

STAFF REPORT
Community Development Department
File Number: SE-16-005

To: Charlotte County Board of Zoning Appeals
From: Shaun Cullinan, Planning and Zoning Official
Prepared By: Ken Quillen, AICP, Planner III
Report Date: May 4, 2016 **BZA meeting date: May 11, 2016**

Requested Action/General Information:

Steven Goldin and Josivina Vargas are requesting a special exception to allow a Major Home Occupation, consisting of a day spa for personal services, in the Residential Single-family-3.5 (RSF-3.5) zoning district. Subject property is located at **3790 Peace River Drive**, in Harbor Heights (see attached **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Residential Single-family-3.5 (RSF-3.5). This property is also located inside the Urban Service Area and has a Low Density Residential Future Land Use Map (FLUM) designation. The attached **Aerial View** shows the existing single-family residence located on four lots abutting the Peace River.

Section 3-9-33, of the Land Development Regulations, establishes regulations and uses allowed in the Residential Single-family 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 A)** 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 submitted the attached **Boundary Survey (Exhibit B)**, showing the existing 4,454 square foot single-family residence, pool house and other improvements located on this 22,000(±) square foot parcel. The **Property Appraiser Floor Plan (Exhibit C)** shows the dimensions and square footage of existing structures, including the 800 square foot pool house. The applicant intends to use the pool house as the location for the day spa, where personal cosmetology services will be performed, such as, hair styling and coloring, facials, waxing, make-up and massages. The **Pool House Floor Plan (Exhibit D)** shows the existing layout of the pool house, which has a large game room, smaller media room and a bathroom.

The applicant also proposes to use a 36 square-foot area (6' by 6') inside the home as his home office. This area is shown on the **Property Appraiser Floor Plan (Exhibit C)**. Home Occupation regulations limit the area that may be used for a home occupation to a maximum of 20 percent. The areas proposed by the applicant comprise 18.8 percent (836 sq. ft. ÷ 4,454 = 18.76) of the home. Code requires two off-street parking spaces for a single-family residence. This residence has an existing 616 square foot (22' by 28') two-car garage and a large driveway, which has room for at least four additional vehicles. **Section 3-9-74(d)(2)a (Exhibit A-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 no more than two clients will come to the home at a time by appointment, therefore parking should not be an issue for this proposed home occupation. The attached **Exhibit E** includes two photographs of the existing attached garage and driveways.

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 April 25, 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	Residential Single-family-3.5	Low Density Residential
South	Peace River	Parks and Recreation	Preservation
East	Single-family homes	Residential Single-family-3.5	Low Density Residential
West	Single-family homes and vacant land	Residential Single-family-3.5 and Planned Development	Low Density Residential and DRI Mixed Use

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: The home occupation regulations do not allow more than two customers or clients to visit the home at any one time and the applicant has stated in their narrative that they will comply with this restriction. As such, staff believes that the addition of the proposed major home occupation would not generate significantly greater traffic than a typical single-family residence and therefore 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 day spa that provides personal cosmetology services, such as, hair styling and coloring, facials, waxing, make-up and massages, 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. 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 3-9-74, Boundary Survey, Property Appraiser Floor Plan, Pool House Floor Plan, Photos of Driveways, Narrative and Environmental Specialist Memorandum



Community Development

CHARLOTTE COUNTY

Location Map for SE-16-005

Charlotte County Government

"To exceed expectations in the delivery of public services."

www.CharlotteCountyFL.gov



28/40/23 East 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 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 -7830 Date Saved: 4/13/2016 10:12:30 AM

Path: M:\Departments\LIS\Projects\Petition_Maps\Current_Planning\2016\Special Exception\SE-16-005\PKT\LocationMapSE-16-005.mxd



(NOT TO SCALE)

© Copyright 2016 Port Charlotte, FL by Charlotte County



Community Development

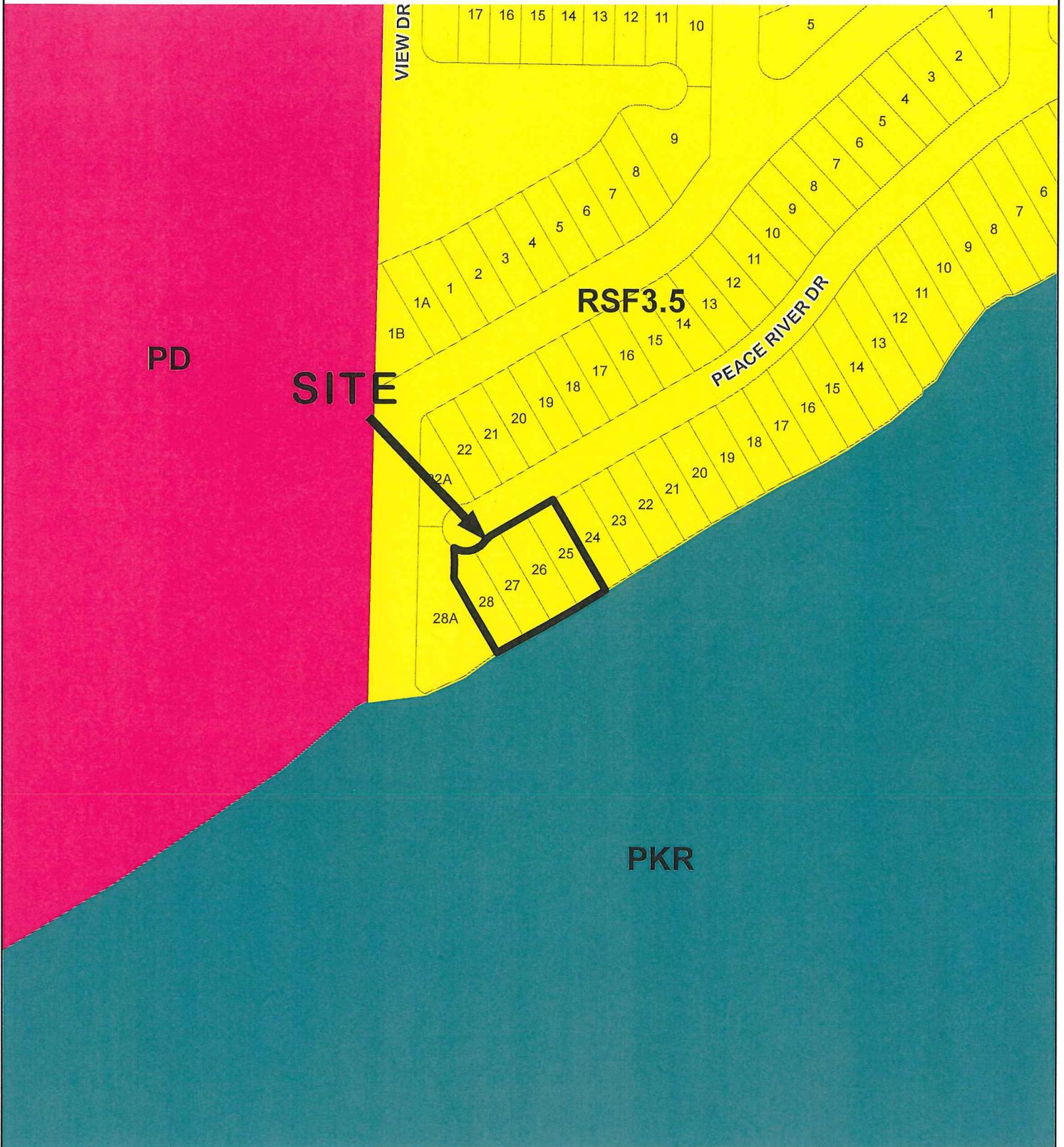
CHARLOTTE COUNTY

Zoning Map for SE-16-005

Charlotte County Government

"To exceed expectations in the delivery of public services."

www.CharlotteCountyFL.gov



28/40/23 East 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 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 7830 Date Saved: 4/19/2016 8:54:31 AM

Path: M:\Departments\LLIS\Projects\Petition_Maps\Current_Planning\2016\Special Exception\SE-16-005\PKKTZoningMapSE-16-005.mxd



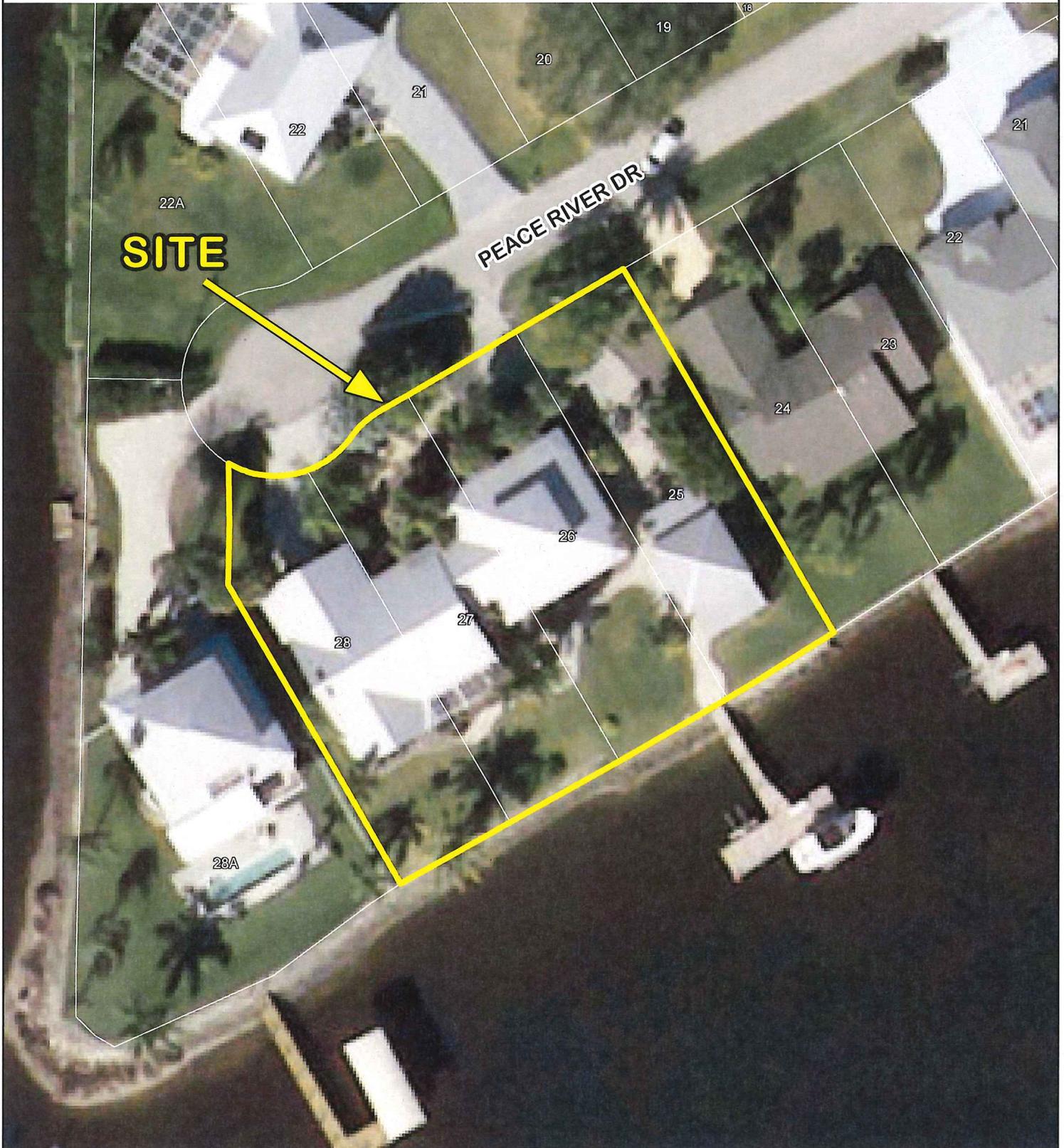
(NOT TO SCALE)

© Copyright 2016 Port Charlotte, FL by Charlotte County



CHARLOTTE COUNTY

2014 Aerial View for SE-16-005



28/40/23 East 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 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 7830 Date Saved: 4/13/2016 10:10:37 AM
Path: M:\Departments\LIS\Projects\Petition_Maps\Current_Planning\2016\Special Exception\SE-16-005\PKTAerialSE-16-005.mxd



(NOT TO SCALE)

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.*

Section 3-9-74
Home Occupations
(Exhibit A-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.

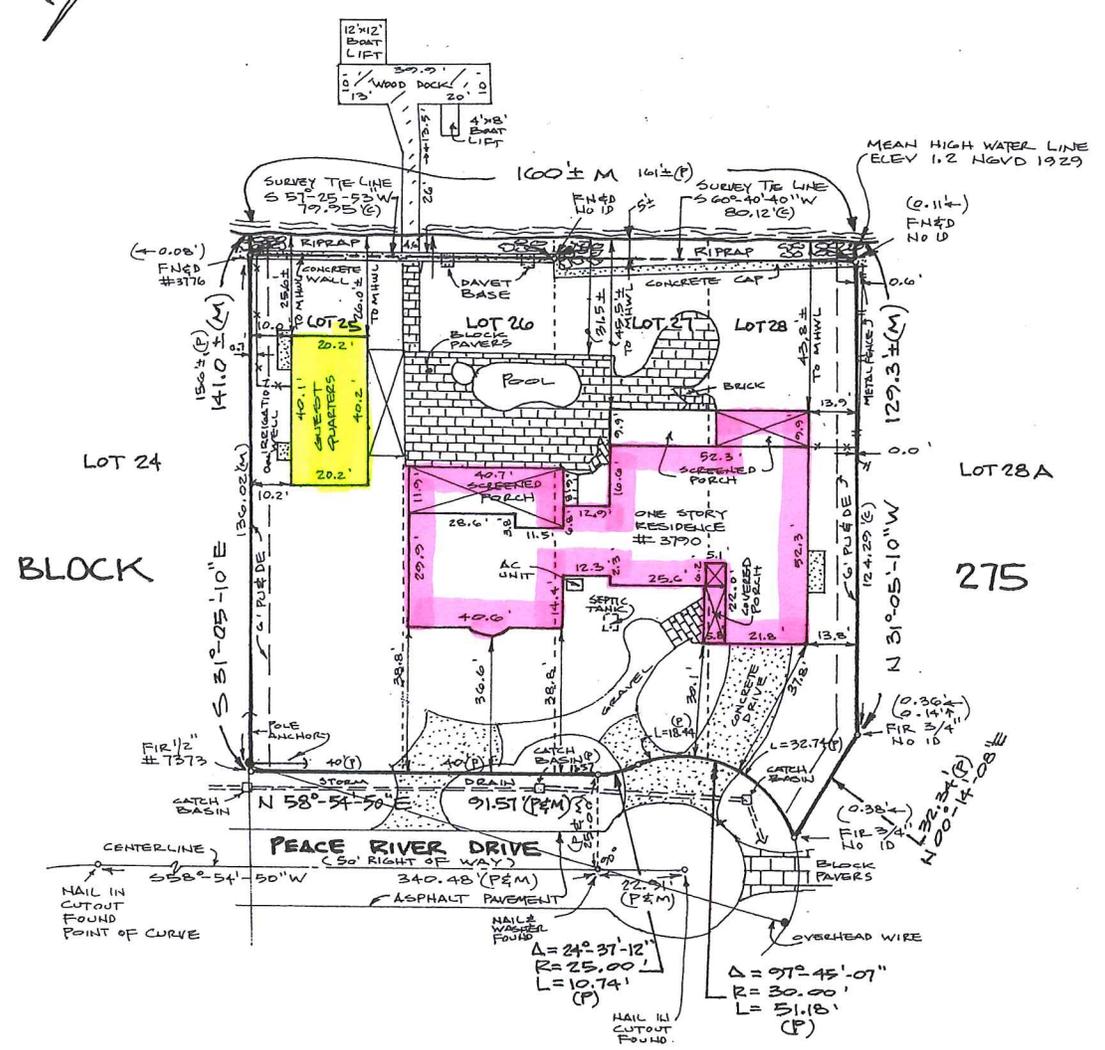
- a. No more than two (2) customers or clients may visit the home at any one (1) time.
 - b. Customers or clients may visit the home for purposes related to the home occupation between the hours of 8:00 a.m. and 8:00 p.m., unless different hours of operation are set by the special exception.
 - c. In 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
Home Occupations
(Exhibit A-2)



PEACE RIVER



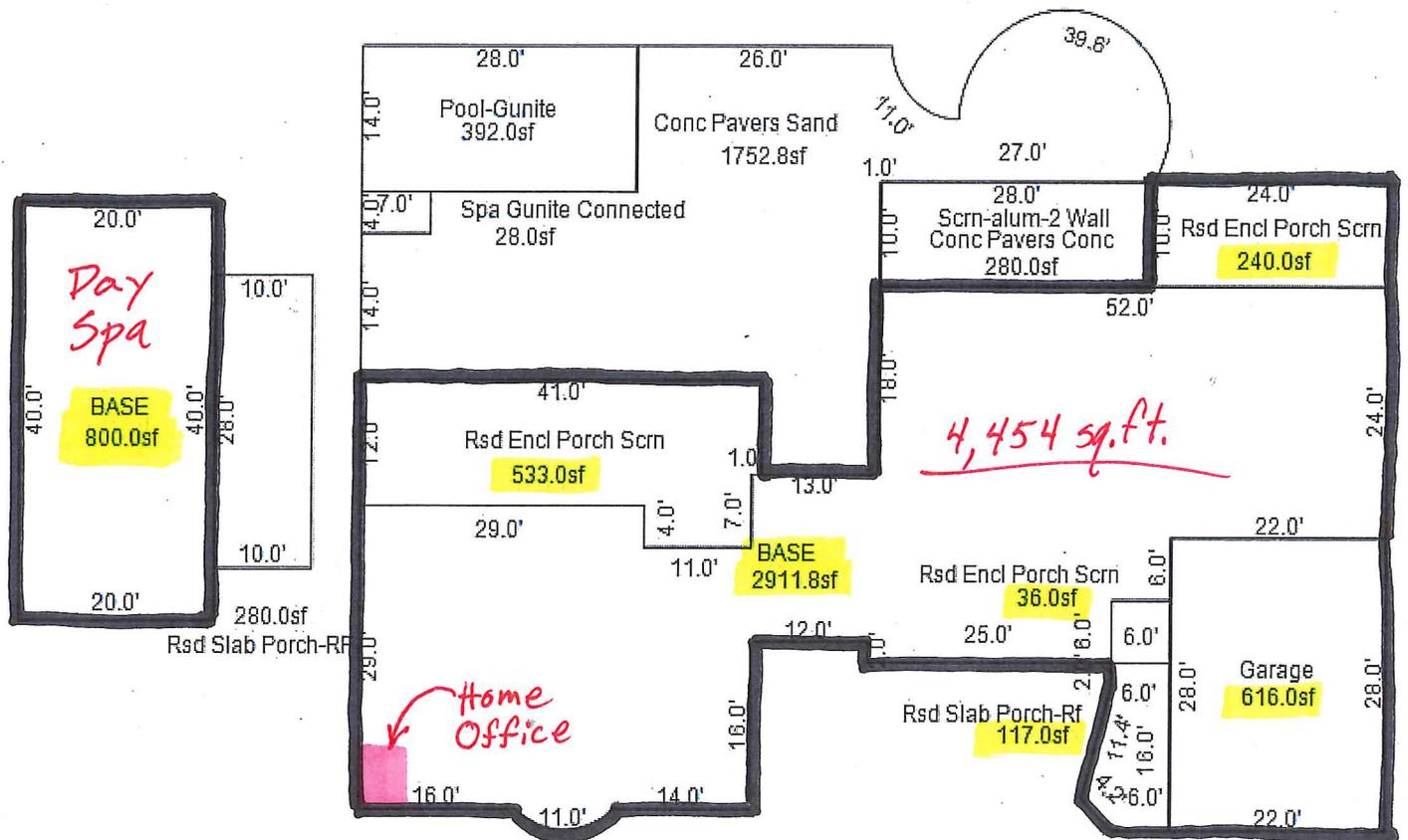
**FINAL AS BUILT
BOUNDARY SURVEY**
 LOTS 25, 26, 27 & 28 BLOCK 275
 HARBOUR HEIGHTS
 SECTION NINE PART ONE
 CHARLOTTE COUNTY, FLORIDA
 PLAT BOOK 4, PAGE 38 D
 INCLUSIVE PAGES 38A - 38D

Boundary Survey (Exhibit B)

1 UNDERGROUND FEATURES ARE SHOWN FOR INFORMATIONAL PURPOSES ONLY 2 TITLE SEARCH PROVIDED BY OTHERS		02-29-2016	FIELD	JM/BP	COMPS:	BP	DRAFTING	JM			
BEARING BASIS: CENTERLINE PEACE RIVER DRIVE - PLAT				SCALE: 0 30		DATE: 02-29-2016					
COMMUNITY NUMBER	120061	PANEL NUMBER	0232	SUFFIX	F	EFFECTIVE DATE	5-5-03	FIRM ZONE	AE	BASE FLOOD ELEVATION	9.0
LEGEND:		P: PLAT		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							
IR: IRON ROD DH: DRILL HOLE CM: CONCRETE MONUMENT IP: 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		UTS: UNITED TELEPHONE SERVICE FPL: FLORIDA POWER & LIGHT CTV: CABLE TELEVISION NGVD: NATIONAL GEODETIC VERTICAL DATUM XE.S: EXISTING ELEVATION P: POWER POLE CLM: CHAIN LINK FENCE W: WOOD FENCE U: UTILITY RISER C: CONCRETE * : TO BE SET									
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 618.17, 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 <i>Jean Michel Melillo</i> JEAN-MICHEL MELILLO R.S.&M. 5553		JOB NUMBER 15-1049 F		02-29-2016							
MELILLO and PLATT LAND SURVEYING, INC. 2511 VASCO STREET PUNTA GORDA, FLORIDA 33950		(941) 505-0366 Fax: 505-0368		LB 6713							

4/18/2016

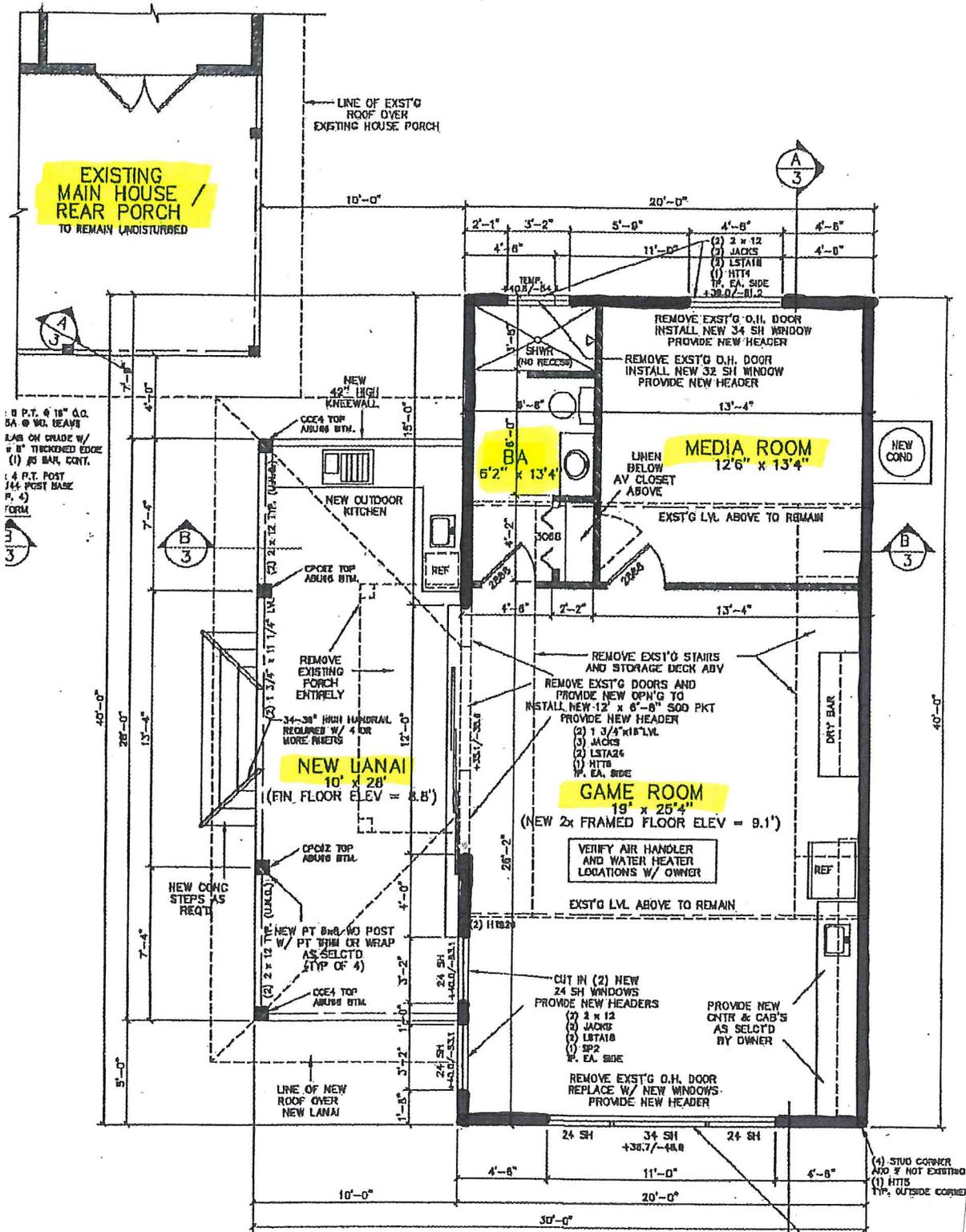
www.ccappraiser.com/show_footprint.asp?acct=402328232002



