

STAFF REPORT
Planning & Zoning Commission: May 12, 2003

APPLICANT: Evelyn Jones **FILE NUMBER:** SE-03-10

PURPOSE: Special Exception Use Permit for a Congregate Care Home, Namely an Adult Family Care Home

GENERAL

LOCATION: West side of Nightwalker Road, approximately 670' south of Flatwood Avenue

LEGAL

DESCRIPTION: Lot 5, Block 17, Royal Highlands, Unit 2, as per plat thereof recorded in Plat Book 11, Pages 61 - 71, of the Public Records of Hernando County, Florida in Section 24, Township 22 South, Range 17 East

FILE STATUS: All legal obligations have been completed.

CITIZEN RESPONSE: FOR: 0 AGAINST: 3

STAFF FINDINGS:

Surrounding Zoning

North: R-1C
South: R-1C
East: R-1C
West: AR-2

Surrounding Land Uses

Undeveloped
Single family
Undeveloped
Undeveloped

SUMMARY OF REQUEST

The petitioner has submitted a request for a special exception use permit to operate an adult family care home. The subject property is located on the west side of Nightwalker Road, approximately 670' south of Flatwood Avenue.

FACTUAL INFORMATION

1. The property is currently zoned R-1C.
2. The property comprises approximately an acre.
3. The site is currently undeveloped.

4. The subject property has access to Nightwalker Road.
5. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
6. The on-site soil type 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 zones C and A.
8. The County Utilities Department has indicated that central water and sewer are not 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 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 adult family care home. Congregate care homes and facilities are special exception uses that may be approved in all zoning categories. The property is currently undeveloped. The petitioner proposes in the narrative building a 2,785 square foot home on the property. The floor plan provided indicates that the house will have five (5) bedrooms, a den and three (3) bathrooms. The proposed building would not be out of character with the neighborhood.

The petitioner indicates in the narrative she proposes caring for a maximum of six (6) clients. Pursuant to Florida Statutes, an Adult Family Care Home is limited to no more than 5 clients. The petitioner has verbally been made aware of the limitation. The petitioner indicates in the narrative that a care provider will reside in the house and two other persons will assist in caring for the residents. The narrative indicates visiting hours are proposed from 11:30 a.m. to 6 p.m.

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 five (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 that three (3) paved parking spaces will be provided in the driveway. The site plan indicates that five (5) additional unpaved spaces will be provided in the side yard, to be accessed via the paved driveway's access point on Nightwalker Road. The five (5) proposed additional parking spaces are not required to be paved if none is reserved for handicapped use. 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 if the request is approved, the number of additional unpaved parking spaces should be limited to the number required by the LDRs in order to be more compatible with the residential neighborhood.

The County Health Department indicates that it will have jurisdiction over the onsite sewage treatment and disposal system (OSTDS), the water supply system and the residence/business.

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 located within an area developing with single family homes located on lots consisting of approximately a half acre to an acre. The subject property is located adjacent to an undeveloped lot and a lot developed with a single family home.

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 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 an 6-resident facility is not too intense for this residential area.

The subject property is located approximately 900' east of a property which received a special exception use permit for a congregate care home, namely a home for special services, in 1998. Although neither the proposed request nor the home approved in 1998 is specifically categorized as a community residential home, the statutes provide some locational criteria for consideration. The statutes indicate that community residential homes shall not be located within a radius of 1,000 feet of another existing community residential home with six or fewer residents (Chapter 419.001(2)). The two congregate care homes are located in two residential areas which are not interconnected; consequently, it is the staff’s opinion that the proposed request would not be incompatible with regards to its location.

The staff would find a 5-resident congregate care, namely an adult family 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 for a Congregate Care Home, Namely an Adult Family Care Home, 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 five (5) or fewer clients at any one time.
3. The petitioner shall provide three (3) paved parking spaces and two (2) unpaved parking spaces.
4. The parking facilities must be designed in conformance with the County LDRs for residential parking.
5. The petitioner shall obtain all required permits and licenses from the applicable state agencies.

P&Z ACTION:

The Planning and Zoning Commission voted 4-1 to deny the special exception permit for a Congregate Care Home, Namely an Adult Family Care Home.