

STAFF REPORT
Community Development Department
Petition Number: SE-14-003

To: The Charlotte County Board of Zoning Appeals

From: Shaun Cullinan, Zoning Official

Prepared By: Ken Quillen, AICP, Planner III

Report Date: March 4, 2014

BZA meeting date: March 12, 2014

Requested Action/General Information:

Robert Berntsson, agent for Phillips of SW FL, LLC, is requesting a special exception to allow a plant nursery, with retail sales of garden supplies and equipment, on property located at **7371 Winchester Boulevard** in Englewood (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Agriculture Estate (AE). This property has a Low Density Residential Future Land Use Map designation.

Subsection 3-9-30(e) (Exhibit A), of the Charlotte County Zoning Code, does allow a plant nursery, with retail sales of garden supplies and equipment, in the Agriculture Estate (AE) zoning district if a special exception is approved by the Board of Zoning Appeals. As such, the applicant has submitted this application for a special exception.

The applicant has submitted the attached **Survey (Exhibit B)**, showing this 9.5-acre parcel comprised of the south half of lots 7 and 8 of Grove City Land Company's Subdivision. This survey shows: a 50' wide Ingress, Egress, Drainage & Utility Easement, along the north edge of subject property; a 61' wide Florida Power & Light Easement, along the eastern edge of subject property; a water meter and sewer clean-out boxes near the Florida Power & Light Easement; and the centerline of a major swale that begins at the north lot line of lot 7 runs south through lot 7 then turn east running along the south sides of lots 7 and 8 to the Winchester Boulevard right-of-way.

The applicant has also submitted the attached **Site Plan (Exhibit C)**, which shows the proposed developments on the easterly half of subject property (the south half of lot 8). Access is proposed from Winchester Boulevard where the existing 50' access easement meets Winchester Boulevard. The nursery, or plant growing areas, will occupy most of subject property, including the westerly half of subject property. A 960 square foot (24' by 40') office and retail sales center (Building #1) and related parking lot are located near the front along Winchester Boulevard. A 7,500 square foot (75' by 100') equipment shop (Building #2) and related parking are located to the west of the office building. Two areas labeled "Tree Farm" identify where plants grown elsewhere will be displayed for sale. These two outdoor retail sales yards total 18,500 square feet.

The applicant has submitted the attached **Narrative (Exhibit D)** explaining why the applicant believes this request for a variance should be granted. The County's Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum (Exhibit E)** dated February 21, 2014. This preliminary review states that there may be environmental issues, such as listed species or sensitive habitats located on the site, which must be avoided, minimized, or mitigated if impacted.

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 explicitly states that "Plant nurseries with retail sales of garden supplies and equipment" may be allowed by special exception in the AE 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 Townhomes	PD - Planned Development	Medium Density Residential
South	Light industrial mixed uses	Low Intensity Industrial	Low Intensity Industrial
East	Single-family residences and vacant lots	RSF-3.5	Low Density Residential
West	Cabinet Shop	PD - Planned Development	Commercial

Finding: This proposed plant nursery is considered compatible with the commercial and industrial uses to the south and west. Landscape buffers are required for commercial type uses that are located adjacent to residential on the north and east to make it more compatible with the existing residential uses. The BZA could adopt the commercial building design standards to make the buildings more compatible with the adjacent residences.

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: Winchester Boulevard is currently being reconstructed as a four-lane boulevard with a median, and although subject property had an existing access drive off of the old Winchester Boulevard this access drive is not included in the reconstruction plans. The County's Transportation Engineer has stated in the attached **Memorandum (Exhibit F)** dated February 27, 2014, that the County may permit the proposed access point if it is a right-in-right-out and meets the two conditions stated in the memo. Staff recommends that the BZA adopt these conditions for access to Winchester Boulevard if they decide to approve this special exception.

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

Finding: All applicable code requirements, including setbacks and landscaping, will be enforced during the permitting process for the proposed buildings, parking lots, and outdoor sales areas. Chapter 3-5, Article XVIII, titled **Landscaping and Buffers** requires landscape buffers according to **Table 1A (Exhibit G)**; however, no buffer is required between an AE zoning district and residential zoning districts. Typically staff would recommend that a type "C" buffer be required along the north and east lot lines, because this special exception will allow a commercial type use in the AE district and adjacent to RSF and RMF zoning and uses. However, the residences in the golf course community to the north are over 150' away from subject property, and the Winchester Boulevard right-of-way acquisition results in the nearest single-family home to the east being over 200 feet away. As such, a type "A" or "B" landscape buffer may be more appropriate. Off-street parking requirements do not exist for a retail plant nursery in the current zoning code, therefore, the BZA will need to establish off-street parking requirements for this proposed special exception. Staff has done some research and recommends that the following parking standards be adopted for this special exception:

- One off-street parking space per 250 square feet of office retail building area;
- One off-street parking space per 2,000 square feet of outdoor retail sales area;
- One off-street parking space per 2,000 square feet of shop maintenance building area;
- One off-street parking space per one-acre of growing area;

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

Finding: This proposed plant nursery would be consistent with the Comprehensive Plan, and Land Development Regulations, which allows plant nurseries by special exception in the AE 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 plant nursery would not be detrimental to or endanger the public health, safety or general welfare of the surrounding commercial, industrial, and residential properties since the proposed plant nursery will be served by the Englewood Water District for a potable water source and Charlotte County Utilities for waste water treatment.

ANALYSIS AND CONCLUSIONS:

After review of the site and the application requesting this special exception staff believes that the proposed plant nursery, with retail sales of garden supplies and equipment, 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 plant nursery, with retail sales of garden supplies and equipment, in the Agriculture Estate zoning district.
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 development and occupation of the proposed plant nursery.
3. Access from Winchester Boulevard shall be a right-in-right-out only. The applicant shall work with the Public Works Department to design and modify the existing roadway design at the proposed access point. The applicant is solely responsible to construct the access driveway to County standards and according to plans approved by the County.
4. The off-street parking requirements shall be as follows:
 - One off-street parking space per 250 square feet of office retail building area;
 - One off-street parking space per 2,000 square feet of outdoor retail sales area;
 - One off-street parking space per 2,000 square feet of shop maintenance building area;
 - One off-street parking space per one-acre of growing area;
5. Final Site Plan Review approval shall be obtained prior to construction of any buildings, parking lots or the access drive off of Westchester Boulevard.
6. A minimum ten-foot wide type "A" landscape buffer shall be required along the Winchester Boulevard frontage. Ten shrubs shall be substituted for each canopy tree required because this buffer is underneath overhead power lines.
7. The office building shall be connected to public water and sanitary sewer service lines.
8. 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, Location Map, Zoning Map, Aerial Photo, Section 3-9-30, Survey, Site Plan, Narrative, Environmental Memo, Transportation Engineer Memo, Landscape Buffers



