

Item # 45

SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM

**SUBJECT:** Appeal of the Board of Adjustment decision denying a request to amend an existing special exception to increase preschool enrollment of an existing day care center from 129 students to 186 students and allow two additional buildings in the A-1 (Agriculture) zoning district; (Dave and Jennifer Kruse, appellant).

**DEPARTMENT:** Planning & Development **DIVISION:** Planning

**AUTHORIZED BY:** Dan Matthys **CONTACT:** Michael Rumer **EXT.** 7387

Agenda Date 10/11/05 Regular  Consent  Work Session  Briefing   
Public Hearing – 1:30  Public Hearing – 7:00

**MOTION/RECOMMENDATION:**

1. **REVERSE** the Board of Adjustment decision denying a request to amend an existing special exception located at 3612 McNeil Road, Apopka, to increase preschool enrollment of an existing day care center from 129 students to 186 students and allow two additional buildings in the A-1 (Agriculture) zoning district; (Dave and Jennifer Kruse, appellant); or
2. **UPHOLD** the Board of Adjustment decision denying a request to amend an existing special exception located at 3612 McNeil Road, Apopka, to increase preschool enrollment of an existing day care center from 129 students to 186 students and allow two additional buildings in the A-1 (Agriculture) zoning district; (Dave and Jennifer Kruse, appellant); or
3. **CONTINUE** the request to a time and date certain.

Commission District #3, Van Der Weide

Michael Rumer, Senior Planner

**BOARD OF ADJUSTMENT'S DECISION:**

At the July 25, 2005 regular meeting, the Board of Adjustment (BOA) denied a request to amend an existing special exception to increase preschool enrollment of an existing day care center from 129 students to 186 students and allow the addition of two new buildings in the A-1 zoning district. The BOA based its decision on the intensity of the request, lack of

Reviewed by: KR  
Co Atty: \_\_\_\_\_  
DFS: \_\_\_\_\_  
Other: \_\_\_\_\_  
DCM: \_\_\_\_\_  
CM: \_\_\_\_\_  
File No. ph130pdp01

adequate parking and concerns about traffic build-up in the pick up and drop off area caused by the potential increase in enrollment.

If the Board amends the special exception to allow a potential increase in enrollment, the applicant must additionally obtain authorization and licensing for the increase from the Florida Department of Children and Families.

On August 03, 2005, the applicant, Dave and Jennifer Kruse, appealed the Board of Adjustment decision to the Board of County Commissioners.

**STAFF RECOMMENDATION:**

Staff recommends that the Board reverse the Board of Adjustment decision denying a request to amend an existing special exception located at 3612 McNeil Road, Apopka, to increase preschool enrollment of an existing day care center from 129 students to 186 students and to allow two additional buildings in the A-1 zoning district.

**ATTACHMENTS:** Staff Report  
Appeal Letter (08/03/05)  
Site Plan  
Aerial  
Zoning Location Map  
Future Land Use Location Map  
Copy of Recorded Development Order  
BOA Minutes (07/25/05)  
Supporting Documents

## STAFF REPORT

**BACKGROUND / REQUEST:**

- The applicant's request to amend an existing special exception and site plan for a child care center to construct a 2,794 sq. ft. addition, and a 750 sq. ft. covered area, and to increase preschool enrollment from 129 to 186 students.
- On June 20, 1977, the Board of Adjustment approved a Special Exception to permit a child day care center. On August 25, 1997, the Board of Adjustment approved a request to amend the special exception to construct a 1,140 sq. ft. addition and increase the number of children from 104 to 129.
- The 1,140 sq. ft. addition was never added and the current building size allows the day care to enroll 99 of the 129 children (permitted by their past special exception.)
- The day care has acquired about a half acre from the church property to the west.

**ZONING & FUTURE LAND USE (FLU)**

Direction	Existing Zoning	Existing FLU	Use of Property
Site	A-1	Low Density Residential	Day Care
North	A-1	Low Density Residential	Retirement Center
South	A-1	Low Density Residential	Retirement Group Home
East	R-1A	Low Density Residential	Single-Family (Conventional)
West	R-1A	Low Density Residential	Church

**STANDARDS FOR GRANTING A SPECIAL EXCEPTION; LDC SECTION 30.43(b)(2)**

The Board of Adjustment (BOA) shall have the power to hear and decide special exceptions it is specifically authorized to pass under the terms of the land development code upon determination the use requested:

**Is not detrimental to the character of the area or neighborhood or inconsistent with trends of development in the area:**

The requested Special Exception would allow an increased

enrollment at an existing preschool of 57 students and two additional buildings on the site. The proposed additions would be located between the existing site and a church to the west.

**Does not have an unduly adverse effect on existing traffic patterns, movements and volumes:**

Any potential increased enrollment would generate more peak hour traffic than what is currently generated. The Development Review Committee has reviewed the proposed site additions and determined no further improvements to McNeil Road or Bear Lake Road would be required.

**Is consistent with the Seminole County Vision 2020 Comprehensive Plan:**

The Seminole County Vision 2020 Comprehensive Plan describes low density residential future land use as appropriate for a variety of uses (including group homes, churches, and day care).

