

STAFF REPORT
Community Development Department
Petition Number: SE-16-010

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:

Debrah Forester, agent for Murdock Village Community Redevelopment Agency, is requesting a special exception to allow educational facilities, according to Section 1013.01 (6) Florida Statutes, in the RSF and RMF zoning districts. Subject property is located at **1033 Buena Vista Circle** in Port Charlotte (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is *Residential Single-family-3.5* and *Residential Multifamily-10*. This property has a *Murdock Village Mixed Use* Future Land Use Map designation. The 40-acre parcel of land will be traded to the Charlotte County School Board and is located southeast of Flamingo Boulevard and Buena Vista Circle (see attached **Aerial View**).

The Land Development Regulations for both the RSF and RMF zoning districts allows "schools" and "government uses and facilities" as special exception uses, provided it complies with all development standards as well as any conditions imposed by the Board of Zoning Appeals, according to section 3-9-6.2(h)(2).

The applicant has submitted the attached **Sketch & Description** (**Exhibit A**) showing the proposed new parcel and providing a legal description. This parcel is proposed to be conveyed by the County to the School Board in exchange for the School Boards current 35-acre site north of the North County Regional Park. The School Board would like the County to approve a special exception to allow a future "educational facility" on subject property. This location lends itself to a better development area for the School Board, as well as allowing the County to receive the existing School Board property for future marketing and development of the Murdock Village property, as it is in a better location for contiguous development. As there is no imminent need for an educational facility, or other governmental offices, the County is working collaboratively with the School Board to get the entitlements granted so that when the need arises, it will be a much quicker and more streamlined process.

Staff has attached the definition for **Educational Facilities** (**Exhibit B**) from section 1013.01 of State Statutes for the Boards information. The applicant has also submitted the attached **Narrative** (**Exhibit C**) explaining what they would like to do and how they believe this proposal meets the approval criteria for granting a special exception. The applicant has also provided a copy of a **Letter to Charlotte County** (**Exhibit D**), dated August 4, 2016, from the Charlotte County School Board Attorney with their comments relating to this proposed land swap.

The Community Development Department's Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum (Exhibit E)** dated August 31, 2016.

Findings: The 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: Subject property is located in the Urban Service Area and has a Future Land Use Map (FLUM) designation of Murdock Village Mixed Use. The proposed educational facilities falls under the general range of uses for this FLUM classification, which includes single-family and multifamily residences, sub-neighborhood commercial uses, recreational facilities and public services and facilities.

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 commercial lots	Commercial General (CG)	Murdock Village Mixed Use
South	Vacant land	RSF-3.5	Murdock Village Mixed Use
East	Vacant land	RSF-3.5 and RMF-10	Murdock Village Mixed Use
West	Vacant land	RSF-3.5 and RMF-10	Murdock Village Mixed Use

Finding: The majority of the surrounding land uses consist of vacant land or vacant commercial lots. However, there are two churches located within 400 feet of subject property to the southeast.

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 is not aware of any evidence that would indicate that the establishment, maintenance, or operation of the proposed educational facilities would be detrimental to or endanger the public health, safety or general welfare of the surrounding properties.

ANALYSIS AND CONCLUSIONS:

After review of the site, the surrounding area, and the application requesting this special exception, staff believes that the proposed special exception to allow educational facilities does meet all three criteria for 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 is to allow "educational facilities", as defined by Section 1013.01(6), Florida Statutes, on subject property and extends only to the land included in the legal description submitted with this application.
2. All necessary permits and approvals must be obtained, as applicable to this development, including but not limited to, right-of-way access, paving, electrical, plumbing, fencing, tree removal, landscaping, and invasive plant species removal.
3. Any major changes or additions to this special exception shall require a modification of 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), Location Map, Zoning Map, Arial View, Sketch & Description, Section 1013.01 Definitions, Narrative, School Board Letter (3) and Environmental Specialist Memorandum



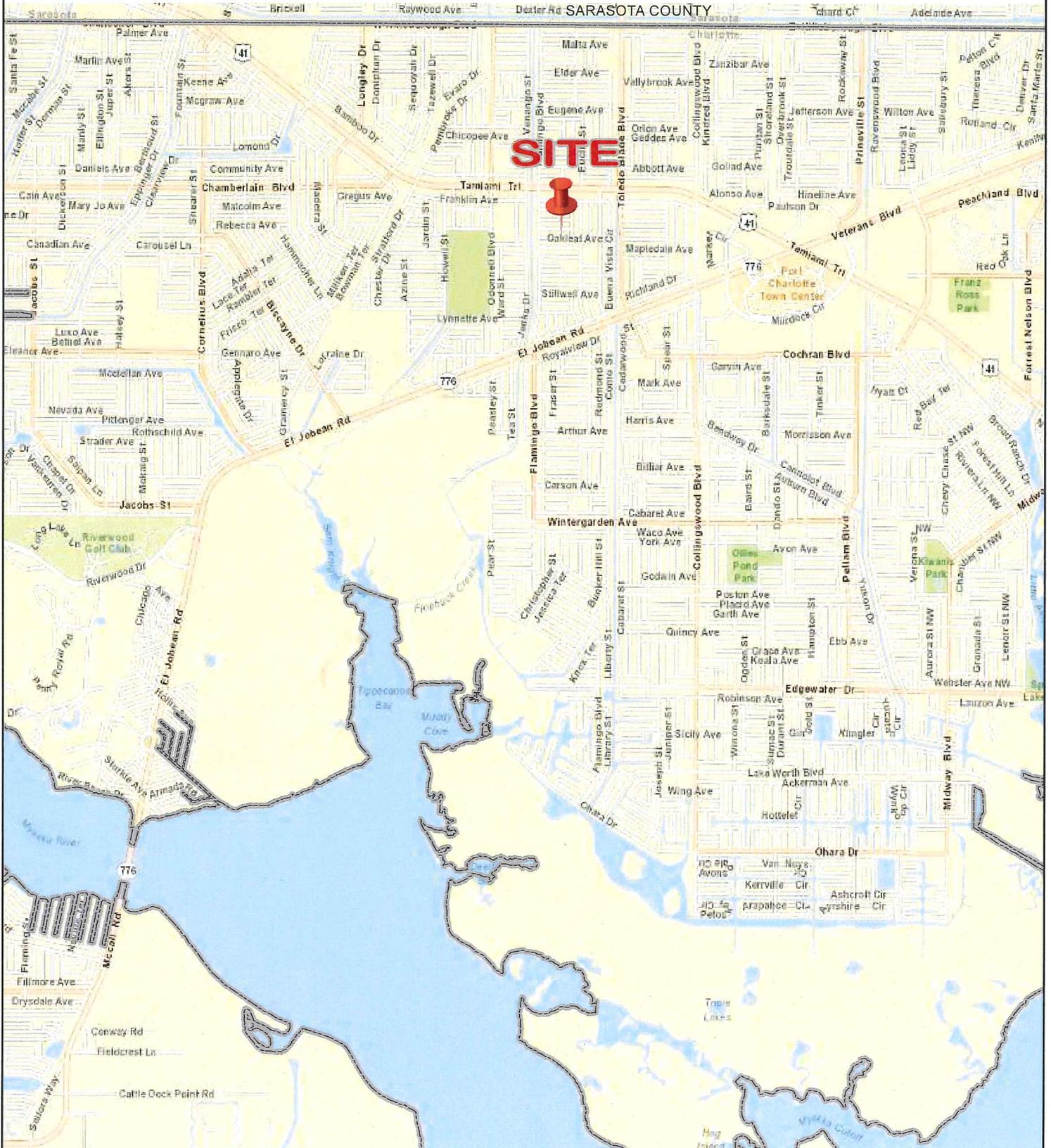
Community Development

CHARLOTTE COUNTY Location Map for SE-16-010

Charlotte County Government

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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 it 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 -8301 Date Saved: 8/19/2016 11:06:36 AM

Path: M:\Departments\GIS\Projects\Petition_Maps\Current_Planning\2016\Special Exception\SE-16-010\SE-16-010\PKCTLocationMapSE-16-010.mxd



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Community Development

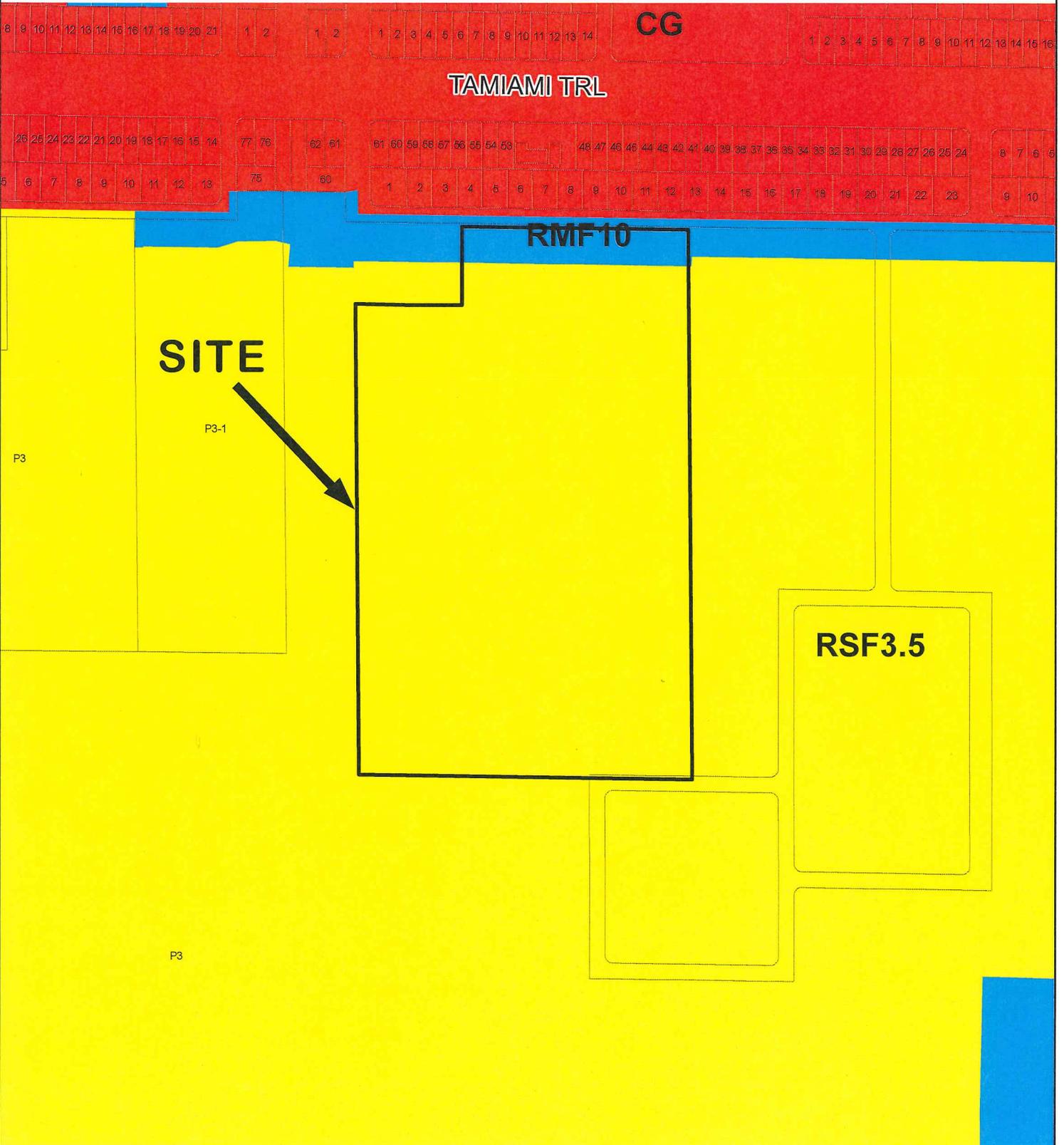
CHARLOTTE COUNTY

Zoning Map for SE-16-010

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Community Development

