

STAFF REPORT
Community Development Department
File Number: SE-16-003

To: Charlotte County Board of Zoning Appeals
From: Shaun Cullinan, Planning and Zoning Official
Prepared By: Ken Quillen, AICP, Planner III
Report Date: April 6, 2016 **BZA meeting date: April 13, 2016**

Requested Action/General Information:

Ronald Klootwyk is requesting a special exception to allow a Home Occupation, consisting of personal fitness training, in the Residential Estate-1 (RE-1) zoning district. Subject property is located at **27421 Lippizan Trail**, Punta Gorda (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Residential Estate-1 (RE-1). This property is also located inside the Urban Service Area and has an Agriculture Future Land Use Map (FLUM) designation. The attached **Aerial View** shows the existing single-family residence located on the north end of this ten-acre parcel.

Section 3-9-32 (Exhibit A) regulates uses in the Residential Estate zoning districts and allows Major Home Occupations as a special exception use if operated in accordance with the home occupation regulations. The purpose and intent of the home occupation regulations as stated in **Section 3-9-74** (Exhibit B) "...is to allow the operation of Home Occupations as an accessory use to the primary use in any residential dwelling unit and to regulate them so that a neighbor, under normal circumstances, will not be disturbed or inconvenienced." This section also lists the requirements, which must be met for the operation of a home occupation. The applicant has stated that he will abide by all conditions required by this section for a Major Home Occupation.

The applicant has submitted the attached **Boundary Survey** (Exhibit C), showing the existing 1,972 square foot (29' by 68') single-family residence, detached garage, pool, lanai, shed and other improvements located on this ten-acre parcel. The applicant intends to use the 2,144 square foot (32' by 67') detached garage as the location for weight lifting, exercise, workouts, and fitness training. The **Property Appraiser Floor Plan** (Exhibit D) shows the dimensions of the detached garage and its proximity to the home. Mr. Klootwyk also proposes to use a desk (8' by 6' = 48 sq. ft.) located in the master bedroom as his home office as shown on the attached **Home Floor Plan** (Exhibit E). Home Occupation regulations limit the area within a home that may be used for a home occupation to a maximum of 20 percent. The area proposed by the applicant is less than three percent of this home. Code requires two off-street parking spaces for a single-family residence. This residence has an existing 2,144 square foot (32' by 67') detached garage and a large driveway, which has room for at least six additional vehicles. **Section 3-9-74(d)(2)a** (Exhibit B-2) limits the number of customers or clients visiting the home at any one time to two clients. The applicant has stated in his 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 F) 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 G) dated March 28, 2016.

Findings: The three standards for approval for a Special Exception according to Section 3-9-6.2(i) of the Charlotte County Zoning Code are as follows:

1. The proposed special exception is consistent with the Comprehensive Plan.

Finding: The principal use will continue to be a single-family residence and the proposed major home occupation is consistent with the **Smart Charlotte 2050 Plan** and Future Land Use classification of Low Density Residential. The proposed major home occupation may be permitted with a special exception according to the Land Development Regulations.

2. The proposed special exception is compatible with existing and permitted uses surrounding the land on which the proposed special exception would exist.

Direction	Existing Land Uses	Existing Zoning	FLUM Designation
North	Single-family homes and mobile homes	Residential Estate-1 and Planned Development	Agriculture
South	Single-family homes & vacant lots	Residential Single-family-5 and Manufactured Home Conventional	Low Density Residential
East	Single-family homes	Residential Estate-1	Agriculture
West	Vacant residential land	Residential Estate-1	Agriculture

Finding: The surrounding land uses consist primarily of single-family residences. Subject property will continue to be used as a single-family residence, which is a permitted principal use and is compatible with the surrounding residential land uses. The addition of the proposed major home occupation as an accessory use in this single-family residence is compatible with the surrounding residential land uses.

3. 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 addition of the proposed major home occupation, consisting of personal fitness training, as an accessory use would not be detrimental to or endanger the public health, safety or general welfare of the surrounding residences.

Analysis and Conclusions:

After review of subject property and the application requesting this special exception staff believes that the proposed major home occupation does meet the three 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 major home occupation consisting of personal fitness training only as an accessory use to the existing single-family residence.
2. This special exception, allowing a major home occupation, shall be conducted according to these conditions as well as all of the standards and conditions of **Section 3-9-74** of the Land Development Regulations, as amended.
3. The owner shall obtain all applicable County permits if any future development, tree removal or land clearing is proposed. Also, the Environmental Section will require a protected species survey and FLUCCS map if any proposed activity is located within the current native vegetated portion of the property.
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 3-9-32, Section 3-9-74, Boundary Survey, Property Appraiser Floor Plan, Home Floor Plan, Narrative and Environmental Specialist Memorandum



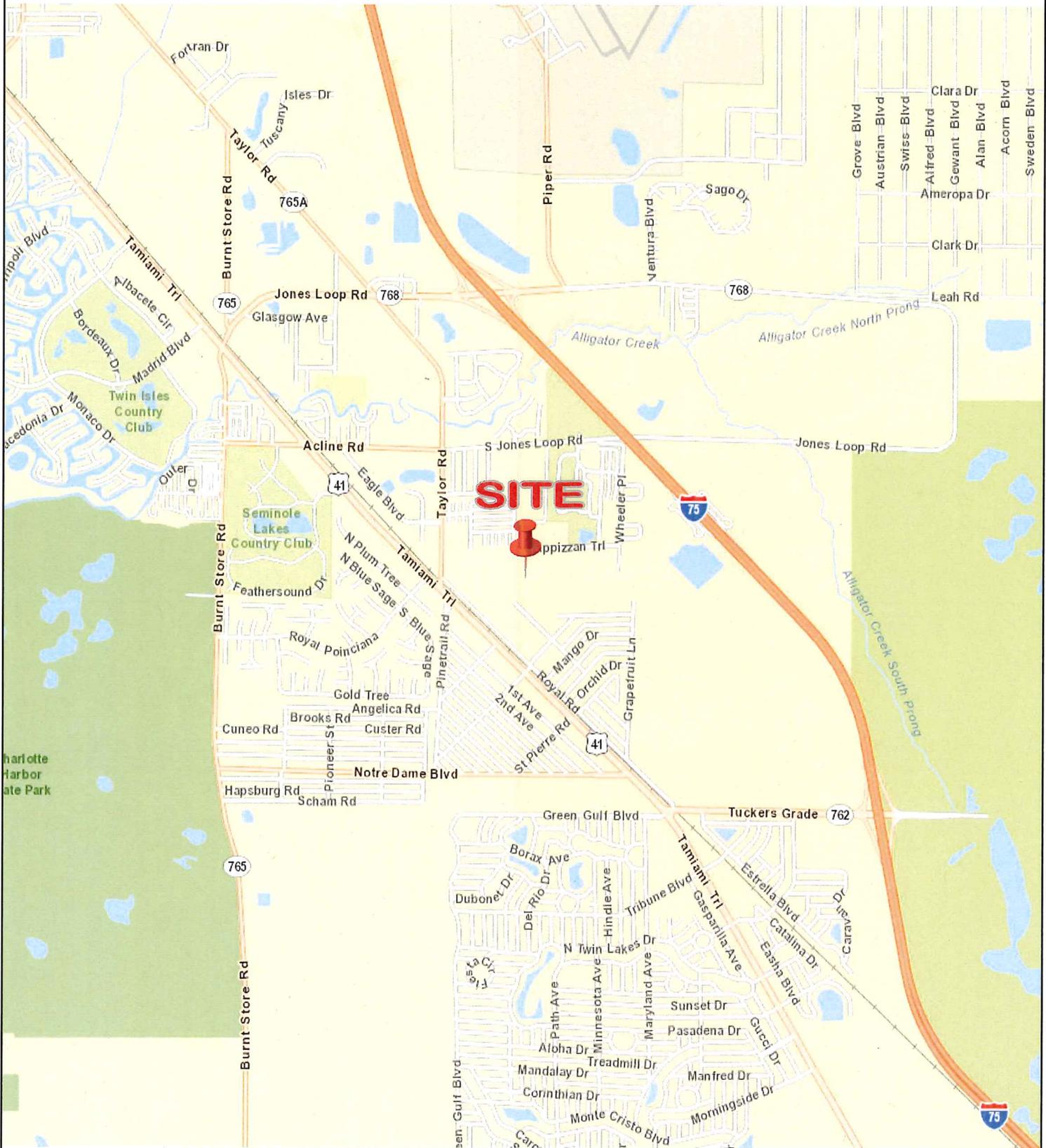
Community Development

CHARLOTTE COUNTY Location Map for SE-16-003

Charlotte County Government

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Community Development

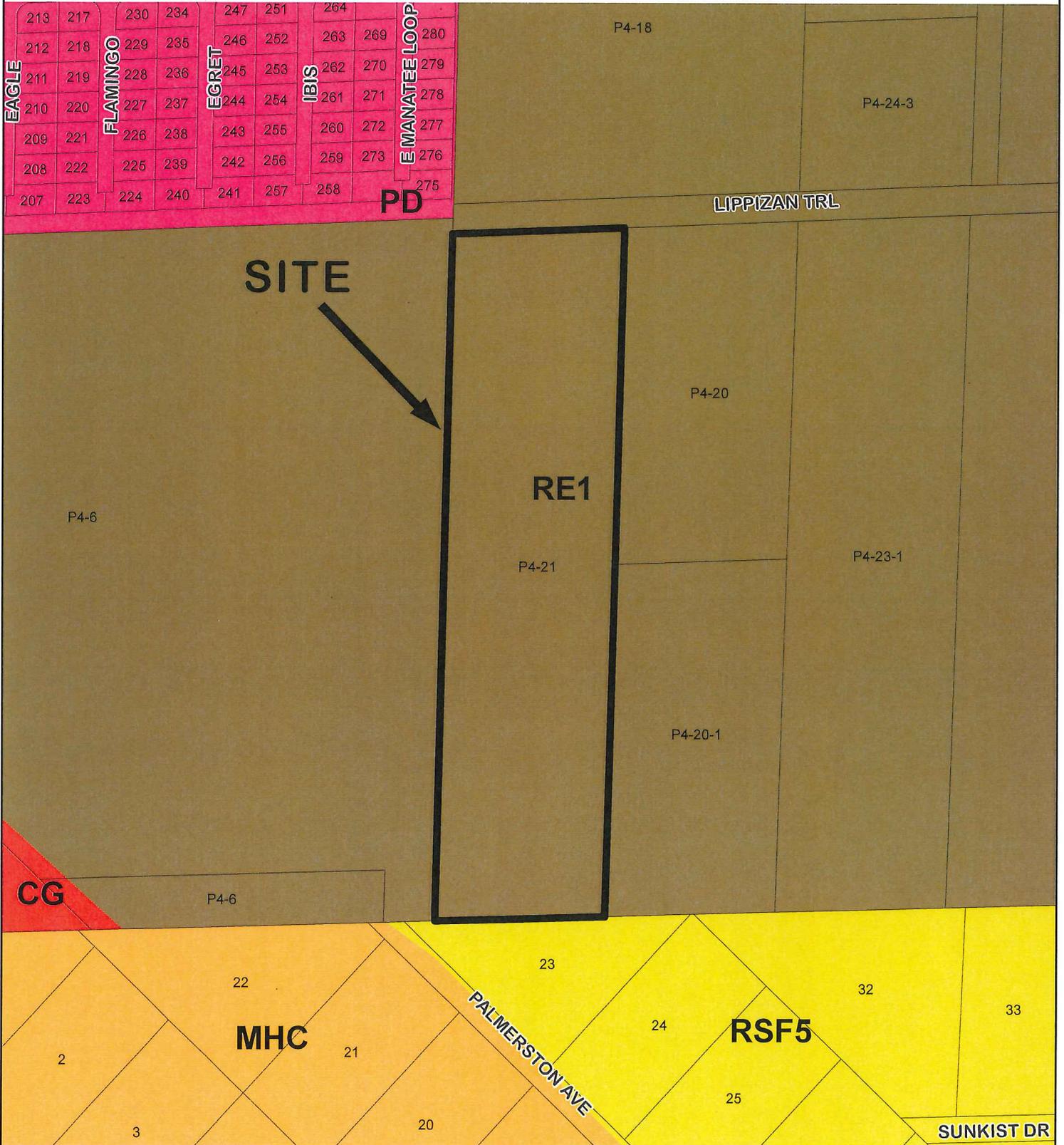
CHARLOTTE COUNTY

Zoning Map for SE-16-003

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Community Development

CHARLOTTE COUNTY

2014 Aerial View for SE-16-003

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Sec. 3-9-32. - Residential estate (RE).

- (a) *Intent.* The purpose and intent of this district is to allow low-density, large-lot residential and related uses.
- (b) *Permitted uses and structures (P):* The following uses and structures are permitted in this district:
- (1) Assisted living facility or day care center, adult, six (6) or less. (See section 3-9-62, assisted living facility.)
 - (2) Community garden.
 - (3) Emergency services.
 - (4) Manufactured home (DCA), minimum requirement is one hundred fifty (150) miles per hour exposure C.
 - (5) Minor home occupation. (See section 3-9-74, home occupations)
 - (6) Model home. (See section 3-9-78, model homes.)
 - (7) Noncommercial boat docks.
 - (8) Park, public or not-for-profit.
 - (9) Single-family detached, which may have a guest suite that is structurally attached, with or without cooking facilities.
 - (10) Telecommunications facility, fifty (50) feet or less in height. (See section 3-9-68, communication towers.)
