MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, December 11, 2013 – 9 a.m. – Room 119
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Members Present	**Staff Present**
Katherine Ariens, Chair	Ty Harris, *Assistant County Attorney*
Steve Vieira, Secretary	Shaun Cullinan, *Zoning Official*
Blair McVety, Vice-Chair	Joshua Moye, *Assistant County Attorney*
Joe Tiseo	Ken Quillen, *AICP, Planner III*
Larry Fix	Diane Clim, *Recorder*

I. ***Call to Order***
Chair Ariens called the December 11, 2013 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. ***Pledge of Allegiance***
Chair Ariens led the members and the audience in reciting the Pledge of Allegiance.

III. ***Roll Call***
Roll call was taken; a quorum was present.

IV. ***Swearing In of Those Giving Testimony***
Diane Clim swore in all persons who wished to provide testimony.

V. ***Approval of Minutes***
ACTION: A motion was presented by Mr. Tiseo and seconded by Mr. McVety to approve the minutes of the November 13, 2013 meeting of the Board of Zoning Appeals. Motion passed with a unanimous vote.

VI. ***Disclosure Statements***
Ex-parte forms indicating site visits concerning the petitions being presented before the December 11, 2013 Board of Zoning Appeals meeting were submitted.

VII. ***Introduction of Staff/Comments***
Chair Ariens introduced staff. *Shaun Cullinan, Zoning Official,* read the Zoning rules, *Attorney Ty Harris and Chair Ariens* made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. *New Business*

The following petitions were advertised on November 26, 2013: VAR-13-016 and SE-13-016

VAR-13-006

Robert Berntsson, agent for Lavonne Genth, is requesting two variances described as follows: (a) a variance of 15.0', to reduce the required front yard setback from 30' to 15.0'; and (b) a variance of 10.0' to reduce the required rear setback from 20.0' to 10.0' to allow a new single-family residence in the Manasota Multifamily-12 (MMF-12) zoning district. The property address is 1764 Gulf Boulevard, Englewood, and is described as part of lots 31 and 32, of S. J. and Laura Chadwick's Subdivision, as recorded in Plat Book 2, Page 50, of Charlotte County Florida, together with a portion of vacated Gulf Boulevard, all located in Section 12, Township 41 South, Range 19 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Robert Berntsson, Esq., BIG W Law Firm, agent for the applicant, said he was sworn in. Mr. Berntsson said the Genth family has owned this property and it did serve as their personal tennis court for years. Their home is located just north of this area. Their house is sold and they want to build a smaller home on this site. **Mr. Berntsson** said he worked on the new Manasota Key code with the County staff and the Manasota Advisory Board has approved this request. This site exceeds the minimum lot size.

There was discussion about the setbacks, which way the lot faces and the right of way by Gulf Blvd.

Chair Ariens opened the meeting to Public Hearing.

Public Input

Warren Ross, Esq., Wotitzky Law Firm, said he was sworn in. Mr. Ross said he is here on behalf of the C-oats Beach Club (Condominium Timeshares Inc.). **Mr. Ross** said these lots are separate, they are not combined. He discussed some of the non-conforming lots in the Code.

Marge Johnston, 1760 Gulf Blvd., said she was sworn in. Ms. Johnston said she is an owner at El Galeon by the Sea and she is also on the board of directors of that association and she has a rental resort. She is representing the 14 owners at El Galeon by the Sea. They are all against this request. She said they invested in this property and may not be able to rent while the house is being built. The noise and construction may deter others from renting there. They are against a house being in front of them and losing the view of the water.

Ty Harris, Asst. Co. Attorney, said Florida states losing a view is not a basis for a decision or an entitlement. There have been many cases for people losing a view and those cases did not win.

Henry Danielson, 1745 Gulf Blvd., said he was sworn in. Mr. Danielson said he is against this request. They like the open space and do not want to see a house built on this site.

