

EAST FORK CREEK FARM
SPECIAL EXCEPTION

REVISED AUGUST 2025

I. Request Statement

David and Alise Bartley of East Fork Creek Farm, LLC (Applicant) are requesting a Special Exception to allow on-premises consumption of alcoholic beverages through a caterer’s 13CT license and/or a 4COP license, should one be obtained from the state. The 13CT license permits catering companies to serve alcohol in conjunction with food and non-alcoholic beverages, whereas the 4COP license, if obtained from the state, will allow the Applicant to serve alcoholic beverages directly to patrons. Both the 13CT and 4COP licenses will allow for on-premise consumption of beer, wine, and liquor.

The COP is proposed to support events hosted on a portion of the subject property, which is subject to an Agricultural Exemption and the “Right to Farm” Act relating to agritourism. The Special Exception is necessary because the event areas where the consumption will take place are within 500 feet of a dwelling unit that is owned by a separate party.

The Property is located at 6901 Hendry Creek Drive, a 10+/- acre parcel zoned as Agricultural District (AG-2). The proposed request to allow for consumption on premises will be limited to the northern part of the property, where events will primarily occur in the existing open-air pole barn and the newly constructed event building. No additional on-site facilities will be used as event spaces, and these areas will not be included in the designated on-premises consumption area.

II. Development Location

The subject property is located west of S. Tamiami Trail and south of Hendry Creek Drive. The parcel is bisected by East Fork Creek (also known as Phillips Creek). The property is in a transitional area with the US 41 arterial corridor 600’ to the east, along with commercial properties, with single-family uses to along Hendry Creek Drive to the west.

The southern portion of the property abuts the Devonwood development. There is a separation of 1,100 feet from any residential areas in Devonwood to the proposed COP locations which are well buffered by the primary agricultural operation. To the north, across Hendry Creek Drive, the property is owned by the applicant. The only single-family dwelling that is under separate ownership is located to the west, where the 6-foot-tall opaque wall and 5-foot Type A buffer are proposed.

Please refer to Table 1 below for a detailed inventory of the adjacent Future Land Use Categories, zoning districts, and existing land uses.

Table 1: Inventory of Surrounding Lands

	FUTURE LAND USE	ZONING	EXISTING LAND USE
NORTH	Suburban	AG-2	Single Family Residential
SOUTH	Suburban	AG-2	Single Family Residential
EAST	Suburban	AG-2	Vacant
WEST	Suburban	AG-2	Single-Family Residential

III. Existing Conditions & Property History

The site consists of a single parcel located 600 feet west of S. Tamiami Trail and south of Hendry Creek Drive, adjacent to Roberts Lane on the western boundary. The property is currently an active farm subject to an Agricultural Exemption, and primarily utilized for aquaponics/hydroponic, greenhouse agricultural and additional sustainable farming practices with chickens, goats, and bees. Most of the farming activities take place within enclosed greenhouses to minimize water usage and maintain a controlled environment. The agricultural practices are concentrated in the southern part of the property, where several support structures for equipment are also located.

Improvements to the agriculture facilities were made in 2018 and 2020, with additional state-of-the-art greenhouses to be in completed July 2025. The current owners, David and Alise Bartley, acquired the property in October 2021 and are the owners and operators of East Fork Creek Farm. Currently, the northern portion of the site is under construction, which includes a 5,800-square-foot building and additional infrastructure to support the property. All of the above structures are permitted by right without zoning or development order approval pursuant to the "Right to Farm" Act.

IV. Public Infrastructure

The site currently utilizes Lee County Utilities for potable water service, which is supplied through an 8-inch water main along Hendry Creek Drive. The property is served by a septic system on-site, which is permitted by local and state regulations due to the low demand of the agricultural operation.

Primary access to the site is provided via Hendry Creek Drive, a two-lane county maintained local road, with two separate points for ingress and egress. The site also includes a dry detention area on the western side of the property to manage stormwater runoff and prevent any unintentional pollution from entering East Fork Creek. Access to the farming operations is facilitated by an existing bridge that crosses the creek. Parking for the north portion of the site will include approximately 83 spaces with handicap accessible areas includes. Fire/EMS services are provided by South Trail Fire Station #63. Lee County Sheriff's Office serves the site via the station located northeast of the site along 6 Mile Cypress Pkwy, both services are approximately 2-miles from the site.