Community Development

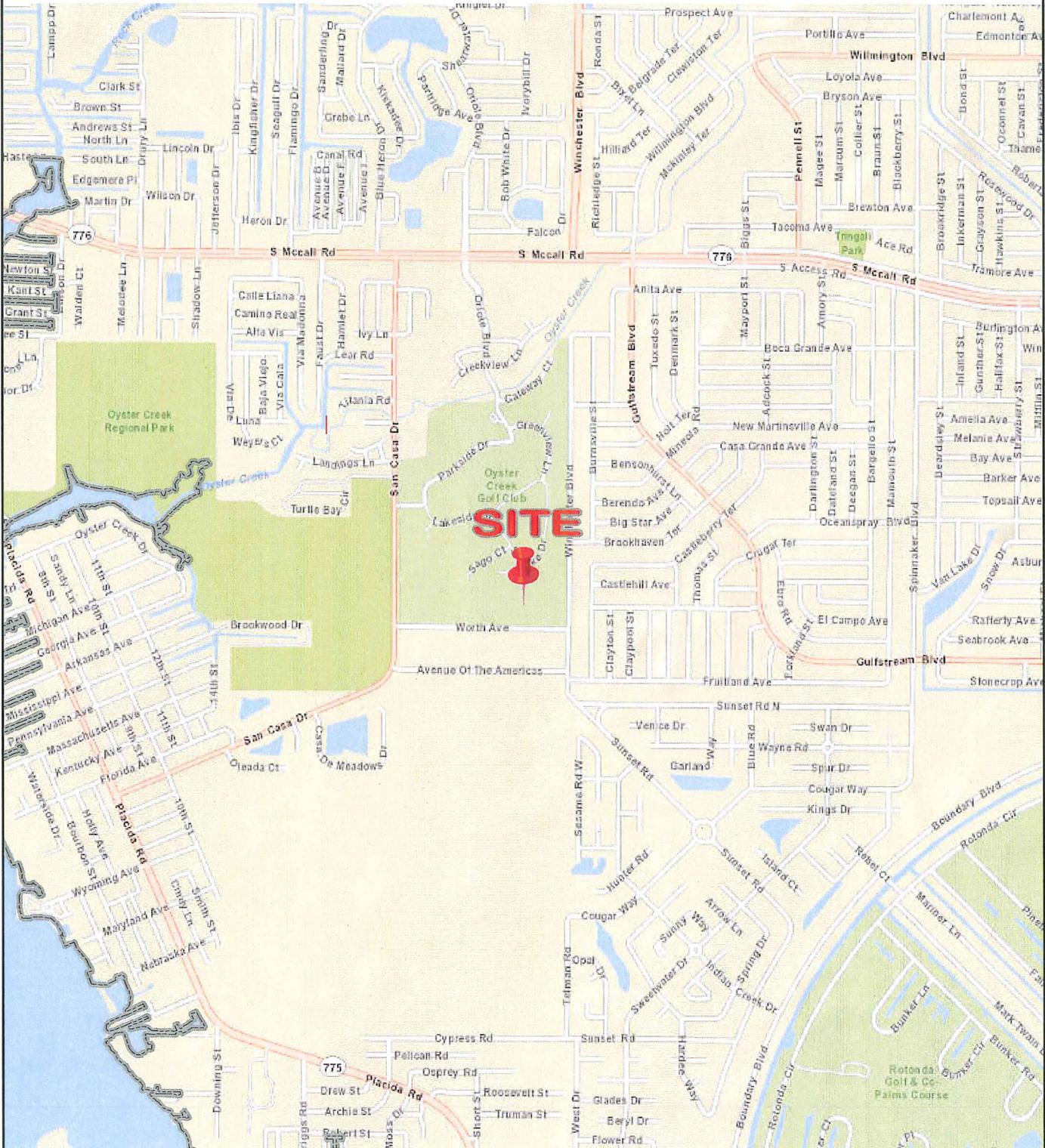
CHARLOTTE COUNTY

Location Map for SE-14-003

Charlotte County Government

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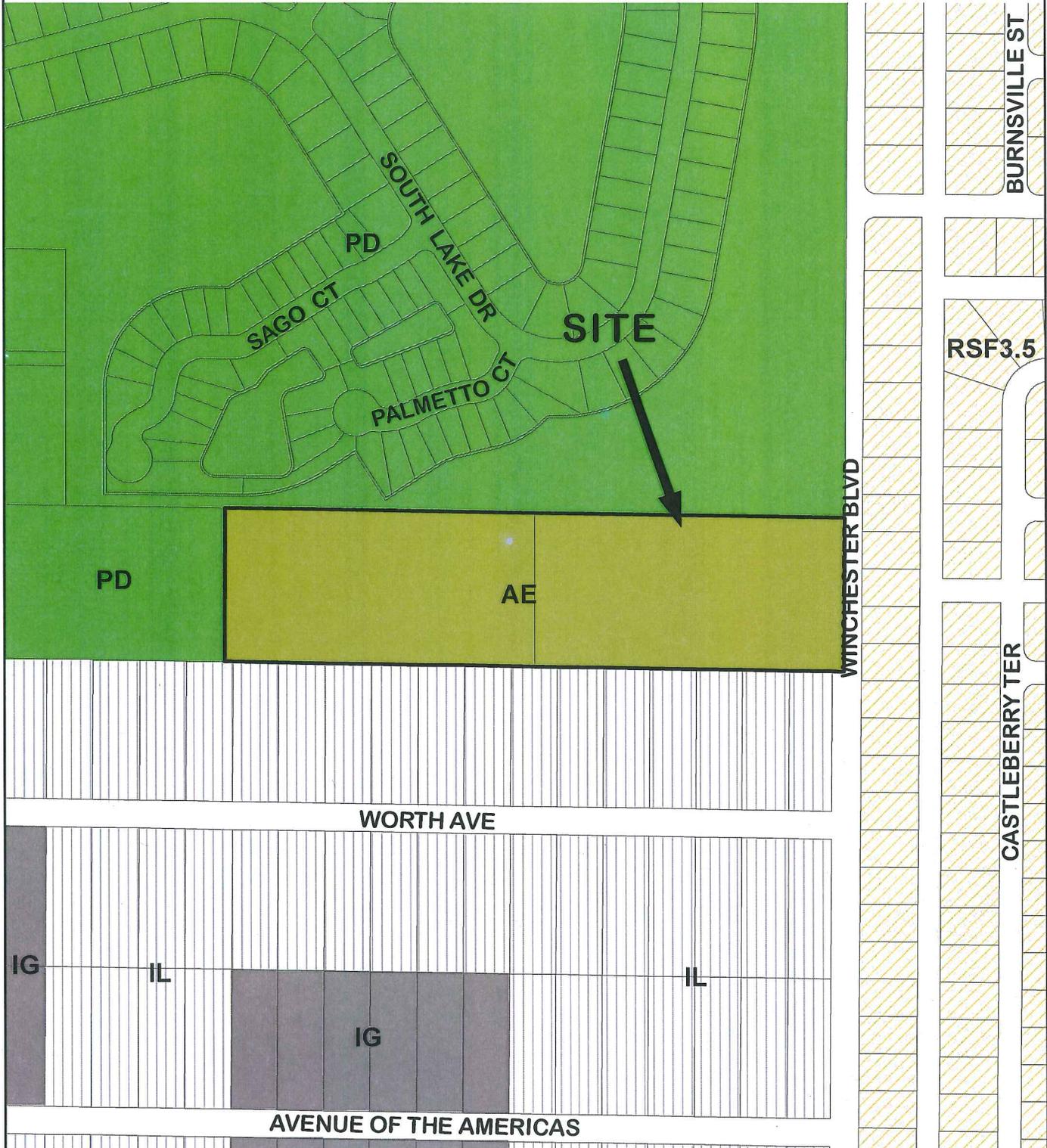
CHARLOTTE COUNTY

Zoning Map for SE-14-003

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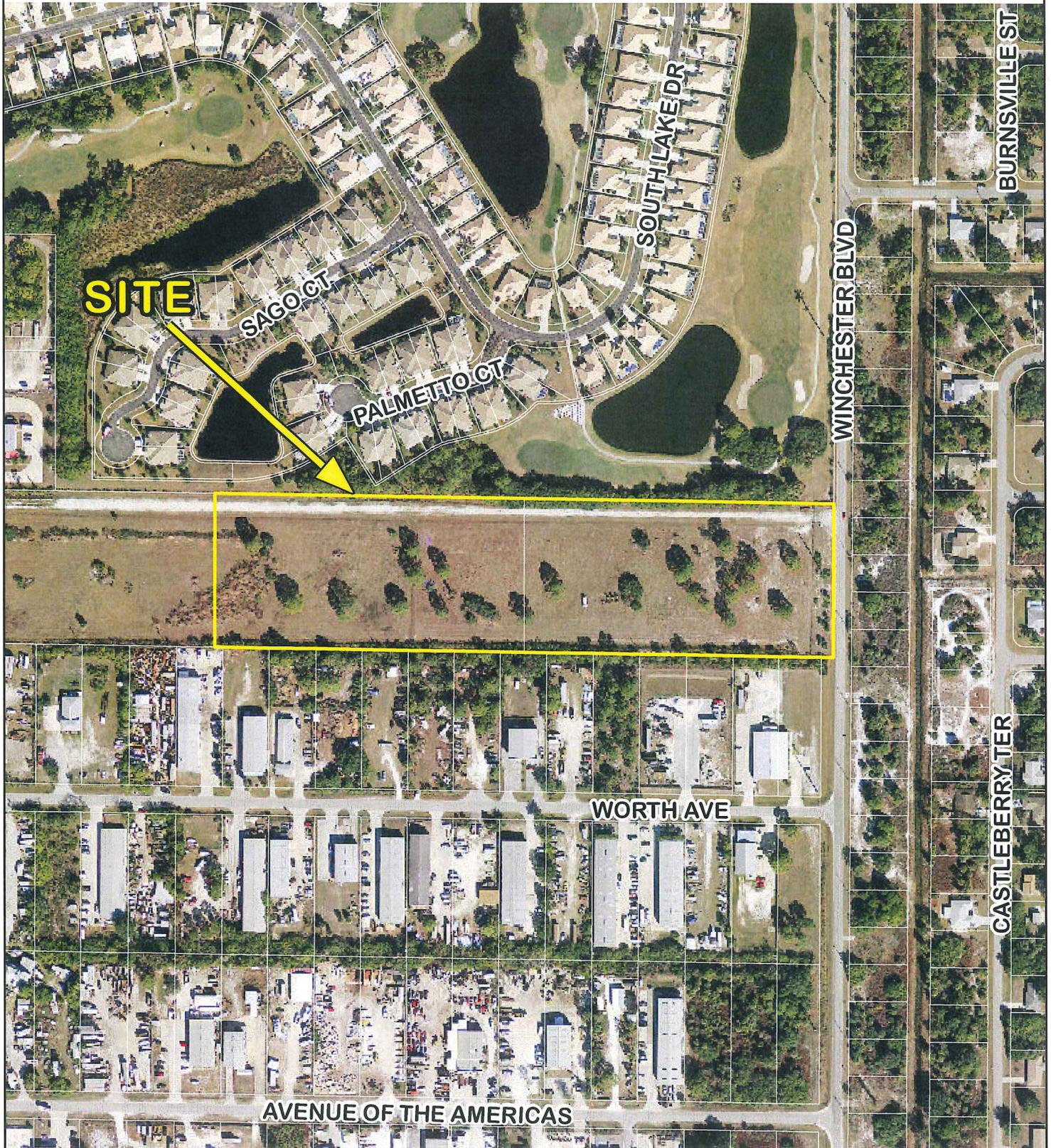
CHARLOTTE COUNTY

