

STAFF REPORT

Planning & Zoning Commission: August 9, 2004

APPLICANT: Sugar Shack Concessions, Inc. **FILE NUMBER:** CU-04-15

PURPOSE: Conditional Use Permit for a Temporary Use, Namely a Roadside Stand

GENERAL

LOCATION: South side of Cortez Boulevard, approximately 540' west of Sunshine Grove Road

LEGAL

DESCRIPTION: The north 400' of Lot 4, Evans Hi Park, as per plat thereof recorded in Plat Book 6, Page 25, of the Public Records of Hernando County, Florida in Section 33, Township 22 South, Range 18 East

FILE STATUS: All requirements necessary to conduct the public hearing have been satisfied.

CITIZEN RESPONSE: FOR: 0 AGAINST: 1

STAFF FINDINGS:

Surrounding Zoning

North: C-2
South: C-2
East: C-2
West: C-2

Surrounding Land Uses

Commercial
Undeveloped
Pre-school
Sam's Club

SUMMARY OF REQUEST

The petitioner is applying for a Conditional Use Permit for a Temporary Use, Namely a Roadside Stand. The subject property is located on the south side of Cortez Boulevard, approximately 540' west of Sunshine Grove Road.

FINDINGS OF FACT

1. The property is currently zoned C-2.
2. The property comprises approximately 1.5 acres.
3. The subject property has been developed with the Beverage Depot and Deli convenience store with gas pumps.

4. The subject property has access from Cortez Boulevard.
5. The site contains no specimen or majestic trees.
6. The subject property is located within a commercial land use classification on the adopted Future Land Use Map.
7. The on-site soil type is Candler fine sand. Candler fine sand provides a habitat suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site alterations.
8. The property is located in a flood zone C.
9. The Utilities Department has indicated the site is served by well and septic.
10. There are adequate public facilities available to serve the subject property.
11. The surrounding development consists of a mixture of commercial uses and undeveloped land.
12. The subject property contains a WHPA-2, but no wetlands or SPAs, according to County data resources.
13. The proposed temporary roadside stand is a portable unit which is only allowable if a conditional use permit is obtained.

STAFF DISCUSSION

The petitioner has submitted a request for a conditional use permit for a temporary use, namely a roadside stand. The petitioner proposes selling shaved ice products from a 6' x 12' mobile concession trailer in a paved parking lot of the Beverage Depot and Deli, a convenience store with gas pumps located on the subject property. The plan submitted indicates the concession stand will be located at the front of the property, adjacent to Cortez Boulevard. The staff is of the opinion this site would cause traffic hazards, by inviting customers to park in the Cortez Boulevard ROW or in the site traffic circulation area. The Planning staff is of the opinion that if the request is approved, the concession stand should be located adjacent to the existing store, out of the circulation area. The hours of operation are proposed to be 11:00 a.m. to 8:00 p.m. A Beverage Depot employee verbally indicated the hours of operation are 7 a.m. to 6 p.m., Monday through Friday, and 10 a.m. to 6 p.m. on Saturdays. The Planning staff is of the opinion that if the request is approved, the hours of operation should be limited to Beverage Depot's hours of operation. The narrative indicates the petitioner and his wife will run the operation, with no additional employees.

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. The owner of the property has authorized the petitioner to seek the conditional use permit for the temporary use.

As a temporary use, the request is subject to review through the County's development process and must meet standards including a site plan, driveway access permits, adequate parking, a covered trash receptacle with a plastic liner and adequate restroom facilities. The petitioner has provided authorization from the property owner to use the restrooms located in the store on the site. The plan indicates there are 10 parking spaces. The staff visited the site and noted five parking spaces on the west side of the building and a grassy parking area on the east side of the building. There appears to be adequate parking provided for both uses. However, the Planning staff is of the opinion that if the parking demand is such that the grass is caused to be damaged or destroyed to the extent that the grass ceases to grow, then the grassy parking area should be paved.

The County Engineer has indicated that if the request is approved, parking should be limited to the existing parking spaces and no parking should be allowed in the Cortez Boulevard ROW.

According to County data resources the subject property lies within a WHPA-2 for a public supply well. The proposed use is allowable within this designation.

The FDOT has been notified of the request; no reply have yet been received. The City of Brooksville has indicated it has no concerns about the request.

FINDINGS OF FACT

The subject property is located within a commercial land use classification on the adopted Future Land Use Map. The surrounding development consists of a mixture of commercial uses and undeveloped land. Sam's Club is located to the west. A pre-school is located to the east.

The staff is of the opinion that the proposed use at the intensity proposed is appropriate, based on the following conclusion:

1. The proposed use will be compatible with the surrounding area and consistent with the adopted comprehensive plan.

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. 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 Conditional Use Permit for a Temporary Use, Namely a Roadside Stand for a period of two (2) years because it is staff's opinion that the request is consistent with development in the area and would not adversely affect the surrounding single-family neighborhood. Approval should be conditioned upon 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, and complete all applicable development review processes.
2. The temporary use shall be located adjacent to the store, out of the circulation area.
3. The restrooms at the Beverage Depot and Deli shall be available to the petitioner and her patrons.
4. The temporary use shall only operate during the hours of operation of the principal business.
5. The temporary use shall utilize the existing parking on the site; no parking shall be allowed in the Cortez Boulevard ROW.
6. The temporary use, including the structure, must be removed if the primary business on the property ceases to operate.
7. The temporary use, including the structure, must be removed upon termination of the conditional use permit or if the temporary use ceases to operate.
8. If the parking demand is such that the grass is caused to be damaged or destroyed to the extent that the grass ceases to grow, then the grassy parking area shall be paved.

P&Z ACTION:

The Planning and Zoning Commission voted 3-2 to approve the Conditional Use Permit for a Temporary Use, Namely a Roadside Stand for a period of two (2) years conditioned upon 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, and complete all applicable development review processes.
2. The temporary use shall be located out of the circulation area as depicted in the photographs of record.
3. The restrooms at the Beverage Depot and Deli shall be available to the petitioner and her patrons.
4. The temporary use shall only operate during the hours of operation of the principal business.
5. The temporary use shall utilize the existing parking on the site; no parking shall be allowed in the Cortez Boulevard ROW.
6. The temporary use, including the structure, must be removed if the primary business on the property ceases to operate.
7. The temporary use, including the structure, must be removed upon termination of the conditional use permit or if the temporary use ceases to operate.
8. If the parking demand is such that the grass is caused to be damaged or destroyed to the extent that the grass ceases to grow, then the grassy parking area shall be paved.