**Meets any additional requirements specified in the code section authorizing the use in a particular zoning district or classification:**

Based on the submitted site plan, the proposed additions would meet the minimum area and dimensional requirements of the A-1 zoning district.

**Will not adversely affect the public interest:**

Within the A-1 zoning district, Day Care Centers are allowed as special exceptions; this site has received previous approvals for day care use. The additions to the existing site would be situated to the west side of the property, adjacent to an existing church.

August 3, 2005



Seminole County Planner  
County Services Building  
1101 East First Street  
Sanford, Florida 32771

Mr. Michael Rumer:

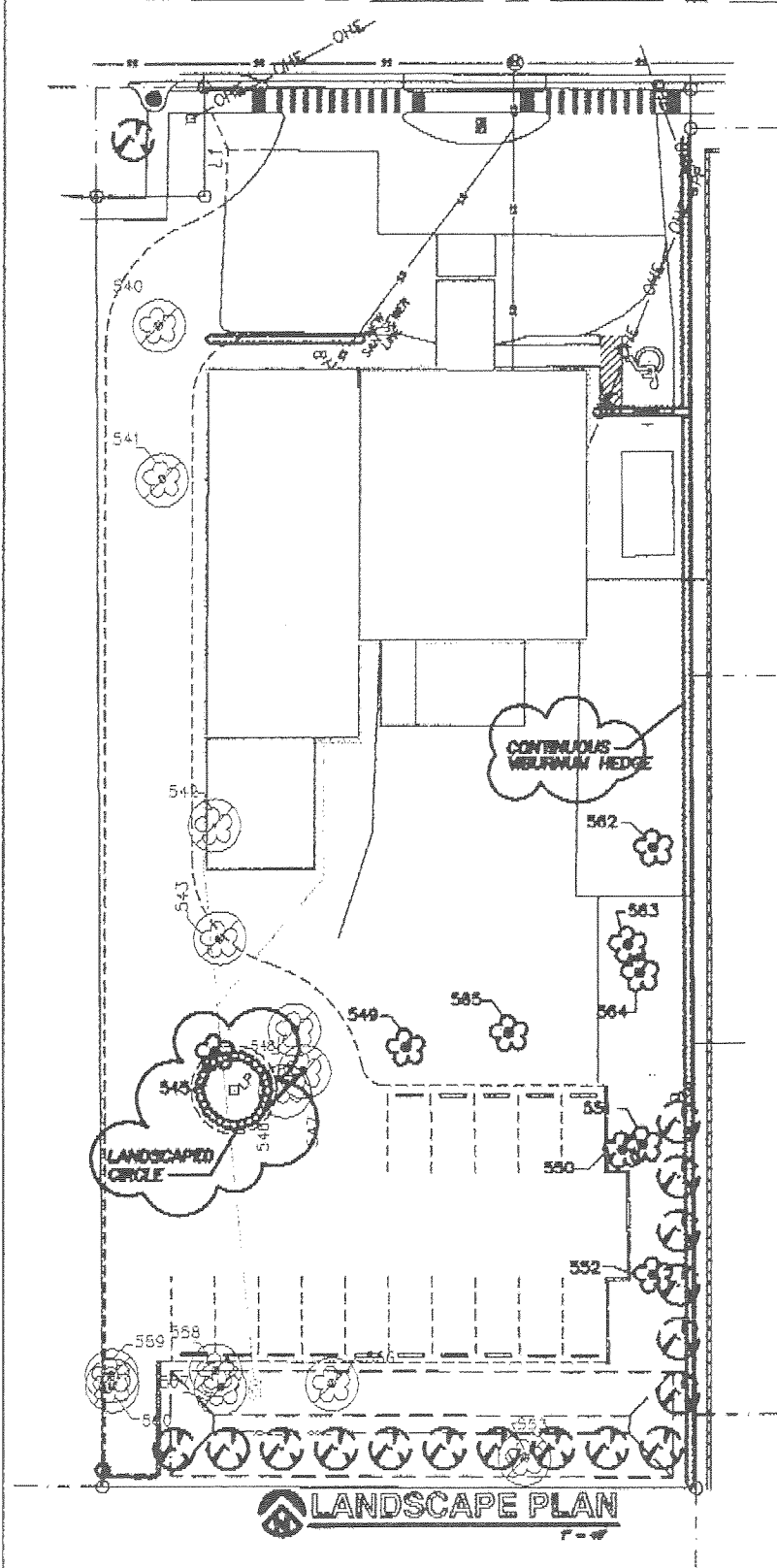
We wish to appeal the Seminole Board of Adjustment decision to deny the special exemption requested for a building expansion and an increase in enrollment to 186 students. The Board of Adjustment meeting denial was on July 25, 2005.

Thank you for your assistance.

Sincerely:

Jennifer Brown-Kruse  
David Kruse  
Happy Faces Prep School



ID# PRESERVED		
545	OAK TREE	14" CALIPER
549	OAK TREE	24" CALIPER
550	OAK TREE	24" CALIPER
551	OAK TREE	32" CALIPER
552	OAK TREE	36" CALIPER
565	OAK TREE	16" CALIPER
564	OAK TREE	16" CALIPER
563	OAK TREE	24" CALIPER
562	OAK TREE	20" CALIPER
PRESERVED CUMULATIVE DBH		208" CALIPER

ID# TO BE REMOVED		
543	OAK TREE	26" CALIPER
548	OAK TREE	8" CALIPER
559	OAK TREE	15" CALIPER
560	OAK TREE	13" CALIPER
558	OAK TREE	16" CALIPER
557	OAK TREE	24" CALIPER
556	OAK TREE	16" CALIPER
553	OAK TREE	8" CALIPER
547	OAK TREE	12" CALIPER
546	OAK TREE	7" CALIPER
542	OAK TREE	12" CALIPER
541	OAK TREE	6" CALIPER
540	OAK TREE	8" CALIPER
CUMULATIVE DBH		171" CALIPER

* PROPOSED		
17	LIVE OAK	3" CALIPER
CUMULATIVE DBH		51" CALIPER

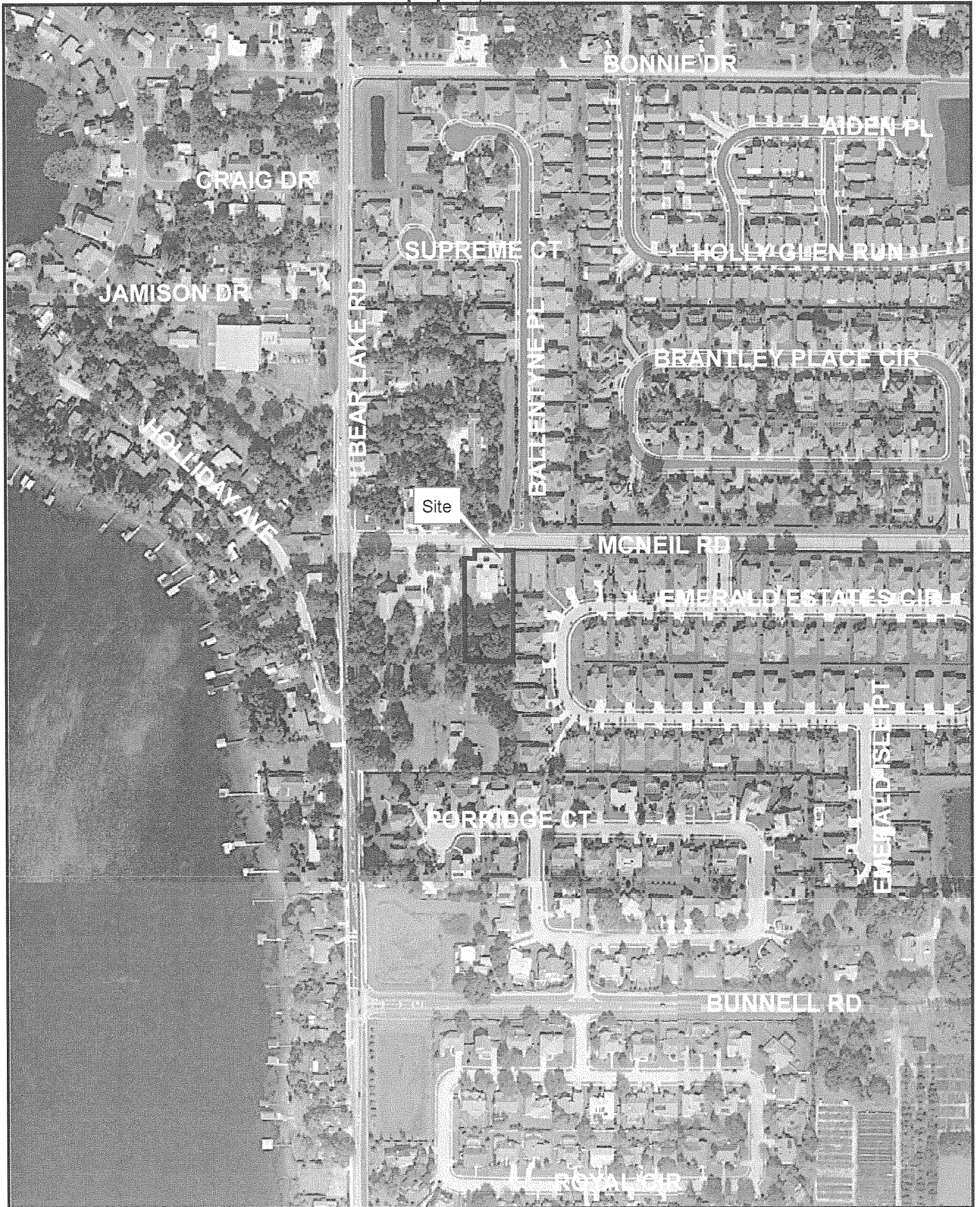
<p>A New Site Plan For:</p> <h2>HAPPY FACES PREP SCHOOL</h2>																						
<p>NOVEMBER 2005</p> <table border="1"> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> <tr> <td>1</td> <td></td> <td></td> </tr> <tr> <td>2</td> <td></td> <td></td> </tr> <tr> <td>3</td> <td></td> <td></td> </tr> <tr> <td>4</td> <td></td> <td></td> </tr> <tr> <td>5</td> <td></td> <td></td> </tr> <tr> <td>6</td> <td></td> <td></td> </tr> </table>	NO.	DESCRIPTION	DATE	1			2			3			4			5			6			<p>DATE: 11/15/05</p> <p>SCALE: AS SHOWN</p>
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**KAYAD ARCHITECT**  
 FOR SCHOOL, PUBLIC AND COMMERCIAL PROJECTS  
 1000 N. W. 10th St., Suite 1000  
 Fort Lauderdale, FL 33304  
 Phone: 954-561-1111  
 Fax: 954-561-1112  
 Email: info@kayad.com



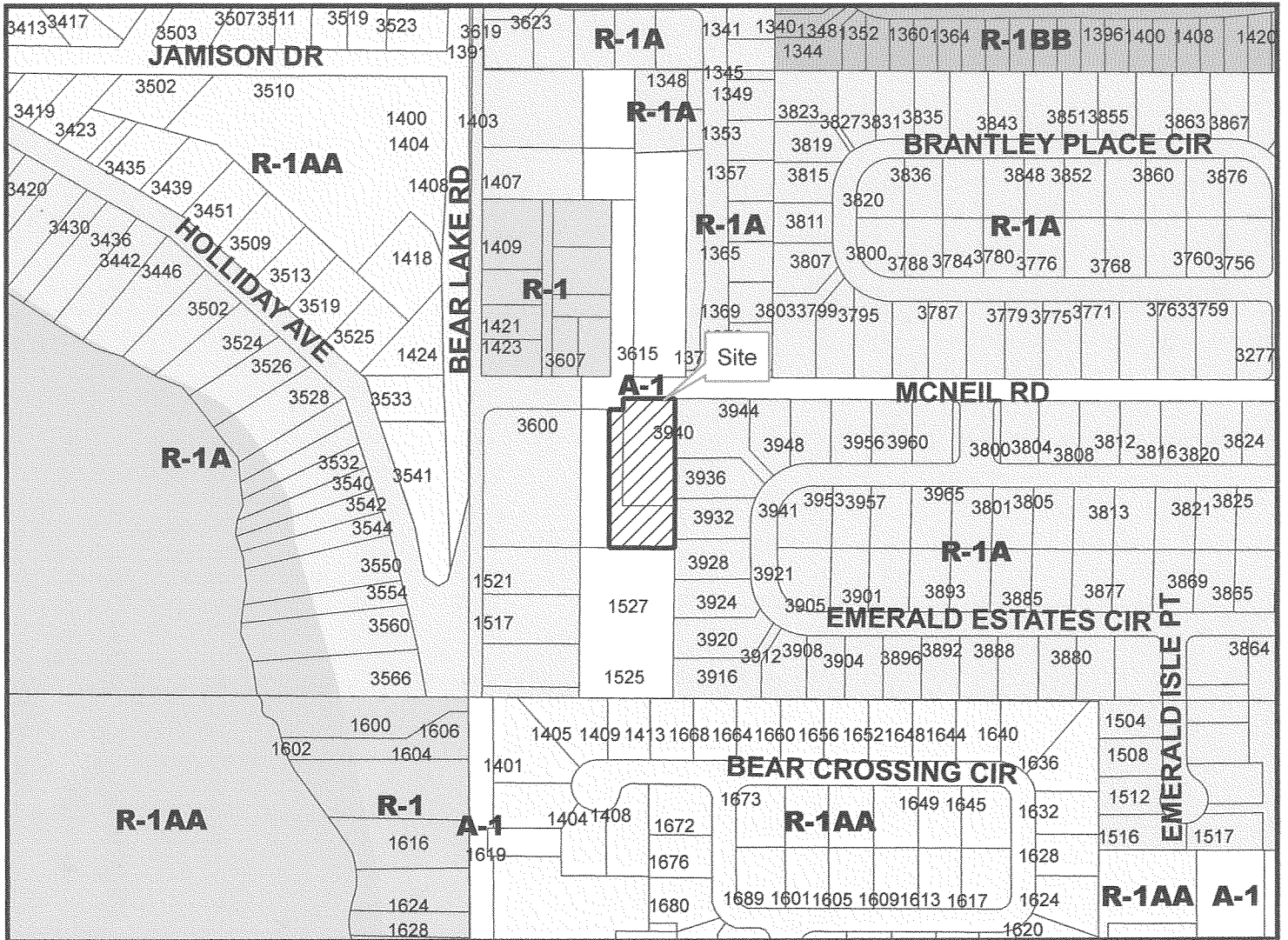


Dave & Jennifer Kruse  
3612 McNeil Road  
Apopka, FL 32703





Dave & Jennifer Kruse  
 3612 McNeil Road  
 Apopka, FL 32703

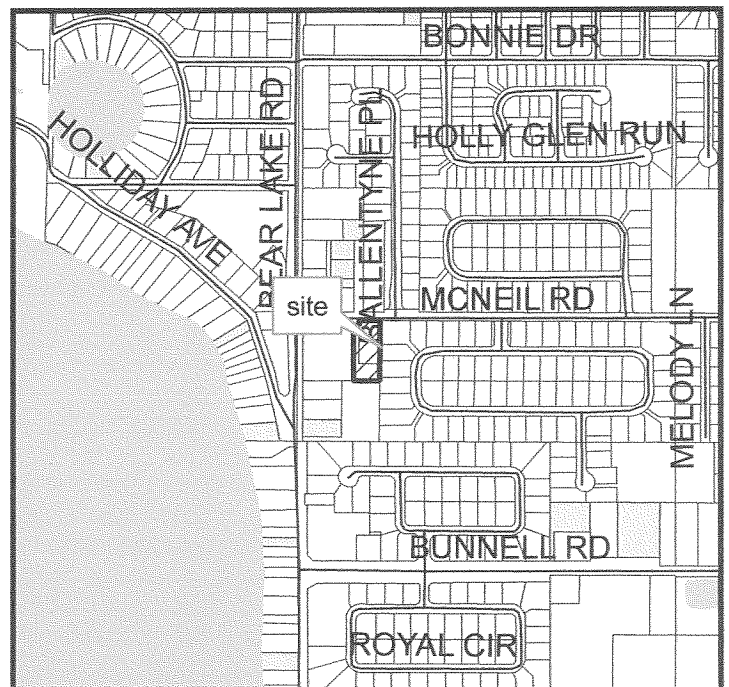


**Seminole County Board of Adjustment**  
**June 27, 2005**  
**Case: BS2005-004**  