Carol Brock, 1850 Gulf Blvd., said she was sworn in. Ms. Brock said she supports this project. She moved here in 1970 and loves this area. In 1983, they bought a unit in the Galeon by the Sea condos and knows the Genth family. The Genth family built a lot in this area and will make their home beautiful.

Tom Schafer, 1765 Gulf Blvd., said he was sworn in. Mr. Schafer said he is against this variance request.

Ken Johnston, 1760 Gulf Blvd., said he was sworn in. Mr. Johnston said he is against this request. This site and docks were all for sale before, but now just her house sold. The Galeon association tried to buy the tennis courts, but their offer was not accepted.

There being no further requests to speak for or against the petition, Mr. Tiseo moved to close the public hearing, seconded by Mr. McVety. The public hearing was closed with a unanimous vote.

Robert Berntsson, Esq., came back up for rebuttal. **Mr. Berntsson** said this variance would apply to the combined lots. There are two parcels and both parcels numbers were on the application. The rental information is not relevant to this request. One more home on Manasota Key would not affect the rental market. He agrees with Mr. Harris regarding the laws for view of water. **Mr. Berntsson** said regarding the conditions, typically variances run with the land. Condition #2 – he would like it to say if the house needs to be replaced (destroyed by fire or hurricane) this variance is still in effect. He does not want to come back to this Board for another variance if the house is destroyed.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions
There was discussion about changing condition #2.

ACTION: A motion was presented by Joe Tiseo and seconded by Blair McVety that Petition VAR-13-006 be APPROVED based on the Community Development Staff Report dated December 3, 2013, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with the following 4 conditions recommended by staff.

Motion was approved with a unanimous vote with the following four conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 30' front yard setback by 15' to allow a 15' front setback, and reduce the required 20' rear yard setback by 10' to allow a 10' rear setback.

2. This variance extends only to a new single-family residence as proposed in the documents submitted with this application or the replacement thereof.
3. The two parcels must be combined into one lot.
4. The southerly side setback shall be 20' and the northerly setback shall be 30'.

SE-13-016

Robert Berntsson, agent for Gary Mazey, is requesting a special exception to allow a private recreational facility, consisting of non-motorized boating (kayaking and sailing) eco-tours, classes, and camping, in the Commercial Intensive (CI) zoning district with a FLUM designation of Low Density Residential. The property address is 4810 Deltona Drive, Punta Gorda, and is described as Parcel P5-4 and part of Lot 46 of Riviera Lagoons Unit Three Subdivision, all located in Section 19, Township 41 South, Range 23 East.

Applicant Presentation

Robert Berntsson, Esq., agent for the applicant, said he was sworn in. **Mr. Berntsson** said with him is Mary Anne Bowe, Planner. He talked about the Harbor and eco-tourism and preserving the area. A long time ago, marinas were allowed in every future land use designation, so it was not uncommon to have a residential zoning with a commercial land use. He discussed when the first comprehensive plan was developed. There is an old radio station on this site and a radio tower. Also wet lands all over this site.

Mary Anne Bowe, Planner, said she was sworn in. Ms. Bowe said she worked here in Charlotte County with the Charlotte County Punta Gorda Planning Council around 1979-1982. Her first job was to correct 164 scrivener's errors. These errors were places where the land use plan had been overlaying over existing zoning. The proposed eco-tourism uses are the least intensive, most environmentally sensitive land use as possible, for this unique property. She discussed some of the uses proposed on this site.

There was discussion about the camping that would take place, the boating, kayaking, having a small motor on a rescue type boat, and utilities on the site.

Chair Ariens opened the meeting to Public Hearing.

Public Input

Warren Ross, Esq., Wotitzky Law Firm, said he was sworn in. Mr. Ross said he represents neighbors in the area (he handed in a document with the client names and copies of the comprehensive plan). He said most of the objections are regarding land use allowed on this site, and the concern with traffic in the area if this is approved. He said the land use for residential allows a non-profit park or recreation. He assumes they will make a profit at this site and that would not be allowed by right in the residential district. They request denial of the application.

