

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
MARCH 10, 2015**

The Public Hearing of the Volusia County Planning and Land Development Regulation Commission was called to order by **Frank Severino**, at 9:00 a.m., in the County Council Meeting Room of the Thomas C. Kelly Administration Center, 123 West Indiana Avenue, DeLand, Florida. On roll call, the following members answered present, to-wit:

FRANK SEVERINO
JEFF GOVE
WANDA VAN DAM (absent)
JEFFREY BENDER
JAY YOUNG
RONNIE MILLS
JOSEPH ALLEVA

STAFF PRESENT:
IAN WILLIAMS, Assistant County Attorney
SCOTT ASHLEY, AICP, Senior Zoning Manager
WILLIAM GARDNER, Activity Project Manager
SUSAN JACKSON, AICP, Planner III
CAROL MCFARLANE, AICP, Planner II
SHERRI LAROSE, Zoning Technician
SARA PAYNE, Staff Assistant II

APPROVAL OF MINUTES

- February 10, 2015

Member Bender moved to APPROVE the minutes. Member Gove seconded the motion. Motion CARRIED unanimously (6:0).

Ian Williams, Assistant County Attorney, provided legal comment.

Disclosure of Ex Parte Communications

Members of the Volusia County Planning & Land Development Regulation Commission Board were asked to please disclose, for the record, the substance of any ex parte communications that had occurred before or during the public hearing at which a vote is to be taken on any quasi-judicial matters. All members present disclosed any communication as listed below.

No ex parte communications took place.

1 **ITEMS TO BE CONTINUED OR WITHDRAWN**

2
3 None.

4
5 **PUBLIC HEARING ON APPLICATIONS**

6
7 **S-15-015** - Application of Jacob H. Fisher, agent for Randolph and Heather Fisher,
8 owners, requesting a special exception for a Farm worker living facility on Prime
9 Agriculture (A-1) zoned property. The property is located at 3651 Strawberry Lane, New
10 Smyrna Beach; \pm 9.87 acres; 7212-01-01-0110.

11
12 Scott Ashley, Senior Zoning Manager, presented the staff report.

13
14 Jacob H. Fisher, 1409 Art Center Avenue, New Smyrna Beach, Florida, 32168. Mr.
15 Fisher stated that his father is in ill health and cannot keep up with the property.
16 Because he works rotating shifts, it is extremely difficult to attend to the needs of his
17 father, the property and the farm animals. Mr. Fisher's father does not want to move
18 and the best solution is to build a farm worker living facility on-site that will
19 accommodate his family. He further stated that he has been very open with the
20 neighbors with his intentions and he has the support of the neighborhood where his
21 father is well established.

22
23 Chairman Severino asked the members of the PLDRC if they had any questions.

24
25 Member Gove asked if Mr. Fisher had any issue with the staff recommendation for the
26 driveway.

27
28 Mr. Fisher stated he did not have an issue with the recommendation.

29
30 **Member Mills moved to FORWARD special exception case S-15-015 to the county**
31 **council for a Farm worker living facility on Prime Agriculture (A-1) zoned property**
32 **with the following conditions:**

- 33
- 34 **1. The applicant shall comply with all applicable subsections of section 72-**
35 **293(11) and obtain all required permits for the farm worker living facility prior**
36 **to construction.**
 - 37
 - 38 **2. The proposed 16-foot shell driveway connection from Strawberry Lane to the**
39 **farm worker living facility/single-family dwelling shall be relocated. The new**
40 **16-foot shell driveway shall make a connection to the existing shell driveway**
41 **located in the southwest corner of the property. The survey prepared by**
42 **Berry Joe Payne Surveyor, Inc. will require a revision to illustrate the**
43 **relocation of the 16-foot shell driveway.**

3. Any required building permits, property and building improvements associated with the approved special exception shall be obtained and completed within twelve months from the date of the rendition letter, unless extended by the zoning enforcement official under section 72-415(10) of the zoning code.

Member Young seconded the motion. Motion CARRIED unanimously (6:0).

S-15-016 - Application of Connie Wittman, agent for Braker, LLC, owner, requesting a special exception for a Day care center on Transitional Agriculture (A-4) zoned property. The property is located at 4390 Grand Avenue, DeLeon Springs; \pm 3.5 acres; 6944-01-00-0552.

Scott Ashley, AICP, Senior Zoning Manager, presented the staff report.

Greg Ruffin, 7872 Sugar View Court, Orlando, Florida, 32819. Mr. Ruffin explained he currently operates two charter schools that infuse arts into early childhood development. The intention for the subject property is to duplicate the same model and to include a sport and health and wellness component. He stated that there is overwhelming support from the DeLeon Springs Community Association. Mr. Ruffin introduced his colleagues, Mr. Ken Pfeifauf, owner of Fit Club Gymnastics in Orange City, Florida, and Ms. Connie Wittman, who has been a day care director for over 20 years.

Member Mills asked if there are any conditions for limiting the students because the application states the number of up to 50 students.

Mr. Ruffin answered that the number will be derived when the fire marshal and the Department of Children and Families (DCF) do their inspections and make a recommendation. The number of up to 50 was intended to be an approximate number to start. However, based on square footage, the building could allow for more growth. When the building was used as a Christian learning academy, there were 212 people on campus. It is the hope that the future capacity would match that number.

Chairman Severino asked where the number of 50 came from that is reflected in the staff report, and would staff have comment on a reasonable maximum if it were above 50.

Mr. Ashley responded that the number came from the applicant. Staff cannot, at this time, recommend a larger number as the capacity will be determined by State agencies. However, a "not to exceed" number could be established allowing for growth. If growth exceeds the cap, the applicant could come back and amend the application.

Chairman Severino asked if the applicant would have numbers from the agencies within the next 30 days to present at the county council hearing.

Mr. Ruffin answered in the affirmative.

1 Chairman Severino asked Ian Williams, Assistant County Attorney, if this discussion
2 could be noted to council or if a specific number needs to be presented. Chairman
3 Severino pointed out that there is a large gap between the number 50 presented in the
4 staff report and what the applicant has presented today.

5
6 Mr. Williams asked Mr. Ashley if there was a cap established in the staff
7 recommendation.

8
9 Mr. Ashley responded that there was not.

10
11 Member Mills expressed his concerns about the traffic report being based on 50
12 students and reiterated he would like to see a cap.

13
14 Mr. Williams responded that the traffic report was based on the square footage and
15 parking, and it incorporates the theoretical maximum traffic flow. A recommendation
16 could be made to council to review the numbers from the State agency.

17
18 Member Mills asked what if the applicant adds buildings.

19
20 Mr. Williams responded that the site plan has to be consistent with what has been
21 submitted. If the applicant desires to expand, they would be required to come back for
22 another PLDRC hearing. Mr. Williams asked Mr. Ashley for comment.

23
24 Mr. Ashley responded that the staff decision was based on the current plan, and
25 confirmed if any structure were to be built that increases the number of students, the
26 applicant would need to request another hearing. As for the traffic concerns, Mr. Ashley
27 stated that the building is designed for a larger capacity. It is on a county road
28 thoroughfare and could handle increased traffic. There could be concern during
29 morning and late afternoon peak traffic time entering and exiting the facility. A cap
30 could be tied to these hours.

31
32 Chairman Severino stated due to the lack of agency input, he would be inclined to just
33 making a note for the council that the information was not available and let them
34 determine what the cap should be.

35
36 Member Mills would like to tie a cap to peak traffic times.

37
38 Member Young asked if the after-school activities would include older students who
39 drive.

40
41 Mr. Ruffin answered that the facility is intended to function as a multi-purpose facility for
42 the community and as such, there may be older students on campus for gymnastics and
43 sport activities. In terms of the school, the facility will be used as a day care and for
44 after-school programs that will take children up to 13 years of age.

45
46 Member Young asked for clarification on the intention of the functions for students who
47 are picked up from local schools for the after-school programs.

1 Ken Pfeifauf, 200 Hickory Avenue, Orange City, Florida, 32763. Mr. Pfeifauf stated his
2 goal is to create a multi-sport facility. There is no intention to expand on the outside
3 sport facilities. The sanctuary will be renovated to a gym for gymnastics, dance and
4 martial arts offered to the students of the day care as well as for after-school programs.

5
6 Member Young asked if there would be night time competitions that would light up the
7 area.

8
9 Mr. Pfeifauf answered there will be no competitions or outdoor night activities. The
10 existing fields will be used as practice fields for the community soccer leagues. There is
11 no intention to create a sports complex. Any evening functions will take place inside the
12 facility.

13
14 Member Bender asked what kind of numbers were presented to the community and if
15 they understood the future growth plan.

16
17 Connie Wittman, 1714 Monica Street, Deltona, Florida, 32725. Ms. Wittman explained
18 that the number 50 students was an approximate number given as a startup number
19 since the fire marshal had not done an inspection to make a determination on capacity
20 of the building.

21
22 Mr. Ruffin further commented that it was presented to the community that it was
23 anticipated there could be up to 50 students at start up with the possibility of growing
24 that number to 200 within 18 months. However, all will be based on the determination
25 of the fire marshal and DCF regulations.

26
27 Member. Bender asked if what was just stated was also articulated to the community.

28
29 Mr. Ruffin stated that it had been.

30
31 Public participation.

