

DeSoto County

Planning Commission

Meeting Agenda

Tuesday, April 2, 2024

5:30 PM

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

SET OR AMEND THE AGENDA

PUBLIC FORM FOR NON-AGENDA ITEMS

PROOF OF PUBLICATION: MOTION TO FILE PROOF OF PUBLICATION

Proof of Publication

[24-131](#)

Attachments: [Legal Ad Proof of Pub 4-2-24 & 4-23-24](#)
[Legal Ad 4-2-24 & 4-23-24](#)

MEETING MINUTES

DEVELOPMENT DIRECTOR COMMENTS

ACTION ITEMS

Ordinance/Amending Land Development Regulation Sections 20-759 & 20-1499

[24-119](#)

Sponsors: Administrator

Attachments: [LDR-0006-2024 staff report](#)
[LDR-0009-2024 Ord](#)

Resolution / Luis Rivero (USE-0155-2023)

[24-125](#)

Sponsors: Administrator

Attachments: [Rivero USE 0155 2023 Staff Report](#)
[Exhibit A-Location Map](#)
[Exhibit B - FLUM](#)
[Exhibit C - Zoning Map](#)
[Resolution Rivero USE 0155 2023](#)

ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON**NEXT MEETING****ADJOURNMENT**

NOTE: For quasi-judicial matters, any party desiring a verbatim record of the proceeding of this hearing for the purpose of an appeal is advised to make private arrangements for the production of a record and anyone wishing to present documents or other written evidence to the Board must provide eight (8) copies of the written material. If special accommodations are required in accordance with the Americans with Disabilities Act, individuals should contact the County Administrator's Office by calling 863-993-4800 at least forty-eight hours prior to the hearing.



DeSoto County

4/2/2024

Item #:

- ☐ Consent Agenda ☐ Quasi-Judicial Public Hearing
☒ Regular Business 5:30 pm
☐ Public Hearing Proof of Publication

DEPARTMENT: Planning & Zoning
SUBMITTED BY: Laura McClelland
PRESENTED BY: Bill Martin

TITLE & DESCRIPTION:

Proof of Publication

REQUESTED MOTION:

A motion to file proof of publication

SUMMARY:

Click or tap here to enter text.

BACKGROUND:

Click or tap here to enter text.

FUNDS:

Budget Amount: Click or tap here to enter text.

Actual Agenda Item: Click or tap here to enter text.

Cost: Click or tap here to enter text.

Account Number: Click or tap here to enter text.

Explanation: Click or tap here to enter text.



Ticket number 3923682-1
DBOCC PC AD 4.26
3x11 w/ map
Submitted by: Kathy H.
AD ID 3923684
Publish: 3/22/24
379254 3923684

**PUBLISHER'S AFFIDAVIT OF
PUBLICATION STATE OF FLORIDA COUNTY
OF CHARLOTTE:**

Before the undersigned authority personally appeared Amber Douglas, who on oath says that she is the Legal Advertising Representative of The Daily Sun, a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Legal Notice that was published in said newspaper in the issue(s)

03/22/24

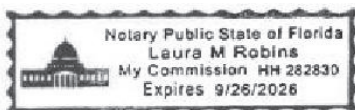
as well as being posted online at www.yoursun.com and www.floridapublicnotices.com.

Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

(Signature of Affiant)

Sworn and subscribed before me this 22nd day of
March, 2024

(Signature of Notary Public)



Personally known X OR Produced Identification

Gator/

from A1

“They are more agile and quicker than we think,” Edwards said, noting a dog park was not too far from the alligator dinner party. It wasn’t until she was passing the gator again on the looped trail that it frightened her. “I didn’t get that pit in my stomach until we made eye contact,” Edwards said. “It was so freaky when he just glided into the water with the alligator still in his mouth.” Edwards retreated to safety on the trail after the chilling exchange. But the intrigue still lingered after the odd encounter, said Edwards,

who contacted an expert in a wildlife social media group about her experience. The expert confirmed the alligator’s unusual meal was not so unusual. According to the Florida Fish and Wildlife Conservation Commission, alligators are opportunistic feeders, feeding on anything from insects and amphibians to small fish and, on occasion, an alligator. With the approaching warm weather in Florida, males can become more aggressive during mating season, leading to territorial cannibalism, FWC officials said. If someone is concerned about the behavior or danger of an alligator, FWC

encourages residents to call the toll free Nuisance Alligator Hotline at 866-392-4286. A “contracted nuisance alligator trapper” will be dispatched to resolve the situation. FWC also encourages residents to adhere to the following guidelines when interacting in the same space as alligators: ■Keep pets on a leash and away from the water’s edge. Pets often resemble alligators’ natural prey. ■Swim only in designated swimming areas during daylight hours and without your pet. Alligators are most active between dusk and dawn. ■Never feed an alligator. It’s illegal and dangerous.

When fed, alligators can lose their natural wariness and instead learn to associate people with the availability of food. This can lead to dangerous circumstances for yourself and other people who could encounter the alligator in the future. Edward’s post went viral over the weekend, with many commenters sharing their shock or disgust. While the reaction was unusual for a state that regularly experiences gator crossings and interactions, Edwards guessed it was the shock of discovering they eat one another. “I think it’s because we don’t realize that gators are cannibals in the alligator world and you don’t



PHOTO PROVIDED

Sue Edwards was running on a two-mile looped trail around a lake in Babcock Ranch on Sunday when she spotted the rather rotund gator enjoying a snack on the embankment. usually see a gator eating another gator,” Edwards said. “But I will still continue to look for wildlife on my runs outside and on the trail.” **chloe.nelson@yoursun.com.**

Apple/

from A1

among others.” That includes diminishing the functionality of non-Apple smartwatches, limiting access to contactless payment for third-party digital wallets and refusing to allow its iMessage app to exchange encrypted messaging with competing platforms. It specifically seeks to stop Apple from undermining technologies that compete with its own apps — in areas including streaming, messaging and digital payments — and prevent it from continuing to craft contracts with developers, accessory makers and consumers that let it “obtain, maintain, extend or entrench a monopoly.” The lawsuit — filed with 16 state attorneys general — is just the latest example of aggressive antitrust

enforcement by an administration that has also taken on Google, Amazon and other tech giants with the stated aim of making the digital universe more fair, innovative and competitive. “The Department of Justice has an enduring legacy taking on the biggest and toughest monopolies in history,” said Assistant Attorney General Jonathan Kanter, head of the antitrust division, at a press conference announcing the lawsuit. “Today we stand here once again to promote competition and innovation for next generation of technology.” Antitrust researcher Dina Srinivasan, a Yale University fellow, compared the lawsuit’s significance to the government’s action against Microsoft a quarter century ago — picking a “tremendous fight” with what has been the world’s most

prosperous company. “It’s a really big deal to go up and punch someone who is acting like a bully and pretending not to be a bully,” she said. President Joe Biden has called for the Justice Department and the Federal Trade Commission to vigorously enforce antitrust statutes. While its stepped-up policing of corporate mergers and questionable business practices has met resistance from some business leaders — accusing the Democratic administration of overreach — it’s been lauded by others as long overdue. The case seeks to pierce the digital fortress that Apple Inc., based in Cupertino, California, has assiduously built around the iPhone and other popular products such as the iPad, Mac and Apple Watch to create what is often referred to as a “walled garden” so

