

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Appeal of the Board of Adjustment's decision to deny a daycare facility.  
(Tom Griffin, Appellant)

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

**AUTHORIZED BY:** Kent Cichon **CONTACT:** Kathy Fall *KF* **EXT.** 7389

<b>Agenda Date:</b> <u>12/10/02</u>	<b>Regular</b> <input type="checkbox"/>	<b>Consent</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Public Hearing – 1:30</b> <input type="checkbox"/>		<b>Public Hearing – 7:00</b> <input type="checkbox"/>	

**MOTION/RECOMMENDATION:**

1. UPHOLD the Board of Adjustment's decision to deny a Special Exception to allow a Daycare Facility in A-I (Agriculture) zoning, located on the east side of Orange Boulevard approximately 800 feet north of SR 46A, with findings determined at the public hearing. (Lake Mary Day Care – Tom Griffin, applicant.)
2. REVERSE the Board of Adjustment's decision to deny a Special Exception to allow a Daycare Facility in A-I (Agriculture) zoning, located on the east side of Orange Boulevard approximately 800 feet north of SR 46A, with findings determined at the public hearing. (Lake Mary Day Care – Tom Griffin, applicant.)
3. CONTINUE the request to a date and time certain.

(District 5 – Commissioner McLain)

(Kathy Fall, Senior Planner)

**BACKGROUND:**

The Board of Adjustment (BOA) denied the request for a daycare facility in the A-I (Agriculture) zoning district, located on the east side of Orange Boulevard approximately 800 feet north of SR 46A, at its September 23, 2002 public hearing. The vote was 5-0 to deny the request, due to traffic patterns and the intensity of the proposed use. Major issues identified by the BOA included the proposed number of students, noise, and traffic impacts. The applicant has since submitted a revised plan to construct a 12,000 square foot, one-story building on the south end of the 2 acre site. A playground would be located on the east side of the proposed building, and parking (48 spaces) would be in the center of the site. A total of 23 employees are proposed to staff the facility. Requested operating hours are 7 a.m. to 6:30 p.m., Monday through Friday. There is an existing single-family home on the north end of the property, which would be converted into a caretaker's residence.

<b>Reviewed by:</b>	<i>KAC</i>
<b>cc Atty:</b>	<i>KAC</i>
<b>DFS:</b>	
<b>Other:</b>	<i>NW</i>
<b>DCM:</b>	<i>S</i>
<b>CM:</b>	<i>KF</i>
<b>File No.</b>	<u>ph130pdp02</u>

The following table summarizes the changes made by the applicant, who has attempted to address concerns raised by both staff and the BOA:

	August 26 <sup>th</sup> Site Plan	September 23 <sup>rd</sup> Site Plan
<b>Student Capacity</b>	290 Students	233 Students
<b>Preschool</b>	14,000 square footage	12,000 square footage
<b>Parking</b>	30 spaces	48 spaces
<b>Playground</b>	Located in the front along Orange Blvd.	Located in the rear, behind the preschool building.
<b>Existing home</b>	Administrative Offices	Caretakers Residence

The site is currently zoned A-1 (Agriculture) and has an Office future land use designation. Day care facilities are allowed only by special exception in the A-1 District. Existing land uses, future land use designations and zoning designations for the subject property and abutting properties are as follows:

Location	Existing Use	Future Land Use	Zoning
<b>Site</b>	Single-family home	Office	A-1
<b>North</b>	Apartments	Planned Development	PUD
<b>South</b>	Single-family home	Office	A-1
<b>East</b>	Single-family home	Office	A-1
<b>West</b>	Single-family homes	Planned Development	PUD

In 1999, the subject property and adjacent properties were granted an administrative land use amendment from Suburban Estates to Office. The Office future land use was recommended as an appropriate transitional use between the Higher Intensity Planned Development-Target Industry to the east and the Planned Development to the west. International Parkway, a target industry corridor, was identified as the preferred thoroughfare to provide access to the site, while Orange Boulevard was envisioned as a residential access corridor.

In evaluating the potential impact of the proposed use, staff evaluated the applicant's request in the context of development permitted in the Office future land use category. Staff determined the site could potentially develop into a 20,000 square foot, two-story office building, which would require 80 parking spaces. Such a facility would generate 220 vehicle trips per day. A daycare center of the type and scale (233 students) proposed would generate no less than 526 trips per day, or twice the amount of the typical office use. Staff further determined a day care center of a lesser scale (98 students) would generate a traffic impact equivalent to the typical office use.

The applicant provided a table of daycare facilities in the Seminole County area. In reviewing this information, staff found that some of the sites were located in areas with fewer site constraints or areas that permit higher intensity developments, both of which would typically allow greater student numbers. The scale of the daycare center proposed by the applicant is largely based on licensed student capacity or the number of students

permitted by the State of Florida. Licensed student capacity does not consider site constraints or compatibility with surrounding land uses.

### **STANDARDS FOR GRANTING SPECIAL EXCEPTIONS:**

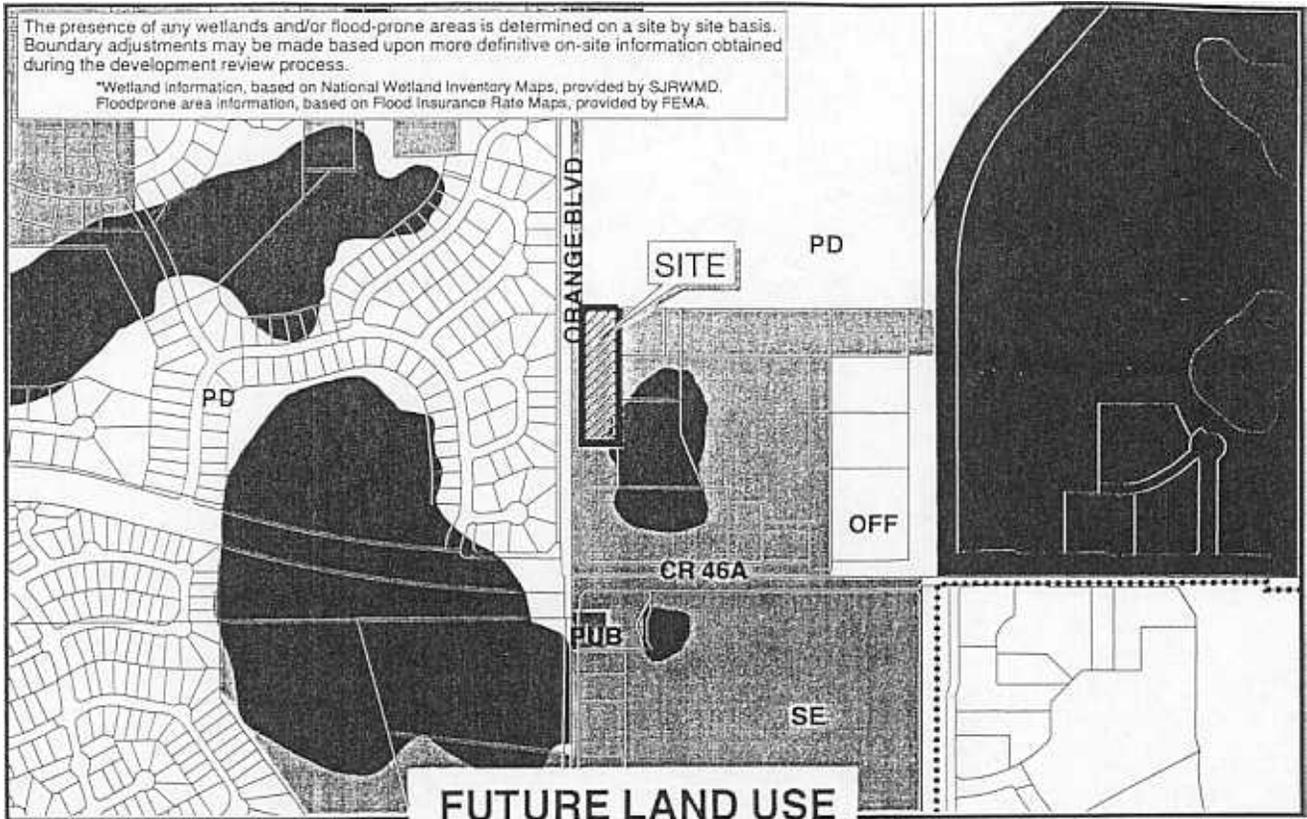
Section 30.43 (b)(2) of the Land Development Code provides that a Special Exception may be allowed upon determination that the proposed use:

1. Is consistent with the general zoning category and plan of A-1 Agriculture.
2. Is not detrimental to the character of the area or neighborhood or inconsistent with the trends of development in the area or neighborhood;
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 (where applicable) to urban services such as sewage, water, police, fire, schools, and related services.
7. Is consistent with the Vision 2020 Plan.

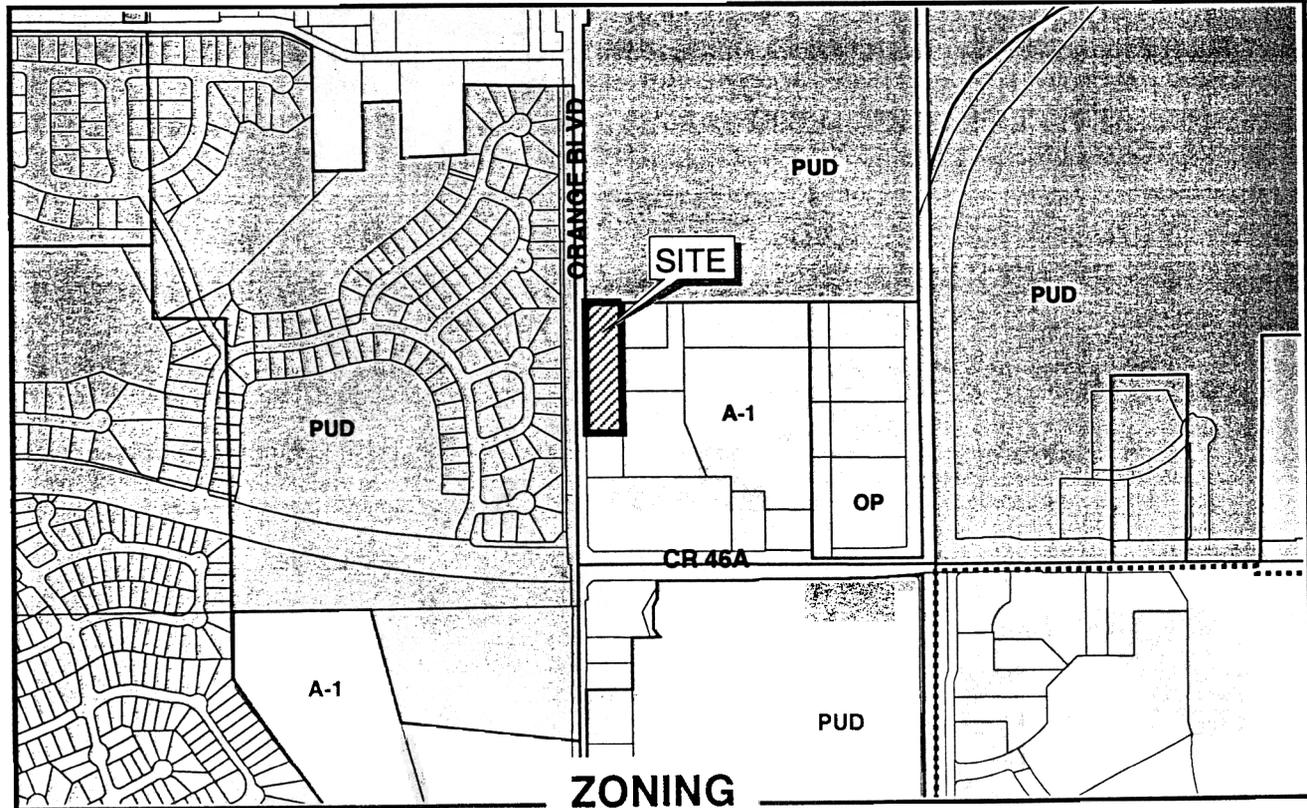
### **STAFF RECOMMENDATIONS:**

Staff recommends the Board of County Commissioners reverse the decision of the BOA to deny the requested special exception based on the revised plan submitted by the applicant and conditioned on the following:

1. Along the Orange Boulevard frontage, the Owner shall provide a 15-foot wide landscape buffer. Within the buffer, the Owner shall provide four canopy trees per 100 lineal feet with a minimum caliper of 2.5 inches and an average caliper of 3 inches. The Owner shall also provide a continuous hedge between parking, including vehicular movement areas, and Orange Boulevard. Hedge materials shall be at least 2 feet in height at time of planting.
2. A 5 foot sidewalk along property frontage shall be required.
3. Internal landscaping shall be provided in accordance with Section 30.1230(a)(1) of the Seminole County Land Development Code.
4. There shall be no pole-mounted lighting. Low intensity security lights may be utilized provided they are building-mounted and directed downward.
5. Operating hours will be limited to Monday through Friday between 7 a.m. and 6:30 p.m.
6. The final site plan shall meet applicable requirements of the Vision 2020 Plan and Land Development Code.
7. The student capacity shall not exceed 100 students.
8. The preschool building shall not exceed 12,000 square feet.



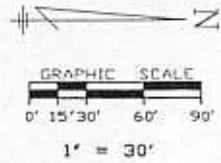
- Site
- Municipality
- CONS
- PUB
- SE
- PD
- HIP
- OFF



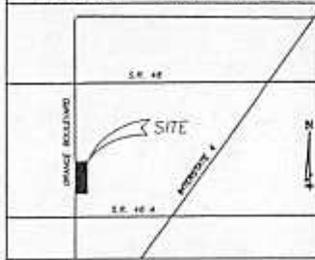
- A-1
- OP
- PUD

### LEGAL DESCRIPTION

BEGINNING AT A POINT ON THE WEST LINE OF SECTION 31, TOWNSHIP 19 SOUTH, RANGE 30 EAST, SEMINOLE COUNTY, FLORIDA, 8.675 CHAINS NORTH OF THE SOUTHWEST CORNER OF SAID SECTION 31, RUN EAST 3.08 CHAINS, THENCE NORTH 8.675 CHAINS, THENCE WEST 3.08 CHAINS TO THE WEST LINE OF SECTION 31, THENCE SOUTH 8.675 CHAINS TO THE POINT OF BEGINNING, LESS ROAD RIGHT OF WAY ON THE WEST 40 FEET.



### VICINITY MAP N.T.S.



**McCree**  
LANDSCAPE ARCHITECTS & PLANNERS  
1000 UNIVERSITY BLVD., SUITE 100  
ORLANDO, FL 32803  
(407) 890-4821

### EXISTING TREE CHART

Tree ID	Species	DBH (in)	Height (ft)	Health	Notes
T1	FLORIDA PALM	12	15	GOOD	TO BE MAINTAINED
T2	FLORIDA PALM	10	12	GOOD	TO BE MAINTAINED
T3	FLORIDA PALM	8	10	GOOD	TO BE MAINTAINED
T4	FLORIDA PALM	6	8	GOOD	TO BE MAINTAINED
T5	FLORIDA PALM	4	6	GOOD	TO BE MAINTAINED
T6	FLORIDA PALM	3	5	GOOD	TO BE MAINTAINED
T7	FLORIDA PALM	2	4	GOOD	TO BE MAINTAINED
T8	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T9	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T10	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T11	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T12	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T13	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T14	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T15	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T16	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T17	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T18	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T19	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T20	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T21	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T22	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T23	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T24	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T25	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T26	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T27	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T28	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T29	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED
T30	FLORIDA PALM	1	3	GOOD	TO BE MAINTAINED

### SITE INFORMATION

ZONING - A-1  
SITE AREA - 2.03 ACRES (82,950 SQ. FT.)  
SETBACKS  
FRONT (WEST) - 50'  
REAR (EAST) - 30'  
SIDE (SOUTH) - 10'  
PASSIVE BUFFER (NORTH) - 15'

OPEN SPACE - 50,740 SF (54.6%)  
FUTURE LAND USE - OFFICE  
EXISTING USE - SINGLE FAMILY RESIDENCE - 3,555 SF

PROPOSED USE - DAYCARE - 12,000 SF  
HOURS OF OPERATION 700 AM - 630 PM M-F  
23 EMPLOYEES  
233 STUDENT CAPACITY

### PARKING

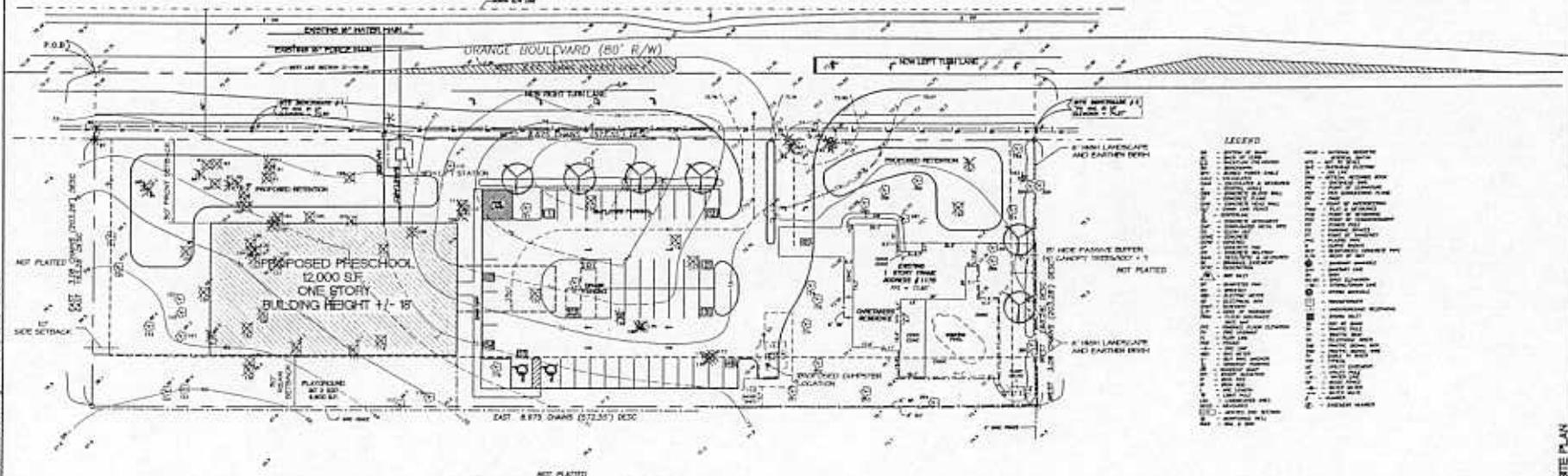
REQUIRED - 1 X 23 EMPLOYEES + 23 SPACES (9' X 18' SPACES) - CHILD DROP-OFF AREA  
PROPOSED - 43 SPACES PAVED PARKING (9' X 18' SPACES) + 5 SPACES GRASS PARKING (9' X 18' SPACES) = 48 TOTAL SPACES

### UTILITIES

WATER - SEMINOLE COUNTY  
SEWER - SEMINOLE COUNTY

### PLAYGROUND

27 CHILDREN 1-YEAR OLD AND OLDER X 1/2 - 106 X 45 SF, EACH - 4,905 SF, REQUIRED  
8,900 SF, PROPOSED



### LEGEND

1	PROPOSED PRESCHOOL BUILDING
2	PROPOSED PARKING SPACES
3	PROPOSED PLAYGROUND
4	PROPOSED CHANGEROOM
5	PROPOSED OFFICE
6	PROPOSED RESTROOM
7	PROPOSED ENTRY
8	PROPOSED EXTERIOR TERRACE
9	PROPOSED EXTERIOR PATIO
10	PROPOSED EXTERIOR SEATING
11	PROPOSED EXTERIOR LIGHTING
12	PROPOSED EXTERIOR FURNITURE
13	PROPOSED EXTERIOR PLANTING
14	PROPOSED EXTERIOR WALLS
15	PROPOSED EXTERIOR ROOFING
16	PROPOSED EXTERIOR FINISHES
17	PROPOSED EXTERIOR MATERIALS
18	PROPOSED EXTERIOR DETAILS
19	PROPOSED EXTERIOR ACCESSORIES
20	PROPOSED EXTERIOR FIXTURES
21	PROPOSED EXTERIOR EQUIPMENT
22	PROPOSED EXTERIOR UTILITIES
23	PROPOSED EXTERIOR STRUCTURES
24	PROPOSED EXTERIOR ENCLOSURES
25	PROPOSED EXTERIOR PARTITIONS
26	PROPOSED EXTERIOR SCREENS
27	PROPOSED EXTERIOR CURTAINS
28	PROPOSED EXTERIOR BLINDS
29	PROPOSED EXTERIOR SHUTTERS
30	PROPOSED EXTERIOR DOORS
31	PROPOSED EXTERIOR WINDOWS
32	PROPOSED EXTERIOR VENTILATORS
33	PROPOSED EXTERIOR EXHAUSTS
34	PROPOSED EXTERIOR DUCTS
35	PROPOSED EXTERIOR PIPES
36	PROPOSED EXTERIOR WIRING
37	PROPOSED EXTERIOR TELEPHONE
38	PROPOSED EXTERIOR CABLE
39	PROPOSED EXTERIOR ANTENNA
40	PROPOSED EXTERIOR SATELLITE
41	PROPOSED EXTERIOR SECURITY
42	PROPOSED EXTERIOR ALARMS
43	PROPOSED EXTERIOR DETECTORS
44	PROPOSED EXTERIOR CONTROLS
45	PROPOSED EXTERIOR MONITORS
46	PROPOSED EXTERIOR KEYS
47	PROPOSED EXTERIOR CARDS
48	PROPOSED EXTERIOR TAGS
49	PROPOSED EXTERIOR BADGES
50	PROPOSED EXTERIOR IDENTIFICATION

ARCHITECTURAL SITE PLAN  
SCALE: 1/8" = 1'-0"

ARCHITECTURAL SITE PLAN  
LAKE MARY DAYCARE CENTER  
175 ORANGE BLVD.  
LAKE MARY, FLORIDA 32746  
**AS1**

**MINUTES FOR THE  
SEMINOLE COUNTY BOARD OF ADJUSTMENT  
MONDAY, SEPTEMBER 23, 2002**

**Special Exception:**

- 1 Tom Griffin / McCree, Inc.** - 1175 Orange Blvd, Lake Mary  
- Special Exception for a daycare facility in the A-1  
(Agriculture); Leg sec 31 twp 19S rge 30E beg 8.69 ch N of  
SW cor run E 3.08 ch N 8.69 ch W 3.08 ch S 8.69 ch (Less  
Rd); Located on the east side of Orange Blvd. and 550 feet  
north of CR-46A (BS2002-021) BCC District 5 - McLain  
(Kathy Fall, Senior Planner)  
**(DENIED 5-0 )**

Kathy Fall introduced the next continued item and explained that there was a revised site plan and revised criteria. The Board did not have copies of the revised site plan and requested copies and time to examine the site plan for consideration later in the meeting.

**Second session:**

Kathy Fall introduced her recommendations for the Special Exception. She stated that the site could be a 20,000 square foot office building under other circumstances. 98 students would be equal to this use. She read from her staff report (see attached) and addressed concerns about landscape buffering and use of low intensity lighting. Hours of operation would be from 7 A.M. to 6:30 P.M. Student numbers should be limited to 100. The pre-school building is to be limited to 12,000 square feet.

Bruce King, of 902 Spring Valley Road, Altamonte Springs, Florida, 32714, spoke next.

Mr. King stated that in the initial proposal there were 5 issues that the Board of Adjustment had concerns about. The noise, the Markham Road intersection improvement, the number of parking spaces, method for loading and unloading of students, and the intensity of development.

Changes by Mr. King were as follows: As to noise, he has moved the parking lot, put in a 30 foot buffer, moved the playground from the front to the rear, and reduced building size.

In regard to the Markham Road intersection improvements, this plan eliminates one way traffic and has a two-way traffic pattern. Parking

will be on a right angle. There will be 3 parking spaces under the portico for drop off. People can either park and discharge or drive up and drop off their child. There will be 48 parking spaces. The exit driveway has been moved to the east of its original location.

Mr. King stated that the building size has been significantly reduced. Offices have been moved to the inside of the day care center. The building has been reduced from 17, 500 square feet to 12,000 square feet.

His current proposal is now for 233 children at any one time, which is a 20 per cent reduction from the original request.

The applicant researched 133 day care centers in Seminole County. He chose to compare schools that were non-church affiliated, free standing schools.

Kids R Kids, Kid Town USA, and Royal Academy of Learning were some mentioned. Average students were 269.75, with 13,890 square feet, averaging 51.49 square feet per child. He will have 23 employees for 233 children.

In analyzing traffic operation Mr. King stated that with 231 students, 2 handicapped spaces were needed. All schools had a traditional 2 way traffic flow in the lot.

In addressing concerns about intensity of development, the average number was 231 students at the other schools, and he has proposed 233.

The average building for the other schools was 10,561 square feet. These three sites compared were not in unincorporated Seminole County.

The average Seminole County school was small. This proposed school is 86 per cent above the others in the county. This is because of the new spaces for activity demanded by clients. The average size of the other schools is 3857 square feet. His will be 12,000 square feet due to the new activity centers. His intensity of use is identical to smaller schools.

Mr. King questioned the parking lot not being lighted. It gets dark before 6:30 P.M. He stated he will need lights in the lot.

Mr. King stated that having 100 students in a 12,000 square foot building is not feasible economically.

Alan Rozon inquired about the building design. Mr. King stated that he will have a one-story design.

Dr. Buchanan asked how much of the space was actually to be used by students. Mr. Griffin stated that 8435 square feet was allotted in the plan for students. That makes 35 square feet per child for play space.

No one spoke from the floor for or against the request.

Kathy Fall stated that Mr. King's statistics are based on state statistics.

Matt West, Planning Manager, stated that the child care center in Lake Mary is in a high impact area. The caretaker residence also affects the calculations. Mr. West said that the other schools referred to by Mr. King are in commercial districts.

Kathy Fall stated that the determining factor should be trips per student.

Matt West stated that the concern foremost to him was intensity of usage.

Mr. King stated that the chart for unincorporated county was based on children present.

Mr. West said that the ITE Trip Planning manual shall be used by applicants and the county to assess the situation. This land use can be seen as a transitional buffer.

Mr. Bushrui asked if Mr. King could reduce the number of students. Mr. King responded that a minimum of 200 students would be the minimum allowable.

Mr. Hattaway expressed concerns about the traffic patterns on the property. 23 spaces will be filled by staff. That does not leave enough for others.

Dr. Buchanan stated that 233 students is a lot of people in one place. **Dr. Buchanan moved to deny the application due to the traffic pattern and the intensity of usage.**

**Wes Pennington seconded the motion to deny.** He stated that would like to have more information on certain issues.

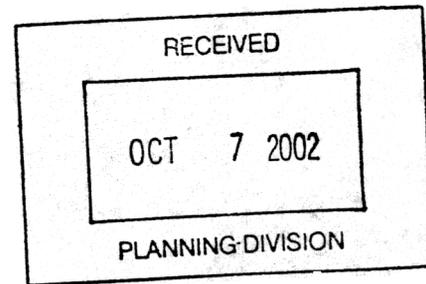
**The vote was 5 – 0 to deny the request.**



General Contractors & Architects

October 7, 2002

Board of County Commissioners  
Seminole County  
1101 E. First Street  
Sanford, Florida 32771



Re: **BS2002-021**  
**Tom Griffin / McCree, Inc.**  
**Lake Mary Day Care**

Dear Honorable Commissioners:

Notice is hereby provided on behalf of McCree, Inc. and the buyers of the subject property, Ms. Sheryl Stafford and Mr. P. Bruce King, that they have elected to appeal the Seminole County Board of Adjustment's decision denying the Special Exception request in the above-referenced matter. This case was first heard by the Board of Adjustment (BOA) on August 26, 2002, Item 2 under Special Exceptions on the Regular Agenda. The original application was for 17,555 square feet (s.f.) of building to accommodate 290 children. A total of 30 parking spaces were proposed as well as 22 employees. The hearing was continued until September 23, 2002, Item 1 under Special Exceptions on the Continued Items. The revised application was for a 12,000 square feet building to serve 233 children with 23 employees and provided 48 parking spaces. Please find attached a check made payable to Seminole County, Florida in the amount of \$370.00, which constitutes the filing fee necessary in connection with this Notice of Appeal. The following attachments have been included with this appeal:

- Currently Proposed Site Plan
- 2. Floor Space Requirements
- 3. Existing Day Care Facilities in Seminole County Municipalities, Parking Analysis and Traffic Operations
- 4. Existing Day Care Facilities in Seminole County Municipalities, Intensity of Development
- 5. Existing Unincorporated Seminole County Day Care Facilities, Intensity of Development
- 6. Parking Analysis of Past Site Plan Approvals in Unincorporated Seminole County

The requested Special Exception is for a day care center serving Heathrow and the greater Lake Mary and Sanford areas. Its site location is 1175 Orange Boulevard Lake Mary, Florida 32746 which is situated on the east side of Orange Boulevard and 550 feet north of CR 46-A. The current property owner is Barbara Brannon 1175 Orange Boulevard Lake Mary, Florida 32746. The proposal is for 12,000 square feet of gross building space to operate a day care center, from 7:00 AM until 6:30 PM on Mondays through Fridays, employing a total of 23 employees. A total of 48 parking spaces and 6,600 s.f. of playground area will be provided.

A Pre-Application Conference was held with Staff where they indicated their full support for the project. The Applicants/Buyers relied upon that information and entered into a Contract to purchase the subject property and also entered into separate agreements for various architectural and engineering services. The denial by the Board of Adjustment has caused both additional financial expenses to be incurred for property acquisition, architectural & engineering services, and project financing as well as extensive loss of time for the project and all personnel involved.

This appeal is based upon both **substantive due process and equal protection** of law issues, and potentially discriminatory practices, as protected under the 14<sup>th</sup> Amendment of the U.S. Constitution. The motion to deny

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P.O. Box 547369 Orlando Florida 32854-7369		www.mccree.com

was based upon a concern that the proposed number of parking spaces was inadequate and the on-site traffic flow may not function properly. The public record substantiates the following material facts:

Subsection 30.1221(10), Nursery schools and kindergartens, of the County's Land Development Code (LDC) requires one (1) parking space for each employee plus adequate off-street space for loading and unloading of children. A detailed floor space analysis (See Attachment, Floor Space Requirements.) with a corresponding calculation of the number of employees based upon Chapter 65C-22 Florida Administrative Code was provided along with a site plan indicating the total number of employees as 23. The floor space analysis shows that a total of 3,565 s.f. or 30% of the 12,000 square feet (s.f.) gross building area will be used for administrative and other support facilities with 8,435 s.f. or 70% remaining for net useable classroom space. Subsection 65C-22.002(3)(a), FAC, requires that a minimum of 35 s.f. of usable indoor floor space per child be provided. Additionally, Subsection 65C-22.002(4)(a), FAC, requires a total of 4,905 s.f. of playground area, and 6,600 s.f. is proposed. The proposed site plan showed a total of 48 parking spaces or 25 additional spaces representing 108.7% more than the minimum requirement.

2. An analysis of existing similar day care facilities located within municipalities in Seminole County showed that the average number of spaces was almost 26 per site (See Attachment, Existing Day Care Facilities in Seminole County Municipalities, Parking Analysis and Traffic Operations). The analysis also showed that the average facility size to be 10,561 square feet. The averaged parking ratio for those existing facilities equaled one space per 400 s.f. and our proposed ratio is one space per 250 s.f., which is 160% of the average rate.
3. The County's loading and unloading requirement is extremely vague and leads to arbitrary and capricious decisions. In addition to the minimum parking requirement, adequate loading and unloading area must be provided. Our site plan illustrated a total loading and unloading area of 640 linear feet, measured from the eastern right-of-way line of Orange Boulevard to the building's entrance and returning back to the edge of the Orange Boulevard right-of-way. During the hearing, evidence was presented from our empirical research that the average loading and unloading area associated with four (4) comparable day care centers, both in size and single use and function, was a total of 327 linear feet. Our proposal provided 640 linear feet or 313 linear feet more and was more than 2 times the amount provided at existing day cares operating in municipalities in Seminole County, Florida (See Attachment, Existing Day Care Facilities in Seminole County Municipalities, Parking Analysis and Traffic Operations).
4. The proposed on-site traffic flow is based upon using standard width, two-way driveway aisles leading to perpendicular parking spaces, as utilized at most non-residential developments throughout Seminole County, including other approved and built day care centers. It is our intent that all of our site design elements shall meet County design standards. A porte cochere was provided at the building's entrance to provide a covered entry for parents, children and visitors during inclement weather. The width of the pavement at that location is 34 feet. Ten feet is associated with the parallel parking spaces abutting the sidewalk and 24 feet will serve two-directional traffic flow. This design concept meets the County's minimum design standards. Normally, any significant site design issues are addressed during the County's subsequent development review process and are not germane to the Special Exception process.

It is our understanding that the appeal before the Board of County Commissioners shall be de novo. As such, we wish to again address our compliance with the Special Exception approval criteria.

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Section 30.43(b)(2) of Seminole County's Land Development Code establishes the 4 criteria for consideration in granting a Special Exception:

**(A) The proposed use is not detrimental to the character of the surrounding area or inconsistent with development trends in the area.**

The character of the immediately surrounding area is medium density to the north, low density residential to the west, south and east sides of the subject property. The properties to the south and east are transitioning from single family uses to commercial uses. Likewise, the subject property is currently zoned A-1 (Agriculture) Zoning District and is transitioning to a non-residential Office use.

The lands included within the A-1 Agriculture District are generally characterized as being located in the rural areas of the county, where urban services are minimal or nonexistent. These lands, when developed, are devoted to agricultural purposes with detached single-family dwellings as a permitted use. It is especially important to note that the current zoning classification does not appear to be consistent with the current development trend within the area. However, Seminole County did declare that A-1 zoning is consistent with all future land use designations in order to preclude the massive need to administratively rezone properties, such as the subject property and those to the east and south. The County Staff's evaluation primarily considered only the immediately adjacent properties in attempting to establish the development trend within the adjacent area. However, a greater geographic area should have been used to ascertain if the proposed Special Exception Application was consistent with the current and planned future development patterns.

**Existing & Planned Land Uses:**

**North** – An apartment complex and single-family residential (deteriorated) transitioning to commercial uses, public school and industrial uses.

**South** – Heathrow High Intensity Planned Development incl. major office park and high end residential developments.

**East** – High Intensity Planned Development incl. major office buildings associated with the Colonial TownPark PD approved for 1,000,000 square feet of office space.

**West** – Single-family residences within the Heathrow PUD, which do not access Orange Boulevard. The rear yards of those residences abut Orange Boulevard, but are well-buffered from view of the proposed project by a 100% opaque, 5.75-foot high, screening wall and dense trees and undergrowth. Additionally, those uses are separated from the subject site by an 80-foot wide right-of-way, and those residences are approximately 170 feet from the proposed building.

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Current zoning classifications and Future Land Use Designations of surrounding properties:

Direction From Subject Property	Current Zoning	FUTURE LAND USE DESIGNATION	Zoning Consistency with Comprehensive Plan's FLUD
North	PUD	Planned Development	Yes
South	A-1	Office	No*
East	A-1	Office	
	PUD	Planned Development	

\* Seminole County did declare that A-1 zoning is consistent with all future land use designations in order to preclude the massive need to administratively rezone properties, such as the subject property and those to the east and south.

Current development trends are controlled by the government regulations and, in this case, particularly the County's adopted Comprehensive Plan, the Land Development Code, the Florida Statutes and the Florida Administrative Code. The existing pattern of development in the vicinity of the subject property is an emerging high intensity, commercial activity center composed of 1<sup>st</sup> class office buildings situated along the most traveled interstate highway in Central Florida. Mr. Jenò Paulucci has spent years in planning this development and has gone to extreme measures to ensure its success. He was successful in getting the FDOT to approve a new interchange at I-4 and CR 46-A, which is only ¾ of a mile from our proposed project site. The extension of International Parkway north of CR 46-A has recently been completed to provide vehicular access to the northern portion of this emerging activity center. The relevancy of this information is to point out the overall commercial nature of the greater geographic area surrounding the subject property. In fact, the subject property and the adjacent property to the east are surrounded by highly intense commercial uses which are consistent with the Future Land Use Designation in the County's Comprehensive Plan. Furthermore, according to State law (Chapter 163.3194, F.S.), whenever there is an inconsistency between the current zoning and the Future Land Use Designation, the Future Land Use Designation shall govern the County's decision.

It is very important to note that the subject property is designated as Office in the Future Land Use Element of the County's Comprehensive Plan. As such, day care centers are an allowable use, which means that under the County's only office zoning classification (OP Office District) a day care center would be permitted by right and would only undergo development review and obtain a Building Permit.

**(B) The proposed use does not have an adverse impact upon existing traffic patterns, traffic movements and intensity.**

The proposed project was evaluated by Traffic Planning & Design, who conducted a Traffic Impact Study and submitted a report to the County. Their report indicated that no off-site improvements other than deceleration and left-turn lanes were required for the project under the revised application consisting of a 12,000 s.f. building and 233 children, and the study results were accepted by the County's assigned Traffic Engineer. It is important to note that Orange Boulevard from CR 46-A to Markham Road, which is the roadway segment upon which the proposed day care facility would front, would operate at Level of Service (LOS) A under daily analysis with our project traffic being added to the existing plus committed trips, as provided by Seminole County. The adopted LOS standard for that roadway segment is LOS E, so there is ample roadway capacity to accommodate this proposed day care center.

**(C) The proposed use is consistent with the County's adopted Comprehensive Plan.**

The Future Land Use Designation of the subject property is Office, and several provisions of the Future Land Use Element directly support this application.

In the Future Land Use Element of the adopted Comprehensive Plan, it specifically states that "each of the various land uses were appropriately located to protect existing neighborhoods, provide shopping, recreational and cultural uses **in close proximity to residents**, and to make most efficient use of infrastructure by limiting higher intensity uses to interchange areas" (Page 1, Para 2). Additionally, it states that the "Office Future Land Use Designation can serve as an **effective transitional use** between higher intensity nonresidential uses and **High, Medium and Low Density Residential uses**" (Page 88, Para 4). The proposed day care center would be an intermediate land use between residential to west and high intensity offices to the east.

Day care centers are specifically listed as an allowable use in the Office designation as well as professional offices, general offices and public schools (Page 89, Para 1). As previously stated, a day care center would be permitted by right and would only undergo development review and obtain a Building Permit. It should also be noted that day care centers are also allowable as Special Exceptions in the Low Density Residential designation (Page 75, Para 5). By that fact, the County has recognized that day care centers serve residential uses and should be located near such areas and can be compatible with residential uses.

Office designations should be located along either collector streets or arterials. Orange Boulevard has been designated as a collector by Seminole County.

"Low intensity lot coverage (building height restrictions) and landscaping are required to minimize traffic congestion and visual impacts when Office uses are located adjacent to residential areas" (Page 89, Para 3). This policy allows the County to restrict proposed builds to a single-story when adjacent to residential uses. Intensity, by definition, is the ratio of total floor space divided by the site area. The Comprehensive Plan establishes only two basic prerequisites to enable office uses to locate adjacent to residential uses: building height restrictions and landscaping. Our application proposes a single-story facility, which is the minimal height possible, and a 15-foot wide landscape buffer (per Staff recommendation in the 2<sup>nd</sup> hearing). The proposed intensity of our project is 0.13 or 13%, which is extremely low.

These policy statements in the Comprehensive Plan support the current application's position that the proposed day care center is compatible with the surrounding area and is also consistent with the Comprehensive Plan.

**The proposed use will not adversely affect the public interest.**

We believe the size of the market area for the proposed day care center is a 2 ½ mile radius covering approximately 20 square miles. The location of that market extends from the project site to just south of Astor Farms (north) to Heathrow (south) and from Lock Arbor (east) to CR 46-A's western most extension near Lake Markham (west).

Our market area contains the most intensely developed commercial area in Seminole County, including Heathrow, the Primera DRI, Colonial TownPark, and the Seminole Town Center Mall, which are first class quality developments. This area will continue to undergo major development activity in future years. These uses will generate more multifamily-residential uses resulting in even more children within the market area.

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We feel that parents within our market area desire to place their children in near-by, high quality, day care facilities. The quality of day care centers, desired by those working and living in this market area, must be of the highest standards to be successful.

The traditional method of converting existing residences will not be acceptable to the market forces, and the permitting of only church-sponsored day care services can not meet the anticipated demand. Market forces will require development of new facilities of sufficient size and enrollments to cover development and operating expenses.

Our proposed day care center will help meet the demand for day care facilities in the market area. It will provide the best facilities and exceed state standards. The proposed day care center would be an intermediate land use between residential and high intensity office, and preclude potentially more intense commercial or office uses from locating adjacent to residences in Heathrow.

The size of the proposed day care center has been reduced 5,555 square feet or 32% from the original size submitted in the first site plan. Initially, our application contained a total size of 17,555 s.f. and was reduced to 12,000 s.f. to address the intensity of development concern expressed by Staff and the Board of Adjustment. The proposed intensity of our project is 0.13 or 13%. The Office Zoning District regulations do not set a maximum intensity, but only restricts the building height to 35 feet, which usually equates to three (3) stories. The Supplemental Zoning Regulations (Subsection 30.1344(c)(6) Part 70, Chapter 30 of the LDC) set the maximum site coverage at 70% for non-residential uses. An analysis of other similar existing day care facilities located within municipalities in Seminole County showed that our proposed development intensity is 13% or 21.6% less than the average of 17%. The student density (students/acre) of our proposed facility is 109 students/acre or 37.8% less than the average of 176 students/acre (See Attachment, Existing Day Care Facilities in Seminole County Municipalities, Intensity of Development).

