

STAFF REPORT
Community Development Department
File Number: SE-12-016

To: Charlotte County Board of Zoning Appeals
From: Shaun Cullinan, Zoning Official *SC*
Prepared By: Ken Quillen, AICP, Planner III
Report Date: November 6, 2012 **BZA meeting date:** November 14, 2012

Requested Action/General Information:

Connie Volpe is requesting a special exception to allow a Home Occupation, consisting of, clinical massage therapy, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The subject property is located at 1141 Rotonda Circle in Rotonda West (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Residential Single-family-5 (RSF-5). This property has a Low Density Residential Future Land Use Map (FLUM) designation.

The applicant has submitted the attached **Boundary Survey** (Exhibit A), which shows the existing residence and attached garage located on this 10,238 square foot lot. The applicant has also submitted a **Floor Plan** (Exhibit B) of the residence showing the location and size (15' by 20' = 300 square feet) of the room proposed to be used for the home office. No more than 20% of this 3,500 square foot home (700 square feet) may be used for this home occupation. Code requires two off-street parking spaces for a single-family residence. This residence has an existing two-car attached garage and circular driveway with room for at least four off-street parking spaces. The applicant has stated in their narrative (Exhibit C) that only one client will be coming to the home at a time by appointment, therefore parking should not be an issue for this proposed home occupation.

The home occupation regulations in section 3-9-79 states: "It is the intent of this section to allow the operation of home occupations in any residential zoning district by special exception, and to regulate them so that a neighbor, under normal circumstances, will not be disturbed or inconvenienced. The following conditions must be met and complied with." A copy of the Home Occupation regulations and the ten conditions required for the operation of a home occupation is attached on **Pages 1938.3 and 1938.4** (Exhibit D). The applicant has stated that she will abide by all ten conditions required in Section 3-9-79 of the Zoning Code.

The applicant has also submitted the attached **Narrative** (Exhibit C) explaining why they believe a special exception should be granted. The Community Development Department's Environmental Specialist has performed a cursory review and their comments are in the attached **Memorandum** (Exhibit E) dated October 24, 2012.

Findings: The six standards for approval of a Special Exception according to Section 3-9-7(f) of the Charlotte County Zoning Code are as follows:

1. The requested special exception is either explicitly permitted in the zoning district for which it is requested or is permitted by reasonable implication within that district.

Finding: Home occupations are allowed by special exception in the RSF zoning districts as long as the conditions listed in Section 3-9-79 are complied with.

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

Finding: This property will continue to be used as a single-family residence. This residence and the proposed home office, which may be considered an accessory use, would be compatible with the surrounding residential area.

Direction	Existing Land Uses	Existing Zoning	Future Land Use Map Designation
North	Single-family residences	RSF-5	Low Density Residential
South	Single-family residences	RSF-5	Low Density Residential
East	Vacant residential lots	RSF-5	Low Density Residential
West	Single-family residences	RSF-5	Low Density Residential

3. Adequate access shall be provided for ingress and egress to the proposed use in a manner that minimizes hazards and congestion on streets and roads.

Finding: A circular access drive already exists off of Rotonda Circle for this existing single-family residence and adequate off-street parking is available for the existing single-family residence as well as the proposed home occupation.

4. Adequate provision has been made for buffers, landscaping, trees, open space, storm-water or other improvements associated with the proposed use.

Finding: The existing use is a single-family residence, which is a low intensity use. Staff believes there is no need for additional buffering or screening of this single-family residence due to the addition of the proposed home occupation.

5. The requested Special Exception is consistent with the **Smart Charlotte 2050 Plan** (Charlotte County Comprehensive Plan) and Land Development Regulations.

Finding: The use will continue as a single-family residence and the proposed home occupation is consistent with the **Smart Charlotte 2050 Plan** and Future Land Use classification of Low Density Residential. The proposed home occupation may be permitted with a special exception by the Zoning Code.

6. The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety or general welfare.

Finding: Staff believes that the proposed home occupation, consisting of clinical massage therapy, would not be detrimental to or endanger the public health, safety or general welfare of the surrounding properties, because the principal use will remain a single-family residence.

