

STAFF REPORT
Community Development Department
File Number: SE-14-008

To: Charlotte County Board of Zoning Appeals

From: Shaun Cullinan, Zoning Official

Prepared By: Ken Quillen, AICP, Planner III

Report Date: June 3, 2014

BZA meeting date: June 11, 2014

Requested Action/General Information:

Dona Cole is requesting a special exception to allow a Home Occupation, consisting of a dog sitting business, in the Mobile Home Conventional (MHC) zoning district. Subject property is located at **701 Del Ray Place** in Punta Gorda (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Mobile Home Conventional (MHC). This property has a Low Density Residential Future Land Use Map (FLUM) designation.

Section 3-9-37 (Exhibit A) does allow a home occupation as a special exception in the Mobile Home Conventional (MHC) zoning district if operated in accordance with section 3-9-79. The home occupation regulations in **Section 3-9-79** (Exhibit B) 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." This section of code also lists ten conditions required for the operation of a home occupation. The applicant has stated that she will abide by all ten conditions required by this section of the Zoning Code.

The applicant has submitted the attached **Survey** (Exhibit C), showing the existing 564 square foot residence, carport, lanai, shed, and swimming pool, located on this 13,345 square foot lot. The applicant has not submitted a Floor Plan of the residence showing the location of the room proposed to be used because there is no one room that will be used for the dog sitting business. Code requires two off-street parking spaces for a single-family residence. This residence has an existing driveway, which has room for at least three vehicles stacked in the driveway. The applicant has stated in their narrative 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 applicant has also submitted the attached **Narrative** (Exhibit D) 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 May 16, 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: Home occupations are allowed by section 3-9-37(e) by special exception in the MHC zoning districts as long as section 3-9-79 is 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 proposed dog sitting business, which may be considered an accessory use, could be considered compatible with the surrounding residential area.

Direction	Existing Land Uses	Existing Zoning	Future Land Use Map Designation
North	Single-family residences	MHC	Low Density Residential
South	Single-family residences	MHC	Low Density Residential
East	Single-family residences	MHC	Low Density Residential
West	Single-family residences	MHC	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: An access drive already exists off of Del Ray Place 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 according to 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 a dog sitting business, 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 subject property 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 a dog sitting business for no more than three dogs not owned by the resident, only as an accessory use to the existing single-family residence.
2. There shall not be any outdoor kennel associated with this home occupation.
3. 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 Code.
4. 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), Area Map, Zoning Map, Aerial Photograph, Section 3-9-37, Section 3-9-79, Boundary Survey, Narrative, Environmental Specialist Memorandum, Google Street-view and Google 45-degree View