There has been a 60% increase in parking from our original site plan. Our original site plan illustrated a total of 30 parking spaces, which was increased to 48 on the revised site plan. The proposed 48 parking spaces represents 108.7% more than the minimum requirement, and it is more than twice the minimum number of 23 spaces.

Loading and unloading areas have been increased 52% from our original design. Our proposal provides 640 linear feet or 1.96 times the amount provided at existing day cares operating in municipalities in Seminole County, Florida as shown in the attachment (See Attachment, Existing Day Care Facilities in Seminole County Municipalities, Intensity of Development).

As previously noted, an analysis of existing similar day care facilities located within municipalities in Seminole County was conducted by the Applicant, and that analysis showed that the proposed intensity is much less than the average intensity of existing day care facilities, based upon both building intensity and licensed student density. The proposed building intensity is 22% less intense than that of the average full-service day care center operating in municipalities in Seminole County, Florida. Furthermore, the proposed student density is 38% less than the existing density average (See Attachment, Existing Day Care Facilities in Seminole County Municipalities, Intensity of Development).

Similarly, six (6) existing day care facilities located in unincorporated Seminole County were also evaluated. Our analysis showed that our proposed student density is approximately 30% less than the existing average, and our proposed building intensity is exactly the same (0.13 or 13%) as that associated with the existing facilities

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analyzed. As previously noted, the Supplemental Zoning Regulations set the maximum site coverage at **70%** for non-residential uses, which means we are more than **5 times less** than the County standard (See Attachment, Existing Unincorporated Seminole County Day Care Facilities, Intensity of Development).

Noise issues have been attenuated by relocating the playground area to the east side of the building, which will act as a 20-foot high noise barrier.

Another interesting point pertaining to adverse impacts from day care facilities upon residential uses, including noise and intensity, is the past approval of day care facilities in unincorporated Seminole County. The Gathering Place is a church with a day care facility. It is located at 1701 Orange Boulevard and abuts single-family residential on its south and west sides. No buffers are provided and only a chain-link fence exists along the south property boundary. St. Andrews Chapel is another church with a day care facility. It is located at 514 Walden View Drive, and abuts single-family residential on two sides – west and east. The playground area is located on the east side of the building and is only 25 linear feet from the abutting single-family residential property.

The Board of Adjustment approved a day care center, Academy of Learning File #BS2002-001, on January 28, 2002. It is located 1.2 miles to the north also fronting on Orange Boulevard. It has single-family residential uses on two sides. The Development Order #01-32000041 does allow low-intensity lighting up to 16 feet in height to be used, which contravenes the Staff recommendation in the 2<sup>nd</sup> hearing. It is interesting to note that the maximum building size was not stipulated and no minimum amount of parking was required in the Development Order. However, the approved site plan illustrates two phases of construction with a total building area of 10,300 square feet and a total of 30 parking spaces. The parking ratio for the Academy of Learning equaled one space per 343.33 s.f. and our proposed ratio is one space per 250 s.f., which is proportionately **37%** more than of the amount provided by the Academy of Learning.

The Wilson Elementary School, a public school facility, with an enrollment of 799 students, according to the school administrators, is located at 985 Orange Boulevard, approximately 1 mile north on Orange Boulevard directly across from Berington Club, a gated community. Little landscaping and a 5-foot high screening wall exists between Wilson Elementary School and Berington Club in order to establish land use compatibility. There are additional residences abutting the east side of the school, where the playground area is located, and only has 55 linear feet of separation. Wilson Elementary has provided minimal parking and loading and unloading area in relationship to its enrollment. It has a total of 65 parking spaces and 780 linear feet of loading-unloading area for patrons and visitors, and an additional 46 parking spaces for teachers and other staff; and 455 linear feet of loading and unloading area for buses with an abutting bus travel lane. The total parking is 109 spaces and that equates to 1 space per 7 students. Our proposed rate is 1 space per 5 students/children, which is **40% more**. The total loading and unloading area is 1,291 linear feet and that equates to 1.6 feet per each student. Our proposed rate is 2.75 feet per each student/child, which is **72% more**.

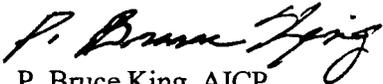
Lastly, we collected data on past approvals for day care facilities in unincorporated Seminole County for the number of parking spaces provided in relation to the size of the buildings. The result of this research is provided in the attachment entitled, Parking Analysis of Past Site Plan Approvals. A regression model was calculated for the data and has a correlation coefficient of 98.84%, which is very good. The model indicates that for a 12,000 s.f. day care building, 46 parking spaces should be provided. Our proposed number of spaces is 48 (See Attachment, Parking Analysis of Past Site Plan Approvals in Unincorporated Seminole County).

**Closing Summary**

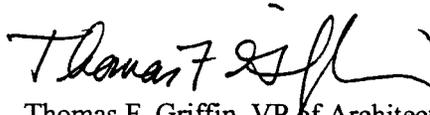
Based upon the our documented need to meet the future public demand for day care facilities within this market area, the extent and intense nature of existing and planned commercial uses in this particular area, the fact that the proposed development intensity and student density will be less than similar existing day care facilities, there will be minimal traffic impacts and the visual mitigation actions taken in the redesign will buffer the adjacent land uses, that adequate parking will be provided and the on-site traffic flow will operate properly, we strongly believe that it has been sufficiently documented that granting approval of this request will not adversely affect the public interest and, in fact, will be in the public's best interest to have much needed day care services in this transitional area.

Should you have any questions or comments with respect to the foregoing, or should you need additional information, please feel free to contact me at your earliest convenience.

Sincerely,



P. Bruce King, AICP  
Property Buyer & Developer  
902 Spring Valley Road  
Altamonte Springs, FL 32714-6511  
(407) 786-1963 (Office)



Thomas F. Griffin, VP of Architecture  
McCree, Inc.

- cc: Kevin Grace, County Manager  
Bob McMillan, County Attorney  
✓ Don Fisher, Planning & Development Director  
Matt West, Current Planning Manager

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**THE #1 CHOICE IN DESIGN-BUILD™**

