

STAFF REPORT

Planning & Zoning Commission: July 11, 2005

Board of County Commissioner: August 10, 2005

APPLICANT: Kevin Anthony Kidd **FILE NUMBER:** SE-05-16

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

GENERAL

LOCATION: East side of Deltona Boulevard, approximately 275' south of Oak Grove Street

LEGAL

DESCRIPTION: Lots 3 and 4, Block 1594, Spring Hill, Unit 23, as per plat thereof recorded in Plat Book 10, Pages 44 - 52, 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: 1

STAFF FINDINGS:

<u>Surrounding Zoning</u>	<u>Surrounding Land Uses</u>
North: PDP(SF)	Single family
South: PDP(SF)	Single family
East: R2.5	Single family, undeveloped
West: PDP(SF)	Single family, undeveloped

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 Deltona Boulevard, approximately 275' south of Oak Grove Street.

FACTUAL INFORMATION

1. The property is currently zoned PDP(SF).
2. The property includes two platted Spring Hill lots and comprises approximately 1/2 acre.

3. The site has been developed with a single family house.
4. The site does not contain majestic or specimen trees.
5. The subject property has access from Deltona Boulevard.
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 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 uses and undeveloped lots.
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 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 approximately 1,339 square feet of living area. The structure is not out of character with the residential neighborhood. The petitioner indicates in the narrative he does not intend to live permanently in the home after the ALF is established, however, 24-hour supervision will be provided.

The narrative indicates the petitioner anticipates having as many as three (3) full-time employees. The narrative indicates visiting hours will be held from 8 a.m. to 9 p.m., seven (7) days a week. The narrative indicates the petitioner does not anticipate receiving many vendors at the house.

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 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 indicates three spaces will be provided on the lot containing the house and two spaces will be provided in a new paved driveway in the adjacent lot to the south. The County Engineer does not object to the proposed plan.

The plan submitted by the petitioner includes two platted lots. One of the platted lots, which is proposed to accommodate some of the parking for the ALF, is currently undeveloped. If this lot is developed with a single family residence in the future, the special exception use permit would have to be modified or the ALF would have to cease operation.

The Health Department indicates the petitioner would need to apply for verification of the existing onsite sewage treatment and disposal system prior to approval of the ALF operation and may need to upgrade the system, depending on the number of residents approved.

The Utilities Department has indicated central water, but not sewer, is available to serve the subject property.

FINDINGS OF FACT

The area is characterized by single family uses and undeveloped lots. The area contains approximately 10,000 square foot PDP(SF) zoned lots and approximately 13,000 square foot R2.5 zoned lots.

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 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 at an appropriate intensity would be compatible 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. The Planning staff is of the opinion that the number of clients proposed would not be too intense in this single family area.

The staff is of the opinion that a 5-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 five (5) 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 five (5) 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.
6. The parking layout is approved as depicted on the plan.
7. If lot 4 is developed with a single family residence in the future, the special exception use permit would have to be modified, or the ALF would have to cease operation.

P&Z ACTION:

The Planning and Zoning Commission, at their July 11, 2005, meeting, made the following findings based on information provided at the hearing:

1. The proposed use is too intense for the area.
2. The parking and access plan provided does not demonstrate a safe and efficient traffic flow.
3. The proposed use is not consistent with the County's adopted Comprehensive Plan and the County's land development regulations.

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.

BCC APPEAL ACTION:

The BCC voted 3-2 to uphold the Planning and Zoning Commission's denial of the petitioner's request for a Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility.