

STAFF REPORT

Planning & Zoning Commission: November 13, 2006

Planning & Zoning Commission: January 8, 2007

APPLICANT: Elaine DeCiutiis **FILE NUMBER:** SE-06-08

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

GENERAL

LOCATION: South side of Barrow Street, approximately 450' west of Marble Avenue, approximately 620' east of Corydon Avenue

LEGAL

DESCRIPTION: Lot 3, Block 688, Spring Hill, Unit 11, as per plat thereof recorded in Plat Book 8, Pages 67-73, of the Public Records of Hernando County, Florida in Sections 21 and 28, Township 23 South, Range 18 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)

Undeveloped

South: PDP(SF)

Single family

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 south side of Barrow Street, approximately 450' west of Marble Avenue, approximately 620' east of Corydon Avenue.

FACTUAL INFORMATION

1. The property is currently zoned PDP(SF).
2. The property comprises approximately one acre.

3. The site has been developed with a single family house.
4. The site contains no majestic or specimen trees.
5. The subject property has access from Barrow 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 does contain a Well Head Protection Area Class 1(WHPA), but no wetlands 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 surrounding area is characterized by residential uses, and undeveloped parcels.
13. The petitioner has requested unpaved parking, which is a deviation from the County LDRs.

STAFF DISCUSSION

The petitioner has submitted a request for a special exception use permit for a congregate care home, specifically for an adult family care home for six (6) clients. On August 9, 2004, the Planning and Zoning Commission voted 4-0 to deny the petitioner's request for a special exception use permit for a congregate care home, namely an assisted living facility. The petitioner had requested a maximum of five (5) residents in 2004. On September 12, 2005, 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. The petitioner had requested a maximum of five (6) residents in 2005. However, on October 12, 2005, the Board of County Commissioners voted 5-0 to revoke the special exception of the said congregate care facility.

Congregate care homes and facilities are special exception uses that may be approved in all zoning categories. The floor plan provided indicates the single family home on the subject property contains a minimum of 1,937 square feet of living area. The structure is not out of character with the residential neighborhood.

The petitioner indicates in the narrative she proposes providing 24-hour care for six (6) clients. The petitioner's narrative indicates she will have certified employees; the petitioner has not specified the proposed number of employees. The narrative indicates visiting hours are proposed seven days a week between the hours of 11 a.m. and 5 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 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 narrative proposes parking two (2) cars in the garage, one in the driveway, and two in unpaved spaces accessed via the driveway. The two (2) proposed parking spaces in the front yard are not required to be paved if neither is reserved for handicapped use. The County Engineer has reviewed the submittal and indicated the driveway width may not be increased and no cars may be parked in the road ROW. The petitioner has demonstrated the ability to provide five (5) parking spaces: two (2) parking spaces for the single family home in the garage, one (1) in the driveway and two (2) spaces for ACLF use on either side of the driveway.

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.

A portion of the subject property lies within a Well Head Protection Area Class 1 (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 an area of Spring Hill zoned PDP(SF). The character of the area is residential, with homes located on one-acre lots.

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.

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 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 single family home. The petitioner requests a total of six (6) residents. Florida Statutes indicate that facilities with 7 to 14 residents are more appropriately located in multifamily or commercial zoning districts.

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 or determined by the department, then the petitioner must proceed through the County Planning and Zoning hearing process regarding Special Use Exceptions.

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.

The proposed 6-resident ALF special exception use is appropriate, based on the following conclusion:

1. The proposed use will be compatible with the surrounding area and consistent with the adopted Comprehensive Plan.
2. The applicant has demonstrated the ability to meet the required parking on site.

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.

PRIOR HISTORY:

Pursuant to the petitioner’s request, on November 13, 2006, the Planning and Zoning Commission voted 5-0 to postpone consideration of the proposed request until their January 8, 2007, hearing at 9:00 a.m.

STAFF RECOMMENDATION:

It is recommended that 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 two (2) angled parking spaces may be provided with access from the driveway, with no increase in driveway width and no parking within the roadway ROW.

P & Z ACTION: