



Staff Report

To: Planning and Zoning Board
From: Nashla M. Merced, Planner I, Planning and Development Services
Date: September 9, 2020
Re: Resolution No. 2020-53 –Conditional Use Request for a Community Residential Home located at 1202 Sherbrook Drive

Summary of Application:

Applicant: Chastity Moye (Homeowner)
1202 Sherbrook Drive
Deltona, FL 32725

Request: The City has received a Conditional Use application to allow a Community Residential Home (CRH) within the R-1A zoning district located at 1202 Sherbrook Drive.

Tax Parcel No.: 8130-08-51-0010

Property Acreage: ±.24 acre

Property Location: 1202 Sherbrook Drive. The property is located generally southeast of the intersection of North Normandy Boulevard and Elkcarn Boulevard

Legal Description: Lot 1, Block 360, Deltona Lakes Unit 8, Map Book 25, Pages 165 Through 178, per Volusia County Public Records

Existing Zoning:

1. **Subject Property:** R-1A (Single Family Classification)
2. **Adjacent Properties:**
 - North:** R-1A
 - South:** R-1A
 - East:** R-1A
 - West:** R-1A

Zoning Description: The R-1A zoning district allows detached single family dwellings on individual lots as a permitted principal use. Ancillary structures and uses like sheds and home occupations may be allowed within the R-1A zoning. Home occupations, community residential homes, day care facilities, etc. may be allowed in the R-1A zoning consistent with certain regulations, including the potential need for approval through the Conditional Use process.

Background:

The City has received a Conditional Use Application from the applicant Chastity Moye. The applicant is requesting a community residential home (CRH) to be located at 1202 Sherbrook Drive in Deltona. The property is developed with an approximately 1,480 square foot single family dwelling on a Deltona Lakes platted lot. The lot is located at the corner of Sherbrook Drive and Oswego Avenue. Ms. Moye has a three (3) bedroom, two (2) bathroom home with a two (2) car garage. She is requesting to open her home to no more than two (2) elderly citizens, which is the maximum amount of residents allowed in an Adult Family Care Home (AFCH). As defined by the Department of Elderly Affairs in the State of Florida, *“adult family care homes (AFCHs) are private residences that are licensed to provide housing, meals, and personal care services to older persons and disabled adults who are unable to live independently.”* Her home will be licensed and regulated directly through the Agency for Health Care Administration (AHCA). 1202 Sherbrook will serve as a primary dwelling for Ms. Moye, her son, and grandmother, as well as up to two (2) non-related elderly residents. Ms. Moye has 15 years of experience in caring for children, teenagers, and adults with special needs. She will be the sole caregiver to the residents and will have one (1) to two (2) trained caregivers that will relieve her as needed. The new residents will be self-sufficient elderly residents that may need minimal assistance in some day-to-day activities.

A CRH is a creation of State law – Chapter 419, Florida Statutes. According to Chapter 419, a single-family residential dwelling in a residentially zoned and developed area used as a CRH is considered “a single-family unit” and a “non-commercial” activity where the occupation and related services provided and associated with the dwelling represent the “functional equivalent of a family unit.”

In November of 2017, the City amended the Land Development Code to require new CRH applications to be approved through the Conditional Use process. Many of the City’s CRH related Conditional Use requirements are derived from Chapter 419, F.S. The Land Development Code requirements applicable to this application are summarized below:

- 1) The CRH cannot exceed six (6) non-family residents;
- 2) The CRH cannot be located 1,000 feet from other single family CRH operations;
- 3) A business tax license must be obtained and maintained;
- 4) The character of the neighborhood must be protected by minimizing public and private nuisances;
- 5) Compliance with all applicable local, state and federal codes including, the building code is required;
- 6) Protection of public health, safety, and welfare to ensure basic functions, including utilities, access management, parking, and solid waste are required.

The applicant is requesting to offer room, board, and personal care services to no more than two (2) non-related elderly residents at her primary residence. The residents that will be

residing at Ms. Moyer's home will require minimal assistance. When needed, she may be supervising and assisting with personal care and administration of medication.

