

**CITY OF FORT MYERS
BOARD OF ADJUSTMENTS
MINUTES OF THE MAY 25, 2022, MEETING**

On May 25, 2022, at 1:30 p.m. the City of Fort Myers Board of Adjustments met in the City Council Chambers, Oscar M. Corbin, Jr. City Hall, 2200 Second Street, in the City of Fort Myers, Florida.

ROLL CALL

Andrew Fitzgerald called the meeting to order at 1:30 p.m.

Members Present

Marvin Burges
Blake Bartholomew
Andrew Fitzgerald
Steven Weisberg

Members Absent

Elizabeth Kagan
Solomon Mitchell Jr.
Anthony Gargano

Planning Staff Present

Nicole DeVaughn, Planning Manager
Monique John, Administrative Assistant
Taryn Thomas, Senior Planner
Cary Mock, Zoning Officer

Other Staff Present

Grant Alley, City Attorney
Anthony Palermo, Assistant Community Development Director
William Porter, Engineer, Public Works

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PLEDGE OF ALLEGIANCE COMMENCED

Grant Alley, City Attorney, swore in all witnesses.

EX PARTE COMMUNICATION ON ANY AGENDA ITEMS: None

APPROVAL OF MINUTES: It was moved by Mr. Burges to approve the minutes of March 23, 2022, seconded by Mr. Weisberg, and unanimously approved 4-0.

ITEM NO. 1 PUBLIC HEARING: CONDITIONAL USE FOR A PROPERTY LOCATED AT 4440 EXECUTIVE CIRCLE TO ALLOW THE CONSTRUCTION OF A VEHICLE SALES AND SERVICE CENTER. (QUASI-JUDICIAL) (WARD 2)

Nicole DeVaughn, Planning Manager, Community Development Department gave the staff presentation as follows:

BEGIN STAFF REPORT

PUBLIC HEARING: Consider approval of a Conditional Use application to allow a vehicle sales and service center at 4440 Executive Circle.

Application Information

Owners:	Colonial Hammock SWFL LLC
Agent:	Jennifer Sapen, Barraco & Associates
Addresses:	4440 Executive Cir., Fort Myers, FL 33916
Location:	North of Colonial Blvd., east of Veronica S. Shoemaker Blvd., and south of Executive Cir.
Size:	4.7 acres, more or less
Zoning:	Planned Unit Development (PUD)
Future Land Use:	Traditional Community (T/C)
Request:	A conditional use to allow a vehicle sales and service center.
Case Number:	CU21-0011

Request

Jennifer Sapen, Barraco & Associates, representing the owners, Colonial Hammock SWFL LLC., requests approval to allow the construction of a new vehicle sales and service center. The property is within the Colonial Hammock Planned Unit Development, which was approved by Ordinance No. 3808, adopted on June 19, 2017. The PUD allows all uses within the Commercial General (CG) zoning district, which requires vehicle sales and service uses to be approved through the Conditional Use process.

Comprehensive Plan Compliance

Staff finds the proposed vehicle sales and service center consistent with the City's Comprehensive Plan, specifically Policy 1.5 Traditional Community and Policy 1.17 as follows:

Future Land Use Element:

Policy 1.5) Traditional Community (T/C) contains areas located in close proximity to residential and existing commercial areas or corridors accommodating employment centers, where commercial services are necessary to meet the projected needs of the City. These areas are specifically designated for a mix of residential and commercial uses and the requisite infrastructure needed for commercial development is generally planned or in place. A maximum base density established in the Land Development Regulations, not to exceed 25 dwelling units per acre (25 du/ac), with a maximum bonus density of thirty-five dwelling units per acre (35 du/ac) may be permitted through a process outlined in the City's Land Development Regulations. Criteria for bonus densities include, but are not limited to, incorporating Leadership in Energy Efficient Design (LEED) standards, pedestrian connectivity, exceptional architectural design, and other considerations. A Floor Area Ratio no higher than two (2 FAR) shall be used as an index of intensity for non-residential development in this land use category.

Action 1.5.1) Single-family residential uses or single-family platted lots existing as of October 26, 2010, shall be grandfathered and considered a legal non-conforming uses. New single-family residential uses, other than bona fide caretaker residences, shall be permitted through the Planned Unit Development process as detailed in Policy 1.17.

Action 1.5.2) Commercial retail developments, hotels and motels, banks, all types of office development, research and development, public, and other similar development will predominate in the Traditional Community land use designation. Limited light industrial uses may be permitted. Any re-designation of land to Traditional Community land use category should occur near major travel corridors and at road intersections.

Action 1.5.3) All new developments in this category must connect to the City's potable water and sanitary sewer systems.

Policy 1.17) Within each land use classification, the Land Development Regulations shall distinguish between permitted uses and conditional uses.