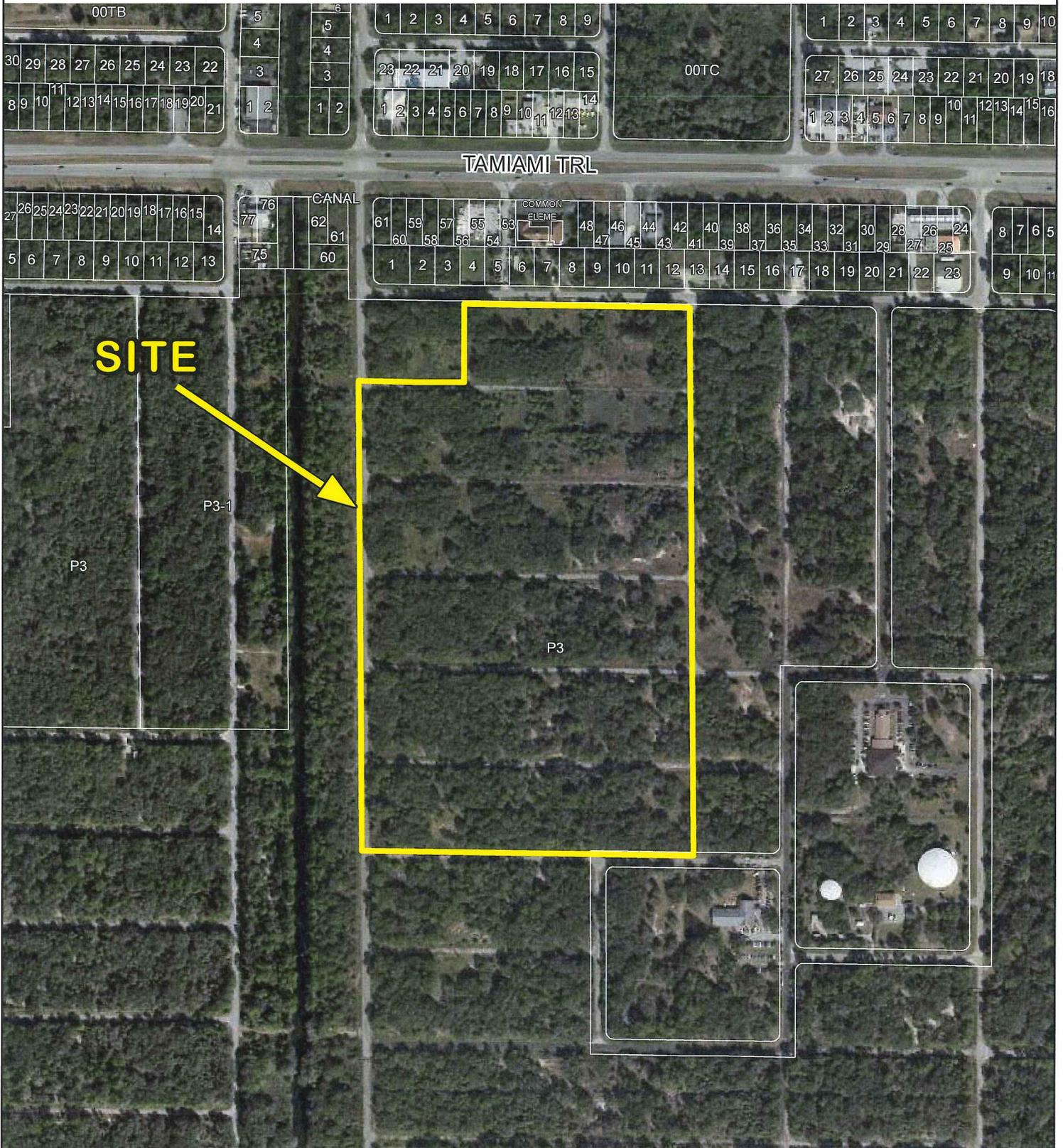
CHARLOTTE COUNTY

2014 Aerial View for SE-16-010

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(NOT TO SCALE)

SKETCH TO ACCOMPANY DESCRIPTION

Notes:

Improvements, surface, subsurface and pavement not located.
 Wetlands not located.
 Waterways shown are anticipated to be relocated in the future.
 Coordinates where shown are in Florida Zone West, 1983 Adjustment of 1990 Adjustment, in survey feet derived from GPS Observations.
 Bearings and distances are Grid, Florida Zone West 83 / 90 Adjustment wherein the North Right of Way Line of State Road 776 Bears N69°10'05"E.
 All platted lands within the Murdock Village Redevelopment area were vacated as per Resolution Number 2008-015 of the Board of County Commissioners of Charlotte County, Florida. Said Resolution was recorded in the Charlotte County Clerk of Courts Office in Official Record Book 3321, Pages 634-650 on 09/04/2008.
 The FDOT Pond Sites shown herein were granted as per a Grant of Stormwater Easements as recorded in the Charlotte County Clerk of Courts Office in Official Record Book 3843, Pages 1724-1738 on 02/25/2014.
 The purpose of this Sketch & Description is to exchange an existing School Board Parcel of Land for a new Parcel.
 Date of Last Field Work: //2016
 This Survey makes no representation as to Zoning or Development Restrictions on subject parcel.
 This Survey is subject to any facts that might be disclosed by a full and accurate title search.

Legend:

CCSD = Charlotte County Survey Department
 Char. Co. = Charlotte County
 CIR = Capped Iron Rod
 CM = Concrete Monument
 FDOT = Florida Department of Transportation
 ROW = Right of Way
 ● = CHARLOTTE COUNTY CIR
 ■ = CCSD CM

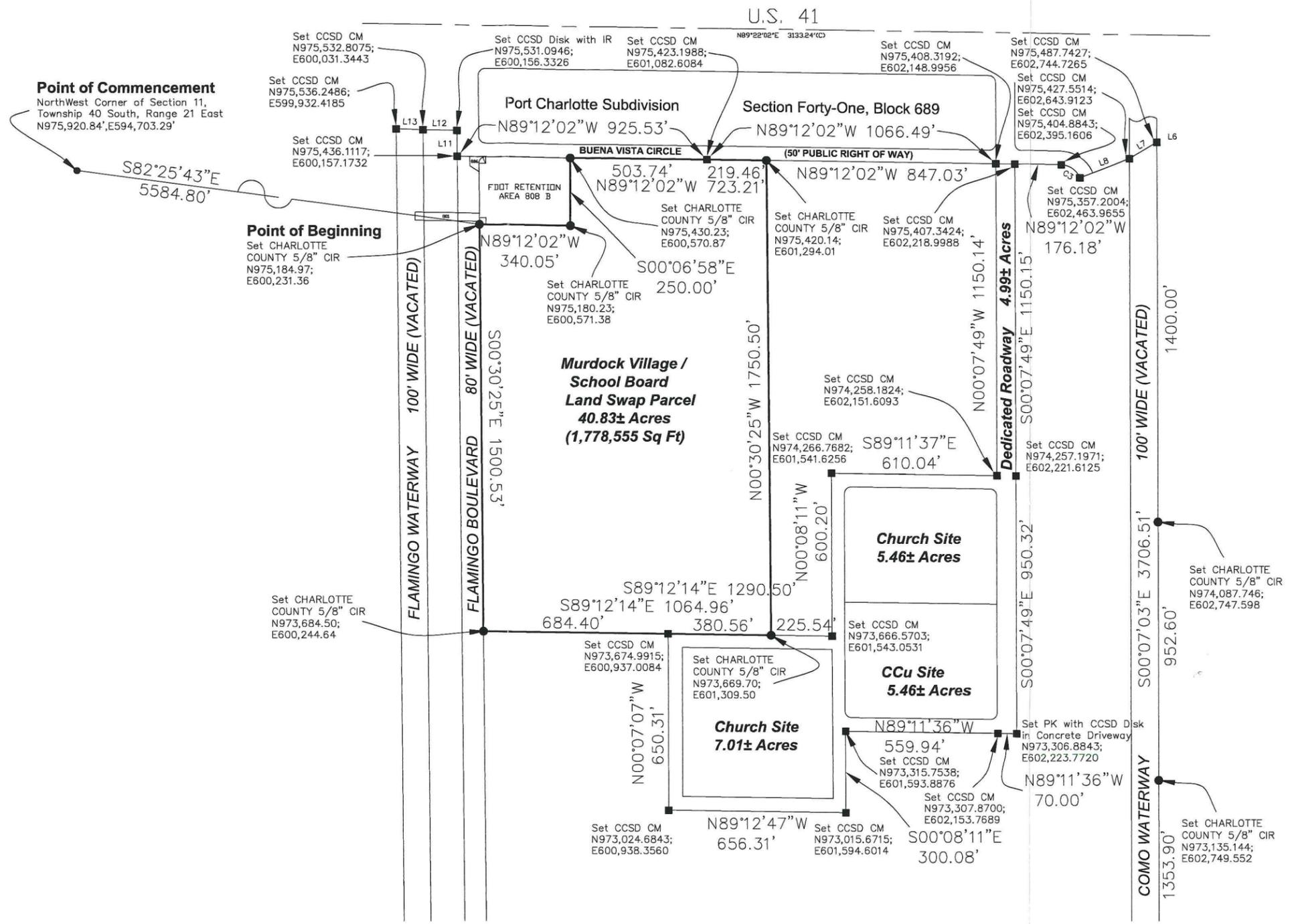
Description:

A tract or parcel of land lying in Section 12, Township 40 South, Range 21 East, which tract or parcel is more particularly described as follows:

Commencing at the Northwest corner of said Section 11, thence S82°25'43"E a distance of 5584.80 feet to a point on the east right of way line of Flamingo Boulevard (vacated as per Resolution Number 2008-015) and the Point of Beginning;

From said Point of Beginning, thence S00°30'25"E along said east right of way line of Flamingo Boulevard a distance of 1500.53 feet; thence S89°12'14"E a distance of 1064.96 feet; thence N00°30'25"W a distance of 1750.50 feet to a point on the south right of way line of Buena Vista Circle (50' public right of way); thence N89°12'02"W along said south right of way line a distance of 723.21 feet to a point, said point also being the northeast corner of FDOT retention area 808 B; thence S00°06'58"E along the east line of said retention area a distance of 250.00 feet to a point, said point being the southeast corner of said retention area; thence N89°12'02"W along the south line of said retention area a distance of 340.05 feet to the Point of Beginning.

Containing 40.83 acres, more or less.



Sketch & Description (Exhibit A)

FOR THE EXCLUSIVE USE OF:
 CHARLOTTE COUNTY BOARD OF COUNTY COMMISSIONERS
 AND THE CHARLOTTE COUNTY SCHOOL BOARD

STEVEN L. FORD (COUNTY SURVEYOR)
 PROFESSIONAL SURVEYOR & MAPPER NO. 4992

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL
 RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND
 MAPPER.

DATE	REVISION	BY	DATE	REVISION	BY	DATE	REVISION	BY

COUNTY OF CHARLOTTE
 COUNTY SURVEYING DEPARTMENT
 410 TAYLOR STREET, Suite # 104
 PUNTA GORDA, FLORIDA 33950 (941) 575-3616

DATE 08/17/16	CKD. BY	DATE	SURVEYED BY: R.C. & S.F.	DATE
DRAWN RFC	SLF		APPROVED BY:	
DESIGN			DRAWING NO.	
SECTION	12-T40S-R21E		MV_SCHOOL_BOARD_LAND_SWAP_4.dwg	

MURDOCK VILLAGE / SCHOOL
 BOARD LAND SWAP PARCEL

SCALE 1"=200'
 SHEET 1 OF 1
 JOB. NO. W01525699

Select Year:

The 2016 Florida Statutes

Title XLVIII
K-20 EDUCATION CODE

Chapter 1013
EDUCATIONAL FACILITIES

[View Entire Chapter](#)

1013.01 Definitions.—The following terms shall be defined as follows for the purpose of this chapter:

(1) “Ancillary plant” is comprised of the building, site, and site improvements necessary to provide such facilities as vehicle maintenance, warehouses, maintenance, or administrative buildings necessary to provide support services to an educational program.

