

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Appeal of the Board of Adjustment's decision to approve a Special Exception for an Adult Day Care Facility with a maximum of 20 clients. (Hyacinth Wallace) Ruth Wood – Appellant (item continued from 9/10/02)

DEPARTMENT: Planning and Development **DIVISION:** Planning

AUTHORIZED BY: EXT. and S. Fisher **CONTACT:** Jeff Hopper 7431

Agenda Date <u>10/22/02</u> Regular <input type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>

MOTION/RECOMMENDATION:

1. UPHOLD the Board of Adjustment's decision of July 22, 2002 to approve a Special Exception for an Adult Day Care Facility for a maximum of 20 clients per the attached Development Order;
2. OVERTURN the Board of Adjustment's decision of July 22, 2002 to approve a Special Exception for an Adult Day Care Facility for a maximum of 20 clients per Administrative Order; or
3. Continue the item to a time and date certain.

(Commission District # 1, Maloy) (Jeff Hopper, Senior Planner)

BACKGROUND:

This item was continued to the BCC meeting of October 22, 2002. In considering the appeal at its meeting of September 10, the BCC expressed a concern as to whether the existing facility is suitable for the proposed use, since an up-to-date site plan was not submitted. County regulations may require numerous modifications to the building and property. As the exact scope and cost of these improvements had not been determined at the time of the hearing, the Board continued the item to today's meeting, directing the applicant to provide a detailed site plan showing compliance with all applicable codes.

On September 26, Planning and Development Review staff met with Ms. Wallace, the applicant, and her engineer to explain County requirements to be addressed in the required site plan. Issues --- discussed with them included:

- landscaping and buffering
- drive aisle widths
- access for emergency vehicles

Reviewed by:	
Co Atty:	<u>KZC</u>
DFS:	
Other:	<u>MMJ</u>
DCM:	<u>[Signature]</u>
CM:	<u>[Signature]</u>
File No.	<u>ph130pdp04</u>

- fire safety design requirements
- stormwater retention
- parking

The resulting plan shows a potential for meeting all applicable County regulations. If the Special Exception is approved by the Commission, the applicants proposal will undergo standard site plan review by the Development Review Division to ensure that all needed refinements are made prior to permitting and construction.

The State of Florida administers Adult Day Care Centers through rules adopted by the Department of Elder Affairs. Aside from granting zoning approval, Seminole County is not directly involved in the licensure of such facilities. Compliance with state standards is determined by the Agency for Health Care Administration.

Information Previously Submitted:

On July 22, 2002, the Board of Adjustment (BOA) approved a request by the applicant, Hyacinth Wallace, for a Special Exception for an Adult Day Care facility in an A-1 (Agriculture) district. The subject property is located on the east side of Tuskawilla Road, approximately ½ mile north of SR 426. The body of the 1.4 acre site is surrounded by residential uses and vacant land, and is connected to Tuskawilla Road by a 20-foot strip of property approximately 400 feet long.

This appeal is being made by Ruth M. Wood, a resident of Parker Court immediately north of the property in question. Among concerns raised by neighboring property owners were increased traffic; needed improvements to facilitate traffic circulation on and off the site; the adequacy of the existing building to support the proposed activity; and the possibility of clients leaving the property without supervision.

The existing structure on the site is a 7,052 square foot residence which has been used in the past as a Community Residential Home, approved by the State of Florida for a maximum of 5 residents. An application for an Adult Congregate Living Facility was denied by the BOA in 1996. This denial was upheld by the BCC that same year. Minutes of the BCC meeting of May 14, 1996 indicate that Commission members felt the 24-hour residential facility being proposed at that time would be incompatible with surrounding properties due to its intensity, and could adversely affect existing traffic patterns.

Therefore, they concluded, the proposal did not meet all criteria for granting a Special Exception.

With reference to the present application, a preliminary site review by the Development Review Division indicates some deficiencies in the existing facility relative to Code requirements. If the Special Exception is approved, required modifications include sprinklers in the building, additional pavement on the entrance drive, provision of a left turn lane on Tuskawilla Road, and utility improvements. In addition to meeting Code requirements, staff recommended to the BOA that approval should be contingent upon development standards relating to compatibility, such as buffering, lighting, and hours of operation.

In reaching its decision to approve the request, the BOA chose to distinguish between the round-the-clock nature of the previous proposal and the daytime-only facility being proposed at this time. The BOA felt that the current request could be compatible with surrounding neighborhoods with appropriate design standards to mitigate any adverse impacts. Though the original request was for a maximum of 50 clients, information provided by the applicant during the public hearing indicated that no more than 20 would be present on the site at any one time. This limitation was made a condition of approval. Other approval conditions were as follows:

- Outdoor activities shall not be permitted.
- The site shall meet active/passive buffer requirements on all property lines.
- Hours of operation shall be limited to weekdays from 7 a.m. to 7 p.m., except for supporting activities such as cleaning crews and deliveries.
- Outdoor lighting shall be provided by shoe box/cutoff style fixtures no more than 16 feet in height.
- Prior to opening, the facility shall undergo site plan review and shall meet all applicable County regulations.

As quoted by Staff to the Board of Adjustment, the criteria to be used in approving a Special Exception were those listed in Section 30.43(b)(2) of the Land Development Code. These criteria allow a Special Exception to be granted upon a finding that the proposed use:

1. Is not detrimental to the character of the area or inconsistent with the trends of development in the area;
2. Does not have an unduly adverse impact on existing traffic patterns, movements and intensity;
3. Is consistent with the Vision 2020 Plan; and
4. Will not adversely affect the public interest.

These are general criteria applicable to Special Exceptions in all zoning districts and represent the standard tool for analysis. However, the A-I zoning district provides for several additional criteria which are specific to that zone. These are found in Section 30.124 and are reproduced in their entirety under a separate heading below in this report. Additional Special Exception criteria for A-I may be summarized as follows:

- the use must be consistent with the “general zoning category and plan” of the A-I district;
- the use is not highly intensive in nature;
- the use is compatible with low-density, rural land use; and
- the use has access to urban services if appropriate

Inadvertently, staff only applied the general criteria during its analysis at the Board of Adjustment hearing. For the BCC appeal hearing= all criteria have been evaluated. As the requested Appeal is a de novo case, the Board of County Commissioners may choose to look at additional information and considerations not presented to the Board of Adjustment, such as the full range of A-I criteria. Therefore, staff has incorporated the A-I special exception criteria in this report for the appeal.

Surrounding uses, future land use designations and zoning classifications are as follows:

Location	Existing Use	Future Land Use	Zoning
North	Single Family Residential	Suburban Estates	A-1
South	Single Family/Vacant	Low Density Residential	A-1
East	Vacant	Low Density Residential	R-1AA
West	Single Family/Vacant	Low Density Residential	A-1/R-1AA

STANDARDS FOR GRANTING SPECIAL EXCEPTIONS:

Section 30.124, LDC, provides that a Special Exception may be allowed upon determination that the use requested:

1. Is consistent with the general zoning category and plan of the A-1 (Agriculture) zoning district.
2. Is not detrimental to the character of the area or inconsistent with the trends of development in the area;
3. Is not highly intensive in nature;
4. Is not incompatible with the concept of low-density, rural land use.
5. Does not have an unduly adverse impact on existing traffic patterns, movements and intensity;
6. Has access to urban services such as sewage, water, police, fire, schools and related services; and
7. Is consistent with the Vision 2020 Plan.

BOARD OF ADJUSTMENT DECISION:

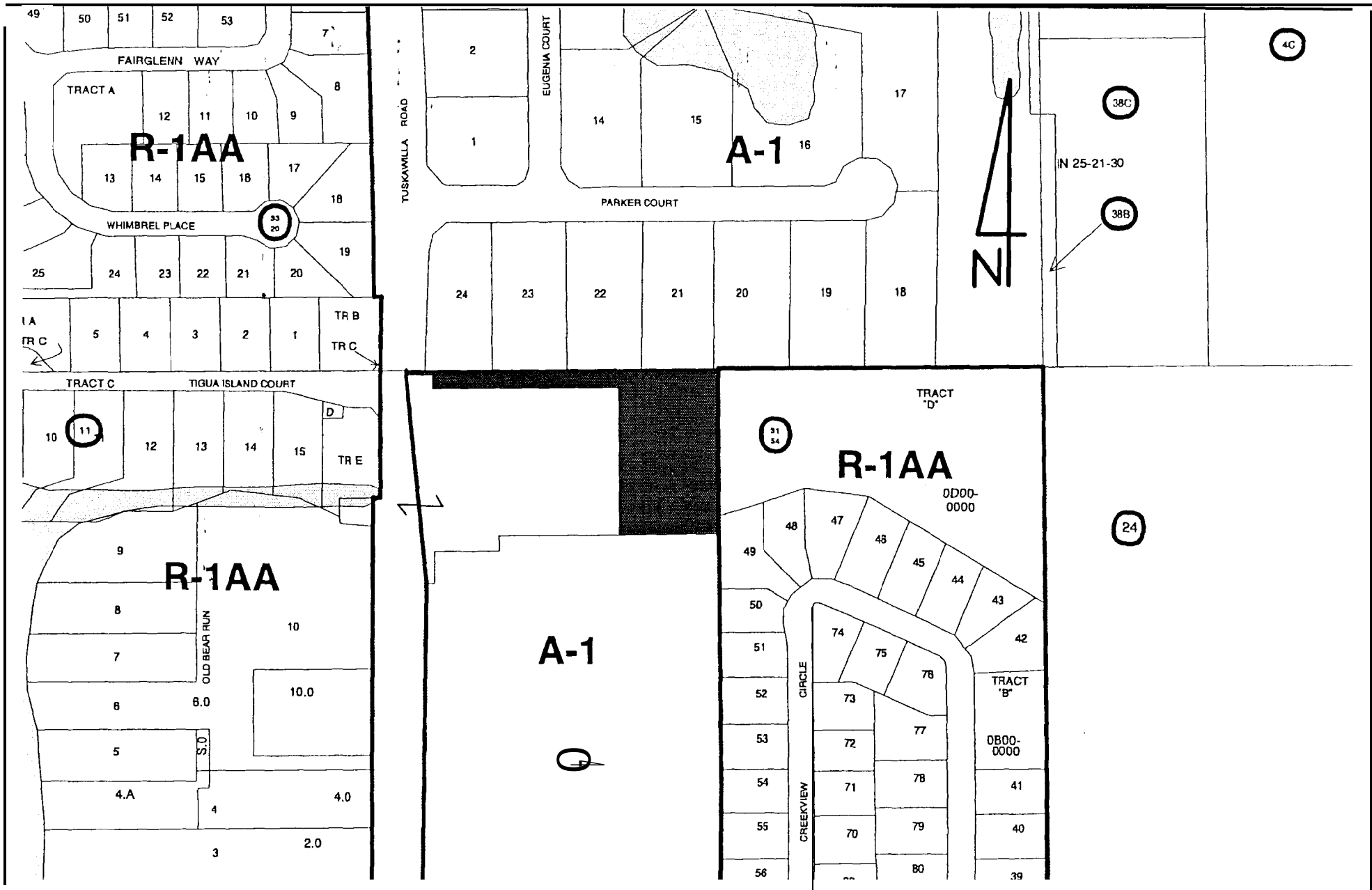
At its July 22, 2002 meeting, the Board of Adjustment approved the request by a vote of 4 to 1.

