

FILED FOR RECORD
R. B. THORP
CLERK OF DISTRICT COURT
N. D. FLA.
SEP 27 11 03 AM '93

SPECIAL PERMIT NO. SP-93-14
WOODLAND EARLY CHILDHOOD CENTER, INC.

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER BENJAMIN WITHERS, ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO SP-93-14, TO ALLOW A DAY CARE CENTER FOR A MAXIMUM OF 200 CHILDREN IN THE A-1 (SUBURBAN AGRICULTURAL, 1 DU/ACRE) ZONING DISTRICT. LOCATED AT 9607 STATE ROAD 70 EAST (8.145± ACRES); 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, Woodland Early Childhood Center, Inc. has requested a Special Permit to allow a day care center for a maximum of 200 children in the A-1 (Suburban Agricultural, 1 du/acre) zoning district. Located at 9607 State Road 70 East (8.145± acres); and

WHEREAS, on September 2, 1993 the aforementioned Hearing Officer held a public hearing to receive the staff, applicant and public comment and argument regarding the proposed Special Permit for Woodland Early Childhood Center, Inc.

NOW, THEREFORE, the Final Order regarding Special Permit No. SP-93-14, requested by Woodland Early Childhood Center, Inc. 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 approval of a Special Permit to allow a daycare center for a maximum of 200 children in conjunction with an existing church, which will be located within an existing Sunday School building on the church's property at 9607 S.R. 70 East.

B. The available outdoor play area totals 6,362 square feet, which provides the minimum 45 square feet per child required by the Land Development Code for approximately 141 children. The outdoor play area does not need to be utilized by all of the children at the same time; therefore, the outdoor play area is more than adequate to serve the maximum number of children proposed for this daycare.

C. The surrounding properties to the east and south are zoned RSF-1/WP-E/ST (Residential Single Family, 1 du/acre,

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Watershed Protection-Evers Reservoir and Special Treatment Overlay Districts) and are currently developed as single family residential; to the north of the subject site is vacant property which is zoned A/WP-E/ST (Agricultural, 1 du/5 acres, Watershed Protection-Evers Reservoir and Special Treatment Overlay Districts), and to the west of subject site is vacant property which is zoned PD-C/WP-E/ST (Planned Development-Commercial, Watershed Protection-Evers Reservoir and Special Treatment Overlay Districts), along S.R. 70, and PD-R/ST (Planned Development Residential, Special Treatment Overlay District).

D. Applications for Certificate of Level of Service Compliance for potable water, sanitary sewer, solid waste, transit, drainage and traffic and fire protection have been approved, and a Certificate of Level of Service has been issued.

E. Section 704.13.4 of the Land Development Code requires daycares to provide an on-site service drive or circular driveway which will permit smooth and normal traffic flow. This site is currently accessed by a 24-foot wide driveway onto the property from S.R. 70 East, which is classified as a rural principal arterial. This driveway circles through the paved parking area and exits back onto S.R. 70 East.

F. The proposed use is consistent with the community character of the immediate neighborhood. A daycare center is considered a residential support use; however, this use is located on the fringe of an existing neighborhood and may create an increased traffic impact to this residential area. The applicant has completed a traffic study for this project as part of the concurrency review. A maximum of 200 children will add approximately 55 p.m. peak hour trips to S.R. 70 in this area.

G. There are no known archaeological, historical or cultural resources located on or off this particular parcel.

H. The design of the proposed use will minimize adverse effects, including visual impacts, of the proposed use on adjacent property, since the existing building which will be utilized as the daycare center is located directly west of the existing church. This design places the church sanctuary and the existing paved parking spaces and drive aisles between the daycare facility and the east property line. Single-family residential homes abut the east property line. The daycare facility is located approximately 73 feet from the west property line, with the outdoor recreational area located within this 73 feet wide area. The property to the west is currently vacant. The existing location of the daycare building and outdoor recreational facilities towards the west side of this site serves to minimize the impact of any adverse effects, such as noise or visual impacts on the adjacent residential property to the east.

I. The site currently has an existing 10-foot wide landscape buffer along the east property line, which includes both the required hedge and trees to reduce the adverse impacts associated

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with this use. All parking on this site is existing. Land Development Code Section 715.3.2 does not require existing parking areas to meet the landscaping standards unless increasing parking by 20 spaces or 20 percent, whichever is greater, of the pre-existing spaces; however, the landscaping provided by the applicant serves to meet the current Code requirements.

