

STAFF REPORT

Planning & Zoning Commission: March 10, 2003

Board of County Commissioners: April 9, 2003

APPLICANT: Gordon F. Van Wagner **FILE NUMBER:** SE-03-03

PURPOSE: Special Exception Use Permit for Home Occupation, Namely Upholstery

GENERAL

LOCATION: South side of Tranquil Drive, approximately 300' southeast of Kimberly Avenue

LEGAL

DESCRIPTION: Lot 11, Block 198, Spring Hill, Unit 4, as per plat thereof recorded in Plat Book 7, Pages 87 - 95, of the Public Records of Hernando County, Florida in Section 34, Township 23 South, Range 17 East

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE:

FOR: 0 AGAINST: 4 PETITION AGAINST: 1 with 16 SIGNATURES

STAFF FINDINGS:

Surrounding Zoning

North: PDP(SF)
South: PDP(SF)
East: PDP(SF)
West: PDP(SF)

Surrounding Land Uses

Single family
Tranquil Waterway
Undeveloped
Undeveloped

SUMMARY OF REQUEST

The petitioner has requested a special exception use permit for a home occupation, namely upholstery. The subject property is located on the south side of Tranquil Drive, approximately 300' southeast of Kimberly Avenue.

FACTUAL INFORMATION

1. The property is currently zoned PDP(SF).
2. The property comprises approximately a third of an acre.

3. The site is currently developed with a single family home.
4. The subject property has access to Tranquil Drive.
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 alterations.
7. The property is located in flood zone C.
8. Florida Water Services has indicated central water, but not sewer, is 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 a WHPA-2, but no wetlands or SPAs according to County data resources.
11. The petitioner requests no deviations from County LDRs.

STAFF DISCUSSION

The petitioner has submitted a request for a special exception use permit for a home occupation, namely upholstery. The County LDRs indicate home occupations are occupations or activities which are customarily maintained or conducted within a dwelling, incidental to the principal residential use, involving the employment of no more than one person who does not reside on the premises, and occupying no more than 25% of the total floor area of the dwelling. The Zoning Administrator has determined that the proposed upholstery activity could be permitted on the subject property as a special exception use if approved by the Planning & Zoning Commission.

The petitioner has indicated that the proposed furniture upholstery activity will be confined to the garage area (approximately 15% of the dwelling area), no clients will visit the property and no employees are proposed to be hired. The petitioner has indicated the work hours will be Monday through Saturday from 8 a.m. to 5 p.m. and estimated his workload at one to three pieces per month. The petitioner has indicated the tools used include a sewing machine, a button maker, vacuum cleaner, staple guns, tack hammer, shears, yardstick and metal straight edge. The petitioner has estimated the waste generated to be approximately one plastic bag per one piece of furniture. The petitioner has indicated no toxins will be used and noise will be minimal.

The County LDRs allow one unlighted sign not over four (4) square feet identifying home occupations permitted as a special exception on the premises. The petitioner has indicated he does not intend to post a sign.

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.

The property is within a WHPA 2 as designated by the Groundwater Protection Ordinance. The proposed use is not prohibited within a WHPA 2.

Pasco County has been notified of the petition; no response has yet been received.

FINDINGS OF FACT

The subject property is located within a residential category on the adopted Future Land Use Map. Allowable uses in this category include single family residential densities up to 5.4 units per acre, resort residential and ancillary land uses such as recreation, churches and community centers.

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 third of an acre.

The LDRs indicate special exception uses shall not attract inappropriate traffic volumes, noise or congestion. The petitioner's proposal appears to be consistent with this criteria. The LDRs indicate the special exception use shall be of a similar architectural scale to existing neighborhood development or take advantage of an existing building for its purpose. The proposed use is to take place within an existing single family house.

Special exception use permit is an additional use which may be granted by the Planning and Zoning Commission in accordance with the LDRs. As part of the review, the P&Z must determine that the tract of land is suitable for the type of special exception use proposed by virtue of its location, shape, topography and nature of surrounding development. The P&Z has the ability to assign reasonable conditions to the approval, and may prescribed reasonable time limits for the special exception use permit.

A special exception use permit is a use which is appropriate in a zoning district if safeguards are imposed but which would impair the integrity and character of the district in which it is located, or in adjoining districts unless restrictions or conditions on location, size, extent and character of performance are imposed in addition to those imposed in the ordinance.

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

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 the proposed home occupation would not be an inappropriate use at this location.

The staff would find the operation of an upholstery home occupation use on the site 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 Home Occupation, Namely Upholstery, 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. No additional employees are allowed.
3. No clients are allowed on the premises.
4. No signs are allowed.
5. The use is limited to the garage.

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 Home Occupation, Namely Upholstery, 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. No additional employees are allowed.
3. No clients are allowed on the premises.
4. No signs are allowed.
5. The use is limited to the garage.
6. The petitioner must request and secure a yearly fire inspection with one inspection prior to commencement of operation.
7. The Special Exception Use Permit shall expire in one year from the date of issuance.

BCC ACTION:

On March 18, 2003, the Board of County Commissioners voted 5-0 to review the Planning and Zoning Commission's decision to grant approval of a Special Exception Use Permit for a Home Occupation, namely Upholstery.

On April 9, 2003, the BCC voted 3-0 to rescind the P&Z approval of the Special Exception Use Permit for a Home Occupation, Namely Upholstery.