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PLANNING & ZONING BOARD

To: James Balderrama
Jerry Carris
James Dunn
James Gentry
Mac McKinney
Rohan Ramlackhan
Kent Horsley

CC: Mike Bollhoefer, City Manager
Ed Williams, Planning Director
Dolores Key, Econ. Dev. Director
Tim Wilson, Chief Planner
Regina McGruder-Jones, Planner II
Brandon Byers, Planner II
Dan Langley, City Attorney

RE: Agenda – January 5, 2009 - 6:30 PM
Commission Chambers, City Hall
300 West Plant Street, Winter Garden

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1. Call to Order
2. Roll Call and Determination of Quorum
3. Approval of minutes from the December 1, 2008 meeting – Attachment 1

Variances (all Public Hearings)

4. 707 Brandy Oaks Loop, Setback Variance – Attachment 2
5. 232 Spring Leap Circle, Setback Variance – Attachment 3
6. 14120 W. Colonial Drive, (Gardenia Plaza Wall Variance) – Attachment 4

Special Exception Permits (all Public Hearings)

7. Kids R Kids Daycare (420 Roper Road) – Attachment 5

Any and all objections will be heard at this time and if no valid objections are presented to the contrary consideration will be given for granting this request. You are advised that if a person decides to appeal any decision made with respect to any matter considered at such hearing, then they will need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based.

THE CITY OF WINTER GARDEN

CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 2 (Public Hearing)

Date: January 5, 2009 **Meeting Date:** January 5, 2009

Subject: 707 Brandy Oaks Loop

Issue: Request for approval of a 6 foot rear yard setback variance for property located at 707 Brandy Oaks Loop in Winter Garden, Florida. If approved, this will allow the construction of a new single family home.

Supplemental Material/Analysis:

Applicant Meritage Homes Email: shari.genovese@meritagehomes.com

Zoning: PUD (requires 10' rear yard setback for primary structure)

FLU: Low Density Residential

Summary: The applicant is requesting a 6 foot rear yard setback variance to construct a new single family home. The proposed single family home is located in the Oaks of Brandy Lake Subdivision which consist of 165 residential units located southwest of the intersection of West Story Road and West Plant Street. The subdivision is currently still under construction.

The applicant is proposing to construct a 2,000 square feet single family home that is located on a corner lot which is an irregular shaped lot. The lot is located on the corner of Brandy Oaks Loop and Leawood Way, the lot located in the rear of this property currently has an existing residential home and the lot next to the subject property is currently vacant. The proposed home is consistent with other single family homes in the subdivision and approved in the overall PUD.

The City Code states that, *"A variance may be granted from land development regulations by the planning and zoning board if the planning and zoning board concludes that literal enforcement of the provisions of land development regulations would result in either practical difficulties (for setback and parking provisions) or unnecessary hardships (for all other land development regulations) for the property at issue."* The code also lists the following criteria that have to be addressed before a variance can be approved *Underlined are Staff's comments concerning this particular petition.*

(a) Granting the variance will not cause or allow interference with the reasonable enjoyment of adjacent or nearby property owners or negatively impact the standard of living of the citizens of the city;

Per the approved Oaks at Brandy Lake PUD Ordinance 04-25 requires a minimum 10 foot rear yard setback for primary structure, this should not negatively affect adjacent property owners. In addition, the structure will provide a rear entry driveway and garage. The proposed structure will not obstruct or interfere with adjacent property owner's visibility of the street or driveway.

(b) The variance will allow a reasonable use of the property, which use is not out of character with other properties in the same zoning category;

This new single family home allows reasonable use of the property. The proposed new single family residence is not out of character with other houses in the PUD zoning district or this neighborhood.

(c) In the context presented, strict compliance with the land development regulation will not further any legitimate city objective or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under this criteria if the variance were denied;

Strict compliance with the land development regulations will not further any legitimate City objective. There are no benefits in denying this variance.

(d) The granting of the variance is consistent with the city's comprehensive plan; and

The granting of this variance is consistent with the Comprehensive Plan regarding single-family homes.

(e) The variance requested is the minimum variance that will make reasonable use of the land, building, or structure or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under these criteria if the variance were denied.

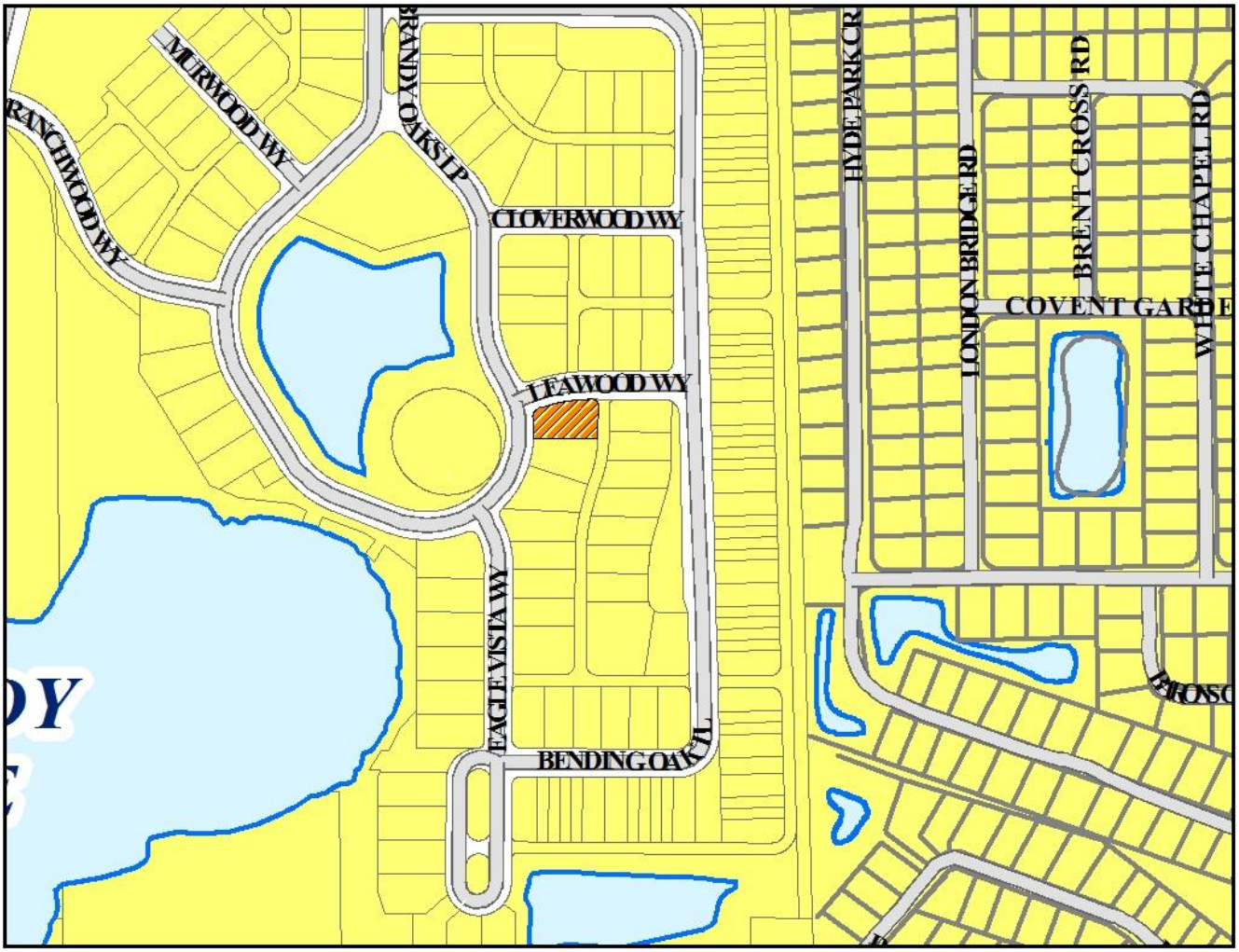
The variance requested is the minimum to make reasonable use of the land given the existing setbacks of the home and the overall character of the neighborhood.

Staff Recommendation:

Staff recommends approval of the 6 foot rear yard setback variance to construct a new single family home.

Next Step: If P& Z Board approves, apply for building permit from the Building Department.

<u>707 Brandy Oaks Loop</u>



THE CITY OF WINTER GARDEN

CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 3 (Public Hearing)

Date: January 5, 2009 **Meeting Date:** January 5, 2009

Subject: 232 Spring Leap Circle

Issue: Request for approval of a 12 foot rear yard setback variance for property located at 232 Spring Leap Circle in Winter Garden, Florida. If approved, this will allow the property owners to construct an enclosed screen porch.

Supplemental Material/Analysis:

Applicant Jainarine Baijnaj Email: baijnaj@ocps.net

Zoning: PUD (requires 25 foot rear yard setback)

FLU: Low Density Residential

Summary: The applicant is requesting a 12 foot rear yard setback variance to construct an enclosed screen porch in the rear of the new single family residence currently under construction with an approved building permit.

The single family home is in the Deerfield Place Subdivision located at Beard Road and Daniels Road. This existing 99 single family home subdivision's final plat was approved by the City Commission on June 24, 2004. The subdivision is currently 95% complete with the proposed lot being one of the final vacant lots in this subdivision. Currently the applicant has an approved building permit for construction of a single family home and would like to also construct a 12' x 26' enclosed screen room on the rear of the single family home. The applicant has received approval from the Deerfield Place Homeowners Association Board of Directors for the proposed 12' x 26' enclosed screen porch.

The City Code states that, *"A variance may be granted from land development regulations by the planning and zoning board if the planning and zoning board concludes that literal enforcement of the provisions of land development regulations would result in either practical difficulties (for setback and parking provisions) or unnecessary hardships (for all other land development regulations) for the property at issue."* The code also lists the following criteria that have to be addressed before a variance can be approved *Underlined are Staff's comments concerning this particular petition.*

(a) Granting the variance will not cause or allow interference with the reasonable enjoyment of adjacent or nearby property owners or negatively impact the standard of living of the citizens of the city;

Per the approved PUD Ordinance requires a 25 foot rear yard setback, this should not negatively affect adjacent property owners. In addition, the structure will be located approximately 13' from the rear property line. The proposed screen porch shall be consistent in character and color of the proposed primary structure. Other similar variances and structures have been approved in this subdivision.

(b) The variance will allow a reasonable use of the property, which use is not out of character with other properties in the same zoning category;

This new single family home allows reasonable use of the property. The proposed new single family residence and screen porch addition is not out of character with other houses in the PUD zoning district or this neighborhood.

(c) In the context presented, strict compliance with the land development regulation will not further any legitimate city objective or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under this criteria if the variance were denied;

Strict compliance with the land development regulations will not further any legitimate City objective. There are no benefits in denying this variance.

(d) The granting of the variance is consistent with the city's comprehensive plan; and

The granting of this variance is consistent with the Comprehensive Plan regarding single-family homes.

(e) The variance requested is the minimum variance that will make reasonable use of the land, building, or structure or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under these criteria if the variance were denied.

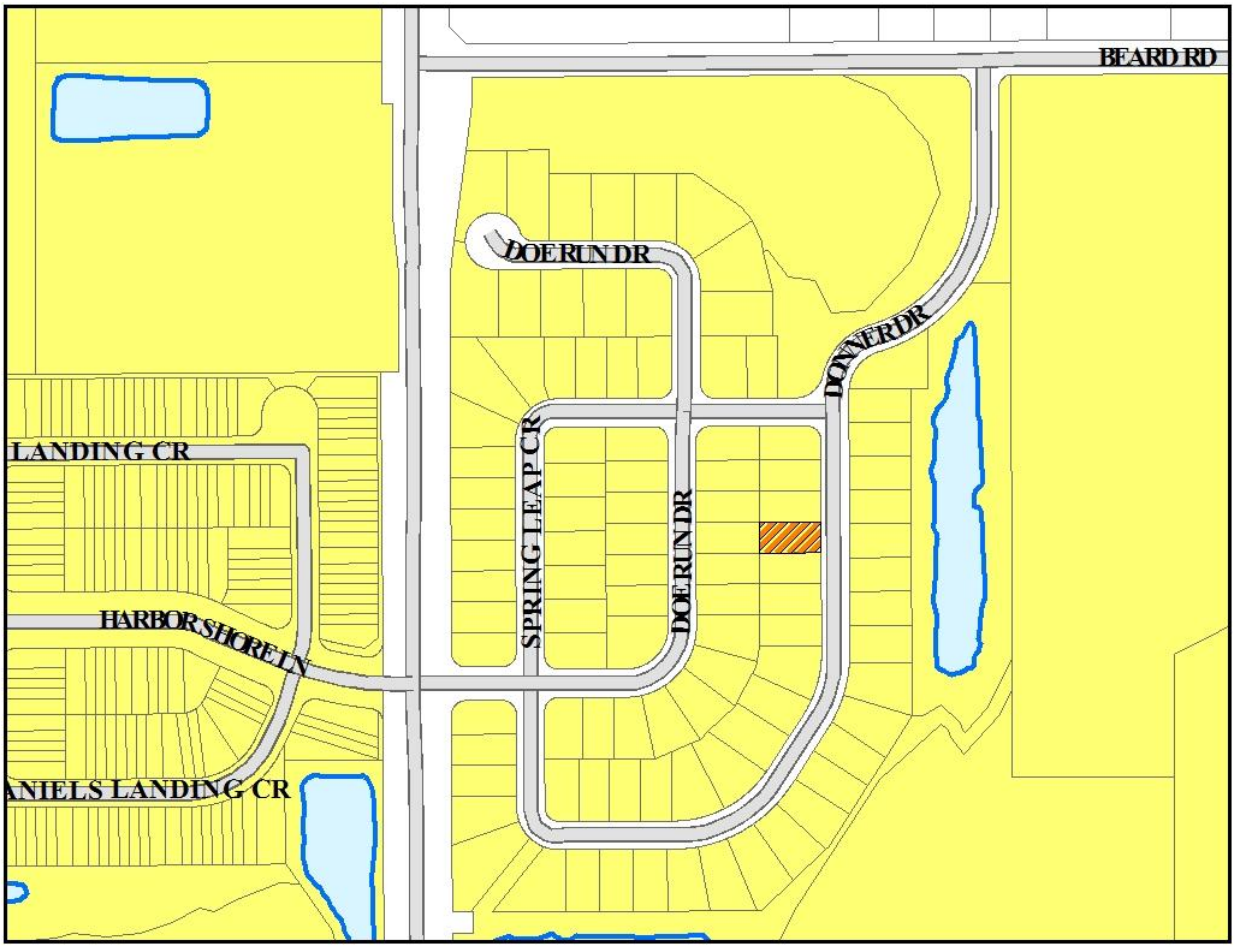
The variance requested is the minimum to make reasonable use of the land given the existing setbacks of the home and the overall character of the neighborhood.

Staff Recommendation:

Staff recommends approval of the 12 foot rear yard setback variance to construct a 12' x 26' enclosed screen room.

Next Step: If P& Z Board approves, apply for building permit from the Building Department.

<u>232 Spring Leap Circle</u>



THE CITY OF WINTER GARDEN

CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 4 (Public Hearing)

Date: January 5, 2009 **Meeting Date:** January 5, 2009

Subject: 14120 W. Colonial Drive (Gardenia Plaza)

Issue: Request for approval of a variance to omit construction of a required 6 foot masonry wall for residential and non commercial adjoining parcels for property located at 14120 W. Colonial Drive.

Supplemental Material/Analysis:

Owner/Applicant: JE Holdings, LLC. Email: sglass@shutts.com

Zoning: C-2

FLU: Commercial

Summary: The applicant is requesting a variance to omit construction of the required 6 foot high masonry wall for residential and non commercial parcels adjacent to commercial property. Section 118-1414 of the City Code Division 3.0 Landscape Design Standards states that side and rear buffers adjoining non-commercial or residential parcels shall be designed with a six foot masonry wall. The wall shall be placed a minimum of 6 inches from the adjoining property line. In addition, a minimum 10' landscape buffer is also required.

The 18.2 acre site is currently vacant and consists of planted pine trees and other vegetation. There are currently no wetlands on this site. The surrounding land use to the north of the parcel is a commercial plaza; east is commercial, south is residential low density and to the west is also residential.

The applicant is proposing a 147,940 square feet retail office commercial center with (3) outparcels lots that may be developed as banks, restaurants or other commercial development consistent with the C-2 zoning district. The proposed office/retail plaza will be constructed in phases. The requested variance is only to omit construction of the required 6 foot masonry wall adjacent to the southern residential parcels.

Staff is currently reviewing the required Special Exception Permit, Pre-Plat and Site Plan for the proposed office retail commercial plaza. At this time, approval of this variance does not grant approval for any of the above referenced separate public hearing items. The applicant has also submitted for review a traffic impact study that is currently under review by

the City's Traffic Consultant for the overall traffic impact of this project to State Road 50 and surrounding roads.

At their October 22, 2008 meeting, the Development Review Committee (DRC) recommended to the applicant to have a community meeting with the residents and homeowners directly impacted by this project. Staff mailed 264 public meeting notices to the surrounding neighborhoods and parcels directly impacted by this development; a community meeting was held on November 18, 2008. Staff also recommended to the applicant to increase the landscape buffer from the minimum 10' to a minimum of 20' that includes extensive landscaping, larger trees and ground cover at the time of planting similar to the landscape buffers provided at other recently approved similar developments in the City. Staff also has some concerns regarding the proposed visibility of the pond berm with the existing conveyance swale at its toe. Per the plans submitted for staff review dated 11/19/08; there is a 10 foot difference between the top of berm and the bottom of the existing swale in the southwest corner of the pond. This project is located adjacent to a residential neighborhood that would be directly impacted by this development and the visibility of retention pond's berm and landscaping.

The City Code states that, *"A variance may be granted from land development regulations by the planning and zoning board if the planning and zoning board concludes that literal enforcement of the provisions of land development regulations would result in either practical difficulties (for setback and parking provisions) or unnecessary hardships (for all other land development regulations) for the property at issue."* The code also lists the following criteria that have to be addressed before a variance can be approved *Underlined are Staff's comments concerning this particular petition.*

> *(a) Granting the variance will not cause or allow interference with the reasonable enjoyment of adjacent or nearby property owners or negatively impact the standard of living of the citizens of the city;*
>
> Staff recommends denial of the requested variance to omit construction of the required 6' masonry wall for the residential and non commercial parcels because staff does not believe the applicant has provided a sufficient and extensive landscape buffer that will provide an attractive pattern of landscaping that softens the built environment, provides visual relief , separates the different land uses , elimates or minimizes potential nuisances or adverse impacts to the residential and non commercial parcels located adjacent to the proposed development.
>
> *(b) The variance will allow a reasonable use of the property, which use is not out of character with other properties in the same zoning category;*

The requested variance will not allow a reasonable use of the property. In addition, the proposed use is out of character with the residential neighborhoods adjacent to this parcel.

(c) In the context presented, strict compliance with the land development regulation will not further any legitimate city objective or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under this criteria if the variance were denied;

Staff believes that strict compliance with the land development regulations will further any legitimate City objective.

(d) The granting of the variance is consistent with the city's comprehensive plan; and

The requested variance is not consistent with sound and generally accepted land use planning principles and practices therefore staff recommends denial of the requested variance.

(e) The variance requested is the minimum variance that will make reasonable use of the land, building, or structure or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under these criteria if the variance were denied.

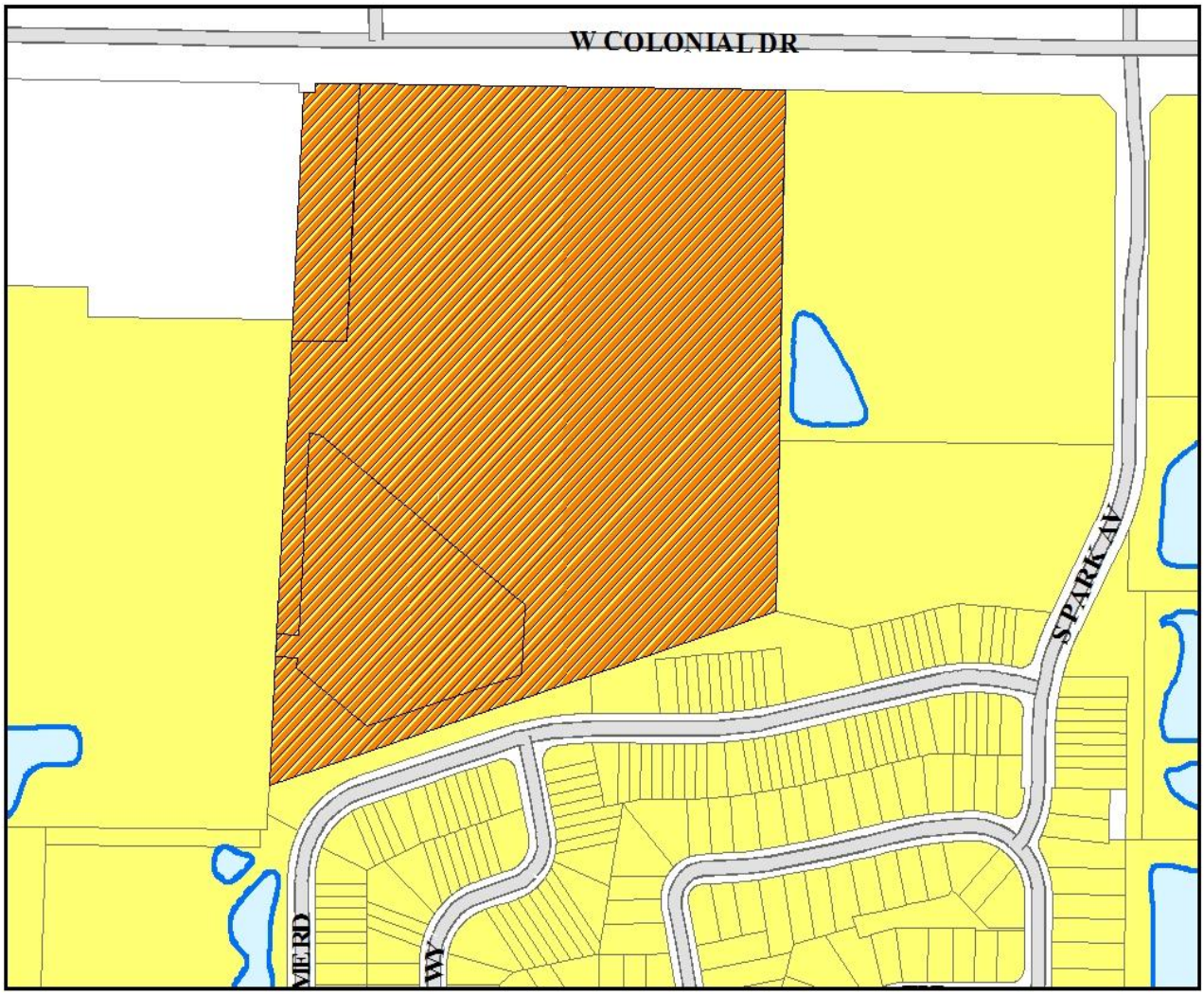
Staff recommends denial of the requested variance to omit construction of the required 6 foot masonry wall for residential and non commercial adjoining parcels that will provide an additional buffer to separate the different land uses, eliminate or minimize potential nuisances and adverse impacts such as noise, pollution, and other hazards to the adjacent residential and non commercial parcels surrounding this development.

Staff Recommendation:

Staff recommends denial of the requested variance to omit construction of the required 6 foot masonry wall for the residential and non commercial adjoining parcels.

Next Step: If approved, apply and receive SEP, pre-plat and site plan approval.

14150 W. Colonial Drive (Gardenia Plaza)



THE CITY OF WINTER GARDEN

CITY PLANNING AND ZONING BOARD AGENDA ITEM

ATTACHMENT 5 (Public Hearing)

Date: January 5, 2009 **Meeting Date:** January 5, 2009

Subject: Kids R Kids Daycare (420 Roper Road)

Issue: Request for approval of a special exception permit to allow a child day care center.

Supplemental Material/Analysis:

Owner/Applicant: Kakuli, Inc. Email: bears4015@aol.com

Zoning: R-1

FLU: Low Density Residential

Summary: The applicant is requesting approval of a special exception permit (SEP) to allow a child day care center at 420 Roper Road. The site is undeveloped and consists of planted pine trees and other vegetation. The 3.83 acre site contains approximately 0.823 acres of wetlands in the northern area of the property. This property was originally part of the New Horizons church property to the west but was granted a lot split by the Planning & Zoning Board on July 10, 2006. The minutes from that meeting are as follows:

> ***541 Winter Garden Vineland Road – Lot Split***
>
> *Planner Byers presented the Board with a request for approval of a lot split on the property located at 541 Winter Garden Vineland Road to create approximately a 3.83± acre parcel to be used for single-family homes. City Staff has reviewed the petition and recommends approval.*
>
> ***Motion by Bob Buchanan to approve the Lot Split on 541 Winter Garden Vineland Road to create a separate 3.83± acres parcel to be used for single-family homes. Seconded by Bea Deariso, the motion carried unanimously 6-0.***

The applicant is proposing a 12,000 square foot building with 42 parking spaces. Water, sanitary sewer, and reclaimed water utilities shall be constructed at the owner's expense. At this time, approval of a special exception permit does not grant site plan approval. If the SEP is approved by the

