



City of Tucker

Land Use Petition: SLUP-20-0001

Date of Staff Recommendation Preparation: February 19, 2020

Community Council: January 8, 2020

Planning Commission: February 27, 2020

Mayor and City Council, 1st Read: March 23, 2020

Mayor and City Council, 2nd Read: April 27, 2020

PROJECT LOCATION:	1387 Wenlock Edge Cove
DISTRICT/LANDLOT(S):	18 th District, Land Lot 141
ACREAGE:	0.12 acre
EXISTING ZONING	RSM (Small Lot Residential Mix) (DeKalb County Case: CZ-81009)
EXISTING LAND USE	Single Family Home
FUTURE LAND USE MAP DESIGNATION:	Suburban (SUB)
OVERLAY DISTRICT:	NA
APPLICANT:	Frequency Blue, LLC
OWNER:	Sean Carney
PROPOSED DEVELOPMENT:	Applicant requests approval of a Special Land Use Permit for a home-based business with customer contact.
STAFF RECOMMENDATION:	Approval with conditions of SLUP-20-0001 (Home-based Business with Customer Contact)

PROJECT DATA

The applicant has submitted an application for a Special Land Use Permit (SLUP) for the ±0.12-acre subject property located at 1387 Wenlock Edge Cove. The application, SLUP-20-0001, is to allow a home-based business with customer contact in the RSM (Small Lot Residential Mix) zoning district. Pursuant to Section 46-1174, supplemental regulations for Home Occupations, the proposed business is considered a Type II home occupation because it includes customer contact. All Type II home occupations are only permitted with the approval of a Special Land Use Permit to ensure the home occupation will not be a detriment to the character of the residential neighborhood.

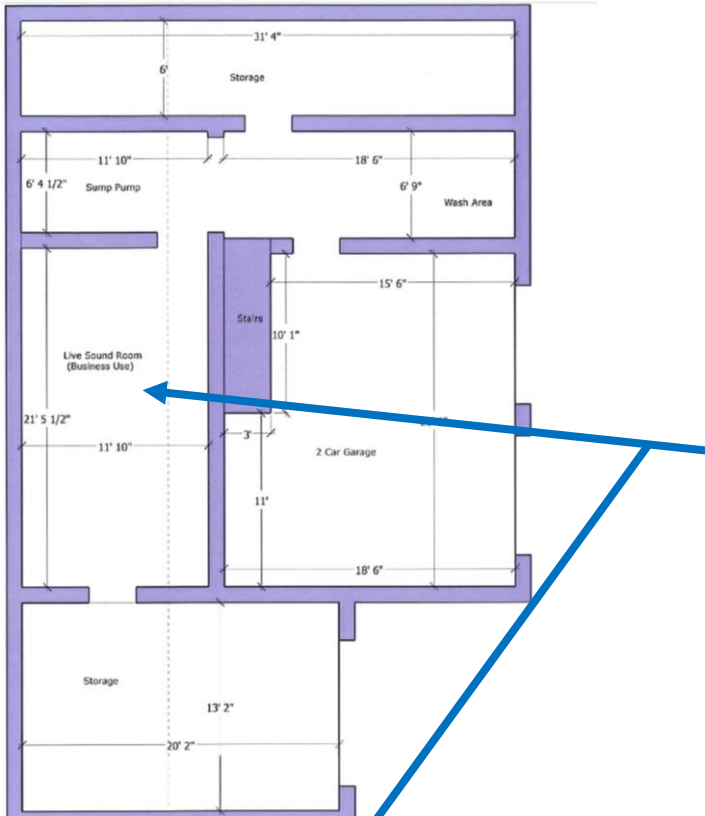


Figure 1: 3rd Floor Sound Room

A home-based business is an occupation carried on by an occupant of a dwelling unit as a secondary use that is incidental to the primary use of the dwelling unit for residential purposes and is operated in accordance with the provisions of the City of Tucker Zoning Ordinance Article IV. Per Section 46-1174(3)d, no more than twenty-five (25) percent of the dwelling unit or five hundred (500) square feet, whichever is less, may be used for the operation of the home occupation. The applicant proposes a ±227 ½ square-foot control room located on the top floor and a ±258 square-foot live sound room in the basement occupying 485 ½ square-feet of the dwelling. The combined total square footage is 18% of the total 2,673 square-foot structure. The first floor (not shown) has a kitchen, living room, dining room, bedroom and bathroom and will not be used for the business.