STAFF RECOMMENDATION:

Subject to the attached Development Order and site plan showing compliance with applicable County codes, staff finds that the proposal is consistent with surrounding land uses, and recommends that the Board of Adjustment's decision be upheld.

Attachments:

1. Location map
2. Site plan
- 3. Decision on appeal
4. Minutes from the July 22, 2002 Board of Adjustment meeting
- 5. Appeal letter
6. Letter from John & Ann Hickey



DEVELOPMENT PLAN FOR WALLACE ADULT DAY CARE

SECTION 36, TOWNSHIP 21 SOUTH, RANGE 30 EAST

SEMINOLE COUNTY, FLORIDA

REAL PROPERTY DESCRIPTION:

The North 1/4 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 36, Township 21 South, Range 30 East, Less road right-of-way and Less property conveyed to Seminole County by Warranty Deed recorded in O.R. Book 2575, Page 710, Public Records of Seminole County, Florida.

2323 TUSKAWILLA ROAD

SURVEYOR'S NOTES:

- 1) This is not a survey. The sketch and description depicted herein were prepared from office records, notes, previous surveys (United Field Investigation) and has not been field verified.
- 2) The surveyor has not abstracted the land shown herein for assessments, rights-of-way or any other matter of record which may affect the use or title of this land.
- 3) The bearing structure is assumed based on the North line of the North 1/4 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 36, Township 21 South, Range 30 East as being S 89°48'10"E.

SITE NOTES:

PROPOSED USE: Adult Day Care for up to 20 clients.
 HOURS OF OPERATION: 7:30 A.M. TO 5:30 P.M., Monday through Friday.
 PROPOSED SIGNAGE: None.
 OUTDOOR LIGHTING: None proposed at this time due to daylight hours of operation.
 Front door lighting is presently provided at the loading and unloading area used in the covered parking area.

PARKING CALCULATIONS:

6 Employees at 1 per space ...	6
20 Clients (drop off and pickup only) ...	0
Total Required ...	6
Total Provided ...	7 to 11

ACCESS:

20 foot x 395 feet of asphalt or concrete driveway.

EMERGENCY VEHICLE ACCESS:

12 foot fire lane provided with one turn backwards maneuver for access. Possible forward maneuver if existing brick driveway has a 42 foot radius and covered drive through has a minimum of 13.5 foot clearance (to be verified by an accurate survey).

BUILDING MODIFICATIONS:

Fire sprinkler system required for more than 8 clients.

STORMWATER DETENTION:

Proposed scale along South edge of proposed 20 foot driveway (or inverted covered driveway) to channel water Eastward and Southward to proposed retention area at end of existing brick drive over concrete retaining wall. Details to be determined by an Engineer based on an accurate topographic survey of the site.

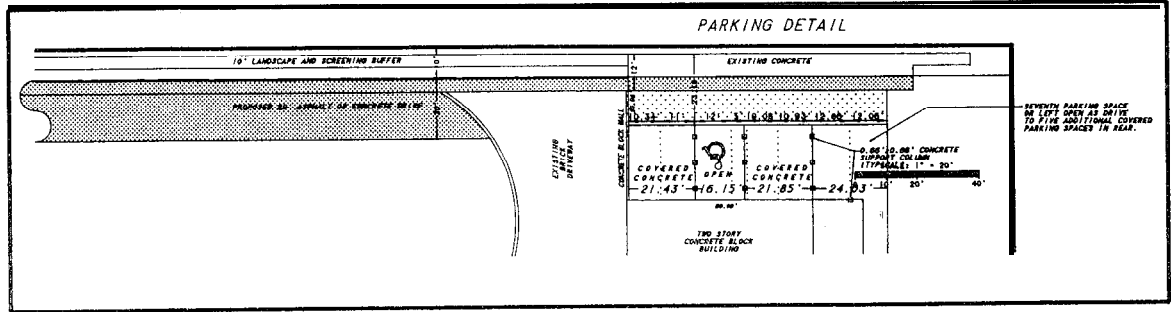
LANDSCAPE BUFFER:

Required along North line only. The property is heavily treed along the North line, a landscape berm and dense shrubbery is proposed to fill in any recent areas.

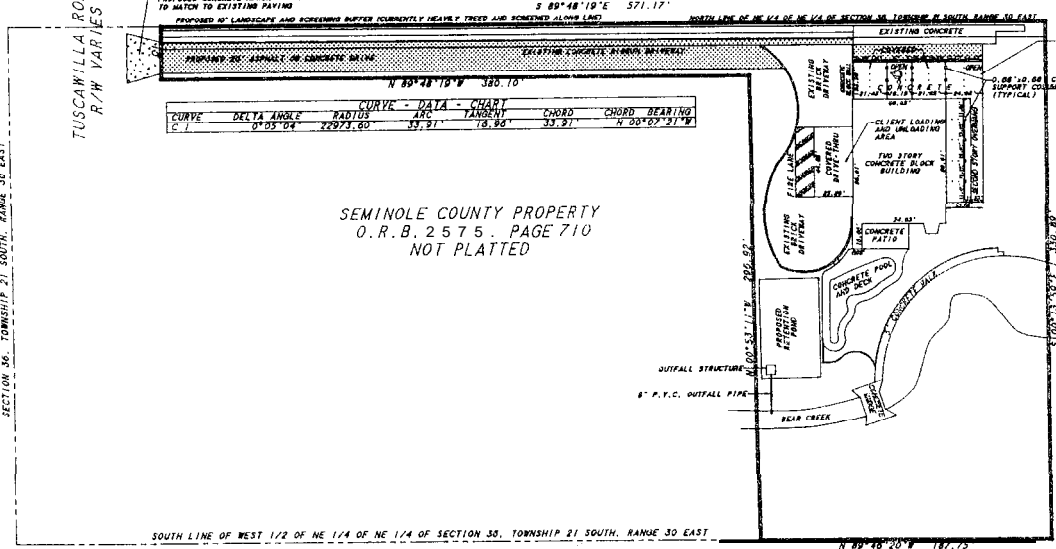
ADDITIONAL SITE MODIFICATIONS:

Appliances to provide a fire hydrant within 500 feet of the center of the building with a fire department connection at building with a double detector check valve with DN14 pipe between double detector check valve and fire department connection.

PARKING DETAIL



TUSKAWILLA ACRES PLAT BOOK 21, PAGE 83



SEMINOLE COUNTY PROPERTY
O.R. B. 2575, PAGE 710
NOT PLATTED

RECEIVED

SEP 30 2002

PLANNING DIVISION

**DOUDNEY
SURVEYORS
INC.**

PROFESSIONAL SURVEYORS AND MAPPERS 200 EAST COMMERCIAL STREET SANFORD, FLORIDA 32771 (407) 322-1451

FILE NO.	REVISION	DATE
TITLE		
DESIGNED BY		
DRAWN BY		
CHECKED BY		
DATE		

SCALE: 1" = 40'
PAGE 1 OF 1 JOB NO. REF: 49-83

SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS DECISION ON APPEAL

This decision is made by the Board of County Commissioners of Seminole County, Florida, this 22nd day of October, 2002, in accordance with Section 30.43, Land Development Code of Seminole County (LDC), as amended, affirming a decision by the Board of Adjustment to grant a Special Exception for an Adult Day Care Facility for a maximum of 20 clients.

A. FINDINGS OF FACT

1. On July 22, 2002, the Board of Adjustment approved a request by Hyacinth Wallace for a Special Exception for an Adult Day Care Facility on property described as LEG SEC 36 TWP 21S RGE 30E N 1/4 OF W 1/2 OF NE 1/4 OF NE 1/4 (LESS RD) (herein referred to as the "subject property").