V. COP Request & Design Standards

According to the Use Regulation Table in LDC Sec. 34-653 for the AG-2 zoning district, Consumption on Premises is allowed with either a Special Exception or Administrative Approval as accessory to Agritourism Activities per supplementary regulations in LDC Section 34-1264(a)(1)j. The applicant's request to permit consumption on the premises would enhance and contribute positively to the services offered on the property and is appropriately limited/conditioned to protect the neighborhood.

Through the State of Florida, an establishment must obtain a specific Consumption On Premises (COP) license for any patron to purchase or consume alcoholic beverages. There are several different COP license types, each license varies based on types of alcohol or venue type. For this Special Exception, the applicant is requesting the allowance of on-premise consumption of alcoholic beverages through a 13CT or 4COP license (should one be obtained from the state) as an accessory to the agritourism activity.

Both the 13CT and 4COP license allow for the sale and consumption of beer, wine, and liquor. The main difference between the 13CT and the 4COP is that the 13CT permits catering companies to sell and serve alcohol, while the 4COP applies to a designated location. Thus, the type of COP permit has no bearing on the "intensity" or general use requested by this special exception, as both allow for the same type of alcohol sales and would be subject to the Applicant's proposed conditions outlined below.

As a farm, the property is often sought out to host educational forums, corporate outings, charity events, weddings, holiday parties, and other family related gatherings. The allowed consumption on premises through a 13CT or 4COP license would be limited to specific occasions, duration, and additional conditions as outlined below. The application and proposed Master Concept Plan to demonstrate how the proposed COP areas will interface with and not negatively impact surrounding land uses.

Access is limited to two (2) existing points of ingress/egress from Hendry Creek Drive. Parking in compliance with the LDC is provided between the right-of-way and the event structures containing COP uses.

The COP is requested in two (2) existing structures labeled on the conceptual site plan in the northern portion of the site – to the north of the farming area. The site design ensures no impact or vehicular crossing of East Fork Creek by guests on-site for events via sensitive location of the event buildings away from the Creek. There are no new structures planned as part of this special exception request and all structures shown are subject to building permits issued by Lee County.

In accordance with the Land Development Code Table 34-2020(b), the required number of parking spaces will be based on the total area where consumption on premise is permitted. This falls under the parking requirements for “Meeting Halls, Clubs (Fraternal and membership), and other places for group assembly not otherwise listed.” A total of 83 parking spaces will be provided to accommodate the 8,335 sq. ft. area of the COP space.

Via proposed conditions, the Applicant is limiting hours of operation, hours for COP, and maximum guest capacity to address compatibility with the neighborhood. Further, to compatibility with the surrounding residential developments, the site's COP area will be buffered via a six-foot-tall opaque wall with Type “A” landscaping.

The Applicant offers the following conditions to limit the impact on surrounding residential land uses:

1. The Special Exception must be in substantial compliance with the site plan.
2. Events may not to exceed 178 event guests.
3. Events with COP are limited to Monday through Saturday from 12 p.m. to 10 p.m. and Sunday – 12 p.m. to 9 p.m.
4. Music and live entertainment are subject to the Lee County Noise Ordinance. Amplified music will be prohibited in the open-air pole barn. Amplified music will only be allowed within the fully enclosed building labeled “Event Center” on the conceptual site plan. All windows must be shut during events with amplified noise. Speakers within the enclosed event building must be oriented to the north and east.
5. Area south of East Fork Creek is to be secured by fence to prohibit access to the farm area, unless authorized as part of a guided tour or farming operations.
6. The portion of the western property line abutting the COP area shown on the MCP shall include a 5' wide Type A buffer with 6-foot-tall opaque wall.
7. The northern buffer along Hendry Creek Drive will include a 6-foot-tall opaque wall.

VI. Comprehensive Plan Compliance

The following is an analysis of the request's consistency with goals, objectives and policies of the Lee County Comprehensive Plan.

Policy 1.1.5 The Suburban future land use category will consist of predominantly residential areas that are either on the fringe of the Central Urban or Urban Community future land use categories or in areas

where it is appropriate to protect existing or emerging residential neighborhoods. This category provides housing near the more urban areas but does not provide the full mix of land uses typical of urban areas. Industrial land uses are not permitted.

RESPONSE: The proposed COP associated with agritourism is within the allowable range of permitted non-residential uses in the Suburban FLU. Moreover, the event use is permitted by right due to the property's agricultural exemption.

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments.

RESPONSE: The proposed COP use, as limited by this application, will not negatively impact the surrounding residential and agricultural character of the area. The property has and will continue to be used primarily for agricultural farming activities. To preserve the residential atmosphere, the use of the property for events will be minimized as proposed by the above conditions, including limited hours of operation and the prohibition on outdoor amplified music/speakers. Further, the applicant has included a condition that requires all windows are to remain shut during events with amplified noise. It should be noted that windows in the event area are double-pane impact resistant hurricane windows that further reduce decibel levels. Additionally, the applicant has included a condition that prohibits amplified music in the open-air pole barn and that all music and live entertainment is subject to the Lee County Noise Ordinance.

The COP area is limited to the northern 2 acres of the site, 1,100+/-feet away from Devonwood and proximate to the US 41 commercial corridor. As indicated on the site plan, the property includes 5' buffers in addition to opaque walls and landscaping where the property abuts residential lots. Not only are the opaque walls above code requirement, but are specifically chosen to further reduce noise and provide screening in the area of the site where the COP would be permitted. Also, as noted on the site plan, the western boundary features a 5' Type A Buffer. This type of buffer includes 4 trees per 100-feet and 20 shrubs per 100-feet. Lastly, the applicant has gated off the remaining agricultural area of the site to restrict event guest from accessing the additional 8 acres without proper authorization. Based upon the limitations on the use and the design standards proposed, compatibility with the adjacent residential land uses will be maintained.

POLICY 6.1.4: Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities.

RESPONSE: This application requests ancillary COP to support agritourism uses allowed by right on the property per the "Right to Farm" Act. Moreover, this special exception does not propose daily commercial use of the property. As noted above, the request includes limitation on hours of operation, prohibition on outdoor amplified music/speakers, landscape buffers and orientation of the event space to the Hendry Creek frontage to address compatibility.

Policy 6.1.5 Maintain land development regulations that require commercial development be designed to protect the traffic-carrying capacity of roads and streets. Methods to achieve this include, but are not limited to: frontage roads; clustering of activities; limiting access; sharing access; setbacks from existing rights-of-way; acceleration, deceleration and right-turn-only lanes; and, signalization and intersection improvements.

RESPONSE: Access will occur via ingress/egress from Hendry Creek Drive, which provides direct access to US 41, a state-maintained arterial roadway. There are no residential uses to the east of the property on the southside of Hendry Drive as all parcels are commercially developed or vacant. Traffic will pass three (3) residential lots on the north side of Hendry Creek Drive, as all other lots on the northside of the road to the east of the property are owned by the Applicant. Thus, the COP use will not negatively impact from a traffic standpoint as the event use is permitted by right, fully constructed and operational.

NATURAL RESOURCES

Policy 61.1.3: In the event that the timing and volume of freshwater discharges necessary to maintain the health and productivity of estuaries and other wetlands cannot be determined or supported by existing scientific data, the county will sponsor, in collaboration with other agencies, institutions, and organizations, adequate research programs to make such data available.

RESPONSE: As mentioned above, part of the approval for this special exception requires that the site remain unchanged, with no new facilities to be constructed. Since the site is divided by East Fork Creek, the request is limited to the northern portion of the site. Consequently, guests and their vehicles will not impact the site's natural resources or the creek.

VI. Decision-Making Compliance

34-145. (C) SPECIAL EXCEPTIONS.

(3) Findings/review criteria.

a. Prior to granting a special exception, the Hearing Examiner must find the Applicant has proven entitlement to the special exception by demonstrating the request:

1. Is consistent with the goals, objectives, policies and intent of the Lee Plan;

RESPONSE: The proposed request complies with the County's Lee Plan, as detailed in the comprehensive consistency section above. The Suburban FLU allows non-residential uses including the proposed COP associated with event space. Policies relating to compatibility and neighborhood protection will be upheld based upon the limitation on the proposed use and the site design standards. Existing infrastructure exists to support the project.

