

STAFF REPORT
Community Development Department
File Number: SE-16-009

To: Charlotte County Board of Zoning Appeals
From: Shaun Cullinan, Planning and Zoning Official
Prepared By: Ken Quillen, AICP, Planner III
Report Date: September 7, 2016 **BZA meeting date:** September 14, 2016

Requested Action/General Information:

Leanne Montero is requesting a special exception to allow a Home Occupation, consisting of a home bakery, in the Residential Single-family-3.5 zoning district. Subject property is located at **23333 Wilber Avenue**, Port Charlotte (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is *Residential Single-family-3.5*. This property is also located inside the Urban Service Area and has a *Low Density Residential* Future Land Use Map designation. The attached **Aerial View** shows the existing single-family residence located on the middle lot of this three-lot parcel.

Section 3-9-33 (Exhibit A) regulates uses in the RSF 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 they will abide by all conditions required by this section for a Major Home Occupation.

The applicant has submitted the attached **Site Plan (Exhibit C)** showing the existing 3,673 square foot single-family residence and other improvements located on this parcel. The applicant intends to use the kitchen area, consisting of 288 square feet (16' by 18'), as the location of the home bakery for making custom cakes. The attached **Floor Plan (Exhibit D)** shows the area within the home that will be used for the home business. 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 ten percent of this home. Code requires two off-street parking spaces for a single-family residence. This residence has an existing three-car attached garage and a large driveway, which has room for 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, therefore parking should not be an issue for this proposed home occupation.

The applicant has also submitted the attached **Narrative (Exhibit E)** explaining various aspects of the business they intend to operate. The Community Development Department's Environmental Specialist has performed a cursory review and their comments are in the attached **Memorandum (Exhibit F)** dated August 31, 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 **Charlotte 2050 Comprehensive 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	Vacant lots	Residential Single-family-3.5	Low Density Residential
South	Vacant lots	Residential Single-family-3.5	Low Density Residential
East	Vacant lots	Residential Single-family-3.5	Low Density Residential
West	Vacant lots	Residential Single-family-3.5	Low Density Residential

Finding: The surrounding land uses consist primarily of vacant lots for future 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 planned future residential land uses for the surrounding area. The addition of the proposed major home occupation as an accessory use in this single-family residence is also compatible with these 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 a home bakery 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 a home bakery 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, Home Occupation, 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.
4. This special exception, allowing a major home occupation, shall be only for lot 16 where the existing single-family residence is located.
5. 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.

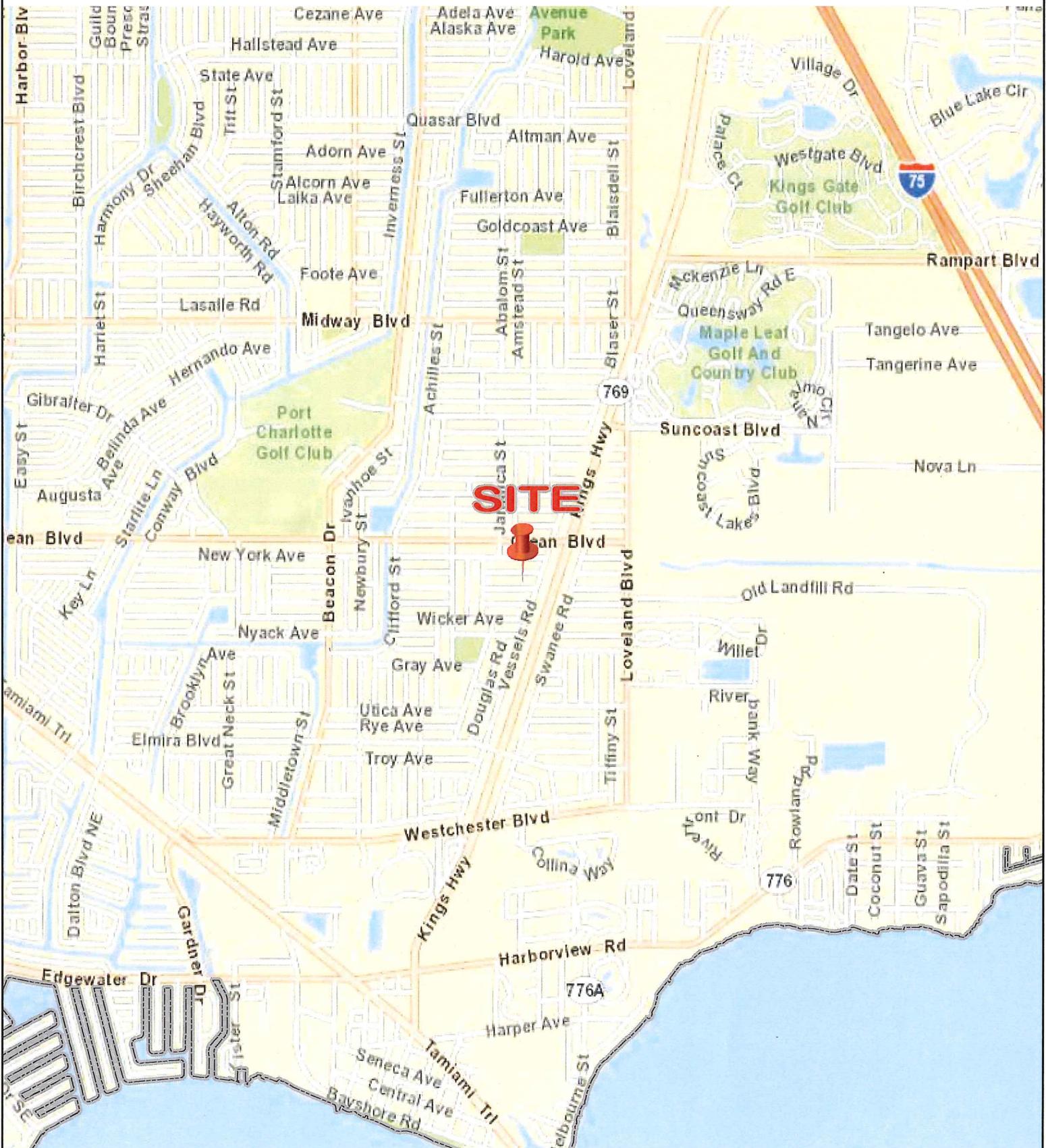
Attachments: Staff Report (3), Area Map, Zoning Map, Aerial Photograph, Section 3-9-33 (2), Section 3-9-74 (2), Boundary Survey, Floor Plan, Narrative and Environmental Specialist Memorandum



Community Development

CHARLOTTE COUNTY

Location Map for SE-16-009



24/40/22 Mid-County

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guarantees, implied or otherwise, to the accuracy, or completeness. We therefore do not accept any responsibilities as to its use. This is not a survey or is to be used for design. Reflected Dimensions are for informational purposes only and may have been rounded to the nearest tenth. For precise dimensions, please refer to recorded plats and related documents. Created By: Land Information - D. Vance -8277 Date Saved: 8/12/2016 11:02:42 AM