Action 1.17.2) Conditional uses are uses that would not be appropriate generally or without restrictions throughout a particular district classification, but if controlled as to number, area, location, and relation to the neighborhood, may be an acceptable use.

Staff Findings

Staff finds the request consistent with Land Development Code Section 98.3.8.D. which lists five (5) potential adverse impacts that shall be considered prior to approval by the Board of Adjustments. Staff's review of each is as follows:

1) Impacts on the local economy, employment, and property values.

Staff Response: The proposed vehicle sales and service center will have a positive impact on the local economy, employment, and property values.

2) Impacts on the natural environment, including air, water and noise pollution, vegetation and wildlife, open space, noxious and desirable vegetation, and flood hazards.

Staff Response: There will be no adverse impacts on the natural environment if this conditional use is approved. There are no environmentally sensitive lands on the subject property.

3) Impacts on historic, scenic, and cultural resources, including views and vistas, and loss of degradation of cultural and historic resources.

Staff Response: There will be no adverse impacts as there are no historical or cultural resources in the area of the subject property.

4) Impacts on public services, including water, sewer, surface water management, police, fire, parks and recreation, streets, public transportation, marinas and waterways, and bicycle and pedestrian facilities.

Staff Response: City water, sewer and solid waste collection services are available to the site. This conditional use will have no adverse impacts on public services.

5) Impacts on housing and social conditions, including variety of housing unit types and prices and neighborhood quality.

Staff Response: The proposed vehicle sales and service center will have no adverse impacts on the variety of housing types or on neighborhood quality.

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Public Notice

In accordance with the notice of public hearing requirements in Section 98.3.1.H., 29 letters were sent to all property owners within 300 feet of the site, the properties were posted with official signs from the City stating the date and time of the hearing, and notice of the hearing was published in the News-Press a minimum of 10 days prior to the hearing. No letters or emails regarding this request were received as of the writing of this staff report.

Staff Recommendations & Conditions

Staff finds the request for a conditional use to allow a vehicle sales and service center, consistent with the Comprehensive Plan; that the granting of the Conditional Use meets the criteria for consideration of adverse impacts outlined in Section 98.3.8.D., of Land Development Code, and recommends the Board of Adjustments approve the request with the following conditions:

1. The site plans prepared by Barraco and Associates Inc., dated April 21, 2022, and landscape plans prepared by David M. Jones Jr. and Associates dated April 21, 2022, are approved in concept only. Compliance with the Land Development Code will be determined during the review of site work and building permits.
2. Construction shall commence within three (3) years of the date of approval.

END STAFF REPORT

PUBLIC INPUT: Wes Anderson, city resident, stated that the residents in the area had several concerns, for instance the adverse effects. Mr. Anderson stated that the auto turn calculations that were done for the property were not sufficient and that car haulers onto the property would be parking on Executive Circle to load and unload vehicles. Mr. Anderson stated that since the proposal for the property was a used car dealership, there is a good possibility of vehicles leaking fluids. Mr. Anderson advised that all the surrounding properties used the stormwater management system drainage system provided by the Castalina Planned Unit Development (PUD) in which the residents were solely responsible. Mr. Anderson state the residents would like to confirm that the proposed new development would be just as responsible for any discrepancies or clean up situations as the residents. Mr. Anderson stated that once all the surrounding developments in addition to the proposed vehicle car center were finished, it was going to cause a significant increase in traffic which was an adverse impact to the residents of Castalina.

Mr. Fitzgerald advised that the applicant had stated that the proposed use would reduce traffic compared to other uses that were permitted to be on the parcel.

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Mr. Anderson stated that as a property owner of Castalina that he was told when he purchased the property that there would be different uses placed on the outer parcels other than the uses that were being proposed. Mr. Anderson expressed significant concern for the ability to get in and out of the Castalina Community and advised that the residents wanted the issues to be taken into consideration before the request was approved.

Mr. Fitzgerald stated that the applicant would need to demonstrate through the site permit that the residents would still be able to access the site with the use that was being proposed.

DISCUSSION: Mr. Fitzgerald asked if the commitments made by the applicant played into the staff recommendation and finding of facts of the adverse impacts.

Ms. DeVaughn advised that staff met with the applicant's team regarding the site plan and some of the issues had been resolved by the applicant making certain commitments to accommodate staff concerns.

Mr. Fitzgerald asked if the site plan in the board packet adequately applied the commitments made by the applicant.

Ms. DeVaughn advised that was correct.

Mr. Weisberg asked the applicant if there were any issues with there not being any car carriers allowed to be parked on Executive Circle.

Steve Hartsell, attorney representing the applicant, stated that there were no issues with the car carriers not parking on Executive Circle. The amount of traffic impact from the proposed car dealership would be less than what would be seen for a different commercial use allowed under the PUD. Mr. Hartsell also stated that there had already been a commitment made that vehicle transporters were required to drop off the vehicles during operating hours only and must load and unload within the site only. Mr. Hartsell stated that emergency vehicles would also be able to access the site and that there would be no vehicles parked on Executive Circle. Mr. Hartsell stated that the surrounding uses that were being developed were not part of the proposed project.

Mr. Weisberg asked if the median on Winkler Avenue was a directional, or full access median.

Ted Treesh, transportation consultant for the applicant, advised that it was a full access median. Mr. Weisberg asked if the median at Veronica Shoemaker boulevard and Executive Circle was full as well. Mr. Trash advised that was correct.

Mr. Weisberg stated that his only other concern was environmental issues as far as state, federal, and local pollution control.

Mr. Hartsell advised that all the required water quality standards would have to be met.

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Mr. Bartholomew asked what the overall length of the haulers coming in and out were.

Mr. Hartsell advised approximately 48 feet.

Mr. Bartholomew asked if the applicant was confident that a 50-foot fire truck would be able to access the site.

Mr. Hartsell advised that was correct and that there was adequate turn radius.

Ms. DeVaughn suggested adding a stated condition to the staff report that all the vehicles would be loaded and unloaded on site only and prohibited from parking on Executive Circle.

Mr. Hartsell stated there was no objection.

MOTION: It was moved by Mr. Burges to accept the findings of fact of adverse impacts as contained in the staff report, seconded by Mr. Weisberg and unanimously approved 4-0.

It was moved by Mr. Weisberg to approve the conditional use for 4440 Executive Circle in compliance with the three following conditions:

1. The site plans prepared by Barraco and Associates Inc., dated April 21, 2022, and landscape plans prepared by David M. Jones Jr. and Associates dated April 21, 2022, are approved in concept only. Compliance with the Land Development Code will be determined during the review of site work and building permits.
2. Construction shall commence within three (3) years of the date of approval.
3. Vehicle transporters shall load and unload vehicles on the subject property and only during normal operating hours. Vehicle transporters are prohibited from parking in any right-of-way.

Mr. Alley asked if the request had been heard by the Planning Board.

Ms. DeVaughn advised that conditional uses were not heard by the Planning Board.

Mr. Alley read the duties and responsibilities of the Board of Adjustments in order to make a motion.

The motion was seconded by Mr. Burges and unanimously approved 4-0.

OTHER BUSINESS: There being no other business the meeting ended at 2:19 p.m.



City of Fort Myers, Florida

PO DRAWER 2217
FORT MYERS, FLORIDA 33902-2217

December 18, 1998

Brittany Associates, LTD
9400 Gladiolas Drive, Suite 250
Ft Myers, FL 33908

RE: BOARD OF ADJUSTMENT PUBLIC HEARING – DECEMBER 16, 1998
4050 WINKLER AVENUE EXT. – BRITTANY APARTMENTS
STRAP #32-44-25-P2-00063.0050

To Whom It May Concern:

On December 16, 1998, the Board of Adjustments was asked to consider your request for a variance from the Growth Management Code as follows:

- A) Section 24-5(1)(6) Winkler Avenue Development District special setback – The minimum setback for buildings and structures shall be 80 feet. A maximum of 2 rows (1 double-loaded aisle) of parking may be located in the front yard setback if desired. When parking is located within this front yard setback, a screening wall or fence of solid construction shall be required. This decorative screening wall is not to be 1 solid expanse of wall. The wall segments shall be a maximum length of 60 feet with openings every 60 feet for a distance of 60 feet and minimum wall segment length of 30 feet with openings every 30 feet for a distance of 30 feet, the intent being a direct proportion of wall segments to open space. Therefore, the wall segments/open space segments shall be a minimum length of 30-foot intervals up to a maximum length of 60-foot intervals. The open space shall be landscaped with earth berms, shade trees and shrubs. The screening wall shall be located 20 feet from the property line and at least 25 feet from intersections with driveways and intersections with other streets (see section 29-59). The wall shall meet the height requirements as set forth in section 25-271. The applicant is proposing to relocate the clubhouse at 49 feet. The applicant is proposing to put in a berm and landscaping in lieu of the walls.

The Board granted the variance as requested for the building setback and landscaping as presented in Exhibit E.

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Should any person(s) be aggrieved by a decision of the (Zoning) Board of Adjustments they may, within 30 days from the date of the hearing, seek review of such decision by Court.

Sincerely,

BUILDING AND ZONING DEPARTMENT

A handwritten signature in cursive script that reads "Elizabeth P. Kagan". The signature is written in dark ink and includes a long, sweeping horizontal line at the end.

Elizabeth P. Kagan, Chairman
(Zoning) Board of Adjustments

EPK/ah

Cc: Karen Bishop, PMS, Inc. of Naples, Naples, FL,