

STAFF REPORT

Planning & Zoning Commission: April 11, 2005

APPLICANT: Vimalabai Chetty **FILE NUMBER:** SE-05-08

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

GENERAL

LOCATION: South side of Birmingham Avenue, west side of Brentwood Street

LEGAL

DESCRIPTION: North ½ of Lot 21, Evans Lakeside Heights, as per plat thereof recorded in Plat Book 5, Page 67, of the Public Records of Hernando County, Florida in Section 23, Township 22 South, Range 17 East

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

CITIZEN RESPONSE: FOR: 0 AGAINST: 0

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(SF)	Glen Lakes Single Family
South: R-1C	Single family
East: R-1C	Undeveloped
West: R-1C	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 Birmingham Avenue and the west side of Brentwood Street.

FACTUAL INFORMATION

1. The property is currently zoned R-1C.
2. The property comprises approximately 0.9 acres.
3. The subject property has been developed with a single family house.

4. The site contains no majestic or specimen trees.
5. The subject property has access from Birmingham Avenue and Brentwood Street.
6. The subject property is located within a residential land use classification on the adopted Future Land Use Map.
7. The on-site soil types include Candler fine sand and Tavares 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 is characterized by single family uses 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 assisted living facility with a maximum of ten (10) 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 approximately 2,900 square feet. The structure is not out of character with the residential neighborhood. The petitioner indicates in the narrative she will not reside on the premises, however, 24-hour supervision will be provided.

The petitioner indicates in the narrative she and her husband are certified as assisted living facility administrators. The narrative indicates the petitioner anticipates having as many as two (2) employees. The narrative indicates visiting hours will be held from 11 a.m. to 5 p.m., seven (7) days a week. The narrative indicates the petitioner does not anticipate receiving vendors at the house, with the exception of home maintenance workers.

The County LDRs indicate a single-family residential structure that has been modified to operate as 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 seven (7) spaces, two (2) for the single family home and five (5) 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, providing one paved handicapped space near the garage and six spaces off the driveway on a surface of mulch or grass. The County Engineer has reviewed the submittal and had no objections.

The Utilities Department has indicated that central water and sewer are not available to serve the subject site.

The Health Department has indicated that the petitioner would have to apply for verification of the existing septic system to ensure that it can accommodate the increased sewage flow.

The Gulf Coast Conservancy and SWFWMD have been notified of the request; no responses have yet been received.

FINDINGS OF FACT

The area is characterized by single family uses and undeveloped parcels. The area contains R-1C zoned lots ranging in size from approximately an acre to eight (8) acres. A portion of the Glen Lakes single family residential subdivision is located to the north of the subject property.

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.

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.

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 at an appropriate intensity would not be incompatible 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 ten (10) clients. The Planning staff is of the opinion that the number of clients proposed would be too intense in this single family area, and a maximum of six (6) or fewer would be more appropriate.

The staff is of the opinion that a 6-resident ALF special exception use is appropriate, based on the following conclusions:

1. A Congregate Care Home with 6 or fewer residents is considered the functional equivalent of a single family home pursuant to Florida Statutes.
2. An Assisted Living Facility limited to six (6) 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 Concurrence. 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 six (6) 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. The petitioner shall apply for verification of the existing septic system with the Health Department.

P&Z ACTION:

At their April 11, 2005 hearing, based on the information provided, the Planning and Zoning Commission made the following findings:

1. The proposed ALF will not be compatible with the single family uses in the area if the applicant does not reside on the premises and can not confirm that a full-time caregiver will be present in the home.

The Planning and Zoning Commission voted 4-1 to deny your request for a Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility.