



City of Tucker

Land Use Petition: SLUP-21-0003

Date of Staff Recommendation Preparation: July 20, 2021

Planning Commission: August 19, 2021

Mayor and City Council, 1st Read: September 13, 2021

Mayor and City Council, 2nd Read: October 12th, 2021

PROJECT LOCATION:	3710 S. Marlborough Drive
APPLICATION NUMBER	SLUP-21-0003
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 143
ACREAGE:	0.24 acres
EXISTING ZONING	R-75 (Residential Medium Lot-75)
EXISTING LAND USE	Residential
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	Developmental Disabilities Ministries, Inc. c/o Sylvia Crowe
OWNER:	Developmental Disabilities Ministries, Inc.
PROPOSED DEVELOPMENT:	Special Land Use Permit to allow a Personal Care Home, Group (4-6) in a residential zoning district
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS of SLUP-21-0003

BACKGROUND

The applicant is requesting a Special Land Use Permit (SLUP) for the property located at 3710 S. Marlborough Drive to allow for a Personal Care Home (4-6) in the R-75 (Residential Medium Lot – 75) zoning district. The subject property is 0.24 acres and is developed with a one-story, approximately 1,859-square foot single-family detached home.

PROJECT DATA

Personal Care Homes, group (4 – 6 residents) are only allowed in single-family residential zoning districts (RE, R-100, R-85, R-75, R-60) with the approval of a Special Land Use Permit to ensure the operation of the facility will not be a detriment to the character of the residential neighborhood. The proposed Personal Care Home will be located in an existing single-family house and must maintain the exterior appearance of a residential structure. Pursuant to Section 46-1185, supplemental regulations for Personal Care Homes, the proposed business shall comply with all applicable state Personal Care Home requirements including obtaining all licenses and permits required by the State of Georgia and displaying its state-issued licenses and permits in plain view, visible from the front doorway of the facility. Each group personal care home must provide at least four parking spaces within a driveway, garage or carport. No group personal care homes may be operated within 1,000 feet of any other group personal care home.

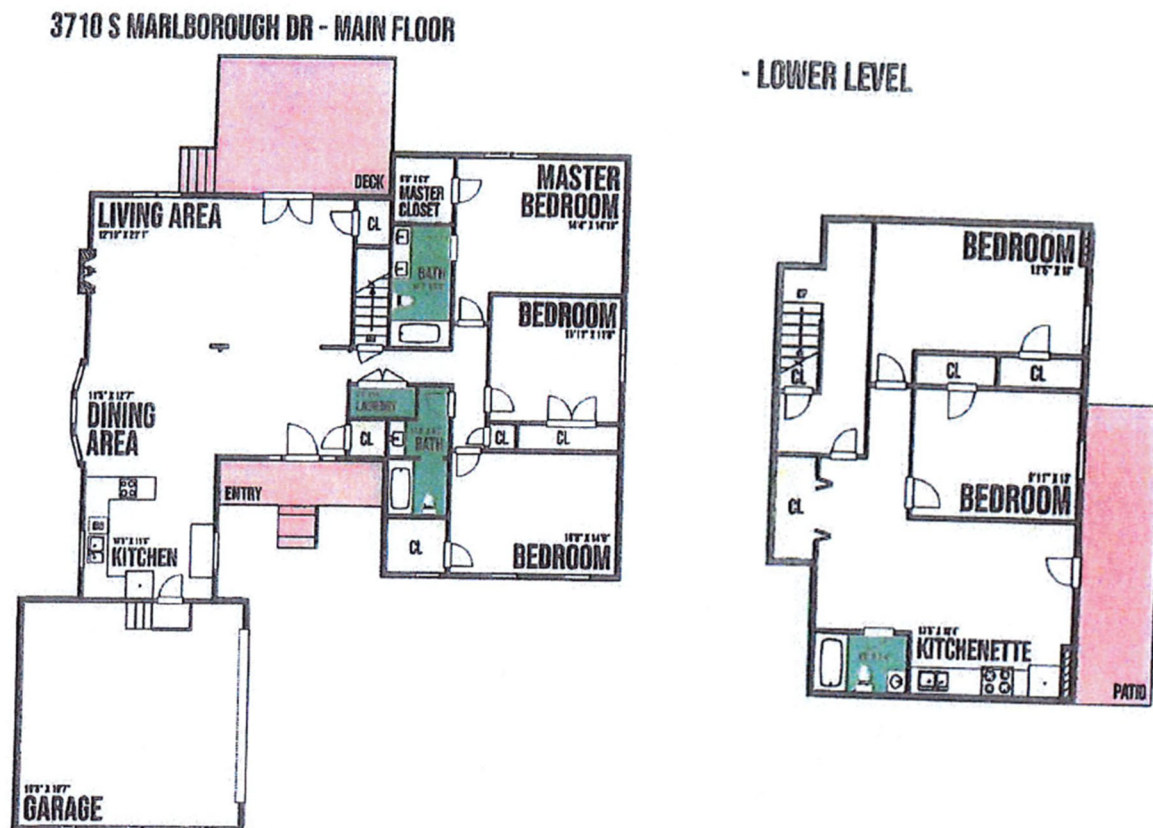
The City of Tucker defines a Personal care home as:

“a building in which housing, meals, personal assistance services, and 24-hour continuous watchful oversight for adults are provided and which facility is licensed or permitted as a personal care home by the state. The term "personal care home" shall not include the term "childcare institution," "transitional housing," "rehabilitation housing facility," "roominghouse" or "boardinghouse." The term "personal care home" includes the term "community living arrangement," which is an establishment licensed by the state and providing a residence for adults receiving care for mental health, development disabilities, and/or addictive diseases.”



The application states the intent is to allow the owners of the property to operate a Personal Care Home (PCH) licensed by the State of Georgia, Department of Community Health (DCH) as a Community Living Arrangement (CLA) that provides or “arranges for the provision of daily services, supports, care, or treatment exclusively for two or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financially supported, in whole or in part, by funds designated through the Department of Behavioral Health and Developmental Disabilities (DBHDD)”. The application further states that the intent is to provide a living arrangement for 4 unrelated people with an intellectual and developmental delay, such as Down Syndrome or Autism, to live together in the home under a rental agreement.

Developmental Disabilities purchased the property in August of 2020 and has had 3 unrelated individuals in the home under the definition of family. The City of Tucker definition of family includes the following: “not more than three persons not so related who live together in a dwelling unit.” The request for the addition of a fourth resident triggered the need for a SLUP, as four unrelated people in this scenario would be considered a Personal Care Home.



Per the interior layout submitted by the applicant, the floor plan shows 5 bedrooms (one of which is the master bedroom), 3 bathrooms, a living room, a kitchen on the main floor and a kitchenette on the lower level, and a separate dining room. The Department of Behavioral Health and Developmental Disabilities (DBHDD) allows a maximum of 4 people for any Community Living Arrangements (CLA). DBHDD only

allows one resident per bedroom for Community Living Arrangements. Additionally, the applicant is not proposing any exterior renovations or modifications to the site. It should be noted, however, that if any of this work is needed in the future, a building permit for renovations would likely be required. The applicant would also be required to submit a trade permit if they replace the water heater, electrical service upgrade or change out, replacing relocating panel box, installation of a new irrigation system, electrical re-wire, addition of circuits, or adding switches or receptacles, replacement of light fixtures requiring electrical work, replacement of main breaker or air conditioner change out.

The existing dwelling, an approximately 1,859-square foot, is a single-family detached home, with a two-car garage that was constructed in 1984. The submitted site plan depicts room for four vehicles-two cars in the garage and two additional spots located in the driveway. Employees and guests would be encouraged to park in the driveway when possible to limit the impact on the neighboring residences.