Support Information

Public Facilities:

- Potable Water: to be supplied by Deltona Water
- Sanitary Sewer: to be supplied by a private system
- Fire Protection: Deltona Fire Station 61
- Law Enforcement: Volusia County Sheriff's Office (VCSO)
- Electricity: Duke Energy

Matters for Consideration:

Section 110-1102, Code of City Ordinances, states that the City shall consider the following matters when reviewing applications for Conditional Use:

1. Is the proposed use consistent with the intent of chapter 110-1102?

Yes, the proposed community residential home (CRH) use located at 1202 Sherbrook Drive is consistent with Chapter 110-1102. The site is zoned R-1A Single Family Residential, and a CRH is mentioned as a conditional use for this Zoning Classification found in Sec. 110-307 (c). The dwelling is a 1,480 square foot structure situated on ±0.24 acres. The backyard is fenced in and has an 8'x10' shed. The number of residents that will reside in 1202 Sherbrook Drive will be limited to a total of five (5) residents, which is a requirement for an Adult Family Care Home by AHCA. It will consist of the applicant, her son, grandmother, and two (2) non-related elderly residents.

2. Is the proposed use consistent with the Comprehensive Plan?

An analysis of the below Comprehensive Plan provisions indicate the proposed Conditional Use is consistent with the City Plan.

Policy FLU1-5.12

In implementing the Future Land Use Element, the City shall develop and adopt regulations to ensure to the maximum extent feasible, compatibility of use of areas and properties, including but not limited to such factors as traffic circulation, air quality and odor control, noise control, lighting, and aesthetics. 9J-5.006(3)(c)(2).

The individuals that will reside in the proposed CRH will emulate a family unit, and therefore, will be compatible with the residential character of the surrounding area. According to the 9th Edition of the ITE Manual, a single family detached dwelling will generate an average of 9.5 trips on the transportation network per day. Since the proposed use will involve mostly non-driving residents, and the transportation will be provided by Ms. Moyer. Traffic impacts will be similar to a large family unit household.

Policy H1-4.1

Group living facilities location criteria shall be included in the Zoning Ordinance as amended.

The requested Community Residential Home (CRH) could be considered a group living arrangement. As per Policy H1-4.1, the City does have criteria in the zoning regulations to address CRH requests through the Conditional Use process. The Conditional Use process allows the City to impose conditions on a proposed use.

3. Will the proposal adversely affect the public interest?

The proposed CRH will not adversely affect the public interest because the applicant will need to follow the conditions stated in the City Land Development Code section 110-814(c) for this use, in conjunction with the special conditions recommended by City staff.

4. Can the applicant meet the expressed requirements of applicable City Conditional Use regulations?

Consistent with Section 110-814(c), the following CRH provisions apply within the City:

1. Located no less than 1,000 feet (measured from the closest property boundary) from another actively licensed CRH serving one to six (6) non-family residents.

The home will be limited to serve no more than two (2) non-related elderly residents, and the proposed CRH is not located within 1,000 feet of another CRH.

2. Located no less than 1,200 feet (measured from the closest property boundary) from another actively licensed CRH serving seven (7) to 14 non-family residents.

Currently, there are no seven (7) to 14 residents CRH uses located within 1,200 feet of 1202 Sherbrook Drive.

3. Obtain and keep a current City business tax receipt (BTR). At the time of the BTR application, the applicant shall ensure that the required aforementioned radii are met.

The applicant will be required to obtain and maintain a Business Tax Receipt (BTR) for the CRH. Prior to the issuance of the BTR, the applicant is required to acquire an approval letter from the Volusia County Health Department, stating that the current septic will adequately support an additional bedroom proposed in Permit No. BLDR20-3771. The applicant is wanting to convert a screened into a bedroom.

4. Protect the character of the neighborhood and minimize potential public or private nuisances.

The character of the neighborhood will be safeguarded by limiting the number of potential residents to no more than two (2) non-related elderly residents.

5. Comply with the City's Code of Ordinances, the Florida Building Code, the Florida Fire Prevention Code, and any licensing entity defined per F.S. Ch. 419, to the Agency for Persons with Disabilities.