Community Development

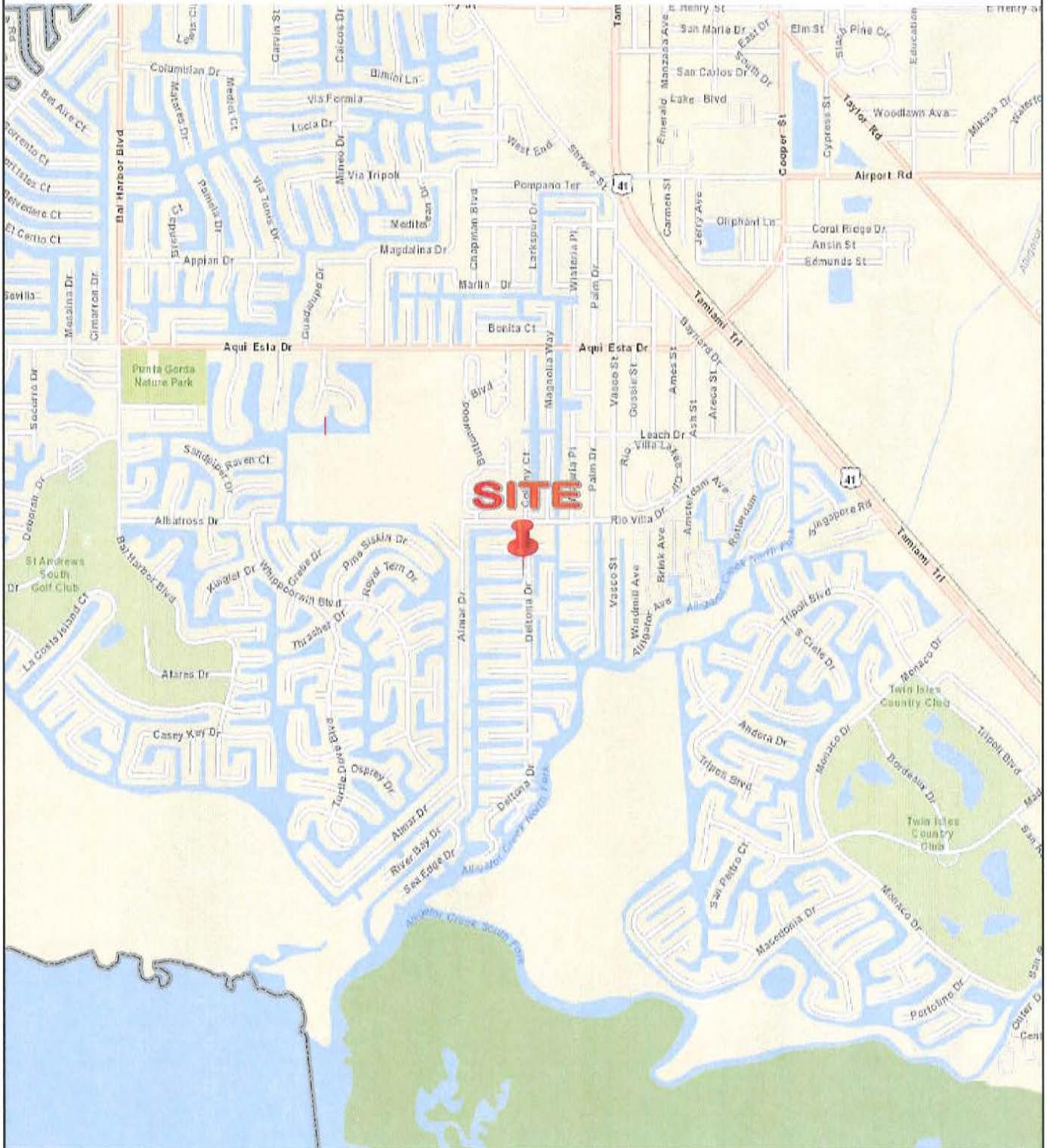
CHARLOTTE COUNTY

Location Map for SE-14-008

Charlotte County Government

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Community Development

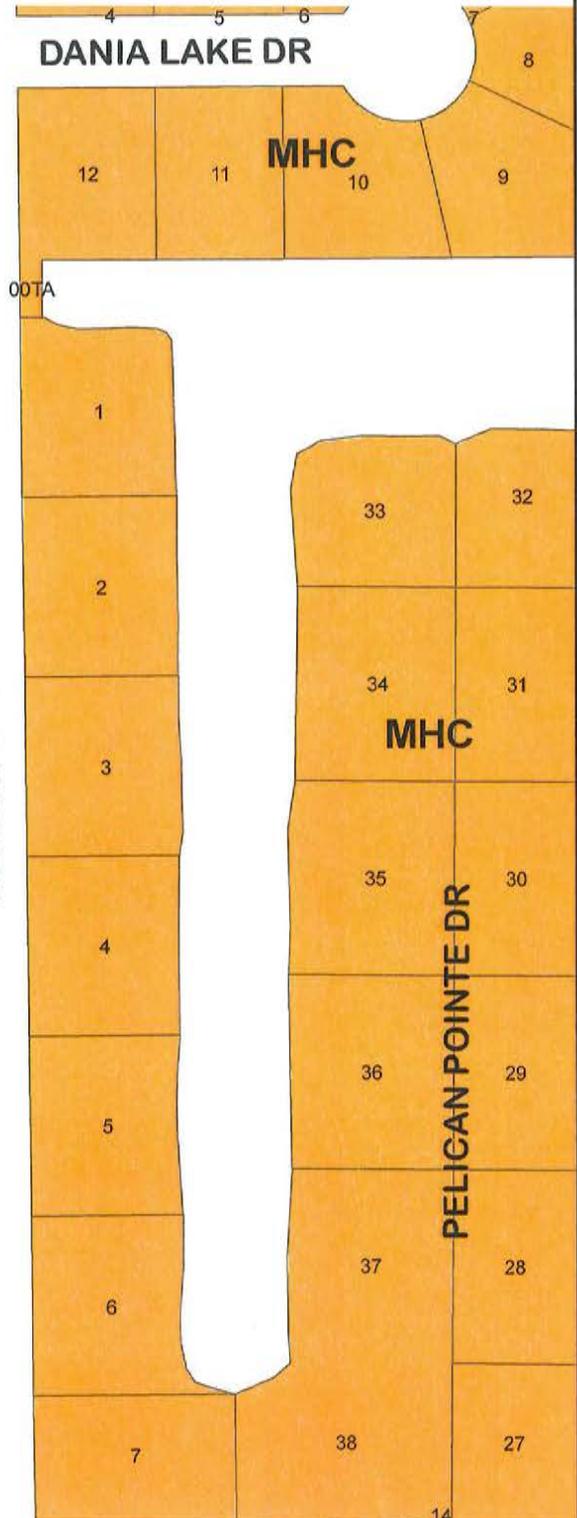
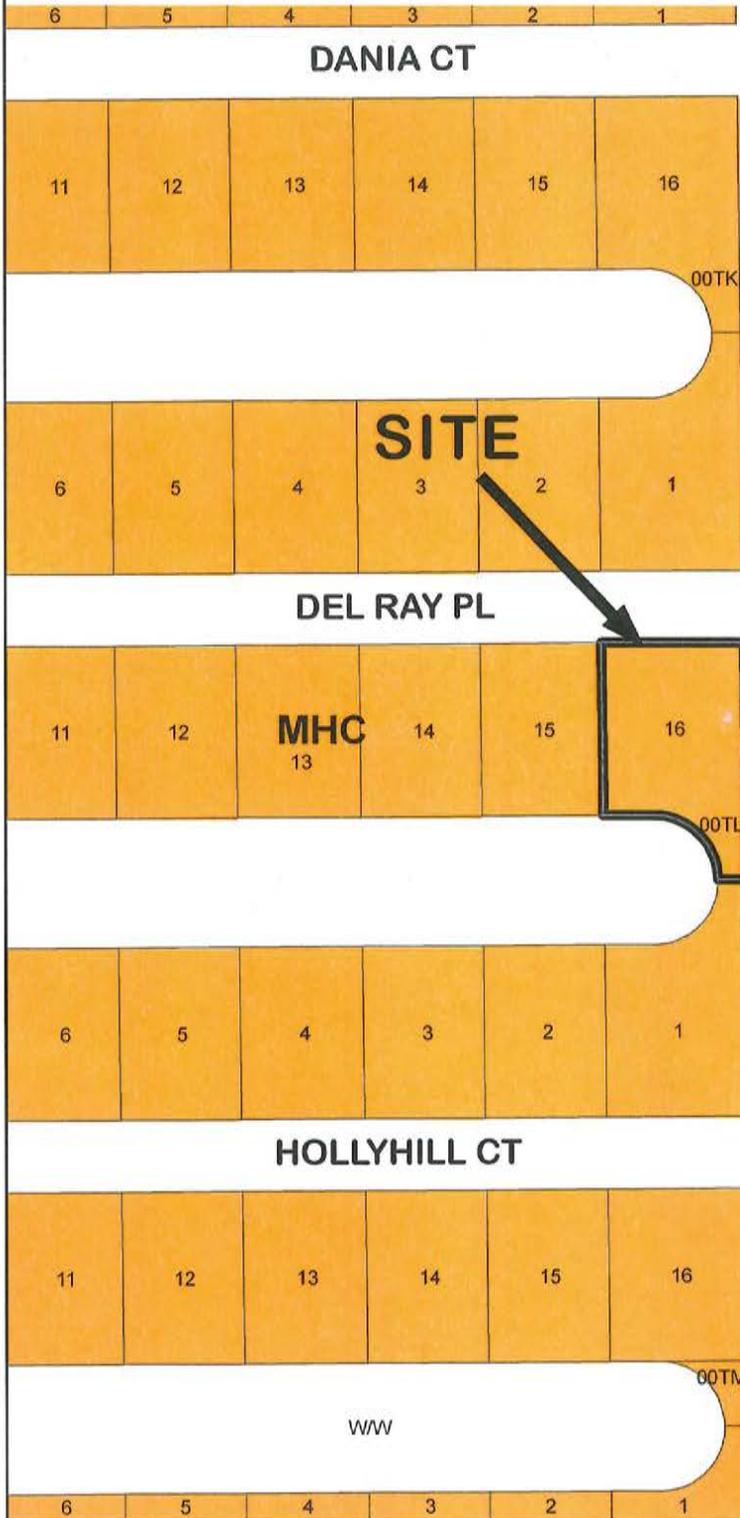
CHARLOTTE COUNTY

Zoning Map for SE-14-008

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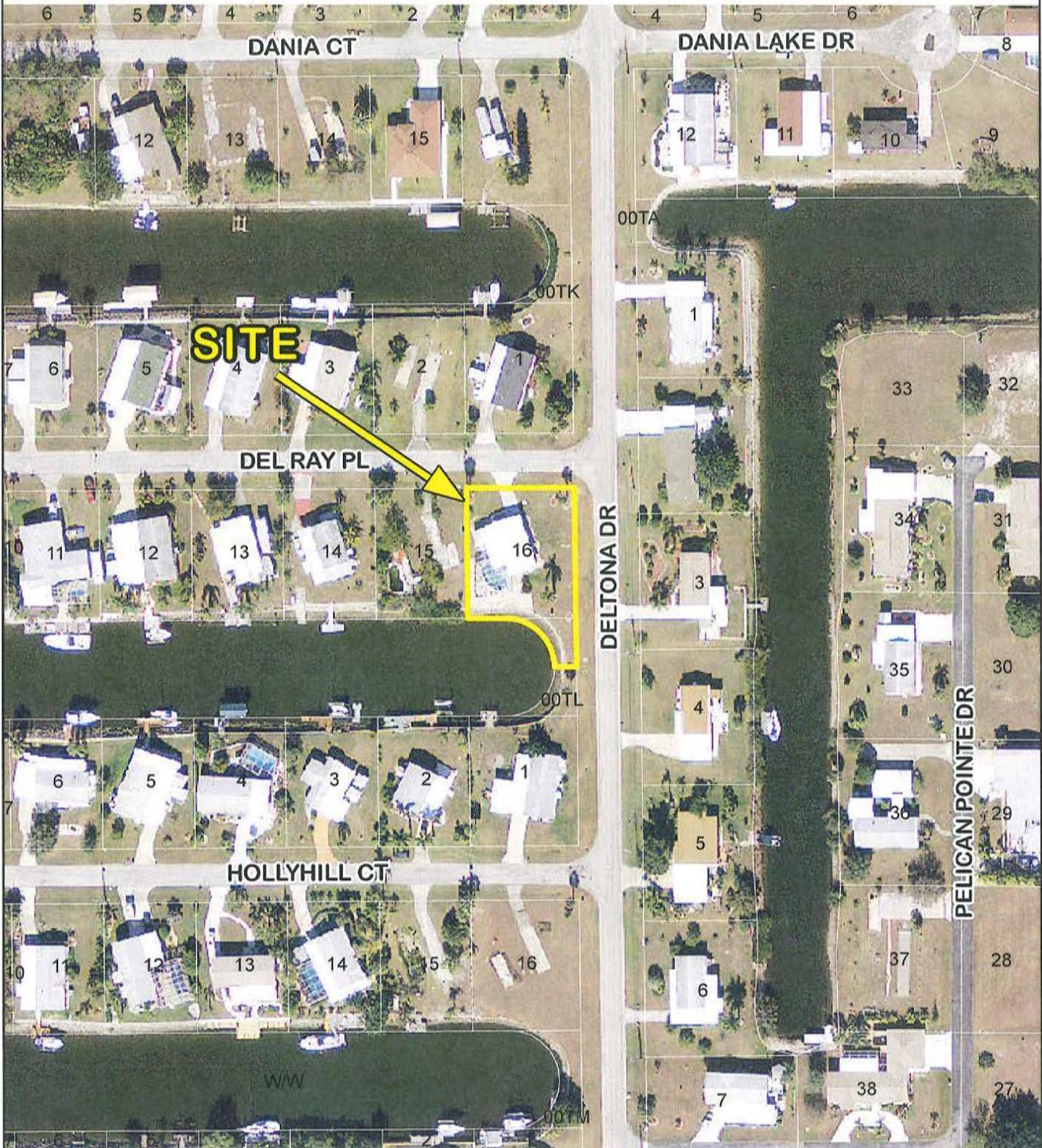
CHARLOTTE COUNTY

Aerial View for SE-14-008

Charlotte County Government

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Sec. 3-9-37. Mobile home conventional (MHC).

- (a) *Intent.* The mobile home conventional (MHC) district is intended to provide for mobile homes and conventional single-family structures in an environment of residential character. Uses not compatible with single-family residential uses are prohibited. This district shall be applied to existing developments containing a mixture of mobile homes and conventional dwelling units.
- (b) *Permitted principal uses and structures.* The following uses and structures are permitted in this district:
- (1) Mobile homes and modular homes.
 - (2) Conventional single-family dwelling units.
 - (3) Occupied residences used as family day care homes.
 - (4) Noncommercial boat docks.
 - (5) Nonprofit parks, playgrounds and recreational facilities.
 - (6) Art and music instruction, provided only one (1) student at a time is receiving instruction.
- (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, including:
- (1) Private garages and storage structures.
 - (2) Greenhouses, growing of plants and other horticultural uses, provided no retail sales are made on the premises.
 - (3) Swimming pools.
 - (4) Private stables (minimum one-acre parcel required to permit horses).
 - (5) Tennis courts.
- (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, including but not limited to:
- (1) Commercial or industrial uses.
 - (2) Travel trailers and motor homes used for residential purposes.
- (e) *Special exceptions.* (For procedure see [section 3-9-7](#), "Special exceptions.") The following are special exceptions in this district:
- (1) Houses of worship, in accordance with [section 3-9-80.1](#)
 - (2) Home occupations in accordance with [section 3-9-79](#)
 - (3) Child and adult day care facilities.
 - (4) Essential services and emergency services.
 - (5) Adult congregate living facilities in accordance with [section 3-9-63.1](#)
 - (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.

**Section 3-9-37
(Exhibit A)**

Sec. 3-9-79. Home occupations.

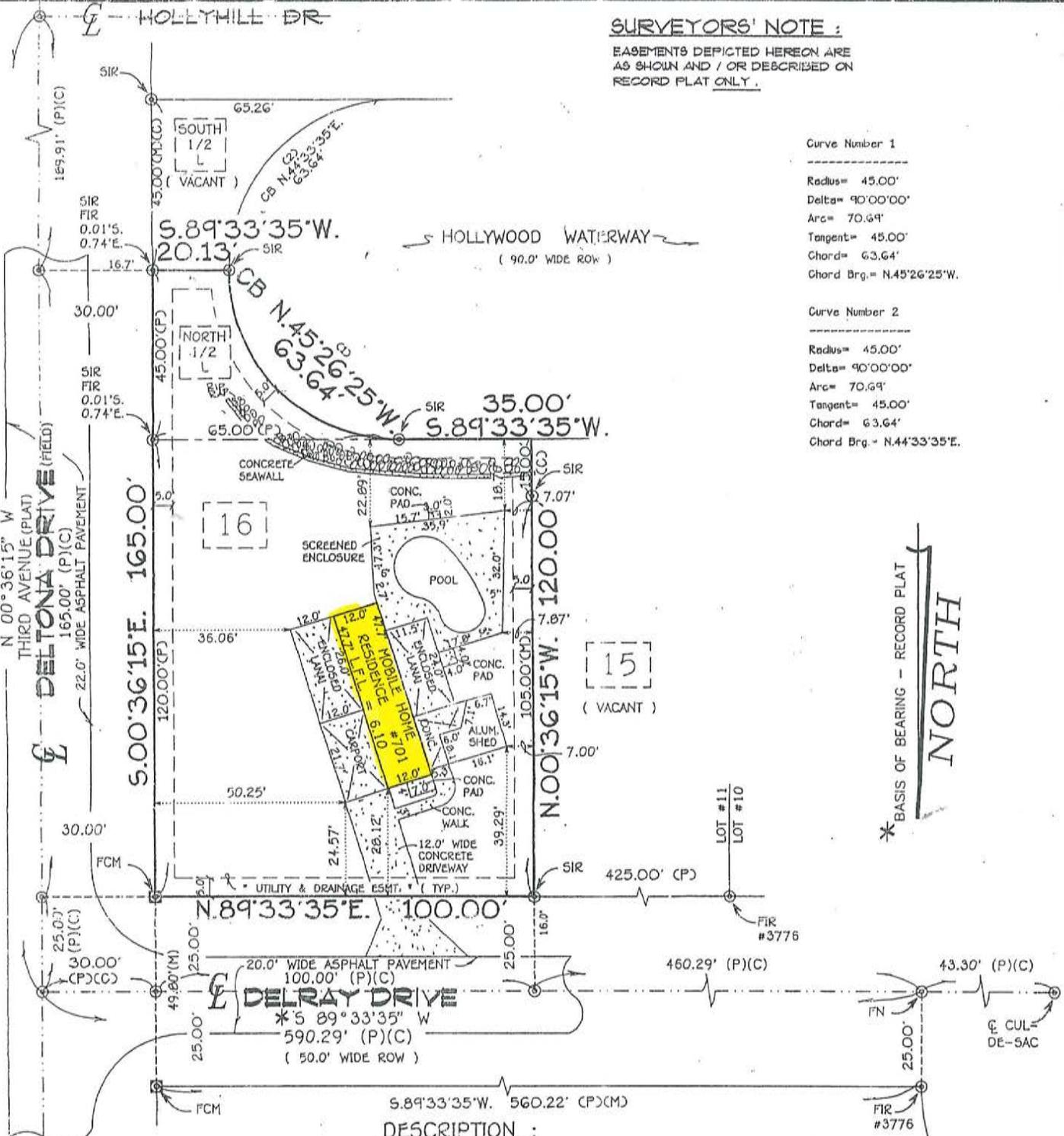
It is the intent of this section to allow the operation of home occupations in any residential zoning district by special exception, and to regulate them so that a neighbor, under normal circumstances, will not be disturbed or inconvenienced. The following conditions must be met and complied with.