(2) “Auxiliary facility” means the spaces located at educational plants which are not designed for student occupant stations.

(3) “Board,” unless otherwise specified, means a district school board, a Florida College System institution board of trustees, a university board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind. The term “board” does not include the State Board of Education or the Board of Governors.

(4) “Capital project,” for the purpose of s. 9(a)(2), Art. XII of the State Constitution, as amended, means sums of money appropriated from the Public Education Capital Outlay and Debt Service Trust Fund to the state system of public education and other educational agencies as authorized by the Legislature.

(5) “Core facilities” means the media center, cafeteria, toilet facilities, and circulation space of an educational plant.

(6) “Educational facilities” means the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards.

(7) “Educational plant” comprises the educational facilities, site, and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the educational program of each plant.

(8) “Educational plant survey” means a systematic study of present educational and ancillary plants and the determination of future needs to provide an appropriate educational program and services for each student based on projected capital outlay FTE’s approved by the Department of Education.

(9) “Feasibility study” means the examination and analysis of information related to projected educational facilities to determine whether they are reasonable and possible.

(10) “Long-range planning” means devising a systematic method based on educational information and needs, carefully analyzed, to provide the facilities to meet the goals and objectives of the educational agency for a period of 5 years.

(11) “Low-energy usage features” means engineering features or devices that supplant or minimize the consumption of fossil fuels by heating equipment and cooling equipment. Such features may include, but are not limited to, high efficiency chillers and boilers, thermal storage tanks, solar energy systems, waste heat recovery systems, and facility load management systems.

(12) “Maintenance and repair” means the upkeep of educational and ancillary plants, including, but not limited to, roof or roofing replacement short of replacement of the entire roof; repainting of interior or exterior surfaces; resurfacing of floors; replacement of electrical fixtures, and plumbing fixtures. The term “maintenance and repair” does not include the replacement of equipment with new equipment.

Educational Facilities
(Exhibit B)

structure; repainting of interior or exterior surfaces; hardware, furniture, equipment, and fixtures, roads, and walkways. The term “maintenance and repair” does not include renovation except for the code requirements, provided that

Special Exception Application

Narrative:

The Murdock Village Community Redevelopment Agency (CRA) is seeking a special exception on approximately 40.38 acres of land to allow for the construction of educational facilities as defined in Section 1013.01 Florida Statute (2016):

“Educational facilities” means the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards.

Consistency with the Comprehensive Plan: The Murdock Village Mixed Use land use designation allows for a mix of uses including educational facilities.

Compatible with existing and permitted Uses: The site is bordered by two Public streets - Flamingo and Buena Vista which separates the site from the commercial (Commercial General) zoning to the north; Florida Department of Transportation has an existing easement immediately north of the site; one church is located south of the site currently zoned RSF - 3.5, and remaining adjacent property is vacant and currently zoned RSF- 3.5. A Charlotte County utility facility and another church are located in close proximity to this site. An educational facility would be compatible with these uses.

Public Health, Safety, or General Welfare: The proposed use of the site as an educational facility is not anticipated to be detrimental to or endanger the public health, safety, or general welfare.

The Murdock Village CRA is working with the Charlotte County School Board to exchange this property for the 35 acres of property the School Board currently owns within Murdock Village CRA. (See Exhibit A). On August 11, 2016, the Murdock Village CRA directed staff to begin the public notice process to consider the property exchange with the school board. On September 22, the Murdock Village CRA will meet to review and consider the proposal to move forward with the exchange of property.

Relocation of the school board site will help to facilitate future redevelopment of the area.

**Narrative
(Exhibit C)**

WOTITZKY, WOTITZKY, ROSS & MCKINLEY, P.A.