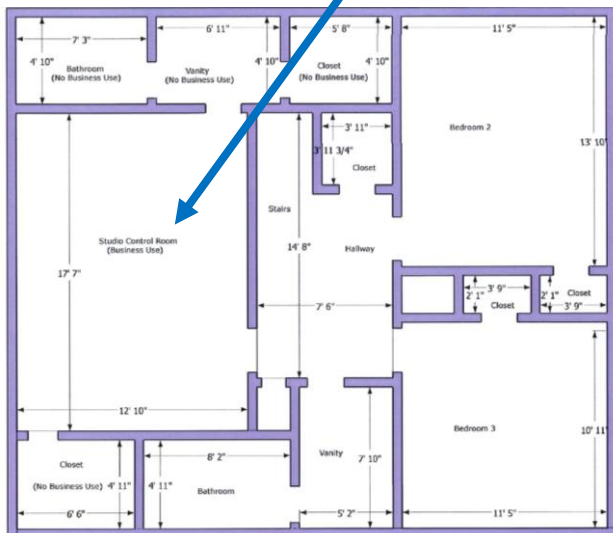


Figure 2: Ground floor (basement) Sound Control Room

The interior layout submitted by the applicant on December 26, 2019, shows 4 bedrooms and 2 ½ bathrooms, a living room, a kitchen, and a separate dining room. Interior renovations shall be contingent upon approval of a Building Permit.

The ±0.12-acre site is developed with one structure, a three-story, single-family home with a 3-car garage and driveway. The applicant intends no exterior change to the footprint of the existing building on the site. The applicant has provided a survey illustrating adequate off-street customer parking is available for 7 (seven) vehicles. The driveway may accommodate 5 (five) vehicles at a time, and the two-car garage has room for 2 (two) vehicles. The applicant has stated that they intend to have clients park in the two-car garage, as shown in the inset. The applicant has also stated that they intend for a maximum of 4 customers at a time, but usually no more than one client at a time.

Figure 3: Off-street parking

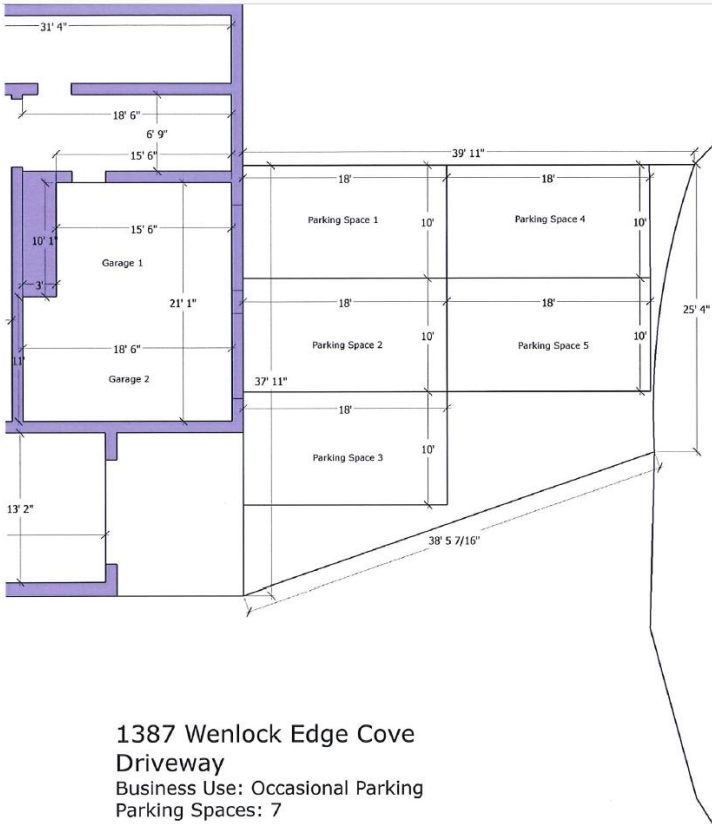


Figure 4: Subject property showing side-load driveway

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located in the RSM (Small Lot Residential Mix) zoning district. The purpose and intent section of the RSM zoning district (Sec. 46-359) indicates in part that the RSM district is established to assure that the structures authorized in the RSM District are designed to provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods.

