



DESOTO COUNTY DEVELOPMENT DEPARTMENT STAFF REPORT

REQUEST: Special Exception
USE 0060-2021

PROPERTY OWNER: Martin A Meza and Sara Nair Dionisio
149 S. Hillsborough Avenue
Arcadia, Florida 34266

APPLICANT: Same as Owner

PROPERTY ID: 08-37-25-0000-0471-0000

PROPERTY ADDRESS: NE Cubitis

TOTAL PARCEL SIZE: 0.8 acres

ZONING DISTRICT: CN (Commercial Neighborhood)

FUTURE LAND USE DESIGNATION: Rural/Agricultural Land Use

DEVELOPMENT REVIEW REPORT

The matter before the Planning Commission/ Local Planning Agency is a special exception use application (USE 0060-2021) to allow within the Commercial Neighborhood (CN) zoning district a site-built single family residence on a 0.8 acre property located on NE Cubitis Avenue. The application is before the Planning Commission/Local Planning Agency because Land Development Regulations (LDR) Section 20-136(c)(8) provides for "Any other professional or commercial use which is comparable in nature with the foregoing uses and which the Development Director determines to be compatible in the district " as a special exception use and LDR Article XI, Division 5 requires the Planning Commission/Local Planning Agency to hold at least one public hearing with due public notice on a special exception use application and to make a recommendation on the application to the local governing body.

OVERVIEW OF REQUEST

The subject parcel is located on NE Cubitis Avenue(See Exhibit A) and is owned by Martin A Meza and Sara Nair Dionisio. The owner is requesting a Special Exception

to allow for a site-built single family residence to be constructed on Commercial Neighborhood property.

The 2040 Future Land Use Map shows the property is located within the Rural/Agricultural Land Use designation (See Exhibit B) and the Official Zoning District Atlas displays the property is situated within the Commercial Neighborhood (CN) zoning district (See Exhibit C).

Land Development Regulations (LDR) Section 20-136(c)(8) provides for a “Any other professional or commercial use which is comparable in nature with the foregoing uses and which the Development Director determines to be compatible in the district ” as a special exception use.

An application for a Special Exception was received in the Development Department on March 9, 2021.

PROPOSED RESOLUTION

A RESOLUTION OF THE DESOTO COUNTY BOARD OF COUNTY COMMISSIONERS GRANTING TO MARTIN A MEZA AND SARA NAIR DIONISIO A SPECIAL EXCEPTION USE DEVELOPMENT ORDER TO ALLOW WITHIN COMMERCIAL NEIGHBORHOOD ZONING DISTRICT A SITE BUILT SINGLE FAMILY RESIDENCE LOCATED ON NE CUBITIS AVENUE, THE PROPERTY IDENTIFICATION NUMBER BEING 08-37-25-0000-0471-0000; INCORPORATING THE WHEREAS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

DATA & ANALYSIS

In all quasi-judicial proceedings, the applicant shall bear the burden of demonstrating by competent and substantial evidence that the application satisfies the standards and requirements of the LDR's and Comprehensive Plan.

A. Application requirements. LDR Section 20-1431 provides that a special exception use application shall be submitted indicating the basis in this LDR under which the special exception use is sought and stating the grounds upon which it is requested, with particular reference to the types of findings which the Planning Commission must make as described below. The application must include material necessary to demonstrate that the approval of the special exception use will be in harmony with the LDRs general intent and purpose, not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare. Such material includes, but is not limited to, the following, where applicable:

1. *Plans at an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and services areas, and required yards and other open spaces.*
 - a. Placement of structures. The applicant has submitted a site plan showing proposed placement of structures on the property. Because the request for Special Exception is to allow a site built single family residence on Commercial Neighborhood property, several of the items listed will be addressed during the

permitting and commercial development process. Based on the above, it is concluded the application is in **conformance** with this factor.