OVERVIEW OF JUSTICE DEPARTMENT AGREEMENT WITH STATE OF GEORGIA

On May 18, 2016, the United States Justice Department (“DOJ”) announced an extension agreement with the state of Georgia to improve the quality and availability of services for people with developmental disabilities living in the community. According to the DOJ, *“the extension agreement builds upon a 2010 settlement agreement resolving a lawsuit brought by the department under the Americans with Disabilities Act and the Supreme Court’s ‘Olmstead’ decision. The case involves Georgia’s provision of community services for individuals with mental illness and developmental disabilities.”* Under the agreement, Georgia will help people with developmental disabilities move from its state hospitals to integrated settings and will monitor services and track outcomes for people after their discharge. This includes monthly visits by the state of Georgia to each Community Living Arrangement.

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located in the R-75 (Residential Medium Lot – 75) zoning district. The purpose and intent section of the R-75 zoning district (Sec. 46-224) indicates in part that the R-75 zoning district is established to “ensure that the uses and structures authorized in the R-75 (Residential Medium Lot–75) district are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood”. The R-75 zoning district allows for “Personal Care Homes” only as a special use (Table 4.1. Use Table). The intent 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 maintaining the residential character of the immediate area. In the City of Tucker all Personal Care Homes, group (4-6) require a SLUP and must meet supplemental use regulations in Article 4.

CHARACTER AREA (Future Land Use)

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 Personal Care Home will be required to maintain an exterior appearance of a single-family home and there will be no signs located on the subject property advertising the Personal Care Home. Additionally, the applicant is not proposing any interior or exterior renovations to the house, thus; the

dwelling will remain compatible with the existing housing stock in terms of building height, footprint and massing, particularly as viewed from the street.

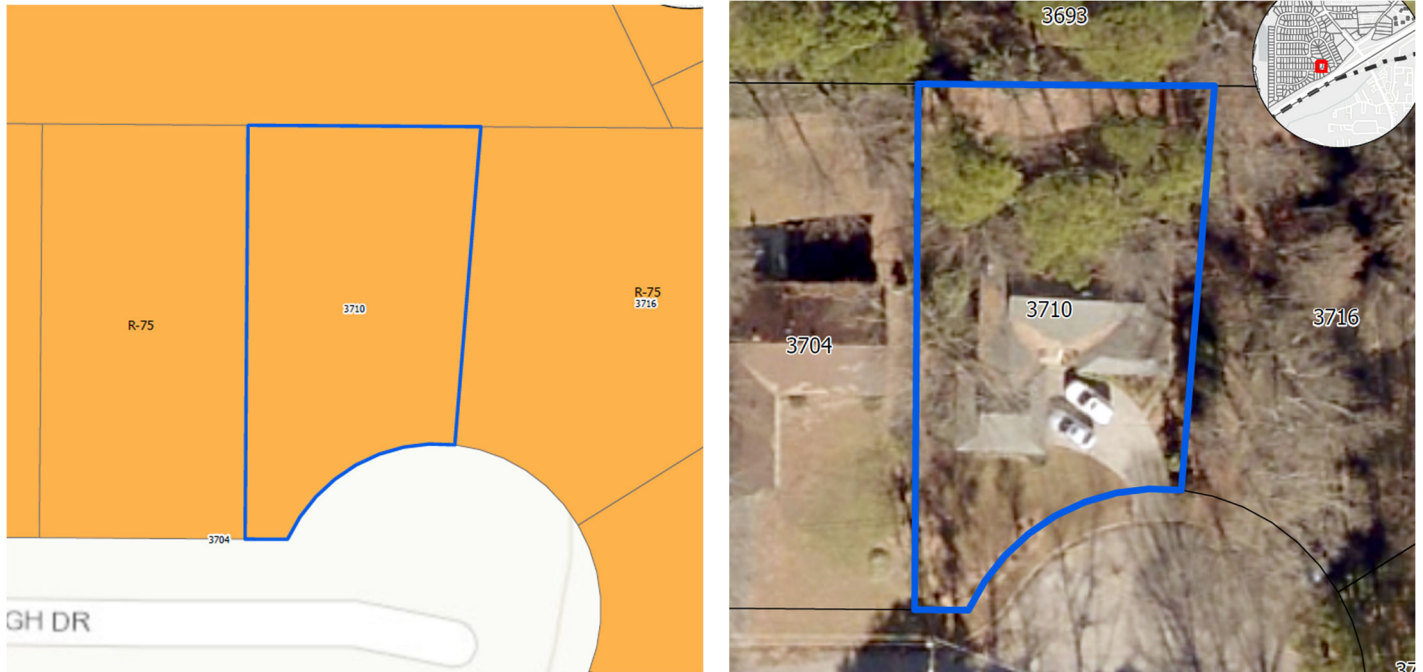
The introduction of a Personal Care Home is not entirely consistent with the intent of the Suburban Character Area and does not align with preservation of existing neighborhoods because it creates a use that could institutionalize the area. The Zoning Ordinance does however, define institutionalization as two (2) Personal Care Homes within 1,000 feet of each other. The closest existing Personal Care Home is approximately 2,600 feet away, on Zemory Drive.

PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted a two-hour long community meeting on May 1, 2021 after mailing a letter and site plan explaining the proposed project to all property owners within 500 feet of the subject parcel. There were 13 people in attendance including the applicant, staff, and two community members. The applicant's report stated the format was a drop-in type meeting and that staff members and Board Members were in attendance to help answer questions. The applicant stated there were no issues, concerns or questions raised by the community members at the meeting. Although it does not appear that any changes were made to the site plan as a result of the Public Participation Meeting, it should be noted that the applicant has proposed no interior or exterior renovations to the property.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	R-75 (Residential Medium Lot – 75)	Single-family home
Adjacent: East	R-75 (Residential Medium Lot – 75)	Single-family home
Adjacent: South	R-75 (Residential Medium Lot – 75)	Single-family home
Adjacent: West	R-75 (Residential Medium Lot – 75)	Single-family home



Zoning and Aerial Exhibits showing surrounding land uses.

SLUP-21-0003: Personal Care Home, Group (4-6)

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 0.24 acres. The lot is developed with an 1,859-square foot, single-family detached dwelling within a neighborhood of similarly sized homes. The applicant is not proposing to expand the existing structure's footprint and the property meets the dimensional standards for lot coverage, off street parking, and other applicable requirements of the R-75 zoning district. The site appears to be adequate for the proposed use including the existing dwelling, 2-car garage, and driveway parking spaces. Additionally, the backyard is fenced.

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

The proposed Personal Care Home is in a traditional suburban neighborhood, completely surrounded by single-family homes. The proposed Personal Care Home is located on a local street in a quiet

residential setting in the Edinburgh Estates subdivision. Care should be taken to protect the established neighborhood from impacts of institutionalization such as: future Personal Care homes, daycares, and home-based businesses with customer contact. It should also be noted that a Personal Care Home could have a greater impact on an established, traditional residential subdivision, compared to a non-traditional neighborhood, such as a residential home located on a minor arterial street.

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. DeKalb Watershed Management will complete a full review as part of the Occupational Tax Certificate (OTC) process, if the SLUP is approved. The Department of Watershed Management did however have the following comment: "This location will need additional sewer capacity allotment, based on the number of residents they have. The single-family home has a credit of 185 gpd, and each bed in a personal care home will need 120 gpd allotted."

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.

The traffic impacts as a result of the proposed Personal Care Home will be minimal. The applicant has stated a single, unmarked, handicapped accessible van would remain parked in the garage or driveway and would be used as transportation to and from community outings. Additionally, the application states "typically one staff member would be on site and that there could be three times per day that staff would change shifts; between 7am-8am, between 3pm-4pm, and between 9pm-10pm." Additionally, an agency contracted by DBHDD will visit the home once a month to audit for compliance.