2. Will protect, conserve or preserve environmentally critical and sensitive areas and natural resources, where applicable;

RESPONSE: The purpose of the Special Exception is to make use of the existing facilities without any additional development. The special exception site plan does not propose any impact on East Fork Creek or impact environmentally sensitive areas of the site.

3. *Will be compatible with existing and planned uses;*

RESPONSE: The applicants will continue to maintain and operate the property's current use as an agricultural farm. The proposed special exception use will occur on a limited basis as proffered in the proposed conditions and will continue to be compatible with the surrounding land use pattern. Landscape buffers will screen the views of the event space housing COP along and western property line. This includes a six-foot-tall opaque pre-cast wall as approved through FNC2024-03232.

4. *Will not be injurious to the neighborhood or detrimental to the public welfare; and,*

RESPONSE: The applicant is proposing limitations to the special exception use so as not to impact the surrounding residential uses. This includes proper management of noise levels, lighting, hours of event operations, and amount of guest per event.

5. *Will be in compliance with zoning regulations pertaining to the use and other applicable regulations.*

RESPONSE: The request for the special exception will assist with the opportunity to promote the primary use of the property of aquaponics/hydroponic farming activity. The request for the special exception will be in compliance with zoning regulations pertaining to the uses and will occur on a limited basis.

34-1264. SALE OR SERVICE FOR ON-PREMISES CONSUMPTION.

(a) Approval required. *The sale or service of alcoholic beverages for consumption on-premises is not permitted until the location has been approved by the County as follows:*

(2) Special exception

a. *A special exception for consumption on the premises is required for:*

1. *Any establishment not covered by subsection (a)(1) of this section.*

RESPONSE: The requested COP is for an agricultural property and subject to the agritourism provisions in LDC Section 34-1264(a)(1)j.

b. *The burden of proof that the grant of the special exception will not have an adverse affect on surrounding properties lies with the applicant.*

RESPONSE: The proposed use will not adversely affect surrounding properties. The site plan explicitly places the event area toward the Hendry Creek Drive frontage, minimizing any potential disturbances. This design ensures adequate accommodation to help alleviate any impact on neighboring areas. Further, the applicates are committed to implementing measures that promote responsible consumption and maintain a peaceful environment. This includes proper management of noise levels, adherence to all local regulations, and consideration of nearby residents.

(b) Location; parking.

(1) Prohibited Locations

a. *Except as may be exempted in subsections (a)(1) or (b)(2) of this section, no establishment for the sale or service of alcoholic beverages for consumption on the premises may be located within 500 feet of:*

2. A dwelling unit under separate ownership, except when approved as part of a planned development.

RESPONSE: The proposed COP area abuts one (1) dwelling unit under separate ownership. Numerous conditions are proposed to mitigate any potential impact of the proposed COP.

(3) Parking.
Establishments providing alcoholic beverages for consumption on the premises must comply with the parking requirements for the principal use set forth in section 34-2020(b).

34-2020. REQUIRED PARKING SPACES.
(b) Non-residential uses. Non-residential uses permitted under this chapter are subject to the following minimum requirements:

Use	Minimum Required Spaces for Single-Use Development
Recreation facilities (Group III), outdoor, commercial	Determined by the Director.

RESPONSE: The concept plan indicates that the proposed area for events involving on-premises consumption is situated away from the main property use. This section of the site includes approximately 83 parking spaces, which also incorporates handicapped parking, meeting the requirements of the LDC.

VIII. CONCLUSION

The request for a Special Exception for Consumption On Premises in the Agriculture (“AG-2”) zoning district will not negatively affect neighboring properties and will align with the goals, objectives, and policies outlined in the Lee Plan based upon the numerous proposed conditions relating to buffering, COP location, restrictions on amplified music, access and hours of operation. This request supports the County's commitment to promoting and protecting agricultural resources within the area. There will be no changes or increases in the intensity of current agricultural activities. As noted throughout the request, the COP, whether 13CT or 4COP, would allow or the same type of alcohol consumption linked specifically to events held at the East Fork Creek Farms’s event center. The proposed COP is limited through conditions on hours of operation and amplified noise to address compatibility with the neighborhood. The applicant respectfully requests approval of the Special Exception and reserves the right to modify this application during the review process to ensure compliance with all code requirements.