**Parcel No: 17-21-29-5BG-0000-052B**

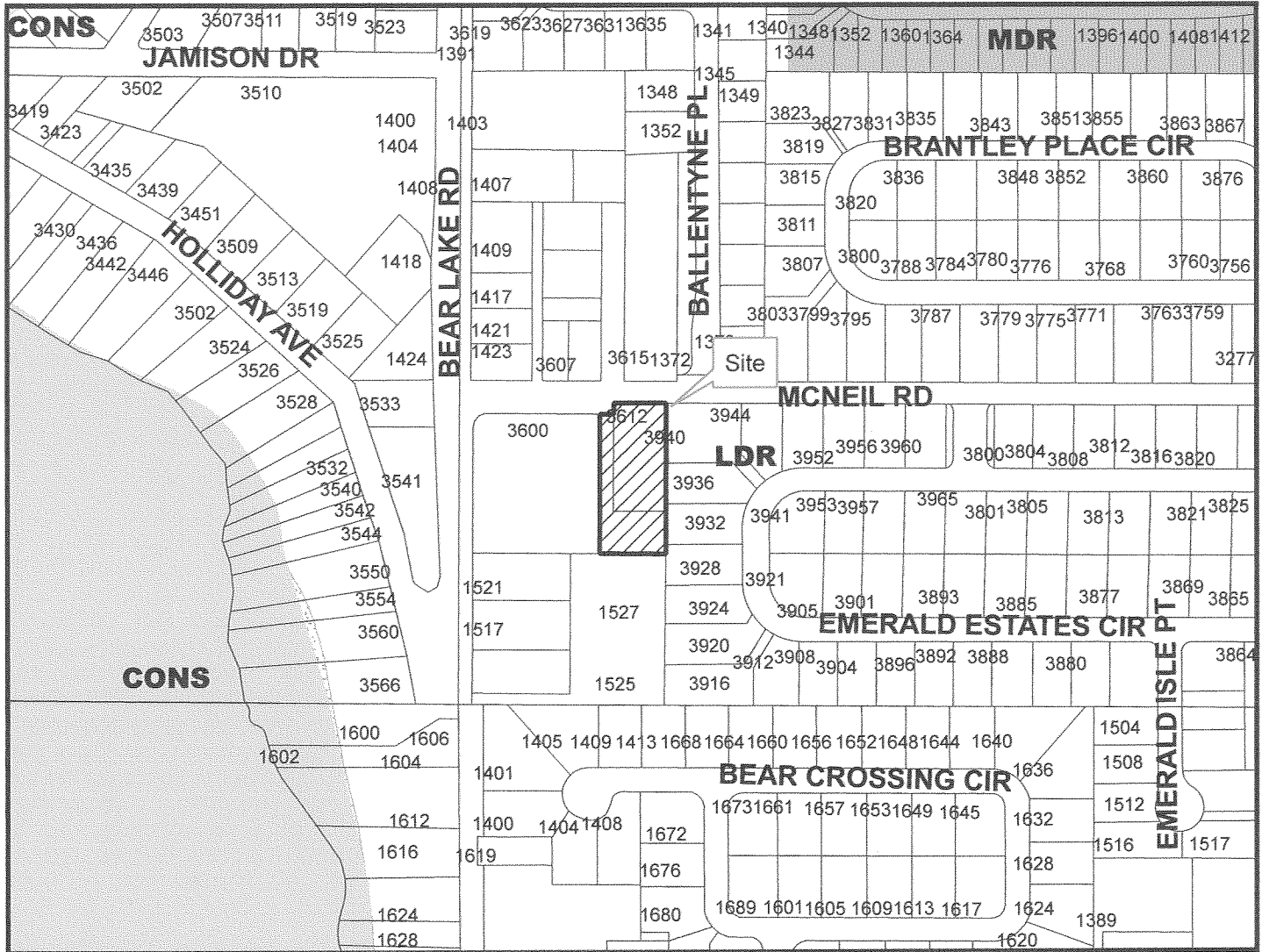
### Zoning

A-1 Agricultural-1Ac	All Other Values
R-1AA Single Fam-11700	Vacant Residential
R-1A Single Fam-9000	Single Family Residential
R-1 Single Fam-8400	Mobile Home
R-1BB Single Fam-5000	
BS2005-004	

0 85 170 340 510 680 Feet



Dave & Jennifer Kruse  
 3612 McNeil Road  
 Apopka, FL 32703

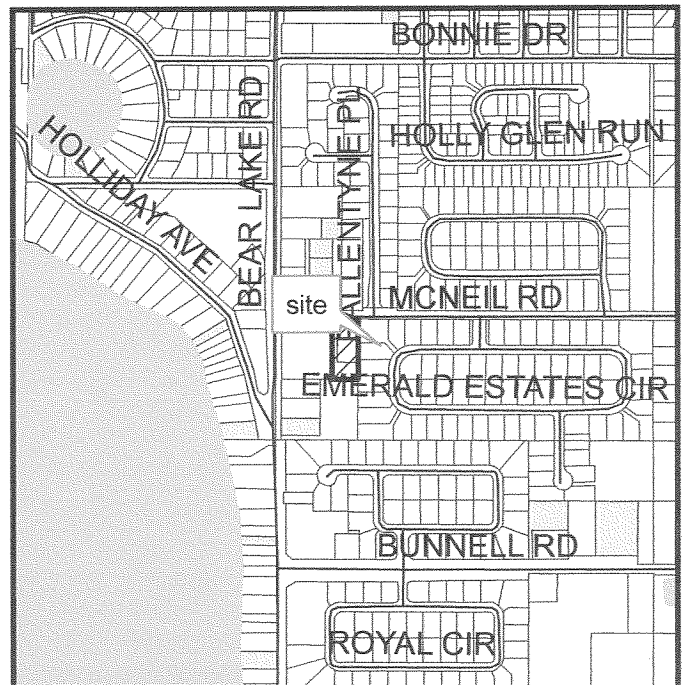


**Seminole County Board of Adjustment**  
**June 27, 2005**  
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**Future Land Use**

	CONS, PUBC		All Other Values
	CONS, LDR		Vacant Residential
	PUBC, NONE		Single Family Residential
	LDR, NONE		Mobile Home
	MDR, NONE		
	BS2005-004		

0 85 170 340 510 680 Feet



**SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER**

On June 27 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

PT OF LOT 52 DESC AS BEG 285 FT E OF NW COR RUN S 322 FT E 137 FT N TO SLY R/W MC NEIL RD W 112 FT S TO A PT E OF BEG W 25 FT TO BEG MC NEILS ORANGE VILLA PB 2 PG 99

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

**FINDINGS OF FACT**

**Property Owner:** DAVE & JENNIFER KRUSE  
3612 MCNEIL ROAD  
APOPKA, FL 32703

**Project Name:** MCNEIL ROAD (3612)

**Requested Development Approval:**

AMEND AN EXISTING SPECIAL EXCEPTION TO INCREASE PRESCHOOL ENROLLMENT OF AN EXISTING DAY CARE CENTER FROM 129 STUDENTS TO 186 STUDENTS AND ALLOW TWO ADDITIONAL BUILDINGS IN THE A-1 (AGRICULTURE DISTRICT) AT 3612 MCNEIL ROAD, AS DEPICTED ON THE ATTACHED SITE PLAN.

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: Michael Rumer  
1101 East First Street  
Sanford, Florida 32771

### Order

#### **NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

(1) The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

1. SUBMITTAL OF A FINAL SITE PLAN, IN ACCORDANCE WITH THE CODE, FOR REVIEW AND APPROVAL BY THE DEVELOPMENT REVIEW COMMITTEE;

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: \_\_\_\_\_  
Dan Matthys  
Planning & Development Director

STATE OF FLORIDA     )  
COUNTY OF SEMINOLE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

## Minutes for Item #5 July 25, 2005 Board of Adjustment Meeting

**3612 MCNEIL ROAD, APOPKA** – Dave & Jennifer Kruse, applicant; Request to amend an existing special exception to increase preschool enrollment of an existing day care center from 129 students to 195 students and allow two additional buildings in the A-1 (Agriculture District); Located on the south side of McNeil Road, approximately 320 feet east of the intersection of Bear Lake Road and McNeil Road; (BS2005-004).

Michael Rumer, Planner

Michael Rumer introduced the location of the property and stated that this item was continued from the June 27, 2005 meeting in order for the applicant to meet with the home owners of Emerald Estates subdivision, and to give the applicant time to look at their access and child pick up and drop off area. He further stated that the applicant revised the site plan to include landscaping per the meeting with the residents and an access lane and landscape island to turn around.

