

**STAFF REPORT**

Planning & Zoning Commission: October 9, 2006  
Planning and Zoning Commission: November 13, 2006

---

**APPLICANT:** Kevin Kidd **FILE NUMBER:** SE-06-07

**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:** Lot 3, 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 correspondence received as of the date of this report? Yes  No**

**STAFF FINDINGS:**

Surrounding Zoning

Surrounding Land Uses

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)/Planned Development Project Single Family.
2. The property includes one platted Spring Hill lot and comprises approximately 0.23 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, Well Head Protection Area (WHPA) or Special Protection Area (SPA) 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. Congregate care homes and facilities are special exception uses that may be approved in all zoning categories. The petitioner has indicated that the request is for no more than four (4) residents at the home.

The petitioner previously submitted a request for a 6-person assisted living facility on the subject property. On July 11, 2005, the Planning and Zoning Commission denied the petitioners request for a Special Exception Permit based on the following findings; proposed use was to intense for area, the parking and accessability did not demonstrate a safe and efficient traffic flow and proposed use was not consistent with the County's Adopted Comprehensive Plan and County's land development regulations. The prior request included two platted lots in Spring Hill, the subject property and the adjacent lot to the south.

The petitioner's current request is on one platted lot subject of the previous request. The petitioner's narrative indicates that no alterations to the home are proposed. The petitioner proposes two caregivers who will be present at all times. The residents will be provided meals, snacks and laundry services. Visiting will be conducted from 10:00 a.m. to 7:00 p.m.

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 four (4) spaces, two (2) for the single family home and two (2) 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 petitioner's narrative indicates that there will be 3 additional spaces provided; however, no detail regarding the parking arrangement was provided. Staff contacted the petitioner and requested the parking arrangement be provided. It has not been received at this time.

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. There is an existing 10-inch waterline in the west side of Deltona Blvd. The property is currently service by Hernando County Utilities Department for water service only.

### **FINDINGS OF FACT**

The area is characterized by single family uses and undeveloped lots. The area contains approximately 10,000 square foot Planned Development Project Single Family 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.” A congregate care home at an appropriate intensity could be compatible with the residential uses at this location.

The petitioner must affirmatively demonstrate that they meet all of the statutory criteria under Florida Statute 419.001 F.S. for a Community Residential Homes (as such definition has been recently expanded by state statute). If the applicant is unable or unwilling to demonstrate statutory exemption status through applicable licensing criteria as determined by the department, then the petitioner must proceed through the County Planning and Zoning hearing process regarding Special Use Exceptions.

The request for a Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility, is inappropriate based on the following conclusions:

1. Petitioner does not demonstrate the adequate parking spaces required per the county’s LDR.
2. The size of the property is not suitable, given the petitioners inability to comply with the site design guidelines.

**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:**

It is recommended that the Planning and Zoning Commission deny the petitioner's request for a Special Exception Use Permit for a Congregate Care Home, namely an Assisted Living Facility.