

STAFF REPORT
Building and Growth Management Department
Petition Number: SE-14-014

To: Charlotte County Board of Zoning Appeals

From: Shaun Cullinan, Zoning Official

Prepared By: Ken Quillen, AICP, Planner III

Report Date: August 29, 2014

BZA meeting date: September 10, 2014

Requested Action/General Information:

Robert Berntsson, agent for Dennis Fullenkamp and Waterview Property Owners Association, Inc., is requesting a Time Extension for a previously-approved special exception, which allowed community amenities in Environmentally Sensitive and Commercial General zoning districts. The property consists of five parcels located at 9166, 9502, 10208 and 10432 St. Paul Drive and 16120 Eastern Boulevard in South Gulf Cove (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this area, which is *Environmentally Sensitive and Commercial General*. This property has a *Preservation and Commercial* Future Land Use Map (FLUM) designation.

Subsection 3-9-7(h) Conditions and safeguards (Exhibit A) of the Zoning Code states that: "Any special exception granted shall expire three (3) years after the date of approval unless the use allowed by the special exception is in existence and actively occurring on the subject property prior to the date of expiration." This same section further states that: "Prior to expiration, the applicant or property owner may request an extension from the board of zoning appeals. Such extension may be granted to the applicant or owner upon showing of good cause."

The attached **Notice of Approval (Exhibit B)** is documentation that special exception SE-07-27 was granted by the Board of Zoning Appeals to allow community amenities on subject property. This notice records the applicant, owner, property location, file number, and approval date of August 8 2007. This special exception would have expired on August 8, 2010 except that, on more than one occasion, the Florida Legislature adopted legislation that allowed time extensions for approved developments. Based on the Laws of Florida staff documented a time extension in the **Letter of August 13, 2010 (Exhibit C)** until August 8, 2012, and another time extension in the **Letter of November 4, 2011 (Exhibit D)** until August 8, 2014. As such, the application has submitted this request for a third time extension.

The applicant's **Narrative (Exhibit E)** requests an indefinite time extension for this previously approved special exception. However, staff recommends against an indefinite time extension. The narrative refers to the **Original Narrative (Exhibit F)**, **Master Concept Plan (Exhibit G-1)**, and **Site Details (Exhibit G-2)**.

The Community Development Department's Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum (Exhibit H)** dated August 18, 2014.

ANALYSIS AND CONCLUSIONS:

After review of the materials submitted by the applicant requesting a time extension for this previously-approved special exception staff believes that the request does represent a showing of good cause and therefore could be approved by the Board of Zoning Appeals.

If the Board of Zoning Appeals decides to approve the requested time extension, for this previously-approved special exception, staff recommends that the previously adopted conditions be re-affirmed as conditions of approval to ensure the use is in compliance with the purpose and intent of the Zoning Code and is compatible with surrounding residential uses. The conditions are as follows:

1. A time extension of three years is hereby approved by the Board of Zoning Appeals for file number SE-07-27. This special exception shall expire on September 10, 2017. The Board of Zoning Appeals also re-affirms the original conditions adopted by the Board of Zoning Appeals on August 8, 2007, which are as follows:
2. Conditions for the Commercial General zoned properties (boat and RV storage lots):
 - a) The special exception, as approved by the Board of Zoning Appeals, is for two boat and RV storage lots at the locations indicated on the Master Concept Plan filed with this application.
 - b) Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.
 - c) The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the construction and operation of the proposed boat and RV storage yards.
 - d) The owner is hereby required to obtain ~~Development Review Committee (DRC) site plan~~ Site Plan approval for both boat and RV storage lots prior to construction of these improvements and all off-street parking and landscaping requirements of code must be met for the proposed boat and RV storage lots.
3. Conditions for the Environmentally Sensitive zoned properties (community amenities):
 - a) The special exception, as approved by the Board of Zoning Appeals, is for amenities as shown on the Master Concept Plan and at the locations as indicated on the Master Concept Plan.
 - b) Any changes or additions to this special exception shall require a modification of the special exception.
 - c) The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the construction of the approved amenities as stated in #1 condition 3.a) above.
 - d) The owner is hereby required to obtain ~~Development Review Committee (DRC) site plan~~ Site Plan approval for the pavilion, playground and parking lot prior to construction of these improvements.

Please be advised that the final decision regarding the petition rests with the Board of Zoning Appeals, and will be decided upon consideration of all the evidence introduced at the hearing.

Attachments: Staff Report (2), Location Map, Zoning Map, Aerial Photo, Sec. 3-9-7(h), Notice of Approval, Time Extension Letters (2), Narrative (3), Master Concept Plan, Site Details, and Environmental Specialist Memorandum (2)



Community Development

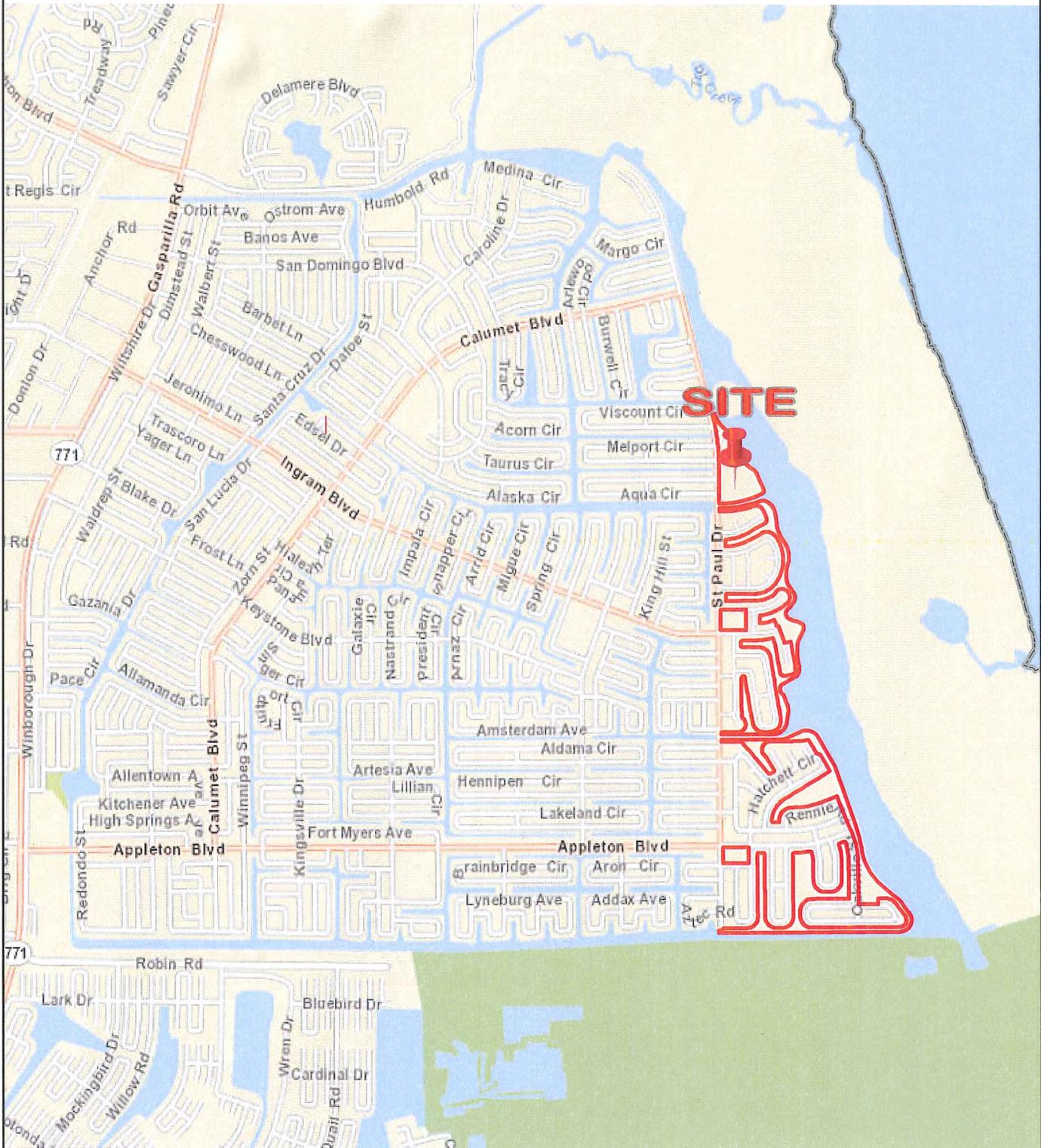
CHARLOTTE COUNTY

Location Map for SE-14-014

Charlotte County Government

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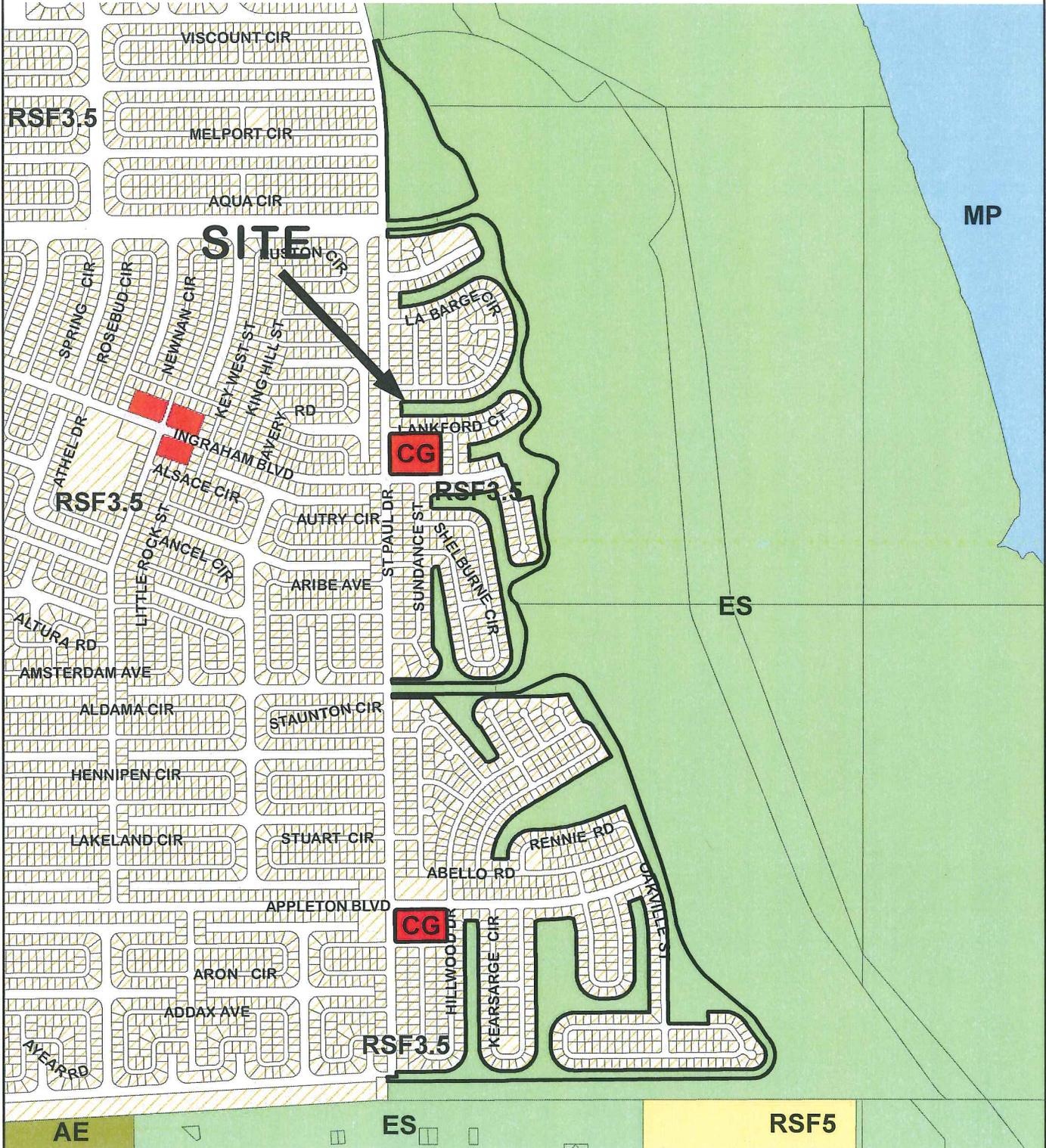
Community Development

CHARLOTTE COUNTY Zoning Map for SE-14-014

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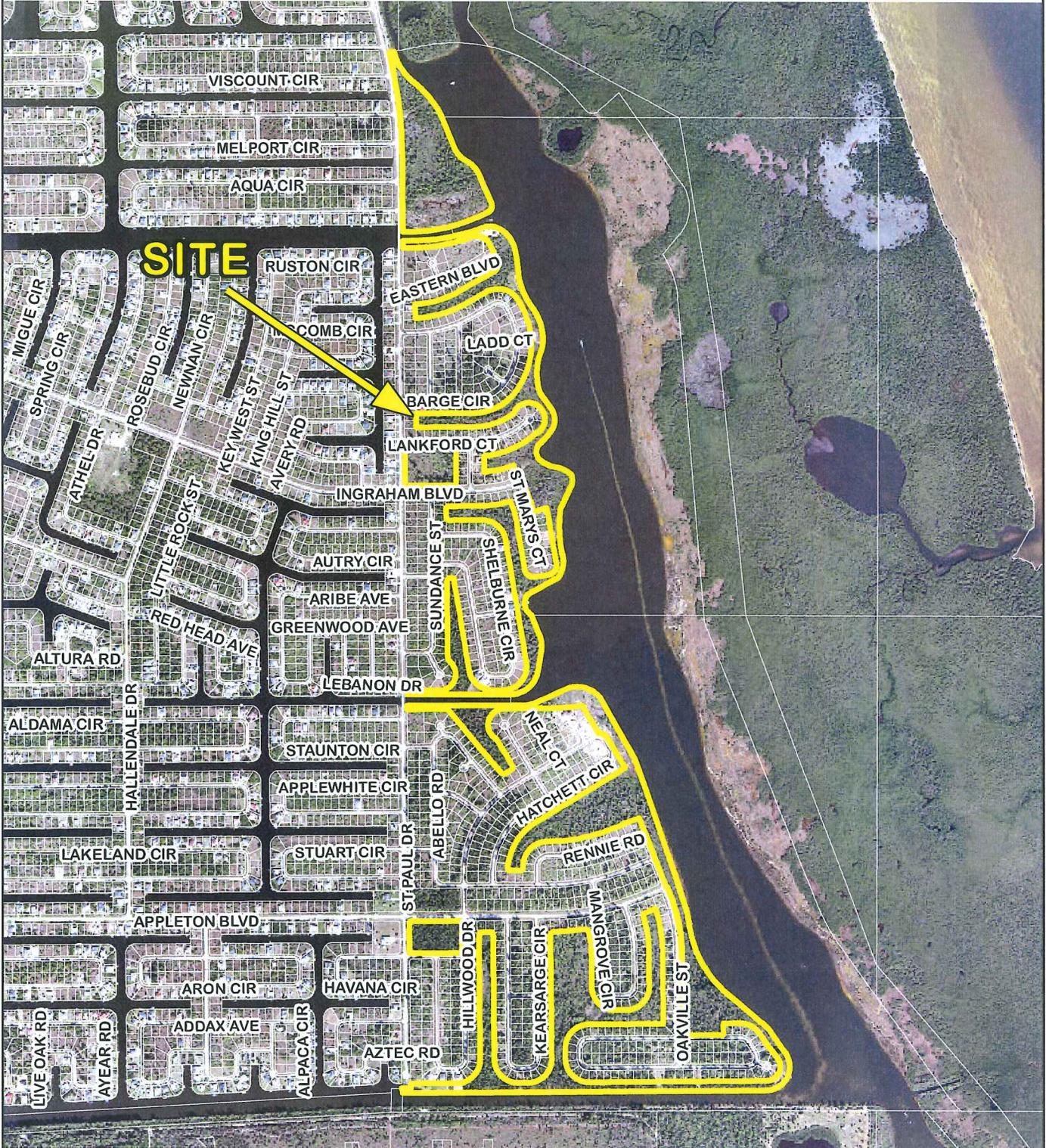
Community Development

CHARLOTTE COUNTY Aerial View for SE-14-014

Charlotte County Government

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Sec. 3-9-7. Special exceptions.

- (a) *Generally.* A special exception is permission for a use that would not be permissible generally or without restriction throughout a zoning district but which, if controlled as to area, location, relation to the neighborhood and other such restrictions as may be deemed appropriate in each case, would be compatible with surrounding land uses and found to be consistent with the Comprehensive Plan for Charlotte County.
- (b) *Application.* Special exceptions are established to allow the approval of specific uses in addition to the permitted uses in each zoning district. Uses eligible for a special exception shall be limited to:
- (1) The uses listed as special exceptions in each zoning district.
 - (2) Uses allowed by special exception upon a determination by the zoning official.
 - (3) Expansion of a lawfully existing conforming use to property which is abutting the existing use.
- (c) *Written petition.* Applications for special exceptions shall be obtained from and filed with the zoning official and shall be accompanied by the applicable fee to be established by resolution of the board of county commissioners. The zoning official shall review the application for sufficiency, which includes completeness of the application. If additional data is required, the zoning official shall advise the applicant within ten (10) working days after receipt of the application. Upon finding the application to be correct and complete, it shall be scheduled for a public hearing before the next available board of zoning appeals meeting, except in the case of an application for a special exception for the purpose listed in subsection (b)(3), which shall be scheduled for public hearings before the next available planning and zoning board meeting and the next available board of zoning appeals meeting following such planning and zoning board meeting, in accordance with the process for such special exceptions contained in subsection (m). Should an error in the application be discovered, the zoning official shall have the discretion to require the applicant to reapply or submit revised or additional information. Special exception applications shall include but not be limited to the following where applicable:
- (1) Site plans of an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and service areas and required yards and other spaces.
 - (2) Plans showing proposed locations for utilities hookups.
 - (3) Plans for screening and buffers, with references to type, dimensions and character.
 - (4) Proposed landscaping.
 - (5) Proposed signs and lighting, including type, dimension and character.
 - (6) A legal description of the entire property encompassing the special exception.
 - (7) A narrative description of the total project in sufficient detail to provide an understanding of the nature of the development proposal and a statement describing how the requested special exception meets the standards for approval as set forth below.
 - (8) A notarized affidavit which lists the names and addresses of property owners within two hundred (200) feet of the subject property (excluding rights-of-way) with corresponding addresses as of the date of the application. The applicant shall also

(Exhibit A-1)

provide a map clearly showing the subject property and all of the other properties within two hundred (200) feet.

- (d) *Public hearing.* Following the public hearing, the board of zoning appeals may grant or deny the special exception or may grant approval subject to compliance with certain conditions, restrictions or requirements as the board of zoning appeals may deem necessary to protect the interest of the public health, safety, morals and welfare appropriate to be in accordance with the land development regulations established to implement the comprehensive plan. Approval of a special exception, with or without conditions, shall be considered permanent to the extent that it may only be revoked following the procedure for a new special exception unless a time limit or ownership condition is provided in the approval of the use, in which case, the approval shall become void and the use shall be terminated at the end of the time specified in the approval. Notwithstanding this provision, any unused or abandoned special exception shall expire pursuant to subsection (h) of the zoning regulations.
- (e) *Notice of public hearing.* Upon the receipt of an application for a special exception, the zoning official shall establish a date, time and place for the public hearing before the board of zoning appeals or, in the case of an application for a special exception for the purpose listed in section 3-9-7(b)(3), the zoning official shall establish dates, times and places for the public hearings before the planning and zoning board and the board of zoning appeals. Public notice shall be given at least fifteen (15) calendar days prior to the date of any public hearing hereunder by publication in a newspaper of general circulation in the county. The notice shall contain a description of the request, a brief description of the property involved (subject property), and the time, date and place of the hearing, or the times, dates and places of the hearings, whichever is applicable, and shall invite all interested persons to appear and be heard. When a special exception is requested, the owners of property situated within two hundred (200) feet of the subject property shall be mailed written notice of the proposed request at least fifteen (15) days prior to the initial public hearing on the special exception before either the board of zoning appeals or the planning and zoning board, whichever is applicable. The notice shall contain the time, date and place of the public hearing, or the times, dates, and places of the public hearings, whichever is applicable, for the request and a brief description of the property involved (subject property). Notice by mail shall be addressed to the property owner at the address shown on the latest available records of the property appraiser. Such notice shall be considered effective when placed in the United States mail, postage paid; and failure to receive notice shall not invalidate any appeals proceeding. In addition, a sign shall be posted conspicuously on the subject property. The sign shall contain the time, date and place of the public hearing, or the times, dates and places of the public hearings, whichever is applicable, and shall state the action being considered. The sign shall be placed on the property at least ten (10) calendar days prior to the initial public hearing on the special exception before the board of zoning appeals or planning and zoning board, whichever is applicable. Failure to comply strictly with these notice requirements shall not invalidate the proceedings. The zoning official shall investigate the conditions pertaining to a particular request and submit a report to the board or boards that is or are hearing the special exception application giving the facts involved. The parties in interest shall appear at the hearing or hearings in person by agent or attorney.
- (f) *Standards for approval.* A special exception shall be granted by the board of zoning appeals only if all of the following requirements are satisfied:
- (1) The requested special exception is either explicitly permitted by the regulations in the zoning district for _____ a reasonable implication within that district.
 - (2)

(Exhibit A-2)

The requested special exception is compatible with existing uses surrounding immediately adjacent and contiguous to the land on which the requested special exception would exist.

- (3) Adequate access shall be provided for ingress and egress to the proposed use in a manner that minimizes hazards and congestion on streets and roads.
- (4) Adequate provision has been made for buffers, landscaping, trees, open space, stormwater or other improvements associated with the proposed use.
- (5) The requested special exception is consistent with the Charlotte County Comprehensive Plan and Land Development Regulations.
- (6) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety or general welfare.
- (g) *Denial.* If the board of zoning appeals should deny an application for a special exception, it shall state fully in its record its reasons for so doing. Such reasons shall take into account the standards for approval stated in this section as they may be applicable to the denial.
- (h) *Conditions and safeguards.* Should the board of zoning appeals approve a special exception, the BZA may impose reasonable conditions in order to prevent or minimize adverse effects on other property in the surrounding neighborhood. Any violation of the conditions and safeguards that may be imposed on any special exception by the board of zoning appeals when made a part of the terms under which the special exception is granted shall be deemed a violation of this Code. Any special exception granted shall expire three (3) years after the date of approval unless the use allowed by the special exception is in existence and actively occurring on the subject property prior to the date of expiration. Any such special exception which ceases to exist and actively occur on the subject property shall expire three (3) years after the date the activity permitted by the special exception ceased. Further, any previously granted special exception or special approval which has not been utilized shall, unless otherwise provided in said approval, expire three (3) years from the effective date of this regulation unless good faith commencement of the special exception has begun prior to expiration. Prior to expiration, the applicant or property owner may request an extension from the board of zoning appeals. Such extension may be granted to the applicant or owner upon showing of good cause. Any nonconforming special exception shall be subject to requirements of [section 3-9-10](#) of the zoning regulations with regard to nonconforming uses.
- (i) *Lot and building requirements.* Lots and buildings shall comply with the lot and building requirements of the district in which the special exception is to be located, or shall comply with more stringent requirements as may be imposed by the board of zoning appeals upon approval of the special exception.
- (j) *Signs permitted.* Signs shall comply with the district requirements for the district in which the special exception is located, or such requirements as may be imposed by the Board of Zoning Appeals upon approval of the special exception.
- (k) *Modifications.* Expansion, alteration or modification of any special exception shall require reapplication for a modification to the original special exception.
- (l) *Limitations of applications for special exception.* Whenever the board of zoning appeals has denied an application for a special exception, the board of zoning appeals shall not thereafter consider an identical application for special exception concerning all or any part of the same property for a period of six (6) months from the date of such action, except that this requirement may be waived when the members of the board of zoning appeals when the application does not apply to applications for a modification of a special exception.

(Exhibit A-3)

Handwritten initials and number: #114

NOTICE OF APPROVAL

**FOR
SPECIAL EXCEPTION TO THE CHARLOTTE COUNTY ZONING CODE**

Pursuant to Charlotte County Code Section 3-9-7 (f), this is to acknowledge the approval of the Special Exception application, which was heard by the Charlotte County Board of Zoning Appeals.

Applicant: Waterview Preserve @ South Gulf Cove, % James and Francis Colosimo, 8300 Wiltshire Drive, Suite 5, Port Charlotte, Florida

Owner: James and Francis Colosimo, 8300 Wiltshire Drive, Suite 5, Port Charlotte, Florida

Location: 9206 St. Paul Drive, 9410 St. Marys Court, 10380 Oakville Street, 9502 St. Paul Drive and 10432 St. Paul Drive, Port Charlotte, Florida and are described as Tracts G-1, G-2, G-3, J and V, Port Charlotte Subdivision Section 94, in Section 26, Township 41 South, Range 21 East. The total acreage of all properties is +/-151.43 acres.

Vertical handwritten text: Barbara Matthews, P11115



PETITION: SE-07-27

APPROVAL DATE: AUGUST 8, 2007

Requested Special Exception:

The requested Special Exception is to allow community amenities in Environmentally Sensitive (ES) and Commercial General (CG) zoning districts.

Conditions Placed on the Approval:

Conditions for the Commercial General (CG) zoned properties (Boat and RV storage lots):

1. The special exception, as approved by the Board of Zoning Appeals, is for two boat and RV storage lots at the locations indicated on the Master Concept Plan filed with this application.
2. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.
3. The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the construction and operation of the proposed boat and RV storage yards.
4. The owner is hereby required to obtain Development Review Committee (DRC) site plan approval for both boat and RV storage lots prior to construction of these improvements and all off-street parking and landscaping requirements of code must be met for the proposed boat and RV storage lots.

Conditions for the Environmentally-Sensitive (ES) zoned properties (community amenities):

1. The special exception, as approved by the Board of Zoning Appeals, is for amenities as shown on the master concept plan and at the locations as indicated on the master concept plan.
2. Any changes or additions to this special exception shall require a modification of the special exception.
3. The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the construction of the approved amenities as stated in #1 above.
4. The owner is hereby required to obtain Development Review Committee (DRC) site plan approval for the pavilion, playground and parking lot prior to construction of these improvements.

Please be advised that any special exception granted shall **expire three (3) years** after the date of approval unless the use allowed by the special exception is in existence and actively occurring on the subject property prior to the date of expiration. **Any such special exception which, ceases to exist and actively occur on the subject property shall expire three years from the effective date of this regulation unless good faith commencement of the special exception has begun prior to expiration.** Prior to expiration, the applicant or property owner may request an extension of the special exception from the Board of Zoning Appeals. Such extension may be granted to the applicant or property owner for a period of up to 90 days. Any non-conforming special exception shall be subject to the Zoning Regulations with regard to non-conforming uses.

(Exhibit B-1)

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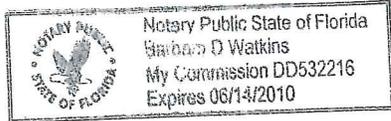
A copy of this notice shall be filed in the Public Records of Charlotte County.

Prepared by: _____

Nicole C. E. Dozier, Zoning Official

**STATE OF FLORIDA
COUNTY OF CHARLOTTE**

The foregoing instrument was acknowledged before me this 9th day of August 2007 by Nicole C. E. Dozier, who is personally known to me, and who did not take an oath.



Barbara D. Watkins

Barbara D. Watkins, Notary Public

**Return to Community Development
Barbara D. Watkins – Room 105**

(Exhibit B-2)



August 13, 2010

Robert Berntsson, Esquire
18401 Murdock Circle, Suite C
Port Charlotte, FL 33948

Re: Time Extension for Special Exception: SE-07-27

Dear Mr. Berntsson:

This letter is in response to your correspondence dated August 3, 2010 requesting a time extension for a special exception (file number SE-07-27) based on the Laws of Florida, Chapter 2010-147. This Law was adopted on May 28, 2010 and establishes the eligibility for a time extension to any development order or building permit which expires during the time period from September 1, 2008 through January 1, 2012, if a request is made in writing to the authorizing agency no later than December 31, 2010.

This special exception, to allow community amenities in Environmentally Sensitive (ES) and Commercial General (CG) zoning districts, was granted by the Board of Zoning Appeals on August 8, 2007, and would expire on August 8, 2010. Your request for a time extension based on Chapter 2010-147 provides a two year time extension resulting in a new expiration date of August 8, 2012.

If you have any questions or would like additional information please feel free to contact me in the Charlotte County Zoning Division office at (941) 623-1073.

Sincerely,

Kenneth J. Quillen Jr., AICP
Planner III

(Exhibit C)

cc: File: SE-07-27

GROWTH MANAGEMENT

Zoning

18500 Murdock Circle, B-105 | Port Charlotte, FL 33948-1068
Phone: 941.743.1964 | Fax: 941.743.1598



November 4, 2011

Robert Berntsson, Esquire
18401 Murdock Circle, Suite C
Port Charlotte, FL 33948

Re: Time Extension for SE-07-27

Dear Mr. Berntsson:

This letter is in response to your correspondence dated September 21, 2011 requesting a time extension for a special exception (file number SE-07-27) based on Section 73 of Chapter 2011-139 of the Laws of Florida. This Law establishes the eligibility for a time extension to any development order or building permit which was extended under Section 47 of Chapter 2010-147 if a request is made in writing to the authorizing agency no later than December 31, 2011.

This special exception, to allow community amenities in Environmentally Sensitive (ES) and Commercial General (CG) zoning districts, was granted by the Board of Zoning Appeals on August 8, 2007, which would have expire on August 8, 2010. Your request for a time extension based on SB 360 provides a two year time extension resulting in an expiration date of August 8, 2012. The new expiration date, based on Section 73 of Chapter 2011-139 of the Laws of Florida, is now August 8, 2014.

If you have any questions or would like additional information please feel free to contact me in the Charlotte County Community Development Department Zoning Division office at (941) 623-1073.

Sincerely,

Kenneth J. Quillen Jr., AICP
Planner III

(Exhibit D)

cc: File: SE-07-27

Narrative to the Waterview Property Owner's Association, Inc. Special
Exception Time Extension Application

SE-07-27

The applicant seeks a Time Extension to the Special Exception approved to allow community amenities on Environmentally Sensitive and Commercial zoned lands within the community.

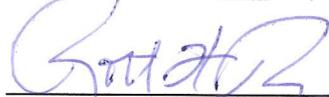
Since the approval of Special Exception SE-07-27 the recession hit the housing market, causing property values to plummet. There was little to no market for vacant residential lands in the South Gulf Cove area. With so little development in the Section 94 plat, it was not financially feasible to make the improvements as approved by the special exception, but the need for them still exists. This is the good cause for extending the special exception.

The Special Exception continues to meet the requirements for the granting of a special exception as was spelled out in the original narrative, attached hereto as Exhibit "A." The applicant is requesting this extension be indefinite, not limited to 3 years, and the community grows the need for the amenities will become more evident, and cost effective. It is impossible to say if the community growth will occur in the next 3 years, warranting the improvements during the next 3 year period.

A black and white copy of the improvements intended for the community is attached as Exhibit "B," please refer to the initial application for a color version.

It is respectfully requested that the time extension be granted indefinitely.

Submitted this 29th day of July, 2014.



Robert H. Berntsson, Agent

(Exhibit E)

**NARRATIVE TO THE WATERVIEW PRESERVE AT SOUTH GULF COVE, SPECIAL EXCEPTION
APPLICATION TO ALLOW FOR COMMUNITY AMENITIES TO SERVE THE PORT CHARLOTTE
SUBDIVISION SECTION 94.**

The applicant, as co-trustees, own the properties subject to this petition, all contained within Port Charlotte Subdivision Section 94. In addition, the applicants own several hundred of the platted lots within Port Charlotte Subdivision Section 94. It is the applicant's desire to add amenities to the community to enhance the subdivision. The amenities would be available to all owners within the Port Charlotte Subdivision Section 94 subdivision. The amenities include, a boat ramp and temporary dockage facilities, pavilions, multi-use buildings, playgrounds, picnic areas, tennis courts, parking, scenic overlooks, a nature trail on the Environmentally Sensitive (ES) property, as well as, buffered boat and RV storage on the Commercial General (CG) zoned property. Deed restrictions in the community prohibit the parking of RV's and boats on the lots within the subdivision. By providing this amenity to the residents, it will allow them to keep their boats and RV's nearby without having to travel on the County roads a long distance to retrieve them. With the addition of the boat ramp, the boats can be launched in the community, rather than driving long distances to launch the boats. If this plat were to be reviewed today as a new subdivision, these accessory uses to the overall plat would be allowed without the special exception. However, the light of the fact that the plat has previously been recorded and the lots are now in separate ownership, the special exception is necessary.

