

STAFF REPORT
Community Development Department
Petition Number: SE-13-016

To: Charlotte County Board of Zoning Appeals
From: Shaun Cullinan, Zoning Official
Prepared By: Ken Quillen, AICP, Planner III
Report Date: December 3, 2013 **BZA meeting date:** December 11, 2013

Requested Action/General Information:

Rob Berntsson, agent for Gary Mazey (Kingfisher Works, LLC), is requesting a special exception to allow a private recreational facility, consisting of non-motorized boating (kayaking and sailing) eco-tours, classes and camping in the Commercial Intensive (CI) zoning district. Subject property consists of a 3.5 acre lot located at **4810 Deltona Drive** in Punta Gorda (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Commercial Intensive (CI). This property has a Low-Density Residential Future Land Use Map (FLUM) designation.

The Board of Zoning Appeals granted a Special Exception, file number SE-89-64 (**Exhibit A**), on November 8, 1989, to allow a communications tower on subject property. This communications tower is still in operation; however, the radio station no longer uses the building and the property has been purchased by the applicant. Subject property is zoned Commercial Intensive, which would allow resort marinas, sport marinas, and the proposed recreational facility as permitted uses. However, subject property has a Future Land Use Map (FLUM) designation of Low-Density Residential, which conflicts with the CI zoning classification. The applicant and Zoning Official have agreed that the best way to address this conflict is for the applicant to apply for a special exception to allow the proposed use.

The applicant would like to operate a private recreational facility where clients may participate in various outdoor and water related activities. The applicant has submitted the attached **Sketch and Description**, labeled **Exhibit B**, which shows the existing 3.5 acre lot. The applicant has also submitted the attached **Site Plan**, labeled **Exhibit C**, which shows the location of various activities proposed for this recreational facility, including offices in the old (3,288 square foot) radio station, off-street parking lot, sailboat and kayak areas, nature trails for eco-tours, and campgrounds. There is also an existing power station that supplies power to the existing radio tower. This commercial use will require that off-street parking be provided according to code, which requires 17 off-parking spaces for the existing 3,288 square foot building.

The applicant has also submitted the attached **Narrative** (**Exhibit D**) explaining how they believe this request meets the criteria for granting a special exception. The Community Development Department's Environmental Specialist has performed a cursory review and their comments are in the attached **Memorandum** (**Exhibit E**) dated November 27, 2013.

Findings: The six standards for approval for 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: A private recreational facility is a permitted use in the CI zoning district but is only allowed by special exception in the RMF zoning district. As such, the Zoning Official has proposed and the applicant has agreed to apply for a special exception to allow the proposed use in the Low-Density Residential FLUM designation, based on sections 3-9-33 and 3-9-43 of the Zoning Code.

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.

Direction	Existing Land Uses	Existing Zoning	FLUM Designation
North	Single-family homes	Mobile Home Conventional	Low Density Residential
South	Sport Marina	Mobile Home Conventional	Low Density Residential
East	Single-family homes and environmental lands	Mobile Home Conventional & Environmental Preserve	Low Density Residential Environmental Preserve
West	Single-family homes	Mobile Home Conventional	Low Density Residential

Finding: The surrounding single-family residences are separated from subject property by waterways and public streets. An existing marina is located to the south, which is also zoned CI and staff believes that the proposed recreational uses would be compatible with the surrounding land uses.

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: Subject property has existing access off of Deltona Drive. The proposed use and related improvements will need to include adequate off-street parking, which will also require Site Plan Review and approval.

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

Finding: The establishment of the recreation facility on this CI zoned property will require a type "C" landscape buffer where CI is adjacent to the MHC zoning district to buffer this commercial use from the adjacent residential properties.

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

Finding: The proposed use is in compliance with the **Smart Charlotte 2050 Plan**, and the Land Development Regulations, which allows recreational facilities as a permitted use in the CI zoning district, and as a special exception type use in the RMF zoning district if approved by the Board of Zoning Appeals as a special exception.

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 recreational facility would not be detrimental to or endanger the public health, safety or general welfare of the surrounding properties because adequate street access, off-street parking and landscape buffers will be provided according to code.

ANALYSIS AND CONCLUSIONS:

After review of the site and the application requesting this special exception staff believes that the proposed recreational facility 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. The special exception as approved by the Board of Zoning Appeals is to allow a private recreational facility, consisting of non-motorized boating (kayaking and sailing) eco-tours, classes and tent camping, and related retail sales, on subject property.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application.
3. The approved uses may not commence until Final Site Plan Review approval has been obtained and all code requirements have been constructed or installed, including an improved access drive, adequate off-street parking, storm water management system, and required landscape buffers in compliance with all County Codes and Ordinances.
4. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

Please be advised that the final decision regarding the application 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 Photo, Notice of Approval, Sketch & Description, Site Plan, Narrative and Environmental Specialist Memorandum



Community Development

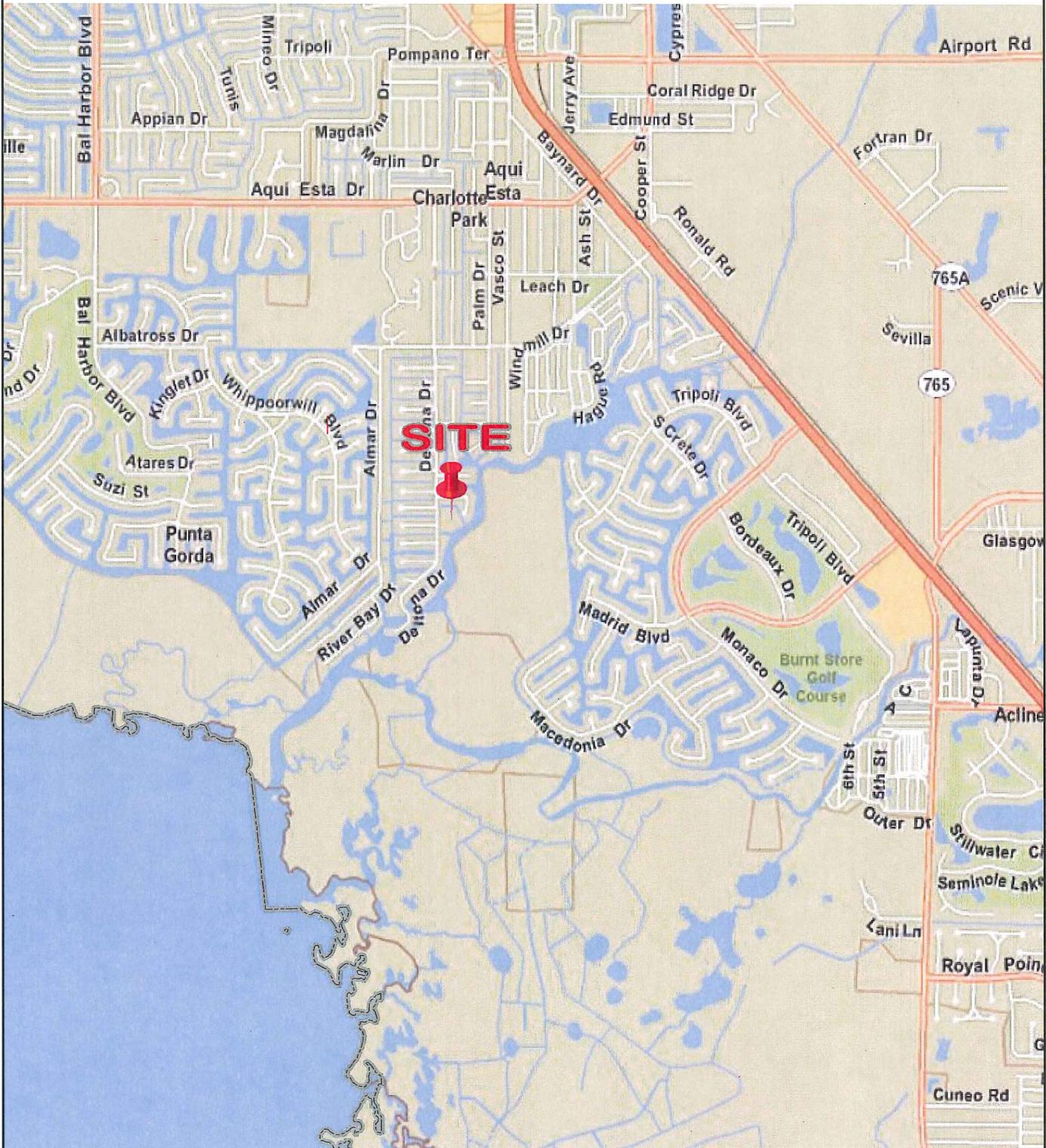
CHARLOTTE COUNTY

Location Map for SE-13-016

Charlotte County Government

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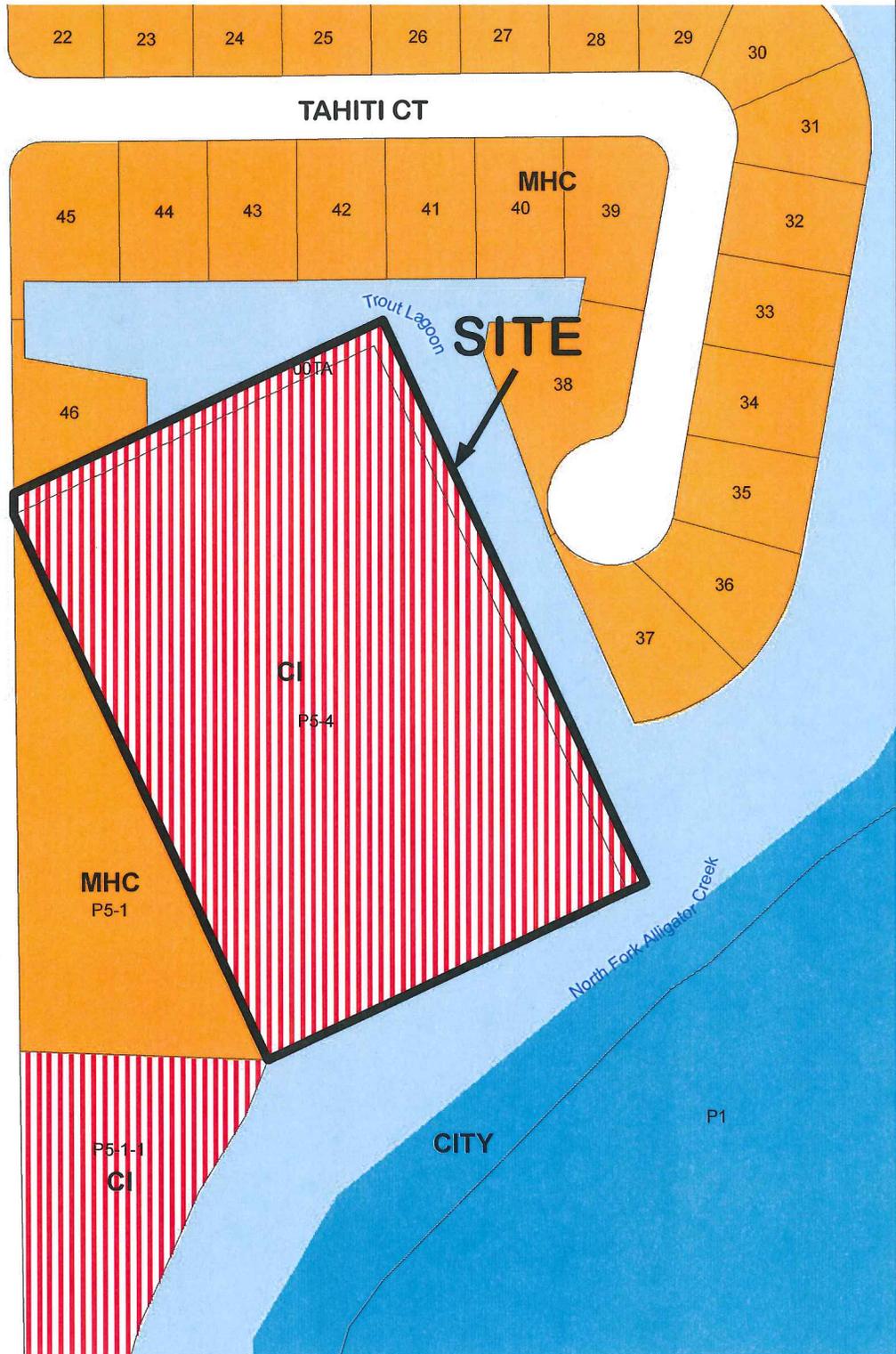
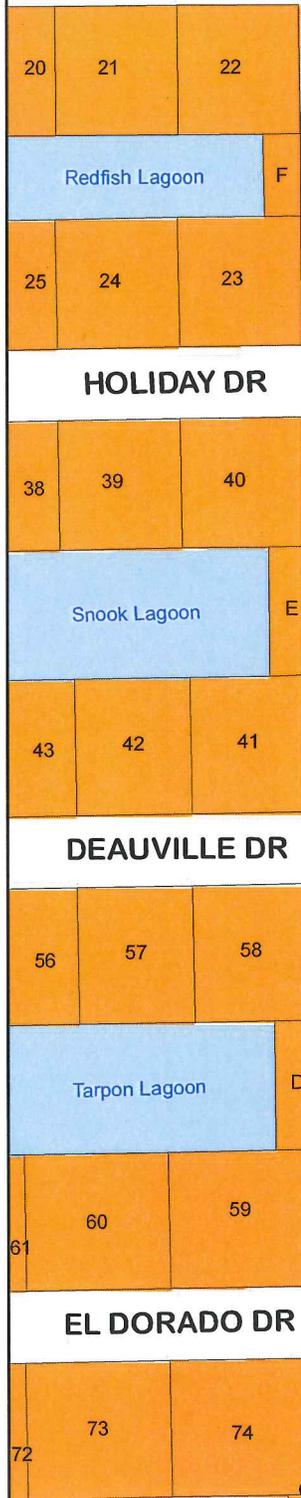
Community Development

CHARLOTTE COUNTY Zoning Map for SE-13-016

Charlotte County Government

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Community Development

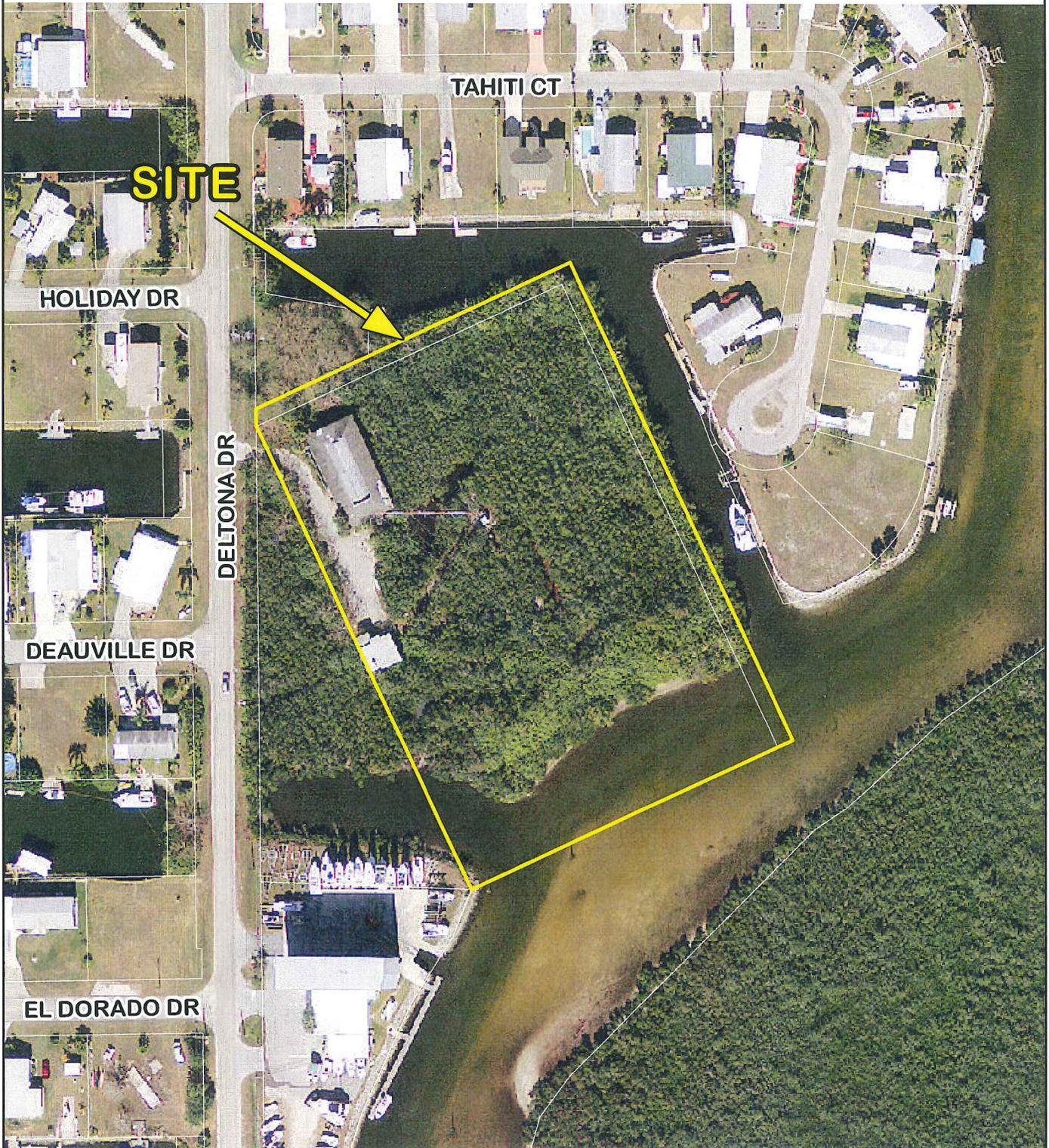
CHARLOTTE COUNTY

Aerial View for SE-13-016

Charlotte County Government

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NOTICE OF APPROVAL

FOR

SPECIAL EXCEPTION TO THE CHARLOTTE COUNTY ZONING CODE

Pursuant to Charlotte County Code Section 3-9-6 (c), this is to acknowledge the approval of the special exception application which was heard by the Charlotte County Board of Zoning Appeals.

Property Owner: WQLM-FM, Inc., 7212 U.S. Highway 19, New Port Richey, FL 24652

Applicant: Carl J. Marcocci & WQLM-FM, Inc., 7212 U.S. Highway 19, New Port Richey, Florida.

Legal Description: At 4810 Deltona Drive, Section 19, Township 41S, Range 23E, Punta Gorda, Florida.

Petition # SE-89-64 Approval Date: November 8, 1989

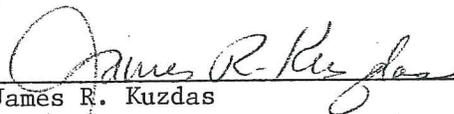
Requested Special Exception:

To allow a radio transmission tower in a CI (Commercial, Intensive) zoning district.

Conditions placed on the approval:

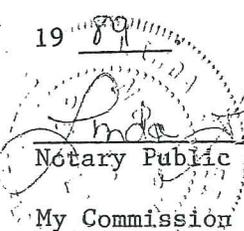
1. that the height be limited to 500 feet above mean sea level and will be located approximately on the site as shown in the application;
2. that the applicant has presented approving documents from the FCC, FAA and the Charlotte County Airport.

Upon granting of this special exception by the Board of Zoning Appeals, a copy of this notice shall be filed in the Public Records of Charlotte County.



 James R. Kuzdas
 Zoning Director
 Charlotte County Zoning Department
 18500 Murdock Circle
 Port Charlotte, Florida 33948

Sworn to and Subscribed before me this 8th day of December

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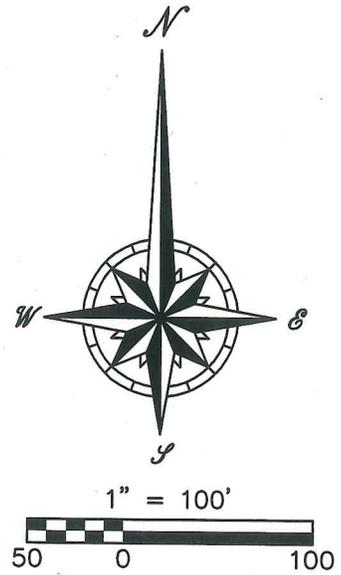
 Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. NOV 6, 1992
BONDED THRU GENERAL INS. UND.

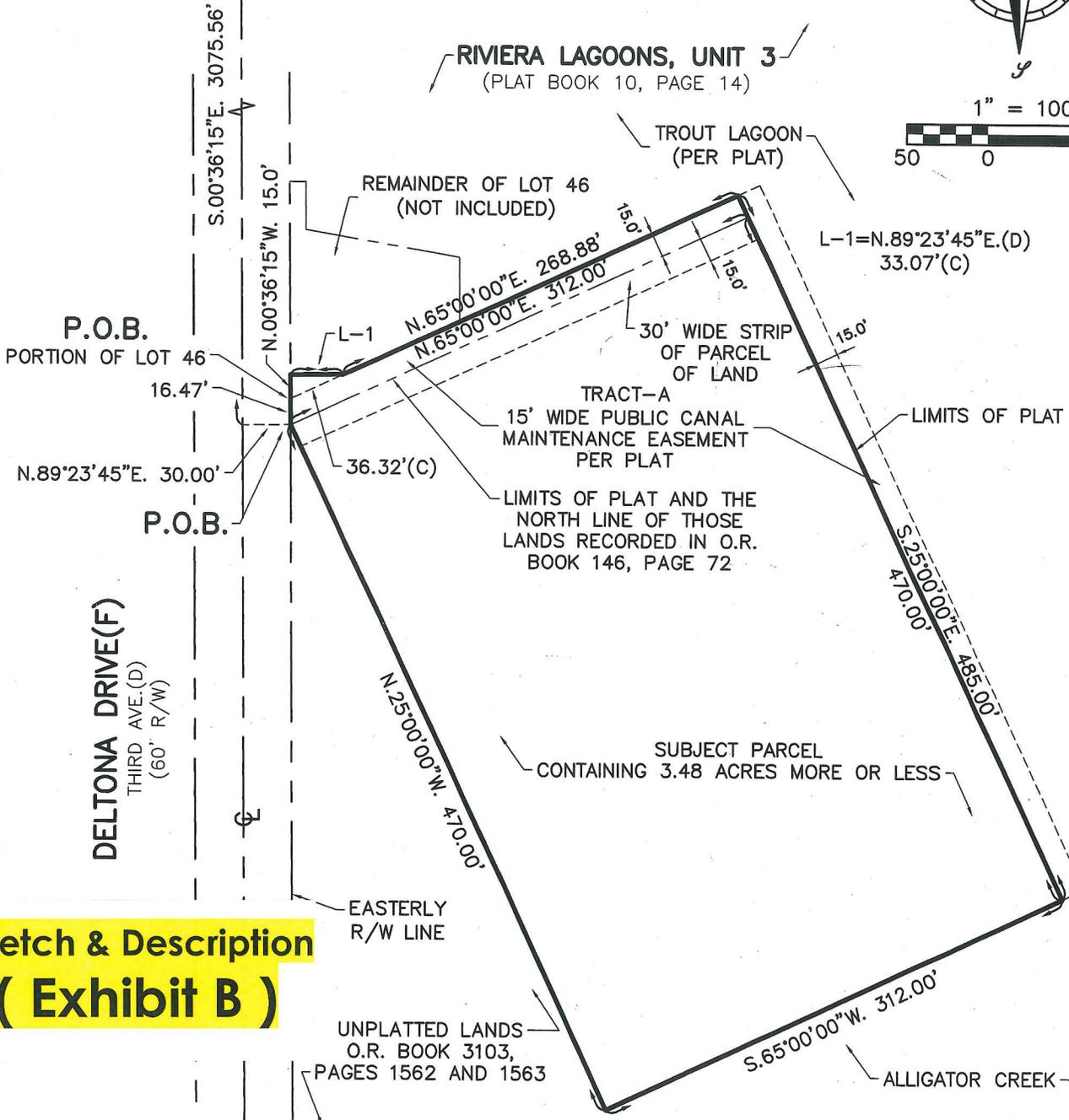
Notice of Approval
(Exhibit A)

SKETCH AND DESCRIPTION:



P.O.C.
 NORTHWEST CORNER OF THE
 NORTHEAST 1/4 OF THE NORTHWEST 1/4
 OF SECTION 19, TOWNSHIP 41 SOUTH,
 RANGE 23 EAST

RIVIERA LAGOONS, UNIT 3
 (PLAT BOOK 10, PAGE 14)

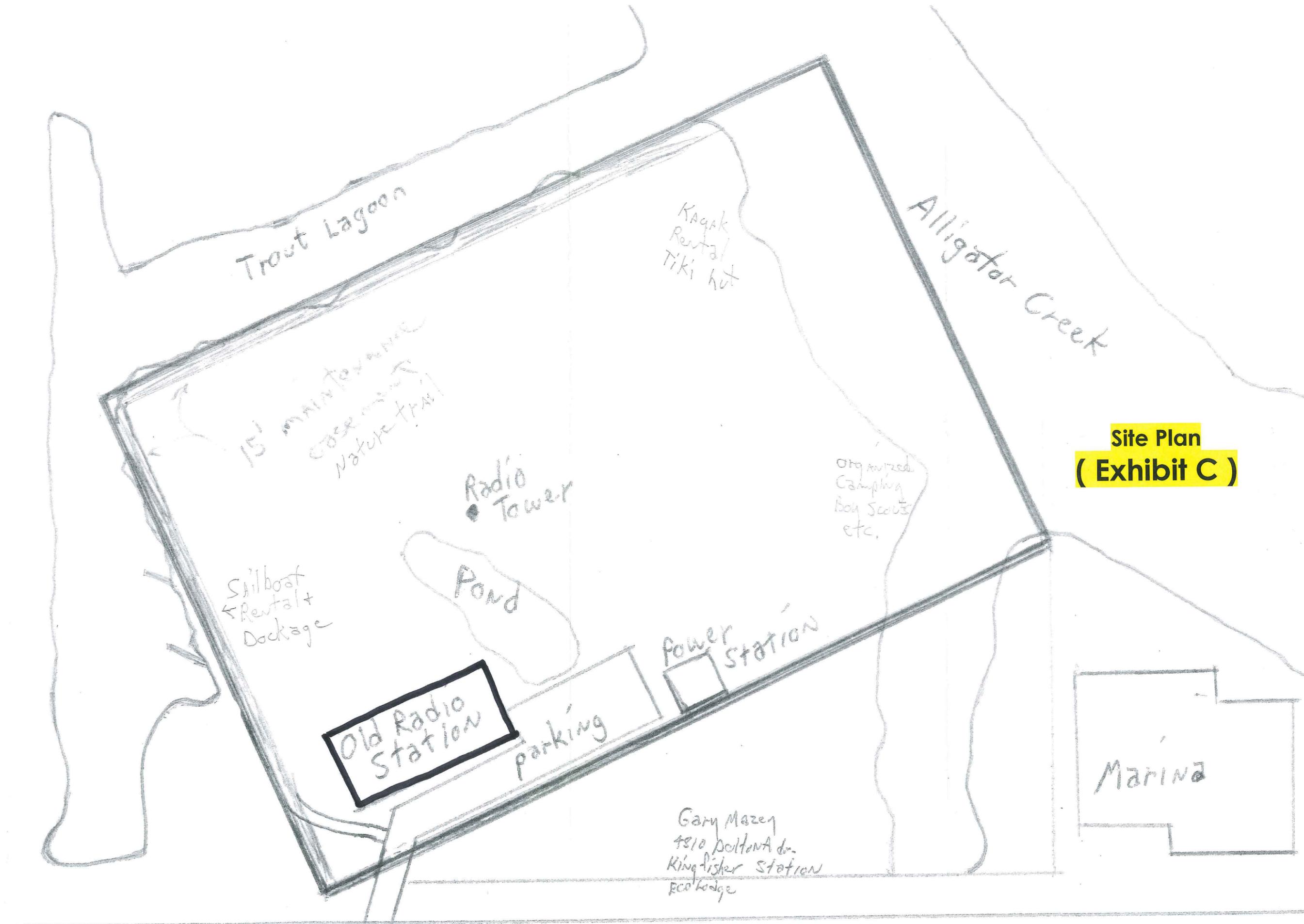


**Sketch & Description
 (Exhibit B)**

NOTE:
 1. THIS IS NOT A BOUNDARY SURVEY
 2. THIS SKETCH AND DESCRIPTION
 CONTAINS TWO (2) SHEETS AND IS
 INTENDED TO BE USED IN ITS
 ENTIRETY.