its hardware and software can seamlessly offer user-friendly harmony. The strategy has helped Apple attain an annual revenue of nearly \$400 billion and, until recently, a market value of more than \$3 trillion. But Apple’s shares have fallen by 7% this year even as most of the stock market has climbed to new highs, resulting in long-time rival Microsoft seizing the mantle as the world’s most valuable company. Apple said the lawsuit, if successful, would “hinder our ability to create the kind of technology people expect from Apple — where hardware, software, and services intersect” and would “set a dangerous precedent, empowering government to take a heavy hand in designing people’s technology.” “At Apple, we innovate every day to make technology people love — designing products that work seamlessly together, protect people’s privacy and

security, and create a magical experience for our users,” the company said in a statement. “This lawsuit threatens who we are and the principles that set Apple products apart in fiercely competitive markets. Apple has defended the walled garden as an indispensable feature prized by consumers who want the best protection available for their personal information. It has described the barrier as a way for the iPhone to distinguish itself from devices running on Google’s Android software, which isn’t as restrictive and is licensed to a wide range of manufacturers. “Apple claims to be a champion of protecting user data, but its app store fee structure and partnership with Google search erode privacy,” Consumer Reports senior researcher Sumit Sharma said in a statement. The lawsuit complains that Apple charges as much as \$1,599 for an iPhone

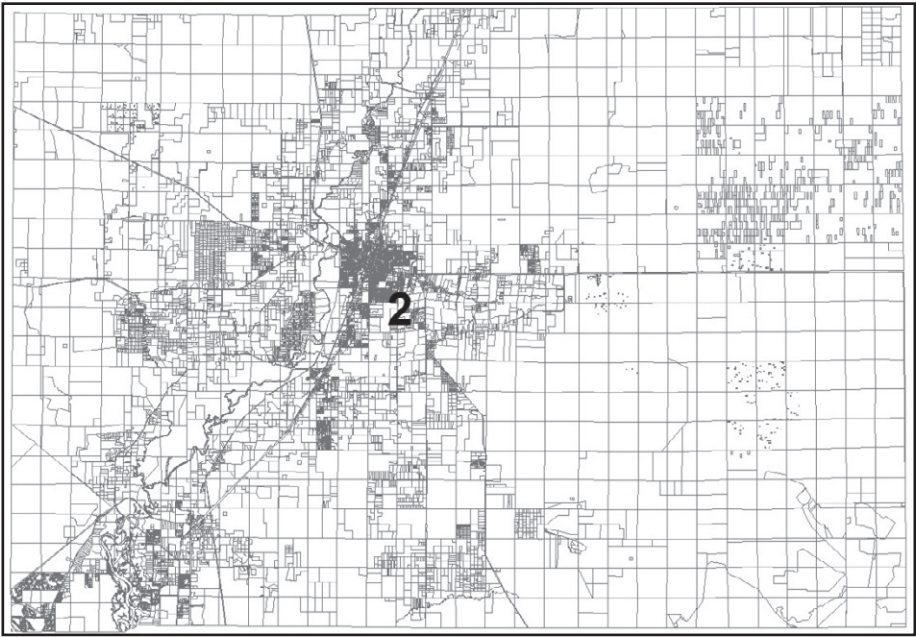
and that the high margins it earns on each is more than double what others in the industry get. And when users run an internet search, Google gives Apple a “significant cut” of the advertising revenue those searches generate. The company’s app store also charges developers up to 30 percent of the app’s price for consumers. Critics of Apple’s alleged anticompetitive practices have long complained that its claim to prioritize user privacy is hypocritical when profits are at stake. While its iMessage services is sheathed from prying eyes by end-to-end encryption, that protection evaporates the moment someone texts a non-Apple device. But Will Strafach, a mobile security expert, said that while he believes Apple needs reigning in, he’s concerned that the Justice Department’s focus on messaging may be misplaced and could weaken security and privacy.

NOTICE OF PUBLIC HEARING

The DeSoto County Board of County Commissioners (BoCC), Florida will consider recommending approval of the below-described matters. The resolution will be considered at regularly scheduled Public Hearing Meetings of the Board of County Commissioners on the dates listed and at the times listed below, or as soon thereafter, as they may be heard on that date. All public hearings will be held in the County Commission Meeting Room 103, Administration Building, 201 E. Oak Street, Arcadia, Florida. Copies of the applications and staff reports are available at the Development Department Room 204, Administration Building, 201 E. Oak Street, Arcadia, Florida five days prior to the meeting dates and are available on the County’s website at www.desotobocc.com under Department News and News & announcements. Members of the public may appear and be heard on the matters to be considered. If you want to appeal any decision of the BoCC, you may need to arrange for a verbatim transcript to be prepared.

PLANNING COMMISSION: Tuesday, April 2, 2024 at 5:30
BOARD OF COUNTY COMMISSIONERS: Tuesday, April 23, 2024 at 6:30 PM

- 1. Ordinance, DeSoto County, Florida (LDR-0006-2024) (County Wide)**
AN ORDINANCE OF DESOTO COUNTY, FLORIDA, AMENDING SECTION 20-759 NONCONFORMING STRUCTURES, SECTION 20-1499 CONDITIONS AND SAFEGUARDS, DESOTO COUNTY LAND DEVELOPMENT REGULATIONS TO INCLUDE UPDATES; PROVIDING FOR AN EFFECTIVE DATE.
- 2. Resolution, Luis Rivero (USE-0155-2023)**
A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, GRANTING TO LUIS RIVERO A SPECIAL EXCEPTION USE DEVELOPMENT ORDER (USE-0155-2023) APPROVAL WITH CONDITIONS TO ALLOW WITHIN THE AGRICULTURAL-5 (A-5) ZONING DISTRICT AN ANIMAL SLAUGHTERHOUSE/FOOD PROCESSING PLANT, ON AN 11.88 ACRE PARCEL, LOCATED AT 2587 SE AIRPORT ROAD, THE PROPERTY IDENTIFICATION NUMBERS BEING 07-38-25-0000-0044-0000 AND 07-38-25-0000-0045-0000; INCORPORATING THE WHEREAS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.



PUBLISH: AS DISPLAY AD Friday, March 22, 2024

adno=3923682-1

STOREWIDE SALE-A-BRATION



We are the area's number one choice for quality leather furniture. Our gallery consists of a beautiful collection of leather furnishings from all the top brands. When you choose Sarasota Leather Gallery, you know you're getting the industry's finest at the lowest prices possible. With our furniture, we guarantee that your home will be the talk of the town!



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FD-3051046



DeSoto County

4/2/2024

Item #:

- ☐ Consent Agenda ☒ Quasi-Judicial Public Hearing
☐ Regular Business 5:30 pm
☐ Public Hearing Ordinance

DEPARTMENT: Planning & Zoning
SUBMITTED BY: Laura McClelland
PRESENTED BY: John Osborne

TITLE & DESCRIPTION:

Ordinance/Amending Land Development Regulation Sections 20-759 & 20-1499

REQUESTED MOTION:

A motion to enter into the record this Development Review Report and all other competent substantial evidence presented at the hearing and make a recommendation to the Board of County Commissioners to adopt the findings and conclusions contained herein, and adopt the proposed Ordinance amending the Land Development Regulations section 20-759 Nonconforming Structures and Section 20-1499 Conditions and Safe-Guards.

