

SPECIAL PERMIT NO. SP-98-11
KAREN MCDANIEL/KURLS AND MORE SEP 27 1 20 PM '99

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER JAMES A. PAULMANN ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-98-11, TO ALLOW A CONDITIONAL HOME OCCUPATION (1-CHAIR BEAUTY SHOP) IN THE RSF-3 (RESIDENTIAL SINGLE FAMILY-3 DWELLING UNITS PER ACRE) ZONING DISTRICT, LOCATED SOUTH OF MAGELLAN DRIVE, EAST OF 9TH STREET EAST (PENNSYLVANIA AVENUE) IN WHITFIELD COUNTRY CLUB HEIGHTS AT 1011 DE LEO DRIVE (±0.35 ACRE); 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, Karen McDaniel has requested a Special Permit to allow a conditional home occupation (1-chair beauty shop) located south of Magellan Drive, east of 9th Street East (Pennsylvania Avenue) in Whitfield Country Club Heights at 1011 De Leo Drive in the RSF-3 (Residential Single Family, 3 dwelling units per acre) zoning district (±0.35 acre); and

WHEREAS, on September 2, 1999 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for Karen McDaniel.

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-98-11 requested by Karen McDaniel states 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:

A. This request is for a Special Permit to allow a Conditional Home Occupation (1-chair beauty shop at a maximum of 200 sq. ft.).

B. The site is located south of Magellan Drive and east of 9th Street East (Pennsylvania Avenue) in Whitfield Country Club Heights at 1011 De Leo Drive.

C. The site is located in the RSF-3 (Residential Single Family, 3 dwelling units per acre) zoning district. The Future Land Use Designation of the property is RES-3 (Residential Single Family, 3 dwelling units per acre), and is developed with a single-family home.

D. The surrounding area is developed with single-family residential land uses. To the north, south, east, and west are single-family residences.

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, the above referenced Hearing Officer hereby makes the following Findings of Law:

A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.

B. 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).

C. The proposed use is consistent with Policy 2.2.1.10.1 of the Manatee County Comprehensive Plan, which allows for residential support uses within the RES-3 (Residential Single-Family, 3 dwelling units per acre) Future Land Use Category.

D. The proposed use is consistent with Policy 2.1.2.7 of the Manatee County Comprehensive Plan, requiring compatibility and appropriate timing.

E. As conditioned herein, the establishment of a one-chair beauty salon as a home occupation will have no detrimental effect on the surrounding properties or on the public health, safety, or general welfare.

F. As conditioned herein, the establishment of the proposed use will not impede the normal and orderly development of the area. The property surrounding the subject site is developed with single-family homes.

G. The existing 24 foot wide driveway providing access to De Leo Drive, and the proposed additional 12 foot circular drive will provide adequate ingress and egress for this site in a manner that minimizes traffic congestion.

H. As conditioned herein, the proposed use is consistent with the community character of the immediate neighborhood. Section 703.2.27 of the Land Development Code does not allow for any exterior alterations to the home, any signs, outdoor display of merchandise, or any increase in the level of activity. The home occupation shall be incidental to the use of the structure as a residence. The applicant proposes to keep the exterior appearance of the building within the character of a residential dwelling.

I. As conditioned herein, the proposed use minimizes adverse effects, including visual impacts, of the proposed use on adjacent property.

J. No additional landscaping will be required to maintain the residential character of the property.

K. The proposed use, a one-chair beauty salon, meets all the standards and requirements set forth for a conditional home occupation as provided for in Section 703.2.27.4 of the Land Development Code.

BK 1611 PG 7991 2 of 5

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Karen McDaniel for the property located at 1011 De Leo Drive, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a Special Permit to allow a Conditional Home Occupation (1- chair beauty salon), subject to the following conditions:

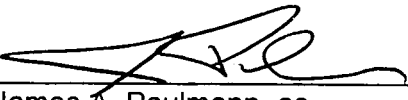
- A. This Special Permit shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning Department.
- B. The site plan submitted with this application shall be part of this approval.
- C. The beauty shop is a home occupation, which is accessory to the principal use of the single-family home as a residence and may not be established as a separate use from the single-family home.
- D. No signs (including mail-box signs) shall be erected for this home occupation.
- E. The beauty shop is limited to 200 square feet. This 200 square feet shall be separated from the remainder of the house with permanent partitions approved by the Building Department.
- F. The 200 square foot area designated on the site plan as the beauty salon shall not be used for any other use other than that of a single-family home. If reconstructed with a use not consistent with that of a single-family home, this special permit shall terminate automatically.
- G. The design of the project shall be in substantial conformance with the architectural elevations entered into the record.
- H. The interior beauty salon shall not be visible from the street or neighboring properties.
- I. An access and drainage permit is required from the building department for the proposed driveway reconstruction.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by courts 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.

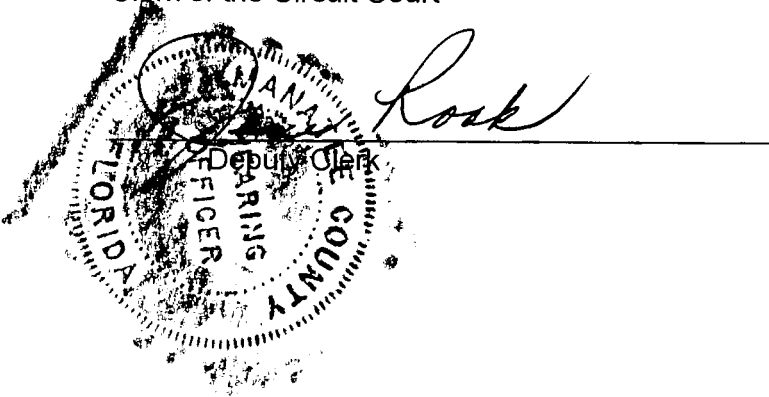
Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Planning Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 27 day of Sept, 1999.

MANATEE COUNTY, FLORIDA

BY: 
James A. Paulmann, as
Hearing Officer for Manatee County

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



BK 1611 PG 7993 4 of 5

EXHIBIT "A"

LEGAL DESCRIPTION:

Lot - 10, Block- A, Unit - 5, Whitfield Country Club Heights

EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION

BK 1611 PG 7994
R.B. SHORE CLERK OF CIRCUIT COURT MANATEE COUNTY FL
FILED AND RECORDED 10/06/99 11:10AM 5 of 5