

**STAFF REPORT**

Planning & Zoning Commission: November 18, 2002

**APPLICANT:** Kristin Keeney **FILE NUMBER:** SE-02-13

**PURPOSE:** Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility

**GENERAL LOCATION:** South side of Elida Road, east side of Cottondale Avenue

**LEGAL DESCRIPTION:** Lot 1, Block 1396, Spring Hill, Unit 21, as per plat thereof recorded in Plat Book 9, Pages 81 - 96, of the Public Records of Hernando County, Florida in Sections 23 and 26, Township 23 South, Range 17 East

**FILE STATUS:** All legal obligations have been completed.

**CITIZEN RESPONSE:** FOR: 1 AGAINST: 29

**STAFF FINDINGS:**

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(SF)	Single family
South: PDP(SF)	Single family
East: PDP(SF)	Single family
West: PDP(SF)	Single family

**SUMMARY OF REQUEST**

The petitioner has submitted a request for a special exception use permit to operate a congregate care home, namely an assisted living facility. The subject property is located on the south side of Elida Road and on the east side of Cottondale Avenue.

**FACTUAL INFORMATION**

1. The property is currently zoned PDP(SF).
2. The property comprises approximately a quarter of an acre.
3. The site is currently developed with a single family home.
4. The subject property has access to Elida Road and Cottondale Avenue.
5. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
6. The on-site soil types is Candler fine sand. Candler fine sand provides a habitat suitable for gopher tortoises. Since there is the potential for this listed species of special concern to be present, a Florida Fish and Wildlife Conservation Commission permit may be required prior to site development.
7. The property is located in flood zone C.

8. Florida Water Services has indicated central water facilities, but not central sewer facilities, are available to serve the subject site.
9. Adequate public facilities are available to serve a limited development on the property.
10. The subject property contains no WHPAs, wetlands or SPAs according to County data resources.
11. The petitioner must obtain all applicable permits from the Health Department
12. The petitioner is not requesting a deviation from County LDRs.

### **STAFF DISCUSSION**

The petitioner has submitted a request for a special exception use permit for a congregate care home, specifically for an assisted living facility for six (6) clients. Congregate care homes and facilities are special exception uses that may be approved in all zoning categories. The floor plan provided indicates the single family home on the subject property contains 2,124 square feet of living area. The structure is not out of character for the residential neighborhood.

The petitioner indicates in the narrative she proposes housing up to six (6) clients and employing a maximum of four (4) full-time employees. The petitioner indicates that she and her family will not reside in the home if the special exception use permit is approved. Visiting hours are proposed from 9:00 a.m. to 9:00 p.m. daily.

The County LDRs indicate a single-family residential structure that has been modified to operate an adult congregate living facility (ACLF) and is operating under a special exception to the zoning code shall provide both the required off-street single-family residential parking and the ACLF parking. The request would be required to provide a total of 5 spaces, two (2) for the single family home and three (3) for the ACLF. The parking surface may be surfaced with grass or lawn; however, if parking demand is such that said grass or lawn is caused to be damaged or destroyed to the extent that said grass or lawn ceases to grow, then paving of such an area in accordance with the LDRs section may be required by the administrative official.

The site plan indicates five (5) unpaved parking spaces along Cottondale Avenue and handicapped parking space on the paved driveway accessed from Elida Road. The Engineering Department has indicated that the parking as indicated along Cottondale Avenue does not meet County standards; the petitioner has not demonstrated sufficient area exists along the Cottondale Avenue frontage to provide adequately designed parking. The location for adequately designed parking may be limited to the end of the paved driveway from Elida Road.

Spring Hill has established deed restrictions for this site. The deed restrictions on the subject property indicate the site is to be used for single family dwellings. Although the County does not enforce deed restrictions, it does take such restrictions into consideration when determining the character of the neighborhood.

### **FINDINGS OF FACT**

The subject property is located within a residential category on the adopted Future Land Use Map. The Housing Element of the adopted Comprehensive Plan states in Objective 3.04B that "adequate sites will be available to accommodate group home facilities...as licensed by the Florida Department of Children and Families." Additionally, group homes are either permitted uses or special exception uses in a variety of zoning classifications throughout the County.

The subject property is in an area of Spring Hill zoned PDP(SF). The character of the area is residential, with homes located on lots consisting of approximately a quarter-acre.

Policy 1.01H(2) of the Future Land Use Element instructs the County to “protect existing and future residential areas from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment.” It is the staff’s opinion that a congregate care home would not be an inappropriate use at this location.

Florida Statutes provide rules governing the placement of community residential homes. The statutes indicate that a home of six (6) or fewer residents is considered a single-family unit and a noncommercial use (Chapter 419.001(2)). Although the proposed request is not specifically categorized as a community residential home, the statutes give some guidance for determining when a “group home” becomes more than what is typically considered a SF Home. The petitioner requests a total of six (6) residents. Florida Statutes indicate that facilities with 7 to 14 residents are more appropriately located in multifamily or commercial zoning districts. The staff believes the request for a 6-resident facility is not too intense for this residential area, however, staff is of the opinion that the petitioner has not demonstrated that parking meeting County standards can be provided for the number of clients proposed. Staff would recommend that if the request is proposed, the maximum number of clients be limited to four (4).

The staff would find a 4-resident congregate care home not inconsistent with the County’s adopted Comprehensive Plan nor out of character with the surrounding land uses.

**The special exception process is a land use determination and does not constitute a permit for either construction on, or use of, the property, or a Certificate of Concurrency. Prior to use of, or construction on, the property the petitioner must receive approval from the appropriate County Department(s) for the use, which may include review by the Development Review Committee (DRC).**

**The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any county land use ordinances. Homeowners associations or architectural review committees require submission of plans for review and approval. The applicant for this land use request should contact the local association or the Public Records for all restrictions applicable to this property.**

**STAFF RECOMMENDATION:**

The Planning Staff recommends the Planning and Zoning Commission approve the petitioner’s request for a Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The petitioner shall be limited to four (4) or fewer clients at any one time.
3. The parking facilities must be designed in conformance with the County LDRs.
4. The petitioner shall obtain all required permits and licenses from the applicable state agencies.
5. The petitioner must submit a plan within 30 days of P&Z approval indicating compliance with the zoning conditions or the approval shall be null and void.

**P&Z ACTION:**

The Planning and Zoning Commission voted 3-2 to approve the petitioner’s request for a Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility with the following performance conditions:

1. The petitioner must obtain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, including review of the proposed use through the DRC process.
2. The petitioner shall be limited to four (4) or fewer clients at any one time.
3. The parking facilities must be designed in conformance with the County LDRs.
4. The petitioner shall obtain all required permits and licenses from the applicable state agencies.
5. The petitioner must submit a plan within 30 days of P&Z approval indicating compliance with the zoning conditions or the approval shall be null and void.
6. The Special Exception shall become null and void if the property is sold by the petitioner.