ATTORNEYS AT LAW

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EDWARD L. WOTITZKY*

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MICHAEL R. MCKINLEY

CHEYENNE R. YOUNG

* FL BAR BOARD CERTIFIED
REAL ESTATE LAWYER

** ALSO MEMBER OHIO BAR

LEO WOTITZKY (1912 - 2005)

FRANK WOTITZKY (1916 - 2013)

August 4, 2016

Via email (Joshua.Moye@charlottefl.com)

Joshua Moye, Esq.
County Attorney's Office
18500 Murdock Circle
Room #573
Port Charlotte, FL 33948

**Letter to
Charlotte County
(Exhibit D-1)**

Re: Charlotte County School Board / Charlotte County Murdock Village
Land Swap

Dear Josh:

Further to our discussions on the above-referenced subject, I have been directed by the Superintendent to advise you of our suggestions for conditions to the proposed exchange as follows:

1. That the area of the property to be conveyed to the School Board in exchange for the thirty-five (35) acres owned by the School Board be increased in size east to forty and eighty-three hundredths (40.83) acres bounded by Buena Vista Circle, Butler Street extended to Odin Avenue and Flamingo Boulevard, as depicted in the attached Exhibit.
2. That any development rights currently held by the School District on its current thirty-five (35) acre parcel will be transferred to the exchange parcel, and that no additional restrictions be imposed on the exchange parcel.
3. That any special exception or other zoning or planning approval necessary to allow for the construction of educational facilities on the exchange property be undertaken by the County at its sole cost and expense and completed prior to closing.
4. That the County provide any existing reports or surveys concerning the exchange parcel.
5. That the grantor of each parcel will be responsible for the cost of title insurance, as a valuation of fifty thousand dollars (\$50,000.00) per acre. It appears that the transaction is exempt from documentary stamp taxes pursuant to Section 12B-4.014 (10), F.A.C.

These items are preliminary in nature and we may raise additional issues as the transaction develops.

There has also been some discussion about the procedural requirements of Florida Statute Chapter 163. As I read Section 163.380 (3)a, it is consistent with the Statute to provide the thirty (30) day notice of the execution of a contract and include provisions in the Contract for other time frames or contingencies to closing. In other words, it is not necessary to actually exchange title of the two (2) parcels prior to the County being certain of its intended use of the parcel received from the School District.

ESTABLISHED 1940

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REAL ESTATE CLOSINGS • TITLE INSURANCE • REAL PROPERTY LAW • CONDOMINIUM & COMMUNITY ASSOCIATION LAW • DIVORCE, CUSTODY & FAMILY LAW

Joshua Moyer, Esq.
August 4, 2016
Page 2

Don't hesitate to call if you wish to discuss any of these items. I look forward to working with you on a successful resolution of this matter.

Sincerely,

WOTITZKY, WOTITZKY, ROSS & MCKINLEY, P.A.



Michael R. McKinley, Esq.

MRM/zm

cc: Steve Dionisio, Superintendent
Jerry Olivo, Assistant Superintendent for District Support

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**Letter to
Charlotte County
(Exhibit D-2)**

PROPOSED SCHOOL BOARD PARCEL EXHIBIT



Letter to
Charlotte County
(Exhibit D-3)



MEMORANDUM

Date: August 31, 2016
To: Ken Quillen, Planner III
From: Susie Derheimer, Environmental Specialist
Subject: SE-16-010, 1033 Buena Vista Circle, Port Charlotte

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:

- ❖ An aerial review of the 40± acre subject property was conducted. The site consist of undeveloped, vegetated platted single family lots with associated road improvements.

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:

- ❖ A current listed species assessment and Florida Land Use Code and Classification Systems (FLUCCS) map will need to be submitted for Site Plan Review (if needed) or the issuance of county permits and land clearing activities. 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.
- ❖ Chapter 3-5:
Article IV, CLEARING, FILLING AND SOIL CONSERVATION,
Article XV, SURFACE WATER AND WETLAND PROTECTION,
Article XVI, OPEN SPACE/HABITAT RESERVATION TRUST.
- ❖ Chapter 3-9-100:
BUFFERS, LANDSCAPING, and TREE REQUIREMENTS.
*All heritage trees must be preserved as per Section 3-9-100.3(e).

This project must also comply with the Charlotte County 2050 Comprehensive Plan.

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

SD

(Exhibit E)