# Lake Mary Day Care

1175 Orange Blvd.

Lake Mary, Florida

Seminole County, FL

McCree # 02028

## Floor Space Requirements

September 10, 2002

Space Names	Number of People		Size	Area	Comments
	Adults	Kids			
Office 1	2		14 X 20	280	Waiting Room, 2 workers, copier, fax, files Assistant Administrator Administrator
Office 2	1		10 X 12	120	
Office 3	1		10 X 12	120	
Kitchen			14 X 18	252	
Teacher Lounge			12 X 12	144	
Men / Boys Restroom			10 X 20	200	
Women / Girls Restroom			10 X 20	200	
Tub / Changing Room			7 X 8	56	
Supplies 1			5 X 5	25	
Supplies 2			5 X 5	25	
Supplies 3			5 X 5	25	
Supplies 4			5 X 5	25	
Electrical / Phone / Data			4 X 8	32	
Mechanical			12 X 18	216	
Janitor			4 X 6	24	
Halls/Walls	1,821				
<b>Subtotal - Admin/Support</b>	<b>3,565</b>				
<b>Percent of Total</b>	<b>30%</b>				
Infants (1:4)	4	16	17 X 35	595	
1-year-olds (1:6)	3	18	19 X 35	665	
2-year-olds (1:11)	2	22	23 X 35	805	
2-year-olds (1:11)	2	22	23 X 35	805	
3-year-olds (1:15)	3	45	46 X 35	1610	Install a wall divider
4-year-olds (1:20)	3	60	61 X 35	2135	Install a wall divider
5-year-olds (1:25)	1	25	26 X 35	910	
5-year-olds (1:25)	1	25	26 X 35	910	
<b>Subtotal - Classrooms</b>	<b>8,435</b>			<b>0</b>	
<b>Percent of Total</b>	<b>70%</b>				
			X	0	
<b>Subtotals</b>	<b>13,845</b>	<b>233</b>		<b>10,179</b>	
Halls / Walls (18%)				<b>1,821</b>	
<b>Total Area</b>				<b>12,000</b>	

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**EXISTING DAY CARE FACILITIES in SEMINOLE COUNTY MUNICIPALITIES**

Parking Analysis and Traffic Operations

Name of Day Care	Address	Size of Building (SF)	Licensed Student Capacity	No. of Parking Spaces			Parking Ratio (1 Space / SF)	Spaces / Student	On-Site Traffic Flow	Loading/Unloading Area (Linear Feet)	
				Regular	HC	Total				One-Way / Two-Way	Entering
	315 Alafaya Woods Blvd. Oviedo	11,792	267	22	2	24	491.33	0.090	One-Way/Two-Way	178	350
	756 Sun Drive Lake Mary	15,190	239	32	2	34	446.76	0.142	Two-Way	294	339
La Petite Academy, Inc.	894 Colt Drive Winter Springs	5,510	220	19	1	20	275.50	0.091	Two-Way	0	0
Royal Academy of Learning, Inc.	1001 Greenwood Boulevard Lake Mary	9,752	198	23	2	25	390.08	0.126	Two-Way	154.1	159.5
	<b>Averages</b>	<b>10,561</b>	<b>231</b>	<b>24</b>	<b>1.75</b>	<b>25.75</b>	<b>400.92</b>	<b>0.112</b>		<b>157</b>	<b>170</b>
Proposed Lake Mary Day Care	1175 Orange Boulevard Lake Mary	12,000	233	46	2	48	250.00	0.206	Two-Way	250	390
	<b>Comparative Percentages</b>		<b>0.9%</b>	<b>91.7%</b>	<b>14.3%</b>	<b>86.4%</b>	<b>160.4%</b>	<b>83.4%</b>		<b>59.7%</b>	<b>129.6%</b>

**EXISTING DAY CARE FACILITIES in SEMINOLE COUNTY MUNICIPALITIES**  
Intensity of Development

Name of Day Care	Address	Licensed Student Capacity	Site Area Ac.	Size of Building (SF)	Bldg Intensity (Bldg Size/Site Area)	Student Density (Students/Ac)
Kids R Kids #2 Florida	315 Alafaya Woods Blvd. Oviedo	267	1.50	11,792	0.18	178
Kids Together	756 Sun Drive Lake Mary	239	2.66	15,190	0.13	90
La Petite Academy, Inc.	894 Colt Drive Winter Springs	220	0.85	5,510	0.15	259
Royal Academy of Learning, Inc.	1001 Greenwood Boulevard Lake Mary	198	1.12	9,752	0.20	177
	<b>Averages</b>	<b>231</b>	<b>1.53</b>	<b>10,561</b>	<b>0.17</b>	<b>176</b>
<b>Proposed Lake Mary Day Care</b>	<b>1175 Orange Boulevard Lake Mary</b>	<b>233</b>	<b>2.13</b>	<b>12,000</b>	<b>0.13</b>	<b>109</b>
	<b>Comparative Percentages</b>	<b>0.9%</b>	<b>39.0%</b>	<b>13.6%</b>	<b>-21.6%</b>	<b>-37.8%</b>

**EXISTING UNINCORPORATED SEMINOLE COUNTY DAY CARE FACILITIES**

**Intensity of Development**

Name of Day Care	Mailing Address	Licensed Student Capacity	Children Present	Site Area Ac.	Licensed Student Density (Capacity / Ac.)	Student Density (Students/ Ac)	Size of Building (SF)	Bldg. Intensity (Bldg. Size/Site Area)
Growing Tree Learning center	900 Dodd Road Casselberry	150	101	0.73	205	138	4,440	0.14
Kids Love Us	4605 Howell Branch Road Winter Park	99	91	0.94	105	97	3,258	0.08
Light Years Ahead Child Care	398 Douglas Avenue Altamonte Springs	110	69	0.56	196	123	2,028	0.08
Royal Academy Preschool, Inc.	1001 Greenwood Boulevard Lake Mary	180	106	1.00	180	106	6,136	0.14
Sweetwater Oaks Nursery School	855 Fox Valley Drive Longwood	136	95	0.80	170	119	4,355	0.12
Tomorrow's Graduates	1455 U.S. 17-92 South Casselberry	75	39	0.33	227	118	2,925	0.20
	<b>Averages</b>	<b>125</b>	<b>83.5</b>	<b>0.81</b>	<b>155</b>	<b>103</b>	<b>3,857</b>	<b>0.13</b>
<b>Proposed Lake Mary Day Care</b>	1175 Orange Boulevard Lake Mary	<b>233</b>	<b>156.11</b>	<b>2.13</b>	<b>109</b>	<b>73</b>	<b>12,000</b>	<b>0.13</b>
	<b>Comparative Percentages</b>	<b>0.864</b>	<b>0.870</b>	<b>1.64</b>	<b>-0.29</b>	<b>-0.29</b>	<b>2.11</b>	<b>0.00</b>

**PARKING ANALYSIS OF PAST SITE PLAN APPROVALS**  
**Unincorporated Seminole County, Florida**

<b>Name of Day Care Facility</b>	<b>Date of County Approval</b>	<b>Size of Building (SF)</b>	<b>Required Parking Spaces</b>	<b>Parking Ratio (Spaces / SF)</b>
Kids Love Us 4605 Howell Branch Road Winter Park	1996	3,677	9	408.52
Kinder Care Learning Center SR 434 & Palm Springs Road	03/21/84	4,750	13	365.38
Kinder Care Learning Center Tuskawilla	09/13/85	6,000	19	315.79
Kindercare SR 436 east of Hunt Club	03/24/87	6,289	20	314.45
Mrs. Michelle's House  2624 S. Sanford Ave. Sanford	04/25/00	6,357	19	332.26
Academy of Learning Orange Boulevard Sanford	01/28/02	10,300	30	343.33
KidTown, USA 1460 Tuskawilla Road  Winter Springs	03/16/00	18,640	81	230.12
Proposed Lake Mary Day Care Center 1175 Orange Boulevard Lake Mary	N/A	12,000	48	250

$y' = 0.004691329 x - 10.00318146$   
 Correlation Coefficient = 98.84%

$x = 12,000$

$y' = 46.2926945$