ANALYSIS AND CONCLUSIONS:

After review of the site and the application requesting this special exception staff believes that the proposed home occupation does meet the six criteria for granting a special exception.

If the Board of Zoning Appeals decides to approve the requested special exception staff recommends the following conditions be adopted, as conditions of approval, to ensure the use is in compliance with the purpose and intent of the Zoning Code. The conditions are as follows:

1. This special exception shall allow a home occupation, consisting of clinical massage therapy, only as an accessory use to the existing single-family residence.
2. This special exception, allowing a home occupation, shall be conducted according to all of the standards and conditions of Section 3-9-79, as amended, of the Zoning Ordinance.
3. Any major modifications, or change in the type of home occupation conducted, shall require a modification to the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

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

Attachments: Staff Report (3), Location Map, Zoning Map, Aerial Photograph, Boundary Survey, Floor Plan, Narrative, Section 3-9-79 (2) and Environmental Specialist Memorandum



Community Development

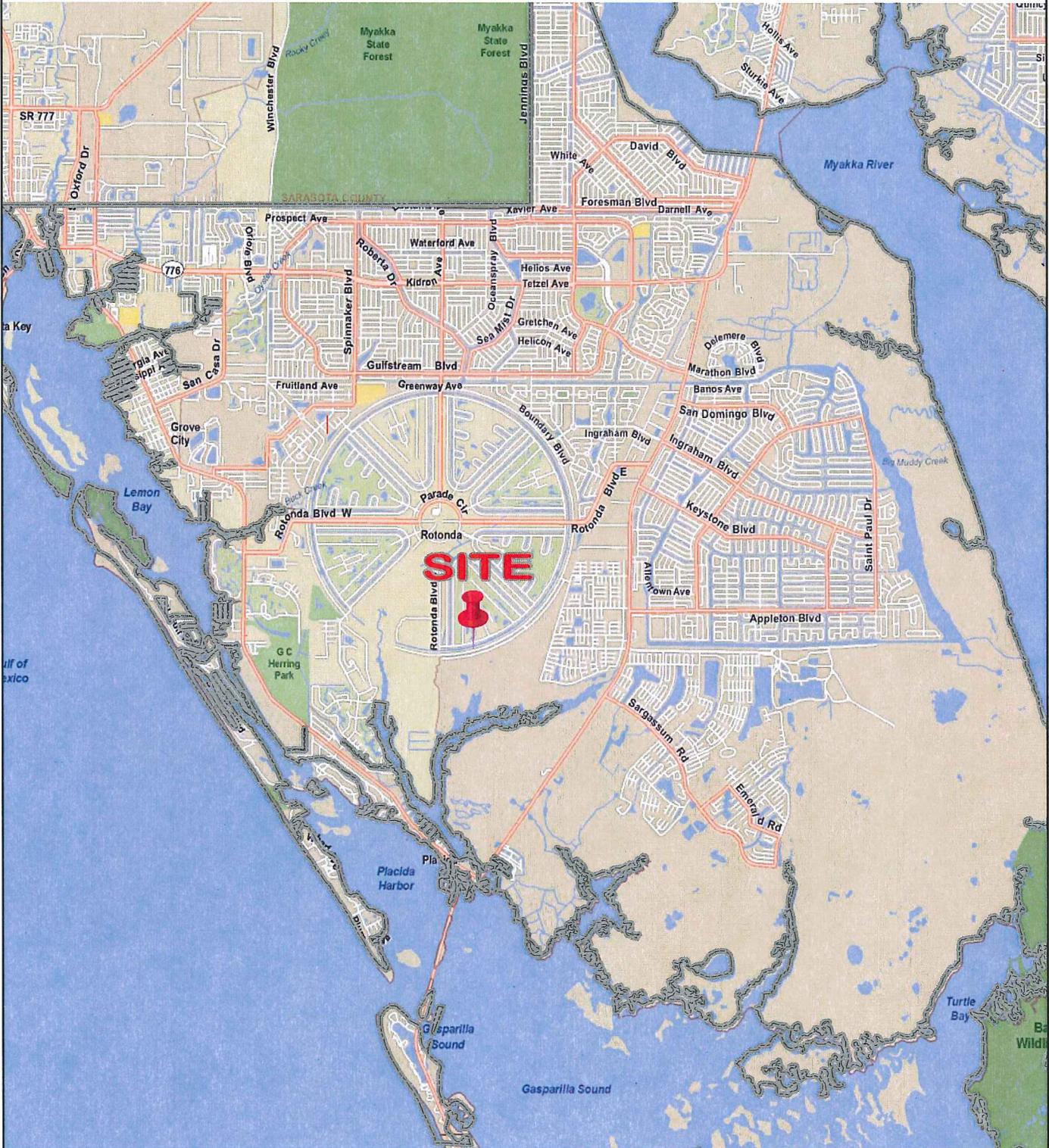
CHARLOTTE COUNTY

Location Map for SE-12-016

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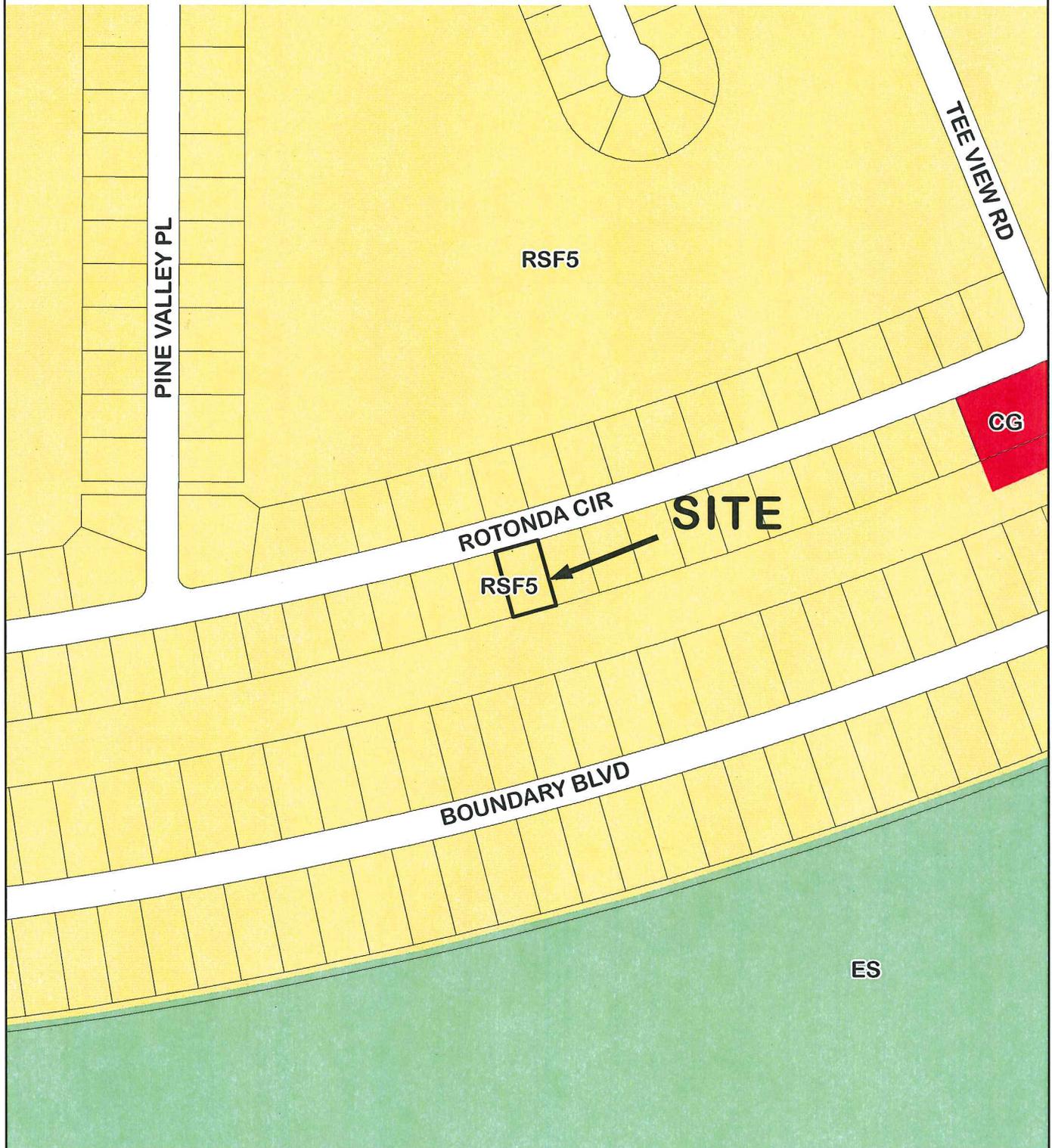
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Zoning Map for SE-12-016

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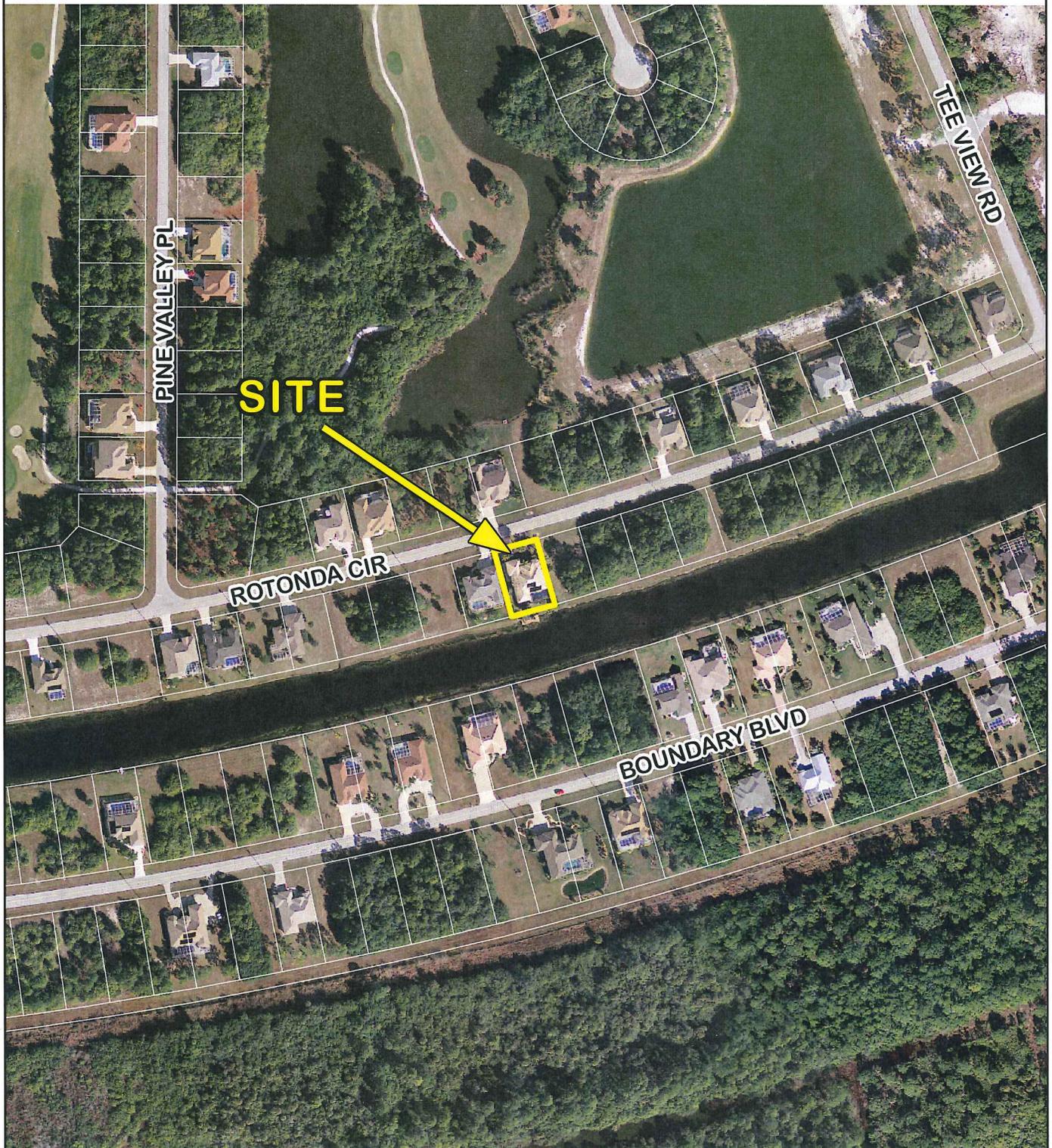
CHARLOTTE COUNTY

Aerial View for SE-12-016

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Concetta Volpe
1141 Rotonda Circle
Rotonda West, FL. 33947
Phone - 941-270-1151
MedicineHandsMassageTherapy@aol.com

October 1, 2012

Community Development Department
Zoning Division
18400 Murdock Circle
Port Charlotte, FL 33948-1094
RE: Special Exception Application
ATTN: Kenneth J. Quillen Jr. AICP
Planner 111

Dear Mr. Quillen,

Please accept my Special Exception Application requesting permission to utilize a room in my home for the purpose of Clinical Massage.

I have been the small business owner of Back In Balance Healing Arts at 2800 Placida Road Suite 115 in Charlotte County for the past 8 years and am a nationally certified and highly credentialed clinical therapist.

On October 1, 2012 I sold my business to a younger, stronger version of myself because I am not able to keep up with the physical demands and time constraints of a demanding clinical practice.

I respectfully request my application to use my home to see a few patients a week for a time period of 60 minutes per patient. These patients have refused to see another therapist and have been with me since I first opened my establishment in 2004.

My plan if permitted will include seeing a only few patients per week which will result in no impact to the community.

Narrative
(Exhibit C-1)

At the time of patient visits, there will be only ONE extra car parked in my driveway which is very large and circular. There will be NO IMPACT in any way that infringes upon any of the surrounding area, the immediately adjacent area or the contiguous land in either direction.

There will be no need for anyone to park on the street ever or inconvenience neighbors in any way. There is more than adequate ingress and egress to the property and the exemption will NEVER cause a hazard or congestion on any street or road.

There would be ONE person at a time on the property and there will be no waiting room.

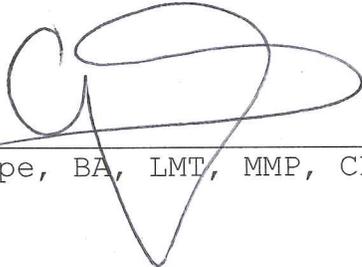
Since this exemption will cause NO IMPACT there will be NO NEED for provisions for buffers, landscaping, trees, open space, storm water or other improvements associated with the proposed use.

I will not be conducting business often or consistently and quite often there will be gaps. I believe the exemption will in NO WAY compromise the Charlotte County Comprehensive Plan and Land Development Regulations.

In no way will this process impact my neighbors, my surroundings or my surrounding community.

The operation will in no way be detrimental so as to endanger public health, safety or general welfare.

I believe the requested special exemption meets the criteria set forth in subsection 3-9-7 of County Code because this exception WILL NOT IMPOSE ANY IMPACT WHATSOEVER to the existing home, the existing property, the property on either side of the potential excepted property, the county or the zoned area.



Concetta Volpe, BA, LMT, MMP, CR, NCTMB

**Narrative
(Exhibit C-2)**

Sec. 3-9-78.1. Historical structures.

(a) Structures which have been designated as being historically significant shall be exempt from the provisions of the zoning code pertaining to nonconforming structures.

(b) Owners of historically designated structures may petition the board of zoning appeals for a special exception for any type of use which would serve to perpetuate the viable contemporary utilization of the historic structure, regardless of whether such use is permitted by special exception in the zoning district in which the historic structure is located. The procedure for issuance of the special exception shall be in accordance with section 3-9-7, and the property owner shall be required to prove that the proposed use will adequately provide for each of the criteria enumerated in the appropriate section of the zoning code, to the extent applicable. (Ord. No. 89-47, § 9, 6-22-89)

Sec. 3-9-79. Home occupations.

