


July 11, 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: **Conditional Use Actions by the Planning and Zoning Commission on July 11, 2022**

For the Board's information, on July 11, 2022, the Planning and Zoning Commission (P&Z) held a duly advertised public hearing to consider an advertised request for a Conditional Use Permit(s). Attached to this memorandum is (are) the staff report(s) and action(s) of the P&Z on the Conditional Use Permit request(s) at that scheduled public hearing.

A notification letter was sent on Tuesday, July 12, 2022, to inform the petitioner(s) of the P&Z action(s). According to Appendix A, Zoning, Article V, Section 4(H) of the Hernando County Code of Ordinances, the Board of County Commissioners, by a majority vote, may decide to review any conditional use permit 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, August 10, 2022, (calculated from the date of the P&Z decision), the P&Z decision shall be deemed final and subject only to review by the circuit court.

The review of decision by the BCC would occur on the regular BCC hearing date of Tuesday, September 13, 2022, (calculated from the date of the 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: July 11, 2022

APPLICANT: Windy Southall

FILE NUMBER: CU-22-05

REQUEST: Conditional Use Permit for a Portable Roadside Stand, namely, a Produce Stand

GENERAL LOCATION: South side of Wiscon Road, approximately 750' west of Lykes Dublin Road

PARCEL KEY NUMBER: 01778455

APPLICANT'S REQUEST:

The petitioner is requesting a Conditional Use Permit for a temporary use to operate a produce stand on a 3.9-acre vacant parcel. The petitioner has indicated that the produce to be sold is not grown or produced on the premises. All fruits and vegetables are bought at markets and will be sold under a 140' x 80' pavilion. Hours of operation are proposed as 11:00 AM to 5:00 PM, Monday through Saturday.

SITE CHARACTERISTICS:

Site Size: 3.9 acres

Surrounding Zoning & Land Uses:

North:	PDP(RUR); Undeveloped
South:	AG; Single Family
East:	AG; Undeveloped
West:	AG; Undeveloped

Current Zoning: AG/(Agricultural)

Future Land Use Map Designation: Rural

Flood Zone: AE

UTILITIES REVIEW:

The Hernando County Utilities Department (HCUD) has indicated it does not currently supply water or sewer service to this parcel. Sewer service is not available to this parcel. There is an existing 12-inch water main that runs along Wiscon Road in front of this parcel. HCUD has no objection to the request subject to connection to the central water system at such time that a habitable structure would be constructed.

ENGINEERING & TRANSPORTATION REVIEW:

The subject site is located on the South side of Wiscon Road, approximately 750' west of Lykes Dublin Road. The petitioner proposes two access point to Wiscon Road. The property will have a U-shaped access driveway providing for one-way traffic circulation. The County Engineer has indicated the following:

- Driveways will be required to install paved aprons to protect the roads when vehicles enter or exit.
- This property is mostly within the floodplain. Any future residential development within a floodplain will require specific permitting and mitigation. Residential structures must be raised 1 foot above the floodplain. This floodplain is at 68.6 feet, finished floor must be at 69.6 feet. Any enclosures below the floodplain require flood vents.

LAND USE REVIEW:

In addition to those conditional uses permitted in all zoning districts of the ordinance, the following conditional use is required and permitted in the agricultural district:

Retail sales of permitted agricultural products not produced on the premises: provided that where such products or services are sold from roadside stand, such stand shall be set back from any public street right-of-way at least seventy-five (75) feet and shall be provided with automobile access and off-street parking space in such a manner to not create an undue traffic hazard on the street on which such roadside stand is located.

The petitioner has proposed that a large pavilion will be constructed along Wiscon Road for the proposed use. County LDRs requires a Conditional Use Permit for the retail sales of agricultural products not produced on the premises.

Minimum Building Setbacks:

Front:	75'
Side:	35'
Rear:	50'

P&Z CONDITIONAL USE RESULTS FROM JULY 11, 2022, PG. 4

The County's LDRs allow for temporary uses and structures subject to meeting the following development review standards:

1. A site plan depicting the proposed use in relation to the overall parcel on which it is to be located must be provided.

Comments: The petitioner has proposed placing the produce stand along Wiscon Road. The property will have a U-shaped access driveway providing for one-way traffic circulation.

2. Driveway access permits shall be obtained.

Comments: The subject site has access via Wiscon Road. Access to Wiscon Road will require a Right-of-Way use permit.

3. Adequate parking shall be provided in conformity with the required standards for the use without reducing the required parking for the established permitted activity.

Comments: The subject site is approximately 3.9 acres. The petitioner has indicated that the site will have a designated parking area. The proposed parking will be unimproved.

4. A covered trash or garbage receptacle with a plastic liner will be kept on site.

Comments: The petitioner has not indicated how garbage disposal will be handled on days of operation. If approved, the petitioner must meet the minimum County requirements for garbage disposal.

5. Adequate restroom facilities shall be provided.

Comments: The petitioner has indicated that restroom will be provided via portable restroom facilities.

A Conditional Use Permit is intended to be used as a special permit which temporarily allows uses not otherwise permitted by the ordinance. The P&Z has the ability to grant a conditional use permit for a period up to two years if they determine that a hardship exists. Conditional Use Permits may be renewed or extended upon reapplication at the end of a two-year period.