Aerial View for SE-14-003

Charlotte County Government

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Sec. 3-9-30. Agriculture (AG and AE).

- (a) *Intent.* Agriculture districts are intended to retain the open character of the land. Permitted uses are limited to conservation, agriculture, low-density residential, recreation and other uses consistent therewith.

Agriculture and agricultural activities are frequently associated with noise, odors, dust, aerial chemical spraying, and other activities generally incompatible with urban-style living. However, agriculture forms a vital segment of the economy of the state, and provides diversity of economic opportunity and life styles for the county. Therefore, it is the purpose of the agricultural districts to provide areas for the establishment and/or continuation of agricultural operations with residential uses being permitted only at very low densities and to accommodate those individuals who understand and desire to live in an agricultural environment.

The primary difference between these districts is that agriculture estate (AE) districts are intended to exist only within the urban service area while agriculture general (AG) districts are intended to exist only outside the urban service area.

- (b) *Permitted principal uses and structures.* The following uses and structures are permitted in this district.
- (1) Raising of cattle, sheep, swine or other animals associated with or kept in support of agricultural operations, provided no swine shall be kept within one thousand (1,000) feet of a nonagricultural district.
 - (2) Raising of poultry.
 - (3) Raising of dairy herds and production and processing of dairy products.
 - (4) Breeding, training and boarding of animals associated with or kept in support of agricultural operations.
 - (5) Harvesting, cultivation, processing and sale of crops grown on premises, including silviculture, aquaculture and commercial citriculture.
 - (6) Single-family dwellings, excluding mobile homes, barns, workshops and other structures incidental to agricultural uses.
 - (7) Elementary, middle and high schools.
 - (8) Occupied single-family residences used as family day care homes.
 - (9) Emergency services.
 - (10) One (1) servant's quarters or guest house for each permitted single-family residence, provided that total lot area shall not be less than twice the minimum lot area required for a single-family dwelling.
 - (11) Parks and other recreational uses such as hunting, fishing and educational tours.
 - (12) Commercial radio, television and other transmitting or receiving stations, and line-of-sight relay devices, structures and towers fifty (50) feet or less in height, in accordance with section 3-9-71.1
- (c) *Permitted accessory uses and structures.* Uses and structures which are customarily accessory and clearly incidental to permitted uses and structures are also permitted in this district.
- (d) *Prohibited uses and structures.* Any use or structure not expressly or by reasonable implication permitted herein or permitted by special exception shall be unlawful in this district.
- (e)

Section 3-9-30(e) (Exhibit A-1)

