

**STAFF REPORT**

Planning & Zoning Commission: September 13, 2004  
Planning & Zoning Commission: September 27, 2004  
Planning & Zoning Commission: October 4, 2004

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**APPLICANT:** Mark Maloney and Richard Klinger **FILE NUMBER:** SE-04-18

**PURPOSE:** Special Exception Use Permit for Retail Sales on the Premises of Permitted Agricultural Products and Services Produced on the Premises with a parking deviation

**GENERAL**

**LOCATION:** East side of Sunshine Grove Road, approximately 500' south of Olympic Village Lane

**LEGAL**

**DESCRIPTION:** Lots 15A and 15B, Gulf Florida Highlands, Unit 1, an unrecorded subdivision, located in a portion of Section 4, Township 22 South, Range 18 East, Hernando County, FL

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

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

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: AG	Mobile home
South: AG	Mobile home
East: AG	Power lines
West: AG	Mobile home

**SUMMARY OF REQUEST**

The petitioner requests a Special Exception Use Permit for Retail Sales on the Premises of Permitted Agricultural Products and Services Produced on the Premises with a parking deviation. The subject property is located on the east side of Sunshine Grove Road, approximately 500' south of Olympic Village Lane.

**FACTUAL INFORMATION**

1. The property is currently zoned AG.

2. The subject property contains approximately 4.78 acres.
3. The site contains a mobile home.
4. The subject property appears to contain no majestic or specimen trees.
5. The site has access from Sunshine Grove Road.
6. The subject property is located within a rural land use classifications 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 subject property contains no WHPAs, SPAs or wetlands 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 limited development on the subject property.
12. The surrounding area is characterized by rural residential uses and undeveloped parcels.
13. The petitioner has proposed unpaved parking, which is a deviation from the County's LDRs.

### **STAFF DISCUSSION**

The petitioner submitted a request for a special exception use permit for retail sales on the premises of permitted agricultural products and services produced on the premises with a parking deviation. The narrative indicates the petitioner proposes to develop the subject property with an ornamental plant nursery. An ornamental plant nursery is a permitted use in the AG district. The petitioner requests the special exception use in order to sell products grown on the premises to retail customers.

The plan shows a parking area towards the front of the property in the northwest corner and a driveway leading to a residence to be located to the rear of the property. The plan indicates

landscaped areas throughout the property; the narrative indicates the purpose of the proposal is to demonstrate the qualities of the horticultural products for sale.

Development on the subject property must meet the minimum setbacks for the underlying zoning category. The setbacks for the AG district require 75' setbacks from Sunshine Grove Road, 35' setbacks from north and south lot lines and a 50' setback from the east lot line. The plan submitted shows a building meeting these setbacks. If the request is approved, the petitioner will be required to meet the applicable county LDRs.

The Development Department indicates the parking for the proposed use will be calculated at a rate of five (5) spaces per 1,000 square feet of building area plus 1.5 spaces per person regularly employed. The plan shows a parking area, but does not indicate the number of parking spaces to be provided. The plan provided shows a 1,680 mobile home residence on the property, but not an office. The petitioner has been informed that if the request is approved, a building providing office space and restrooms for employees and customers will be required. If the request is approved, the petitioner will be required to provide the number of parking spaces as required by the LDRs.

A parking deviation to allow unpaved parking has been advertised with the request. If the request is approved, the Planning Staff would not object to unpaved parking given the low intensity of the proposed use and the rural residential character of the surrounding area. If the request is approved and the paving requirement waived, the petitioner will still be required to pave the handicapped parking space. 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 subject property has access from Sunshine Grove Road, a collector roadway. The County Engineer notes that future development on the property will be reviewed in the future for the need for a left turn lane on Sunshine Grove Road.

The plan indicates that the site will be served by well and septic. The Utilities Department has indicated that central water and sewer are not available to serve the subject property. If the request is approved, the petitioner will be required to obtain Health Department approval for the use of well and septic.

If the request is approved, any signage associated with the use would have to meet the County's LDRs.

### **FINDINGS OF FACT**

The surrounding area is characterized by rural residential uses and undeveloped parcels. The Planning staff is of the opinion the proposed use at the proposed intensity would be compatible with the surrounding rural residential development.

The subject property is located within a rural land use classifications on the adopted Future Land Use Map. Potential uses allowed in the rural future 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. It is the staff's opinion the proposed use is consistent with the rural land use classification.

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.

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 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 Sunshine Grove Road, a collector roadway. Additionally, the LDRs indicate visual and functional conflict between the proposed use and nearby uses, if existent, shall be minimal.

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

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

1. The proposed use is compatible with the surrounding area.
2. The proposed special exception use permit is consistent with the adopted 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 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. 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 Retail Sales on the Premises of Permitted Agricultural Products and Services Produced on the Premises with a parking deviation, 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, and complete all applicable development review processes.
2. Any future buildings or structures must meet the AG dimension and area regulations.
3. The petitioner shall obtain Health Department approval for the use of well and septic.
4. 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.

**P&Z ACTION:**

On September 13, 2004, the Planning and Zoning Commission voted 5-0 to postpone this petition until the September 27, 2004, P&Z meeting at 11:00 A.M. due to the threat of Hurricane Ivan.

On September 27, 2004, the Planning and Zoning Commission voted 3-0 to postpone this petition until the October 4, 2004, P&Z meeting at 10:00 A.M. due to the on-going recovery efforts from Hurricane Jeanne.

**P&Z ACTION:**

On October 4, 2004, the Planning and Zoning Commission voted 3-1 to approve the petitioner's request for a Special Exception Use Permit for Retail Sales on the Premises of Permitted Agricultural Products and Services Produced on the Premises with a parking deviation, 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, and complete all applicable development review processes.
2. Any future buildings or structures must meet the AG dimension and area regulations.
3. The petitioner shall obtain Health Department approval for the use of well and septic.
4. 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.