The RSM zoning district allows for “home-based occupations with customer contact” (Table 4-1 zoning ordinance) with the approval of a Special Land Use Permit. Additional conditions may be placed on the approval of a type II home occupation in order to ensure the home occupation will not be a detriment to the character of the residential neighborhood. The intent of this section of the City of Tucker Zoning Ordinance is that the proposed uses be determined on a case-by-case basis to ensure compatibility with the surrounding area including environmental impacts, aesthetic and infrastructure impacts. In the City of Tucker all home-based businesses with customer contact require a SLUP and must meet supplemental use regulations. The applicant states that the proposed home-based business will meet all supplemental standards for home occupations found in Section 46-1174 of the Zoning Ordinance. This is detailed later in the report.

CHARACTER AREA

The subject property is designated Suburban on the Future Land Use Map. The proposal is consistent with the intent of the Suburban Character Area strategy to be compatible with the existing housing stock. The home-based business with customer contact requires that only persons living in the dwelling unit shall be employed at the location of the home occupation. The home will continue to be a residence for the applicant and will maintain an exterior appearance of a single-family home. Staff proposes a condition stating that there will be no signs located on the subject property advertising the home-based business. The applicant is not proposing any exterior renovations of the house for the home-based business and will remain compatible with the existing housing stock in terms of building height, footprint and massing, particularly as viewed from the street.

The proposed use is not entirely consistent with the intent of the Suburban Character Area by introducing a use that could institutionalize an established neighborhood. Care must be taken to preserve existing neighborhoods from institutionalization. The introduction of a home-based business with customer contact for a recording studio introduces a more intense use (with more than one client at a time) than other home-based businesses with customer contact such as an accounting or general business office. Staff notes, the zoning ordinance does not currently require a distance separation related to home-based businesses with customer contact.

COMMUNITY COUNCIL REVIEW

The Community Council reviewed the proposed application on January 8, 2020. Community Council discussion included whether this home-based business was appropriate in a residential neighborhood. Additional neighborhood concerns included (1) setting a precedent for allowing home-based businesses in this neighborhood; (2) property values; (3) neighbors expressed that the proposed businesses should be in a commercial location; (4) questions about where the clients would park; and (5) reservations due to traffic increases once the business is successful and the owner has more work/clients. Further discussion involved the property owner explaining that the Articles of Incorporation for the Oakengate Subdivision explicitly ran for 25 years from June 15, 1981, and that the association is now voluntary. The

community council questioned the applicant about hours of operation, and why it’s home-based and not in a commercial location.

The applicant responded that his standard client hours will be from 9am to 6pm. The applicant explained that the home-based business is a first-step due to the expense of a commercial space, and that he would search for a commercial property once his business grows. The applicant spoke about the two-way sound proofing that is required for quality sound recording ensuring exterior sound does not enter and vice versa. Applicant also stated that client visits ranged from one day to multiple days for the same person. Typically, clients are expected to use the space from 3 days to 14 days with half being in the post-production phase. The clients would be staying off-site and not at the home-based business location.

NEARBY/SURROUNDING LAND ANALYSIS

The property is located in the Oakengate Subdivision, established June 15, 1981, and is surrounded on all sides by property within the subdivision. The subject site is accessed from a cul-de-sac at the terminus of Wenlock Edge Cove Road, approximately 1,050 feet north of East Ponce de Leon Avenue.

Adjacent & Surrounding Properties	Zoning (Petition Number)	Overlay District	Existing Land Use
Adjacent: North	RSM (Small Lot Residential Mix)	NA	Single-family homes
Adjacent: East	RSM (Small Lot Residential Mix)	NA	Single-family homes
Adjacent: South	RSM (Small Lot Residential Mix)	NA	Single-family homes
Adjacent: West	RSM (Small Lot Residential Mix)	NA	Single-family homes

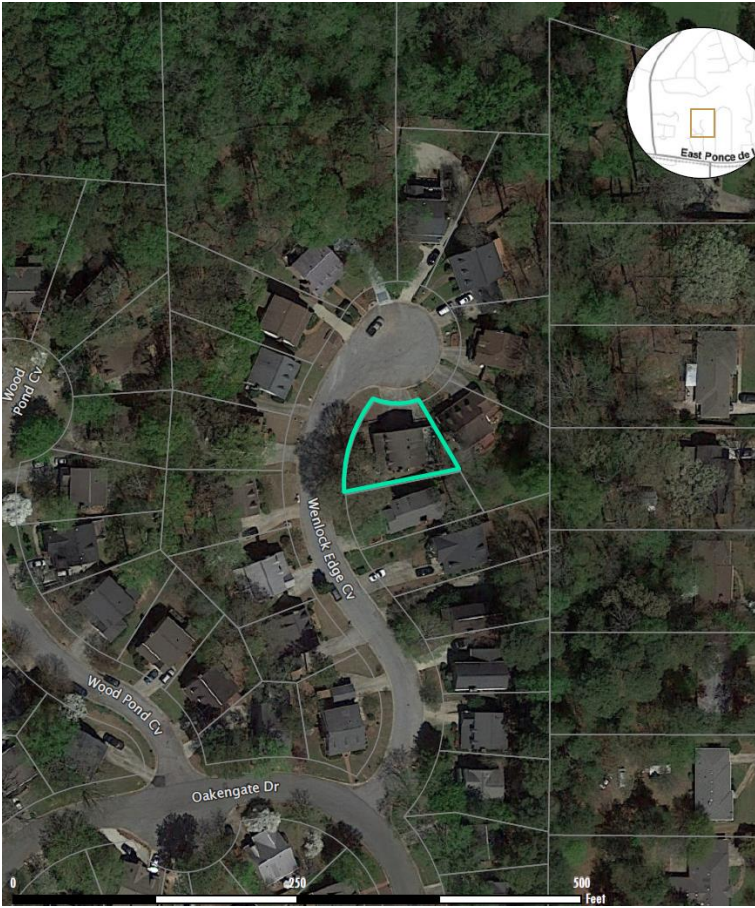


Figure 5: Aerial Exhibit

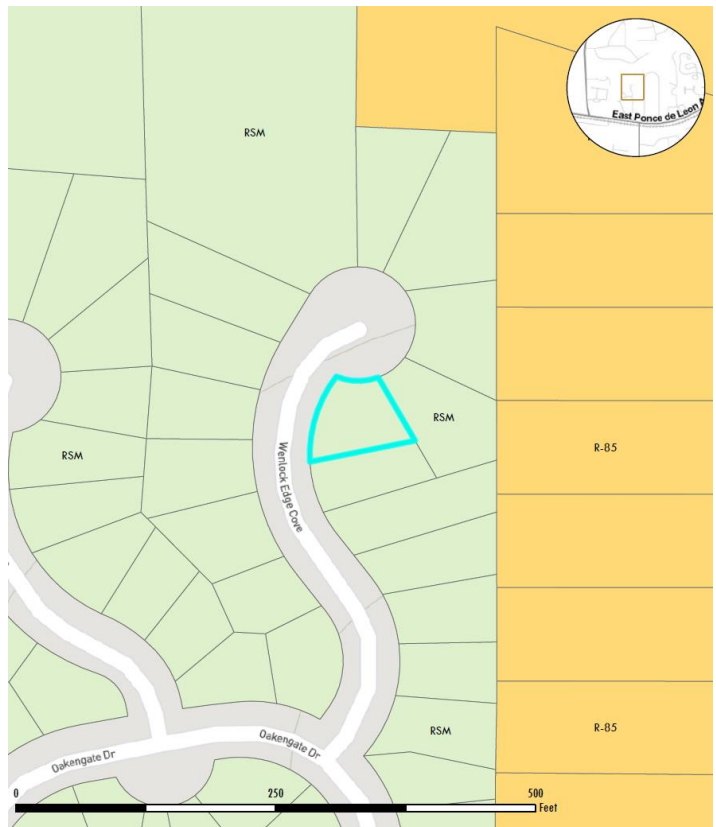


Figure 6: Zoning Exhibit

SLUP-20-0001 HOME-BASED BUSINESS WITH CUSTOMER CONTACT

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The subject site is approximately 0.12 acre. The lot is developed with a two-story single-family home with a ground level basement, and the applicant is not proposing to expand the existing structure's footprint. As part of the application, the applicant shows space for off-street parking for five vehicles in the driveway and two vehicles in the garage for a total of seven vehicles. Staff is proposing a condition to limit the on-site client parking to four vehicles. The applicant is not proposing any structural revisions. The request relates to the proposed use only. The proposed recording studio will take up 485 ½ square feet of the permitted 500 square feet, meaning there is little room for expansion.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

From a land use standpoint, the proposed home-based business with customer contact would allow a more intensive, albeit secondary use in a residential zoned area. The primary use of the property will remain residential with less than 25% of the home used for the home-based business. The land use and development of adjacent properties consist of single-family homes located within a subdivision.