- (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.

**Section 3-9-79
(Exhibit B)**



SURVEYORS' NOTE :

EASEMENTS DEPICTED HEREON ARE AS SHOWN AND / OR DESCRIBED ON RECORD PLAT ONLY.

Curve Number 1
 Radius= 45.00'
 Delta= 90°00'00"
 Arc= 70.64'
 Tangent= 45.00'
 Chord= 63.64'
 Chord Brg.= N.45°26'25"W.

Curve Number 2
 Radius= 45.00'
 Delta= 90°00'00"
 Arc= 70.64'
 Tangent= 45.00'
 Chord= 63.64'
 Chord Brg.= N.44°33'35"E.

* BASIS OF BEARING - RECORD PLAT
NORTH

DESCRIPTION :

LOT 16 AND THE NORTH 1/2 (ONE - HALF) OF PARCEL " L " BLOCK " C " OF THE MAP OR PLAT ENTITLED " CHARLOTTE PARK SECTION NO. 3 " AS RECORDED IN PLAT BOOK 7 , PAGE(S) 2A - 2B OF THE PUBLIC RECORDS CHARLOTTE COUNTY , FLORIDA

FLOOD ZONE :

" AE " (EL9) AS TAKEN FROM F . E . M . A . FLOOD INSURANCE RATE MAP COMMUNITY / PANEL NUMBER 120061 0131 E
 REVISED / EFFECTIVE DATE : 1

CERTIFIED TO :

JOHN O. COLE AND DONA M. COLE
 AMERICAN PIONEER INSURANCE CO
 CTX MORTGAGE COMPANY
 EXECUTIVE TITLE INSURANCE SERVIC

Survey
(Exhibit C)

BOUNDARY SURVEY

for
LOT 16 & N 1/2 OF L BLOCK "C"

REVISIONS

- A
- B
- C

LEGEND :

- PCB POINT OF BEGINNING
- PCP POINT OF COMMENCEMENT
- SIR SET 5/8" IRON ROD W/CAP #4118
- SCM SET CONC MONUMENT W/CAP #4118
- FN/W .. FOUND NAIL W/WASHER
- FN/T FOUND NAIL W/TIN TAB
- FBIH FOUND BELL HOLE IN CONCRETE
- L.F.L. LOWEST FLOOR ELEVATION LIVING
- (WC) .. WITNESS CORNER
- (P) PLAT
- PP POWER POLE
- WM WATER METER
- (F) FIELD
- (P) PLAT
- (F) FIELD