SUMMARY:

The following are two proposed amendments to the DeSoto County Land Development Regulation related to non-conforming structures and rezoning development conditions. These proposed amendments will have the following schedule:

- March 26, 2024 - First reading with the Board of County Commissioners.**
- April 2, 2024 - Public Hearing by the Planning Commission.**
- April 23, 2024 - Final public hearing with the Board of County Commissioners.**

BACKGROUND:

Proposed LDR Amendment to Nonconforming Structures

On Tuesday, September 12, 2023, at the Board of County Commissioner's meeting, County Administrator Mandy Hines advised the Board of a situation with a property owner whereby their mobile home was heavily damaged by Hurricane Ian and subsequently demolished in November 2022. The mobile home is in the RSF zoning district, which does not allow mobile homes. The property owner approached the County about putting another mobile home on the site, the Development Department could not approve the request due to Sec. 20-753(3) which does not allow the re-establishment of nonconforming structures after 12 months. Given the situation of affordable housing and post-disaster recovery, the Board authorized staff to amend the LDR to increase the time to re-establish non-conforming uses from 12 to 18 months.

Item #:

Proposed LDR Amendment to Rezoning and Development Conditions

Division 7. - Procedures for Applications for Rezoning and LDR Amendments describes the process applicants go through in proposing to rezone their property. This division also provides for staff's role and the review criteria to be used. Section 20-1499 Conditions and Safeguards provides the ability for rezoning to be conditioned to limit the use of the property.

This type of condition typically occurs when the rezone is accompanied by a Development Plan and any condition or safeguard the Planning Commission recommends and the Board finds appropriate, is added as a condition to the Development Plan approval ordinance.

Rezonings are subject to the review criteria previously mentioned and if not accompanied by a Development Plan, are subject to review of the breadth of potential uses mentioned with each zoning district.

Some jurisdictions do allow for rezonings to have development conditions under certain circumstances and have a distinct zoning classification. As an example, Manatee County has a "limited" zoning classification that allows an applicant to rezone a property with applicant proffered limitations, whereby the zoning category has an "L" designation (e.g., CG-L, IH-L, etc.). The applicants may proffer to eliminate any permitted/allowable uses by the zoning district, reduce development density/intensity, restrict lot standards (e.g., larger minimum setbacks, etc.), limits on building heights, larger landscape buffers, etc. This does create challenges from a Code Enforcement perspective as each development could have "custom" zoning. A better alternative is for an applicant to receive consideration of their rezoning with an accompanying Development Plan, which provides an illustrative example of any proffered development conditions and safeguards (any limitations previously mentioned) by the applicant.

FUNDS:

Budget Amount: Click or tap here to enter text.

Actual Agenda Item: Click or tap here to enter text.

Cost: Click or tap here to enter text.

Account Number: Click or tap here to enter text.

Explanation: Click or tap here to enter text.

DESOTO COUNTY DEVELOPMENT DEPARTMENT STAFF REPORT

REQUEST: County-Initiated Amendment to the Land Development Code
Case # LDR-0006-2024

PROPERTY OWNER: DeSoto County Government

PROPERTY ID: NA

PROPERTY ADDRESS: NA

OVERVIEW OF REQUEST

The following are two proposed amendments to the DeSoto County Land Development Regulation related to non-conforming structures and rezoning development conditions. These proposed amendments will have the following schedule:

- March 26, 2024 - First reading with the Board of County Commissioners
- April 2, 2024 - Public hearing by the Planning Commission
- April 23, 2024 - Final public hearing with the Board of County Commissioners

Proposed LDR Amendment to Nonconforming Structures

Background

On Tuesday, September 12, 2023, at the Board of County Commissioner's meeting, County Administrator Mandy Hines advised the Board of a situation with a property owner whereby their mobile home was heavily damaged by Hurricane Ian and subsequently demolished in November 2022. The mobile home is in the RSF zoning district, which does not allow mobile homes. The property owner approached the County about putting another mobile home on the site, the Development Department could not approve the request due to Sec. 20-753(3) which does not allow the re-establishment of nonconforming structures after 12 months. Given the situation of affordable housing and post-disaster recovery, the Board authorized staff to amend the LDR to increase the time to re-establish non-conforming uses from 12 to 18 months.

Proposed Amendment

Sec. 20-759. - Nonconforming structures and uses of structures.

Where an existing structure could not be built under the LDRs by reason of restrictions on lot area, lot coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued, subject to the following provisions:

(1) Nonconforming structures may not be enlarged or altered in a way which increases their nonconformity, but may be altered to decrease their nonconformity.

(2) Any structure, or structure and premises in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such

structure is located, and the nonconforming use shall not thereafter be resumed nor shall any other nonconforming use be permitted.

(3) If any nonconforming use of a structure, or structure and premises in combination, is abandoned, discontinued, or ceases for any reason (except when governmental action impedes access to the premises) for a period of ~~42~~ 18 consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(4) Where a nonconforming structure is destroyed or removed to the extent of more than 50 percent of the structure as determined by the Development Director, the structure shall thereafter conform to the LDRs.

(5) If a nonconforming structure or portion of a structure, or any structure containing a nonconforming use, becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the duly authorized official of the County to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuild except in conformity with the LDRs.

(6) Any use which is approved by special exception shall not be deemed a nonconforming use.

(7) A nonconforming use may be changed to a different nonconforming use in accordance with the provisions of Section 20-1280(3). (this refers to the Board of Adjustment)

Rezoning and Development Conditions

Background

Division 7. – Procedures for Applications for Rezoning and LDR Amendments describes the process applicants go through in proposing to rezone their property. This division also provides for staff's role and the review criteria to be used. Section 20-1499 Conditions and Safeguards provides the ability for rezoning to be conditioned to limit the use of the property.

This type of condition typically occurs when the rezone is accompanied by a Development Plan and any condition or safeguard the Planning Commission recommends and the Board finds appropriate, is added as a condition to the Development Plan approval ordinance.

Rezonings are subject to the review criteria previously mentioned and if not accompanied by a Development Plan, are subject to review of the breadth of potential uses mentioned with each zoning district.

Some jurisdictions do allow for rezonings to have development conditions under certain circumstances and have a distinct zoning classification. As an example, Manatee County has a "limited" zoning classification that allows an applicant to rezone a property with applicant proffered limitations, whereby the zoning category has an "L" designation (e.g., CG-L, IH-L, etc.). The applicants may proffer to eliminate any permitted/allowable uses by the zoning district, reduce development density/intensity, restrict lot standards (e.g., larger minimum setbacks, etc.), limits on building heights, larger landscape buffers, etc. This does create challenges from a Code Enforcement perspective as each development could have "custom" zoning. A better alternative is for an applicant to receive consideration of their rezoning with an accompanying Development Plan, which provides an illustrative example of any proffered development conditions and safeguards (any limitations previously mentioned) by the applicant.