- b. Provisions for ingress and egress. If a driveway connection is proposed on NE Cubitis Avenue, a Right-of Way permit will be required through the DeSoto County Engineering department. Future Commercial development may require a driveway constructed to commercial standards. If a driveway connection is proposed on Highway 17, it will require a permit from the Florida Department of Transportation (FDOT) if this is desired, it is recommended that the applicant coordinate with FDOT to determine the feasibility of a connection at this location.

- c. Off-street parking. Because the request for Special Exception is to allow a residence on a vacant Commercial Neighborhood property, off-street parking will be addressed at time of commercial development.

Based upon the above, it is concluded that this factor is **not applicable** at this time.

- d. Off-street loading. Because the request for Special Exception is to allow a residence on a vacant Commercial Neighborhood property, off street loading will be addressed at time of commercial development.

Based upon the above, it is concluded that this factor is **not applicable** at this time.

- e. Refuse and service areas. Residential collection will be secured at time of permit issuance. If commercial waste is generated, the applicant may choose maintain a garbage collection contract with the franchisee for all construction waste generated. Based on the above, it is concluded the application is in **conformance** with this factor.

- f. Required yards and open space. LDR 20-136(c)(8) provides for a "Any other professional or commercial use which is comparable in nature with the foregoing uses and which the Development Director determines to be compatible in the district " as a special exception use The Development Director finds that the application is in **conformance** with this factor.

2. *Plans showing proposed locations for utilities hook-up*. The applicant has not submitted plans showing the proposed locations for utilities hook-up because the request is for a residence. All utility hookups will be reviewed at time of permitting. Thus, this factor is **not applicable** at this time.
3. *Plans for screening and buffering with reference as to type, dimensions and characters*. The Special Exception request is for a residence on Commercial Neighborhood property. Thus, this factor is **not applicable** at this time.
4. *Plans for proposed landscaping and provisions for trees*. All landscaping and provisions for trees must be in compliance with DeSoto County Land Development Regulations.

Thus, this factor is **in conformance**.

5. *Plans for proposed signs and lighting, including type, dimensions and character.* All signs and lighting must be in compliance with the DeSoto County Land Development Regulations. Thus, the application is in **conformance** with this factor.

Based upon the findings and conclusions above, it is concluded the application demonstrates that the approval of the special exception use will be in harmony with the LDRs general intent and purpose, not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare.

B. Staff review. LDR Section 20-1432 addresses staff review.

1. *Section 20-1432(a) provides that upon receipt of an application for Special Exception, the Development Director shall determine whether the application is complete. The Development Director may waive some or all of the plans required by Section 20-1431(1) if the Special Exception includes only a change in use without any new construction. If the application is complete, it will be accepted for review. If the application is incomplete, the Development Director shall specify in writing the additional information required in order for the application to be processed. No further action shall be taken on the application until the additional information is submitted and determined to be complete.* On May 9, 2021, the owners filed with the Development Department a special exception use application to allow for "Any other professional or commercial use which is comparable in nature with the foregoing uses and which the Development Director determines to be compatible in the district". The Development Director subsequently determined the application was complete.
2. *Section 20-1432(b) states that after receipt of a complete application, the Development Director shall distribute the application for review by County staff and/or the Development Review Committee.* The Development Director caused the application to be distributed to Development Review Committee members.
3. *Section 20-1432(c) provides that upon completion of review, the Development Department shall prepare a staff report and schedule review of the application by the Planning Commission.* This Development Review Report is the staff report required by Section 20-1432(c). A draft copy was provided to the Applicant/Owner for review and comment. The application is scheduled for the August 3, 2021, Planning Commission meeting. The application is also scheduled for the August 24, 2021, Board of County Commissioners public hearing agenda.