NOTES: THE UNDERSIGNED AND TRI - COUNTY SURVEY , INC . , MAKES NO GUARANTEE OR ASSUMES ANY LIABILITY FOR ANY EASEMENTS , RIGHTS - OF - WAY , SETBACKS , RESERVATIONS , RESTRICTIONS , AGREEMENTS OR SIMILAR MATTERS OF RECORD OR NOT OF RECORD OR ANY SUBSURFACE STRUCTURE OR UTILITY NOT PHYSICALLY VISIBLE ON SITE OR SHOWN ON THE RECORD PLAT OF WHICH THIS SURVEY / SKETCH IS DESCRIBED AS A PART AND RECORDED IN THE PUBLIC RECORDS OF THE GOVERNING ORGANIZATION / COUNTY . GOVERNMENTAL JURISDICTION LANDS / ESTLANDS - IF ANY - HAVE NOT BEEN LOCATED UNLESS OTHERWISE SHOWN . THIS SURVEY / SKETCH AS SHOWN HEREON WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND ALL SUCH MATTERS OF TITLE SHOULD BE OBTAINED THROUGH APPROPRIATE TITLE VERIFICATION / ATTORNEY AT LAW . THE DATE SIGNED ONLY REFLECTS THE DATE OF THE SIGNATURE AND NOT THE DATE OF THE SURVEY / SKETCH . NO LIABILITY WILL BE TAKEN FOR USAGE OF THIS SURVEY / SKETCH BY ANY PARTY NOT SPECIFICALLY NAMED HEREON OR THE USE OF THIS SURVEY / SKETCH FOR ANY PURPOSE OTHER THAN ORIGINALLY REQUESTED -

Narrative
(Exhibit D-1)

Narrative for special exception
April 23, 2014

- 1- The zoning code does allow a home occupation if a special exception is approved. I intend to operate a dog sitting business for no more than three dogs at any one time, besides my own pet Pomarianian-maltese.
- 2- There will be no retail sales, and pet dogs are normal accessory use in a residential neighborhood.
- 3- adequate access, buffers, and landscaping are existing for this single family residence.
- 4- The operation of this home occupation will not result in any excessive noise or odors because the dogs will be

housed in doors and a fenced portion of the yard will be used for the dogs to do their business, which will be picked up daily.

I intend to operate my home occupation according to all of the home occupation regulations of the zoning code.

Sincerely

Dona M. Cole

Narrative
(Exhibit D-2)



MEMORANDUM

DATE: May 16, 2014
TO: Ken Quillen, Planner III
FROM: Jamie Scudera, Environmental Specialist
SUBJECT: SE-14-008
Ms. Cole, Home Occupation, 701 Del Ray Place

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:

- ❖ The site consists of an existing waterfront single family residence on the corner of Deltona Drive and Delray Place in Punta Gorda.

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:

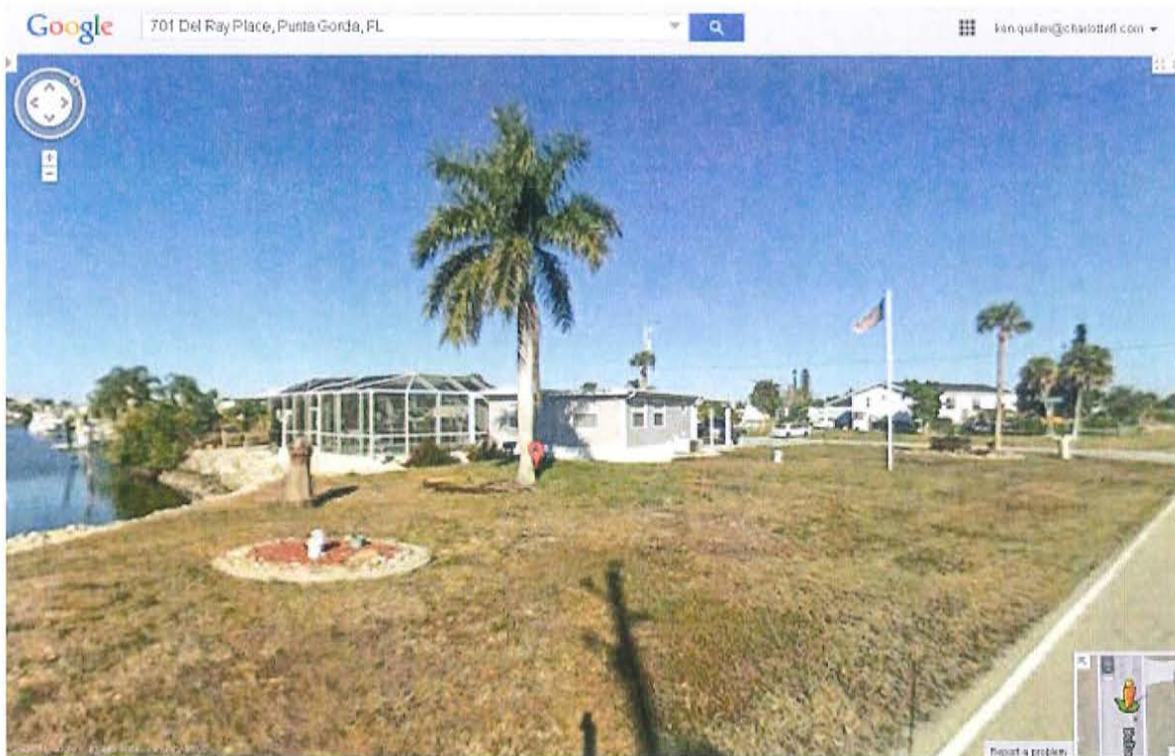
- ❖ As this proposal moves forward, the Environmental Review Section has no issues which need to be addressed.