Proposed Amendment

Sec. 20-1499. - Conditions and safeguards.

(a) The Planning Commission may not recommend that a rezoning application or an application to amend the LDRs be approved subject to conditions and safeguards. Any conditions and safeguards may be added to an accompanying Preliminary Development Plan application and site plan., including,

but not limited to, limiting the use of the property to certain uses provided for in the requested zoning district.

(b) The Board of County Commissioners, after receiving the recommendation from the Planning Commission on an application for rezoning or an application to amend the LDRs, may grant or deny such rezoning or amendment. Any conditions and safeguards may be added to an accompanying Preliminary Development Plan application and site plan and may make the granting conditional upon such conditions and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the Comprehensive Plan.

RECOMMENDED ACTIONS

1. Motion to enter into the record the Staff Report and approve.

DESOTO COUNTY, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF DESOTO COUNTY, FLORIDA, AMENDING SECTION 20-759 NONCONFORMING STRUCTURES, SECTION 20-1499 CONDITIONS AND SAFEGUARDS, DESOTO COUNTY LAND DEVELOPMENT REGULATIONS TO INCLUDE UPDATES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapters 125, 163, and 553 Part IV, Florida statutes, authorize counties of the State of Florida to adopt and enforce regulations in the interest of public health, safety and welfare; and

WHEREAS, the DeSoto County Board of County Commissioners is authorized to adopt ordinances regulating the use of land in DeSoto County through adoption of the Land Development Regulations; and

WHEREAS, the purpose of this ordinance is to amend the DeSoto County Land Development regulations to extend the timeframe of non-conforming structures to reconstruct damaged by Hurricane Ian; and

WHEREAS, the purpose of this ordinance is to amend the DeSoto County Land Development regulations to clarify that the Planning Commission may not recommend conditions to rezoning's that do not include an accompanying Preliminary Development Plan; and

WHEREAS, the Board further finds that adoption of this ordinance is in the best interest of the residents of DeSoto County and serves a proper public purpose; and

WHEREAS, the Board has properly noticed and held public hearings in accordance with law prior to adopting this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, THAT:

Section 1. Sections 20-759 Nonconforming structures and uses of structures, DeSoto County Land Development Regulations, are amended to read as follows:

Sec. 20-759. - Nonconforming structures and uses of structures.

Where an existing structure could not be built under the LDRs by reason of restrictions on lot area, lot coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued, subject to the following provisions:

(1) Nonconforming structures may not be enlarged or altered in a way which increases their nonconformity, but may be altered to decrease their nonconformity.

(2) Any structure, or structure and premises in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use shall not thereafter be resumed nor shall any other nonconforming use be permitted.

(3) If any nonconforming use of a structure, or structure and premises in combination, is abandoned, discontinued, or ceases for any reason (except when governmental action impedes access to the premises) for a period of ~~42~~ 18 consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(4) Where a nonconforming structure is destroyed or removed to the extent of more than 50 percent of the structure as determined by the Development Director, the structure shall thereafter conform to the LDRs.

(5) If a nonconforming structure or portion of a structure, or any structure containing a nonconforming use, becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the duly authorized official of the County to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuild except in conformity with the LDRs.

(6) Any use which is approved by special exception shall not be deemed a nonconforming use.

(7) A nonconforming use may be changed to a different nonconforming use in accordance with the provisions of Section 20-1280(3). (this refers to the Board of Adjustment)

Section 2. Sections 20-1499 Conditions and Safeguards, DeSoto County Land Development Regulations, are amended to read as follows:

Sec. 20-1499. - Conditions and safeguards.

(a) The Planning Commission may not recommend that a rezoning application or an application to amend the LDRs be approved subject to conditions and safeguards. Any conditions and safeguards may be added to an accompanying Preliminary Development Plan application and site plan. ~~including, but not limited to, limiting the use of the property to certain uses provided for in the requested zoning district.~~

(b) The Board of County Commissioners, after receiving the recommendation from the Planning Commission on an application for rezoning or an application to amend the LDRs, may grant or deny such rezoning or amendment. Any conditions and safeguards may be added to an accompanying Preliminary Development Plan application and site plan and may make the granting conditional upon such conditions and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the Comprehensive Plan.

Section 3. This ordinance shall become effective immediately upon filing with the Secretary of State.

**DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
OF DESOTO COUNTY, FLORIDA, THIS 23 DAY OF APRIL, 2024.**

ATTEST:

DESOTO COUNTY BOARD OF COUNTY
COMMISSIONERS

By:_____

Mandy Hines
County Administrator

Jerod Gross
Chairman

Approved as to form and legal sufficiency:

Donald D Conn
County Attorney



DeSoto County

4/2/2024

Item #:

- ☐ Consent Agenda ☒ Quasi-Judicial Public Hearing
☐ Regular Business 5:30 pm
☐ Public Hearing Resolution

DEPARTMENT: Planning & Zoning
SUBMITTED BY: Laura McClelland
PRESENTED BY: John Osborne

TITLE & DESCRIPTION:
Resolution / Luis Rivero (USE-0155-2023)

REQUESTED MOTION:

A motion to enter into the record this Development Review Report and all other competent substantial evidence presented at the hearing and make a recommendation to the Board of County Commissioners to adopt the findings and conclusions contained herein, and adopt the proposed Resolution.

SUMMARY:

The matter before the Planning Commission/ Local Planning Agency is a special exception use application (USE-0155-2023) to allow within the Agricultural- 5 (A-5) zoning district, a 30,592 SF animal slaughterhouse/food processing plant with associated improvements on an 11.88-acre property located on SE Airport Road. The application is before the Planning Commission/Local Planning Agency because Land Development Regulations (LDR) Section 20-127(1)(c)(1) provides for "Agriculturally related processing, canning or packing plant; wineries that sell wine that is fermented on site; slaughterhouses; citrus packing; feed lots; sawmills; headquarters for off-site agricultural operations; livestock sales facilities; agricultural support housing" 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.

BACKGROUND:

Click or tap here to enter text.

FUNDS:

Budget Amount: Click or tap here to enter text.

Actual Agenda Item: Click or tap here to enter text.

Cost: Click or tap here to enter text.

Account Number: Click or tap here to enter text.

Explanation: Click or tap here to enter text.

