

**STAFF REPORT**

Planning & Zoning Commission: May 9, 2005

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**APPLICANT:** Wilhel Wilks **FILE NUMBER:** SE-05-11

**PURPOSE:** Special Exception Use Permit for a 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, of the Public Records of Hernando County, Florida in Section 18, Township 23 South, Range 18 East

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

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**CITIZEN RESPONSE:** FOR: 0 AGAINST: 0

**STAFF FINDINGS:**

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

**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 west side of Everett Avenue and 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 has been developed with a single family home. The petitioner is currently operating an ALF on the site.

4. The site contains no majestic or specimen trees.
5. The subject property has access from Everett Avenue and Chalmer 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 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 contains a WHPA-1, but no wetlands 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 a mixture of single family residential and multifamily residential uses, and undeveloped parcels.
13. The petitioner has not requested any deviations from the County's LDRs.

#### **STAFF DISCUSSION**

The petitioner requests a special exception use permit for a congregate care home, namely an assisted living facility. The Planning & Zoning Commission approved an assisted living facility on the site in March 2003, with performance conditions including a limit of six (6) residents and an expiration at two years from the date of issuance. The special exception use permit expired March 10, 2005. County records indicate the petitioner did not go through the proper development review process after receiving the special exception use permit in 2003.

The petitioner requests to increase the number of clients from six (6) to seven (7). The narrative indicates the petitioner does not intend to expand the building, which currently contains 1,862 square feet. The narrative indicates the facility is operated by herself and two (2) employees. Visiting hours are indicated to be 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 proposed 7-resident ALF would be required to provide a total of six (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 narrative indicates that seven (7) parking spaces are provided, including a handicapped space. The plan indicates four (4) parking spaces are accessed via the driveway from Everett Avenue and three (3) spaces are accessed from Chalmer Street. The plan associated with the 2003 approval showed three parking spaces on the south side of the property. During a visit to the site, the Planning staff observed no designated parking spaces at that location.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site. A sewer manhole is located approximately 150' to the west on Chalmer Street.

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 subject property lies within a WHPA-1 for a public supply well. The proposed use is allowable within this designation.

**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 multifamily lot to the south has not yet been developed.

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 seven (7) clients. 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 a 7-resident facility is too intense for this residential area.

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

1. An Assisted Living Facility limited to 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 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 for a congregate care home, namely an assisted living facility, with the following unmodified 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 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.