- (c) *Permitted accessory uses and structures:* Uses and structures which are customarily accessory and clearly incidental to permitted and conditional uses and structures are permitted in this district, including, but not limited to:
- (1) Boat lifts, boat ramps, and noncommercial boat docks.
 - (2) Carports, garages, and storage structures.
 - a. Detached accessory structures greater than two hundred fifty (250) square feet in area shall be compatible in appearance with the primary residence, at a minimum, materials and color shall be compatible with the primary residence.
 - b. The total footprint of all detached accessory structures shall not exceed ten (10) percent of the parcel size or one thousand (1,000) square feet, whichever is greater.
 - c. Detached accessory structures in RE-1 shall be located behind the leading edge of the living area of the residence except carports and garages, but must maintain required setbacks.
 - d. Construction trailers and cargo containers are prohibited.
 - (3) Fences or walls which may be permitted prior to the principal uses and structures.
 - (4) Greenhouses and other horticultural uses, provided no retail sales are made on the premises.
 - (5) Guest suite, detached, consisting of living and sanitary facilities only. Cooking facilities shall not be permitted in a guest suite. It must meet all applicable development standards set forth in the zoning district.
 - (6) Keeping of pets, excluding animal breeding, boarding, and training.
 - (7) Swimming pools, tennis court or other similar noncommercial recreational structures.

