

**STAFF REPORT**

Planning & Zoning Commission: November 10, 2003

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**APPLICANT:** John A. Mitten **FILE NUMBER:** SE-03-19

**PURPOSE:** Special Exception Use Permit for a Place of Public Assembly, namely a Religious Establishment

**GENERAL**

**LOCATION:** West side of Culbreath Road, approximately 500' north of Ayers Road

**LEGAL**

**DESCRIPTION:** A portion of Section 26, Township 23 South, Range 19 East, Hernando County, FL

**FILE STATUS:** All legal obligations have been completed.

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 2

**STAFF FINDINGS:**

Surrounding Zoning

Surrounding Land Uses

North: AG  
South: AG  
East: AG  
West: AG

SF  
Mobile home  
Pasture  
Pasture

**STAFF DISCUSSION**

The petitioner requests a special exception use permit for a place of public assembly, namely a religious establishment. The subject property is located on the west side of Culbreath Road, approximately 500' north of Ayers Road.

**FINDINGS OF FACT**

1. The property is currently zoned AG.
2. The subject property contains approximately ten (10) acres.
3. The subject property has been developed with a SF residence.
4. The site has access from Culbreath Road.

5. The subject property is located within a rural land use classification on the adopted Future Land Use Map.
6. The Hernando County Soil Survey indicates the on-site soil types include Micanopy loamy fine sand and Nobleton fine sand.
7. The property is located in flood zone C.
8. The property is located within the Squirrel Prairie flood plain.
9. The subject property contains no WHPAs, wetlands or SPAs according to County data resources.
10. The Utilities Department has indicated that central water and sewer are not available to serve the subject property.
11. There are adequate public facilities available to serve a limited development on the subject property.
12. The surrounding area is characterized by agricultural and rural residential uses.
13. The petitioner has requested a deviation from the County 's parking lot standards. The land development regulations allow houses of worship to have up to 50 percent of the parking spaces (including aisles) surfaced with grass, lawn, or other materials. The petitioner is requesting the entire parking area to have a grassed surface.

### **STAFF DISCUSSION**

The petitioner proposes developing the 10-acre site with a church. The site has been developed with a 3,335 square foot SF residential building and a 900 square foot barn. The petitioner has verbally indicated the house will be used as the pastor's residence. The plan provided shows a 1,440 square foot modular church building. The narrative indicates this building would be used temporarily until the permanent building is built. The plan indicates a 7,396 square foot “all purpose building with classrooms” to be built within five years. The petitioner has verbally indicated this building would be one-story, including a sanctuary, classrooms, offices and social hall.

The narrative indicates the congregation is expected to have 200 members. The narrative indicates the church may have activity throughout the week at any hour, although the busiest times are anticipated on Sundays and Wednesdays. The narrative indicates few employees are anticipated and the pastor will initially be the only paid staff employee.

Development on the subject property must meet the minimum setbacks for the underlying zoning category. The setbacks for the AG-zoned subject property are 75' from the front lot line, 35' from the side lot lines and 50' from the rear/west lot line.

No landscaped buffers are indicated on the plan. Staff is of the opinion that a minimum 25' buffer of natural vegetation maintained along the north and south lot lines would protect current and future adjacent land uses. If the request is approved, the petitioner would be required to provide landscaping as required by the applicable LDRs. There are specimen trees onsite and on surrounding properties that have been retained. To remain compatible with the surrounding area the petitioner should make every attempt to retain specimen trees within the area to be developed.

The subject property has access from Culbreath Road. The Transportation Planning Coordinator has indicated Culbreath Road has capacity to accommodate the proposal. The County Engineer has no objections to the proposed access.

The LDRs indicate places of public assembly, such as the church proposed, are required to provide 0.3 parking spaces per seat based on the maximum capacity of the place of public assembly. If the petition is approved at the intensity proposed, the petitioner will be required to provide a minimum of 60 parking spaces. The plan indicates parking for one hundred vehicles, fifty (50) vehicles each along the north and south lot lines.

According to county data resources the subject property lies within the Squirrel Prairie 100 year floodzone. All structures shall adhere to floodzone development standards per FEMA and SWFWMD regulations. Associated with the floodzone is a floodwater conveyance (gully) running through the center of the property leading south from Sparkman Lake to a wetland/sinkhole complex. If the request is approved, the floodwater conveyance should be delineated on future site plans and natural vegetation associated with it (including specimen trees) should remain unaltered to minimize erosion and maintain water quality to the sink complex.