Property Appraiser - Floor Plan

3790 Peace River Drive

(Exhibit C)

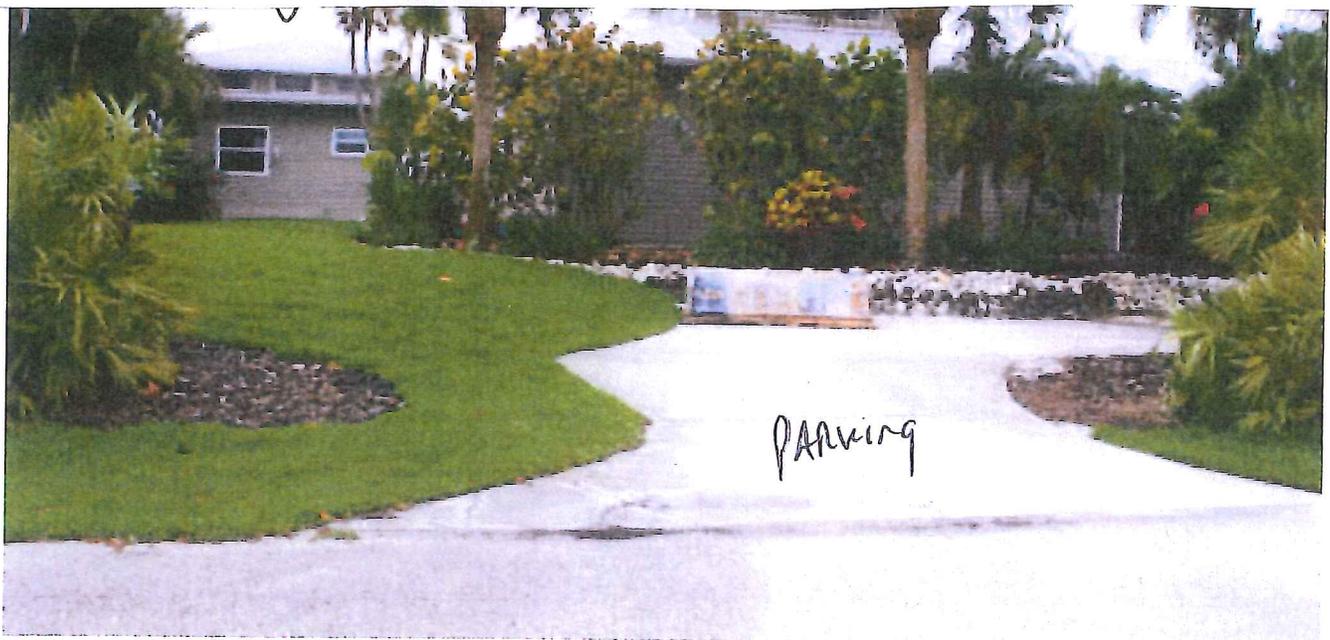


BUILDER:
WEST COAST BUILDERS
 P.O. BOX 494945 - PORT CHARLOTTE, FL.

NEW GARAGE REMODEL FOR:
GOLDIN RESIDENCE
 3790 PEACE RIVER DRIVE
 PORT CHARLOTTE, FLORIDA

DATE: 12-5-14
DRAWN BY: BOB PAPPAS
CHECKED BY:
SCALE: 1/4" = 1'-0"
CAD REFERENCE: WEST-COAST.DWG

Pool House - Floor Plan



Existing Driveways

Narrative Description of Request

We are requesting a special exception to allow use of the property at 3790 Peace River Drive, Punta Gorda, FL 33983 to be used as a day spa. The owner of the property, Steven Goldin, is also the owner of the proposed day spa. The wife of the owner has over 30 years of experience working as a cosmetologist and will work at the day spa.

The proposal is to allow hair cuts, styles, color, highlights, lowlights, color correction and repair, perms, hair extensions, keratin, facials, skin care, manicures, pedicures, hair removal/waxing, and make-up to be done at the day spa. There is a single salon station present and the spa should be able to accommodate 2-4 people per day between the hours of 8 am and 8pm with no more than two customers being present at any one time. All clients will be scheduled for an appointment and given individual personal private attention that cannot be found at any salon currently in the area.

The day spa, as mentioned, has a single sink/station, a bathroom, and an area that is private that can be used for waxing and hair removal. The day spa also has a separate parking area that is detached from the main home and can accommodate 2 cars. This parking area is separate from the main driveway and was part of the original home. The parking area was not expanded to accommodate the spa and in fact, was decreased substantially from when the home was purchased. The entire location is isolated from the neighbors who do not have a direct view into the spa area. This seclusion and off road parking will allow for all business to be done without inconveniencing the neighbors or other professional traffic (mail man) in any way.

As mentioned, no more than 2 people will be able to receive service at any one time. When there is more than one person present, the other one or two people that are not being directly attended to will be able to sit outside on a porch or use the hot tub or pool if they desire. There is also additional seating around the pool. All the while, clients will be able to enjoy spectacular views of the Peace River and the wild life it contains.

This day spa will be much different than a typical spa in a commercial area. There will be no large lighted or commercial signs at or near the street. If a sign is hung, it will be small and placed near the spa, which is backset from the street. The home is at the very end of a cul-de-sac and therefore, the sign is not going to be used for advertising, but only to mark the location such that scheduled clients can find the spa when visiting. Clientele will only be able to come to the spa after they schedule an appointment, which will significantly decrease any excess traffic in the area. This is not a spa where people can walk in off the street and receive service and will not be open unless an appointment is scheduled. This is an important difference from most commercial spas in that personal individual service will be provided to the clients with no crowds of onlookers or people waiting for service. It is expected that the daily functioning of the spa will overall be no different than when a pool service

Narrative
(Exhibit F-1)

person parks in a driveway to maintain a pool, or a house cleaner or caretaker comes to work at a private residence. It will also be much less intrusive than when a lawn care service pulls its truck up and unloads its equipment to care for a yard. This spa also differs from others in that we do not have other staff working at the spa. It is not anticipated that we will need any outside assistance to run the spa, which means that there will not be employee cars parked up and down the road or even at the residence.

My goal would be to have between 10-15 people visit the spa weekly. This would be approximately 2-3 people per day and this number could be accommodated within several hours of actual working time between 8am and 8pm. My wife and I live at this residence and enjoy the home and spa during the other hours of the day. We are not interested in making this area a high traffic area and do enjoy our time off at the residence.

The total area of the home prior to the renovation was 4437 feet. The square footage of the remodeled boathouse, which now houses the spa, is 872 square feet. The combined total area is 5309 square feet making the boathouse responsible for 16.4% of the total residence space.

We have submitted letters of support with our application from everyone who lives on our street for any significant amount of time. There were no people on the street that had any objection to us opening this business and in-fact; they were excited about the opportunity. There are also no people within 200 feet of the spa that had any objections. The neighbors have all had the opportunity to visit the proposed spa.

I am interested in obtaining permission from the county to call this a small business so that we can advertise and give people in the community an opportunity to have an experience like no other in this area. I believe the spa will serve as a great asset to the community by providing this service and will not impact the neighborhood in any negative manner. I am also very interested in making sure we do things by code and am willing to work with the government to ensure a place where people can come enjoy themselves in a safe environment.

Thank you for your consideration of this proposal.



Steven B. Goldin

Narrative
(Exhibit F-2)



MEMORANDUM

DATE: April 25, 2016
TO: Ken Quillen, Planner III
FROM: Suzie Derheimer, Environmental Specialist
SUBJECT: SE-16-005, Major Home Occupation, 3790 Peace River Drive

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 a fully developed lot with an existing single family residence.

If this petition is approved, the following conditions will be reviewed for compliance upon Site Plan Review (if required) and the issuance of any county permit or land improvement activities:

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

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

SD

(Exhibit G)