FINDING OF FACTS

A Conditional Use Permit for a Portable Roadside Stand, namely a Produce Stand 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 subject to compliance with all performance conditions.
2. The proposed use is compatible with the area and not adverse to the public interest.

NOTICE OF APPLICANT RESPONSIBILITY:

The conditional use permit process is a land use determination and does not constitute a permit for either construction, 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 a Conditional Use Permit for a portable roadside stand, namely, a produce stand, for a period of up to two (2) years 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 temporary use must be removed if the primary business on the property ceases to operate and/or upon termination of the conditional use permit.
3. Parking shall not be permitted on the right-of-way.
4. Adequate restroom facilities in accordance with the requirements of the Health Department shall be provided.
5. Hours of operation shall be limited to 11:00 AM to 5:00 PM, Monday through Saturday.

P&Z CONDITIONAL USE RESULTS FROM JULY 11, 2022, PG. 6

6. Minimum Building Setbacks:

Front:	75'
Side:	35'
Rear:	50'
7. Access to Wiscon Road shall require a Right-of-Way use permit.
8. The Conditional Use Permit shall expire on June 13, 2024.

P&Z ACTION:

On June 13, 2022, the Planning and Zoning Commission voted 5-0 to postpone the applicants request until the July 11, 2022, hearing due to the notification signs not being posted.

P&Z ACTION:

On July 11, 2022, the Planning and Zoning Commission voted 5-0 to approve the petitioner's request for a Conditional Use Permit for a portable roadside stand, namely, a produce stand, for a period of two (2) years 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 temporary use must be removed if the primary business on the property ceases to operate and/or upon termination of the conditional use permit.
3. Parking shall not be permitted on the right-of-way.
4. Adequate restroom facilities in accordance with the requirements of the Health Department shall be provided.
5. Hours of operation shall be limited to 11:00 AM to 5:00 PM, Monday through Saturday.
6. Minimum Building Setbacks:

Front:	75'
Side:	35'
Rear:	50'
7. Access to Wiscon Road shall require a Right-of-Way use permit.
8. The Conditional Use Permit shall expire on July 11, 2024.

STAFF REPORT

HEARINGS: Planning & Zoning Commission: July 11, 2022

APPLICANT: Mike & Cheryl Thomas

FILE NUMBER: CU-22-07

REQUEST: Conditional Use Permit for a Second Residence

GENERAL LOCATION: East side of Old Crystal River Road, approximately 700' south of Our Road

PARCEL KEY NUMBER: 348056

APPLICANT'S REQUEST:

The petitioner has submitted a request for a Conditional Use Permit for a Second Residence to aid their elderly mother who is in need of daily assistance. The petitioner has indicated that the second residence would consist of an 8'x26' RV which will be connected to the property's existing well and septic.

SITE CHARACTERISTICS:

Site Size: 0.65 acres

Surrounding Zoning & Land Uses: North: AR; Single Family Home
South: CV; Undeveloped
East: CV; Undeveloped
West: AR, AG; Single Family Home

Current Zoning: AG/(Agricultural)

Future Land Use Map Designation: Rural

Flood Zone: C

UTILITIES REVIEW:

The Hernando County Utilities Department (HCUD) does not currently supply water or sewer service to this parcel. Water and sewer service are not available to this parcel. HCUD has no objection to the request subject to Health Department approval of any Onsite Sewage Treatment and Disposal System upgrades that might be required due to increased use.

ENGINEERING & TRANSPORTATION REVIEW:

The County Engineer has reviewed the petitioner's request and indicated no traffic related concerns.

LAND USE REVIEW:

The minimum setbacks in the AR-2/(Agricultural Residential-2) district are as follows. The RV, when installed, shall be required to meet the minimum building setbacks for the zoning district.

Minimum Building Setbacks:

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

A conditional use permit is intended to be used as a special permit which temporarily allows uses not otherwise permitted by the ordinance. The Commission has the ability to grant a conditional use permit for a period up to two years if they determine that a hardship exists.

NOTICE OF APPLICANT RESPONSIBILITY:

The conditional use permit process is a land use determination and does not constitute a permit for either construction, 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 request for a Conditional Use Permit for a Second Residence for a period of up to two (2) years 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 newly placed RV shall meet the following minimum setbacks of the AR-2/ (Agricultural Residential-2) district:
 - Front: 50'
 - Side: 10'
 - Rear: 35'
3. The petitioner shall be responsible for meeting all Florida Department of Health requirements for the new septic tank and well to be located on the site.
4. The Conditional Use Permit shall expire on July 11, 2024

P&Z ACTION:

On July 11, 2022, the Planning and Zoning Commission voted 5-0 to approve the petitioner's request for a Conditional Use Permit for a Second Residence for a period of two (2) years 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 newly placed RV shall meet the following minimum setbacks of the AR-2/ (Agricultural Residential-2) district:
Front: 50'
Side: 10'
Rear: 35'
3. The petitioner shall be responsible for meeting all Florida Department of Health requirements for the new septic tank and well to be located on the site.
4. The Conditional Use Permit shall expire on July 11, 2024