



CITY OF BELLE ISLE, FLORIDA CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: February 2, 2021

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Continuation of Appeal of P&Z Approval of Special Exception for Wallace Field

Background: The City Council tabled this public hearing from November 17, 2020. The P&Z Board's decision to grant a special exception for active recreation on Wallace Field is being appealed by the property owners who live near the park.

With the decision of the P&Z Board being appealed, Section 42-71 (b) (3) states that "The council shall conduct a trial de novo hearing upon any appeal taken from the ruling of the board, and hear the testimony of witnesses and other evidence offered by the aggrieved person and interested parties to the appeal and may, in conformity with this article and the Land Development Code, rules and regulations adopted thereunder, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the board."

De Novo Hearing: The city council shall hear the appeal as a new matter.

The Use Agreement was approved by CCA and the City Council in early 2020 after almost a year of negotiation and public meeting discussions. Concept plans were approved by the CCA Board and the City Council at their respective public meetings and a site plan was developed based on those approved concept plans. The site plan for Wallace Field was tabled by the P&Z Board at the P&Z Meeting on October 27, 2020. As part of the concept plan a building on the site was approved that was to have restrooms and a storage area for CCA and City equipment.

The Council needs to be mindful that they are only hearing testimony on the two special exceptions: (1) Active recreational uses; and, (2) Public municipal government buildings, without repair facilities or outdoor storage yards. All other testimony on lights, drainage, artificial turf, landscaping, and other site plan requirements should not be allowed during this public hearing. Since the site plan is still at the P&Z level, testimony regarding site plan requirements should be given during the P&Z hearing when scheduled.

The City considered the use of the field for practice by CCA as active recreation as defined in the BIMC, Section 54-84 (b) and therefore would require a special exception. The building is planned for the field which also requires a special exception. (*Special exceptions.* The following uses shall be permitted in the open space district through the special exception process: (1) Active recreational uses; and, (2) Public municipal government buildings, without repair facilities or outdoor storage yards.)

The City applied for a Special Exception for Wallace Field because the City and CCA entered into a use agreement allowing CCA to use part of the field for practice of their athletic programs. The Use Agreement states: Use Restrictions. CCA is authorized to conduct practice for its athletic programs, and other uses on the Property as approved by the City in the City's sole discretion. Use of the Property by CCA shall be during daylight hours only. The City shall have priority to use the Property for any purpose in the City's discretion. CCA has no rights to allow any organization, group, corporation, entity, person or persons, other than CCA's students, coaches, faculty and administrators to use the Property, consistent with this Agreement, as CCA's use rights under this Agreement are only for CCA.

Since it has been determined that CCA was allowed to use the field for practice prior to City ownership, this use should be allowed to continue. "Pick-up" games should also be allowed. A pick-up game is considered an activity that starts spontaneously by a group of random people or with friends. There aren't any refs or officiating. Also, under the strict definition of the code, a parent or grandparent could not go to the park with their kids and kick around a soccer ball or play a game of catch.

The Council should look at redefining what recreational activity is allowed in the open space zone. When developing the criteria for open space, it may not have been the Council's intent to not allow pick-up games or family activity.

At the November 17 public hearing, it was stated that the criteria for approval at the Planning & Zoning Meeting did not meet the code. Criteria for a Special Exception approval are as follows: A special exception shall not be approved by the P&Z Board unless and until:

- a. A written application for a special exception is submitted to the city manager or designee indicating the section of the Land Development Code under which the special exception is sought and stating the grounds on which it is requested. The city manager shall refer the application to the board.
- b. Notice as required for hearings before the board by this chapter.
- c. The public hearing shall be held. Any party may appear in person or by agent or attorney.
- d. The board shall make a finding that it is empowered under the section of the Land Development Code described in the application to grant, with or without conditions, the special exception, and that the granting of the special exception shall not adversely affect the public interest.
- e. It is determined that the public health, safety, comfort, order, convenience, prosperity, morals or general welfare is promoted, protected or improved.

The criteria listed above were followed: a written application was filed; proper notice was provided (letters mailed; the property was posted); a public hearing was held; the public was allowed to speak at the public hearing; the Board made a decision, without conditions, and the special exception was granted because a). it would not affect the public interest and b). the public health, safety and general welfare of the public is improved by allowing the special exception for active recreational use by CCA and to have public restrooms at Wallace Field.

When considering granting the special exception and whether or not it would affect the public interest, and the public health, safety and general welfare of the public is improved, CCA was allowed to use this field for practice with little or no problem for the neighbors prior to the City purchasing the field. Also, the public interest, and the public health, safety and general welfare of the public could be negatively impacted if public restrooms are not allowed on the field.

As for the charge that the neighbor's property values will decrease with the current plan, there are many studies to show that proximity to parks increases property value, thereby increasing property tax revenue. Research has shown that a 5% increase in property values for houses within 500 feet of a park is a conservative estimate of the change in property value due to proximity to a park. Companies often choose to locate in communities that offer amenities such as parks as a means of attracting and retaining top-level workers. With the proposed future development of Orange Avenue, Wallace Field could certainly be an element to attract businesses to this area.

The City Council is also allowed to exempt the City from the Land Development Code. Section 41-3 states: The purpose of this section is to provide the city council with the means by which to exempt the city from certain provisions of the Land Development Code. The city council may, by a super majority vote (a majority plus one), exempt the city from any requirement of the Land Development Code, except as otherwise prohibited by the City Charter or Code of Ordinances. Such exemptions shall be determined to be in the best interest of the citizens and not be detrimental to the public health, safety and welfare.

Staff Recommendation: Approve the Special Exception for CCA use and non-structured activity is described above. Also Council should consider redefining passive space to allow for family activity.

Suggested Motion: I move that we approve the Special Exceptions for Wallace Field to allow CCA to use the field for practice and to allow a building on Wallace Field.

Alternatives: Deny the Special Exception and move to redesign the field without the restrooms and look to terminate the Use Agreement if practice is not allowed on the field.

Fiscal Impact: TBD

Attachments: None