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.

Existing land uses would not be adversely affected in terms of the character of the vehicles or the volume of traffic generated by the proposed use. The applicant has stated one unmarked handicapped accessible van would be parked in the driveway or garage. There would be a slight impact, but would be minimal compared to other single-family homes.

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.

The applicant is proposing no modifications to the interior or exterior of the home. The property is located in a cul-de-sac, which would provide adequate access for emergency services vehicles and the DeKalb County Fire Department expressed no concerns regarding access for emergency vehicles. If approved, the applicant shall be required to submit a life safety plan to the DeKalb County Fire Department including location of fire alarms/smoke detectors, ramps, location of kitchen stove, inside/outside stairs, and location of furnace and hot water.

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.

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 detached homes zoned R-75 (Residential Medium Lot – 75) on all sides. According to the applicant, staffing needs would be the same for 4 residents as they are for 3. The staff members will work in shifts, with shift changes occurring around 7am, 3pm, and 9pm, which would be similar to single-family residences.

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.

The hours of operation will be 24 hours a day, however, shift changes will happen between the hours of 7am-8am, 3pm-4pm, and 9pm-10pm, which is similar to the commuting hours of residential neighborhoods. The occupants will not be drivers, so there should be minimal traffic impacts compared to a typical single-family home. The applicant has stated the residence shall appear as a single-family home and no signage will be erected for the PCH. If developed in accordance with the staff recommended conditions, nearby single-family homes should not be adversely affected by the manner or operation of the PCH.

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.

If approved by SLUP, the proposed Personal Care Home will comply with the R-75 zoning district. The proposed PCH will be located in an existing single-family house and must maintain the exterior appearance as a residential structure

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

The subject property is designated Suburban on the Future Land Use Map. While the proposed use is consistent with the intent of the adopted comprehensive plan, care must be taken to preserve existing neighborhoods from institutionalization. The introduction of a Personal Care Home does not align with preservation of existing neighborhoods because it could institutionalize the area. However,

the zoning ordinance defines institutionalization as two Personal Care Homes within 1,000 feet of each other. In research of other nearby and surrounding Personal Care Homes, it appears as though the closest Personal Care Home is located approximately 2,600 feet away.

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.

There are no transitional buffer requirements on this parcel.

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

The proposed use should not generate excessive refuse and the applicant has stated that they will be serviced by DeKalb County sanitation.

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 obtains all local licensing requirements including compliance with approved conditions and annual occupational tax certificate renewal.

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 proposed Personal Care Home **is in compliance with the supplemental regulations for Personal Care Homes (4-6)** [Sec. 46-1185. - Personal care homes].

Sec. 46-1185. - Personal care homes

(a) Personal care homes, general requirements.

- (1) Each personal care home must obtain all licenses and/or permits required by the state in order to operate. Each personal care home licensed and/or permitted by the state must display its**

state-issued licenses and/or permits in plain view, visible from the front doorway of the facility.

The applicant's letter of intent states that they will comply with all required state and county requirements for Personal Care Homes and that the state-issued license and/or permit will be displayed at the front doorway once obtained.

- (2) No personal care home may display any exterior signage that violates the sign ordinance in chapter 34 or the sign provisions in the zoning regulations for the underlying zoning district where the personal care home is located.**

The applicant has stated they will be in compliance and are not proposing to post any signs.

- (3) Personal care homes may apply for an FHA Accommodation Variance as provided for in section 46-1639.**

The application has stated there is no need for an FHA Accommodation Variance.

(b) Personal care home, group (four to six persons).

- (1) Two copies of complete architectural plans for the subject group personal care home, signed or sealed by a registered architect, shall be submitted to the community development director prior to issuance of a building permit or business license.**

No changes to the interior of the home are being requested, however a floorplan was submitted with the application. Additionally, the applicant is aware that 2 copies of architectural plans signed and sealed by a registered architect will be required prior to issuance of a building permit or occupational tax certificate.

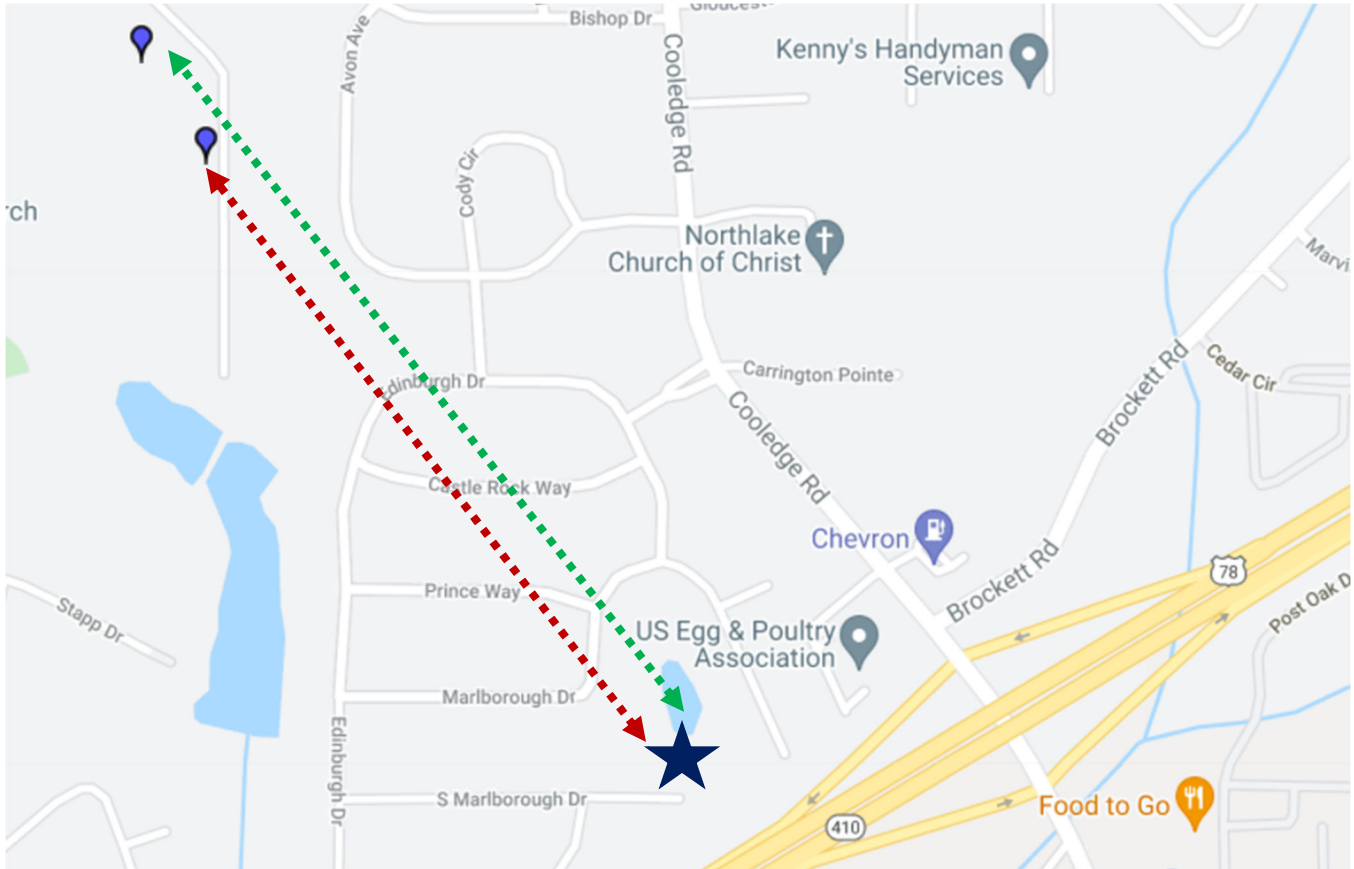
- (2) Each group personal care home must provide at least four parking spaces within a driveway, garage or carport and must comply with any applicable requirements in article VI of this chapter.**

The site plan provides four parking spaces, two of which will be located in the 2-car garage. Additional spaces are available within the driveway.