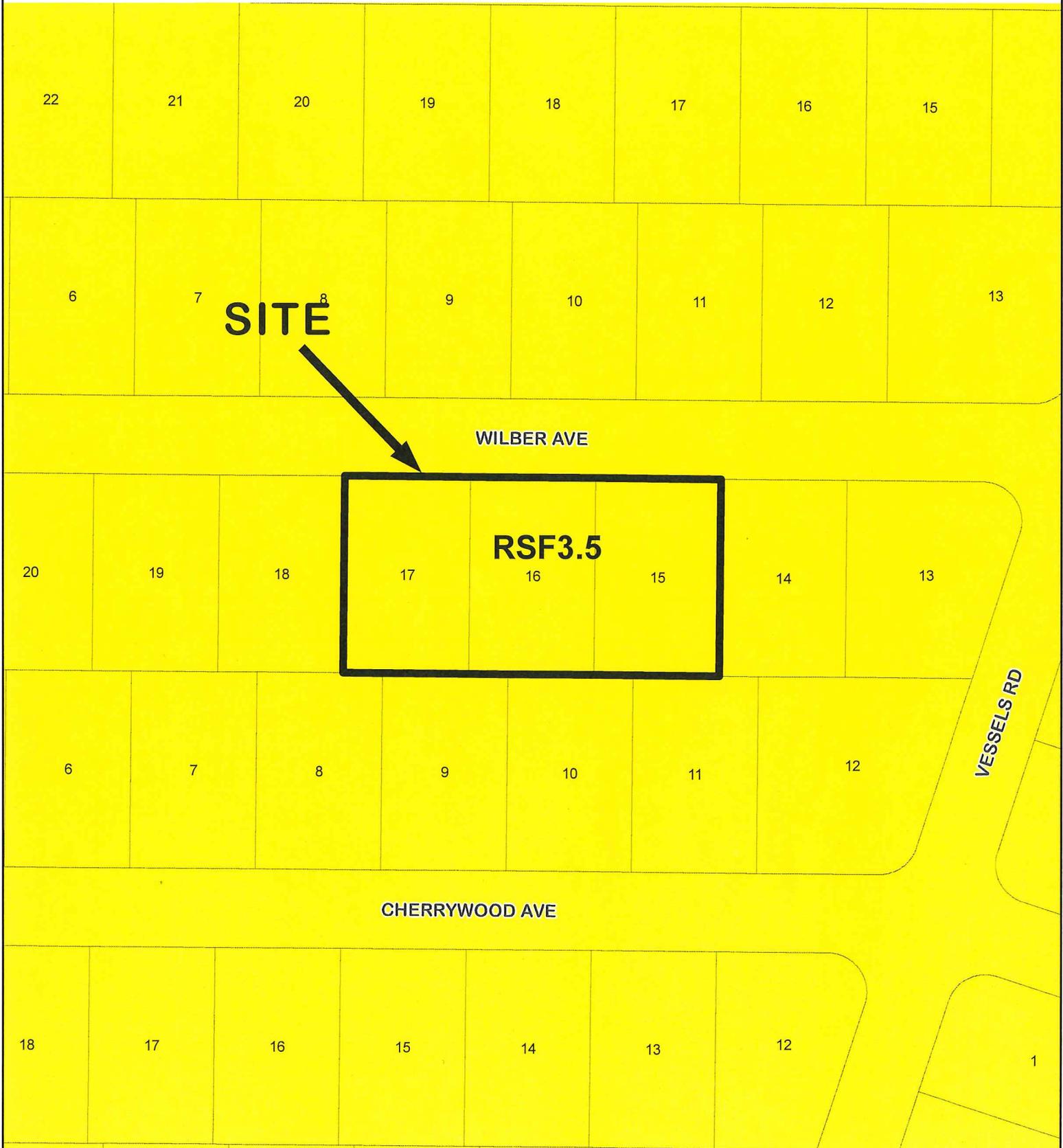
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Community Development

CHARLOTTE COUNTY

Zoning Map for SE-16-009



24/40/22 Mid-County

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Community Development

CHARLOTTE COUNTY

2014 Aerial View for SE-16-009



24/40/22 Mid-County

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Section 3-9-33 Residential Single-family (RSF).