Item #:



DESOTO COUNTY DEVELOPMENT DEPARTMENT STAFF REPORT

REQUEST: Special Exception: Slaughterhouse USE-0155-2023

PROPERTY OWNER: Luis Rivero
3420 SW 142nd Avenue
Miami, Florida 33175

APPLICANT: Andres Boral, PE
Boral Engineering & Design, Inc.
23150 Fashion Drive, Suite 230
Estero, Florida 33928

PROPERTY ID: 07-38-25-0000-0044-0000
07-38-25-0000-0045-0000

PROPERTY ADDRESS: 2587 SE Airport Road, Arcadia, FL 34266

TOTAL PARCEL SIZE: 11.88 acres

ZONING DISTRICT: A-5 (Agricultural- 5)

FUTURE LAND USE DESIGNATION: Low Density Residential Land Use

DEVELOPMENT REVIEW REPORT

The matter before the Planning Commission/ Local Planning Agency is a special exception use application (USE-0155-2023) to allow within the Agricultural- 5 (A-5) zoning district, a 30,592 SF animal slaughterhouse/food processing plant with associated improvements on an 11.88-acre property located on SE Airport Road. The application is before the Planning Commission/Local Planning Agency because Land Development Regulations (LDR) Section 20-127(1)(c)(1) provides for "Agriculturally related processing, canning or packing plant; wineries that sell wine that is fermented on site; slaughterhouses; citrus packing; feed lots; sawmills; headquarters for off-site agricultural operations; livestock sales facilities; agricultural support housing" 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 at 2587 SE Airport Road (See Exhibit A) in central DeSoto County and is owned by Luis Rivero. The owner is requesting a Special Exception to allow for a 30,592 SF animal slaughterhouse/food processing plant with associated improvements, on Agricultural-5 property. An existing single-family residence and 4 coops, and 3 (of 4) barns will remain on site.

The 2040 Future Land Use Map shows the property is located within the Low Density Residential Land Use designation (See Exhibit B) and the Official Zoning District Atlas displays the property is situated within the Agricultural- 5 (A-5) zoning district (See Exhibit C).

Land Development Regulations (LDR) Section 20-127(1)(c)(1) provides for “Agriculturally related processing, canning or packing plant; wineries that sell wine that is fermented on site; slaughterhouses; citrus packing; feed lots; sawmills; headquarters for off-site agricultural operations; livestock sales facilities; agricultural support housing” as a special exception use.

An application for a Special Exception was received in the Development Department on December 1, 2023.

PROPOSED RESOLUTION

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, DENYING TO LUIS RIVERO A SPECIAL EXCEPTION USE DEVELOPMENT ORDER (USE-0155-2023) TO ALLOW WITHIN THE AGRICULTURAL-5 (A-5) ZONING DISTRICT AN ANIMAL SLAUGHTERHOUSE/FOOD PROCESSING PLANT, ON AN 11.88 ACRE PARCEL, LOCATED AT 2587 SE AIRPORT ROAD, THE PROPERTY IDENTIFICATION NUMBERS BEING 07-38-25-0000-0044-0000 AND 07-38-25-0000-0045-0000; 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 concept plan showing the proposed location of the 30,592 SF animal slaughterhouse/food processing plant, as well as the location of the existing improvements (single-family residence, coops, and barns). The concept plan indicates setbacks for the proposed building consistent with the standards for the A-5 zoning district. The minimum setbacks in the A-5 zoning district are 50' front, 30' side, and 50' rear. However, this is an area with a Low Density Residential Future Land Use designation. The proposed use is inconsistent and incompatible with the allowable uses within this designation. Based upon the above, it is concluded the application is **not in conformance** with this factor.
- b. Provisions for ingress and egress. The property is currently served by an existing driveway on SE Airport Road to access the existing single-family residence. The concept plan indicates an additional 24' asphalt driveway proposed on SE Airport Road to serve the proposed slaughterhouse. The proposed site entrance will be required to comply with the DeSoto County Engineering Standard Details with the Improvement Plan application. However, this is an area with a Low Density Residential Future Land Use designation. The proposed use may have heavy truck traffic and is inconsistent and incompatible with the allowable uses within this designation. Based upon the above, it is concluded that the application is **not in conformance** with this factor.
- c. Off-street parking. The proposed use is to allow a 30,592 SF animal slaughterhouse/food processing plant (permitted in A-5 by special exception). The concept plan shows 47 proposed parking spaces, including 2 ADA spaces. The proposed parking lot is greater than 150 feet deep which will require a turnaround at the end of the parking lot to prevent fire department vehicles from backing up on future plan submittals. However, this is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. Based upon the above, it is concluded that the application is **not in conformance** with this factor.
- d. Off-street loading. The proposed use is to allow a 30,592 SF animal slaughterhouse/food processing plant (permitted in A-5 by special exception). No off-street loading is indicated on the concept plan. Future plan submittals will be required to demonstrate compliance with Sections 20-536 and 20-537(f) of the LDR for off-street loading standards. However, this is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. Based upon the above, it is concluded that the application is in **not in conformance** with this factor.
- e. Refuse and service areas. No solid waste collection plan has been provided with the proposed concept plan for a 30,592 SF animal slaughterhouse/food processing plant. If approved, any future plan submittals will be required to demonstrate

provisions for solid waste collection and related odor control. However, this is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. Based upon the above, it is concluded the application is **not in conformance** with this factor.

- f. Required yards and open space. LDR 20-127(2)(c) requires a front yard setback of 50', a side yard setback of 30', and a rear yard setback of 50' in the A-5 zoning district. The proposed concept plan shows the location of the proposed 30,592 SF animal slaughterhouse/food processing plant. The site plan indicates setbacks for the proposed slaughterhouse consistent with the standards for the A-5 zoning district.

This is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation.

Development in the Low Density Residential future land use designation shall provide a minimum of 25% open space. This shall be provided on future plan submittals.

The Development Director finds that the application is in **conformance** with this factor **with conditions**.

2. *Plans showing proposed locations for utilities hook-up.* The property is served by existing electric, well, and septic. No additional utilities are proposed. Water and sewer service are not available by DeSoto County Utilities (DCU). A new septic system application from the Dept. of Health will be required, following guidelines from the Dept. of Environmental Protection. Thus, the application is **in conformance** with this factor **with conditions**.
3. *Plans for screening and buffering with reference as to type, dimensions and characters.* The Special Exception request is to allow for a 30,592 SF animal slaughterhouse/food processing plant. A 20' wide Type D buffer is proposed along the south property line, a 20' wide Type B buffer is proposed along the east and west property lines, and a 10' wide Type B buffer is proposed along the north property line. Additionally, the existing perimeter fence is proposed to be replaced by a 6' high opaque fence.

However, this is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation.

Thus, the application is **not in conformance** with this factor.

4. *Plans for proposed landscaping and provisions for trees.* The Special Exception request is to allow for a 30,592 SF animal slaughterhouse/food processing plant. A 20' wide Type D buffer is proposed along the south property line, a 20' wide Type B buffer is proposed along the east and west property lines, and a 10' wide Type B buffer is proposed along the north property line. Additionally, the existing perimeter fence is proposed to be replaced by a 6' high opaque fence. However, this is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is

inconsistent and incompatible with the allowable uses within this designation. Thus, the application is **not in conformance** with this factor.

5. *Plans for proposed signs and lighting, including type, dimensions, and character.* The Special Exception request is to allow for a 30,592 SF animal slaughterhouse/food processing plant. The proposed days and hours of operation for the slaughterhouse is daily from 7am to 6pm. No signs or lighting are proposed on the concept plan. Future plan submittals should be consistent with the standards for signs and lighting in the LDRs. Thus, the application is **in conformance** with this factor **with conditions**.

The Development application and proposed site plan were considered in applying the standards for the 30,592 SF animal slaughterhouse/food processing plant, allowed by special exception in Agricultural- 5 zoning district. The property meets the minimum lot area of 5 acres. The site plan indicates setbacks for the proposed slaughterhouse consistent with the standards for the A-5 zoning district.

