



Board of Adjustment
March 18, 2024
Case No. SE23-45207
Planning Comments

Applicant: Future Stars Preschool Academy Inc
Property Owner: G & G Holding and Trust LLC
Project Planner: Endira Madraveren, AICP

Request: Special Exception to allow a Day Care Facility in R-2, Two-Family Residential zoning district

Parcel Information

Location: 1601 NW 14th Street
Acres: +/- 0.56 acres
Parcel #: 2195-000-000
Land Use: Neighborhood
Zoning: R-2, Two-Family Residential
Existing use: Church/place of worship

Adjacent Land

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning District</u>	<u>Current Use</u>
North	Neighborhood	R-3	Vacant/Undeveloped
East	Neighborhood	GU	Communications Tower
South	Neighborhood	Inst	Howard Middle School
West	Neighborhood	R-3	Single-Family Residential

Background:

The church/place of worship was constructed in 1991. Records with Ocala Electric Utility indicate that the church, operating as “Church of Lord Jesus Christ” had electric services from July 1991 until December 2022. The property, which is located in the 1600 block of NW 14th Street, is located in the northwest quadrant of the City. The property was purchased by G & G Holding and Trust LLC in December 2022.

G & G Holding purchased the property with the intention of operating a day care facility from this location. Day care facilities are only permitted in the R-2, Two-family residential, zoning district by special exception.

This case was heard by the Board of Adjustment on July 17, 2023, as the owner/applicant was not present at that meeting the case was tabled. The case was again heard on September 17, 2023, the Board voted to deny the case in a 4-2 vote. The owner subsequently submitted a Petition for Relief through Section 70-51 of the Florida Statutes, the Florida Land Use and Environmental Dispute Resolution Act (“FLUEDRA”). A Special Magistrate hearing was conducted between the City, the applicant and a member of the Board of Adjustment to establish additional criteria that would assist in appeasing residents of adjacent properties.

Basis:

Approval of the special exception with conditions is recommended as the proposed day care facility is compatible with the surrounding area and the applicant has met the standards for approval of a Special Exception pursuant to Ocala Code of Ordinances Section 122-73(5). In addition, an amendment to Day Care Facility land development code regulations to allow indoor play areas in lieu of outdoor play areas for day care facilities was approved by City Council on August 1, 2023. Without the code amendment, use of the property as a day care may not be allowed unless additional land is acquired in order to provide outdoor play area.

Ocala Code of Ordinance information:

Special exception definition: a use that would not be appropriate generally or without restriction throughout a zoning division or district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the health, safety, welfare, morals, order, comfort, convenience, prosperity or general welfare.¹

Special Exception Standards for Approval (Section 122-73(5))²:

The Code states that the Board of Adjustment, in reaching its conclusion and in making the required findings, shall consider and weigh the following factors and standards, among others, and shall show in its record these factors and the disposition made thereof. Further, the board shall find in the case of any of these factors and standards, that the purposes and requirements for granting the special exception have been met by the applicant. The required factors to be weighed are as follows:

- a. Ingress and egress to the property and the proposed structures thereon, if any, including such considerations as automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Ingress/egress to the property is from an existing driveway on NW 14th Street. The main entrance/exit to the building is located on NW Martin Luther King Jr Avenue.

- b. Off-street parking and loading areas, where required, including consideration of ingress and egress to the property, and the economic, noise, glare or odor effects of the location of such off-street parking and loading areas on adjacent and nearby properties and properties generally in the district.

The requirement for a day care facility is 1 parking space per 5 children, plus one space for each employee (Sec. 122-1010(a)(2)). There are a proposed 50 students and 3 employees, requiring 13 parking spaces. The new conceptual site plan provided by the applicant indicates 16 parking spaces can be provided. Parking is accessed from NW 14th Street. The additional parking is subject to site plan approval.

- c. Refuse and service areas, and how these areas correspond with both the off-street parking area, and the ingress and egress to the site.

Pursuant to the conditions of approval the dumpster will be screened from view to mitigate noise, smell, and visual impacts. The time of trash pick-up will adhere to City policies for trash pick-up for commercial uses within residential areas and therefore be limited to the earliest pick-up time of 7am Monday – Friday.

- d. Utilities, including such considerations as hook-in locations and availability and compatibility of utilities for the proposed use.

Water and sewer service is available.

- e. Screening and buffering, including consideration of such relevant factors as type, dimensions and character to preserve and improve compatibility and harmony of use and structure between the proposed special exception and the uses and structures of adjacent and nearby properties and properties generally in the district.

Screening and buffering requirements will be determined during the minor site plan process.

- f. Signs, if any, and proposed exterior lighting, if any, with reference to glare, traffic safety and economic effects of signs and lighting on properties in the district and compatibility and harmony with other properties in the district.

All signage must comply with Chapter 110, Ocala Code of Ordinances.

- g. Required yards and open spaces.

It appears the property was developed in accordance with yard requirements pursuant to Chapter 122, Ocala Code of Ordinances.

- h. Height of structure where related to uses and structures on adjacent and nearby properties and properties generally in the district.

No exterior building construction is proposed.

- i. Economic effect on adjacent and nearby properties and properties generally in the district of the grant of the special exception.

The proposed use is consistent with and supportive of existing nearby uses including existing educational facilities nearby. The proposed use should not negatively impact adjacent and nearby properties.

- j. Visual, physical and economic impact of the proposed project or use on a historically designated property and district.

The proposed use will activate a vacant building.

Recommended Conditions of Approval:

1. The subject property cannot support an outdoor play area. City Code and Florida Statutes allow indoor play area space in lieu of outdoor play space for urban child care facilities, if it is deemed unavailable. The City is classified as an urban area by the U.S. Census Bureau.
2. The applicant shall obtain site plan approval to address the increase of impervious surface for additional parking spaces, the reduction of drainage retention area, as well as screening, buffering, and sanitation requirements.

3. The applicant shall apply for building permits for interior renovation of the building in order to meet building code requirements and site permits for installation of additional parking.
4. Certificate of Occupancy must be obtained within 2 years of the approval of this Special Exception.
5. The approval of the Special Exception will remain with the property in perpetuity, regardless of changes in ownership.
6. Hours of operation for childcare will be between the hours of 6am-6pm. The hours of operation will not be limited for facility or site maintenance.
7. Installation of an opaque fence along the western boundary of the property which will be subject to the requirements of site plan approval.
8. The dumpster will be screened from view to mitigate noise, smell, and visual impacts. The time of trash pick-up will adhere to City policies for trash pick-up for commercial uses within residential areas and therefore be limited to the earliest pick-up time of 7am Monday – Friday
9. **ADDITIONAL CONDITION FOR CONSIDERATION:** If a single-family residential dwelling shall be constructed on the adjacent parcel immediately to the north of the property, being currently identified under Marion County Parcel Identification Number 2195-004-000, an opaque fence along the northern boundary shall be constructed by owner of the subject property upon written request of the City.

Staff Recommendation: Approval of SE23-45207 with conditions