If approved with staff conditions, the daily vehicular trips on the street will be minimal considering the studio can only support one engineer working on a single project at a time. There is not physical room or equipment capacity to expand to support a second engineer or to increase the studio workload. Additionally, the supplemental regulations would not allow an expansion of the proposed studio. Supplemental regulations allow a maximum of 500 square feet for a home-based business with customer contact and the applicant proposes a 485 ½ square-foot home-based business. Staff proposed conditions related to hours of operation and number of vehicles would minimize the impact of the proposal.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The applicant does not propose any alterations to the property, which would require review of stormwater management.

Water and sewer. Water and sewer approval is not required as the bathrooms already exist.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

Traffic impacts will be minimal. One curb cut location exists, which is for the driveway. The applicant has stated in their application submittal that there will rarely be more than one or two cars parked at the facility, and never more than a maximum of four. Staff recommends a condition limiting the maximum number of client vehicles to four to help ensure compatibility with the neighborhood.

The applicant has also stated that clients will be leaving the facility by 6 pm or before, and most of the production process involves editing, mixing and mastering by the engineer Sean Carney working alone, so hosting of clients at the studio will usually not occur more than once or twice per week. Staff recommends a condition limiting the hours of operation from 9:00 am to 6:00 pm to ensure that traffic impacts are minimal.

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

If developed in accordance with recommended conditions, land uses along East Ponce de Leon Avenue and local roads will not be adversely affected by the character of vehicles or the volume of traffic generated by the proposed home-based business with customer contact. The application states that the hours will be from 9:00 am to 6:00pm, and that the hosting of clients at the studio will usually not occur more than twice per week. Staff also recommends a condition limiting the hours of operation.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

DeKalb Fire Department has no comments for the home-based business with customer contact.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

The proposed development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. The proposed use includes a home-based business which is a sound studio. The

applicant has stated that to ensure the human voice is the only thing captured by the microphone, the room must be sound proofed. Otherwise, unintended sounds will be recorded to the track and render it unusable.

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

The property is surrounded by single-family homes located in a subdivision on all sides. Staff recommends a condition limiting the hours of operation for customer contact to 9 am to 6 pm to minimize adverse impacts.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

If developed in accordance with the staff recommended conditions, nearby land uses will not be adversely affected by the manner or operation of the home-based business with customer contact.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed home-based business does not further the intent of the zoning district classification to be a residential area. However, a home-based business with customer contact is an allowable use to be considered through a Special Land Use Permit.

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the immediate area is designated Suburban on the Future Land Use. The adjacent single-family homes are part of a subdivision and conditions are recommended to protect the existing residential neighborhood. If approved with recommended conditions, the request would be consistent with the general policies of the comprehensive plan by preserving the single-family characteristics of the neighborhood and mitigating against non-residential impacts by ensuring adequate off-street parking is available and limited, the hours of operation are limited, and complying with supplemental regulations for home-based business with customer contact.

L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

No transitional buffer zones are required. There are no alterations to the structure.

M. Whether or not there is adequate provision of refuse and service areas.

The applicant has a residential sanitation account with DeKalb County Sanitation which should accommodate any additional refuse generated by the home-based business with customer contact.

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

Staff does not recommend any limits on the length of time of the special land use permit (if granted), so long as the applicant maintains all local licensing requirements including compliance with approved conditions and annual business tax license renewal. However, Staff would condition that the customer contact must cease if and when the applicant moves into a commercial space.

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

The applicant proposes no changes to the existing building size, mass, and scale.

P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties. Therefore, no adverse effects are anticipated.

Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

The following supplemental use regulations are applicable: Sec. 46-1174. - Home occupations and private educational uses. The applicant's letter of intent states that they will comply with the standards for home-based businesses with customer contact.

There are additional criteria that must be considered when home-based occupations are proposed, as enumerated below:

Each home-based business with customer contact shall be subject to the following requirements.

A. There shall be no evidence of the home occupation.

The applicant is not seeking to be a publicly accessible recording studio. The address is disclosed only to pre-screened clients by invitation or appointment. Staff recommends a condition prohibiting any business-related signage on the property.

- B. No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.**

The application states that the studio operation will not create any noise disturbance for the neighbors. The applicant further states that no sound will ever be heard even during the quietest periods of day.

- C. The use shall be conducted entirely within the dwelling unit, and only persons living in the dwelling unit shall be employed at the location of the home occupation.**

The applicant/sound engineer, Sean Carney, lives at the property and is the sole employee of the business.

- D. No more than 25 percent of the dwelling unit and or 500 square feet, whichever is less, may be used for the operation of the home occupation.**

The applicant proposes a $\pm 227 \frac{1}{2}$ square-foot control room located on the top floor and a ± 258 square-foot live sound room in the basement occupying $485 \frac{1}{2}$ square-feet of the dwelling. The total of the home-based business for the proposed recording studio located on the top floor and the basement is 18% of the total structure.

- E. No more than one business vehicle per home occupation is allowed.**

No more than one business vehicle per home occupation is allowed. The applicant will not have more than one vehicle.

- F. No home occupation shall be operated so as to create or cause a nuisance.**

The proposed home-based business will not create a nuisance.

- G. Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, or car wash.**

The proposed use does not involve automobile repair or car wash.

- H. Occupations that are mobile or dispatch-only may be allowed, provided that any business vehicle used for the home occupation complies with this section, and is limited to one business vehicle per occupation.**

The proposed home-based business with customer contact is not mobile or dispatch-only.

- R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The proposed use will not produce an adverse shadow effect. No changes are being proposed to the existing structure.

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

There are no other home-based businesses with customer contact located within 1,000 feet to the proposed home-based business.

There are two existing home-based businesses with no customer contact located less than 500 feet away from the property. Another Level Coaching, LLC is located in the same subdivision at 1376 Oakengate Drive. The second home-based business (Brinson Top Notch Cleaning, LLC) is located at 1362 Sagewood Circle in the development to the immediate east of the subject property.

Further north, just under 1,000 feet away from the subject property, is a home-based business with **no** customer contact (Logic Construction, LLC) located at 4203 Hideaway Drive. Homes located on Hideaway Drive connect to Idlevale Drive, which is accessed from Idlewood Road.

T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

Suburban Character Area. The proposal is not in conflict with the intent of the Suburban Character Area. The proposed development may be found to be consistent with overall objective of the adopted comprehensive plan to preserve an appropriate mix of housing in Tucker. The proposal will not modify the building height, footprint or massing and shall remain compatible with the existing housing stock in terms of building height, footprint and massing, particularly as viewed from the street.

CONCLUSION

The proposal is for a home-based business with customer contact which is an allowable use in the RSM zoning district with the approval for a Special Land Use Permit. There are no permitted home-based businesses with customer contact located within a thousand feet of the subject property. The proposal meets the criteria for a SLUP with proposed conditions; therefore, Staff recommends approval with conditions.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-20-0001**.

1. The hours of operation shall be limited to 9:00 a.m. to 6:00 p.m.
2. All business operations shall be conducted inside the premises and limited to the ±227 ½ square-foot control room located on the top floor and the ±258 square-foot live sound room on the ground floor as shown on the submitted floor plan dated December 26, 2019.
3. There shall be no signage for the home-based business.
4. Client vehicles shall be limited to four (4) at a time and must be parked on the property
5. Interior renovations shall be contingent upon approval of a Building Permit.
6. All local licenses shall be clearly displayed and maintained in the facility.
7. The SLUP for customer contact shall expire automatically if the business moves to a commercial location.

DEPARTMENT COMMENTS

ARBORIST

No new development occurring on the site.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

No comments.

DEKALB COUNTY FIRE MARSHAL OFFICE

No comments.

DEKALB COUNTY SCHOOL SYSTEM

No comments.

LAND DEVELOPMENT

No comments.