However, this is an area with a Low Density Residential Future Land Use designation as described by Policy 1.4.2: in the Future Land Use Element:

Policy 1.4.2: Low Density Residential Use Category Uses. The primary use of this category shall be residential, in a variety of low densities and styles. A sustainable mix of neighborhood scale commercial uses may be introduced only as a part of the PUD process for developments of 1000 dwelling units or greater. The commercial area shall be located at the intersections of collector and/or arterial roads and shall be separated approximately 2 miles from other existing and/or future commercial designated areas. Schools and other public facilities shall be permitted with appropriate buffering. The zoning district uses and development standards contained in the Land Development Regulations shall carry out the specific intent of this land use category.

No industrial uses are permitted in this category. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable residential uses within this designation.

Based upon the findings and conclusions above, it is concluded the application demonstrates that the approval of the special exception use will not be in harmony with the LDRs general intent and purpose, 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/addition 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 December 1, 2023, the applicant filed with the Development Department a special exception use application to allow for the 30,592 SF animal slaughterhouse/food

processing plant in the A-5 zoning 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 120-1432(c). A draft copy was provided to the Applicant/Owner for review and comment. The application is scheduled for June 4, 2024, Planning Commission meeting. The application is also scheduled for the June 25, 2024, 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 Low Density Residential Land Use (See Attachment B). The subject parcel is a lot of record. According to the County's Comprehensive Plan, Policy 1.4.2, *"the primary use of this category shall be residential, in a variety of low densities and styles. A sustainable mix of neighborhood scale commercial uses may be introduced only as a part of the PUD process for developments of 1000 dwelling units or greater. The commercial area shall be located at the intersections of collector and/or arterial roads and shall be separated approximately 2 miles from other existing and/or future commercial designated areas. Schools and other public facilities shall be permitted with appropriate buffering. The zoning district uses and development standards contained in the Land Development Regulations shall carry out the specific intent of this land use category."*

It makes no mention of agricultural-supporting or industrial-type uses being allowed. The property's zoning district is A-5 (Agricultural – 1 dwelling unit per 5 acres maximum), which does allow slaughterhouses by Special Exception. The Future Land Use Designation of Low Density Residential is inconsistent with the proposed use (slaughterhouse) as the Future Land Use Map takes precedence over zoning. This application is in **not 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 special exception request is to allow for a 30,592 SF animal slaughterhouse/food processing plant on the subject property. One existing driveway on SE Airport Road serves the single-family residence. The concept plan indicates an additional 24' asphalt driveway proposed on SE Airport Road to serve the proposed slaughterhouse. The proposed site entrance will be required to comply with the DeSoto County Engineering Standard Details for commercial vehicles with the Improvement Plan application. Thus, it is concluded that this is **in conformance with conditions**.
 - b. Pedestrian safety and convenience. The subject property is improved with an existing single-family residence. The proposed special exception is to allow for a 30,592 SF animal slaughterhouse/food processing plant on the subject property. A sidewalk adjacent to the parking area and proposed building for pedestrians is proposed. Thus, it is concluded that this is **in conformance**.
 - c. Traffic flow and control. One existing driveway on SE Airport Road serves the single-family residence. The concept plan indicates an additional 24' asphalt driveway proposed on SE Airport Road to serve the proposed slaughterhouse. The proposed site entrance will be required to comply with the DeSoto County Engineering Standard Details with the Improvement Plan application. Additionally, the proposed parking lot is greater than 150 feet deep which will require a turnaround at the end of the parking lot to prevent fire department vehicles from backing up. The proposed use will provide for heavy truck traffic and operations on-site. Thus, it is concluded that this is **in conformance with conditions**.
 - d. Access in case of fire or catastrophe. One existing driveway on SE Airport Road serves the single-family residence. The concept plan indicates an additional 24' asphalt driveway proposed on SE Airport Road to serve the proposed slaughterhouse. The proposed site entrance will be required to comply with the DeSoto County Engineering Standard Details to commercial standards with the Improvement Plan application. Additionally, the proposed parking lot is greater than 150 feet deep which will require a turnaround at the end of the parking lot to prevent fire department vehicles from backing up. The Fire Inspector had no other objections with regards to access. Thus, it is concluded that this is **in conformance with conditions**.
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 proposed special exception is to allow for a 30,592 SF animal slaughterhouse/food processing plant on the subject property. Based on the above, it is concluded the application is in **conformance** with this factor.
 - b. Noise impacts. The proposed special exception is to allow for for a 30,592 SF animal slaughterhouse/food processing plant on the subject property. The Special Exception application states that the proposed slaughterhouse does not generate any noise since it is enclosed. This is an area with a Low Density Residential Future Land Use

designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. Based on the above, it is concluded the application is **not in conformance** with this factor.

- c. Vibration impacts. The proposed special exception is to allow for a 30,592 SF animal slaughterhouse/food processing plant on the subject property and will not generate adverse vibration impacts. This is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. It is concluded the application is **not in conformance** with this factor.
 - d. Dust impacts. The proposed special exception is to allow for for a 30,592 SF animal slaughterhouse/food processing plant on the subject property and will not generate adverse dust impacts. This is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. Based on the above, it is concluded the application is **not in conformance** with this factor.
 - e. Glare impacts. The proposed special exception is to allow for for a 30,592 SF animal slaughterhouse/food processing plant on the subject property and will not have any negative impacts on glare. This is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. Based on the above, it is concluded the application is in **conformance** with this factor.
 - f. Odor impacts. The proposed special exception is to allow for for a 30,592 SF animal slaughterhouse/food processing plant on the subject property. This is an area with a Low Density Residential Future Land Use designation. The proposed use is industrial in nature and is inconsistent and incompatible with the allowable uses within this designation. Based on the above, it is concluded the application is **not 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 an Agricultural- 5 (A-5) zoning district.

**TABLE 1
LAND USE AND ZONING**

DIRECTION	EXISTING USE	LAND USE	ZONING
SITE	SINGLE FAMILY RESIDENTIAL	LOW DENSITY RESIDENTIAL	A-5
NORTH	PASTURELAND	LOW DENSITY RESIDENTIAL	A-5
SOUTH	VACANT	LOW DENSITY RESIDENTIAL	A-5
EAST	ORCHARD/GROVE	LOW DENSITY RESIDENTIAL	A-5
WEST	PASTURELAND	LOW DENSITY RESIDENTIAL	A-5

Sources: DeSoto County Property Appraiser (2022); DeSoto County Geographic Information System maps.

The subject property is in an area predominantly located in the Low Density Residential future land use designation. Nearby single-family residences could be impacted by the proximity of the proposed animal slaughterhouse/food processing plant. Based on the above, it is concluded the application is **not 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 have any special requirements in the A-5 zoning district with regard to slaughterhouses as the proposed use is industrial in nature and inconsistent and incompatible with the allowable uses within this Low Density Residential land use designation. Based on the above, it is concluded the application is **not 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 is not for public or private utilities, structures, or uses on the subject property. Thus, this factor or criteria is **in conformance / not applicable**.

