



## DEVELOPMENT SERVICES DEPARTMENT

PLANNING DIVISION

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

Thru: Jeff Rogers, County Administrator

Thru: Chris Linsbeck, Community Services Director  
Hernando County Community Services Department

From: Michelle Miller, Planning Administrator  
Hernando County Development Services Department

Date: September 12, 2023

Re: Summary of Board Action and Zoning Interpretation for SE2116, Special Exception Use Permit for a Home Occupation, John Henry

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### **Petitioner's Request:**

The petitioner requested a Special Exception Use Permit for a Home Occupation in order to utilize a 4,185 square foot garage and outdoor area for the sculpting of large steel sculptures and monuments. The properties included 2 detached garages, a barn and a residence. The petitioner indicated that their medium was unique as it incorporated large pieces of aluminum, steel and bronze elements that are welded together and joined mechanically. Although some of the work is conducted indoors, the forming of the sculptures also required outdoor space due to the size and scale of the projects. The process also required a crane for the lifting and setting of beams. The studio was screened by a 6' opaque fence and vegetation. The studio employed four (4) employees and operated from 9:00 AM to 6:00 PM, five (5) days per week (Monday-Friday).

### **Uses Allowable by Right in the AG/Agricultural Zoning District:**

#### *A. Agricultural District:*

- (1) *Permitted Uses:* The following permitted uses shall apply in the agricultural district:
- (a) Animal specialty establishment;
  - (b) Farming and farming service establishments;
  - (c) Fisheries;
  - (d) Forestry and forestry service establishments;
  - (e) Horticultural specialty farms;
  - (f) Hunting, trapping and game propagation;
  - (g) Landscaping service establishment;
  - (h) Single-family dwelling;
  - (i) Mobile Home, provided that such mobile home meets all of the regulations, requirements and provisions of this ordinance for minimum living area within the zoning district;
  - (j) Land Application of Domestic Septage, provided that such operation meets all of the special regulations, requirements and provisions of this ordinance for operation and siting

and applicable Florida Statutes, Administrative Rules, and provisions of the Hernando County Code of Ordinances;

- (k) Wildlife management activities;
- (l) Resource-oriented recreational activities;
- (m) Aquaculture.

(2) *Permitted accessory structures and uses:* The following permitted accessory structures and uses apply to all agricultural districts:

- (a) Agriculture buildings or structures accessory to the principal permitted use of the premises;
- (b) Single-family dwellings to house the owner or operator, his family, or hired workers who work on a bona fide agricultural operation, which are accessory to the principal permitted use of the premises;
- (c) Carport, garage or other buildings not used as a dwelling and customarily incidental to the principal permitted use of the premises;
- (d) Accessory uses customarily incidental to the principal permitted use of the premises;
- (e) Signs identifying the name and type of permitted agricultural activity conducted on the same premises;
- (f) Portable storage structures are allowable in conjunction with the permitted use provided they are not visible from the street. If the portable storage structures are placed adjacent to a residentially zoned property, the portable storage structure must be shielded from view;
- (g) Sales on the premises of permitted agricultural products and services produced on the premises: provided that where such products or services are sold from roadside stand, such stand shall be set back a safe distance from any public street right-of-way and shall be provided with automobile access and off-street parking space in such a manner so as to not create an undue traffic hazard on the street on which such roadside stand is located.

Note: while the code does not specifically identify the types of equipment allowable, if the equipment is utilized to accomplish one of the uses allowable in the code, then it is allowable.

#### **Summary of Board Meeting and Final Action, May 10, 2022:**

During the opponent's rebuttal period, Mr. Joe Mason (the attorney for the opposition) stated that the petitioner had said Mr. Henry could disassemble his product and move to another location. This statement was never affirmed nor denied by Mr. Snow (the attorney for the applicant).

The Board discussion after the applicant presentation/rebuttal was primarily around the fact that there was property owned by Mr. Henry and other properties owned by the business Mr. Henry owned. The question was whether a home occupation could be considered for a property owned by a business, not by a person. It was determined that, due to the fact staff considered it an eligible property owner, it could be considered by the Board.

The initial motion was made by Commissioner Narverud to approve the request. The motion failed.

After the motion failed, there was further discussion on sunseting the outdoor activities on the site (including the actual construction.) Commissioner Holcomb asked for clarification on whether the equipment that is being used can be used on the site with AG zoning; it was confirmed that many of these activities (i.e. using cranes, large equipment, etc.) can be done by right with the AG zoning without needing a special exception.

The discussion further ensued how to sunset the “outdoor industrial activity”. Commissioner Allocco asked for clarification on how we could sunset the number of employees working on the site and the outdoor activity on the site. Mr. Joben clarified that we could in fact condition the SE to provide for the sunset of those activities. The discussion did not involve the removal of the structures – it involved the activity to construct the structures on the site.

Mr. Henry confirmed that he could finish the construction activities for his artwork within a year.

The motion made by Commissioner Allocco was that construction would cease by May 31, 2023, and that there would be no outdoor storage of materials visible over the fence after that date. This motion did not include the removal of any completed artwork or any heavy equipment off the site by that date. This was approved 5-0.

The final motion made by the Board of County Commissioners included 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. Studio hours shall be 9:00 AM to 6:00 PM, Monday through Friday.
3. Minimum Building Setbacks for all future buildings:
  - Front: 75'
  - Side: 25'
  - Rear: 35'
4. Outdoor storage shall be screened by fence and not exceed the height of the fence.
5. The maximum number of employees shall be 4.
6. The outdoor erection of structures shall cease by May 31, 2023.
7. Any future expansions shall meet the minimum building setbacks and shall require an amendment to the Special Exception Use Permit.

**Zoning Interpretation:**

The Land Development Regulations do not limit the size and scale of art, nor did the final conditions of approval for the Special Exception provide for any limitations on the art or when the art would have to be relocated from the subject site.

Additionally, as the AG/Agricultural District allows for the utilization of the construction equipment on the site by right, the County cannot require that the petitioner relocate the equipment from the site.

Upon visual inspection of the site, the outdoor erection of the art structures has been completed. Therefore, the site is currently in compliance with the Land Development Regulations.

