

STAFF REPORT

Planning & Zoning Commission: January 10, 2005

APPLICANT: Maria H. Mostasharnia **FILE NUMBER:** SE-05-02

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

GENERAL

LOCATION: South side of Juliet Court, approximately 375' east of Geranium Avenue

LEGAL

DESCRIPTION: Lot 5, Block 1492, Spring Hill, Unit 22, as per plat thereof recorded in Plat Book 10, Pages 31 - 43, of the Public Records of Hernando County, Florida in Section 12, Township 23 South, Range 17 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 3
PETITION OF OPPOSITION: 1 with 62 signatures

STAFF FINDINGS:

Surrounding Zoning

Surrounding Land Uses

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

Single family, undeveloped
Single family
Single family
Single family

SUMMARY OF REQUEST

The petitioner requests a special exception use permit for a congregate care home, namely an assisted living facility. The subject property is located on the south side of Juliet Court, approximately 375' east of Geranium Avenue.

FACTUAL INFORMATION

1. The property is currently zoned PDP(SF).
2. The property comprises approximately 10,600 square feet.
3. The site contains a single family house.

4. The site does not contain majestic or specimen trees.
5. The subject property has access from Juliet Court.
6. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
7. The Hernando County Soil Survey indicates the on-site soil type is Paola fine sand.
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, but not sewer, is available to serve the subject site.
11. There are adequate public facilities available to serve limited development on the subject property.
12. The area is characterized by single family houses and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's 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 for five (5) clients. Congregate care homes and facilities are special exception uses that may be approved in all zoning categories. The narrative provided indicates the single family home on the subject property contains a minimum of 1,412 square feet of living area. The structure is not out of character with the residential neighborhood. The petitioner indicates in the narrative she intends to live on the premises until the facility has a minimum of four (4) clients.

The petitioner indicates in the narrative she anticipates having as many as three (3) employees, two (2) of whom would be part-time. The narrative does not address proposed visiting hours. The petitioner verbally indicates she does not anticipate receiving vendors at the house.

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 as proposed 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 narrative proposes parking one car in the garage and parking four (4) cars in the driveway. The plan shows space for one car in the garage, one in the driveway in front of the garage, and three (3) additional parking spaces provided at an angle from the driveway. The proposed parking spaces off the driveway are not required to be paved if none is reserved for handicapped use. The County Engineer has reviewed the submittal and indicated a maximum of three (3) parking spaces can be accommodated on the lot, driveway width may not be increased and no cars may be parked in the road ROW. The Planning staff is of the opinion that the petitioner has demonstrated the ability to provide three (3) parking spaces: one parking space for the single family home in the garage, one in the driveway and one space for ACLF use on the west side of the driveway.

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 quarter-acre lots.

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 prescribe reasonable time limits for the special exception use permit. The Planning staff is of the opinion that a vegetative buffer a minimum of 2' wide and 2' high should be provided along the western property line to screen the parking area.

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 five (5) clients. Due to the parking requirements and the limitations of the lot size, the staff is of the opinion the subject property can accommodate a maximum of two (2) clients.

The staff is of the opinion that a 2-resident ALF special exception use is appropriate, based on the following conclusions:

1. The subject property has demonstrated parking can be accommodated for an assisted living facility with a maximum of two (2) clients.
2. An Assisted Living Facility limited to two (2) clients will be compatible with the surrounding area and consistent with the adopted Comprehensive Plan.

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 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 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, and complete all applicable development review processes.
2. The petitioner shall be limited to two (2) or fewer clients at any one time.
3. The petitioner shall obtain all required permits and licenses from the applicable state agencies.
4. A full-time caregiver shall be present in the home per state regulations.
5. A revised plan showing a vegetative buffer a minimum of 2' wide and 2' high shall be indicated along the western property line to screen the parking area.

P&Z ACTION:

On January 10, 2005, the Planning and Zoning Commission voted 3-2 to deny the petitioner's request for a Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility.