



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, March 13, 2024, 9:00 a.m. – Room 119

Charlotte County Administration Center
18500 Murdock Circle, Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Board Member:

Blair McVety, Chair
Steve Vieira, Vice-Chair
Nichole Beyer, Secretary
Turner Rouse
Andrew Filieo

Staff:

Shaun Cullinan, Planning/Zoning Official
Thomas David, Asst. Co. Attorney
Elizabeth Nocheck, AICP, Sr. Planner
Kimberly Sargent - Recorder

I. Call to Order

Chair McVety called the March 13, 2024, meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. Pledge of Allegiance

Chair McVety led the members and the audience in reciting the Pledge of Allegiance.

III. Roll Call

Roll call was taken; a quorum was present. Turner Rouse and Andrew Filieo was absent from the meeting. Andrew Filieo arrived late.

IV. Swearing In of Those Giving Testimony

Kimberly Sargent swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: A motion was presented by Ms. Beyer and seconded by Mr. Vieira to approve the minutes of February 14, 2024, meeting of the Board of Zoning Appeals which passed with a unanimous vote.

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the March 13, 2024, Board of Zoning Appeals meeting none were submitted.

VII. Introduction of Staff/Comments

Chair McVety introduced staff. Shaun Cullinan, Planning and Zoning Official, read the Zoning rules, Asst. County Attorney David, and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. New Business

The following petitions were advertised on February 27, 2024: VAR-24-002, VAR-24-003, SE-24-001, SE-24-002, SE-24-003, and SE-24-004

VAR-24-002

Mary Jane Farlow is requesting two variances: (a) to reduce the required 45-foot front yard setback by 11.7 feet to allow a 33.3-foot front yard setback, and (b) to reduce the required 27.5-foot south side yard setback by 12.7 feet to allow a 14.8-foot south side yard setback, to allow an existing detached garage to remain "as-is," in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 6167 Stamp Street, in Port Charlotte, and is described as Lots 10 & 11, Block 3828, of the Port Charlotte Subdivision, Section 72, located in Section 06, Township 41 South, Range 21 East. The Parcel ID for subject property is 412106176017.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Mr. Vieira said I have a question, in the material that we received and through the applicant's variance. There is an invoice that outlines the make up of the construction of the facility or the building. I am just wondering was that included with the permit application, because it clearly defines and I don't want to dredge up everything, all the mistakes that were made. He talks about the sixteen-foot leg height which clearly indicates the building was going to be bigger than it should be and require an adjustment. Was that submitted with the application?

Ms. Nocheck said I can not speak to this specific document being in the permit package, I don't have the permit package with me. The wall height was noted in the permit.

Mrs. Sargent does roll call for Mr. Filieo who is now present.

Chair McVety asks Mr. Cullinan do you have the authority to sign off something similar like this and not bring it here. I don't know where you're your authority.

Mr. Cullinan no sir, my authority is only for administrative variances which is 10% of the required setback or one foot, whichever is greater. So, for the front it would be a two and half foot max, ten percent of twenty-five feet.

Chair McVety there is something that you could have done.

Mr. Cullinan something this large no unfortunately not, and yes, the county staff did error on this. That staff member as Elizabeth stated is no longer with community development. We aired on it, and we are bringing it forth as such.

Applicant Presentation

Mary Jane Farlow, applicant, said she was sworn in. **Ms. Farlow** said I would appreciate the variance or the consideration due to the fact that it was approved, and we went forward with the building, and had no idea.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Mr. Filieo. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

Chair McVety said if this thing wasn't so tall, we wouldn't even be here right?

Ms. Nocheck says correct.

Chair McVety so what I'm saying it's not too close to any of the property lines except for the fact that it's tall.

Mr. Cullinan said correct when we rewrote this code about 2018, I was the author of those changes to the code. As you can see this photo illustrates it pretty well, the scale of the garage in terms of the height compared to the single family one story residential structure next to it. The intent was to move that closer to there so that it wouldn't be infringing upon neighboring properties. The double lot they put it right at the set-back then you as a neighbor may have this large structure looming over your property. So, the intent was if you're going to increase the wall heights higher than a typical single-family residence roughly. Then you would have to move that closer to you to minimize the impacts to any adjacent property owners.

ACTION: *A motion was presented by Steve Vieira and seconded by Nichole Beyer that Petition VAR-24-002 be APPROVED based on the Community Development Staff Report dated March 6, 2024, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with three conditions recommended by staff.*

Motion was approved with a unanimous vote with the following three conditions:

1. The variances, as approved by the Board of Zoning Appeals, are: **(a)** to reduce the required 45-foot front yard setback by 11.7 feet to allow a 33.3-foot front yard setback, and **(b)** to reduce the required 27.5-foot south side yard setback by 12.7 feet to allow a 14.8-foot south side yard setback, to allow an existing detached garage to remain "as-is" in its current location on subject property.
2. The variances shall only apply to the existing detached garage, as shown in the documents submitted with this application.
3. If the existing detached garage is removed or replaced, the variances shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time. This condition shall not apply to removal or replacement caused by a natural disaster or involuntary destruction of the detached garage.

VAR-24-003

Thomas Salamone is requesting three variances: (a) to reduce the required 25-foot front yard setback by 25 feet to allow a 0-foot front yard setback, (b) to reduce the required 7.5-foot north side yard setback

by 7.5 feet to allow a 0-foot north side yard setback, and (c) to reduce the required 7.5-foot south side yard setback by 1.5 feet to allow a 6-foot south side yard setback, to allow an existing 6-foot-tall fence to remain "as-is," in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 9350 Panama Circle, in Port Charlotte, and is described as Lots 18 & 19, Block 4391, of the Port Charlotte Subdivision, Section 71, located in Section 21, Township 41 South, Range 21 East. The Parcel ID for subject property is 412121327006.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Thomas Salamone, applicant, said he was sworn in. Mr. Salamone said to start by there are no structural columns down the side of the property. They only exist in the front by the gates, that's just regular fencing down the sides with regular fencing posts. I was told I didn't need a permit, simple fact that Charlotte County doesn't come out to look at it that's what I was told. When there are six neighbors plus with the same type of fencing, I have. Second of all my dog did get out and did take somebody down on a bicycle. He's got something with tires, I don't know what it is. I fear for my neighbors I do have some neighbors who live directly on my block that are here to support me. Also, the neighbor that turned me in is not my neighbor, he's from Connecticut and he lives miles away. So, I am kind of confused on that one. I thought I can have a fence, the fence in my yard and it's not a lot of property for a German Shepard to run. Also, I feel security reasons we have a lot of people who come and knock at the door, solicitors. My wife is home alone, I do work, and I am an owner of a business, but I am not a licensed contractor. I do own the company, but I have a qualifier. So yes, I should have known better, I should have done more investigation. I did not do that, and I apologize about that. But to move the fence at this point is a financial hardship, beings I am trying to retire at the end of the year.

Mr. Vieira asks were you the contractor who built the improvements.

Mr. Salamone said on my home?

Mr. Vieira said yes.

Mr. Salamone said yes sir.

Mr. Vieira said you built the fence and?

Mr. Salamone said yes. As far as the columns go, I do have engineered drawings for that. I did follow code. I don't know what else I can say at this point.

Chair McVety opened the meeting to Public Comments.

Public Input

Charles Hughes, said he was sworn in. I am a neighbor of Mr. Salamone. I just wanted to show my support for him I don't have facts that you require. The whole neighborhood is here, I live next door to him. We are not opposed to the fence, we like the fence, we like his home. So, we're here in support and I just wanted to let you know.

Thomas Salamone Jr., said I am his son. I just want to touch on the financial hardship and what's not being addressed it the walkways, the planters, the trees, and the landscape that's been done around it. So, it's not just a mere matter of moving the fence back to the proposed set-back. It's a lot of other

things that have to be changed the garage is right there. It's going to cause a lot more financial hardship on him to just plain and simply moving a fence. It's that's basically what I am to put out there for you guys.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Ms. Beyer. The public comments was closed with a unanimous vote.

Mr. Cullinan said just to address a couple of the items brought up had this been properly permitted ahead of time. That financial hardship aspect that their claiming would not have occurred because it would have been properly permitted. The landscaping is all in the front of the house, so they could go up to that front of the house without affecting any of the landscaping in the front as with any other property. With respect to the dog, I have got a high energy dog, he runs around in my back yard as well. It's part of dog ownership, but we still have regulations. A four-foot-tall fence can be allowed within the front setbacks up to the front property line. This is more than what code allows hence that's the reason they're here. Finally, there is obviously structures that have been, well they may or may not be structural. Obviously, they are engineered, they are items that would not normally be allowed in the front setback. They are considered structures, there is just a lot of situations here that had this contractor licensed or owner of the business. Had he just contacted us he would have known ahead of time. We do have some concerns, the other thing that I now remembered, we have had numerous people throughout south gulf cove, and many other places throughout the county wanting similar types of fences. Again, there is nothing unique in fact this is a double lot, this is more than twice the minimum. There are other options available while we state typically variance don't set precedence. This one could have the possibility of setting a precedent. Because the only unique thing is that they have a dog that likes to get out, lots of people have dogs that like to get out. Mine included, and so this could have an effect that maybe unwanted throughout the county, maybe not, just wanted to put that out there.

Chair McVety just to review, we can have a six-foot fence from the front corners of the house back and in the back yard, and as soon as you pass the front of the house it's got to be a four-foot fence.

Mr. Cullinan said four foot non opaque so split, not solid or three foot solid.

Chair McVety asks the lights count as height on the pillars, I did not know that.

Mr. Cullinan the lights can yes, you can have like pillar caps and things like that is typically wrought iron fences. I've got a similar wrought iron fence in my yard but it's the four-foot one. You got the pillar caps that come up higher those don't count towards the height. It's just the fence, but the concrete pillars would be counted as height as they're structures. They both have a discussion on this.

Asst. Co. Atty. Thomas David says Mr. Chair I hate to disagree with Mr. Cullinan, but this does not create a precedent if you were to approve it. Their individual applications do not create legal precedence thank you.

Mr. Vieira asks Mr. Cullinan could I ask, could we put up G2 I think is the survey that shows the fencing. Which improvements in the right of way? Can you illustrate that for me.

Mr. Cullinan this is hand drawn onto the survey; I don't believe any of the improvements have actually been done in the right of way. They've been done within the front yard setback. But on the property, it does not appear that they are within the actual right of way.

Mr. Vieira says, and, on the south, I'll use it as the right-hand side of the illustration. Is there anything structural there or built in a right of way?

Mr. Cullinan again it's all on property, on the sides it would be in the adjacent properties, it possibly that back corner that box, I don't know if that is a column or if it's just a noting the end of the fence. Part of the fence isn't in any right of way, but it is within the six-foot utility and drainage easements as well as on the other side, the same thing.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

Mr. Vieira asks a question, I will wait.

Chair McVety asks the applicant if this does gets passed are you ok with the recommendations.

Mr. Salamone said yes.

Chair McVety asks and you will go get a permit.

Mr. Salamone said I actually tried to do that, and they actually stopped me until we went through this meeting. I wanted to get it immediately when I found out I had to have one. Also, for the record it's not just about the dog it's about security too. My wife is home all alone during the day, and I am afraid that somebody comes right to the door. There was a shooting two blocks over from me, still haven't found the guy. I don't know what could happen, I like security, I'm sorry.

Mr. Vieira if this gets approved, I have a particular issue with item number three, I think that a year is far too lenient. The work is done, it was done with out a permit, there was no consultation with the county that it was done. I think that a year is far too lenient in this case. I would recommend that we amend that to read that it would be an immediate application for approval, so that we keep track of what is going on there and conclude this whole item.

Asst. Co. Atty. Thomas David said Mr. Vieira if you could put a date on it, I think the only, we'd like to have a date. So, that we can enforce it and the only thing I would suggest if he does not have a signed and sealed survey. He is going to have to get a signed and sealed survey. We have had everybody that comes into the department says they can't get surveys. So, some reasonable period of time is fair, if you don't think a year is reasonable then some reasonable period of time would be great. If you want to amend it to six months, three months whatever.

ACTION: A motion was presented by Steve Vieira and seconded by Nichole Beyer that Petition VAR-24-003 be APPROVED based on the Community Development Staff Report dated March 6, 2024, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with the four conditions recommended by staff including an amendment to item number three. The applicant to obtain no later than six months after approval of this variance. All required permits for fencing, and support columns included, including occupation of easement agreement, that's part of the required permits, current signed and sealed survey for the

property that's required. Failure by applicant to secure the permits required under this condition shall render this variance void and no further affect.

Motion was approved with a 3-1 vote with the following four conditions:

(Mr. Vieira, Ms. Beyer, and Mr. McVety voted for approval; Mr. Filieo voted against approval)

1. The variances, as approved by the Board of Zoning Appeals, are: **(a)** to reduce the required 25-foot front yard setback by 25 feet to allow a 0-foot front yard setback, **(b)** to reduce the required 7.5-foot north side yard setback by 7.5-feet to allow a 0-foot north side yard setback, and **(c)** to reduce the required 7.5-foot south side yard setback by 1.5 feet to allow a 6-foot south side yard setback, to allow an existing 6-foot-tall fence and support columns to remain "as-is" in their current locations on subject property.
2. The variances shall only apply to the existing fencing and support columns, as shown in the documents submitted with this application.
3. The applicant shall obtain no later than six (6) months after approval of this variance all required permits for the fencing and support columns, including an Occupation of Easement agreement. As part of the required permits, a current signed and sealed survey of the property is required. Failure by applicant to secure the permits required under this condition shall render this variance void and of no further effect.
4. If the fencing or support columns are removed or replaced, the applicable variance shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

Mr. Vieira asks how do we monitor if there is no action that's taken by the applicant? How do we monitor that, do we wait six months, do we do a review.

Ms. Nocheck said this is an ongoing code enforcement case, he still has an open code case because he still doesn't have permits or anything. So, code enforcement regularly does their inspections, and they follow that process.

Mr. Vieira said so is code then stayed until he complies with our request.

Mr. Nocheck said yes.

SE-24-001

Robert Berntsson, representative for MRT Lawn & Garden Center, Inc., is requesting a special exception to allow outdoor retail display and outdoor storage of materials, equipment, and vehicles, for a garden center, in the Commercial General (CG) zoning district. The property is located at 2775 El Jobean Road, in Port Charlotte, and is described as Parcels P5-3, P5-3-1, and P6-2, located in Section 15, Township 40 South, Range 21 East. The Parcel ID for subject property is 402115253002.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Robert Berntsson, representative for the applicant, said he was sworn in. Mr. Berntsson said we do accept Elizabeth as an expert for this hearing. I do have some pictures that I want to hand out, they're similar to what you have, but just so you have them in front of you. We join in the staff report we indicate that we have met the required criteria for the granting of the special exception. What it really comes down to in this case, is just some of the conditions as proposed or one of the conditions as proposed. That is condition number seven, with regard to the type D landscape buffer. I'll direct your attention to the screen in front of you and also the pictures that you have. This picture that you have in your packet, this is the outside area of where the bins are. Where there requesting a type D buffer, with an eight-foot wall. The wall would have to go behind these plants, which is adjacent just about touching the concrete wall that's there. So, you have a concrete wall with an eight-foot wall and then this landscape. In the staff report they note that the landscaping on site has been well maintained since it was originally installed. But when they get to this area, they talk about concerns that this will deteriorate over time and not be taking proper care of. This is a lawn and garden center, their presentation to the public is what their place looks like. They have done a fantastic job of buffering this existing approved storage bins. So, our request is that we not be required to put in the type D buffer with an eight-foot wall along Biscayne Blvd. those areas shown in yellow on exhibit K. We are willing to have the type D buffer on the north as it goes against that triangle piece and comes down the side of the storage area. But we would like to do it as a type D buffer without a wall. Again, they're in the landscape business their intention is to have a well-groomed facility with ample landscaping that invites the public in to shop there. Ironically one of the conditions is to remove the Brazilian Peppers which is what they did along the bank of the canal sometime ago. Which opened up the view of the facility to the neighbors across the canal. But with that one change to condition seven not requiring the landscape type D buffer with the eight-foot wall along Biscayne Blvd. we're in general agreement with the conditions as presented.

Asst. Co. Atty. Thomas David asks can I just clarify this I want to make sure I am understanding what the request is in change in the language. So, on seven it says a type D landscape buffer with an eight-foot wall, eight-foot-tall sight obscuring fully opaque fence or wall. Shall be constructed and planned around the perimeter of the areas to be used for outdoor storage. You want to insert except along Biscayne Boulevard, as shown on.

Mr. Berntsson said well actually it would be a type B landscape buffer, we don't want to put the wall in there. We want to do a type D buffer that's the full planting of a type D buffer.

Mr. Cullinan said the Areca Palms that are being referenced, those are additional plantings, those were not required nor were they shown on the landscape plans. The landscape plans were all developed to code minimum which is what's required. Therefore, they could go in this afternoon should this be approved and remove those plantings, those Areca Palms. Because those were not required plantings hence that's the reason why we're looking to enhance that to make sure that its A. a buffering standard remains. The Areca Palms, they don't meet any necessarily tree points or any other requirements. They do grow nicely not gonna lie it looks nice out there, but they are not required under the current approvals, and they added them additionally to buffer which we do appreciate. But there's nothing that precludes them from going in this afternoon and cutting them down. So that's why we put this condition on to make sure that ya know or somebody else. They could sell it next week to some other person that doesn't want the Areca Palms they cut them down and then there is not buffer there right along those. So, that's why we're trying to put in the requirement for the buffer, because this is being more heavenly utilized now. Obviously, they're expanding their operations and so that's why we're increasing the requirements due to that.

Mr. Bertnsson said we would have no objection to saying the existing landscaping along Biscayne Boulevard should be maintained. Which I think would accomplish the same thing.

Chair McVety opened the meeting to **Public Comments**.

Public Input

Carol Iverson I am the neighbor across the canal that he just spoke of. **Ms. Iverson** said I'd like to show you this picture of the beautiful view they gave me once they cleared the bank. That's the view I see from my lanai, from my great room, from my dining room table and from my kitchen. When they first cleared the bank, I went over to the office and the warehouse to ask them if they were going to put some landscaping there and the gentleman wasn't there. So, I left my name and my number he never called me. A week later I sent an email which he ignored, so I really don't consider them very good neighbors. So, now I get to look at a warehouse every day, day in and day out. When a landscaping company doesn't do landscaping when they give you a beautiful view like that. Like I say I don't consider them very good neighbors. I don't trust what they're gonna do for storing, because they have pallets there which come and go, they have trucks there which come and go. I am happy to see that green line because that means they're gonna have to put something there that's gonna break up the warehouse view. So, I don't know gentleman and ladies what it's gonna become. I know the front the Ace hardware is beautiful they do a good business they're a wonderful company, they take care of you. The landscaping at the front is beautiful, it's always maintained so I have no doubt that if they say they're going to maintain their landscaping. I know they will because they do a beautiful job of it. But I've been here since 2007 I plan on being here a while longer and I hope I don't have to look at a warehouse from now on.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Mr. Filieo. The public comments was closed with a unanimous vote.

Ms. Nocheck says Mr. Chair for the record we will enter the photographs provided by the applicant as exhibit L for the record.

Chair McVety said we also have one from the young lady.

Ms. Nocheck said that will be exhibit M.

Chair McVety asks Mr. Bertnsson if he would like to speak on what she just said about seeing the warehouse from her house.

Mr. Bertnsson said yes so, first of all is what I indicated to, they removed the exotics and that's what's required as part of this, it's required basically in any development that comes forward. They didn't remove any mangroves they removed the exotic Brazilian Peppers. But we are in agreement with the buffer as proposed. The type B either the green line or the yellow line, that will be determined during the site plan review process but with the revised conditions that we propose. We would respectfully request your approval of the special exception.

Chair McVety asks is that gonna block her view from the warehouse?

Mr. Bertnsson said it will soften it; it's not going to block it.

Mr. Cullinan said and what Mr. Berntsson referred to yes, the code requirement for any development even a single-family house is removal of all exotic vegetation on the site. This has been zoned commercial general as well as the property across the canal since the beginning. So, this regardless of what developed here under a commercial general would have been required to meet all the removal of the exotics.

Mr. Vieira said just for the record Mangroves are not an exotic, correct?

Chair McVety said no they're not.

Mr. Cullinan said that is correct.

Mr. Vieira the removal of those Mangroves.

Mr. Cullinan said removal of Mangroves would require state permitting if there were any Mangroves there. The county does not regulate those that is under state jurisdiction, the county is not accepted any Mangrove trimming or removal standards. That falls under the State of Florida.

Mr. Vieira said and as a condition of permitting for the original business than that would have had to gone through the state to verify that there were or were not Mangroves there. A discussion takes place with Mr. Cullinan.

Mr. Berntsson said I can assure you that my client has indicated they did not remove any Mangroves.

Elizabeth Nocheck presented the recommended conditions for the petition.

Mr. Berntsson said we would just request that condition seven be amended to read, a type D landscape buffer shall be constructed and planted around the perimeter of the areas to be used for outdoor storage as shown on the annotated concept plan exhibit K except along Biscayne Boulevard.

Asst. Co. Atty. Thomas David said Mr. Chair we would have a slightly different version of that to what you want to amend it, let me reads this because I have discussed it with staff. A type D landscape buffer without a fence shall be constructed and planted around the permitter areas to be used for outdoor storage as shown on the annotated concept plan exhibit K. The areas adjacent to Biscayne Blvd. shall not require a type D landscape buffer described in this condition. The existing landscaping along Biscayne Boulevard shall perpetually be maintained and then there is not change on the remainder of the conditions.

Mr. Berntsson said we would accept that.

Asst. Co. Atty. Thomas David said that would be if you decide you wanted to amend condition seven.

Ms. Nocheck said staff would like to reiterate their concerns about the future of the of the property. We understand that the current business owners maintain the property in great condition, and it looks nice. But if they were to sell tomorrow a new owner could come in and not maintain it and then we have a big open outdoor storage area on a portion of the site with no buffer.

Mr. Berntsson said and that would be subject to a code enforcement case.

Board Member Comments and Questions

None

ACTION: A motion was presented by Andrew Filieo and seconded by Steve Vieira that Petition SE-24-001 be APPROVED based on the Community Development Staff Report dated March 6, 2024, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception noting the conditions of approval modification to number seven regarding the type D buffer without a fence shall be included with the fourteen conditions recommended by staff.

Asst. Co. Atty. Thomas David said that would be the version read by the Assistant County Attorney.

Chair McVety asked Mr. Filieo if he is ok with that.

Mr. Filieo said I am perfectly ok with that.

Chair McVety said accepted.

Motion was approved with a unanimous vote with the following fourteen conditions:

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow outdoor retail display and outdoor storage of materials, equipment, and vehicles as an accessory use to a garden center business and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, parking, vegetation removal, fencing, stormwater management, and landscape plan approval.
3. The storage of debris, heavy machinery, or hazardous materials is prohibited. One semi-truck trailer may be permitted to be kept on site, provided the semi-truck trailer remains on wheels, is operational, and is parked out of view from public rights-of-way.
4. Only commercial vehicles owned by the business operating on subject property may be stored on site. Rental of storage spaces to other commercial vehicles is prohibited. Small machinery, such as bobcats, skid steers, telehandlers, excavators, front end loaders, and forklifts may be stored on site.
5. Items permitted for outdoor display include plants, trees, pottery, statuary, and customary garden accessories.
6. Items permitted for outdoor storage include landscaping materials such as stone, gravel, mulch, and similar materials. Materials stored in bins shall not exceed 8 feet in height.
7. A Type D landscape buffer without a fence shall be constructed and planted around the perimeter of the areas to be used for outdoor storage, as shown on the Annotated Concept Plan (Exhibit K). The areas adjacent to Biscayne Boulevard shall not require the Type "D" Landscape Buffer described in this condition. The existing landscaping along Biscayne

Boulevard shall be perpetually maintained. A Type B buffer shall be installed along the western property line. The Type B buffer may be placed adjacent to the western property line or between the stormwater retention pond and the outdoor display area or a combination thereof. The use of chain link fencing as part of the required buffers is prohibited. Existing vegetation may be used towards the required buffer plantings. Final design of the required buffers shall be determined during the Site Plan Review process.

8. Outdoor storage of materials, equipment, and vehicles shall be limited to the areas shown on the **Concept Plan** (Exhibit H) provided by the applicant. Any change to the location(s) of outdoor storage on subject property shall require the modification of the special exception.
9. An 8-foot-wide perimeter landscape strip with a continuous hedge row of at least 3 feet in height shall be planted along the south and east property lines, as shown on the **Annotated Concept Plan** (Exhibit K). Any proposed fencing shall be located behind the required trees and shrubs.
10. Any perimeter outdoor lighting shall be directed towards the interior of the property.
11. Any special event exceeding 100 attendees or unrelated to the primary use of the property as a garden center, including but not limited to farmers' markets, car shows, concerts, will require a Temporary Use Permit.
12. Any future building(s) shall meet or exceed all applicable Commercial Design Standards set forth in Chapter 3-5, Article XXIV, as may be amended. Storage/shipping containers may not be kept on subject property unless enhanced to meet the Commercial Design Standards.
13. This Special Exception is granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
14. Any major changes or additions to this special exception shall require a modification of the special exception, including a change in type of business located on site. A change in ownership shall not require the modification of the special exception, provided the business operations as a garden center business remain. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

SE-24-002

Clifford Walker is requesting a special exception to allow accessory structures to exceed 3,000-square feet, to allow a 3,876-square foot detached garage for a total allowance of 4,312-square feet of accessory structures, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 6620 Riverside Drive, in Punta Gorda, and is described as portions of Blocks 13, 14, 16, and 17, located in Section 26, Township 40 South, Range 23 East. A full legal description of subject property is available on file. The Parcel ID for subject property is 402326201002.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Mr. Vieira asks Shaun was this property the subject of a planning and zoning issue not too far ago or was the adjacent property one of the two of them?

Mr. Cullinan said I don't recall.

Ms. Nocheck said yes it was, I can answer that for you. The property right next door we just did a variance for this structure that was built years ago. That's last year in 22 or 23 I am not sure.

Mr. Vieira said jogging the property line.

Mr. Cullinan said so this would be the property that it jogs into. Your memory is better than mine sir.

Applicant Presentation

Clifford Walker, applicant, said I am the owner of the property. Mr. Walker said I just want to have a garage that I can build, park my personal items in and use it for personal use. So, I just need a bigger one because we got a lot of personal stuff to put in there.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Mr. Filieo. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Steve Vieira and seconded by Andrew Filieo that Petition SE-24-002 be APPROVED based on the Community Development Staff Report dated March 6, 2024, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with seven conditions recommended by staff.

Motion was approved with a unanimous vote with the following seven conditions:

1. The Special Exception, as approved by the Board of Zoning Appeals, is to exceed the maximum of 3,000-square feet for accessory structures on a property greater than one-half acre in size, to construct a 3,876-square foot detached garage, for a total allowance of 4,312-square feet of accessory structures, and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Site Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to tree removal, environmental review, and building permits.
3. The detached garage shall be constructed to match the materials and colors of the existing single-family residence.

4. The detached garage shall not be used for the purposes of storing any commercial vehicles, construction materials, heavy machinery, or hazardous materials.
5. The construction of any additional accessory structures will require a modification of the Special Exception.
6. This Special Exception is granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
7. 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, may be approved by the Zoning Official.

10:43 Recess

10:48 In Session

SE-24-003

Robert Berntsson, representative for Acorn Port Charlotte, LLC, is requesting a special exception to allow the outdoor storage of boats, trailers, and recreational vehicles, in the Commercial General (CG) zoning district. The property is located at 3740 El Jobean Road, in Port Charlotte, and is described as Parcel P2, located in Sections 21 & 22, Township 40 South, Range 21 East. A full legal description of subject property is available on file. The Parcel ID for subject property is 402122301001.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Robert Berntsson, representative for the applicant, said he was sworn in. Mr. Berntsson said this property is zoned commercial general, with a commercial general future land use. This property could have a car dealership, RV dealership, boat dealership which would have cars and RVs on site as an allowed use. Allowed conditional use under the code without any approval by the Board of Zoning Appeals. What we are seeking approval for is the outdoor storage of boats, RVs, and the like on site. Not commercial vehicles but boats and RV's. In addition, there will be traditional mini storage buildings located on the site. The county raises concern over these types of vehicles being on El Jobean Road and indicates it is a FDOT road. If any turn lanes or deceleration lanes were required that would be determined through the site planning process. I do note however that the county has located one of their boat ramps a few miles down the road on 776. Where obviously boats are coming and going without any deceleration lanes or acceleration lanes out of their facility. So, I think that the most important thing that we have to remember is that this is a commercial use that many commercial uses. Gas stations, car dealerships, boat dealerships all of those can go in as of right. Any use that goes in can have a parking lot, up adjacent to the wetlands as well. The difference here is that we have gone through permitting to date to obtain wetland permitting from the state agencies. I'm gonna ask the owner to come up and make a few comments just to give the board some history of their business. Then the project engineer to address the wetland issue.

David Fahmey, I own the property, 3740 El Jobean Road, Acorn Port Charlotte LLC. Mr. Fahmey said our project serves an immediate need to the citizens of Charlotte County by supplying a much-needed service. Our company offers RV and boat storage along with traditional self-storage. This will be a class A facility with state-of-the-art security cameras and will be completely fenced in. to give added security

to our customers. We will also have keypad access gates and night lighting for additional security. Our company has been in business since 1998 and it's a family-owned business. We have never had an environmental problem in any of our facilities, we built over a million square foot of self-storage. Myself, and my two sons run the business. We're on the sites monthly and we take good care of our facilities. We have never had a problem, not one problem since 1998. There are approximately twenty-seven thousand registered boats in Charlotte County and thousands of RV's. So, this will be a much-needed storage facility for the citizens of Charlotte County. I am happy to answer any questions.

Asst. Co. Atty. Thomas David said Mr. Chair I have one question for the applicant please. Can you tell me whether your application contained a science-based analysis of possible impacts to the environmental resources of these lands in the manor in which these impacts can be eliminated. Is that part of your application?

Mr. Fahmey said that's something that my civil engineer would have to answer.

Thomas Radcliffe said I am a civil engineer, and I was sworn. **Mr. Radcliffe** said I have just a couple of things to add before we begin, know that there are not three but four wetlands on the property. There shown on the plan they've been defined; they've been surveyed, and the jurisdictional survey has been approved and made of record by SWFMWD for the entire forty-eight acres. So, those are defined there is no question about where the wetlands are. Of course, we've already said we have a problem with the two-hundred-foot separation from the wetlands. Really, we don't have a problem with the idea, the problem we have is the implementation. The goal here is to protect the wetlands from potential pollutants and what are they. Things that could leak from and RV, things that can leak from a boat, we don't want them running to the wetlands. Well, my design here it can't happen, the sites are graded, and the construction plans have been submitted to the county. They are part of the preliminary package for the first phase, not the second phase. The sites are graded so that all of the paved areas, all of the impervious areas drain away from the wetlands. Now it's done that way by design, it's done that way on purpose, we've obtained for phase A, the first 24.4 acres. The state required SWFWMD environmental resource permit. Which certifies water quality compliance and certifies that we meet those anti-pollution standards. The first half of the site already has that permit in hand. The south half of the site, the entire set of construction plans have been designed, are ready to submit. Meeting the same criteria and have been held waiting on this meeting. This meeting is what's holding us back. I can answer specific questions about how the design is done. But rest assured SWFMWD owning the land adjacent to us that this site discharges to, was very concerned and they have no issue.

Mr. Vieira asks the site plan, I will use the word generic, it's generic for our benefit. But I don't understand how waste disposal is going to occur. How is that going to be managed?

Mr. Radcliffe said when you talk about waste disposal, you're talking about the dump station.

Mr. Vieira said yes.

Mr. Radcliffe said right now currently we're proposing two dump stations we'll probably consolidate that to one in phase B. Based on the recommendation that I heard this morning, we're more than happy to ensure that will be more than two hundred feet from a wetland. I don't know if you're familiar with RV dump stations. Basically, they're foot operated lift lid that you put a hose in, and it runs into the sewer system. Which is this case it's tied to the public sewer, internal sewer system that we designed for the project.

Asst. Co. Atty. Thomas David said same question to the witness. As part of this application was a science-based analysis of possible impacts to the environmental resources of these lands and the manner of which these impacts will be eliminated. Was that submitted as part of the application?

Mr. Radcliffe said we did submit a copy of the approved ERP permits to the county along with the drainage study that goes along with those. That could be considered that document, I haven't been asked to label anything specifically in that manner.

Asst. Co. Atty. Thomas David said so you're saying that it would be your claim that the ERP application is the science-based analysis of possible impacts to the environmental services.

Mr. Radcliffe said which includes the drainage studies, the water quality calculations, the impaired water body calculations all of that is part of that application yes.

Asst. Co. Atty. Thomas David said OK I'm just going to ask it one more time it's a yes or no question. Because I want to make sure, this is a requirement of the comprehensive plan. So, I am going to ask the question one more time and ask for a yes or no answer. Was a science-based analysis of possible impacts the environmental resources of these lands in the manner in which these impacts can be eliminated was that submitted as part of the application.

Mr. Radcliffe said it sounds like you're attempting to ask me a legal question. I'd have to defer to the Attorney, nothing was labeled in that manner, so yes, the technical answer would be no.

Asst. Co. Atty. Thomas David asks Mr. Radcliffe are you a Florida licensed engineer sir?

Mr. Radcliffe I am a Florida licensed engineer.

Mr. Berntsson said so I'll indicate that the testimony that he gave provided, that they provided the same information with a different title to the document and has satisfied that. In addition, I will indicate that the first thing that happens when you submit a special exception application is a sufficiency review. The application was deemed sufficient by the county.

Mr. Cullinan said that is correct, but we don't get into the specifics, a special exception application is a generic application for all special exceptions. It wasn't until we were able to begin the review and research of the applicable standards. Of which it was stated that there were no comprehensive plan policies in the narrative, that had any bearing on this. We did find them and so that's why we are requesting that now. Because again our special exception application is a generalized application. Once we get into the analysis portion of the report that is when we find all these bits and pieces of it.

Mr. Berntsson said was it ever requested of the applicant?

Mr. Cullinan said I would have to defer to Ms. Nocheck on that.

Ms. Nocheck said the applicant was informed with the staff report when that was sent to you that there was that document missing. This is like Shaun said something that did not come up until going through the analysis and research of your application and the analysis of the site.

Mr. Berntsson said so there was never a specific request to provide that document?

Ms. Nocheck said I did send you an email stating that the applicant had not provided that required documentation.

Mr. Berntsson said I don't believe you did, you sent me the staff report.

Asst. Co. Atty. Thomas David said Ms. Nocheck may I ask you just a question. So, is it your professional opinion that a science-based analysis of possible impacts to the environmental resources of the lands in the manner in which those impacts can be eliminated was that submitted as part of this application in your professional opinion?

Ms. Nocheck said not as part of the special exception application no.

Asst. Co. Atty. Thomas David said did you notify the applicants that this application did not have that science-based analysis as part of it.

Ms. Nocheck said I did.

Mr. Berntsson said when did you do that?

Mr. Cullinan said that was sent on Wednesday, 3/6 it states "Good afternoon, Rob, attached is a copy of the staff report, then the next paragraph during staff reviewing analysis it was discovered that this property is subject to ENV policy 2.2.3 developments adjacent to preserve lands. This policy requires submittal of a science-based analysis of possible impacts to the environmental resources of these lands and the manner in which these impacts can be eliminated. As noted in the staff report this has not been provided for the SE or the DRC currently under review and the report is required."

Mr. Berntsson said in fact we're going through a simultaneous site plan review so the documents that the engineer referred to are available to the county is that correct?

Mr. Cullinan said this is for the special exception, the site plan review can't do anything until the use is granted on the property.

Mr. Berntsson said so what you have in the county's possession at this point is the is the permits affecting the wetlands. I think it's up the Board of Zoning Appeals to determine if that information available to the county in the site plan review is sufficient. They can make that in their determination. However, I would also indicate that the environmental policy 3.1.7 prohibited uses in the comprehensive plan. Is something that I was involved with at the time that the comprehensive plan round tables were being held. That policy was specifically written to discourage the pipeline that was being proposed from Tampa to the Fort Myers Airport. Originally when that pipeline was proposed, and it was enhanced in the final adoption of the comprehensive plan. The language itself would prohibit you from mowing your lawn and it's never been interpreted that way. The use storage, transmission or generation of hazardous substance or substances which may artificially accelerate the nutrification of wetlands and water bodies is prohibited within two hundred feet of wetlands. If you have a gas-powered lawnmower, you would be violating the comprehensive plan if you mowed your lawn within two hundred feet of a wetland. That's never the way it's been intended. The state and local regulations to protect wetlands this project has gone through that review and the state has issued the appropriate permits. Just stop and think of the practical reality, the site drains away from the wetlands. It is graded in such a way that any run off or any material that would come off a vehicle is going to drain into the storage facility on site for retention and detention and ultimate discharge to the adjoining state lands.

Which the state has issued permits for. So, with that I would indicate to you that there is a great need for this type of use. We are building more and more deed restricted communities in Charlotte County. You have all of the West Port area; you have other area that have deed restrictions that prohibit the storage of your boat or your RV at your home and these are the type of facilities that are needed to provide the service for the residents of Charlotte County. I submit to you that we have met the criteria for the granting of the special exception that the county has the information it needs to determine any wetland impacts. That is what is going to be done, again at the site plan review process before any permits are approved for this project for both the construction of the mini warehouse facility as well as for the outdoor storage. We would request and the approval of this special exception that conditions number 8 & 9 be deleted. There is no scientific basis for outdoor storage being prohibited within two hundred feet of a wetland and there is no scientific basis for the dump stations and the wash stations to be located two hundred feet from a wetland or any property boundary as all of those facilities are part of the stormwater facilities that enter the stormwater facility for the project and will have no impact on the wetlands.

Asst. Co. Atty. Thomas David said Mr. Bertsson generally the attorneys here are providing argument on behalf of the clients sometimes I know that you've been sworn, in this case we're you sworn, are you providing testimony, are you providing argument on behalf of the client.

Mr. Bertsson said I indicated at the beginning that I was sworn in.

Chair McVety said how much of the surfaces paved and how much is not.

Mr. Bertsson said we need the witness and what he said is that all of the underneath carports are paved, and all the driveways are paved.

Asst. Co. Atty. Thomas David said I have one additional question for the witness please. Your testimony was that the ERP applications were submitted in for this property is that correct?

Mr. Radcliffe said my testimony was that the ERP's applications were submitted for the north half of the property, twenty-four point four acres.

Asst. Co. Atty. Thomas David said so the entire property has not been submitted and they both discuss.

Mr. Vieira asks could you show me a dividing point between phase A and phase B.

Mr. Radcliffe said do you see the area there labeled building D, the south side of that building go down to that corner now go basically go straight across to the east property line including the north half of what's labeled their stormwater. Then it extends all the way down the east property line in a strip about forty foot wide there is a spreader swale there discharging the final treated run off into the SWFWMD property.

Mr. Cullinan said before we open the public comment, I've got a couple of points that I would like to bring up as well. With respect to one Mr. Bertsson's argument regarding new boat sales, new car sales, new vehicle sales those are transient as well as new. Those are also constantly being moved, as there being sold and new ones coming in. So, nothing is sitting there as that's the point of sales. They are also once again brand new they typically do not have the well they may, there are some brands out there that aren't so great. They typically do not leak fluids, nor are they regularly cleaned, are they regularly maintained on site. This would be essentially what we call dead storage where somebody

would be storing their vehicle for an extended period of time. Thereby giving the ability they'll probably be in there cleaning it as it was stated. They'll be doing dumping of tanks most likely they'll be doing some repairs, some cleaning, and somethings. While the stormwater system maybe designed part of the science-based study would be based on what happens when it goes into the water body. Therefore, perks down into the ground, because that is part of what occurs in stormwater systems is things perk down into the ground. As we know from Brownfield sites things like that. Once oils and other fluids go into the ground they can travel very far. Some of the other issue that I have concerns with stated by Mr. Berntsson with respect to his statement that the county does have the document per his statement in hand. That was not part of this application, the section specifically states that developments adjacent to preserve lands the county shall require developers submitting for a special exception, planned amendment, rezoning or site plan review for property adjacent to federal, state or county wildlife management areas, parks, preserves and reserves. Supply a science-based analysis of possible impacts to the environmental resources. That was not supplied for the application for the special exception. He was notified of it last week on the 6th, they could have submitted that, emailed it if they feel that that is the science-based study. They could have sent that into us to complete the package and then maybe this would be a moot discussion. But we're not aware of that, we're not currently reviewing the site plan review. Because we can't really review a site plan review on a project that technically does not have any rights to construct the project that they have submitted for at this time.

Mr. Berntsson said I would submit to you that we have our state permit that shows there will be no impacts to the wetlands. So, there are no possible impact to wetlands so there is no report required.

Ms. Nocheck said as part of the environmental study that is required, it goes beyond wetlands. There are also concerns regarding the wildlife that is living in the preserve land. That is their home, it's dark on purpose, if you start developing with lots of bright lights how is that going to affect the wildlife. There are protected species in this area, and that was a rejection comment from our environmental reviewer I believe for site plan review. Was that they need to do a study of bonneted bats and other protected species for this site. No information about how they intend to mitigate potential impacts to the wildlife. They are surround completely by a preserve on three sides. So, that has not been provided as well.

Asst. Co. Atty. Thomas David said Mr. Berntsson can certainly address that. But I suggest we do the public comment and allow Mr. Berntsson to make his rebuttal when that time comes after public comment.

Chair McVety said just small trivia that doesn't make a difference but eighty percent of all boats in the State of Florida are on trailers, even though I wish they were all on boatlifts.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Mr. Filieo. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Rebuttal

Mr. Berntsson said I submit to the board that we have met the criteria for the granting of the special exception and that is ensured as well by the conditions specifically the conditions for lighting, that lighting is directed towards the interior of the property and should be shielded or designed with wildlife friendly lighting product. There is not scientific basis for requiring conditions 8 & 9. This project goes through site plan review, it has state agency review, the county site plan review will ensure protection to the wetlands, and I submit to you that that's not appropriate at this board level. Those studies can be addressed through the site plan review process and these wetlands can be adequately protected both the by state and county permitting. I respectfully request your approval without conditions 8 & 9.

Mr. Cullinan said if I may briefly rebut as was stated by Ms. Nocheck it's not just stormwater which is what SWFWMD would be looking at. Though this property is owned by SWFWMD as well as the TIFF as we call it the state board of trustees. The folks that review stormwater are not necessarily the same folks that review other impacts to other things. Such as animals and wildlife so just because one portion of SWFWMD maybe reviewing a document for what they review the document for that does not mean that other sections or other agencies maybe reviewing the document.

Mr. Berntsson said we do have species reports that will be submitted as part of the site plan review process.

Asst. Co. Atty. Thomas David said to the extent that the board concludes that this special exception should move forward it should be approved. I would like to submit just for consideration an additional condition. Which would be the following the special exception is conditioned upon the applicant submitting no later than ninety days after the date of the board's approval. Any and all reports required under the comprehensive plans ENV policy 2.2.3. The counties zoning official shall evaluate and respond to the submitted reports no later than ninety days after receipt and shall issue an opinion describing required revisions to the special exception or shall provide a developer's agreement that specifies how the development will mitigate impacts to the adjacent lands. Zoning officials' opinion may be appealed pursuant to the county code. I just offer that for your consideration Mr. Chair.

Mr. Berntsson said we would object to that, and they are gonna have their bite at the apple thru the site plan review. I don't think there is subjective determination by the zoning official. At this point he'll have the same opportunity in the site plan review process to make that determination and they can determine that application incomplete.

Asst. Co. Atty. Thomas David said I feel it's my duty Mr. Chair just to advise you that I think the county would potentially have to challenge this approval absent a report complying with the comprehensive plan. I think that a failure to have a report, having been reviewed by staff prior to the special exception being approved. Would be a violation of the comprehensive plan it's my legal opinion and I don't know how that would work out in court. But it could be very possible that this would be one that we have to challenge our own board. So, I just want to put that out there for the record.

Mr. Berntsson said I submit there is substantial evidence that's part of the application process that the board can make a determination that we have complied with the criteria for granting of the special exception. There are thousands of policies in the comprehensive plan, and you look at the comprehensive plan as whole. Have you met the intent of what the comprehensive plan desires and requires and I submit to you that we have. We respectfully request with the approval that you delete conditions 8 & 9. Then a small discussion takes place between Chair McVety and Asst. Co. Atty. Thomas David.

Board Member Comments and Questions

Chair McVety said and ten, **Mr. Berntsson** said no ten is fine. **Chair McVety** said no ten is the one he just said, **Mr. Berntsson** said his was thirteen, **Asst. Co. Atty. Thomas David** said that was an additional one for consideration.

ACTION: A motion was presented by Andrew Filieo and seconded by Steve Vieira that Petition SE-24-003 be DENIED based on the Community Development Staff Report dated March 6, 2024, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Variance with eleven conditions recommended by staff.

Mr. Berntsson asks would the board entertain a request to continue to the next board meeting so that we can provide that report.

Asst. Co. Atty. Thomas David said we generally under the rules require that a continuance be submitted in advance. However due to the fact that this report requirement was received by Mr. Berntsson only on the 6th and the applicant may not have had a sufficient amount of time to put that type of report together. I think a continuance for sixty days would be the appropriate one. I do not believe that they can do it in the next meeting. But if you're telling me, you think you can do it by the next meeting.

Mr. Berntsson said if we could be continued to a date.

Asst. Co. Atty. Thomas David said Mr. Chair it's within your discretion to approve a continuance to the next meeting.

Mr. Berntsson said we would ask to go to the May meeting, so that's roughly sixty days, it doesn't have to be readvertised.

Asst. Co. Atty. Thomas David said he is asking for a continuance to the May meeting and advertising costs and etc. would be on the applicant.

Mr. Berntsson said there would be no need to advertise because it's being continued to a date certain.

Asst. Co. Atty. Thomas David said do we readvertise for a re-agenda right?

Mr. Cullinan said we typically do at least the newspaper advertisement as well as the posting on the site.

Mr. Berntsson said that's fine.

Chair McVety said is it up to me to give him a continuance?

Asst. Co. Atty. Thomas David said it would be up to the board.

Mr. Vieira asks what happens to the motion that's on the floor then?

Asst. Co. Atty. Thomas David said the appropriate would be for the maker of the motion to withdraw the motion if that's what his wish is and for the seconder to withdraw the second and then you would put a new motion to continue the item until the May meeting and then you would vote on it.

Action: A motion was presented by Mr. Filieo to withdraw his motion at this time for the purpose of continuance and seconded by Mr. Vieira.

Action: A motion was presented by Mr. Filieo to continue SE-24-003 to the May 2024 meeting of the BZA and seconded by Mr. Vieira.

Motion was approved with a unanimous vote.

SE-24-004

Robert Berntsson, representative for Taylor Prime Properties, LLC, is requesting a special exception to allow the outdoor storage of boats, trailers, and recreational vehicles, in the Commercial General (CG) zoning district. The property is located at 6800 Taylor Road, in Punta Gorda, and is described as Parcel P4-6-1, located in Section 27, Township 41 South, Range 23 East. The Parcel ID for subject property is 412327352001.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Mr. Vieira said could you show me for illustration purposes where the opaque wall or fence will be, where it would lie on the property.

Ms. Nocheck explains to Mr. Vieira and discusses it with him, and they discuss along with boundary lines.

Applicant Presentation

Robert Berntsson, representative for the applicant, said he was sworn in. Mr. Berntsson said we accept Ms. Nocheck as an expert for purposes of the hearing. We join in the staff report, we indicate that we have met the three criteria for the granting of the special exception. As I've indicated to you previously more and more development, more and more deed restricted communities are going up in this area. You have the whole Burnt Store corridor which is seeing a lot of development activity and those are typically deed restricted. You have the Turn Bay development DRI down there. You have other deed restricted communities. There is a need for these upscale RVs to have a place to be stored. We join in the staff report, we accept all the conditions as proposed, and I'm happy to answer any questions.

Chair McVety opened the meeting to Public Comments.

Public Input

David Carll, I am a member of the Alligator Park Board for the association and also the chair of the planning committee, said he was sworn in. Mr. Carll said first of all we are in favor of this development. If this property is to be developed at all, this is probably as benign of use as one could expect. Our concerns though are visual and noise, to a lesser extent lighting. The lake itself is a recreational lake it's called here a stormwater pond. We are a little bit concerned about drainage, the drainage that currently goes into this lake is minimal from a surface standpoint. Everything north of the lake is intercepted by a swale that runs east and west along the north property line. The division line between the lake which doesn't show on this drawing and the Alligator Park itself. Alligator Park surface drainage goes into that swale, you can see the mobile homes. Talks about the bare area that is used for golf carts. Talks about the tree area and it marks a drainage swale, it goes to Taylor Road and up Taylor Road to Alligator Creek. Any additional surface drainage that comes from this property development

will need to be intercepted in some fashion. Hopefully before it goes to the lake itself to the pond. The current development is all vegetated surfaces now and pretty wild habitat. Certainly, removing all of that will create some surface drainage issues. We would like to be taken into consideration. Sewer is also a concern for us, as far as I'm aware there is no city sewer in that area. Alligator Park itself treats its own sewerage, the Taylor Center flows its sewerage to Alligator Park as well and we treat it. We don't have capacity to handle any additional sewerage that may come from this particular development. The dump stations also are a concern, you've classified them as only being a hundred feet from the lake. The previous application required them to be two hundred feet, I'm not conversing with the absolute requirements in that regard but because there is no city sewer. That sewerage is going to have to be treated on site. That creates a concern for us. In the upper left-hand corner of the lake, the northwest section of the lake. The green area that's our property well maybe formerly listed as a wetland, probably meets most of the requirements for a wetlands. We would like to have that be given consideration in the development of the storage area.