Jennifer Kruse owner of Happy Faces Pre-School stated that the child care facility had been in the community for 25 years and they owned it for 4 years of that time. She further stated that the school received the Quality Florida Gold Seal Accredited Status and scored 100% on the Seminole County Readiness Coalition Evaluation. She also stated that the school service pre-school up to school age students. She stated that the request would include two (2) additional Pre K Class Rooms, an all purpose room and some additional parking. She further stated that after doing a traffic evaluation they would have a long loop come in from the road with permanent guide post to direct the traffic. She also showed pictures of the traffic flow at the front of the building in five (5) minutes intervals. She further stated that she believed that the redesigned traffic flow would be able to handle the traffic volume. She lastly stated that the community meeting went well and they decided to plant a hedge row as a sound buffer and visual buffer as suggested from some of the homeowners that attended the meeting.

Mr. Bushrui asked how many children were approved by the Department of Children and Families?

Mrs. Kruse stated 99 students. She also stated that they never went to the Department of Children and Families Licensing Office to increase the number of students.



Mr. Rozon asked our Attorney, Arnold Schneider were they to consider 99 or 129?

Mr. Schneider stated that the request which was before the Board is from 129 to 186.

Mr. Bushrui asked if the Board could approve the Special Exception against what the Department of Children and Families would allow?

Mr. Schneider stated that the Board could approve a land use special exception, but it was up to the Department of Children and Families to approve the number of children. He also stated that the Board approval would not give Mrs. Kruse a license to put the kids in the facility.

Mr. Hattaway asked Mrs. Kruse what would make her clients take the route from her new traffic flow design?

Stephanie Hasel of Associated Design and Construction stated that there would be a permanent flex pole every 15 feet of the route to keep the cars going in the right direction.

Karen Hartman stated that she was the Director of Happy Faces, in charge of the daily operations of the facility for the past 3 years. She further stated that the addition would include a multi purpose room with a library and a computer area, new kitchen and play ground for the older children. She also stated that it would allow the facility to make smaller groups of children in and outside of the facility. She also stated that Seminole County is known for having great schools and Happy Faces would like to keep up with the growing community. She stated that every day they have to turn people down. She lastly stated that the number one suggestion from the parents is to have more room for the kids and they would love to provide that to the kids and better serve the community.

Becky Boucher stated that she moved into the area 4 months ago and she has a 4 and 7 year old. She stated that her 4 year old attends Happy Faces and they provide a great benefit to the children. She further stated that the expansion would make a positive impact to the community. She also stated that she had never experience any traffic problems. She lastly stated that as far as the capacity issue let the Department of Children and Families determine what is best for the children.

Julie Alexander stated that she was a resident of Emerald Estates for 4 years. She further stated that she was in of support Happy Faces, she

also stated that both of her kids attend the facility. She lastly stated that she encourage the Board to approve the expansion.

Diane Greene stated that she was formally a Program Director for the Department of Children and Families. She further stated that she had been on an 8 month waiting list for Happy Faces. She also stated that she looked at 30 other day cares before choosing Happy Faces. She stated that Happy Faces were concerned about what they could do better and how they compared to the other day cares. She lastly stated that she was extremely pleased with the care her child receives from Happy Faces.

Kim Ornberg stated that she was a long time resident of Seminole County and it is difficult to find quality child care. She further stated that she had two small kids that attend Happy Faces. She also stated that Happy Faces provides an excellent day care and pre-school curriculum. She lastly stated that she had never seen any back up on McNeil Road.

Dan Ongie stated that he had 2 young kids that attend Happy Faces. He stated that he was in support of the expansion and he appreciated the change in the traffic pattern. He further stated that he had never seen a back up on McNeal Road. He lastly stated that he has recommended Happy Faces to his family and friends and he would appreciate the Board support.

Christine Pozo-Coyle stated that she lived in Emerald Estates and her daughter attends Happy Faces. She further stated that the pick up and drop off system works very well. She continued by explaining the process to the Board, she stated that you bring your child in the center and some one from the facility takes the child to their classroom and immediately when you come to pick up your child some one from the facility with a walkie talkie let's staff know that you are there and they clean your child up and bring them to you. She lastly stated that there is no waiting or traffic back ups.

Jeffery Heath stated that he had lived in the Bear Lake area since 1954 and he has seen Happy Faces grow. He further stated that he couldn't leave his house between 3:55 P.M. and 4:30 P.M. during school weeks. He also stated that he was not sure if Happy Faces were contributing to that traffic. He stated that most of the parents from Teague Middle School drive their children to school. He further stated that he did have a problem with the increased amount of traffic that the addition to Happy Faces would bring. He lastly stated that he is not against Happy Faces but he thought it should be a little bit more controlled.

Carl Carothers stated that his property backs up to Happy Faces. He further stated that the community met with Mr. and Mrs. Kruse a couple of weeks ago and he wanted to thank them. He also stated that he was firmly against the expansion because of traffic issues and his property value. He continued by showing the Board pictures of the view of the day care from his home. He showed the brick wall that separates his property from the facility and stated that the distance was 10 feet. He further stated that it would be hard to isolate any impact from the expansion.

David Rhinehart stated that he was concerned with the noise level with the increase enrollment and traffic problems on McNeil Road. He further stated that he was concerned with security.