This request meets the criteria for the granting of the special exception as follows:

1. The requested special exception is either explicitly permitted by the regulations in the zoning district for which it is requested, or is permitted by reasonable implications within the district. The Environmentally Sensitive zone allows, as permitted, principle uses and structures, public and private game preserves, fish and wildlife management areas, hatcheries and refuges and parks and open spaces. In addition, piers, docks, wharfs, which comply to Section 3-9-70 are allowed. Special exception uses within the district allow for resort and sport marinas, primitive campgrounds, commercial recreation areas, and hunting and fishing camps. This accessory use for the community can be argued to be an allowed use as of right, but in order to avoid any argument to the contrary, a special exception is being applied for. In addition, the CG zoning district allows resort and sport marinas as a permitted use and outdoor markets as special exceptions. Again, with the project looked at as a whole, boat and RV storage is typically allowed as an accessory use as part of a master plan community or subdivision. Rather than have the boat and RV storage be in a residentially zoned category, in this case, it is allowed within the CG category as a much more passive use than other CG uses that could be allowed. The proposal includes enhanced buffering for the boat and RV storage.



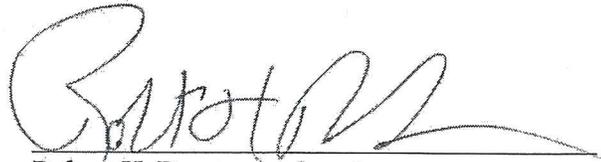
(Exhibit F-1)

2. The requested special exception is compatible with existing uses surrounding immediately adjacent and contiguous to the land on which the requested special exception would exist. All of the environmentally sensitive lands would be considered common elements of the subdivision and the applicants just seek to enhance the uses on the common elements. The boat and RV storage on the CG land is being well buffered to ensure compatibility with existing uses.
3. Adequate access will be provided for ingress and egress in a manner that minimizes hazards and congestion on streets and roads. Providing for the community amenities actually reduces traffic on the roads while allowing for the recreational activities to take place in the owner's backyards.
4. Adequate provisions will be made for buffering, landscaping, trees, open space, stormwater and other improvements associated with the proposed use. Enhanced landscaping is shown around the boat and RV storage areas.
5. The requested special exception is consistent with the Charlotte County Comprehensive Plan and land development regulations.
6. The establishment, maintenance and operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare. Providing these types of amenities are required in new communities to enhance the public health, safety and general welfare.

Charlotte County often struggles with it's platted land problems. Allowing individual subdivisions to provide amenities, after the fact, when the same amenities could be provided as part of the new subdivision, help lessen the burdens that the platted lands place on Charlotte County.

Based on the foregoing, it is respectfully requested that the special exception to allow community amenities on ES and CG zoned properties be approved.

Respectfully submitted this 7th day of June, 2007.



Robert H. Berntsson, Agent

(Exhibit F-2)



MEMORANDUM

Date: August 18, 2014
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Subject: SE-14-014, Waterview Preserve Community Amenities

The Zoning Environmental Review Section has conducted a cursory review (additional wildlife or environmental reviews may be required by state and federal agencies) of the above referenced petition for compliance with Environmental, Tree and Landscaping codes or ordinances and offers the following comments:

- ❖ The subject properties are undeveloped (with the exception of boardwalks built by adjacent homeowners) and contain environmentally sensitive upland and wetland habitats utilized by species listed by the Florida Fish and Wildlife Conservation Commission (FWC) and U.S. Fish and Wildlife Service (FWS).
- ❖ Several areas within the subject property have been illegally cleared and filled in the past. The unpermitted clearing and filling that has taken place in the Environmentally Sensitive (ES) zoning areas is NOT consistent with the intent of the Environmentally Sensitive (ES) designation. It is recommended that all homeowners who live adjacent to these environmentally sensitive zoned properties be educated on the intent of the Environmentally Sensitive (ES) zoning designation to deter and prevent future violations.

If this petition is approved, the following conditions will be reviewed for compliance upon Site Plan Review (if required) and the issuance of any county permit or land improvement activities:

(continued on page 2)

(Exhibit H-1)

- ❖ All applicable county, state and federal authorizations or permits, and mitigation (if necessary) will be required.
- ❖ If this proposal moves forward, it will be reviewed for compliance with:

Chapter 3-2:

Article IX. *TREE REQUIREMENTS*

**All heritage trees (per Section 3-2-190) must remain preserved.

Chapter 3-5:

Article IV, *CLEARING, FILLING AND SOIL CONSERVATION*,
Article XV, *SURFACE WATER AND WETLAND PROTECTION*,
Article XV, *UPLAND BUFFER ZONE*,
Article XVI, *OPEN SPACE/HABITAT RESERVATION TRUST*,
Article XVIII, *LANDSCAPING AND BUFFERS*.

Chapter 3-9:

Article III, *SPECIAL REGULATIONS, Section 3-9-70*.

- ❖ The project must also comply with the Charlotte County Smart Charlotte 2050 Comprehensive Plan with particular attention paid to the Natural Resources (ENV) and Coastal Planning (CST) Goals, Objectives and Policies.

If there are any questions pertaining to this review please feel free to contact me in the Zoning Division office at (941) 743-1290.

JS

(Exhibit H-2)