2. The subject property is assigned the Low Density Residential future land use designation under the terms and provisions of the Vision 2020 Plan and the A-1 (Agriculture) zoning classification under the terms and provisions of the LDC.

3. On August 6, 2002, Ms. Ruth M. Wood filed a letter of appeal with Seminole County, seeking an appeal of this approval before the Board of County Commissioners.

4. The Board of County Commissioners has the authority and responsibility to adjudge this appeal by virtue of Section 30.43, LDC.

B. CONCLUSIONS OF LAW

The Board of County Commissioners finds that the subject Special Exception is in conformance with Section 30.43(b)(2) and Section 30.124, of the Land Development Code of Seminole County, due to the following:

The requested Special Exception meets the criteria in Section 30.43 (b)(2), and Section 30.124, LDC, for granting Special Exceptions because it:

1. Is consistent with the general-zoning category and plan of the A-1 (Agriculture) zoning district.
2. Is not detrimental to the character of the area or inconsistent with the trends of development in the area;

3. Is not highly intensive in nature;
4. Is not incompatible with the concept of low-density, rural land use.
5. Does not have an unduly adverse impact on existing traffic patterns, movements and intensity;
6. Has access to urban services such as sewage, water, police, fire, schools and related services; and
7. Is consistent with the Vision 2020 Plan.

C. DECISION

Based upon the foregoing and having fully considered the application submitted, and the testimony presented at the Board of County Commissioners public hearing on October 22, 2002, it is determined by majority vote of members of the Board of County Commissioners of Seminole County, Florida, that the subject decision of the Board of Adjustment is **UPHELD** and adopted in full.

DATED this 22nd day of October, 2002.

Board of County Commissioners
Seminole County, Florida

Daryl G. McLain, Chairman

**MINUTES FOR THE
SEMINOLE COUNTY BOARD OF ADJUSTMENT
JULY 22, 2002**

The meeting was called to order by the Chairman at 6:00 P.M.

Members present: Mike Hattaway, Dan Bushrui, Lila Buchanan, Alan Rozon
Alternate member present: Mike Bass

Absent: Wes Pennington

Also present: Matt West, Planning Manager, Tony Matthews, Principal Planner, Kathy Fall, Senior Planner, Jeff Hopper, Senior Planner, Cathleen Consoli, Planner, Karen Consalo, Deputy County Attorney, Candace Lindlaw-Hudson, Senior Staff Assistant

SPECIAL EXCEPTIONS

1. **HYACINTH WALLACE - 2323 TUSKAWILLA ROAD; ADULT DAY CARE FOR UP TO 50 ON PROPERTY ZONED A-I (AGRICULTURE); EAST SIDE OF TUSKAWILLA ROAD, LEG SEC 36 TWP 21S RGE 30E N 1/4 OF W 1/2 OF NE 1/4 OF NE 1/4 (LESS RD); APPROXIMATELY 1/2 MILE NORTH OF SR-426 (BS2002-016) DISTRICT 1 – MALOY (JEFF HOPPER, SENIOR PLANNER)**

Jeff Hopper, Senior Planner, presented the location of the special exception. Staff recommendation was for approval, with conditions of limited hours of use and that the project undergo final site plan approval, as outlined in his staff report.

The applicant explained that all activities would go on inside the building, with Meals on Wheels providing lunches.

John Sinto, a neighbor who lives on the corner of Parker and Tuscawilla, Lot 24, stated that he had no objection to the variance. The building is set way back from the road and the service fills a need of the community.

Ruth Wood, a neighbor from Lot 19, spoke in opposition. She stated that the building had been denied its application for an assisted living center in 1996. She said that the first floor was small and that there was not enough room for 50 persons to be there all at once, She also said that this was a commercial use of the land.

Doug Beohler, Lot 49, stated that he was concerned with capacity and that traffic in the area was a concern to his family. He felt the use was too intense for the neighborhood.

Martha Horton, Lot 18, Parker Court in Tuskawilla Acres, was also opposed. She was concerned about people walking around the area and the parking conditions for employees. She was also concerned whether there was adequate septic capacity for the operation. She also felt that this was a commercial use of the property.

In rebuttal the applicant explained that the count of 50 people was for the entire week combined, not all at once. These people were living with their families and needed care during workday only. There is to be a 1 to 5 staff ratio. There is 4,000 square feet on the first floor and 3,000 square feet on the second floor. There are 5 bathrooms on the first floor.

Lila Buchanan moved for approval, with the conditions made in Mr. Hopper's staff report and the additional condition that no more than 20 adult clients be present in the building at any one time, with the hours of operation of 7:00 A.M. to 7:00 P.M. Alan Rozon seconded the motion.

In discussion Mr. Bushrui stated that he agreed with the neighbors that this was an encroachment into the neighborhood. He would be voting against approval.

The vote was 4 – 1. The special exception was granted with the conditions of Mr. Hopper's staff report and those made by Ms. Buchanan in her motion.

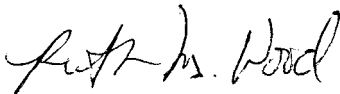
August 6, 2002

Mr. Jeff Hopper
Sr. Planner
Seminole County Government
Planning Division
1101 East First Street
Sanford, FL 32771

Dear Mr. Hopper,

I am writing to notify you that I wish to appeal the Board of Adjustment's approval of a Special Exception. The Special Exception case number is **BS2002-0 16** and the applicant's name is Hyacinth **Wallace/Ina Williams**. The date of the public hearing was July 22, 2002.

Sincerely,



Ruth M. Wood

4651 Parker Ct.
Orlando FL 32765

407-671-7441

62-320500141



Nancy Baillargeon
07/22/2002 11:00 AM

To: Jeffrey Hopper/Seminole@Seminole
cc:
Subject: July 22 Meeting

Nancy Baillargeon
Seminole County Planning Division
1101 East 1st Street, 2nd Floor
407-665-7371
nbaillar@co.seminole.fl.us

----- Forwarded by Nancy Baillargeon/Seminole on 0712212002 11:03 AM -----



"Hickey, John"
<jhickey@star-system.com>
07/22/2002 09:01 AM

To: "plandesk@co.seminole.fl.us" <plandesk@co.seminole.fl.us>
cc: "Commissioner Grant Maloy" <deswine@co.seminole.fl.us>
Subject: July 22 Meeting

RE: Special Exception
HYACINTH WALLACE - 2323 TUSKAWILLA ROAD; ADULT DAY CARE FOR UP TO 50 ON
PROPERTY ZONED A-1 (AGRICULTURE); EAST SIDE OF TUSKAWILLA ROAD, LEG SEC 36
TWP 21S RGE 30E N 1/4 OF W 1/2 OF NE 1/4 OF NE 1/4 (LESS RD); APPROXIMATELY
1/2 MILE NORTH OF SR-426 (BS2002-016) DISTRICT 1 - MALOY (JEFF HOPPER,
--SENIOR PLANNER)

Dear Board of Adjustment,

I am not able to attend Monday's meeting and wanted to submit my comments about this Special Exception request.

My name is John Hickey and I live at 4641 Parker Court, Oviedo. The southwest corner of my property abuts this property requesting the special exception.

I do have very serious concerns about allowing such an exception. First, the outside grounds would be very limited for fifty (50) adults. I do see the four or five residents in the small backyard occasionally; again the backyard is quite small. Secondly, I cannot see how the house on this property would be able to support fifty adults and a good assumption is that these adults would require special care, additional equipment, and staff. Another concern would be these people wandering into our neighborhood.

This entire area is residential and to add any type of business just does not bode well for the area.

We ask that this special exception be denied.

Sincerely,

John & Ann Hickey
4641 Parker Court
Oviedo, FL 32765
407.677.4485 (H)
321.263.3113 (W)