Mrs. Kruse stated that the time the gentleman across the street stated that he can't get out of his property is the time that Teague Middle School closes for the day. She further stated that Happy Faces is a business and her goal is to provide quality day care. She also stated that they tried to resolve some of the noise issues in the community. She lastly stated that if she had more capacity she would have more revenue and that she was proud of her staff and parents.

Mr. Hattaway wanted to know the number of employees the facility would have.

Mrs. Kruse answer was 20 maximum.

**Mr. Pennington made a motion to approve the request with the applicant's added conditions.**

**Mr. Bass seconded the motion.**

**Mr. Hattaway, Mr. Bushrui and Mr. Rozon were in opposition.**

**The motion failed.**

Mr. Hattaway stated that he thought the expansion was too aggressive for the site. He further stated that for the number of parking spaces and the number of activities that would be on the site the request was too intense. He lastly stated that he didn't think the expansion would give the students any room.

**Mr. Bushrui made a motion to deny the request.**

**Mr. Rozon seconded the motion.**

The motion passed (3-2) consent. Mr. Pennington and Mr. Bass were in opposition.

June 3, 2005

Seminole County Government  
1101 E. First Street  
Sanford, Florida 32771

Dear Government Officials:

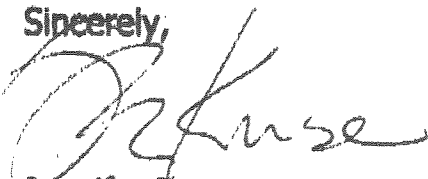
This is a request for a special exemption by Happy Faces Prep School located at 3612 McNeil Road, Apopka, Florida 32703. The request is to expand the current preschool building to increase the student capacity from 129 students to a total of 186 students (increase of 57 students).

The Happy Faces original parcel was ID # 17-21-29-5BG-0000-052B. This parcel was originally listed under the name of Happy Faces Child Care & Preschool, Inc. The name change to Happy Faces Prep School has been completed.

The church Templo Adonai, on the contingent property, sold Happy Faces Prep School parcel ID # 17-21-29-5BG-0000-52C. The parcel ID # 17-21-29-5BG-0000-052B and parcel ID # 17-21-29-5BG-0000-052C have been combined. The combined parcel now carries the original ID # 17-12-29-5BG-0000-52B.

If there are any further questions pertaining to this issue, you may reach me on my cell # 407-694-5271 or you could try to reach my husband, David Kruse, on his cell # 407-616-6304.

Sincerely,



Jennifer Brown-Kruse  
President/Owner  
Happy Faces Prep School

June 3, 2005

Seminole County Government  
1101 E. First Street  
Sanford, Florida 32771

Dear Government Officials:

This letter is to explain the nature and purpose for the expansion of Happy Faces Prep School, located at 3612 McNeil Road, Apopka, Florida 32703. The goal is to expand the current preschool building in order to increase the student capacity by 57 students from 129 students to 186 students.

Happy Faces is a quality preschool program in a rapidly growing community. The preschool cannot currently meet the demand of our community families. The school turns away students on a weekly basis.

For quality indicators: Happy Faces is on of the few Florida state gold seal accredited preschool programs.

- Supportive data: The last survey done and publicly presented by Seminole County School Readiness Coalition (Fall 2004) determined the number of Seminole accredited preschool programs at 22. Accreditation certificate attached.

Happy Faces was one of seven programs to receive a 100% kindergarten readiness score.

- Supportive data: Seminole County School Readiness Coalition recognized Happy Faces publicly for that achievement (~152 programs were evaluated in Seminole county). Certificate attached.

A demographic study done by the Claritis Corporation in March 2005 supports a preschool expansion at this location within this community.

The intent of this expansion is to provide two more preschool classrooms and an all-purpose hall for enrichment activities, after school programs and parent events. A larger, modern kitchen and additional parking are included to support the expansion implementation.

If there are any further questions pertaining to this issue. You may reach me on my cell #407-694-5271 or you could try to reach my husband David Kruse on his cell #407-616-6304.

Sincerely,

Jennifer Brown-Kruse  
President/Owner  
Happy Faces Prep School



# The Florida Association for Child Care Management

*certifies that*

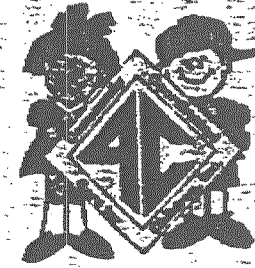
**Happy Faces Child Care  
Accredited Professional Preschool  
Learning Environment Accreditation  
Program**

awarded this 19th day of December 2003

  
FACCM President



# Quality Recognition



Seminole County Coalition for School Readiness, Inc.

*This Certificate is Awarded to*

## Happy Faces

*For Achieving 100% in All Areas of the*

### 2002-2003 School Readiness Program Evaluation

*Tammy Tener*

9/16/03

Tammy Tener, Chair  
Seminole County School Readiness Coalition, Inc.

Date

*Dorothy M. Dukes*

9/16/03

Dorothy Dukes, CEO  
Community Coordinated Care  
For Children, Inc.

Date