Sec. 3-9-30

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

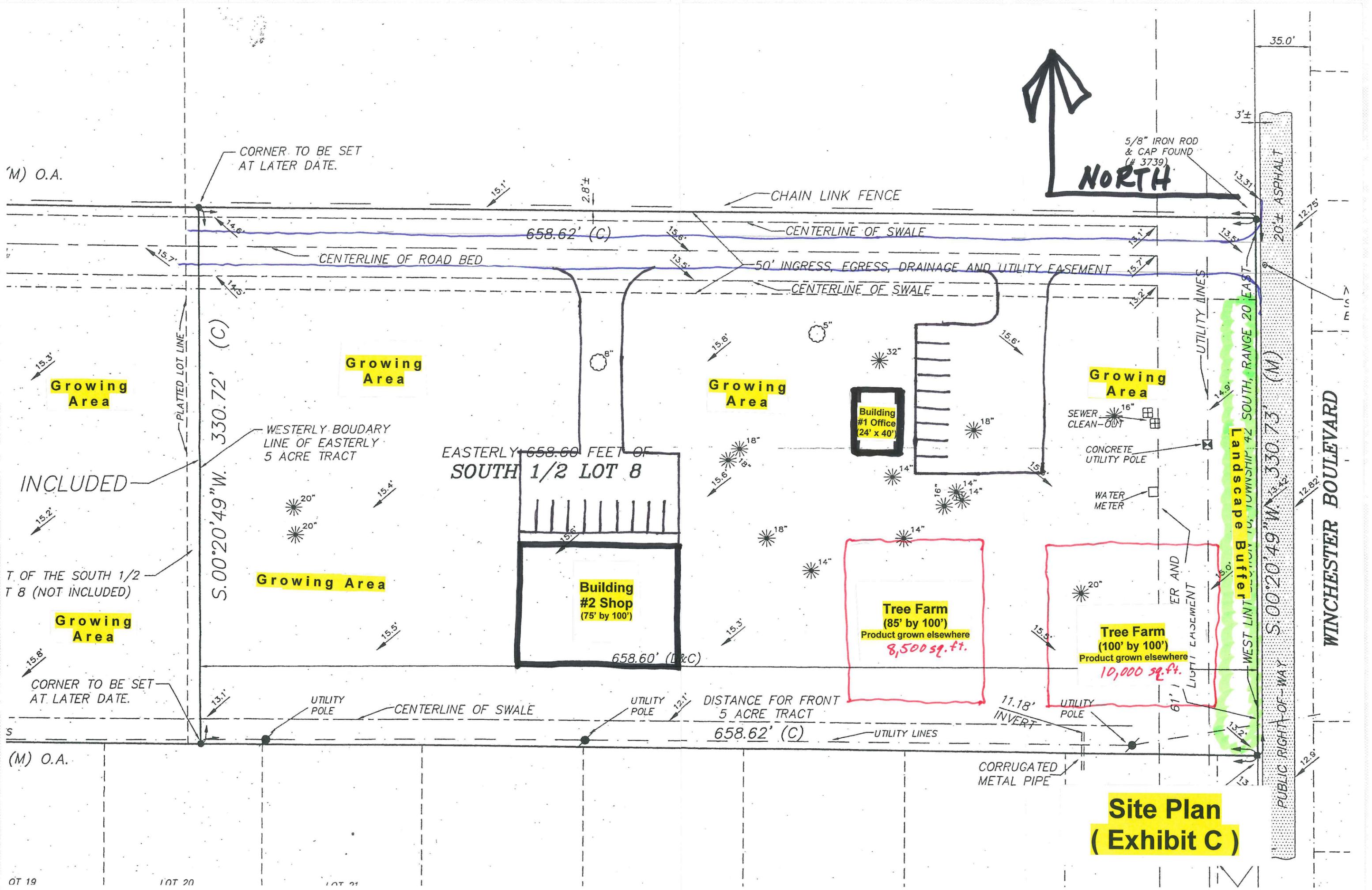
- (1) Single-family residences used as foster care facilities.
- (2) Housing for farm labor.
- (3) Livestock auction.
- (4) Industrial activities such as leather tanning, wool processing, slaughterhouses, feed pens, meat curing and similar activities relating to agriculture.
- (5) Public and private recreation facilities, including country clubs; race tracks; pistol, rifle, skeet, trap shooting and archery ranges; and riding stables.
- (6) Sanitary landfills, but not including junkyards, and automobile wrecking yards.
- (7) **Plant nurseries with retail sales of garden supplies and equipment.**
- (8) Cluster houses and patio houses, provided a site plan is approved.
- (9) Nursing homes.
- (10) Airports, heliports and landing fields.
- (11) Houses of worship, in accordance with section 3-9-80.1
- (12) Group home facilities, child and adult day care facilities.
- (13) Commercial radio, television and other transmitting or receiving stations, and line-of-sight relay devices, structures, or towers over fifty (50) feet in height, in accordance with section 3-9-71.1
- (14) Cemeteries, mausoleums, crematoriums, and funeral homes located within a cemetery, provided no grave, monument or structure shall be closer than twenty-five (25) feet to a side property line.
- (15) Yacht clubs, country clubs, golf driving ranges and golf courses, including executive or par-3 golf courses, but not including miniature golf courses not associated with a golf course, provided that any required parking area or building is located at least fifty (50) feet from property zoned for residential use.
- (16) Mobile homes used as residence.
- (17) Adult congregate living facilities in accordance with section 3-9-63.1
- (19) Private clubs which have a minimum parcel size of either one (1) acre inside the Urban Service Area, or ten (10) acres outside the Urban Service Area.
- (20) Colleges and universities; and
- (21) Veterinarian clinics; and
- (22) Dog kennels in conjunction with an owner-occupied residence on a minimum lot size of five (5) acres.
- (23) 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 apply:

- (1) Minimum lot requirements:

Section 3-9-30(e)
(Exhibit A-2)



Narrative for Special Exception for P Inc.

This is a request for a special exception to allow a plant nursery, including limited retail sales, a tree farm, maintenance and office building for the businesses. The property is located in Englewood, between San Casa and Winchester Boulevards. The property has Agriculture Estates (AE) zoning and low density residential land use. It is a transition area between an industrial park to the south and a golf course community to the north.

The site will have areas that are devoted to tree farming, will allow limited retail plant sales, will contain an office trailer with parking, and a maintenance shop building for equipment used in the tree farming and landscaping businesses. As shown on the site plan there will be areas labelled "tree farm" where trees grown off site are brought in and maintained. There will be an office and shop building and parking. The balance of the site will be used for growing trees and plants on site. The closest building will be over 130 feet back from Winchester Boulevard.

The request meets the standards 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, legal department and comprehensive planning staff have determined a plant nursery/tree farm/landscaping business with limited retail sales is allowed with these land use and zoning designations.

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 use is compatible with existing uses surrounding the subject property. To the west is land zoned PD being used for warehousing. To the south is an industrial park. There is a 50 foot wide access and drainage easement on the northern boundary of the property with a Planned Development residential golf course community further north. The office and maintenance building are located towards the eastern end of the property, away from the residential homes to the north.

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.

The site will have access to both San Casa and Winchester Boulevards over a 50 wide access easement that runs across the northern boundary of the property.

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

The site will primarily consist of landscaping and trees. The southern end of the golf course is heavily wooded.

**Narrative
(Exhibit D-1)**

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

The zoning official, legal staff and comprehensive planning staff have determined this use is appropriate for this land use and zoning combination.

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

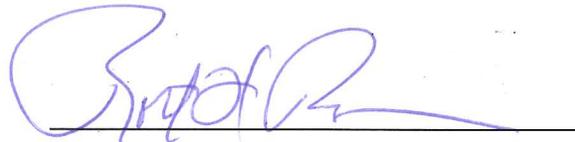
The use will not be detrimental to the public health, safety or general welfare. It serves as a transition between the industrial park to the south, and the golf course community to the north. Residential development would not be appropriate adjacent to the industrial park.

The special exception is for the following legal description:

The South half of Lot 7, Less the Westerly 20 feet thereof, and the South half of Lot 8 in the Plat of GROVE CITY LAND COMPANY, according to the plat thereof as recorded in Plat Book 1, Page 8 of the Public Records of Charlotte County, Florida.

Based on the foregoing, it is respectfully requested the special exception be approved.

Respectfully submitted this 29th day of January, 2014.



Robert H. Berntsson

**Narrative
(Exhibit D-2)**



MEMORANDUM

Date: February 21, 2014
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Subject: SE-14-003 / Phillips of SW Florida, LLC; 7371 Winchester Boulevard

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:

- ❖ A cursory environmental review has been conducted by staff. The property consists primarily of Pine trees with minimal understory. Due to the fact the property is undeveloped there is a probability of listed species occurrence on site. The site is also located with the U.S. Fish and Wildlife Service Scrub Jay review area. Please contact Tina Powell at 941-613-3224 for additional information concerning Charlotte Counties upcoming Habitat Conservation Plan.

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

- ❖ All applicable county, state and federal authorizations or permits, and mitigation (if necessary) will be required.
- ❖ If this proposal moves forward, it will be reviewed for compliance with:

Chapter 3-2:

Article IX. *TREE REQUIREMENTS*; **All heritage trees must be preserved per Section 3-2-190.

Chapter 3-5:

Article IV *CLEARING, FILLING AND SOIL CONSERVATION*;

Article XVI, *OPEN SPACE / HABITAT RESERVATION*;

Article XVIII, *LANDSCAPING AND BUFFERS*

**Staff highly encourages that all existing native trees located on site remain preserved.

- ❖ The project must comply with the Smart Charlotte 2050 Comprehensive Plan.

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

JS

(Exhibit E)



MEMORANDUM

Date: February 27, 2014
To: Ken Quillen, Planner III
From: Venkat Vattikuti, Transportation Engineer
Subject: SE-14-003
Phillips of Southwest Florida, LLC; 7371 Winchester Boulevard

ANALYSIS:

Currently, the Winchester Boulevard is under construction and the 100% plans of this roadway were finished one year back and did not include any driveway connection to the subject property. From the transportation perspective, the County Public Works Department does not have any objection for the proposed access point developed as a right-in-right-out driveway configuration on to Winchester Boulevard, with the following conditions:

Conditions:

- 1) The applicant shall work with the Public Works Department staff to design and modify the existing roadway design at the proposed access point.
- 2) The applicant is solely responsible to construct the access driveway to County standards and according to plans approved by the County.

If there are any questions pertaining to this review please feel free to contact me at (941) 623-1064.

Venkat Vattikuti

(Exhibit F)

Appendix

Table 1A: Table of Buffer Type Requirements (Minimum)

<i>Abutting Zoning:</i>	RSF, AE, RE	RMF, RMF-T	MHS MHC	MHP	RVP	OMI, COP	CG, CN, CT, NBR MU	CI, CH	IL, IOP	IG
Developing Lot's Zoning:										
Single-Family Residential, Agricultural Estates, Residential Estates	-	-	-	-	-	-	-	-	-	-
Residential Multifamily, Residential Multifamily- Tourist	B	-	-	-	-	-	-	-	-	-
Mobile Home Subdivision, Mobile Home Conventional	B	A	-	-	-	-	-	-	-	-
Mobile Home Park	B	B	B	-	-	-	-	-	-	-
Recreational Vehicle Park	C	C	C	C	-	-	-	-	-	-
Office/Medical/Institutional, Commercial Office Park	C	C	C	C	B	-	-	-	-	-
Commercial General, Commercial Neighborhood, Commercial Tourist, Neighborhood Business Residential, Mixed Use	C	C	C	C	B	A	-	-	-	-
Commercial Intensive, Commercial Highway	D	D	D	D	C	B	A	-	-	-
Industrial Light, Industrial Office Park	D	D	D	D	C	C	B	A	-	-
Industrial General	E	E	E	E	D	D	D	B	A	-
Communication Towers (regardless of zoning)	E	E	E	E	E	E	E	E	E	-
Essential Services as defined in § 3-9-74 (regardless of zoning)	A	A	A	A	A	A	A	A	A	-
Active Use Parks (regardless of zoning)	C	C	C	C	C	C	-	-	-	-
Storage Yards (regardless of zoning)	D	D	D	D	D	D	D	D	D	D
Preserve / mitigation lands and passive use parks	-	-	-	-	-	-	-	-	-	-