C. Planning Commission findings. LDR Section 20-1433 provides that before any Special Exception use shall be recommended for approval to the Board of County Commissioners, the Planning Commission shall make a written finding that the granting of the Special Exception Use will not adversely affect the public interest, that the specific requirements governing the individual Special Exception Use, if any, have been met by the applicant, and that satisfactory provisions and arrangements have been made concerning twelve (12) matters, where applicable. These 12 matters and staff's evaluation of conformance with these matters is addressed below.

1. *Compliance with all elements of the Comprehensive Plan.* The 2040 Future Land Use Map shows the subject property is located within the Rural/Agricultural Land Use (See

Attachment B). The subject parcel is a lot of record. This application is in **conformance** with all elements of the Comprehensive Plan.

2. *Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.* Ingress and egress was addressed elsewhere in this report.
 - a. Automotive safety and convenience. This request is for a sit built single family residence. Thus, it is concluded that this is **not applicable**.
 - b. Pedestrian safety and convenience. This request is for a site built single family residence. Thus, it is concluded that this is **not applicable**.
 - c. Traffic flow and control. This request is for a site built single family residence. Thus, it is concluded that this is **not applicable**.
 - d. Access in case of fire or catastrophe. This request is for a sit built single family residence. If any commercial development is proposed in the future, this will be addressed at that time.
3. *Off-street parking and loading areas, where required, and economic, noise, vibration, dust, glare or odor effects of the Special Exception on adjoining properties and properties generally in the district.* Issues generally related to off-street parking and loading has been addressed elsewhere in this report.
 - a. Economic impacts. The application does not address the economic impacts. This request is for a site built single family residence on Commercial Neighborhood property. Based on the above, it is concluded the application is in **conformance** with this factor.
 - b. Noise impacts. This request is for a site built single family residence. Based on the above, it is concluded the application is in **conformance** with this factor because noise impacts will not rise to the level of being bothersome.
 - c. Vibration impacts. This request is for a site built single family residence and will not generate adverse vibration impacts. It is concluded the application is in **conformance** with this factor.
 - d. Dust impacts. This request is for a site built single family residence and will not generate adverse dust impacts. Based on the above, it is concluded the application is in **conformance** with this factor.
 - e. Glare impacts. This request is for a site built single family residence and will not have any negative impacts on glare. Based on the above, it is concluded the application is in **conformance** with this factor.
 - f. Odor impacts. This request is for a site built single family residence and will not have any negative impacts on odors. . Based on the above, it is concluded the application is in **conformance** with this factor.

4. *Utilities, with reference to locations, availability and compatibility.* Utilities were addressed elsewhere in this report.
5. *Screening and buffering with reference to type, dimensions and character.* Screening and buffering were addressed elsewhere in this report.
6. *Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.* Signs and lighting were addressed elsewhere in this report.
7. *Required yards and other open space.* Required yards and other open space were addressed elsewhere in this report.
8. *General compatibility with adjacent properties and other property in the district.* Table 1 and Figure 1 show the subject property is located within a Commercial Neighborhood (CN) zoning district.

**TABLE 1
LAND USE AND ZONING**

DIRECTION	EXISTING USE	LAND USE	ZONING
SITE	0.8 ACRES	R/A	CN
NORTH	0.8 ACRES .98 ACRES	R/A	RSF-1 A-5
SOUTH	.92 ACRES	R/A	RSF-1
EAST	40 ACRES 40 ACRES	R/A	RSF-1 IL
WEST	1.01 ACRES 2.55 ACRES	R/A	RSF-1 A-5

Sources: DeSoto County Property Appraiser (2019); DeSoto County Geographic Information System maps.

Based on the above, it is concluded the application is in **conformance** with this factor.