Section 3-9-32
(Exhibit A-1)

- (d) *Conditional uses and structures (C):* (For rules and regulations for any use designated as a conditional use or structure, see section 3-9-69, conditional uses and structures.)
- (1) 4H, FFA, and similar uses and activities.
 - (2) Bed and breakfast, one (1) or two (2) bedrooms.
 - (3) Clubhouse.
 - (4) Cluster housing. (See section 3-9-67, cluster housing.)
 - (5) Domestic animal breeding, boarding, and training.
 - (6) Guest home.
 - (7) Horse stable.
- (e) *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 manufactured homes.
- (f) *Special exceptions (S):* (For procedure see section 3-9-6.2, special exceptions.)
- (1) All conditional uses and structures that cannot meet all conditions set forth in this Code.
 - (2) Animal sanctuary, zoo.
 - (3) Assisted living facility or day care center, adult, seven (7) or more. (See section 3-9-62, assisted living facility.)
 - (4) Bed and breakfast, three (3) or more bedrooms.
 - (5) Cemetery, mausoleum.
 - (6) Day care center, child.
 - (7) Elementary, middle, or high school.
 - (8) Essential services. (See section 3-9-71, essential services.)
 - (9) Fish and wildlife management area, nature preserve.
 - (10) Government uses and facilities.
 - (11) Livestock breeding, boarding, training, and grazing.
 - (12) Major home occupation. (See section 3-9-74, home occupations.)
 - (13) Place of worship. (See section 3-9-82, places of worship.)
 - (14) Plant nursery.
 - (15) Private clubs.
 - (16) Private landing field.
 - (17) Telecommunications facility, greater than fifty (50) feet in height. (See section 3-9-68, communication towers.)
 - (18) University or college.
 - (19) Yacht clubs, country clubs, and other recreational amenities, including but not limited to tennis courts, basketball courts, and golf courses located on a separate parcel.
 - (20) 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 3-9-32
(Exhibit A-2)

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, board of zoning appeals.

(g) *Development standards:*

	RE-1	RE-5
Lot (min.)		
Area (acres)	1	5
Width (ft.)	125	250
Setbacks (min. ft.)		
Front	40	40
Side	20	20
Rear	15	15
Rear (accessory buildings)	10	10
Abutting water	20	20
Bulk (max.)		
Lot coverage of all buildings	20%	20%
Height (ft.)	38	38
Density (units/acres)	1 per acre	1 per 5 acres

Where properties lie anywhere on a barrier island or within one thousand two hundred (1,200) feet of the water of Charlotte Harbor, the Gulf of Mexico, Lemon Bay, Gasparilla Sound, Placida Harbor, Red Fish Cove, the Myakka River, the Peace River, or Coral Creek, structures must also be constructed in accordance with section 3-9-88, waterfront property.

(h) *Signs.* Signs shall be in accordance with section 3-9-85.

(i) *Off-street parking.* Off-street parking shall be in accordance with section 3-9-79.

(Ord. No. 2014-052, § 1(Exh. A), 11-25-14)

Section 3-9-32
(Exhibit A-3)

Sec. 3-9-74. - Home occupations.

- (a) *Purpose and intent.* Some types of work can be conducted at home with little or no effect on the surrounding neighborhood. It is the intent of this section to allow the operation of home occupations as an accessory to the primary use in any residential dwelling unit and to regulate them so that a neighbor, under normal circumstances, will not be disturbed or inconvenienced. The following regulations are intended to allow residents to engage in a minor or major home occupation while ensuring that it does not become a detriment to the character and livability of the surrounding area.
- (b) *General conditions for home occupations.* The following conditions must be met and complied with by all operators of any home occupation.
- (1) Home occupations shall be subordinate to the allowed principal residential use.
 - (2) Home occupations shall be conducted only by a resident of the principal dwelling unit.
 - (3) No more than twenty (20) percent of the gross floor area of a dwelling unit may be devoted to a home occupation.
 - (4) The principal use of the dwelling unit shall at all times during the conduct of the home occupation remain residential.
 - (5) Retail sales shall not be conducted on the premises, except via the internet, phone and mail.
 - (6) No more than one (1) nonilluminated wall sign, not exceeding two (2) square feet in area, may be attached to the building. This sign must be on or next to the entrance.
 - (7) There shall be no exterior indication that the dwelling is being used for any purpose other than a residence, other than an allowed sign. Examples of prohibited alterations include, but are not limited to, construction of parking lots, paving of required yards, or adding commercial-like lighting.
 - (8) There shall be no outside storage of materials used in connection with the home occupation.
 - (9) No equipment shall be used in connection with a home occupation which creates noise, vibration, glare, fumes, odors, electrical interference, or requires the storage of hazardous substances which are not typically incidental to a residential use.
 - (10) Deliveries or pick-ups of items associated with home occupations shall generally be between the hours of 8:00 a.m. to 8:00 p.m.
 - (11) Any operator of a home occupation must obtain, and keep current for as long as the home occupation is in operation, a business tax receipt from the Charlotte County Tax Collector, also known as the "local business tax receipt".
 - (12) The following uses shall be prohibited from being operated as a home occupation.
 - a. Any type of repair, assembly, or storage of vehicles or equipment (such as automobiles, motorcycles, marine engines, golf carts, lawn equipment or chain saws), or of large appliances, such as washing machines, dryers, and refrigerators, or any other work related to motor vehicles.
 - b. Any business where employees come to the site to be dispatched to other locations.
- (c) *Minor home occupations.*
- (1)

**Section 3-9-74
(Exhibit B-1)**

Minor home occupations include, but are not limited to, internet sales, professional or paraprofessional services, consulting, home-made crafting, artist studios, and home offices.

- (2) A minor home occupation is allowed without the need for a special exception provided it complies with all of the general conditions established above as well as all of the following conditions.
 - a. The minor home occupation shall register with the county.
 - b. No customers or clients may come to the home at any one (1) time.
 - c. Employees from outside the home are prohibited.

(d) Major home occupations.

- (1) Major home occupations include, but are not limited to, beauty or barber shops, professional or paraprofessional services, consulting, animal grooming, and home offices.
- (2) A major home occupation may be allowed as a special exception use provided it complies with all of the general conditions established above as well as all of the following conditions and any conditions that may be added by the BZA.
 - a. No more than two (2) customers or clients may visit the home at any one (1) time.
 - b. Customers or clients may visit the home for purposes related to the home occupation between the hours of 8:00 a.m. and 8:00 p.m., unless different hours of operation are set by the special exception.
 - c. In addition to residents of the home employed in the home occupation, the board of zoning appeals may approve additional employees from outside of the home.
 - d. Additional off-street parking spaces may be required by the BZA.
 - e. The granting of a special exception to conduct a major home occupation shall be automatically conditioned upon continued compliance with all the requirements of this section. Failure of the operator to meet these requirements shall empower the BZA to revoke the special exception after notice and a public hearing.
 - f. The approval of a special exception for a major home occupation shall expire upon termination of the home occupation or a change in residency, whichever occurs first.
- (3) Riding lessons in RE zoning district.
 - a. The property must be located in the rural service area.
 - b. No more than five (5) students at a time are receiving riding instructions.
 - c. Shall also conform subsections (d)(2)b.—f.
 - d. An accessory tack shop may be permitted.

(Ord. No. 2014-072, § 1(Exh. A), 11-25-14)

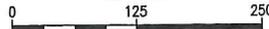
Section 3-9-74
(Exhibit B-2)

SURVEY SKETCH

THE SURVEY SHOWN HEREON WAS MADE WITHOUT BENEFIT OF AN ABSTRACT OF TITLE. UNLESS OTHERWISE NOTED BEARINGS REFERRED TO RECORD PLAT AND ELEVATIONS N.G.V.D. 1929. UNDERGROUND IMPROVEMENTS AND ENCROACHMENTS WERE NOT LOCATED. UNLESS OTHERWISE SHOWN ALL MEASUREMENTS (BEARINGS AND DISTANCES) ARE PLAT AND MEASURED. THIS SURVEY IS INTENDED FOR THE EXCLUSIVE USE BY THOSE CERTIFIED TO. WETLANDS, HAZARDOUS MATERIALS OR JURISDICTIONAL LINES, IF ANY, WERE NOT LOCATED.

BOUNDARY SURVEY (WITH IMPROVEMENTS)