In order to comply with the City's Land Development Code (LCD), the 1202 Sherbrook Drive property owner has obtained building permits to permit their existing shed (Permit No. BLDR20-1888) and to relocate their fence (Permit No. BLDR20-01887) within their property line. The applicant has applied with the Volusia County Health Department to inspect the existing septic system to determine if it has the capacity to support the proposed addition and use. Prior to a submittal of the BTR application, the applicant must provide an approval letter from the Volusia County Health Department. Once the

application has been received in the Business Tax Office, it will be reviewed by personnel from building, zoning, and the fire department. A fire and building inspection will also be performed. The applicant must also gain approval from AHCA prior to receiving a BTR.

6. Protect public health, safety, and welfare to ensure basic function operation, including, but not limited to, full utilities, access management in chapter 96, off-street parking in section 110-828, and solid waste in Chapter 50.

Utility and other public services have been discussed elsewhere in this report. Off-street parking will remain within the existing driveway, which is of ample size to accommodate expected vehicular traffic. To reduce the amount of traffic Ms. Moye will be transporting the residents to and from appointments.

7. Will the applicant be able to meet all requirements imposed by federal, state, or local governments?

In November of 2017, the City adopted Ordinance No. 06-2017, amending the Code of Ordinances regulating Community Residential Homes by providing statutory compliance with Florida Statutes (F.S.) Chapter 419. For the purpose of this Conditional Use, any licensure requirements from regulatory agencies would apply. The Agency for Health Care Administration (AHCA) is the regulatory agency for this particular application. The proposed CRH service is for an AFCH; if the applicant desires to provide any other services, a new application shall be submitted to the City. To ensure 1202 Sherbrook Drive is compliant with the City Land Development Code, the applicant has applied for and finalized her permits. Permit No. BLDR20-1887 was to relocate an existing fence within her property line and Permit No. BLDR20-1888 was to permit an existing 8'X10' shed. The applicant has applied to convert an existing screen room into a bedroom. The applicant is required to provide the City with an approval letter from the Volusia County Health Department stating that the existing septic system is will support the proposed additional bedroom.

8. Will the proposed use generate undue traffic congestion?

According to the 9th Edition of the ITE Manual, a single family detached dwelling will generate an average of 9.5 trips on the transportation network per day. Traffic will be close to the ITE average and will be limited to the applicant and personnel, as needed. 1202 Sherbrook Drive has a two (2) car garage and a driveway which comfortably accommodates four (4) vehicles resembling a large family. It is an adequate size to accommodate the staff and visitors, refraining anyone from parking in the street/right of way or obstructing traffic.

9. Will the proposed use create a hazard, public nuisance, or be dangerous?

No, the proposed use will not create a hazard or be dangerous.

10. Will the proposed use materially alter the character of surrounding neighborhoods or adversely affect the value of surrounding land, structures, or buildings?

No, the intent of a CRH is to maintain the existing character of a residential dwelling. The City of Deltona Land Development Code, Chapter 110 safeguards and proposed additional conditions to ensure the proposed use will not alter the neighborhood characteristics.

11. Will the proposed use adversely affect the natural environment, natural resources, or scenic beauty or cause excessive pollution?

The site is developed with a dwelling unit and is located within a developed neighborhood.

CONCLUSION/STAFF RECOMMENDATION:

Staff recommends the Planning and Zoning Board recommend the City Commission approve Resolution No. 2020-53, granting a Conditional Use for a Community Residential Home located at 1202 Sherbrook Drive with the following added conditions:

- 1) The applicant shall provide an approval letter from Volusia County Health Department for the existing septic system prior to the issuance of the BTR to ensure the existing septic system is adequate in light of living area expansion at the house. If the existing septic tank is not adequate the applicant will be required to upgrade the existing septic system prior to the BTR issuance.
- 2) The dwelling shall serve no more than two (2) non-related elderly residents within the dwelling.
- 3) All residents and related services shall be directly associated with and regulated by the Agency for Health Care Administration (AHCA).
- 4) The CRH shall remain under management and ownership of Chastity Moye, the property owner of 1202 Sherbrook Drive.
- 5) The applicant shall continue to utilize the dwelling as a primary residence, including maintaining the residence as a homesteaded dwelling.
- 6) No signage shall be allowed besides what is allowed for a home occupation.
- 7) The proposed CRH service is for an AFCH; if the applicant desires to provide any other services, a new conditional use application shall be submitted to the City for review and action.