9. *Any special requirements set out in the zoning district regulations for the particular use involved.* The Development Director finds the LDR does not impose special requirements in the CN zoning district with regard to a site built single family residence. Based on the above, it is concluded the application is in **conformance** with this factor.
10. *Public and private utilities, structures, or uses required for public or private utilities, including but not limited to wastewater, gas, electric, and telephone utilities, sanitary landfills, and radio and television stations and towers may be permitted only as a special exception use unless determined by the Board to be essential service. In addition to items 1 through 9 above, the review of the request for a Special Exception Use shall include consideration of a plan showing all improvements or alterations that are proposed for the utilities or facilities. The proposed location of such utilities or facilities shall be such as not to be injurious to the health, safety, and welfare of the public or surrounding property owners, and shall protect the character of the surrounding property and maintain the*

stability of residential, commercial, manufacturing, agricultural, educational, cultural, and recreational areas within the County. The public benefit to be derived, the need for the proposed facilities, the existence of suitable alternative locations, potential impacts to surface or ground water drinking supplies, and whether the facility can properly be located on the site and in the development which it is to service shall also be taken into consideration where appropriate. Conditions in the form of screening, landscaping, or other site development restrictions may be imposed to protect the health, safety and welfare of the public or surrounding property owners. The special exception use application has provided a plan showing all improvements or alterations on the subject property. Thus, this factor or criteria is **in conformance**.

11. *The proposed use shall not act as a detrimental intrusion into the surrounding area.* The application suggests a site built home shall not act as a detrimental intrusion into the surrounding area. The Development Director concludes the application is in **conformance** with this factor because it does not act as a detrimental intrusion into the surrounding area.
12. *The proposed use shall meet the performance standards of the district in which the proposed use is permitted.* The CN zoning district does not establish minimum performance standards for a site built single family residence. The LDR's do set standards to structures within the CN zoning district. The Development Director concludes the application is in **conformance** with this factor.

In conclusion, based upon the totality of the circumstances as documented herein, the Development Director finds the application includes material necessary to demonstrate, with competent substantial evidence, that granting of the special exception use will not adversely affect the public interest, that the specific requirements governing the individual special exception use application have been met by the applicant, and that satisfactory provisions, arrangements or conditions have been made concerning the above 12 factors.

D. Public notice requirements. LDR Section 20-1439(c) requires notice of the date, time and place of the public hearings by the Planning Commission and Board of County Commissioners shall:

1. Be sent at least 10 days in advance of the hearings by mail to ten surrounding property owners or all owners of property within 1,000 feet of the property line of the land subject to the special exception use application; and
2. Have at least one sign posted on each road frontage; and
3. Be advertised in a newspaper of general circulation in DeSoto County at least 10 days prior to each public hearing.

The Development Department staff caused written notice of the hearings to be mailed to all property owners and such notice is on file with the Development Department and incorporated herein by reference.

ATTACHMENTS

Exhibit A: General Location Map

Exhibit B: Interim 2040 Future Land Use Map, Excerpt

Exhibit C: Official Zoning District Atlas, Excerpt

Exhibit D: Development Plan Sketch

ALTERNATIVE ACTIONS

- A. Enter into the record the Development Review Report, and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein, and make a recommendation to the Board of County Commissioners to adopt the proposed Resolution.
- B. Enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, adopt the findings and conclusions contained herein and make a recommendation to the Board of County Commissioners to deny the proposed Resolution.
- C. Enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, amend the findings and conclusions contained herein to support any necessary conditions, and make a recommendation to the Board of County Commissioners to adopt the proposed Resolution with the conditions.
- D. Enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, identify any additional data and analysis needed to support the proposed Resolution, and make a recommendation to the Board of County Commissioners to table for up to six months in order to allow staff time to provide the identified data and analysis needed to make an informed recommendation on the proposed Resolution.

RECOMMENDED ACTION

- A. Recommendation. The Development Director recommends the DeSoto County Planning Commission enter into the record the Development Review Report and all other competent substantial evidence presented at the hearing, and a recommendation to the Board of County Commissioners to adopt the findings and conclusions contained herein and adopt the proposed Resolution.
- B. Planning Commission: Scheduled for August 3, 2021.
- C. Board action. Scheduled for August 24, 2021.

Submitted by:
