

STAFF REPORT
Community Development Department
Petition Number: SE-14-001

To: The Charlotte County Board of Zoning Appeals

From: Shaun Cullinan, Zoning Official

Prepared By: Ken Quillen, AICP, Planner III

Report Date: April 1, 2014

BZA meeting date: April 9, 2014

Requested Action/General Information:

Rob Carter, agent for MEDCYL Services, LTD, is requesting a special exception to allow an outdoor oxygen storage tank, in the Light Industrial zoning district, on property located at 3769 Acline Road in Punta Gorda (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is *Light Industrial* (IL). This property has a *High Intensity Industrial* Future Land Use Map (FLUM) designation.

Subject property is a commercial condominium development located on approximately 5.8 acres of land. The applicant is leasing two units (A-1 and A-2), within this commercial condominium which are located on the east end of the building. Keesling Construction, Inc. obtained a permit (number 20110809802) to construct a concrete foundation where the oxygen tank is located; however, the contractor who installed the oxygen tank did not obtain permits to erect the oxygen storage tank.

Sub-section 3-9-47(e) (**Exhibit A**) of the Charlotte County Zoning Code does allow outdoor storage tanks for "Bulk storage of flammable liquids and explosives, subject to the provisions of county and state fire codes." in the Light Industrial (IL) zoning district if a special exception is approved by the Board of Zoning Appeals (BZA). As such, the applicant has submitted this application for a special exception.

The applicant has submitted the attached **Site Plan** (**Exhibit B**) showing the northeast corner of subject property, which includes the existing building, parking lot and outdoor storage tank for oxygen gas. This shows the location of the oxygen tank in relation to the building and surrounding parking lot. The attached **Detailed Site Plan** (**Exhibit C**) shows the improvements constructed for this storage tank, including, new concrete paving, security fence, and four-foot high steel bollards to protect the tank.

The applicant has submitted the attached **Narrative** (**Exhibit D**) explaining why they believe this request meets the criteria for granting a special exception.

The Community Development Department's Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum** (**Exhibit E**) dated March 17, 2014.

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: The Zoning Code [Sub-section 3-9-47(e) **Exhibit A**] explicitly states that a bulk storage tank may be allowed by special exception in the Light Industrial zoning district.

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	Future Land Use Map Designation
North	Single-family residences	AE and RSF-5	Low Density Residential
South	Vacant industrial land	IG and IL	High Intensity Industrial
East	Commercial condominium development	IL	High Intensity Industrial
West	Vacant industrial land	IL	High Intensity Industrial

Finding: This proposed oxygen storage tank is considered compatible with the commercial and industrial service uses located to the east, west and south. The nearest single-family residence is located over 550 feet from the oxygen storage tank.

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: Two existing access drives off of Acline Road provide access to this existing commercial condominium development. No changes are proposed at this time.

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

Finding: This development was constructed in 2008 and at that time all applicable code requirements, including setbacks and landscaping, have been reviewed, approved and inspected during the permitting process for this existing development. The oxygen tank has replaced four existing parking spaces; however, there is still sufficient off-street parking to meet the parking requirements of code.

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

Finding: This proposed storage tank would be consistent with the Comprehensive Plan, which plans for heavy industrial uses. Also, the Land Development Regulations allow bulk storage tanks by special exception in the IL zoning district.

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 oxygen storage tank would not be detrimental to or endanger the public health, safety or general welfare of the surrounding commercial and residential properties since the proposed oxygen tank will be constructed to comply with all applicable building and fire codes.

ANALYSIS AND CONCLUSIONS:

After review of the site and the application requesting this special exception staff believes that the proposed oxygen storage tank 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 for a single outdoor oxygen storage tank as indicated on the Site Plans submitted with this application.
2. The site plan submitted by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of the proposed oxygen storage tank.
3. The applicant shall place and maintain "**No Smoking**" signs as required by code.
4. This special exception extends only to the land included in the Site Plan and legal description submitted with this application. Any modification, alteration or revision of this use may require a modification of the special exception.

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

Attachments: Staff Report (3), Location Map, Zoning Map, Aerial Photo, Sub-section 3-9-47 (2), Site Plan, Detailed Site Plan, Narrative, Environmental Specialist Memorandum and Google Photos (2)



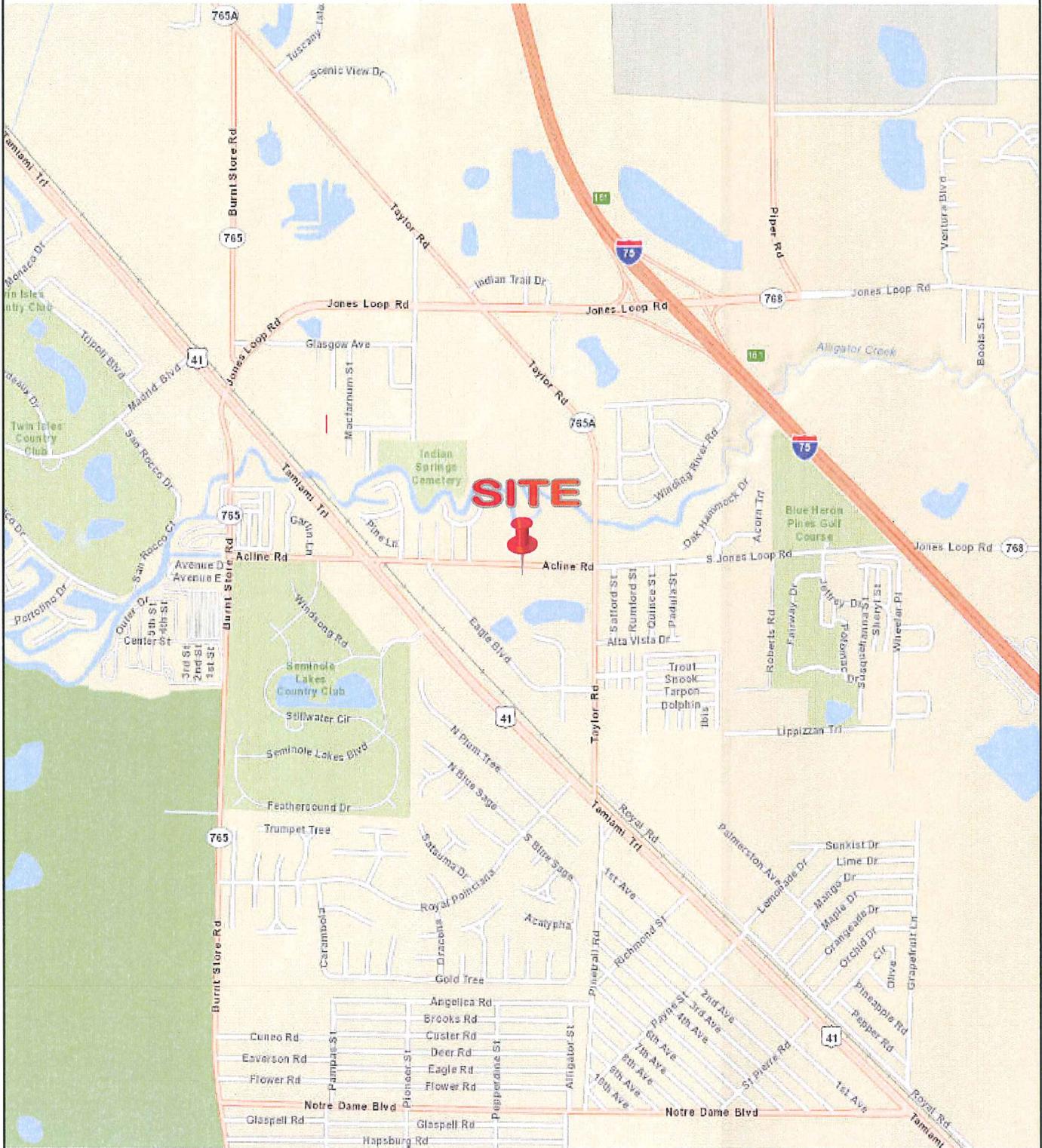
Community Development

CHARLOTTE COUNTY Location Map for SE-14-001

Charlotte County Government

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Community Development

CHARLOTTE COUNTY

Zoning Map for SE-14-001

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RSF5

AE

SITE

ACLINERD

IL

IG

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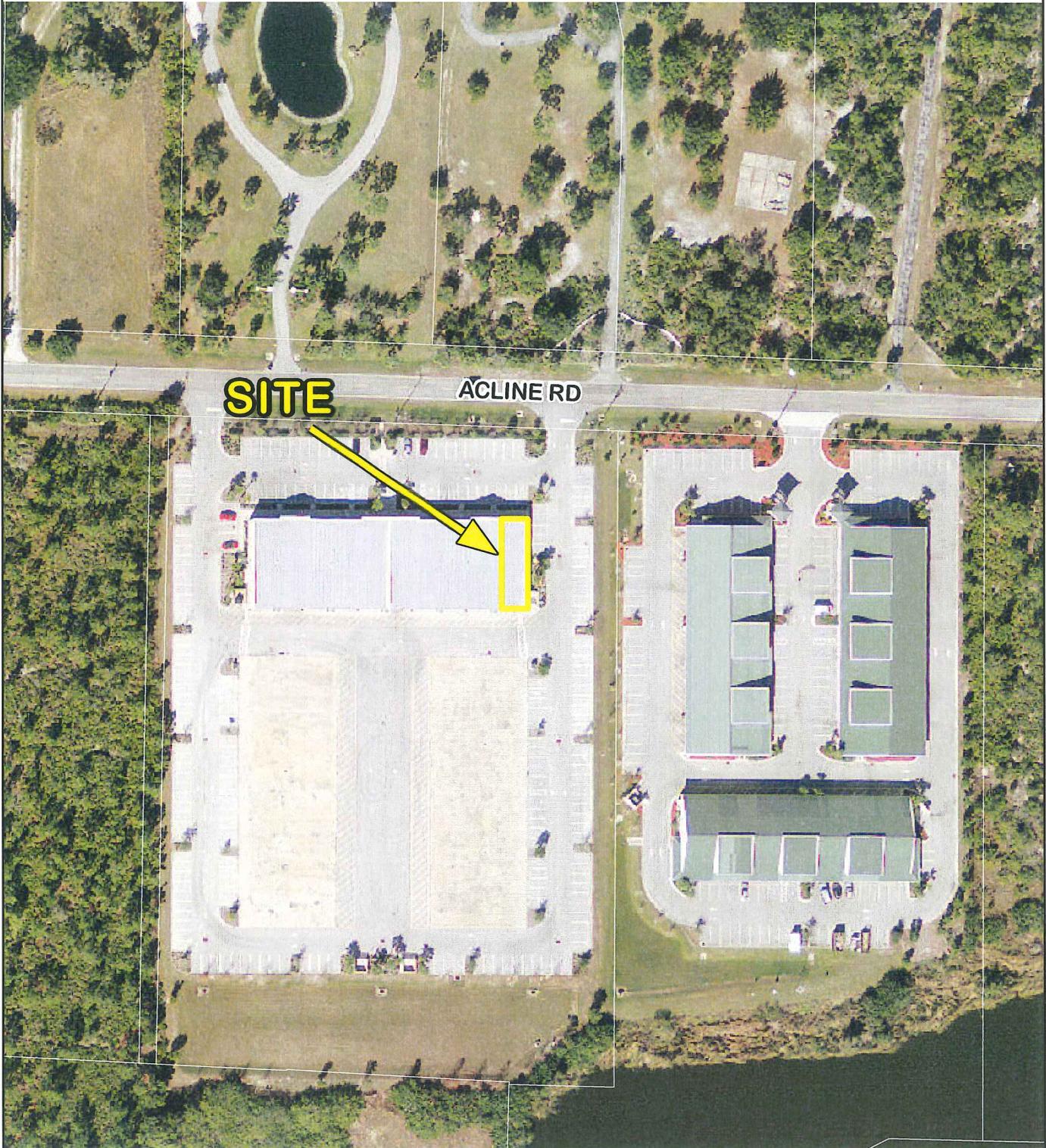
CHARLOTTE COUNTY

Aerial View for SE-14-001

Charlotte County Government

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SITE

ACLINE RD

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Sec. 3-9-47. Industrial, light (IL).

- (a) *Intent.* The purpose and intent of the industrial, light (IL) district is to permit the designation of suitable locations for and to facilitate the proper development and use of areas devoted to various light industrial and quasi-industrial commercial uses in an environment less restrictive than that required in the industrial, office park (IOP) district. While it is presumed that most industrial processes will take place within enclosed buildings, any activity not taking place within a building shall take place within a yard enclosed by an opaque wall or fence. Further, it is not intended that the IL district be located adjacent to any land used principally for or intended to be used principally for (i.e. zoned but vacant) residential purposes.
- (b) *Permitted principal uses and structures:* The following uses and structures are permitted in this district:
- (1) All uses and structures permitted in the CI district.
 - (2) Wholesaling, warehousing, storage and distribution establishments and similar uses.
 - (3) Light manufacturing, processing, including food processing, packaging and fabricating in completely enclosed buildings.
 - (4) Printing, lithographing, publishing and similar establishments.
 - (5) Bulk storage yards, but not including bulk storage of flammable liquids.
 - (6) Outdoor storage yard or lots, provided such outdoor storage yards or lots shall not be located closer than twenty-five (25) feet to any public street; and provided further that this provision shall not permit wrecking yards (including automobile wrecking yards), junkyards or yards used in whole or in part for scrap or salvage operations or for processing, storage, display or sale of any scrap, salvage or secondhand building materials, junk automotive vehicles, or secondhand automotive vehicle parts.
 - (7) Retail and repair establishments for sale or repair of new and used automobiles, motorcycles, trucks or tractors, mobile homes, boats, automotive vehicles parts and accessories (but not junkyards or automotive vehicle wrecking yards), heavy machinery or equipment, farm equipment, retail establishments for sale of farm supplies, lumber and building supplies, monuments and similar uses.
 - (8) Service establishments catering to commerce and industry, including linen supplies, freight movers, communication services, employment agencies, sign companies, automotive service, truck stops and similar uses.
 - (9) Vocational, technical, trade and industrial schools, and similar uses.
 - (10) Medical clinic in connection only with industrial activities.
 - (11) Miscellaneous uses such as express offices, telephone exchanges, commercial parking lots and parking garages, motor bus or truck or other transportation terminals and related uses.
 - (12) Radio and television stations and transmitters.
 - (13) Laboratories, classes 1, 2 and 3, provided central sewer is available.
 - (14) Helistops.
- (c) *Permitted accessory uses and structures.* Uses, including retail sales, and structures which are customarily accessory and clearly incidental and sub

and structures are also permitted in this district; however, **Sub-section 3-9-47(e)
(Exhibit A-1)**

Section 3-9-47

permitted in the district except for watchmen or caretakers whose work requires residence on the premises.

(d) *Prohibited uses and structures.* Any use or structure not specifically or by reasonable implication permitted herein, or permitted by special exception, shall be unlawful in this district, including the following:

- (1) Residential dwellings, except as permitted under accessory uses.
- (2) Hospitals and clinics, except clinics in connection with industrial activity.
- (3) Wrecking yards, including automotive vehicle wrecking yards and junkyards.
- (4) Chemical and fertilizer manufacture.
- (5) Explosives manufacturing.
- (6) Paper and pulp manufacture.
- (7) Petroleum refining.
- (8) Stockyards and feeding pens.
- (9) Animal slaughterhouses.
- (10) Tanneries with curing or storage of raw hides.
- (11) House of worship in accordance with [section 3-9-80.1](#)
- (12) Any use not conforming to industrial performance standards.

(e) *Special exceptions.* (For procedure see [section 3-9-7](#), "Special exceptions.") The following are special exceptions in this district:

- (1) Bulk storage of flammable liquids and explosives, subject to the provisions of county and state fire codes.
- (2) Industrial marinas.
- (3) Asphalt plants.
- (4) Concrete batch plants.
- (5) Heliports.
- (6) Such other uses as determined by the zoning official or his/her designee to be:
 - a. Appropriate by reasonable implication and intent of the district.
 - b. Similar to another use either explicitly permitted in that district or allowed by special exception.
 - c. Not specifically prohibited in that district.

The board of zoning appeals shall review a favorable determination of the zoning official under this provision at the time the special exception application is presented to it. An unfavorable determination of the zoning official or his/her designee shall be appealable pursuant to [section 3-9-6](#) of these regulations.

(f) *Development standards.* The following development standards shall apply in this district:

Minimum lot requirements:

Area, square feet12,000

Width, feet100

Minimum yard requirements:

Front yard, feet25

Side yard:

InteriorNone

Abutting a road, feet15

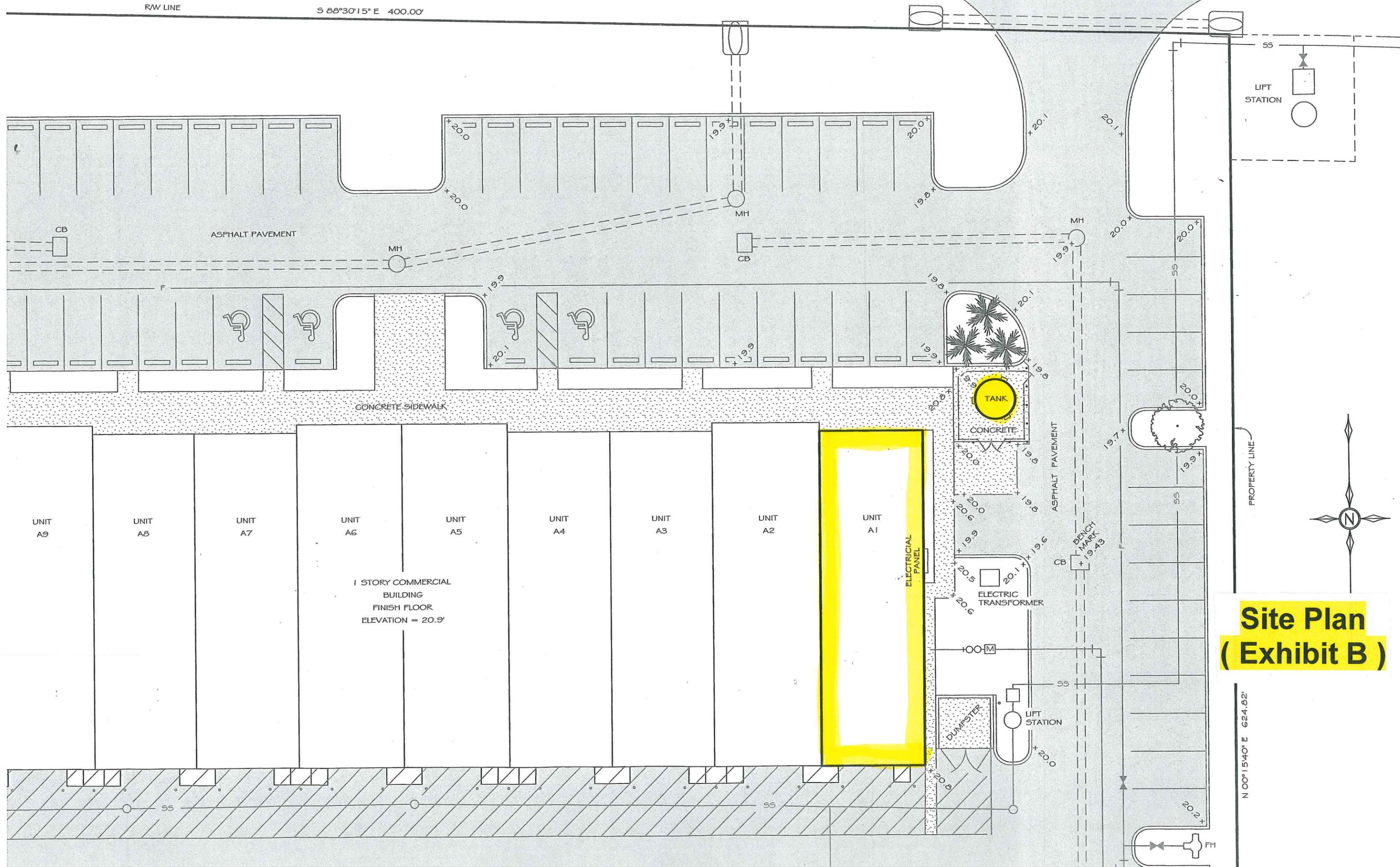
Abutting water, feet20

Sub-section 3-9-47(e)
(Exhibit A-2)

ACLINE ROAD

R/W LINE

S 88°30'15" E 400.00'



UNIT A9

UNIT A8

UNIT A7

UNIT A6

UNIT A5

UNIT A4

UNIT A3

UNIT A2

UNIT A1

1 STORY COMMERCIAL BUILDING
FINISH FLOOR
ELEVATION = 20.9'

TANK

CONCRETE

ELECTRICAL PANEL

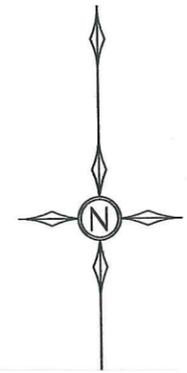
ELECTRIC TRANSFORMER

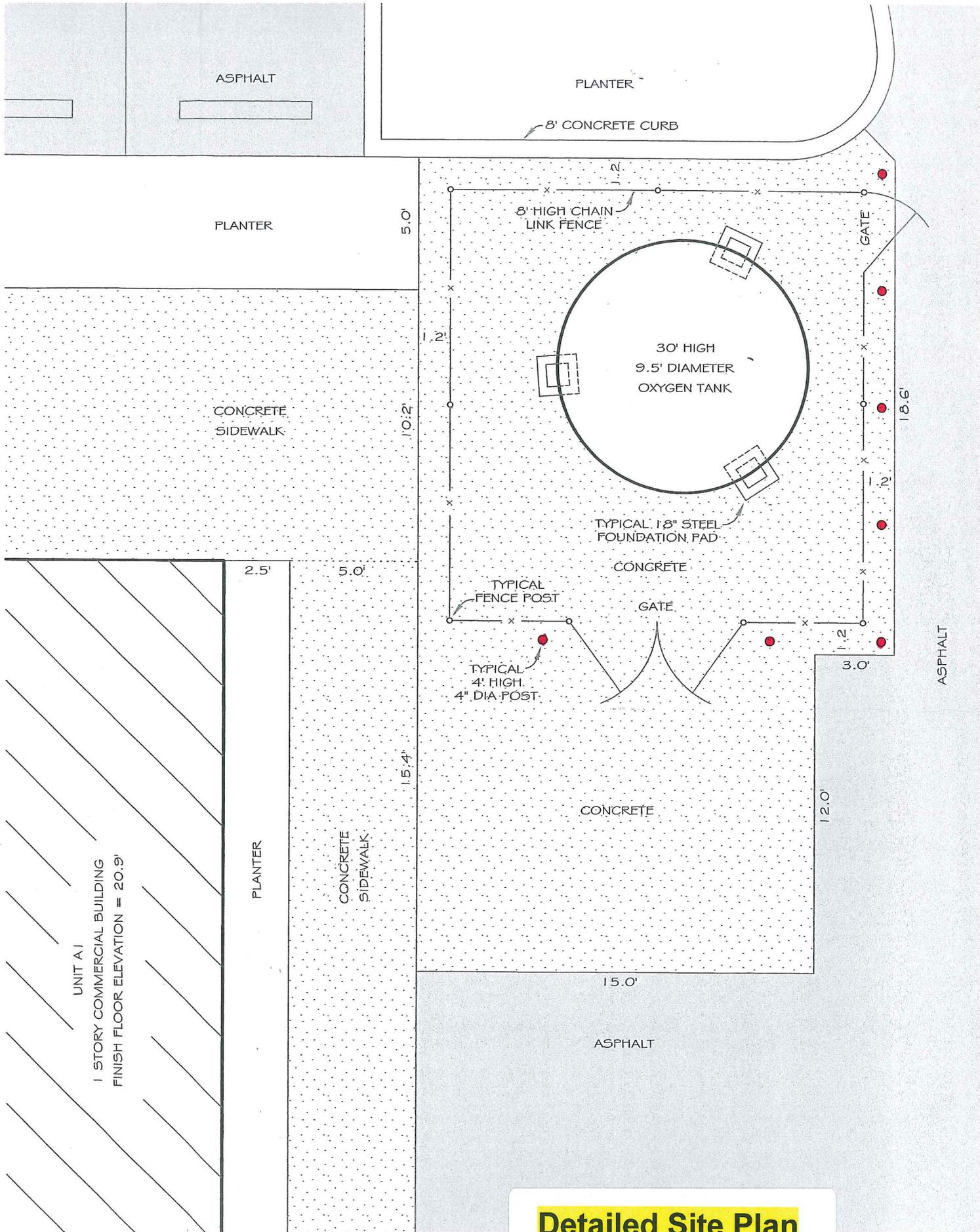
DUMPSTER

LIFT STATION

Site Plan
(Exhibit B)

N 00°15'40" E 624.62'





UNIT A1
 1 STORY COMMERCIAL BUILDING
 FINISH FLOOR ELEVATION = 20.9'

**Detailed Site Plan
 (Exhibit C)**



MEDICAL GAS & EQUIPMENT PROFESSIONALS
P.O. Box 917452 • Longwood, FL 32791-7452

RECEIVED
MAR 13 2014
BY: _____

MedCyl Services, Ltd

Special Exemption Permit request Narative Response-

1. Requested special exemption is permitted within the zoning district because it is being used as general warehouse- and both general warehouse and light industrial are being used in existing and surrounding business park
2. Requested use is compatible with existing uses
3. Adequate access is provided for ingress and egress with the proposed use. In addition, there are no additional congestion to roads and streets. Furthermore, the hazards associated with liquid oxygen are minimal and all available fire (NFPA) and safety (as defined by CGA compressed gas association) regulations have been implemented and followed
4. There was minimal change with regards to buffers, landscaping etc. with only existing parking spaces used for pad that was poured for the initial building permit- all these issues were addressed when pad was permitted.
5. This exemption being granted is very consistent with the Charlotte County regulations.
6. This installation greatly enhances public safety and health. This Oxygen tank gives the County the ability to be assisted in the event of a major weather event (hurricane etc.) by having a readily available source of Oxygen to assist in the staffing and supply of emergency shelters.

Furthermore, we have a longstanding track record in the State of Florida for being a good Citizen- we are fully licensed and regulated by the Florida Department of Health and the Federal Food and Drug Administration and our policies and procedures far exceed industry standards.

Robert M. Carter

MedCyl Services Ltd

**Narrative
(Exhibit D)**



MEMORANDUM

Date: March 17, 2014
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Subject: SE-14-001
MEDCYL Services, oxygen tank, 3769 Acline Road

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

- ❖ The site consists of an existing developed site with industrial light uses.

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

JS

(Exhibit E)



Google Map © 2014

3769 Acline Road

(Exhibit F-1)



Google Map © 2014

3769 Acline Road

(Exhibit F-2)