**Table 1A
(Exhibit G-1)**

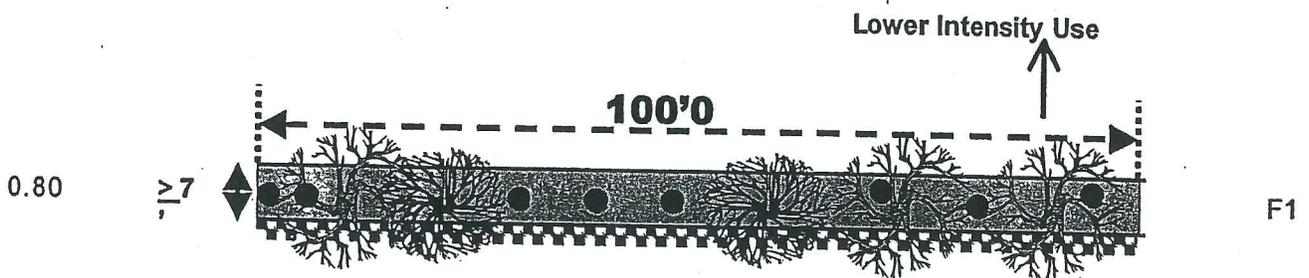
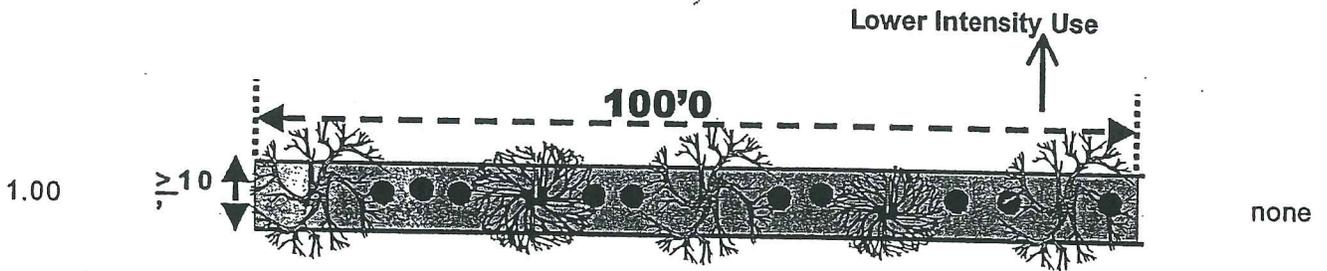
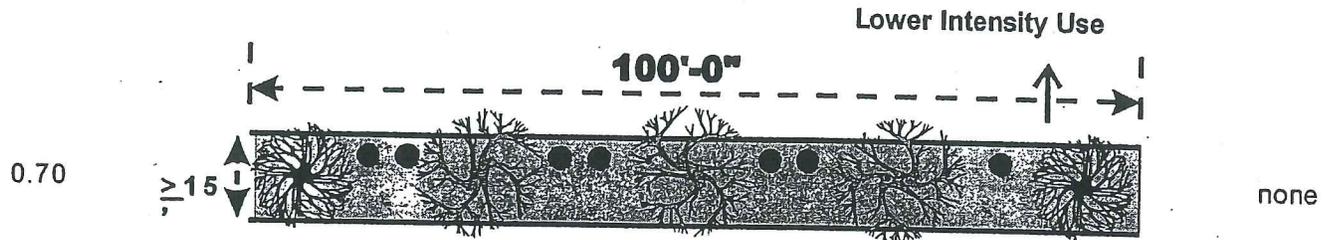
Required Plant Units/ 100 ft.

Buffer Type Illustration

- 3 Canopy Trees
- 2 Accent/Understory Trees
- 10 Shrubs
- Per Plant Unit Multiplier

Buffer "A"

Structure Required



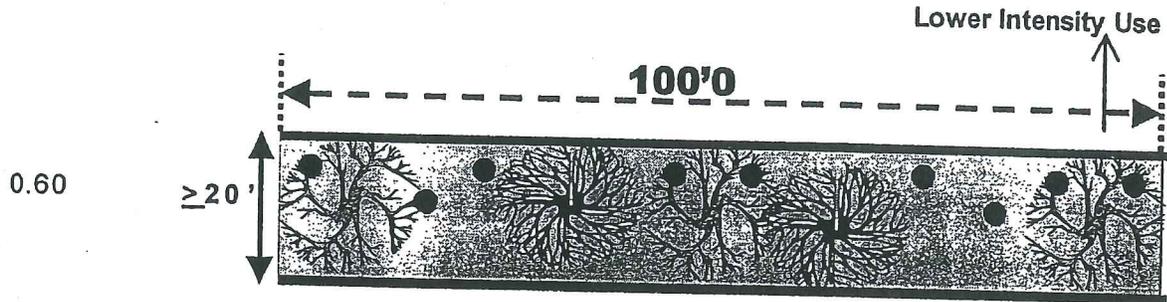
**Type "A" Buffer
(Exhibit G-2)**

Buffer Type Illustration

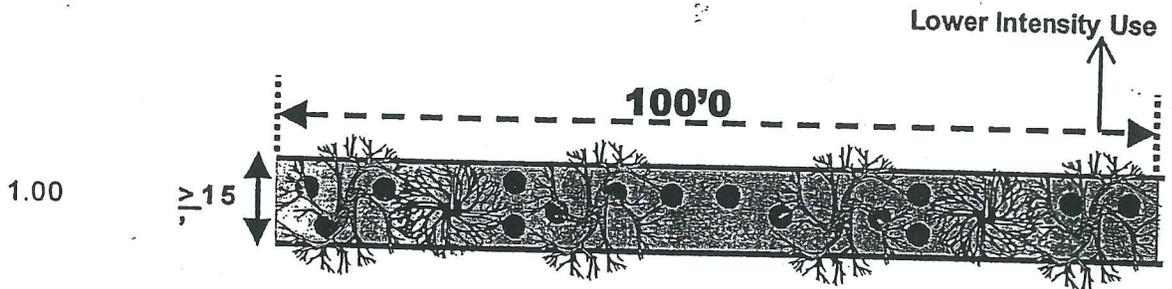
- 4 Canopy Trees
- 2 Accent/Understory Trees
- 15 Shrubs
- Per Plant Unit Multiplier

