

PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The Port St. John Dependent Special District Board met in regular session on Wednesday, September 9, 2015, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

Board members present were: Carmella Chinaris, Vice Chair; Randy Rodriguez; Wendy Porter; Greg Messer; and Gary Musselman.

Staff members present were: Cindy Fox, Planning and Enforcement Manager; and Jennifer Jones, Special Projects Coordinator II.

The meeting was called to order by the Chairman, Vaughan Kimberling, at 6:02 p.m.

Carmella Chinaris – The first order of business is to approve the minutes of the April 20, 2015, Special meeting.

Wendy Porter – I make a motion to approve the minutes.

Randy Rodriguez – I'll second.

Carmella Chinaris called for a vote on the motion as stated and it passed 4:1, with Gary Musselman abstaining.

III.B.4. (15PZ00033) – GARY K. AND CAROL LYNN BARTLETT, TRUSTEES – (Angela Abbott) – request a Small Scale Plan Amendment (15S.08) to change the Future Land Use from Residential 1 to NC, and a change of classification from RU-1-9 to BU-1-A, on 0.27 acres, located on the northeast corner of Fay Blvd. and Severdale St. (3930 Fay Blvd., Cocoa)

PSJ Recommendation: Rodriguez/Musselman – Approved with a BDP limited to a child care facility and a pre-kindergarten school. Vote was unanimous.

Cindy Fox – The applicant has also submitted a binding development plan, which is an agreement between Brevard County and the applicant, and the applicant has chosen to limit the property to a childcare facility and preschool. They are asking for BU-1-A with a Small Scale, but they also agree to limit the use of the property to just what they are right now.

Carmella Chinaris – Does that limit extend beyond their ownership of the property? Or is it only binding as far as.....

Cindy Fox – It is binding upon the legal description advertised for this property. Whoever buys the property in the future, it will be limited as well.

Carmella Chinaris – Just a daycare?

Cindy Fox – Yes. It will run with the land.

Angela Abbott – I'm Angela Abbott, my address is 4420 S. Washington Avenue, Titusville. I just wanted to give you a little bit of background on the property. It was originally developed in 1984 as a child care center and school. It was issued a CUP as a school. The Bartlett's purchased the property in 1987 and have continually operated it as a child care facility and school. In 2003, the CUP was removed because a school was no longer permitted in RU-1-9 zoning. When they were refinancing their property recently it was discovered it was a non-conforming use and the mortgage holder requested that they take steps to have the non-conforming status removed. So, that's why we're here. Any questions?

Gary Musselman – If they've been operating for 20-plus years there and the zoning changed, why weren't they just grandfathered-in under old zoning rules?

Cindy Fox – They were, and they continued to operate as they always have been. When it changed it was in 2003, so they've been grandfathered-in the whole time. What has happened is that they have gone to re-finance and their financial institution does not like to have properties that have a non-conforming – or grandfathered – connotation to their property, so it's really the request of the bank that this be done.

Gary Musselman – So, our approval or denial doesn't have any impact on the operation of the business?

Cindy Fox – No, your decision for zoning would definitely determine their future because I don't think they would be able to achieve the refinancing that they are asking for.

Gary Musselman – Okay, that's slightly different from what I was asking. It's not like the County could come shut them down?

Cindy Fox – Correct. I understand now, and yes, you're correct. There is no effort to shut them down by this action at all. This is just their request so their financing can go through.

Carmella Chinaris – So, they are well within legal limits to continue operating as is without any change at all.

Cindy Fox – That's correct. The County doesn't necessarily rezone properties. This is a request of the applicant due to.....

Gary Musselman – I just want to be clear that they are operating within the rules of the County, not because they were grandfathered-in.

Cindy Fox – You would not see this application if the County had any issues with any of the regulations or the request.....we would work that out ahead of time.

Randy Rodriguez – A daycare is actually permitted in RU-1-9 zoning, so what caused.....

Cindy Fox – It's limited to six children. It's the volume.

Wendy Porter – What's your volume now?

Gary Bartlett – We're licensed for 99 students and we currently have about 65.

Gary Musselman – Is that pretty consistent?

Gary Bartlett – Yes.

Carmella Chinaris – Have you sought re-financing with any other institution that wouldn't make this a requirement, and is it a requirement or is it a suggestion?

Gary Bartlett – It's a requirement by our bank because the appraisal was discovered to be non-compliant zoning. The appraiser discovered that we were not complaint and they gave that recommendation to our bank who wanted us to proceed this way to become compliant. We have been banking with the same bank for 30 years.

Carmella Chinaris – So, you haven't looked elsewhere for financing?

Gary Bartlett – We have not.

Gary Musselman – When the structure was built, was it built as a daycare center, or was it a house modified?

Gary Bartlett – It was built as a daycare center three years prior to us buying it.

Gary Musselman – It was not a modified building.

Gary Bartlett – Correct, it was built to be a daycare.

Carmella Chinaris – Is there anyone from the community who would like to speak on this?

Linda McKinney – My name is Linda McKinney, most of you know me. My address is 605 Keystone Avenue, Port St. John. I am in favor of your request. It's their property. I don't think that it's up to the public to say, "No, you can't do that". If you own something, you own something. That's what our founding fathers said. If I took away Randy's cup and said, "This is Randy's cup, but you can only put this in it. You can only use it for such-and-such. You can only use it during this time of day or that time of day, or another time of day, and you can only use it with permission, and you can only use it to do certain things". Would it be your cup? No, it would be your cup in name only. When you have property it is your property. Property ownership, according to our founding fathers, depended on who they control. If your neighbors said you can't do it then you don't totally have control. I am all for this because it is what the property owner wants and it should be allowed him. It shouldn't have to be allowed, it should be a given. This is America. Look up property ownership research. Look at what our founding fathers said and then abide by it.

Carmella Chinaris – Any other comments? Are both the land use change and the zoning change necessary for compliance?

Cindy Fox – Yes.

Carmella Chinaris – Any discussion?

Randy Rodriguez – I make a motion we approve this request as long as the binding development plan is executed with it.

Gary Musselman – I second it.

Carmella Chinaris called for a vote on the motion, and it passed unanimously.

Upon consensus of the board, the meeting was adjourned at 6:14 p.m.