

STAFF REPORT
Community Development Department
File Number: SE-14-009

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:

Brad Milliken-Setser, agent for Dorothy Milliken, is requesting a special exception to allow a guest house in a Coastal Residential-3.5 (CR-3.5) zoning district. Subject property is located at **4551 Melbourne Street** in Charlotte Harbor (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Coastal Residential-3.5 (CR-3.5). This property has a Charlotte Harbor Coastal Residential Future Land Use Map (FLUM) designation.

Section 3-9-50.5(a)(B)(2)e.2 (Exhibit A) does allow a guest house as a special exception in the Coastal Residential-3.5 (CR-3.5) zoning district provided the lot area is not less than twice the minimum lot size. The development standards in **Section 3-9-50.5(a)(B)(2)f** (Exhibit A-3) requires a minimum 10,000 square foot lot. Subject property consists of 21,760 square feet (136' by 160') of land area, which exceeds the minimum lot size requirement of 20,000 square feet to permit a single-family residence and a "guest house" in the CR-3.5 zoning district. As such the applicant has submitted this application for a special exception.

The applicant has submitted the attached **Boundary Survey** (Exhibit B), which shows the locations of the existing residence and accessory structures, including a car-port and shed, located on this half-acre lot. The applicant has also submitted a **Site Plan** (Exhibit C) showing the location of the proposed guest house on subject property. It should be noted that the existing shed will be removed to make way for the proposed guest house. Code requires two off-street parking spaces for a single-family residence. The addition of a guest house would require four off-street parking spaces. The existing driveway has adequate room for at least four off-street parking spaces.

Section 3-9-2 of the Zoning Code defines a "guest house" as: "A dwelling unit in a building separate from and in addition to the principal residential building on a lot, intended for intermittent or temporary occupancy without compensation." This definition is fully applicable to this proposal and staff believes is understood by the applicants.

The applicant has also submitted the attached **Narrative** (Exhibit D) explaining why they believe a special exception should be granted for this proposed guest house. 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: The Zoning Code explicitly states that a guest house is allowed by special exception in the CR-3.5 zoning districts as per Section 3-9-50.5(a)(B)(2)e.

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. The proposed guest house, which may be considered an accessory use, is considered compatible with the existing single-family residences in the surrounding area.

Direction	Existing Land Uses	Existing Zoning	Future Land Use Map Designation
North	Single-family residences	CR-3.5	Charlotte Harbor Coastal Residential
South	Single-family residences	CR-3.5	Charlotte Harbor Coastal Residential
East	Single-family residences	CR-3.5	Charlotte Harbor Coastal Residential
West	Single-family residences	CR-3.5	Charlotte Harbor Coastal 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 existing access drive already exists off of Melbourne Street for the existing single-family residence and no changes are proposed at this time. Adequate off-street parking is available for the existing single-family residence as well as the proposed guest house.

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

Finding: Buffers are not required for the existing 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 guest house.

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

Finding: The principal use will remain a single-family residence and the proposed guest house is consistent with the **Smart Charlotte 2050 Plan** and Future Land Use classification of Charlotte Harbor Coastal Residential. Guest houses are permitted by special exception in the **Land Development Regulations**.

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 guest house would not be detrimental to or endanger the public health, safety or general welfare of the surrounding residential 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 guest house 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 as approved by the Board of Zoning Appeals is to allow a guest house as that term is defined in the Zoning Code.
2. The Site Plans submitted with this application are for illustrative purposes only. All permitting procedures and codes are applicable to the construction and operation of the guest house as an accessory use to the existing single-family residence.

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, Boundary Survey, Site Plan, Narrative, and Environmental Specialist Memorandum



Community Development

CHARLOTTE COUNTY

Location Map for SE-14-009

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 guaranties, 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 Date Saved: 5/13/2014 2:48:33 PM

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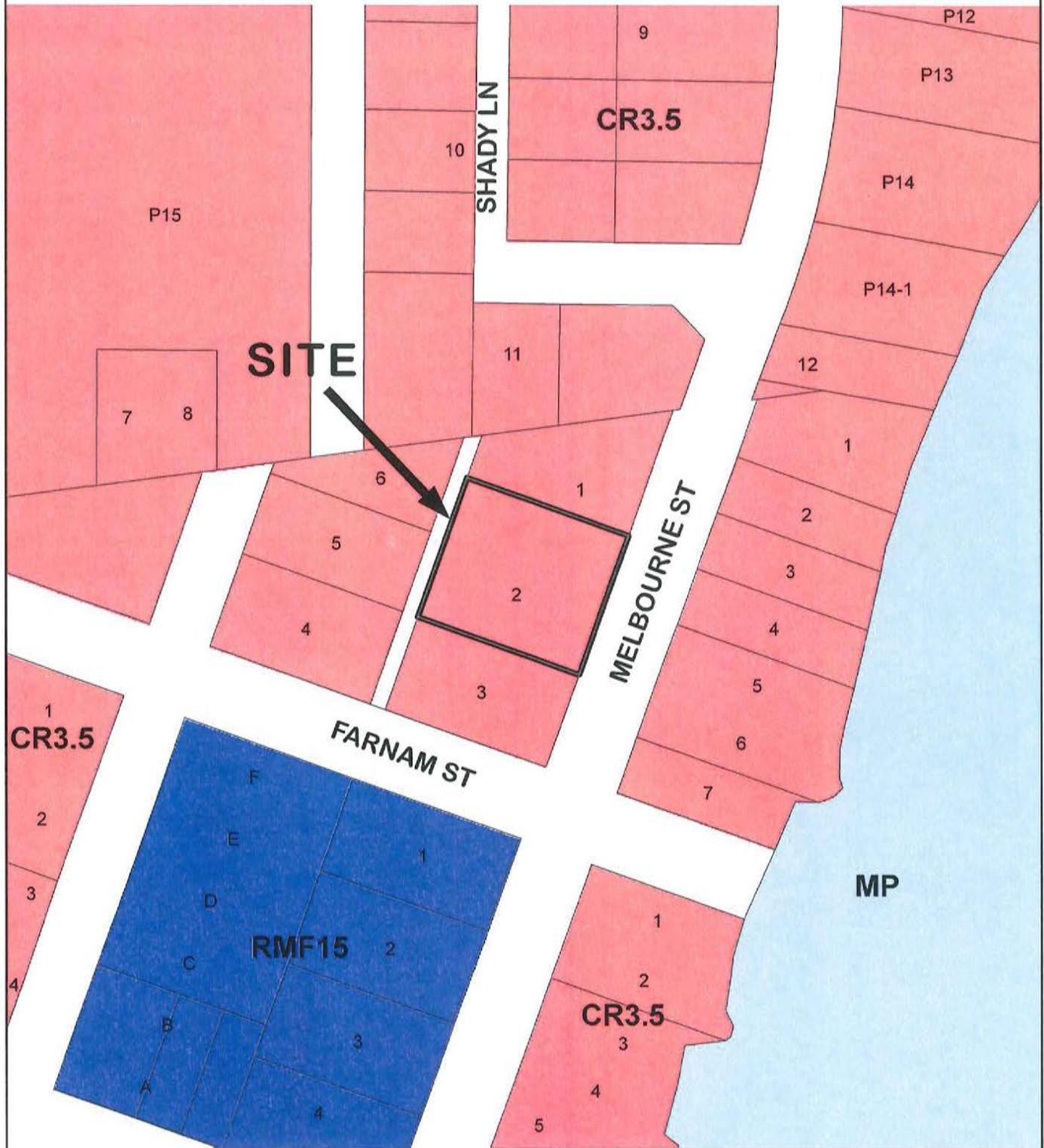
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CHARLOTTE COUNTY

Zoning Map for SE-14-009



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Community Development

CHARLOTTE COUNTY

Aerial View for SE-14-009

Charlotte County Government

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Sec. 3-9-50.5. Permitted uses.

(a) *Intent.* The future land use map (FLUM) designations within the Charlotte Harbor Community Plan are, for the most part, consistent with current Charlotte County zoning designations; however, there are some significant differences. Outlined below are the Charlotte Harbor Community Plan FLUM designations with the zoning districts which are consistent with each specific FLUM designation. Also listed below are the specific designations of coastal residential, neighborhood business residential, and mixed use. These specific designations within the CDC will supersede any underlying zoning district when the underlying zoning conflicts with the specific CDEC designation. A rezoning or zoning map amendment is required as a part of the PD process and the proposed PD shall not be approved unless it is consistent with the future land use map and the goals, objectives and policies of the comprehensive plan.

(A) *Low density residential FLUM designation:* LDR (3-9-50.5(A)).

- (1) Permitted zoning districts within a low density residential FLUM designation include the following:
- a. Residential single-family (RSF 1, 2, 2.5, 3.5, and 5), [section 3-9-32](#) (as may be amended);
 - b. Residential multifamily (RFM 3.5, and 5), [section 3-9-33](#) (as may be amended);
 - c. Planned development (PD), [section 3-9-49](#) (as may be amended); and
 - d. Environmentally sensitive (ES), [section 3-9-28](#) (as may be amended).

(B) *Coastal residential FLUM designation:* CR (3-9-50.5(B)).

- (1) Permitted zoning districts within the coastal residential FLUM designation include the following:
- a. Environmentally sensitive (ES), [section 3-9-28](#) (as may be amended);
 - b. Residential single-family (RSF 1, 2, 2.5, and 3.5; [section 3-9-32](#)) (as may be amended; except where it is inconsistent with the (CR) [section 3-9-50.5\(B\)\(2\)](#));
 - c. Planned development (PD), [section 3-9-49](#) (as may be amended). Multifamily residential structures, if approved through the planned development process ([section 3-9-49](#)), are permitted in the coastal, residential FLUM designation.

(2) [Section 3-9-50.5\(B\)\(2\)](#), Coastal residential (CR) zoning district.

- a. *Intent.* Coastal residential (CR) zoning is primarily intended to be used for single-family residential dwellings and other uses which are compatible within the Charlotte Harbor Community. Among CR-1, CR-2, and CR-3.5 districts, there are variations in requirements for lot area, width, and certain yards. (See subsection [3-9-50.5\(B\)\(2\)f](#)).
- b. Permitted principal uses and structures. The following uses and structures are permitted in this district:
 1. Single-family dwellings, excluding mobile homes;
 2. Nonprofit parks and playgrounds;
 3. Occupied single-family residence homes;

Section 3-9-50.5 (Exhibit A-1)

Sec. 3-9-50.5(a)(B)(2)

4. Noncommercial boat docks; and
 5. Art and music instruction, provided no more than two (2) students at a time are 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 garage and storage structures;
 2. Greenhouses, the growing of plants and horticultural specialties, provided no retail sales are made on the premises;
 3. Swimming pools; and
 4. 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.
- e. Special exceptions. (For procedure, see [section 3-9-7](#), Special exceptions).
1. Private parking lots, provided that a site plan is approved by the development review process ensuring that the maximum tree protection requirements are included, as well as significant vegetated buffers and aesthetic screening requirements are added to maintain compatibility with the surrounding coastal residential community and reduce visual intrusion. The following conditions must also be met:
 - (i) The parking lot must be within two hundred (200) feet of and in association with a proposed or approved development.
 - (ii) The parking lot be part of an approved development which includes, as an approval stipulation, the need for additional parking.
 - (iii) The parking lot cannot be the only or the primary parking for the associated development.
 - (iv) Specific site related amenities, such as caution lights, pedestrian crosswalks, sidewalks, etc., are provided to ensure pedestrian access and safety.
 2. One (1) guest house or one (1) servants' quarters for each single-family dwelling, provided the lot area shall not be less than twice the minimum lot area required for a single-family dwelling;
 3. Home occupations, in accordance with [section 3-9-79](#) (as may be amended);
 4. Child and adult day care facilities in accordance with the following standards:
 - (i) The minimum parcel size shall be twenty thousand (20,000) square feet;
 - (ii) The facility must be located on a collector or higher functional roadway classified in the comprehensive plan;
 - (iii)

Section 3-9-50.5 (Exhibit A-2)

Sec. 3-9-50.5(a)(B)(2)f

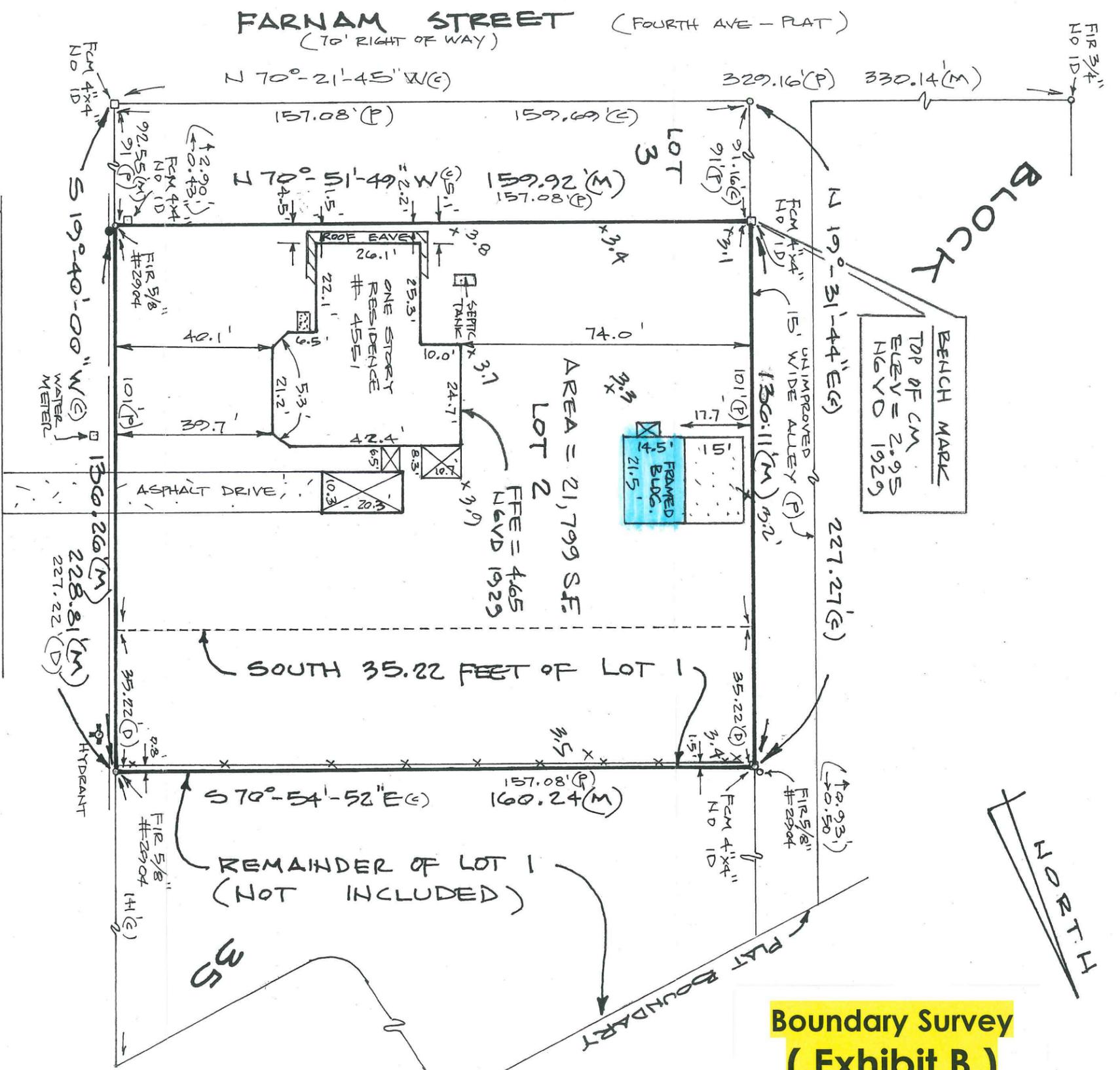
Such facilities may not be located less than one thousand five hundred (1,500) feet from an established, existing facility in a residential single-family district. This distance shall be measured on a straight line from the nearest point of the proposed structure to the nearest point of the existing structure;

- (iv) The facility may care for a maximum of twenty-five (25) children or adults;
 - (v) The facility must meet all requirements of the Florida Department of Health and Rehabilitative Services and maintain any required license and registrations;
 - (vi) The facility must have off-street parking in accordance with off-street parking and loading facilities, section 3-9-90 (as may be amended);
 - (vii) A fence (see architectural standards) six (6) feet in height must be installed along the side and rear property lines in accordance with fences, walls, section 3-9-77 (as may be amended);
 - (viii) A special exception for child or adult day care facilities shall cease upon change of ownership or discontinuance of the use for more than ninety (90) days.
5. Essential services (substations);
 6. Adult congregate living facilities in accordance with adult congregate living facilities, section 3-9-63.1 (as may be amended);
 7. Radio and television transmission towers; and
 8. Such other uses as determined by the community development director or his/her designee to be:
 - (i) Appropriate by reasonable implication and intent of the district;
 - (ii) Similar to another use either explicitly permitted in that district or allowed by special exception; and
 - (iii) Not specifically prohibited in that district.

f. **Development standards.** The following development standards shall apply in this district:

	Coastal Residential-1	Coastal Residential-2	Coastal Residential-2.5	Coastal Residential-3.5
Minimum lot requirement (except as otherwise permitted)				
Area, square feet:	40,000	20,000	15,000	10,000
Width, feet:	125	100	100	80
Front yard, feet:	10	10	10	10
Side yard:				
Interior feet:	15	15	15	7.5
Abutting a road, feet:	20	20	20	15
Maximum lot requirement:				
Front yard, feet:			25	25

**Section 3-9-50.5
(Exhibit A-3)**



BLOCK

BENCH MARK
 TOP OF CM
 ELEV = 2.95
 NVD 1929

**Boundary Survey
 (Exhibit B)**

LIMITED TOPOGRAPHY AND
 BOUNDARY SURVEY
 LOT 2 AND THE SOUTH 35.22 FEET
 OF LOT 1 BLOCK 35
 MAP OF
 CHARLOTTE HARBOR
 CHARLOTTE COUNTY FLORIDA
 PLAT BOOK 1, PAGE 29

MELBOURNE STREET
 (10' RIGHT OF WAY)
 ASPHALT PAVEMENT

1. UNDERGROUND FEATURES ARE SHOWN FOR INFORMATIONAL PURPOSES ONLY.
 2. TITLE SEARCH PROVIDED BY OTHERS.

BEARING BASIS: WESTERLY LINE MELBOURNE STREET - ASSUMED
 COMMUNITY NUMBER 122061 PANEL NUMBER 0233 SUFFIX F FIRM DATE 5-5-03 FIRM ZONE AE
 SCALE: 0 30 DATE: 11-27-2013

LEGEND:

- IR: IRON ROD
- DH: DRILL HOLE
- CM: CONCRETE MONUMENT
- RP: IRON PIPE
- ND: NAIL & DISC
- PCP: PERMANENT CONTROL POINT
- PRM: PERMANENT REFERENCE MONUMENT
- F: FOUND
- S: SET
- PUE: PUBLIC UTILITY EASEMENT
- DE: DRAINAGE EASEMENT
- M: MEASURED
- C: CALCULATED
- P: PLAT
- D: DEED
- UTS: UNITED TELEPHONE SERVICE
- FPL: FLORIDA POWER & LIGHT
- CTT: CABLE TELEVISION
- NGD: NATIONAL GEODETIC
- VE: VERTICAL ELEVATION
- X8.5: EXISTING ELEVATION
- PO: POWER POLE
- XX: CHAIN LINK FENCE
- W: WOOD FENCE
- U: UTILITY RISER
- CON: CONCRETE
- *: TO BE SET

CERTIFIED TO:
 DOROTHY MILLIKEN
 BRAD MILLIKEN

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

THIS SURVEY IS HEREBY CERTIFIED AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS PURSUANT TO CHAPTER 177, FLORIDA STATUTES, CHAPTER 472 FLORIDA STATUTES AND CHAPTER 61G17, FLORIDA ADMINISTRATIVE CODE AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A CERTIFIED TITLE REPORT AND IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES.

Jean Michel Mellillo
 JEAN-MICHEL MELLILLO R.S. & M. 5553

MELLILLO and PLATT
 LAND SURVEYING, INC.
 2511 VASCO STREET
 PUNTA GORDA, FLORIDA 33950

(941) 505-0366
 Fax: 505-0368

JOB NUMBER
 13-1270

11-27-2013

**Special Exception Application
Narrative
Dorothy Milliken**

April 18, 2014

To Whom It May Concern,

I am requesting a Special Exception to build guest quarters at 4551 Melbourne Street, Port Charlotte FL 33980. My husband Bob is disabled and has complex medical needs. I am unable to fully attend to these on my own and need assistance. In such we are requesting the ability to build guest quarters for my daughter and her husband to be on site to assist with Bob's conditions. The guest quarters are small, ascetically pleasing and fit with the vernacular of the neighborhood.

As per the overview of section 3-9-7(f), we will be in compliance with all items. Our requested exception (guest quarters) is compliant with the regulations of the zoning district. We have adequate square footage and meet the regulatory requirements (1). Our request is compatible with existing surroundings. Melbourne Street is a neighborhood consisting primarily of residential homes. It fits the neighborhood ascetically and is will be used as guest quarters (2). Our property has adequate space for ingress and egress and is no way hazardous or congestive to our surrounding streets. There will be no significant change in personal traffic patterns than what is currently occurring on premise (3). Consideration has been taken for landscape improvements and open space. The property maintains an old Florida vernacular of shaded spaces and grassy areas that will be maintained.(4). This special exception is consistent with the regulations and plans developed by Charlotte County. Every effort has and will be made to conform to these standards (5). The proposed exception is a guest house. In such, this will in no way be detrimental to or endangering of public health, safety or welfare. The addition of this will help the current occupant maintain and improve his quality of life (6).

In closing, the ability to build guest quarters will greatly help my husband. He has faced a stroke, kidney cancer, kidney failure, heart issues, diabetes and a physical handicap. These guest quarters are a necessity in aiding him in his daily needs. Please take this into consideration as you review our request.

Thanks in advance,

Dorothy Milliken
4551 Melbourne St
Port Charlotte FL 33980
941-979-2424
rmilliken@comcast.net

**Narrative
(Exhibit D)**



MEMORANDUM

Date: May 16, 2014
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Re: SE-14-009, Milliken Guest House, 4551 Melbourne Street

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 a developed single family lot in a residential neighborhood. The property is located within 660 feet of an active Bald Eagles nest, Florida Fish and Wildlife Conservation Commission (FWCC) management plan guidelines apply. Heritage trees may also be located on site and must remain properly preserved.

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:

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

Chapter 3-2:

Article IX. *TREE REQUIREMENTS*

**All heritage trees (per Section 3-2-190) must remain preserved.

Chapter 3-5:

Article IV *CLEARING, FILLING AND SOIL CONSERVATION.*

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

JS

(Exhibit E)

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Google – 45 – Degree View

4551 Melbourne Street

(Exhibit F)