J. Land Development Code Section 710.1.6 requires 20 parking spaces for a daycare with a maximum of 200 children (1 space/10 children) plus one parking space per company vehicle and an on-site service drive. This request provides 40 parking spaces (including two handicapped parking spaces) and an on-site service drive which enters the property from S.R. 70 East, circles through the paved parking area and exits onto S.R. 70 East.

K. The floor plan provides adequate square footage to accommodate a maximum of 200 children at a ratio of 35 square feet per child as required by the Land Development Code. However, building code requirements prohibit using the rooms located on the second floor for the care of children 6 years old or younger.

L. Since a Special Permit to allow a church and accessory facilities was previously approved at this location in 1984, approval of this request for an accessory daycare to accommodate a maximum of 200 children will not be detrimental to, nor will the daycare endanger the public health, safety or general welfare.

M. Since all properties to the east and south of the subject parcel are zoned and developed as residential, the use of this property for a daycare accessory to the existing church should not impede the normal improvement of surrounding properties which are residentially developed.

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. This request is consistent with the criteria required by the Manatee Land Development Code for Special Permit approval. The proposed use is allowed in the A-1 zoning district by Special Permit approval. This request meets all of the standards and/or requirements set forth in Section 704.13, Day Care Centers, of the Land Development Code.

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D. This proposed use is consistent with the Comprehensive Plan, including Policy 2.2.1.9.1. This policy provides for residential support uses in the RES-1 Future Land Use Category. Daycare facilities are included within the category of residential support uses. The proposed use is also consistent with Policy 2.6.4.1 of the Comprehensive Plan which requires sufficient landscaped buffers between land uses which differ either in use, intensity, density or height, to assist in the mitigation of any potential incompatibility between adjacent land uses.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to Woodland Early Childhood Center, Inc. for the property located at 9607 S.R. 70 East, and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a day care center for a maximum of 200 children in the A-1 (Suburban Agricultural, 1 du/acre) zoning district, 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, Permitting and Inspections Department.

B. The site plan submitted with this application (SP-93-14), considered for the Hearing Officer's approval to be a Preliminary Site Plan, shall be part of this approval.

C. Any occupancy of the rooms located on the second floor will be limited to adults and children at least 7 years of age or older.

D. No more than 100 children may utilize the outdoor recreation area at one time.

E. The applicant is advised that a Temporary Certificate of Occupancy will not be replaced by the Certificate of Occupancy until the zoning and state utility issues have all been approved.

F. Certification relating to completion of the development plan for zoning, transportation, drainage and utilities shall be submitted to the Growth Management reviewing engineer before release of the final Certificate of Occupancy.

G. The required 10-foot wide screening buffer, in accordance with Section 715.5.2, shall be in place along the east property line prior to the issuance of the Certificate of Occupancy, but no later than 90 days from the recording date of the Final Order for this request.

Section 4. Severability. In the event that any portion or section of this Order granting Special Permit SP-93-14 is determined to be invalid, illegal or unconstitutional by a board or court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Special Permit which shall remain in full force and effect.

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Section 5. Effective Date. The effective date of this Special Permit shall take effect upon execution of this Order and it has been recorded with the Office of the Clerk of the Circuit Court and a copy of the recorded Order is received by the Planning, Permitting and Inspections Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 27th day of
September, 1993.

MANATEE COUNTY, FLORIDA

BY: Benj. Withers
Benjamin Withers, as Hearing
Officer for Manatee County

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

Diane E. Vallone
Deputy Clerk

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EXHIBIT "A"

LEGAL DESCRIPTION: That part of the S 1/2 of Section 18, Township 35 South, Range 19 East, Manatee County, Florida, lying North of State Road No. 70. Less Braden Pines Subdivision Unit I, as recorded in Plat Book 20, Pages 17 thru 20, Public Records of Manatee County, Florida. Less Braden Pines Subdivision, Unit II, as recorded in Plat Book 20, Pages 111 thru 115, Public Records of Manatee County, Florida.

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EXHIBIT "B"

SITE PLAN SUBMITTED WITH APPLICATION

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FILED AND RECORDED 10/01/1993 1:47PM
K. B. SHORE CLERK OF CIRCUIT COURT MANATEE COUNTY FL
RECORD VERIFIED