It is the intent of this section to allow the operation of home occupations in any residential zoning district by special exception, and to regulate them so that a neighbor, under normal circumstances, will not be disturbed or inconvenienced. The following conditions must be met and complied with.

- (1) Home occupations shall be conducted only by residents of the principal dwelling unit and not more than one (1) nonresident employee.
- (2) No more than twenty (20) percent of the total floor area of a dwelling unit may be devoted to such uses.
- (3) The principal use of the dwelling unit shall at all times during the conduct of the home occupation remain residential.
- (4) No retail sales shall be conducted on the premises.
- (5) There shall be no exterior indication that the dwelling is being used for any purpose other than a residence, except that one (1) nonilluminated nameplate, not exceeding two (2) square feet in area, may be attached to the building on or next to the entrance.
- (6) There shall be no outside storage of materials used in connection with the home occupation.
- (7) No equipment shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference objectionable to the normal senses shall be used in any home occupation. No equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the premises or causes fluctuations in line voltage off the premises.
- (8) No home occupation shall generate greater volumes of traffic than would otherwise be expected by normal residential uses.
- (9) The grant of a special exception to conduct a home occupation shall be automatically conditional upon continued compliance with all the requirements of this section.

Failure of the occupant to meet these requirements shall empower the board of zoning appeals to revoke the special exception after notice and a hearing.

- (10) The approval of a special exception for a home occupation shall expire upon a change of ownership of the property.

(Minutes of 12-8-81, § 8; Ord. No. 89-47, § 10, 6-22-89)

Cross reference—Licenses and business regulations, Ch. 1-10.

Sec. 3-9-80. Houseboats; boats used for living purposes.

(a) *Generally.* Living aboard boats and houseboats is prohibited in any district except within a marina approved by the board of county commissioners in accordance with this section.

(b) *Procedure.* All applications for approval of such marinas shall be filed with the zoning official in a form to be specified by him, accompanied by such plans and specifications as he may require and by a filing fee in an amount to be specified from time to time by resolution of the board of county commissioners. If the zoning official finds that the proposed marina meets all requirements of this chapter, he shall cause the application to be set for public hearing before the board of county commissioners. The board may allow such use if it determines that the use will meet all the standards herein and also finds that the use:

- (1) Will not be unduly detrimental to surrounding properties;
- (2) Is suitable in its proposed location;
- (3) Will not unduly burden the transportation system;
- (4) Will not result in undue economic burdens on the public or undue demands on utilities, community facilities and public services; and
- (5) Will not be detrimental to the safety, health, morals or general welfare of the public.

(c) *Standards.* No marina shall be approved unless it provides the following:

- (1) *Water supply.* An adequate, safe and potable supply of water shall be provided in compliance with all applicable governmental regulations. Whenever a municipal or public water supply is available to the marina, such water supply shall be used. At least one (1) service connection shall be provided for each boat slip consisting of at least a water hydrant and the necessary appurtenances to protect it against backflow and siphonage.
- (2) *Toilet facilities.* In addition to those required for employees, not less than the following toilet and bathing facilities contained in central units for men and women shall be provided: For women: One (1) toilet seat for each fifteen (15) boat slips or fraction thereof, one (1) lavatory for each twenty (20) boat slips or fraction thereof and one (1) shower bath for each twenty (20) boat slips or fraction thereof. For men: One (1) toilet seat for each twenty (20) boat slips or fraction thereof, one (1) urinal for each twenty-





MEMORANDUM

Date: October 24, 2012
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Subject: SE-12-016
Volpe Home Occupation, 1141 Rotonda Circle

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

- ❖ A GIS aerial review was conducted by staff. The property consists of a developed single family residence. The request is for a home occupation in order to conduct clinical massage therapy.

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

- ❖ As this proposal moves forward, the Environmental Review Section has no issues which need to be addressed.

If you have any questions pertaining to this review please feel free to contact me at (941) 743-1290.

JS

(Exhibit E)

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