- (3) In order to prevent institutionalizing residential neighborhoods, no group personal care home located in the "...R-85..." zoning district may be operated within 1,000 feet of any other group personal care home. The 1,000-foot distance requirement is measured by a straight line which is the shortest distance (i.e., "as the crow flies") between the property lines of the two tracts of land on which the group personal care homes are located.**

There is another Personal Care Home (Tucker PCH) located approximately 2,600 feet northwest of the proposed PCH at 1660 Zemory Drive. The State of Georgia Department of Community Health Lists Tucker PCH, located at 1660 Zemory Drive, as having a licensed capacity of 4 (shown in red below). This PCH received a SLUP from DeKalb County in 2015.

The State of Georgia Department of Community Health lists another Personal Care Home located approximately 3,100 feet northwest of the subject property at 1708 Zemory Drive. It is listed under the name Zemory and is licensed for 3 residents. (shown in green below). It is operating under the definition of family.



4310

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 regarding increasing the footprint or height of the building.

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

The supplemental regulations pertaining to Personal Care Homes (4-6) require that PCHs shall be located at a minimum of 1,000 feet from another PCH. There are no other PCHs located within 1,000 feet of the proposed location. However, there is another Personal Care Home, registered with the State of Georgia Health Department, approximately 2,600 feet from the proposed location (1660 Zemory Drive). This proposed use would not result in a disproportionate proliferation of uses if approved, as explicitly stated in the supplemental regulations (Section 46-1185).

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 consistent with the intent with the Suburban Character Area strategy to be compatible with the existing housing stock. The applicant is not proposing any interior or exterior renovations to the house 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 an institutional-like use in an established residential neighborhood; however, with proposed conditions to preserve the suburban character of the residential neighborhood the proposal may be consistent.

CONCLUSION

The proposed use complies with the criteria (standards and factors) for special land use permits provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The proposed use also complies with the Supplemental Regulations for Personal Care Homes (Section 46-1185).

Therefore, Staff recommends **APPROVAL WITH CONDITIONS** of the requested special land use permit.

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-21-0003**.

1. The proposed use shall be limited to a group personal care home (community living arrangement), with no more than 4 residents.
2. The Personal Care Home shall comply with all applicable state Personal Care Home requirements including obtaining all licenses and permits required by the State of Georgia and displaying its state-issued licenses and permits in plain view, visible from the front doorway of the facility.
3. At all times, the applicant shall be in compliance with the State of Georgia, Rules and Regulations for Community Living Arrangements, Chapter 290-9-37, as amended.
4. The applicant shall submit a Life Safety Plan to the DeKalb County Fire Rescue Department, within 30 days of approval.
5. The Personal Care Home shall maintain an exterior appearance of a single-family home.
6. There shall be no signs located on the subject property advertising the Personal Care Home.
7. The Special Land Use Permit shall not be transferred to another business.

DEPARTMENT COMMENTS

ARBORIST

No new development occurring on the site.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

This location will need additional sewer capacity allotment, based on the number of residents they have. The single-family home has a credit of 185 gpd, and each bed in a personal care home will need 120 gpd allotted

DEKALB COUNTY FIRE MARSHAL OFFICE

The SLUP would be conditionally approved by Fire, pending there is 24 hr. care provided by the applicant, since the residents may not meet the terms for "self- preservation".

DEKALB COUNTY SCHOOL SYSTEM

Not applicable; no comments.

LAND DEVELOPMENT

No comments.