



Interoffice Memorandum

AGENDA ITEM

March 12, 2020

TO: Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Planning, Environmental and Development Services  
Department

**CONTACT PERSON: Jennifer Moreau, AICP  
Manager, Zoning Division  
(407) 836-5856**

SUBJECT: April 7, 2020 - Consent Agenda  
1436 22<sup>nd</sup> Street, Orlando, FL 32805  
BZA Case # SE-18-03-014 - Augustine Peasah - District 6

On March 1, 2018, the Board of Zoning Adjustment (BZA) recommended approval of a special exception in the R-1A zoning district to allow a day care for up to 50 children for the property located at 1436 22<sup>nd</sup> Street.

At the time, 2201 Rio Grande Land Trust Agreement owned the property, and it was determined that the applicant, Augustine Peasah, had not provided the required agent authorization for the request; therefore, a condition of approval was added at the BZA hearing to require the applicant to provide that documentation before advancing the case to the Board. At the March 20, 2018 Board meeting, staff requested that this case be continued from the BZA recommendations to a future meeting to allow for the documents to be submitted. However, the appropriate documentation was not received by the Zoning Division until March 4, 2020. Therefore, staff is now requesting that the Board adopt the BZA recommended action and findings.

**ACTION REQUESTED: Acceptance of the BZA findings and recommendation of approval for SE-18-03-014, Augustina Peasah, Parcel ID: 03-23-29-0180-25-100 to allow a day care for up to 50 children in the R-1A Zoning District at 1436 22<sup>nd</sup> Street, Orlando, Florida 32805. District 6.**

BDD/JM/pew  
Attachment



**Orange County  
Board of Zoning Adjustment  
RECOMMENDATIONS  
BOOKLET**

**March 1, 2018**

Prepared by:  
Community, Environmental & Development Services Department,  
Orange County Zoning Division



**ORANGE COUNTY GOVERNMENT**  
**BOARD of ZONING ADJUSTMENT**  
**(BZA)**

Carolyn C. Karraker  
*Vice-Chair*

District #1

Gregory A. Jackson  
*Chairman*

District #2

Jose A. Rivas, Jr.

District #3

Deborah Moskowitz

District #4

Wes A. Hodge

District #5

Eugene Roberson

District #6

Jessica Rivera

At Large

## ***ORANGE COUNTY ZONING DISTRICTS***

### **Agricultural Districts**

A-1.....	Citrus Rural
A-2.....	Farmland Rural
A-R.....	Agricultural-Residential District

### **Residential Districts**

R-CE.....	Country Estate District
R-CE-2.....	Rural Residential District
R-CE-5.....	Rural Country Estate Residential District
R-1, R-1A & R-1AA.....	Single-Family Dwelling District
R-1AAA & R-1AAAA.....	Residential Urban Districts
R-2.....	Residential District
R-3.....	Multiple-Family Dwelling District
X-C.....	Cluster Districts (where X is the base zoning district)
R-T.....	Mobile Home Park District
R-T-1.....	Mobile Home Subdivision District
R-T-2.....	Combination Mobile Home and Single-Family Dwelling District
R-L-D.....	Residential -Low-Density District
N-R.....	Neighborhood Residential

### **Non- Residential Districts**

P-O.....	Professional Office District
C-1.....	Retail Commercial District
C-2.....	General Commercial District
C-3.....	Wholesale Commercial District
I-1A.....	Restricted Industrial District
1-1/1-5.....	Restricted Industrial District
1-2/1-3.....	Industrial Park District
1-4.....	Industrial District

### **Other District**

P-D.....	Planned Development District
U-V.....	Urban Village District
N-C.....	Neighborhood Center
N-A-C.....	Neighborhood Activity Center

## ***ORANGE COUNTY ZONING DISTRICTS***

### **Agricultural Districts**

A-1.....	Citrus Rural
A-2.....	Farmland Rural
A-R.....	Agricultural-Residential District

### **Residential Districts**

R-CE.....	Country Estate District
R-CE-2.....	Rural Residential District
R-CE-5.....	Rural Country Estate Residential District
R-1, R-IA & R-IAA.....	Single-Family Dwelling District
R-IAAA & R-IAAAA.....	Residential Urban Districts
R-2.....	Residential District
R-3.....	Multiple-Family Dwelling District
X-C.....	Cluster Districts (where X is the base zoning district)
R-T.....	Mobile Home Park District
R-T-1.....	Mobile Home Subdivision District
R-T-2.....	Combination Mobile Home and Single-Family Dwelling District
R-L-D.....	Residential -Low-Density District
N-R.....	Neighborhood Residential

### **Non- Residential Districts**

P-O.....	Professional Office District
C-1.....	Retail Commercial District
C-2.....	General Commercial District
C-3.....	Wholesale Commercial District
I-IA.....	Restricted Industrial District
1-1/1-5.....	Restricted Industrial District
1-2/1-3.....	Industrial Park District
1-4.....	Industrial District

### **Other District**

P-D.....	Planned Development District
U-V.....	Urban Village District
N-C.....	Neighborhood Center
N-A-C.....	Neighborhood Activity Center

## **VARIANCE CRITERIA**

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for a zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. Special Conditions and Circumstances – Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed zoning variance.
2. Not Self-Created – The special conditions and circumstances do not result from the actions of the applicant. A self-created hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
3. No Special Privilege Conferred – Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.
4. Deprivation of Rights – Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of the property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval.
5. Minimum Possible Variance – The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. Purpose and Intent – Approval of the zoning variance will be in harmony with the purpose and intent of this Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

## **SPECIAL EXCEPTION CRITERIA:**

Subject to Section 38-78, in reviewing any request for a Special Exception, the following criteria shall be met:

1. The use shall be consistent with the Comprehensive Policy Plan.
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
3. The use shall not act as a detrimental intrusion into a surrounding area.
4. The use shall meet the performance standards of the district in which the use is permitted.
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.
6. Landscape buffer yards shall be in accordance with Section 24-5, Orange County Code. Buffer yard types shall track the district in which the use is permitted.

**In addition to demonstrating compliance with the above criteria, any applicable conditions set forth in Section 38-79 shall be met.**

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT  
RECOMMENDATIONS  
March 1, 2018**

<u>PUBLIC HEARING</u>	<u>APPLICANT</u>	<u>DISTRICT</u>	<u>BZA Recommendations</u>	<u>PAGE #</u>
VA-18-01-148	Stefan Knopf	4	Approved w/Conditions	1
VA-18-03-170	Davis Builders, Inc.	2	Approved w/Conditions	8
VA-18-03-171	Theodore Brien	5	Request #1, Approved w/Conditions Requests #2 & #3, Denied	17
VA-18-03-172	Lui Ping Ng	5	Continued	27
SE-18-03-002	Lisa Cline	5	Approved w/Conditions	28
VA-18-03-003	Derek Cook	3	Request #1, Denied Request #2, Approved w/Conditions	39
VA-18-03-004	Zellwin Farms	2	Approved w/Conditions	47
VA-18-03-006	Alain Camacho Borroto	3	Approved w/Conditions	57
VA-18-03-007	Margaret Flynn	5	Approved w/Conditions	65
VA-18-03-010	Walter Hudiburg	5	Approved w/Conditions	73
VA-18-03-011	Louis Rhodes	5	Approved w/Conditions	85
SE-18-03-012	David Runnels	3	SE Request and VA #1, Approved w/Conditions VA #2, Denied	97
VA-18-03-013	Mario De Caprio	3	Approved w/Conditions	109
<b>SE-18-03-014</b>	<b>Augustina Peasah</b>	<b>6</b>	<b>Approved w/Conditions</b>	<b>119</b>
SE-18-03-017	Darrin Griffin	2	Approved w/Conditions	128

**AUGUSTINA PEASAH  
SE-18-03-014**

---

**REQUEST:** Special Exception in the R-1A zoning district to allow a day care for up to 65 children.  
**ADDRESS:** 1436 22nd Street, Orlando FL 32805  
**LOCATION:** East of South Rio Grande Avenue; south of 22nd St.  
**S-T-R:** 03-23-29  
**TRACT SIZE:** 140 ft. x 140 ft.  
**DISTRICT#:** 6  
**LEGAL:** ANGE BILT ADDITION H/79 LOTS 10 11 & 12 BLK 25 (LESS BEG AT NW COR OF LOT 12 TH E 9.28 FT S 141.04 FT W 6.65 FT N 141.03 FT TO POB TAKEN FOR R/W PER OR 4203/2712)  
**PARCEL ID:** 03-23-29-0180-25-100  
**NO. OF NOTICES:** 114

**DECISION:** APPROVED the Special Exception request in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; further, said approval is subject to the following conditions as amended (unanimous; 6-0 and 1 absent):

1. Development in accordance with the site plan dated February 14, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The hours of operation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday.
5. No more than fifty (50) children shall be enrolled at the daycare at any one time. Expansion of enrollment or use shall require additional approval by the BZA.



6. Construction plans shall be submitted within two (2) years of final approval or this approval becomes null and void.
7. No more than four (4) outdoor special events per calendar year and the hours of such events shall be limited from 8:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of thirty (30) days prior to the date of each event.
8. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
9. A Type D landscape buffer shall be provided along the east property line except for where the masonry wall exists.
10. Signage shall be in accordance with 31.5-75, Orange County Code.
11. A three (3) foot high masonry knee wall, painted to match the existing masonry wall, shall be installed along the north and west property lines in between the parking area and required landscaping.
12. The applicant shall demonstrate to the satisfaction of the county ownership and agent authorization prior to placement on a BCC agenda.

**SYNOPSIS:** The applicant is proposing a daycare in an existing residence in the Holden Heights area. The property is located on the corner of a major right-of-way. Staff went over the case, showed photos of the site, and explained the layout. Staff explained that the existing 6 ft. wall would help buffer against the adjacent residential. Also, the fact that the location was at the end of the block would lessen the traffic impact into the neighborhood. Staff recommended approval based on lowering the amount of students to fifty (50) to require less parking and lessen the impact on the surrounding neighbors.

The applicant spoke and was in agreement with staff's recommendation of approval. He also agreed to lessen the amount of students to fifty (50) from the sixty five (65) that was originally requested.

No one spoke in favor or against the application. Staff did receive one correspondence in opposition from the neighbor to the south and that was shared with the board.

The BZA discussed the application, and the children's safety near the right-of-way. The BZA felt the concrete wall provided a sufficient barrier to protect the children. The BZA agreed that the application met the special exception criteria, added condition #12 regarding the ownership issue, and amended the request to lower the number of students to fifty (50).



**Applicant:** Augustina Peasah

**BZA Number:** SE-18-03-014

**BZA Date:** 03/01/2018

**District:** 6

**Sec/Twn/Rge:** 03-23-29-NE-A

**Tract Size:** 140 ft. x 140 ft.

**Address:** 1436 22nd Street, Orlando FL 32805

**Location:** East of S. Rio Grande Ave.; south of 22nd St



# Unroe Engineering

Civil Engineering/Planning/Scientific Evaluations  
PO Box 680942, Orlando, Florida 32869  
Ph (407) 299-0650 < Darcy@UnroeEngineering.com

February 16, 2018

Orange County Board of Zoning Adjustment  
201 S. Rosalind Avenue, Orlando, FL 32802-0000

RE: Rio Grande Day Care

1. The use shall be consistent with the Comprehensive Policy Plan.  
*Daycare is compatible as a special exception with residential as it provides a needed service in residential areas. The proposed site provides the smallest possible encroachment into the residential area, by being located adjacent a large collector type street.*
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.  
*The development is located adjacent a large collector type street. The other development on Rio Grande Avenue is commercial in nature.*
3. The use shall not act as a detrimental intrusion into a surrounding area.  
*The proposed site is located directly adjacent a collector street and has the smallest possible encroachment into the residential area.*
4. The use shall meet the performance standards of the district in which the use is permitted.  
*The development will utilize the existing former residential structure. The driveway entrance to the site is existing. The proposed site construction has been minimized.*
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.  
*The physical characteristics of the proposed use are similar to residential development. The outdoor play areas are screened from the adjacent properties by a 6' high CMU block wall.*
6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.  
*The required Landscape buffers will be provided.*

Darcy Unroe PE





**STAFF REPORT**  
**CASE #SE-18-03-014**  
Orange County Zoning Division  
Planner: Sean Bailey  
Board of Zoning Adjustment  
March 1, 2018  
Commission District: 6

**GENERAL INFORMATION:**

**APPLICANT:** Augustina Peasah

**HEARING TYPE:** Board of Zoning Adjustment

**REQUEST:** Special Exception in the R-1A zoning district to allow a day care for up to 65 children.

**LOCATION:** East of S. Rio Grande Ave.; south of 22nd St.

**PROPERTY ADDRESS:** 2201 S. Rio Grande Ave.

**PARCEL ID:** 03-23-29-0180-25-100

**PUBLIC NOTIFICATION:** 114

**TRACT SIZE:** 140 ft. x 140 ft.

**DISTRICT #:** 6

**ZONING:** R-1A

**EXISTING USE(S):** Single family residence

**PROPOSED USE(S):** Daycare

**SURROUNDING USES:** N – Duplex  
S – Single family  
E – Single family  
W - Church

## STAFF FINDINGS AND ANALYSIS:

1. The property is zoned R-1A, which allows for single family homes, and daycare centers as a Special Exception.
2. The parcel is located in the Holden Heights Overlay District and the Future Land Use is Neighborhood Residential (NR). The intent of the NR district is to provide diverse housing types complemented by parks and civic uses essential to community gathering. A daycare is allowed as a special exception in this district as well.
3. The rear, side and side street yards of the property currently have a six (6) foot high concrete wall surrounding it. This wall will provide a buffer surrounding the proposed playground area.
4. The property is accessed off of 22nd street, wherein, the address will need to be changed to reflect the correct street.
5. Staff visited the site on February 8, 2018, and observed a single family residence that was being renovated. The applicant was issued a code enforcement violation for a temporary storage container on site. A permit was pulled in January 2018 for this container (Z18000469).
6. The applicant is proposing a daycare with a maximum of fifty-five (55) children. The applicant has reduced the amount of children to accommodate the required parking. The applicant's proposal is to convert the existing 2,985 sq. ft. residence into a daycare facility. Staff is recommending that the number of students be reduced to fifty (50) to require less parking and to lessen the impact on the nearby residential. Code requires one parking space for each child at a daycare center, this site would be required ten (10) for fifty (50) students. The current plan proposes fifty-five (55) children and eleven (11) parking spaces.
7. Staff spoke with Development Engineering regarding a possible entrance from S. Rio Grande Avenue. However, there is not enough space to facilitate an additional access point.
8. The zoning code allows daycare homes outright in any residential zoning district. The difference between homes and centers is the number of children. Homes are capped at ten (10) persons per residence.
9. Staff recommends approval based on the Special Exception Criteria:
  1. The use shall be consistent with the Comprehensive Policy Plan.  
A daycare center is permitted as a Special Exception in the R-1A and NR zoning districts.
  2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.  
Daycares typically support residential development and provide childcare opportunities for the community in which they are located. The property is located on the corner of a collector road (S. Rio Grande Avenue) which has several commercial businesses located in the vicinity. The location of the site at the end of the block negates the amount of traffic passing through the existing residential neighborhood.
  3. The use shall not act as a detrimental intrusion into a surrounding area.  
The existing masonry wall shall provide buffering from noise, the limited hours of operation shall prevent evening/weekend disturbances, and the corner location of the daycare should prevent the operation from becoming an intrusion. The proposed use will utilize the existing residence and shall match the architectural design of the nearby residences.

4. The use shall meet the performance standards of the district in which the use is permitted.  
The residence is existing and meets all required setbacks in the district. The required parking is being provided, driving aisles are sufficient, and fencing around the playground is being provided.
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.  
R-1A is a residential zoning district which allows single family homes, home offices, and daycare homes. This use shall primarily be located indoors aside from the parking/dropoff which are limited times and the outdoor play times. The masonry wall and other buffers provided shall help to reduce the noise, dust, and glare associated with the outdoor play area.
6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.  
The property has an existing masonry wall in the rear and side yards. The applicant is proposing hedges and canopy trees where the wall is not located. The applicant is also proposing a six (6) foot high fence along the northeast portion of the lot to shield the parking lot from the neighboring residence. However, zoning code only allows a four (4) high fence in the front yard in residential, therefore the plan will need to be amended as such.

STAFF RECOMMENDATION:

Staff recommends approval of the request subject to the following conditions:

1. Development in accordance with the site plan dated February 14, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The hours of operation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday.

5. No more than fifty (50) children shall be enrolled at the daycare at any one time. Expansion of enrollment or use shall require additional approval by the BZA.
6. Construction plans shall be submitted within two (2) years of final approval or this approval becomes null and void.
7. No more than four (4) outdoor special events per calendar year and the hours of such events shall be limited from 8:00 a.m. to 9:00 p.m. The use of outdoor amplified sound and music is prohibited. All outdoor special events shall be reviewed and approved by the Orange County Fire Marshal's Office. The applicant shall submit applications/plans to the Fire Marshal's Office a minimum of thirty (30) days prior to the date of each event.
8. The project shall comply with Article XVI of Chapter 9 of the Orange County Code, "Exterior Lighting Standards."
9. A type D landscape buffer shall be provided along the east property line except for where the masonry wall exists.
10. Signage shall be in accordance with 31.5-75, Orange County Code.
11. A three (3) foot high masonry knee wall, painted to match the existing masonry wall, shall be installed along the north and west property lines in between the parking area and required landscaping.

cc: Darcy Unroe, Applicant's Representative  
P.O. Box 690942  
Orlando, Florida 32869

Augustina Peasah, Applicant  
1307 South Pine Hills Road  
Orlando, Florida 32808