32
33 Raymond Bensel, 2060 Mud Lake Road, DeLeon Springs, Florida, 32130. Mr. Bensel
34 stated that on the zoning map on page 2 of the staff report, it does not include his two
35 lots on the northwest corner. His property borders the subject property at the south
36 and east sides with little to no buffer. He also expressed his concern about the use of
37 outdoor loud speakers. When the Lighthouse Learning Academy was active, every
38 inside announcement was broadcasted on the outdoor loud speakers. The use of the
39 outdoor loud speakers was an annoyance and he would like that to be controlled.

40
41 Chairman Severino asked Mr. Ashley if staff recommended conditions 3(a) or (b)
42 addresses Mr. Bensel's concern about buffering his property from the subject property.

43
44 Mr. Ashley answered in the affirmative, that it is covered under recommended condition
45 3(b).

46
47 Chairman Severino confirmed that staff has recommended and the recommended
48 conditions include a 10-foot landscape buffer on the two property lines in question.

1 Chairman Severino asked the applicant to address the issue of outdoor loud speakers.

2
3 Mr. Ruffin stated that the use of outdoor loud speakers has never been in the plan. The
4 only speakers that will be used are inside the gym for dance and gymnastics for the
5 students.

6
7 Mr. Williams commented that a condition of the special exception can state there is to
8 be no use of outdoor loud speakers.

9
10 Ms. Wittman clarified that any outdoor communication between staff will be done with
11 the use of walkie-talkies.

12
13 Member Mills asked what type of fire system was in the building when it was purchased.

14
15 Mr. Ruffin responded there was not a sprinkler system in place, but it has since been
16 added.

17
18 Member Mills asked if the updated system accommodates future growth, would the
19 applicant be willing to put a number on the capacity.

20
21 Mr. Ruffin responded that he would like to attain a number of 250 students over five
22 years.

23
24 Member Mills asked what kind of impact this number would have on the community. He
25 again stated he would like to see a capacity number.

26
27 Chairman Severino then asked the members for their opinion on the capacity number.

28
29 Member Young stated he would like to see a capacity number and have a reasonable
30 cap put on the number of students. He requested the word "generally" be struck from
31 staff recommendation 2, hours of operation, because it is too ambiguous and it is
32 clarified in the report that hours may be extended for special events.

33
34 Member Bender stated he is in support of a cap on the number but suggests county
35 council review the numbers recommended from the fire marshal and DCF knowing it is
36 a concern of the PLDRC.

37
38 Member Alleva stated he would like the capacity number to come from the fire marshal.

39
40 Mr. Ashley stated he had no objection to the change in verbiage requested by Member
41 Young. Mr. Ashley expressed concerns with the proposed after school activities
42 extending to adults and the community. The focus of the special exception application is
43 for a day care for children operating from 6:00 a.m. to 6:00 p.m., with the potential of
44 special events associated with the day care facility. Mr. Ashley clarified that the outdoor
45 community activities are not included in the applicant's request. Mr. Ashley inquired to
46 the commission that if it was the preference to forward a specific number of students to
47 the county council subject to the fire marshal's inspection and/or DCF regulations, then
48 staff can include a statement that there was an issue and concern establishing a
49 number of students for this application.

1 Mr. Ashley then addressed the landscaping. He will add under the staff recommended
2 conditions Section 3, a subsection (d), which will read similar to 3(c), and it will be for a
3 15-foot buffer along Mud Lake Road because it is a non-thoroughfare road.

4
5 Chairman Severino asked the applicant if he understood the staff recommendation and
6 if he had any issues with it.

7
8 Mr. Ruffin acknowledged he understood and had no issue.

9
10 Member Mills asked if staff had taken capacity into consideration.

11
12 Mr. Ashley answered that the number seemed low but staff considered that the site was
13 a former house of worship with an academy that historically had a larger capacity. Staff
14 did not see this as a limiting factor.

15
16 Chairman Severino stated that the traffic concerns being discussed are applicable to a
17 school and not a day care with after-school programs, and he is not concerned about a
18 cap on capacity.

19
20 Member Young asked if the definition of day care encompasses high school students.

21
22 Mr. Ashley read the definition, and it did not specify high school students.

23
24 There being no more discussion, Chairman Severino requested a motion.

25
26 Member Mills expressed his concern that there is no capacity cap placed on this
27 request. He asked if it could be put in the motion.

28
29 Mr. Williams stated, and Mr. Ashley confirmed, that the concern about capacity will go
30 into the summary highlights of the agenda, pointing out to council that the PLDRC was
31 missing evidence of actual capacity vs. 50 presented. Mr. Williams then requested
32 confirmation that the DeLeon Springs Community Association and Glenwood
33 community are aware of the potential growth of the facility.

34
35 Chairman Severino asked if there was no more discussion to move forward with the
36 motion.