- (a) *Intent.* The purpose and intent of these districts is to provide for single-family residential dwellings and other uses normally associated therewith. Among RSF-2, RSF-3.5 and RSF-5 districts, there are variations in requirements for lot area, width, and certain yards.
- (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 or less. (see section 3-9-62, Assisted Living Facility)
 - (2) Emergency services.
 - (3) Manufactured home (DCA), minimum requirement is 150 miles per hour exposure "C".
 - (4) Minor Home Occupation. (see section ~~3-9-75~~ 3-9-74, Home Occupations)
 - (5) Model home. (see section ~~3-9-79~~ 3-9-78, Model Homes)
 - (6) Noncommercial boat docks.
 - (7) Park, public or not-for-profit.
 - (8) Single-family detached, which may have a guest suite that is structurally attached, with or without cooking facilities.
 - (9) Telecommunications facility, 50 feet or less in height. (see sec. ~~3-9-69~~ 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.
- (1) Boat lifts, boat ramps, and noncommercial boat docks.
 - (2) Carports, garages, and storage structures.
 - a. Detached accessory structures greater than 250 square feet in footprint 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 percent of the parcel size or 1,000 square feet, whichever is greater for a property less than a half-acre. If the property is one half acre or more in size, the total footprint of all detached accessory structures shall not exceed 3,000 square feet. The property owner(s) may apply for a Special Exception to exceed the total maximum accessory structures size limitations contained in this section.
 - c. Detached accessory structures 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 detached 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 non-commercial recreational uses and structures.
- (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) Bed and breakfast, one or two bedrooms.
 - (2) Clubhouse.
 - (3) Cluster housing. (see section 3-9-67, Cluster Housing)
 - (4) Guest home.
 - (5) Subdivided lots with 50 foot wide frontage and 5,000 square foot.
 - (6) 4H, FFA and similar uses and activities.
- (e) *Prohibited Uses and Structures:* Any use or structure not expressly or by reasonable implication permitted herein or permitted by Special Exception, including but not limited to mobile homes, commercial parking lots and private clubs not otherwise permitted, or permitted by Special Exception, shall be unlawful in this district.
- (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) Assisted living facility
Facility) e section 3-9-62, Assisted Living

Section 3-9-33 Residential Single-family (RSF). (continued)

- (3) Bed and breakfast, three or more bedrooms.
- (4) Cemetery, mausoleum.
- (5) Community garden.
- (6) Day care center, child.
- (7) Elementary, middle, or high school.
- (8) Essential services. (see section 3-9-71, Essential Services)
- (9) Government uses and facilities.
- (10) Major Home Occupation. (see section 3-9-74, Home Occupations)
- (11) Place of Worship. (see section 3-9-82, Places of Worship)
- (12) Private clubs.
- (13) Telecommunications facility, greater than 50 feet in height. (see section 3-9-68, Communication Towers)
- (14) University or college.
- (15) 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.
- (16) 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.
 - b. Not specifically prohibited in that district.

The BZA 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:*

	RSF-2	RSF-3.5	RSF-5
Lot (minimum)	---	---	---
Area (square feet)	20,000	10,000	7,500
Width (feet)	100	80	70
Setbacks (minimum feet)			
Front	25	25	25
Side (interior)	15	7.5	7.5
Side (street)	20	15	15
Rear (interior)	20	20	20
Rear for all accessory structures (interior)	10	10	10
Rear (street)	25	25	25
Abutting a greenbelt	15	15	15
All accessory structures abutting a greenbelt	10	10	10
Abutting water	20	20	20
Bulk (maximum)			
Lot coverage of all buildings	40%	40%	40%
Height (feet)	38	38	38
Density (units/acres)	2	3.5	5

Where properties lie anywhere on a barrier island or within 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.

Landscape buffers and screening shall be required in this district in accordance with the provisions of Article XXII, Chapter 3-5 section 3-9-100, of the Code, as the same shall be amended.

- (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.

(Minutes of 12-08-1981, § 7; Res. No. 85-286, § 1, 10-05-1985; Res. No. 87-78, §§ 9, 10, 05-19-1987; Res. No. 87-254, § 17, 10-20-1987; Ord. No. 89-34, § 6, 05-31-1989; Ord. No. 92-40, §§ 1-4, 06-02-1992; Ord. No. 92-65, § 1, 08-18-1992; Ord. No. 94-55, § 14, 11-03-1994; Ord. No. 2001-031, § 1(a), 06-12-2001; Ord. No. 2002-008, § 1, 01-28-2002; Ord. No. 2003-061, §§ 6, 7, 08-26-2003; Ord. No. 2014-053, § 1, 11-25-2014; Ord. No. 2015-054 § 1, 12-08-2015)

**Section 3-9-33
(Exhibit A-2)**

Section 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 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. 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 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 non-illuminated wall sign, not exceeding two 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 AM to 8:00 PM.
 - (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) Minor Home Occupations include, but are not limited to, art or music instruction, 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 time, except for a Home Occupation consisting of art or music instruction, provided only one student at a time is receiving instructions.
 - c. Employees from outside the home are prohibited.

Section 3-9-74 Home Occupations. (continued)

(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 customers or clients may visit the home at any one time.
 - b. Customers or clients may visit the home for purposes related to the Home Occupation between the hours of 8:00 AM and 8:00 PM, 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 students at a time are receiving riding instructions.
 - c. Shall also conform to subsections (d) (2) b., c., d., e. and f.
 - d. An accessory tack shop may be permitted.

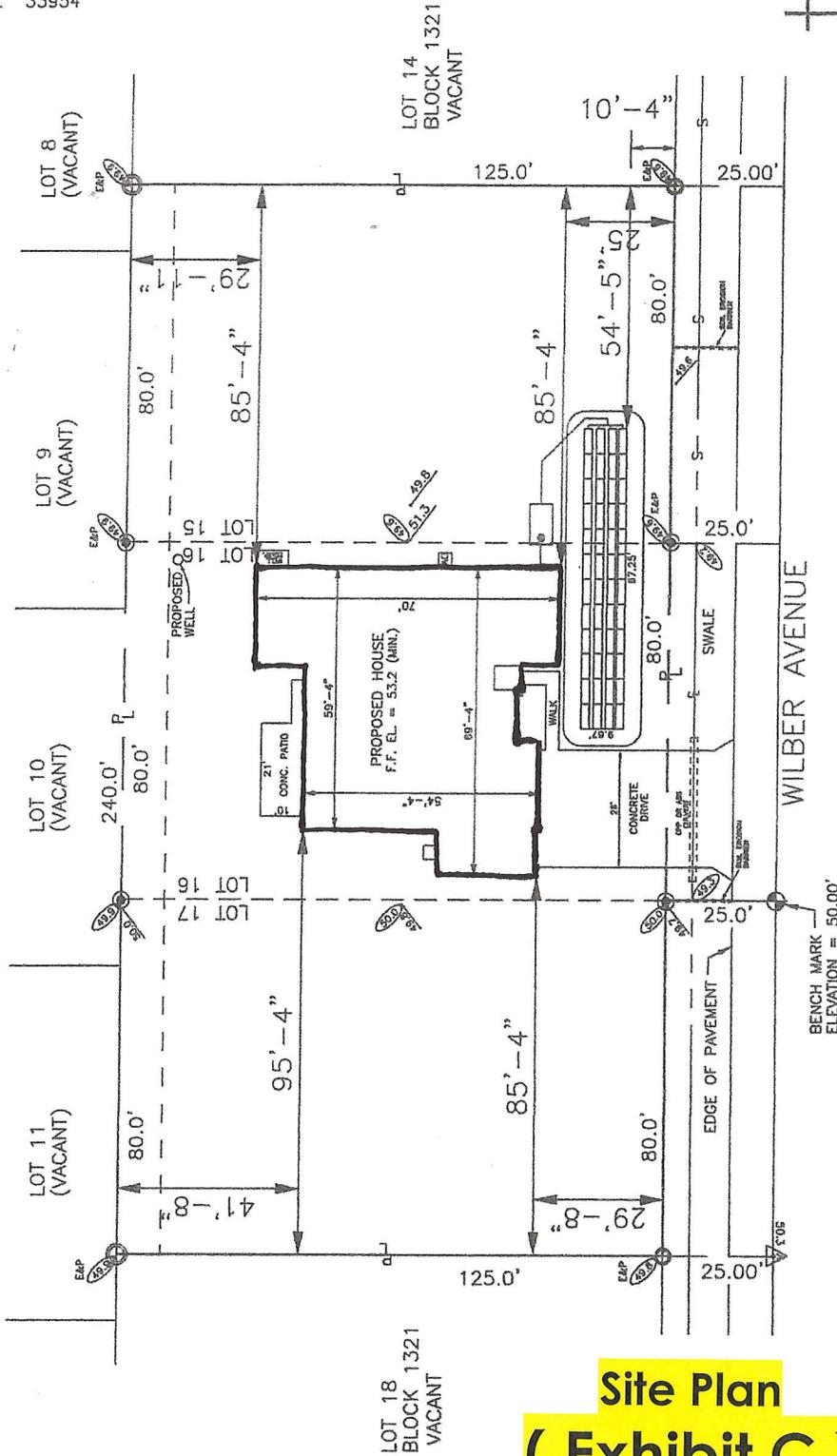
(Minutes of 12-08-1981, § 8; Ord. No. 89-47, § 10, 06-22-1989; Ord. No. 2014-041, § 1, 11-25-2014; Ord. No. 2014-072, § 1, 11-25-2014)

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

TIMOTHY A. DRUMM, P.E. #73175
 17435 ABBOTT AVENUE
 PORT CHARLOTTE, FL 33954
 PH. 941-625-8178

D.E.C.
 #12395

SHEET
 1 OF 2



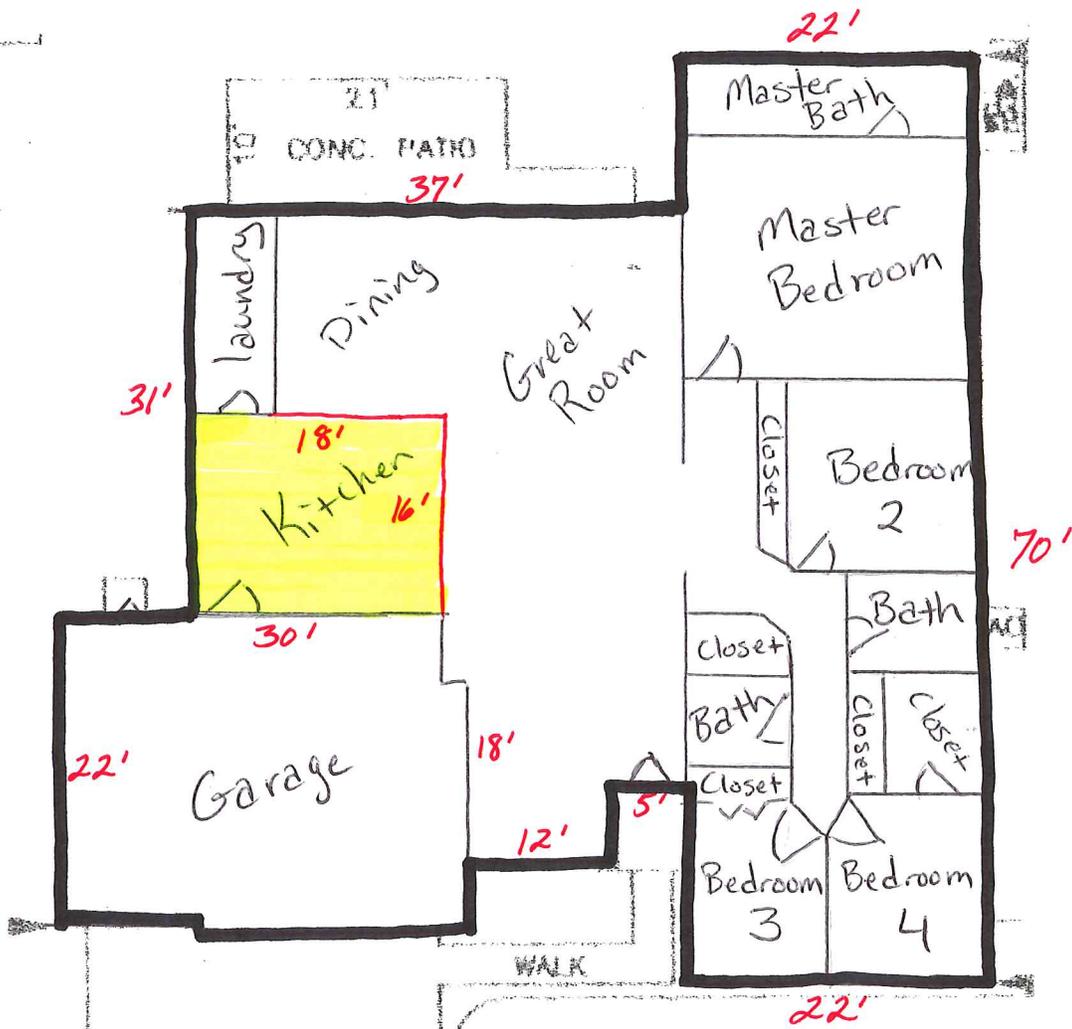
**Site Plan
 (Exhibit C)**

NOTE: THE UNDERSIGNED AND DRUMM ENGINEERING CORPORATION MAKE NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREIN PERTAINING TO EASEMENTS, RIGHTS-OF-WAYS, SETBACK LINES, AGREEMENTS, RESERVATIONS AND OTHER SIMILAR MATTERS. THE SITE PLAN SHOWN HEREON WAS MADE WITHOUT BENEFIT OF ABSTRACT OF TITLE AND THE LOT LAYOUT DISTANCES, BEARINGS, ELEVATIONS AND IMPROVEMENTS OBTAINED FROM A SURVEY PROVIDED BY OTHERS.

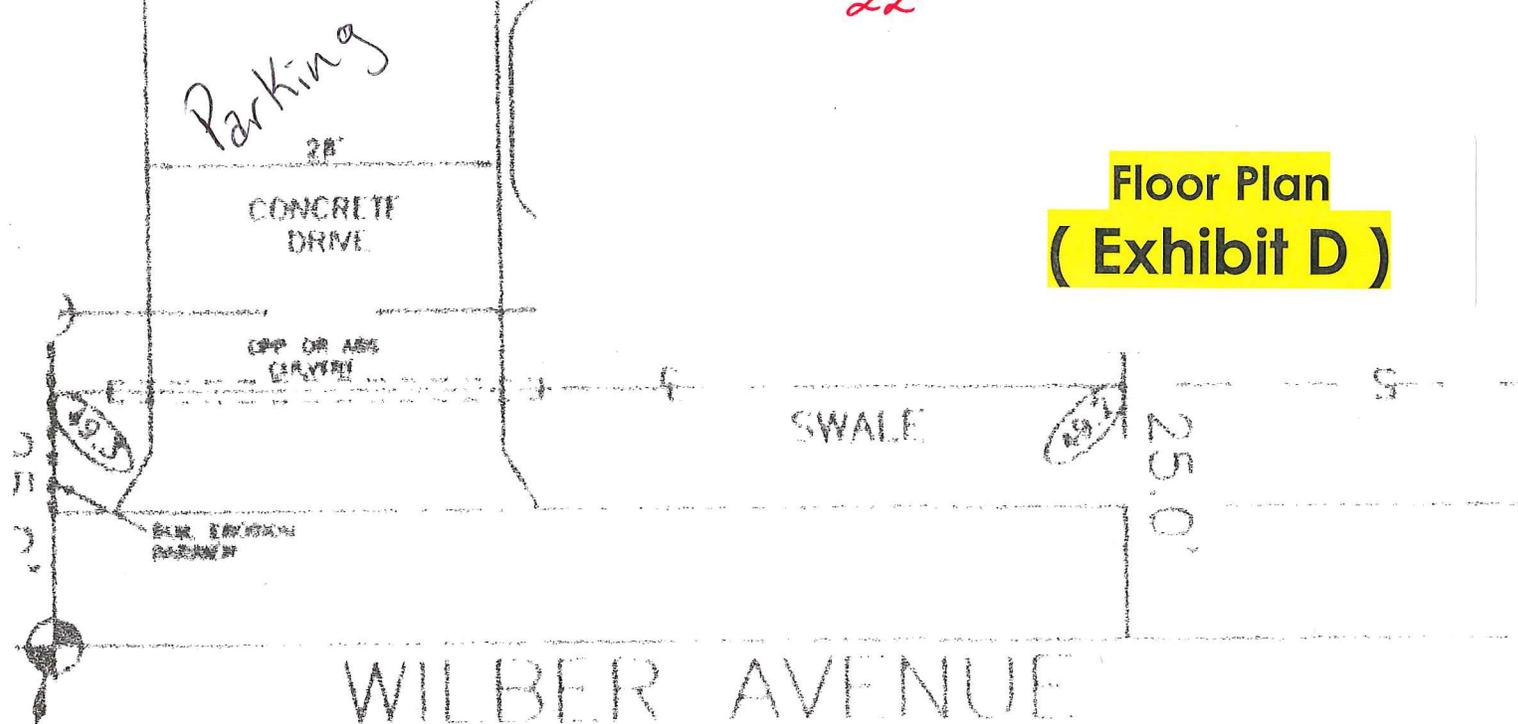
- | | | | |
|-----|--|-----------------|--|
| 0.0 | DENOTES EXISTING ELEVATION = E | SCALE: 1" = 40' | TOP OF MOUND ELEVATIONS (TO BENCHMARK) |
| 0.0 | DENOTES PROPOSED ELEVATION = P | /// | DENOTES SOIL REPLACEMENT AREA |
| --- | DENOTES PERFORATED DRAINLINES | ⊗ | DENOTES RISER |
| --- | DENOTES BOUNDARY OF UNOBSTRUCTED AREA (SQ.FT.(MIN.)) | --- | HIGH END: (MIN.) |
| --- | DENOTES NON-PERFORATED PIPE, EDGE OF DRAINBED AND TOP OF MOUND | --- | LOW END: (MIN.) |
| | | | RISER: (MIN.) |
| | | | STUBOUT: (MIN.) |

LOT: 15, 16 & BLOCK: 1321 SUBDIVISION: Port Charlotte Section 13
 (NON SUBDIVISION) SEC. _____ RANGE _____ E TWP. _____ S

ENGINEER'S SIGNATURE _____ NO. 73175 DATE: 5-9-2013
 REVIEWER'S SIGNATURE _____



**Floor Plan
(Exhibit D)**



To CCBCC:

I am requesting a special exception in order to operate a home based cake bakery. I make custom cakes, in my home kitchen, and delivery most of them. There may be occasion for a potential customer to visit my home for a consultation. Sometimes the customer may come by to pick up a small order. None of this will interfere in any way with traffic flow or parking. The property has paved parking for up to 6 cars. No retail product is being sold or consumed on premises. My hours of operation are 10am to 7pm, Monday through Saturday. I have no sign outside nor do I plan to put up one.

Leanne Montero

**Narrative
(Exhibit E)**



MEMORANDUM

DATE: August 31, 2016
TO: Ken Quillen, Planner III
FROM: Suzie Derheimer, Environmental Specialist
SUBJECT: SE-16-009, Major Home Occupation, 23333 Wilber Avenue

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 on 3 killed and combined lots 15-17. An aerial review of the site reveals the existing single family home structure is located on Lot 16 and Lots 15 and 17 have only been partially cleared of 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:

- ❖ County staff will conduct a field review prior to the issuance of any county permits and land clearing activities (if proposed). If listed species are documented on site all required U.S. Fish and Wildlife Service (FWS) and Florida Fish and Wildlife Conservation Commission (FWCC) permits (if applicable) must be provided to staff prior to the issuance of county permits and land clearing activities.

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

SD

(Exhibit F)