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

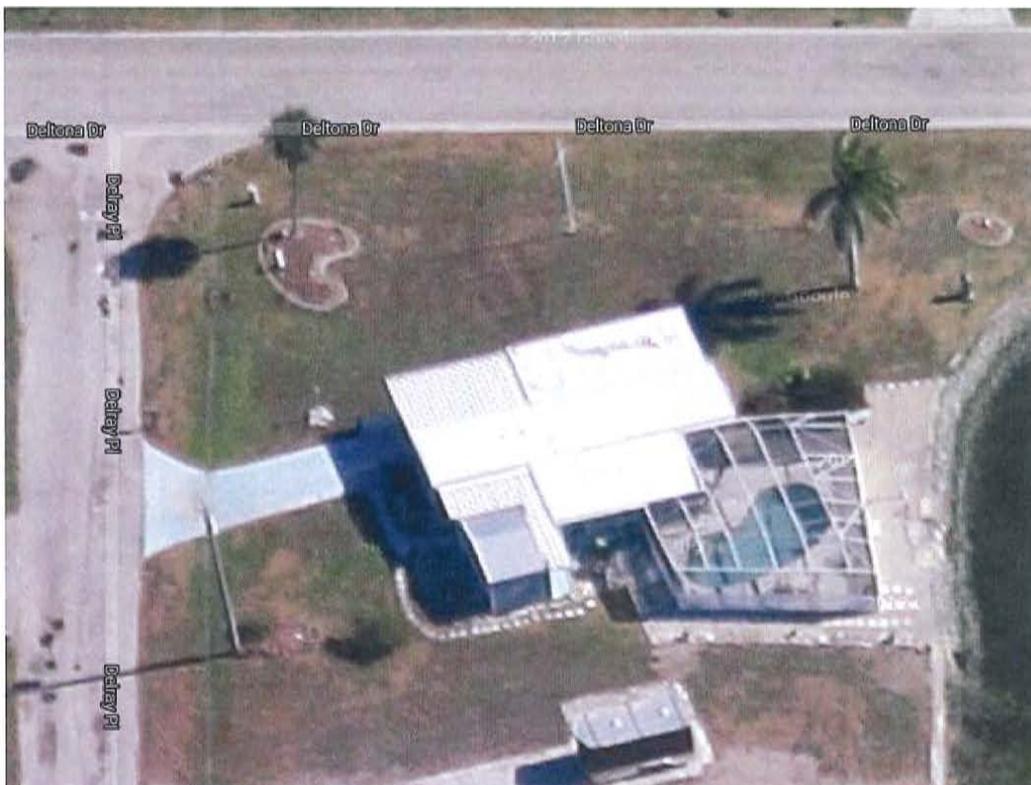
JS

(Exhibit E)

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Google – Street View



Google – 45 – Degree View

701 Del Ray Place

(Exhibit F-2)