11. *The proposed use shall not act as a detrimental intrusion into the surrounding area. The proposed special exception is to allow for a 30,592 SF animal slaughterhouse/food processing plant on the subject property. The 2040 Future Land Use Map shows the subject property is located within the Low Density Residential Land Use (See Attachment B). According to the County's Comprehensive Plan, Policy 1.4.2, "the primary use of this category shall be residential, in a variety of low densities and styles. A sustainable mix of neighborhood scale commercial uses may be introduced only as a part of the PUD process for developments of 1000 dwelling units or greater. The commercial area shall be located at the intersections of collector and/or arterial roads and shall be separated approximately 2 miles from other existing and/or future commercial designated areas. Schools and other public facilities shall be permitted with appropriate buffering. The zoning district uses and development standards contained in the Land Development Regulations shall carry out the specific intent of this land use category."*

It makes no mention of agricultural-supporting or industrial-type uses being allowed. The property's zoning district is A-5 (Agricultural – 1 dwelling unit per 5 acres maximum), which does allow slaughterhouses by Special Exception. The Future Land Use Designation of Low Density Residential is inconsistent with the proposed use (slaughterhouse) as the Future Land Use Map takes precedence over zoning. The Development Director concludes the application is **not in conformance** with this factor.

12. *The proposed use shall meet the performance standards of the district in which the proposed use is permitted. The proposed special exception is to allow for a 30,592 SF animal slaughterhouse/food processing plant on the subject property and meets the performance standards of the A-5 zoning district. However, the subject property is in an area predominantly located in the Low Density Residential future land use designation. Nearby single-family residences could be impacted by the proximity of the proposed animal slaughterhouse/food processing plant. The Development Director concludes the application is **not in conformance** with this factor.*

In conclusion, based upon the totality of the circumstances as documented herein, the Development Director finds the application does not include 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 not been met by the applicant, and that satisfactory provisions, arrangements or conditions have not been made concerning the above 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: Concept 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 CONDITIONS

Not applicable with denial recommendation

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 deny the proposed Resolution.
- B. Planning Commission: Scheduled for April 2, 2024
- C. Board action. Scheduled for April 23, 2024

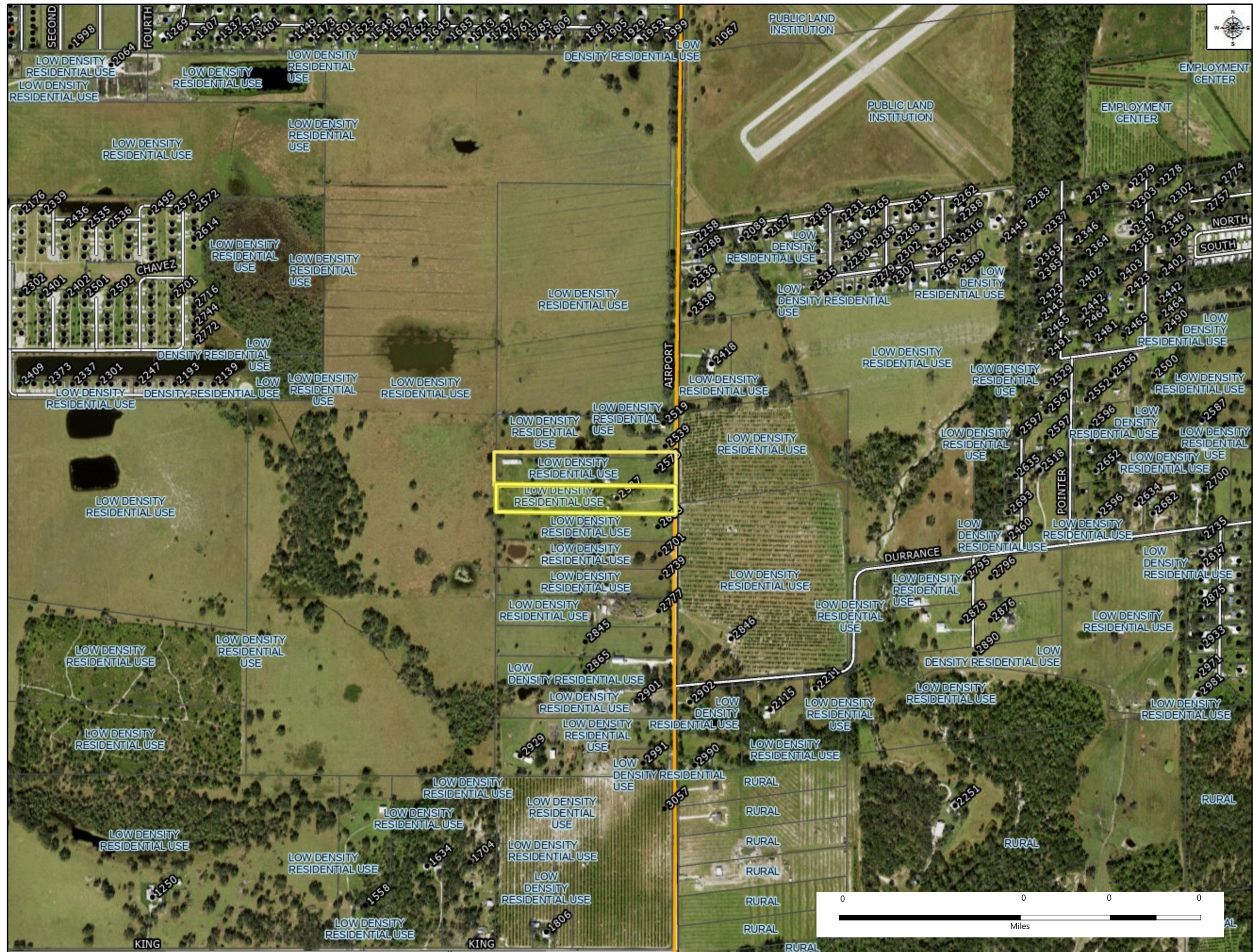
Submitted by:

John Osborne
Interim Development Director



- County Boundary
- Address Points
- Major Roads
- Streets
- Parcels

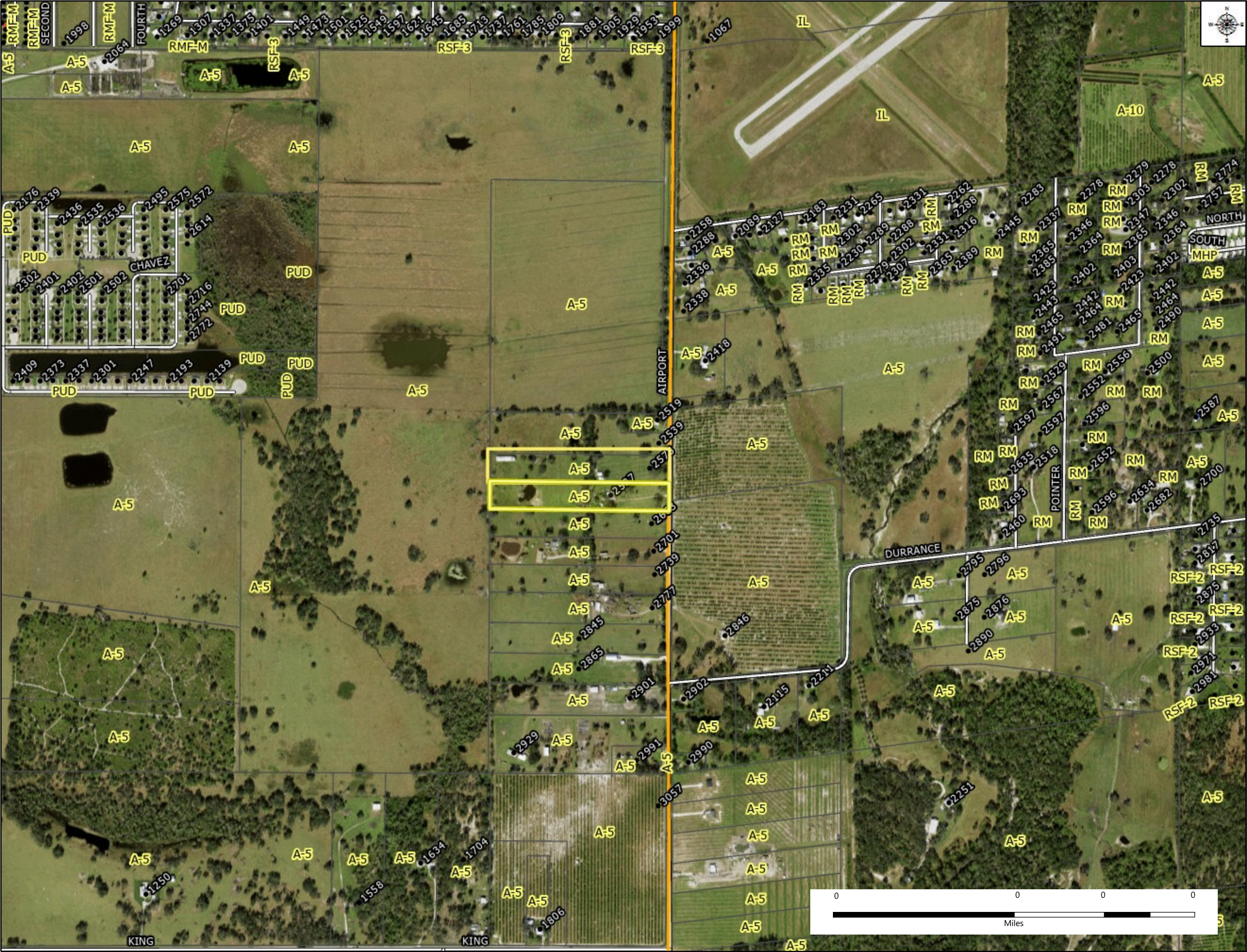
March 21, 2024



Title

- Address Point Labels
- Street Labels
- Major Road Labels
- FLUM Labels
- County Boundary
- Address Points
- Major Roads
- Streets
- Parcels

March 21, 2024



- Address Point Labels
- Street Labels
- Major Road Labels
- Zoning Labels
- County Boundary
- Address Points
- Major Roads
- Streets
- Parcels

March 21, 2024

DESOTO COUNTY, FLORIDA

RESOLUTION NO. 2024 - ____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, DENYING TO LUIS RIVERO A SPECIAL EXCEPTION USE DEVELOPMENT ORDER (USE-0155-2023) TO ALLOW WITHIN THE AGRICULTURAL-5 (A-5) ZONING DISTRICT AN ANIMAL SLAUGHTERHOUSE/FOOD PROCESSING PLANT, ON AN 11.88 ACRE PARCEL, LOCATED AT 2587 SE AIRPORT ROAD, THE PROPERTY IDENTIFICATION NUMBERS BEING 07-38-25-0000-0044-0000 AND 07-38-25-0000-0045-0000; INCORPORATING THE WHEREAS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the DeSoto County Property Appraiser records show that the subject property is located at 2587 SE Airport Road and is owned by Luis Rivero (Exhibit A: Location Map); and

WHEREAS, the 2040 Future Land Use Map shows the 11.88 acre property is located within the Low Density Residential Land Use designation and the Official Zoning District Atlas shows the property is situated within the Agricultural-5 (A-5) zoning district; and

WHEREAS, Land Development Regulations (LDR) Section 20-127(1) (c) (1) provides for “Agriculturally related processing, canning or packing plant; wineries that sell wine that is fermented on site; slaughterhouses; citrus packing; feed lots; sawmills; headquarters for off-site agricultural operations; livestock sales facilities; agricultural support housing” as a special exception use provided the criteria for special exception uses in LDR Article XI, Division 5, of this chapter are met; and

WHEREAS, on December 1, 2023, a Special Exception Use application and fee was submitted to the Development Department (USE-0155-2023) with the fee for a Special Exception to allow within the Agricultural- 5 (A-5) zoning district, an animal slaughterhouse/food processing plant on an 11.88-acre property located at 2587 SE Airport Road; and

WHEREAS, the Development Department has reviewed the Development Plan application and concludes the application is not conformance with the LDR; and

WHEREAS, on April 2, 2024, the Planning Commission held a duly noticed public hearing on the application and entered into the record the Development Review Report and all other competent substantial evidence presented at the hearing, and forwarded the record to the Board of County Commissioners (Board) with the recommendation that the Board adopt the proposed Resolution; and

WHEREAS, on April 23, 2024, the Board of County Commissioners held a duly noticed public hearing on the application and entered into the record the Development Review Report and all other competent substantial evidence presented at the Planning Commission and Board hearings; and

WHEREAS, the Board concluded the Special Exception use application established through competent substantial evidence the application was not in harmony with the LDRs general intent and purpose, is injurious to the neighborhood or to adjoining properties and is otherwise detrimental to the public welfare based on the findings herein and conditions of approval.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, AS FOLLOWS:

Section 1. *Whereas clauses incorporated.* The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are hereby incorporated by reference as part of this Resolution.

Section 2. *Property description.* The 11.88 acre parcel is located at 2587 SE Airport Road, the Property Identification Numbers being 07-38-25-0000-0044-0000 and 07-38-25-0000-0045-0000.

Section 3. *Findings and conclusions.* The Development Review Report, incorporated herein by reference, represents the written findings of fact and conclusions to support denying to Luis Rivero, a Special Exception use development order within the Agricultural- 5 (A-5) zoning district, an animal slaughterhouse/food processing plant on an 11.88-acre property located on SE Airport Road as displayed on the concept plan (Exhibit D: Concept Plan), in accordance with the Land Development Regulations subject to the following factors:

- a) The proposed change is inconsistent with existing land use patterns
- b) The proposed change will adversely influence living conditions in the area
- c) The proposed change will create or excessively increase traffic congestion or otherwise affect public safety.
- d) The proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

Section 4. *Effective date.* This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 23rd day of April, 2024.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF DESOTO COUNTY, FLORIDA**

By: _____
Mandy Hines
County Administrator

By: _____
Jerod Gross, Chairman
Board of County Commissioners

APPROVED AS TO LEGAL FORM

By: _____
Donald D. Conn
County Attorney