

Kent  County

Department of Planning Services
Division of Planning

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STAFF RECOMMENDATION REPORT
September 6, 2018

Application Number : C-18-05 Potts, Jennifer

Present Zoning District : RS1 (Single Family Residential)

Present Use : Residential

Proposed Use : Same with Home Occupation
(*Professional Office/Therapist*)

Relation to Growth Zone : Outside

Area and Location : 0.22± acres on the southern side of Harvest Grove Trl., approx. 735ft. northeast of the intersection with Veli Crossing, described as Lot 178 of Hazel Farm subdivision, northeast of Dover.

I. STAFF RECOMMENDATION:

The staff recommends **APPROVAL** based on the information submitted as the application demonstrates compliance with the conditions for approval as outlined in the Code, as follows:

§205-366. Home Occupations

Conditions of this use shall be as follows:

- A. The owner/operator shall secure a zoning certificate of use for a professional office from the Department of Planning Services, Division of Planning. The dwelling shall be the bona fide residence of the operator of the occupation.
- B. Not more than 45% of the total floor area of the dwelling shall be devoted to office use; such use shall not alter the residential character or appearance of the dwelling or premise. If an accessory structure is used for a professional office, the square footage devoted to office use shall not exceed 45% of the floor area of the principal dwelling.
- C. Nonmedical facilities shall have no more than one nonresident employed.

- D. There shall be no increase in the use of any one or more utilities (water, sewer, electricity, telephone, refuse, etc.) to the extent that the combined total use for the office and dwelling exceeds that for an average residential use in the area.
- E. The use of property shall not change the general character of the neighborhood.
- F. The professional office use shall create no noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any extent greater or more frequent than that usually experienced for an average residential use in the district where located.
- G. . There shall be no display of as-bought goods or advertising of services on/from the premises, and the only exterior evidence of the use shall be an exterior sign as provided in Article [XVIII](#).
- H. The need for parking generated by such use shall be provided at one space per 200 square feet of use, located off-street and prohibited in the required front yard.

II. BACKGROUND INFORMATION:

- The applicant began the administrative processing of a home occupation for a *professional office/therapist*, on or around May 17, 2018. The applicant is aware of and is willing to meet the requirements listed above.
- The applicant complied with the requirement to notify interested parties by delivering notice to 12 (twelve) neighbors within 200' of whom 4 (four) responded in support and 7 (seven) did not respond.
- One letter of objection was received during this process from a neighboring property owner, causing the application to move to a Conditional Use process. Cited reasons for concern were extensive, and a copy of the objection is attached.
- The applicant is requesting this use inside an existing dwelling within the RS1 zoning district. Therefore, it does not fall under the purview of the Adequate Public Facilities Ordinance as no new land development is proposed with this application. [§187-90.2(D)(8)].
- The Comprehensive Plan calls for medium density residential uses in this area.
- If approved, the proposed use would be conducted within an existing dwelling and would remain compliant with the existing zoning district and the Comprehensive Plan.
- The 0.22± acre subject site is currently improved with a two-story single-family dwelling. The character of the surrounding area is residential in nature, being lot #179 of the Hazel Farm subdivision.
- Instrument number 2006-48995 “Declaration of Covenants for Hazel Farm” recorded March 29, 2006 in the land records of Kent County, Delaware in book 2836 at page 284 et. seq. states “No Lot shall be used in whole or in part for any purpose other than

residential” in Article 8-2 (a). The HOA has voted to allow the establishment of this home based business. (see attached letter)

- There have been no previous land use applications on the subject property

III. AGENCY COMMENTS

A. KENT COUNTY – Department of Public Works, Division of Engineering – Contact: Brian L. Hall, Engineering Project Manager II

Requirement & Source:

1. If the proposed business includes additional water using fixtures, then additional sewer impact fee and related assessments may be warranted.

Comment:

1. If the above item is applicable, then the KCPWD grants conditional approval.
2. If the above item is not applicable, then the KCPWD grants approval (with no objection to recordation).

This recommendation is offered without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning Services. The Regional Planning Commission shall give considerable weight to public testimony received during public hearing in considering its recommendation to Levy Court in this matter.

ENC: Data Sheet
Exhibit A – Location and Zoning Map
Exhibit B – Plot Plan
Letter of objection
HOA Letter and E-mail Approval
Page 29 of deed restrictions