The petitioner requests in the narrative that the parking area be permitted to remain as a natural grassed parking area. The LDRs indicate that places of public assembly may have up to fifty (50) percent of the parking spaces (including aisles) surfaced with grass, lawn or other materials as designated in the County parking lot standards; however, if parking demand is such that said grass, lawn or other material is caused to be damaged or destroyed to the extent that said grass or lawn ceases to grow, or the other material otherwise causes a nuisance to the neighborhood, then paving may be required by the Zoning Administrator. The Planning & Zoning Commission may in the granting of a special exception allow a reduction in the parking lot paving standards by a majority vote, although the paving requirements for the physically-challenged would still be required. Staff is of the opinion that a minimum 50% of the required parking should be paved, due to the intensity of activity proposed and the property's location in the Squirrel Prairie floodzone.

The plan submitted does not indicate where signage will be located on the subject property. Signage on the property will be subject to the County sign ordinance.

The plan submitted indicates the site is to be served by well and septic. The Utilities Department has indicated that central water and sewer are not available to serve the subject property. The petitioner should obtain state permits for the well and septic.

### **FINDINGS OF FACT**

The surrounding area is characterized by agricultural and rural residential uses.

The subject property is located within a rural land use classification as identified on the adopted Future Land Use Map. Potential uses in the rural land use category include farms, ranches, agri-industrial uses, agricultural commercial, farm worker housing, residential uses, neighborhood commercial uses, recreation, and public and semi-public uses.

A special exception use permit is an additional use which may be granted by the Planning & Zoning Commission 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 the nature of the surrounding development. The P&Z has the ability to assign reasonable conditions to the approval, and may prescribe reasonable time limits for the special exception use permit.

The LDRs' standards for special exception uses indicate that the proposed use shall not attract inappropriate traffic volumes, noises or congestion. The standards also indicate that for special exception uses on local streets, traffic generation rates and traffic distribution rates associated with the proposed use will be reviewed to determine whether they exceed those typically associated with local street traffic. The subject property is located on Culbreath Road, a collector roadway. The Transportation Planning Coordinator has indicated Culbreath Road has capacity to accommodate the proposed use.

A special exception use is a use which is appropriate in a zoning district if safeguards are imposed but which would impair the integrity and character of the district in which it is located, or in adjoining districts, unless restrictions or conditions on location, size, extent and character of development are imposed in addition to those imposed by the ordinance.

The special exception use is a land use determination only, all applicable development rules would have to be met if the permit is approved.

It is the staff's opinion that the use at the intensity proposed would be not incompatible with the surrounding area nor inconsistent with the Comprehensive Plan.

**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 use, which may include review by the Development Review Committee (DRC).**

**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 RECOMMENDATION:**

The Planning Staff recommends the Planning and Zoning Commission approve the petitioner's request for a Special Exception Use Permit for a Place of Public Assembly, namely a Religious Establishment with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process. State permits shall be obtained for the well and septic.
2. The maximum seating capacity approved is 200 seats.
3. No deviation to the parking requirements is approved.
4. Minimum 25' wide buffers of natural vegetation shall be maintained along the north and south lot lines.
5. Development of the site lying within the Squirrel Prairie 100 year floodzone shall adhere to all state and federal permitting requirements including SWFWMD.
6. The floodwater conveyance shall be delineated on future site plans and natural vegetation associated with it (including specimen trees) should remain unaltered to minimize erosion and maintain water quality to the sink complex.
7. The petitioner shall provide a revised plan within 30 days of P&Z approval reflecting the performance conditions or the special exception use permit will be null and void.

**P&Z ACTION:**

At their November 10, 2003, hearing based on the information provided the Planning and Zoning Commission made the following findings:

1. Development on the site as proposed would not be appropriate given the Squirrel Prairie flooding issues associated with the property.
2. The church uses as proposed would be too intense to be compatible with the surrounding rural residential uses.

The Planning and Zoning Commission found that the proposed special exception use would not be compatible with the surrounding rural residential land uses and would not be consistent with the Comprehensive Plan. The P&Z voted 4-0 to deny the petitioner's request for a Special Exception Use Permit for a Place of Public Assembly, namely a Religious Establishment.

**BCC APPEAL ACTION:**

On December 10, 2003, the Board of County Commissioners voted 4-0 to adopt Resolution 2003-367 approving the petitioner's request for a Special Exception Use Permit for a Place of Public Assembly, namely a Religious Establishment with the following performance conditions:

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2. The maximum seating capacity approved is 200 seats.
3. No deviation to the parking requirements is approved.
4. Minimum 25' wide buffers of natural vegetation shall be maintained along the north and south lot lines.
5. Development of the site lying within the Squirrel Prairie 100 year floodzone shall adhere to all state and federal permitting requirements including SWFWMD.
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