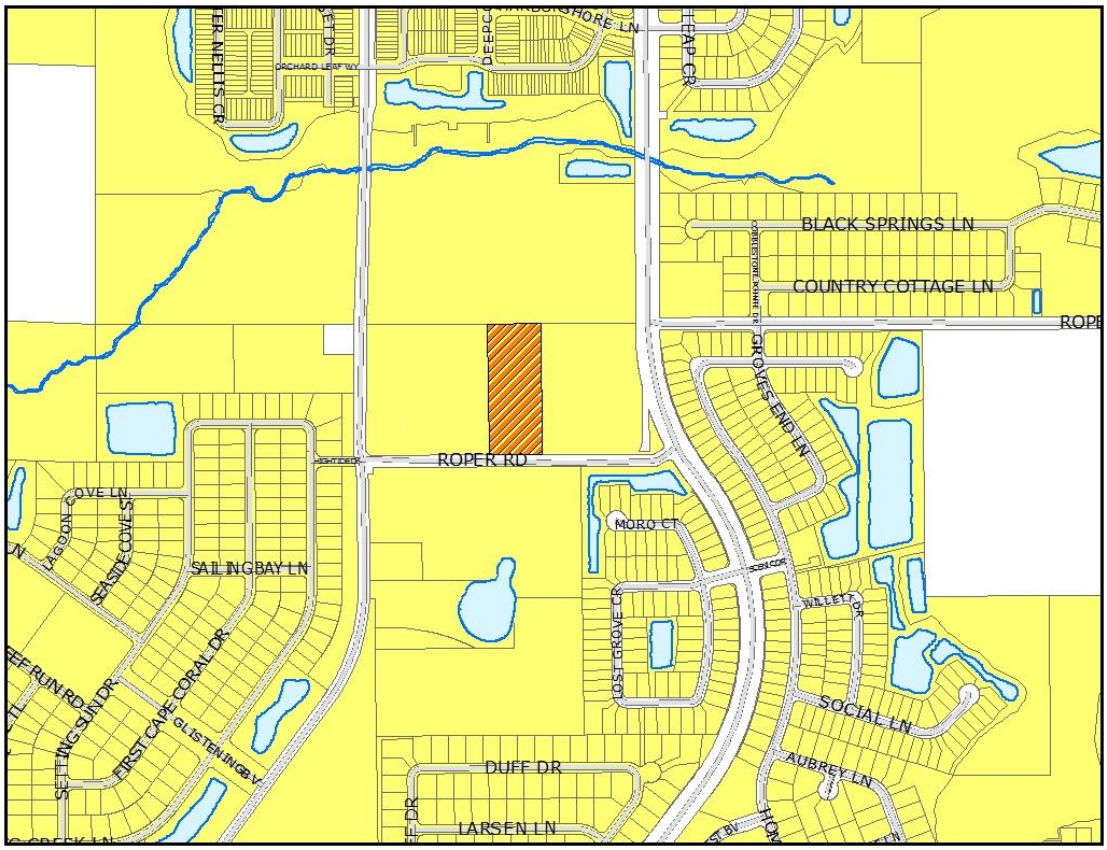
Planning & Zoning Board, a separate site plan shall be reviewed by City Staff and approved by the City Commission.

At their December 10, 2008 meeting, the Development Review Committee (DRC) recommended denial of the SEP. The applicant, at their option, has decided to continue the petition to the Planning & Zoning Board. DRC's recommendation for denial included concerns regarding traffic and compatibility of a daycare within a residential zoning district. DRC determined that day cares of this size are usually reserved for commercial districts unless other characteristics of the property and surrounding neighborhood enhance the compatibility of the day care and adjacent uses. For example, the recently approved Bright Horizons, StarChild Academy, and FastTrac Kids, all have been approved as daycares in the C-2 zoning district. When the main parcel was split in 2006, this parcel was intended to be used as residential. Staff does not feel that this parcel has characteristics that make a commercial use compatible with the surrounding neighborhood.

In addition, the Winter Garden Village at Fowler Groves' impact on the traffic patterns of Daniels Road and Winter Garden – Vineland Road is still being evaluated. Staff is hesitant to recommend approval of commercial development which changes the zoning or permitted uses until the impacts of the mall has had time to settle in this area.

Staff Recommendation:

Staff recommends denial of the special exception permit to allow a child day care center at 420 Roper Road. However, if the Board approves the request, Staff recommends that the December 5, 2008 DRC memo be included as conditions of approval.

Next Step: If approved, apply and receive site plan approval.

Kids R Kids Daycare (420 Roper Road)