING REVIEW:

The site is located on the southern terminus of Courts Court. The petitioner seeks no changes to the existing access. The County Engineer has reviewed the subject request and indicated the following:

- Access to parcel is via Courts Court, a County owned and maintained, paved, 20' wide residential road.
- There is an existing concrete driveway apron from parcel to Courts Court.
- The County Engineer has no issues with the proposed use.

LAND USE REVIEW:

Specific Regulations

Pursuant to County LDRs, a special exception use permit may be applied for on parcels zoned AR, AR-1 or AR-2 in order to park one (1) commercial vehicle, operated by the legal residents of the parcel, provided the property is a minimum of 2.5 acres in size. The subject site is a 2.6 acre parcel zoned AR (Agricultural/Residential).

Comments: The petitioner owns the subject 2.6 acre site and therefore meets the minimum requirements of Article III.

Building Setbacks

Front:	50'
Side:	10'
Rear:	35'

Comments: If approved, any commercial vehicle and/or equipment must meet the building setbacks of the AR-2/(Agricultural/Residential) zoning district.

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 large AG (Agricultural) parcels. Commercial vehicle parking is a permitted use in AR (Agricultural Residential) zoning districts and Residential land use categories.

FINDINGS OF FACT:

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

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.

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 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 Truck Parking, 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 commercial vehicle shall be parked in accordance with the minimum setbacks of the AR (Agricultural/Residential).

3. The commercial vehicle shall be parked in a location screened from the view of adjoining right-of-way and adjacent parcels.
4. The subject site shall be limited to the parking of one commercial vehicle.

P&Z ACTION:

On August 14, 2023, the Planning and Zoning Commission voted 5-0 to continue the petitioner's request for a Special Exception Use Permit for Truck Parking, due to the required signs not being posted on the subject site. The request was continued to the September 11, 2023, Planning and Zoning hearing. The application will be fully readvertised with all cost being the responsibility of the petitioner.

P&Z ACTION:

On September 11, 2023, the Planning and Zoning Commission voted 5-0 deny the request for a Special Exception Use Permit for Truck Parking and voted 5-0 to convert the Special Exception Use Permit to a Conditional Use Permit for a period of up to one (1) year 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. The commercial vehicle shall be parked in accordance with the minimum setbacks of the AR (Agricultural/Residential).
3. The commercial vehicle shall be parked in a location screened from the view of adjoining right-of-way and adjacent parcels.
4. The subject site shall be limited to the parking of one commercial vehicle.
5. The Conditional Use Permit for the Temporary Parking of a Commercial Vehicle shall expire on September 11, 2024.