37
38 **Member Gove moved to FORWARD special exception case S-15-016 for a Day**
39 **care center on Transitional Agriculture (A-4) zoned property with the following**
40 **staff conditions, with the addition of 3(d) and Section 4:**

- 41
42 **1. The applicant shall submit a site plan to the Land Development Activity for**
43 **review and approval. The site plan shall be consistent with the plan dated**
44 **January 16, 2015, prepared by Efird Surveying Group, Inc. as may be**
45 **modified by these conditions and/or modified by further county review**
46 **and/or other permitting requirements.**
47

2. Hours of operation for the day care center will be limited to Monday through Friday 6:00 a.m. to 6:00 p.m., but may be extended for special events.
3. The applicant must establish the following landscape buffers and plantings before a business tax receipt can be issued:
 - a) A 15-foot landscape buffer along those property perimeters that abut a residential zoning classification and includes 6 group B (understory trees) and 18 group C or D (shrubs or grasses) per 100 linear feet, plus a continuous six-foot high screen of landscape planting hedge from groups C or D; a brick or masonry wall, wooden fence, or landscaped earth berm; and
 - b) A 10-foot landscape buffer along those property perimeters that abut an agricultural zoning classification and includes 6 group B (understory trees) and 18 group C or D (shrubs or grasses) per 100 linear feet; and
 - c) A 20-foot landscape buffer along Grand Avenue that provides 4 group A (canopy trees), 4 group B (understory trees) and 27 group C or D (shrubs or grasses) per 100 linear feet; and
 - d) A 15-foot landscape buffer along Mud Lake Road that provides 4 group A (canopy trees), 4 group B (understory trees) and 27 group C or D (shrubs or grasses) per 100 linear feet.
4. There is to be no use of outdoor loud speakers

Member Young seconded the motion. Motion CARRIED unanimously (6:0).

V-15-017 - Application of Glenn D. Storch, attorney for S & S Eternal Optimists, LLC, owner, requesting a variance to Section 72-206(1), Nonconforming Lots, to separate lots on Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (R-9W) zoned property. The property is located on the west and east sides of S. Atlantic Avenue, New Smyrna Beach; \pm 3,250 square feet; 8505-01-34-0130, 8505-01-13-0130 and 8505-01-34-0500.

Scott Ashley, Senior Zoning Manager, presented the staff report and explained all properties referred to as Parcels A, B, C and D are illustrated in the staff report on page 3.

Member Young asked who owns the piece of property north of Parcel B.

Joey Posey, 420 South Nova Road, Daytona Beach, Florida, 32114, attorney representing S & S Eternal Optimists, LLC, explained that the parcel north of Parcel B is owned by someone else. He agrees with the staff recommendation and reiterated that this request meets all the criterion and is typical of the neighborhood.

1 Member Gove asked for clarification on how Parcel D is owned.

2
3 Mr. Ashley explained that at the time the Unified Zoning Ordinance went into effect in
4 1980, Parcel D was an independently owned lot. Parcels A and B were also
5 independently owned when sold to Parcel C. The owner of Parcel C did not complete
6 the combination process by deeding the properties together as well as combining the
7 tax parcels through the Property Appraisers Office. When the properties defaulted back
8 to the mortgage holder, its status, by record, was as an independent lot. Parcels A and
9 B need to be separated from Parcel C in order to combine with Parcel D to meet a lot
10 size of 5,000 square feet. This lot size is the common ownership pattern for the
11 Bethune Beach area.

12
13 Chairman Severino asked if there was no more discussion to move forward with a
14 motion.

15
16 **Member Gove moved to approve variance case V-15-017 requesting a variance to**
17 **Section 72-206(1), Nonconforming Lots, to separate parcels 8505-01-34-0130 and**
18 **8505-01-13-0130 from 8505-01-34-0500 on Urban Single-Family Residential/Indian**
19 **River Lagoon Surface Water Improvements and Management Overlay Zone (R-**
20 **9W) zoned property, subject to the following conditions:**

- 21
22 **1. Parcels 8505-01-34-0130 and 8505-01-13-0130 shall be combined with**
23 **parcel 8505-01-34-0120 through the exempt subdivision process within**
24 **sixty (60) days of the date of this variance.**

25
26 **Member Young seconded the motion. Motion CARRIED unanimously (6:0).**

27
28 **OTHER PUBLIC ITEMS**

29
30 None.

31
32 **STAFF ITEMS**

33
34 None.

35
36 **STAFF COMMENTS**

37
38 None.

39
40 **COMMISSION COMMENTS**

41
42 None.

43
44 **PRESS AND CITIZEN COMMENTS**

45
46 None.

1 **ADJOURNMENT**

2
3 Having no further comments from the public, staff, or commissioners, Chairman
4 Severino thanked everyone and adjourned the meeting at 10:13 a.m.