Noreen Litchfield, I have been sworn in. Ms. Litchfield said I am a resident of Alligator Park in fact my home, this picture says 2023 it's older than that. My homes been in place since 2016, I'm on the north side of the lake and my bedroom and my living room windows look right out at the lake. I have several concerns that Dave had already mentioned several. My concern is visual because you're requiring an eight-foot-tall buffer, class D buffer, but RVs are typically over twelve feet tall and then the awning canopy over them is going to be even higher. That will change the visual look of both the lake and my home. In addition, if my understanding the lighting can be up as high as the buildings. Which means that again would be over that eight-foot buffer. I have concerns about the sewerage treatment as Dave had mentioned and how the wastewater is going to be kept out of the lake. It's a big problem and not only just from the dump station but from mobile home parking, boat parking, and so on the wash stations how that's going to be kept out of our lake. Will any maintenance or repairs be allowed on site; will people be able to change their oil or transmission fluid or do any of those other things on site? That raises also a concern thank you.

Stephen Donaldson, I have been sworn in, I am the owner of the property that is on the south side of the subject property. Mr. Donaldson said there is about four acres there, that's us right there you're circling my home right now. First, I would like to thank the county for looking out for our interest of which you are proposing with the fencing it fantastic. All the concerns I have here have actually been addressed. So, I just want to add that the cause that area I've been around there with the previous owner. There are pathways there has been some garbage, it looked like there may have been some homeless living at some time. Also, there are pathways through there and also there has been some dumping. So, we actually welcome this development I think it will get rid of a lot of that stuff.

Diane Mosca, I have been sworn in, I live in the deed restricted community across the street. Ms. Mosca said I am worried about esthetics of course to I don't understand about the buffer D. So, is that going to be along Tamiami Trail? I am across the street from it, from Tamiami Trail and Burnt Store Meadows. So, is there going to be a fence or anything to block all the trailers in there? I just want to understand.

Ms. Nocheck said there will be a type D buffer required around the perimeter of the site. So, it will be along all the property lines here, as Ms. Nocheck shows Ms. Mosca on the monitors and explains it all and they discuss.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Mr. Filieo. The public comments was closed with a unanimous vote.

Rebuttal

Robert Berntsson said just a few comments. First of all, I applaud the association for recognizing that this is one the more benign uses that you could have in an existing zoned commercial area. There are many uses that could go in there without a special exception that would be much more active and probably have much greater impact on the surrounding properties. So, I applaud the association for that. Obviously, our drainage will go through all of the required stormwater permitting any discharge will have to be through the state regulations. Lighting will be towards the interior of the site. The dump stations will be pumped out so that's not something that just sits there forever, they are pumped out. I think that addressed most of the concerns, the back of the structure may actually serve as the wall with the landscaping on the outside of that. But it will be well buffered by the type D buffer, like I said at the beginning we accept all the conditions as presented and respectfully request your approval of the special exception.

Elizabeth Nocheck presented the recommended conditions for the petition.

Mr. Berntsson we would ask that, I thought that condition allowed it as it's written. But if it needs to say something else, we would like it to say what it needs to say that the rear of the storage area may count as the wall.

Chair McVety says the wall of the storage area to be the same as a fence.

Asst. Co. Atty. Thomas David said so we would add that to number four is that what you're saying Elizabeth.

Ms. Nocheck said yes sir.

Asst. Co. Atty. Thomas David said so we will add a sentence to number four that says the back wall of a code compliance structure may be substituted for the eight-foot-tall sight obscuring fence during site plan.

Mr. Berntsson said I was good with what it said originally.

Ms. Nocheck said Tom will write that up and it will be officially entered in and thank you.

Mr. Berntsson said I am sorry I didn't realize that that I thought a wall was a wall.

Board Member Comments and Questions

None

ACTION: A motion was presented by Steve Vieira and seconded by Nichole Beyer that Petition SE-24-004 be APPROVED based on the Community Development Staff Report dated March 6, 2024, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception and item number four will be amended as read into the record by Asst. Co. Atty. Thomas David for the eleven conditions recommended by staff.

Motion was approved with a unanimous vote with the following eleven conditions:

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow the outdoor storage of boats, trailers, and recreational vehicles, and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, right-of-way access, vegetation removal, fencing, stormwater management, environmental permits, and landscape plan approval.
3. The storage of construction materials, debris, heavy machinery, semi-trucks, hazardous materials, or commercial vehicles including landscaping trucks and dump trucks, is prohibited.
4. A "Type D" Landscape Buffer with an eight-foot-tall sight-obscuring (opaque) fence or wall, shall be constructed and planted around the perimeter of the area to be used for outdoor storage, as shown on the **Concept Plan** (Exhibit G), provided by the applicant. The use of chain link fencing as part of the required buffer is prohibited. A code-compliant structure may be substituted for the required fence or wall.
5. Any perimeter outdoor lighting shall be directed towards the interior of the property.
6. Any future building(s) shall meet or exceed all applicable Commercial Design Standards set forth in Chapter 3-5, Article XXIV, as may be amended.
7. The outdoor storage use may not be used until all required improvements are completed, including the required buffers, and a Certificate of Occupancy has been issued.
8. Any wash stations or dump stations shall not be permitted within 100 feet of the east property line.
9. Outdoor storage shall not be permitted within 100 feet of the south property line.
10. This Special Exception is granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
11. Any major changes or additions to this special exception shall require a modification of the special exception, including a change in type of outdoor storage. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

Asst. Co. Atty. Thomas David said the agenda called for the Video to be played today for Sunshine training but since we have one of our newer members absent and due to the late hour. I would request that we move that to the next meeting please.

Chair McVety said I was going to ask you that since we have a very sickly lady up here and one missing person.

Asst. Co. Atty. Thomas David said she hung in there though.

IX. Public Comments –
None

X. Staff Comments –

Asst. Co. Atty. Thomas David said the agenda called for the video to be played today for Sunshine training but since we have one of our newer members absent and due to the late hour. I would request that we move that to the next meeting please.

Mr. Cullinan said Happy Saint Patrick's Day to everybody.

Ms. Nocheck said we have four petitions for next month, one variance and three special exceptions. Two of them are to amend special exceptions you guys approved not that long ago.

XII. Next Meeting

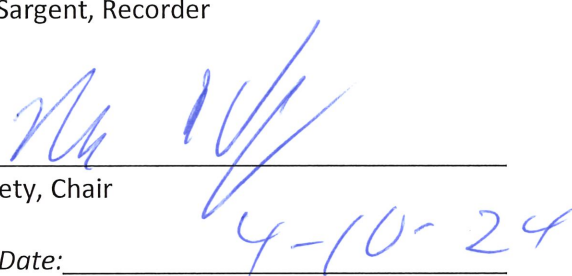
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, April 10, 2024, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 12:18 a.m.

Respectfully submitted,
Kimberly Sargent, Recorder
/kas

Blair McVety, Chair

Approval Date: _____

Handwritten signature of Blair McVety in blue ink, with the date "4-10-24" written below it.