SHEET 2 OF 2

	DMK ASSOCIATES ENGINEERS & SURVEYORS		DATE: 11/04/13	JOB No. 13-0177	
	4315 S. ACCESS ROAD ENGLEWOOD, FL. 34224		SCALE: 1"=100'	DWN. TDM CK'D WAM	
	TEL: (941) 475-6596 FAX: (941) 475-1881		UPDATES & REV.	DATE	DWN. BY:



Site Plan
(Exhibit C)

Poltava Drive

Narrative for Kingfisher Works, LLC Special Exception

This is a request for a special exception to allow an environmental recreation facility and existing communication tower in the Commercial Intensive (CI) zoning district. The site is a former radio station facility off of Deltona Drive in Punta. There is an existing communication tower, building that housed the radio station and accessory power building for the tower, and existing parking. The applicant intends to offer ecotourism uses including tours and classes, primitive camping, a lodge, kayak rental and building, sailing, snorkeling, a plant nursery and an audio-visual learning studio. The site contains approximately 3.388 acres of land.

The request meets the criteria for the granting of a special exception, as follows:

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

The zoning official has determined that use is allowed by special exception. CI zoning permits outdoor commercial recreation facilities as of right. However, in this case, the underlying land use is low density residential. The zoning official, planning staff and legal department determined this use is appropriate to be approved as a special exception. Staff could find no record of approval of the existing tower, and requested that be included in the special exception request.

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.

This request is a low impact use that will be compatible with surrounding uses. There is Mobile Home Conventional zoning to the north, east and west; and Commercial Intensive to the south, containing a marina. The site was previously actively used as a radio station broadcast center.

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.

There is access directly from Deltona Drive, and an existing parking lot.

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

The site is a large piece of property that contains a lot of wetlands, most of which will remain undisturbed. There will be docks constructed within the basin and along the creek will be a primitive camping area, tiki hut and associated uses.

5. The requested special exception is consistent with the Charlotte County Comprehensive Plan and Land Development Regulations.

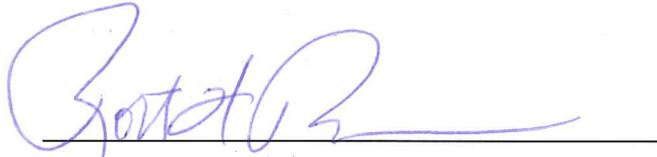
**Narrative
(Exhibit D-1)**

The Comprehensive Planning staff, zoning official and legal department have determined this use is compatible with the existing commercial zoning and residential land use.

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

This use will not be detrimental to or endanger the health, safety or general welfare. It will offer an opportunity to enjoy nature, the surrounding creeks and Charlotte Harbor in an environmentally sound manner. Sailboats and kayaks, rather than motor boats will be used.

Based on the foregoing, it is respectfully requested the Special Exception be approved.
Submitted this 30th, day of October, 2013.



Robert H. Berntsson

Narrative
(Exhibit D-2)



MEMORANDUM

Date: November 27, 2013
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Subject: SE-13-016
Kingfisher Works, LLC, 4810 Delfona Drive

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 or ordinances and offers the following comments:

- ❖ A GIS aerial and NWI Wetland Mapping review was conducted by staff. The site consists of an old radio and power station, communications tower and pond surrounded by an estuarine/marine wetland system with the primary flora likely consisting of various mangrove species. Three sides of the property are bordered by open water with the southern portion of the site bordering Alligator Creek and the northern and eastern portions of the site bordering Trout Lagoon. Due to the extent of sensitive habitat present on site there is a high probability of listed species occurrence on site.

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:

- ❖ All applicable county, state and federal authorization or permits, and mitigation (if necessary) will be required.

(Exhibit E-1)

- ❖ If this proposal moves forward, it will be reviewed for compliance with:

Chapter 3-2:

Article IX. *TREE REQUIREMENTS*

Chapter 3-5:

Article IV *CLEARING, FILLING AND SOIL CONSERVATION,*

Article XV, *SURFACE WATER AND WETLAND PROTECTION,*

Article XV, *UPLAND BUFFER ZONE,*

Article XVIII, *LANDSCAPING AND BUFFERS.*

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

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

JS

(Exhibit E-2)