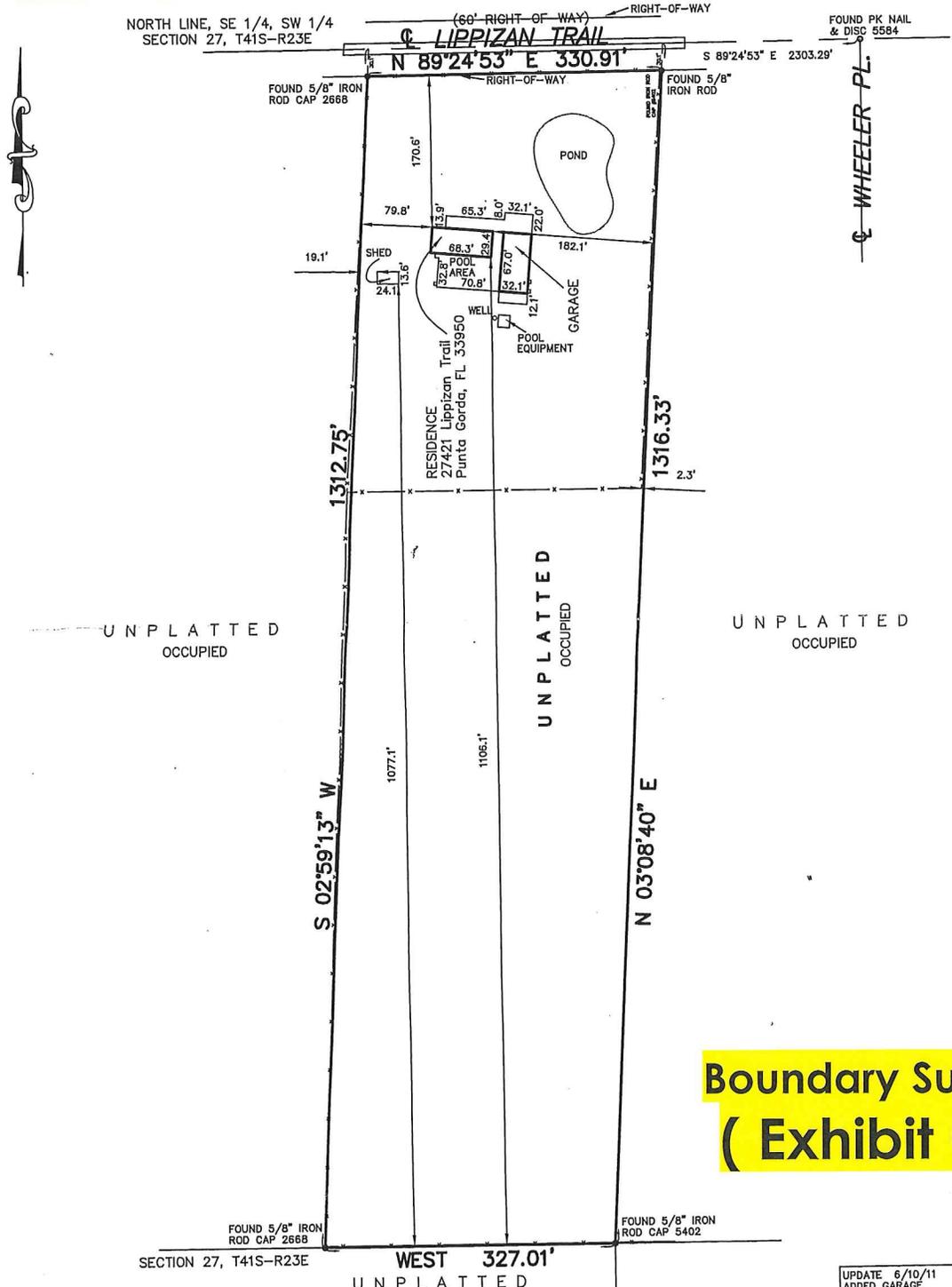
SCALE



1" = 125'

Client Stewart Title/ Kloodwyk & Lombardo
CERTIFIED TO: (FOR THE EXCLUSIVE USE OF)
 Ronald R. Kloodwyk & Karen A. Lombardo
 Tidewater Home Funding, LLC
 Stewart Title Company
 Stewart Title Guaranty Company

NORTH LINE, SE 1/4, SW 1/4
 SECTION 27, T41S-R23E



Boundary Survey (Exhibit C)

DESCRIPTION:

The west half of the east half of the southeast quarter of the southwest quarter of Section 27, Township 41 South, Range 23 east, less the north 30 feet for the right of way. All land lying and being in Charlotte County, Florida

THE UNDERSIGNED MAKE NO GUARANTEE OR REPRESENTATION REGARDING INFORMATION SHOWN HEREON PERTAINING TO EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, RESTRICTIONS, UNDERGROUND UTILITIES AND OTHER SIMILAR MATTER, UNLESS IT BEARS THE SIGNATURE AND ORIGINAL EMBOSSED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS NOT VALID.

NOTE: FLOOD PLANE DETERMINATION IS RESTRICTED TO REVIEW OF FLOOD INSURANCE RATE MAP AND IS NOT TO BE CONSTRUED AS A CONFIRMATION OR DENIAL OF FLOOD POTENTIAL.

FLOOD ZONE DATA

COMMUNITY No.: 120061
 MAP & PANEL No.: 12015C0430F
 DATE: 05/05/03
 F.I.R.M. FLOOD ZONE: "X"
 BASE FLOOD ELEVATION: N/A



MERIDIAN GROUP of South Florida Inc.
 Surveying-Planning-Construction Expediting

493 Barger Drive Unit A
 Port Charlotte, FL 33953
 Fon (941)766-0011
 Fax (941)766-0012

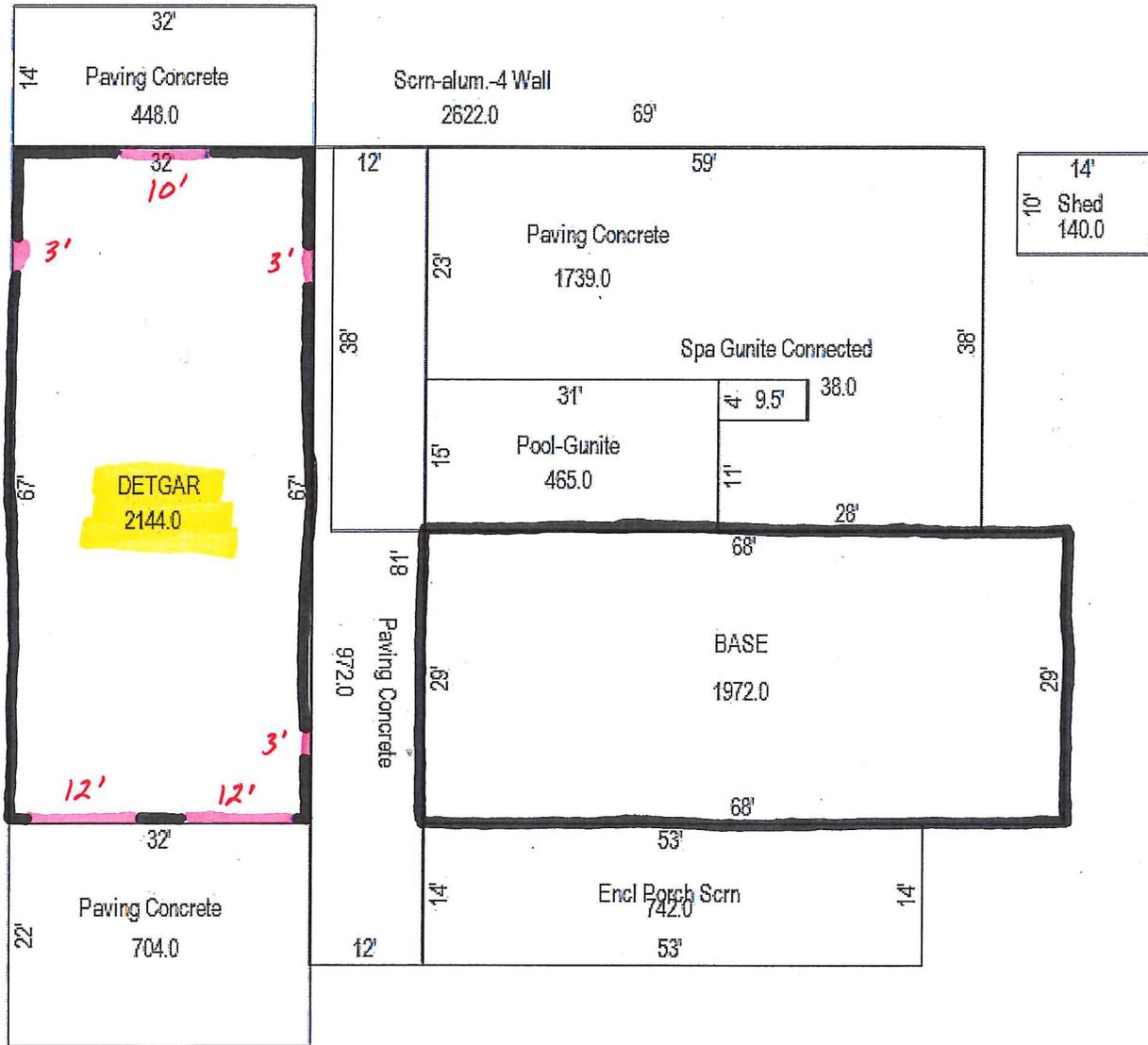
DATE OF SURVEY July 19, 2007	DATE OF FOUNDATION	DATE OF FINAL	INTENDED USE OF SURVEY FINANCING
			DRAFTED BY B.H.
THIS CERTIFIES THAT A FIELD SURVEY OF THE PROPERTY DESCRIBED HEREON WAS MADE UNDER MY RESPONSIBLE DIRECTION AND THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS & MAPPERS IN CHAPTER 65-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE SKETCH HEREON IS A TRUE AND ACCURATE REPRESENTATION THEREOF TO THE BEST OF MY KNOWLEDGE AND BELIEF. SURVEY IS SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.			JOB NO. 70395 DATE June 10, 2011

FL. REG. LB6046 JOSEPH E. TROTT, P.S. & M. FL. REG. #5153

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3/24/2016

www.ccappraiser.com/show_footprint.asp?acct=412327376001



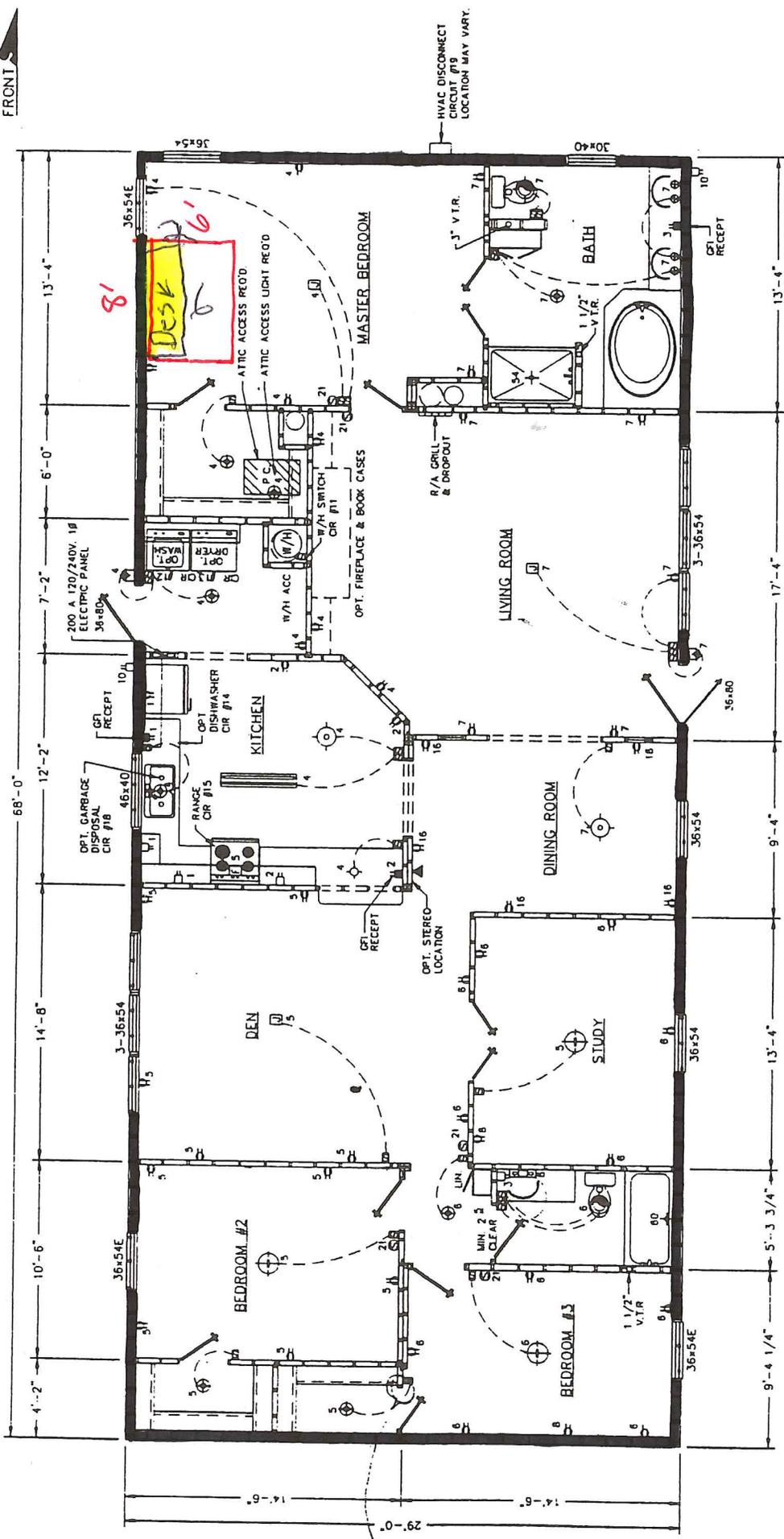
Property Appraiser - Floor Plan

27421 Lippizan Trail

(Exhibit D)

FRONT

CATHEDRAL THROUGH QUI



HOMES OF MERIT, INC.
 P.O. BOX 1606
 BARTOW AIR BASE
 BARTOW, FLORIDA 33831



Date:	5-2-01	Revisions	Code:	M116A
Dr'n:	STAFF	08-30-01		
SCALE:	3/16"=1'	02/13/02		
Code:	DCA			
Model:	R116			
				FLOOR PLAN
				PAGE 4

NOTE:

1. THE BUILDING'S STRUCTURAL DESIGN IS IN ACCORDANCE WITH SBC, CHAPTER 16, SECT.1606.2
2. ALL INTERIOR PASSAGE DOORS TO BE A MIN. 2'-4" UNLESS OTHERWISE NOTED.
3. HOME MAY BE BUILT IN MIRROR IMAGE.
4. MAX. 8 S.F. FOR OPT. SKYLIGHTS (KITCHEN OR 2 BATHROOM LOCATIONS)
5. ADDITIONAL 40 SQ. FT. OF GLASS MAY BE ADDED TO HOME AT ANY LOCATION SUCH AS A S.G.D. OR WINDOWS.

INTERIOR FINISH MATERIAL

- CEILING - 1/2" MINIMUM GYPSUM BOARD INSTALLED PER MANUFACTURER'S SPECIFICATIONS
- WALL - 3/8" GYPSUM BOARD INSTALLED PER MANUFACTURER'S SPECIFICATIONS
- FLOOR - BLOCK TILE OR UNOLEUM MAY BE USED IN WET AREAS CARPET, BLOCK TILE, OR UNOLEUM MAY BE INSTALLED IN ALL OTHER AREAS

SYMBOL	SCONCE LIGHT
☐	LOAF LIGHT
⊞	OPT. STEREO SPEAKER
⊞	BULLET LIGHT
⊞	BATH FAN
⊞	BATH FAN WITH LIGHT
⊞	SMOKE DETECTOR
⊞	STOVE VENT FAN
⊞	SINGLE SWITCH
⊞	SOLAR TUBE

Home Floor Plan (Exhibit E)

12" to closet/maid

One on one private personal training
I will be the only trainer with no other employees
Hours 7:30 to 6:30 Mon - Fri
Sat 8:00 to 12:00
No sign needed
certification CPT. CEX. PES. TRX. CPR.
Insured

Narrative
(Exhibit F)



MEMORANDUM

DATE: March 28, 2016
TO: Ken Quillen, Planner III
FROM: Suzie Derheimer, Environmental Specialist
SUBJECT: SE-16-003, Major Home Occupation, 27421 Lippizan Trail

The Zoning Environmental Review Section has conducted a cursory review (additional wildlife or environmental reviews may be required by state or 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 single family residence and detached garage located on large lot residential (RE-1) of 10 acres. An aerial review of the site reveals the front 1/3 of the lot has been previously cleared for the existing structures and back 2/3 of the lot has not been cleared and contains existing native vegetation.

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 and any further development and land clearing or tree removal is proposed, the Environmental Review Section will require a protect species survey and FLUCCS map if proposed within the current native vegetated portion of the property.

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

SD

(Exhibit G)