

FILED FOR RECORD
R. B. SHORE**SPECIAL PERMIT NO. SP-01-08**

Constance J. Cuevas

2002 MAR 14 PM 1:11

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER SARAH E. WARREN ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-01-08, TO ALLOW A ONE-CHAIR BEAUTY SALON; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

WHEREAS, pursuant to the Land Development Code, Manatee County Ordinance 90-01, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, Constance J. Cuevas has requested a Special Permit to allow a one (1) chair beauty salon that specializes in nail and hair care as a home occupation; and

WHEREAS, on February 7th, 2002 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for SP-01-08.

NOW THEREFORE, after consideration of the application for Special Permit No. SP-01-08 requested by Constance J. Cuevas, the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues this Final Order as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

1. The request is for a single chair beauty salon on a property that contains and is currently used as a single-family home, which is approximately 1,900 square feet under roof. The site is located at 912 68th Avenue Drive West, approximately 275' east of the intersection of 11th Street east and 68th Avenue Drive West in Manatee County.
2. The site plan shows a 123 square foot portion of the existing house to be used for the beauty salon.
3. A Home Occupation may not occupy more than twenty-five (25) percent or no more than 200 square feet of the residence, whichever is less, per Section 703.2.27.4.6 of the Manatee County Land Development Code. The request is for 123 square feet, well below the 200 square feet as permitted in Section 703.2.27.4.6.

4. The beauty salon will be located in an existing residence. The residence will be required to maintain its residential character per Section 703.2.27.4.1. Additionally, the home occupation must be completely conducted within a bona fide residence of the principal practitioner; and alterations to the exterior appearances of the principle residential building or premises are prohibited pursuant to Section 703.2.27.4.2.
5. The site is currently zoned RSF 4.5 (Residential Single-Family 4.5 dwelling units per acre). The Future Land Use Category is RES-6 (Residential 6 dwelling units per acre).
6. Properties to the north, south, east and west are zoned RSF 4.5 (Residential Single Family 4.5 du/acre) and are developed with single-family homes.
7. In accordance with Section 703.2.27.4.5, "the use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof". The use of the home as a beauty salon is clearly incidental and subordinate to its use for residential purposes since only 6% of the residence is actually being used for home occupation.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact, the testimony and evidence, the applicable provisions of the Manatee County Comprehensive Plan and Land Development Code, the documentation, and the staff report, the above-referenced Hearing Officer hereby makes the following Conclusions of Law:

1. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to Section 505 of the Land Development Code.
2. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval County Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).
3. The proposed use is consistent with the Comprehensive Plan; specifically, the project as proposed and conditioned is consistent with the Manatee County Comprehensive Plan, Policy 2.2.1.12.2, and Section 703.2.27.3 and 703.2.27.4 of the Manatee County Land Development Code. Policy 2.2.1.12.2 allows small retail uses to provide a compliment of residential support uses normally associated with the daily activities of residents. Section 703.2.27.3 allows conditional home occupations, a beauty salon being one of the allowed uses. Section 703.2.27.4 governs the limitations associated with conditional home occupations. These include:
 - A. The home occupation shall be conducted entirely by the principal practitioner within a dwelling that is the bona fide residence of the principal practitioner.
 - B. No exterior alterations are being proposed. This use will not alter the character of the premises as a residence or adjacent property.

C. There will be no outdoor display of goods or outdoor storage of equipment or materials used in the home occupation.

D. The employment of more than two persons who are not residents of the dwelling and who work at or out of the dwelling shall be prohibited. The applicant only proposes one employee, including herself, to work within the beauty salon.

E. The level of activity for the beauty salon will be incidental to the primary use as a single-family residence. The proposed use shall be consistent with the community character of the immediate neighborhood of the proposed development.

F. The area of the home used for the home occupation will be 123 square feet or 6% of the total square footage of the Cuevas residence. The allowed use is 25% or 200 square feet, whichever is less.

G. There will be no noticeable generation of additional traffic by the beauty salon within the neighborhood. Any need for parking generated by the home occupation has been provided on-site. Adequate measures already exist, or shall be taken, to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets.

H. There will be no additional equipment, other than found customarily within a home or that which is necessary to conduct the home occupation.

I. No process or equipment will be used in this home occupation that will create noise, vibration, glare, fumes, odors, or electrical interferences detectable at the normal senses of the premises.

J. The establishment of this one-chair beauty salon will have no detrimental effect on, or endanger, the public health, safety or general welfare.

K. This one-chair beauty salon, as proposed and conditioned within the staff report, will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the zoning district.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Constance J. Cuevas for the property located at 912 68th Avenue Drive West and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a one-chair beauty salon, subject to the following conditions:

1. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning, Permitting and Inspections Department.
2. The site plan submitted with this application shall be part of this approval.

Administrative approval by Manatee County of the Final Site Plan shall be required subsequent to the approval of this Special Permit. See Staff Report.

3. The beauty salon is a home occupation, which is accessory to the principle use of the single-family home as a residence, and may not be established as a separate use from the single-family home.
4. No signs (including mailbox signs) shall be erected for this home occupation.
5. The beauty salon is limited to 123 square feet. This 123 square feet shall be separated from the remainder of the house with partitions as may be required by the Building Department
6. The 123 square foot area designated on the site plan as the beauty salon shall not be used for any other use; if so used, this Special Permit shall terminate automatically.
7. The interior beauty salon shall not be visible from the street or neighboring properties.
8. An entrance door will be added on the east side of the house for access into the beauty salon. The entrance will not appear any different than a typical residential entrance. No additional changes to the single-family residence or any site work is proposed.
9. No alterations to the exterior appearance of the single-family home, with the exception of the addition of a side entrance door for separate access into the beauty salon, shall be allowed.
10. A fire extinguisher shall be installed in the salon in accordance with NFPA #10 standards.
11. Outdoor storage, display of goods, or outside storage of equipment is prohibited for this site.
12. A backflow preventor shall be installed prior to Certificate of Occupancy.
13. The beauty salon shall only employ a maximum of two (2) persons in addition to the resident practioner.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by a Court of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 14th day of
March, 2002.

MANATEE COUNTY, FLORIDA

BY:

Sarah E Warren

Sarah E. Warren, as
Hearing Officer for Manatee County

ATTEST: R.B. SHORE
Clerk of the Circuit Court

By: *Rita A. Sutton*
Deputy Clerk

EXHIBIT "A"

Legal Description:

LOT 7 AND THE EAST ½ OF LOT 6, BLOCK G, PENNSYLVANIA PARK, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 3 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, ALL BEING AND LYING IN SECTION 23, TOWNSHIP 35 SOUTH, RANGE 17 EAST.

EXHIBIT "B"

Site Plan