

STAFF REPORT

Planning & Zoning Commission: March 10, 2003

APPLICANT: Wilhel Wilks **FILE NUMBER:** SE-03-05

PURPOSE: Special Exception Use Permit for Congregate Care Home, Namely an Assisted Living Facility

GENERAL

LOCATION: West side of Everett Avenue, north side of Chalmer Street

LEGAL

DESCRIPTION: Lot 3, Block 1013, Spring Hill, Unit 16, as per plat thereof recorded in Plat Book 9, Pages 18-30, inclusive, of the Public Records of Hernando County, Florida in Section 18, Township 23 South, Range 18 East

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(SF)	Undeveloped
South: PDP(SF)	Undeveloped
East: PDP(SF)	Undeveloped
West: PDP(MF)	Multifamily

SUMMARY OF REQUEST

The petitioner has submitted a request for a special exception use permit to operate an assisted living facility. The subject property is located on the west side of Everett Avenue and on the north side of Chalmer Street.

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 Chalmer Street and Everett 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 alterations.
7. The property is located in flood zone C.
8. Florida Water Services has indicated central water and sewer 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 a WHPA-1, but no wetlands or SPAs according to County data resources.
11. The petitioner must obtain all applicable permits from the Health Department.
12. The petitioner requests no deviations 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. Congregate care homes and facilities are special exception uses that may be approved in all zoning categories. A single family home has recently been constructed on the subject property. The materials provided indicate the single family home on the subject property contains approximately 1,862 feet of living area. The structure is not out of character with the residential neighborhood. The petitioner indicates in the narrative that no modifications are planned for the existing house. The petitioner has verbally indicated she does not intend to live in the structure.

The petitioner indicates in the narrative she proposes caring for a maximum of eight (8) clients. The petitioner indicates she intends to hire two (2) employees. The floor plan provided indicates that the house has four (4) bedrooms and three (3) bathrooms. The narrative indicates visiting hours are proposed from 11 a.m. to 5 p.m., seven (7) days a week.

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 six (6) (6) spaces, two (2) for the single

family home and four (4) 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 that three (3) paved parking spaces will be provided in the driveway. The site plan indicates that three (3) additional unpaved spaces will be provided in the side yard, to be accessed via an access point on Chalmer Street. The three (3) proposed additional parking spaces are not required to be paved if none is reserved for handicapped use, however, a paved apron on Chalmer Street will be required. The County Engineer does not object to the proposed parking arrangement. The parking provided must conform to the LDRs for residential parking. The Planning staff is of the opinion that the proposed parking arrangements would be compatible with existing development in the single family residential neighborhood.

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 1 as designated by the Groundwater Protection Ordinance. The proposed use is not prohibited within a WHPA 1.

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 a predominantly residential area of Spring Hill. The subject property is adjacent to multifamily development and is located within an area developing with single family homes located on lots consisting of approximately a quarter of an acre.

A 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 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 eight (8) 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 an 8-resident facility is too intense for this residential area.

The staff would find a 6-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 Concurrence. 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 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 six (6) or fewer clients at any one time.
3. The parking facilities must be designed in conformance with the County LDRs for residential parking.
4. The petitioner shall obtain all required permits and licenses from the applicable state agencies.

P&Z ACTION:

The Planning and Zoning Commission voted 3-2 to approve the petitioner's request for a Special Exception Use Permit Special Exception Use Permit for a Congregate Care Home, Namely an Assisted Living Facility, with the following modified 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 six (6) or fewer clients at any one time.
3. The parking facilities must be designed in conformance with the County LDRs for residential parking.
4. The petitioner shall obtain all required permits and licenses from the applicable state agencies.
5. The Special Exception Use Permit shall expire in two years from the date of issuance.