

STAFF REPORT

Planning & Zoning Commission: May 9, 2005

APPLICANT: Juah Benson **FILE NUMBER:** SE-05-12

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

GENERAL

LOCATION: East side of Montague Avenue, approximately 250' south of Ireland Street

LEGAL

DESCRIPTION: Lot 3, Block 944, Spring Hill, Unit 15, as per plat thereof recorded in Plat Book 9, Pages 10-15, 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.

CITIZEN RESPONSE: FOR: 5 AGAINST: 0

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(SF)	Single family
South: PDP(SF)	Undeveloped
East: PDP(SF)	Single family
West: PDP(SF)	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 east side of Montague Avenue, approximately 250' south of Ireland Street.

FACTUAL INFORMATION

1. The property is currently zoned PDP(SF).
2. The property comprises approximately a quarter 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 Montague Avenue.
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 no 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 homes and undeveloped lots.
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. Congregate care homes and facilities are special exception uses that may be approved in all zoning categories. The Planning & Zoning Commission approved an assisted living facility on the site in March 2003, with performance conditions including a limit of four (4) 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 verbally indicates she proposes a maximum of six (6) residents, a total of five (5) staff members (including the petitioner) provide 24-hour care at the facility and the petitioner does not live on-site.

The narrative indicates the 4 bedroom house has 1,982 square feet of living space. The building is not out of character with the residential neighborhood. The petitioner verbally indicates she does not anticipate expanding the building.

The petitioner verbally indicates visiting hours are 10 a.m. to 5 p.m., seven (7) days a week. The petitioner indicates that with the exception of the delivery of drinking water, vendors are not routinely received at the facility.

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, if approved, for six (6) clients, 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 plan provided appears to indicate that enough space exists for four (4) vehicles: two (2) in the garage and two (2) in the driveway, with only one vehicle in the driveway stacked behind a garaged vehicle. The petitioner has verbally indicated three (3) parking spaces are provided: two (2) paved spaces are provided on the driveway, a space paved with gravel is located to the north of the driveway and no vehicles are parked in the garage. The County Engineer and the Planning staff believe the petitioner has demonstrated the ability to provide a maximum of four (4) parking spaces. The parking must conform to the LDRs for residential parking.

The Utilities Department has indicated that central water, but not sewer, is available to serve the subject site. A 6" force main is located approximately 550' to the east on the east side of Mariner Boulevard.

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 lots consisting of approximately a quarter of an acre.

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) 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 petitioner has not demonstrated that parking meeting the County standards can be provided for the number of clients proposed. The staff has concerns about the ability of the site to accommodate the parking spaces required for a 6-resident ALF. The staff has determined that the petitioner can provide a total of four (4) parking spaces. Staff would recommend that if the request is approved, the maximum number of clients be limited to four (4).

The staff is of the opinion that an 4-resident ALF special exception use is appropriate, based on the following conclusions:

1. An Assisted Living Facility limited to 4 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 four (4) or fewer clients at any one time, based on the ability to provide parking meeting the County regulations.
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.
5. There must be a full-time caregiver present in the home per State regulations.

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 modified 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 ~~four (4)~~ six (6) or fewer clients at any one time, based on the ability to provide parking meeting the County regulations.
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.
5. There must be a full-time caregiver present in the home per State regulations.