

STAFF REPORT

Planning & Zoning Commission: December 12, 2005

APPLICANT: Joseph and Rose Klukowski **FILE NUMBER:** CU-05-16

PURPOSE: Conditional Use Permit for Second Residence

GENERAL

LOCATION: North side of Kiwi Lane, approximately 550' west of Weatherly Road

LEGAL

DESCRIPTION: A portion of Section 17, Township 22 South, Range 20 East, Hernando County, FL

FILE STATUS: All requirements necessary to conduct the public hearing have been satisfied.

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

Surrounding Zoning

North: AG
South: AG
East: AG
West: AG

Surrounding Land Uses

Mobile home
Mobile home
Mobile home, single family home
Undeveloped

SUMMARY OF REQUEST

The petitioner requests a renewal of a conditional use permit for second residence. The subject property is located on the north side of Kiwi Lane, approximately 550' west of Weatherly Road.

FACTUAL INFORMATION

1. The property is currently zoned AG.
2. The property comprises approximately five (5) acres.
3. The subject property contains two (2) mobile homes.
4. The site does not contain majestic or specimen trees.
5. The subject property has access from Kiwi Lane, an unimproved roadway.

6. The subject property is located within a rural land use classification on the adopted Future Land Use Map.
7. 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.
8. The property is located in a flood zone C.
9. The subject property does not contain any wetlands, WHPAs or SPAs according to County data resources.
10. The Utilities Department has indicated that central water and sewer are not available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area contains a mix of mobile homes, single family homes and vacant lots.
13. The subject property has been developed with two (2) mobile homes. Based on the creation date of the parcel, only one unit is allowed without a conditional use permit for a second residence.

STAFF DISCUSSION

The petitioner has submitted a request to renew a conditional use permit for a second residence. The subject property is a five-acre AG parcel which was created in 1998 as part of a Class 1 Subdivision approval. In 1998, the petitioner applied for a conditional use permit for a second residence for his disabled sister; however, the second residence was never constructed. In 2001, the petitioner applied for a second residence for his son to live on the property to help him with maintenance associated with the property. The second residence was placed on the property pursuant to the 2001 conditional use permit. In December 2003, the P&Z determined the hardship continued to exist and renewed the permit.

The subject request is for the renewal of a conditional use permit for the petitioner's son. The subject property has been developed with two (2) mobile homes. The petitioner resides in the mobile home closest to Kiwi Lane; his son resides in the mobile home in the rear of the property. The petitioner states in the narrative that his lower right leg has been amputated and he has additional heart problems. He wants his son to continue to live on his property to help him with the

maintenance of the property. The petitioner has provided a letter from a physician attesting to his medical condition and his need to reside proximate to family members.

The subject property is served by well and septic. The petitioner would have to maintain the appropriate approvals from the Health Department to provide service for the second residence if the request for the renewal is approved.

A conditional use permit is intended to be used as a special permit which temporarily allows uses not otherwise permitted by the ordinance. The P&Z has the ability to grant a conditional use permit for a period up to two years if they determine that a hardship exists.

The subject property has access from Kiwi Lane. The eastern portion of Kiwi Lane is maintained by the County on an emergency basis only.

The City of Brooksville has no comments regarding the request.

FINDINGS OF FACT

The subject property is located within a rural land use category on the adopted Future Land Use Map. The subject property is in an area which is rural residential in nature. The surrounding area has a mix of mobile homes and single family homes.

The P&Z has the ability under the County's LDRs to grant a conditional use permit upon making a determination that a hardship continues to exist.

The conditional use permit process is a land use determination and does not constitute a permit for either construction, 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 proposed use.

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 determine whether a hardship continues to exist and, if such a determination is made, the P&Z may approve the continuance of the

second residence on the parcel for a period of up to two (2) years. If approved, the conditional use permit should be contingent upon:

1. The petitioner must maintain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. The petitioner removing the second residence upon termination of the permit, or when the hardship no longer exists.

P&Z ACTION:

The Planning and Zoning Commission voted 5-0 to determine a hardship continues to exist and approved the continuance of the second residence on the parcel for a period of up to two (2) years contingent upon:

1. The petitioner must maintain all permits from Hernando County and meet all applicable land development regulations, for either construction or use of the property, and complete all applicable development review processes.
2. The petitioner removing the second residence upon termination of the permit, or when the hardship no longer exists.