Buffer "B"

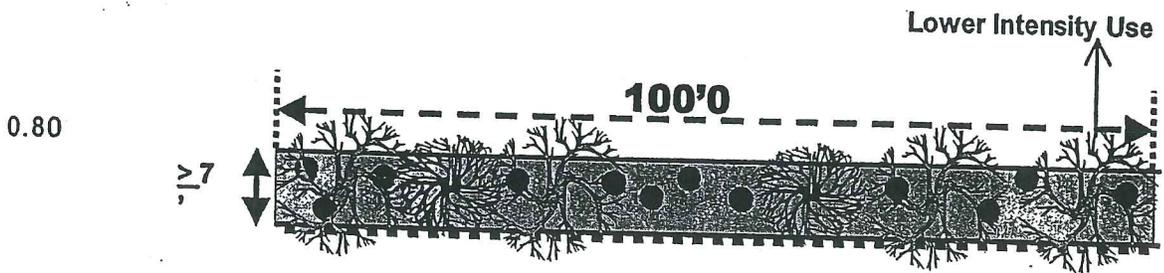
Structure Required



none



none



F1

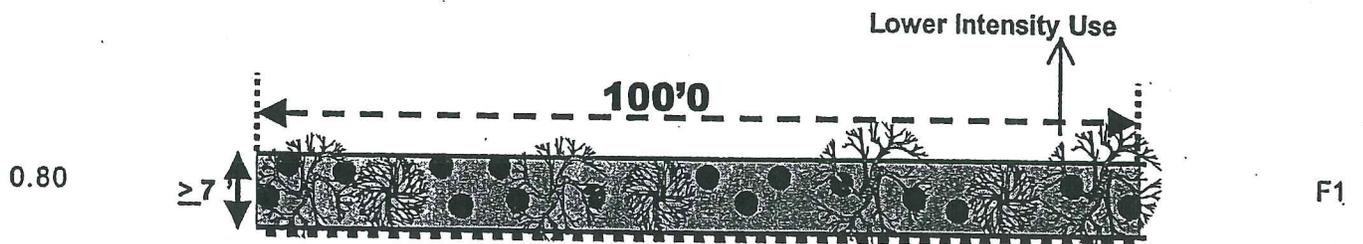
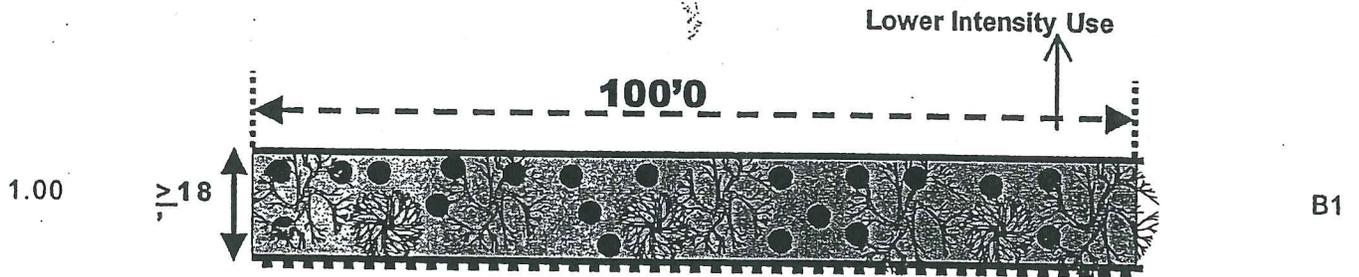
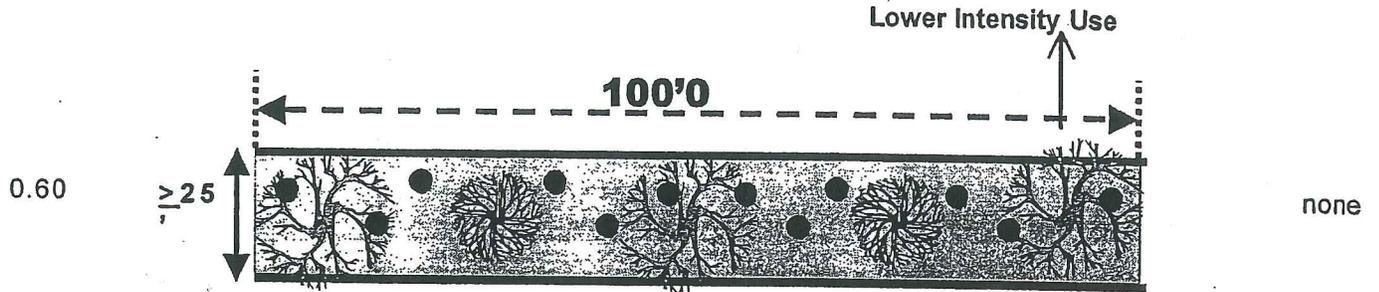
Type "B" Buffer
(Exhibit G-3)

Buffer Type Illustration

- 5 Canopy Trees
- 3 Accent/Understory Trees
- 20 Shrubs
- Per Plant Unit Multiplier

Buffer "C"

Structure Required



**Type "C" Buffer
(Exhibit G-4)**