There was discussion about the land use, the zoning, what was done in the past and the use on this site.

Approximately 12:30 p.m., Mr. Vieira had to leave. 4 members remained

John Buckner, 4804 Drury Dr., said he was sworn in. Mr. Buckner said he has been here from 1957 and is in support of this project.

Rome Tayno, Punta Gorda, said he was sworn in. He was concerned about off street parking and how much traffic this might bring into the area.

John Gildersleeve, 711 El Dorado Dr., said he was sworn in. He said there is a parking and traffic problem now. Many big boats come into the area now for fishing and repair at the marina. He said this road cannot have on street parking.

Richard Braun, 741 Longbeach Ct., said he was sworn in. He said additional traffic in this area will not be good. The closest Fire Dept. is stationed at the airport. If there is a fire on this site, it will be a long time before the fire dept. gets there.

Maurice Whipple, 631 Hawaii Ct. said he was sworn in. He said he has a document with 148 signatures of people in the neighborhood who object to this project. He is concerned about kayakers and sailboats on the creek.

John Miller, 741 Tangerine Ct. said he was sworn in. He said his main concern is the camping in the area.

Diane Baker, 750 Coral Dr., said she was sworn in. She said she is concerned about the walkers on the street and the traffic. She is also concerned with noise levels.

Mark Vaivoda, 413 Macedonia Dr., said he was sworn in. He said he is concerned about the safety in the area, the parking and safety on the water.

Curtis Willingham, 741 Deauville, said he was sworn in. He said he is concerned about the camp fires and big boats.

Leo Roberts, 604 Hawaii Ct., said he was sworn in. He said he was concerned about the jet skis.

There being no further requests to speak for or against the petition, Mr. Tiseo moved to close the public hearing, seconded by Mr. McVety. The public hearing was closed with a unanimous vote.

Mr. Berntsson said the papers Mr. Ross handed in on the comprehensive plan, were from the old Comprehensive Plan. The new one was adopted July 20, 2010. The current comp plan discourages further residential development in the coastal high hazard area. It also states mixed use development that includes public marina components may be allowed as a use in all residential, commercial, and industrial FLUM categories.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions
None

ACTION: A motion was presented by Joe Tiseo and seconded by Larry Fix that Petition SE-13-016 be APPROVED based on the Community Development Staff Report dated December 3, 2013, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with the following 5 conditions recommended by staff.

Motion was approved with a unanimous vote with the following five conditions:

1. The special exception as approved by the Board of Zoning Appeals is to allow a private recreational facility, consisting of kayaking and sail boat rentals, eco-tours, classes and tent camping, consisting of no more than seven tents, a single camp fire, for no more than four consecutive nights, and related retail sales, on subject property.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application.
3. The approved uses may not commence until Final Site Plan Review approval has been obtained and all code requirements have been constructed or installed, including an improved access drive, adequate off-street parking, storm water management system, and required landscape buffers in compliance with all County Codes and Ordinances.
4. 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.
5. No on-street parking shall be permitted.

IX. *Public Comments* - None

X. *Staff Comments* –
Ken Quillen said the next meeting is January 8, 2014 and there are two petitions.

XI. *Member Comments* –
Ms. Ariens said there is the member Election at the January meeting and she feels if you are going to nominate someone, that person should be here at the meeting to accept.

XII. *Next Meeting*
The next meeting of the Board of Zoning Appeals is scheduled for ***Wednesday, January 8, 2014, at 9:00 a.m., in Room 119.***

There being no further business, the meeting ***ADJOURNED*** at 1:53 p.m.

Respectfully submitted,

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Diane Clim, Recorder
/dlc

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Katherine Ariens, Chair
Board of Zoning Appeals

*Approval Date:*_____