# STAFF REPORT
# Community Development Department
# Petition Number: VAR-13-006

| | | |
|---|---|---|
| **To:** | **The Charlotte County Board of Zoning Appeals** | |
| **From:** | **Shaun Cullinan, Zoning Official** | |
| **Prepared By:** | **Ken Quillen, AICP, Planner III** | |
| **Report Date:** | **December 3, 2013** | **BZA meeting date: December 11, 2013** |

**Requested Action/General Information:**
Robert Berntsson, agent for Lavonne Genth, is requesting two variances described as: **(a)** a variance of 15.0', to reduce the required front yard setback from 30' to 15'; and **(b)** a variance of 10.0' to reduce the required rear yard setback from 20' to 10' to allow a new single-family residence in the Manasota Multifamily-12 (MMF-12) zoning district. Subject property is located at 1764 Gulf Boulevard in Englewood (see ***Location Map***). The attached ***Zoning Map*** shows the zoning of this property, which is *Manasota Multifamily-12* (MMF-12). This property has a *High Density Residential*, FLUM designation.

Subject property consists of 8,690 (1,199 + 7,490) square feet and is part of two lots which were platted in 1931. This lot meets the minimum lot width (80') and land area requirements (8,600 square feet) of the zoning code and is 132' wide and 1,190 square feet larger than the minimum 7,500 square feet required by code. However, this lot is only 57' deep, which is the reason for this variance request. The applicant would like to construct a new single-family residence, which does not comply with the 30' front yard setback or the 20' rear yard setback requirements of the MMF-12 zoning district. As such the owner has submitted this application requesting two variances.

The applicant has submitted the attached ***Boundary Survey*** (Exhibit A), which shows the two existing lots, which will be combined into one lot for this proposed development. The applicant has also submitted a ***Site Plan*** (Exhibit B), which shows the proposed residence located on the lot with a proposed 15' front setback and 10' rear setback. The Board of County Commissioners recently amended the Manasota Key Zoning District Overlay, section 3-9-53, on September 24, 2013. **Section 3-9-53(g)(2)(B)** (Exhibit C) of this code requires a minimum 30' front yard setback and 20' rear yard setback.

This 8,690 square foot lot is located on Gulf Boulevard; however, its orientation is opposite that of a typical lot, with the long dimension of the lot facing the street and the shorter dimension being the depth, similar to a corner lot. Since this lot is only 57' deep, there is not sufficient room on subject property for a residence that complies with the 30' front and 20'rear setback requirements of code.

The applicant has submitted the attached ***Narrative*** (Exhibit D) explaining why the applicant believes this request for a variance should be granted. An Environmental Specialist has performed a cursory environmental review and their comments are in the attached ***Memorandum*** (Exhibit E) dated November 27, 2013. The Manasota and Sandpiper Key Advisory Committee met on November 6, 2013, and recommended (Exhibit F) approval of both requested variances.

**Findings:** **The seven standards for approval of a Variance according to Section 3-9-6.1(d) of the Charlotte County Zoning Code are as follows:**

1. Unique or peculiar conditions or circumstances exist which relate to the location, size and characteristics of the land or structure involved and are not generally applicable to other lands or structures.

Finding: This 8,690 square foot lot does meet the minimum lot size requirements of code; however, the orientation, configuration and 57' depth of the lot are unique and peculiar conditions, which are not generally applicable to other properties.

2. The strict and literal enforcement of the Zoning Regulations would create an undue hardship as distinguished from a mere inconvenience on the property owners. Physical handicaps or disability of the applicant may be considered where relevant to the request.

Finding: A strict and literal enforcement of the front and rear yard setbacks for any new residential structure would result in only a seven-foot wide buildable area, which does create an undue hardship on the property owner.

3. The variance requested does not involve any use, which is prohibited in the district where the property is located.

Finding: The variance request is to allow construction of a new single-family residence, which is a permitted use in the MMF-12 zoning district.

4. The granting of a variance would not be injurious to or incompatible with contiguous uses, the surrounding neighborhood or otherwise detrimental to the public welfare.

Finding: Staff is not aware of any evidence that indicates that granting of the requested variance would be injurious to, or incompatible with, the adjacent residential uses.

5. The condition giving rise to the requested variance has not been created by any person presently having an interest in the property and the conditions cannot reasonably be corrected or avoided by the applicant.

Finding: The conditions giving rise to the requested variance have not been created by the current property owner. The Mansota Key Zoning District Overlay code, which was adopted in 2005 and most recently revised in 2013 increased the front setback requirement from 25' to 30' and increased the rear yard setback requirement from 15' to 20'. This reduced the buildable area on this lot from 17' to 7 feet.

6. The requested variance is the minimum modification of the regulation at issue that will afford relief.

Finding: The requested variances, to reduce the front yard setback from 30' to 15' and reduce the rear yard setback from 20' to 10', will increase the buildable area on this lot from a seven foot wide strip to a 32' wide strip. This applicant has stated that this is the minimum modification that will afford relief; however, the Board of Zoning Appeals may approve a variance that is less than that requested.

*7. The requested variance is consistent with the **Smart Charlotte 2050 Plan** (Charlotte County Comprehensive Plan).*

Finding: ***Objective 1.4*** of the ***Future Land Use Element,*** *which is titled* ***"Protection of Private Property Rights"*** proposes to: "*recognize and respect existing private property rights ... and to consider such rights and the impact upon them when preparing recommendations for land use decisions.*" Staff believes that this variance request may be considered consistent with this objective.

**ANALYSIS AND CONCLUSIONS:**

After review of the site and the application requesting two variances to allow construction of a new single-family residence, staff believes that the requested variance does meet all seven criteria for granting a variance.

If the Board of Zoning Appeals decides to approve the requested variance staff recommends the following conditions be adopted, as conditions of approval, to ensure that development is in compliance with the purpose and intent of the Zoning Code.

The recommended condition(s) are as follows:

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. This variance shall carry with the single-family residence only once it is constructed.
3. If the new single-family residence is constructed and at a later date removed, destroyed or replaced, all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

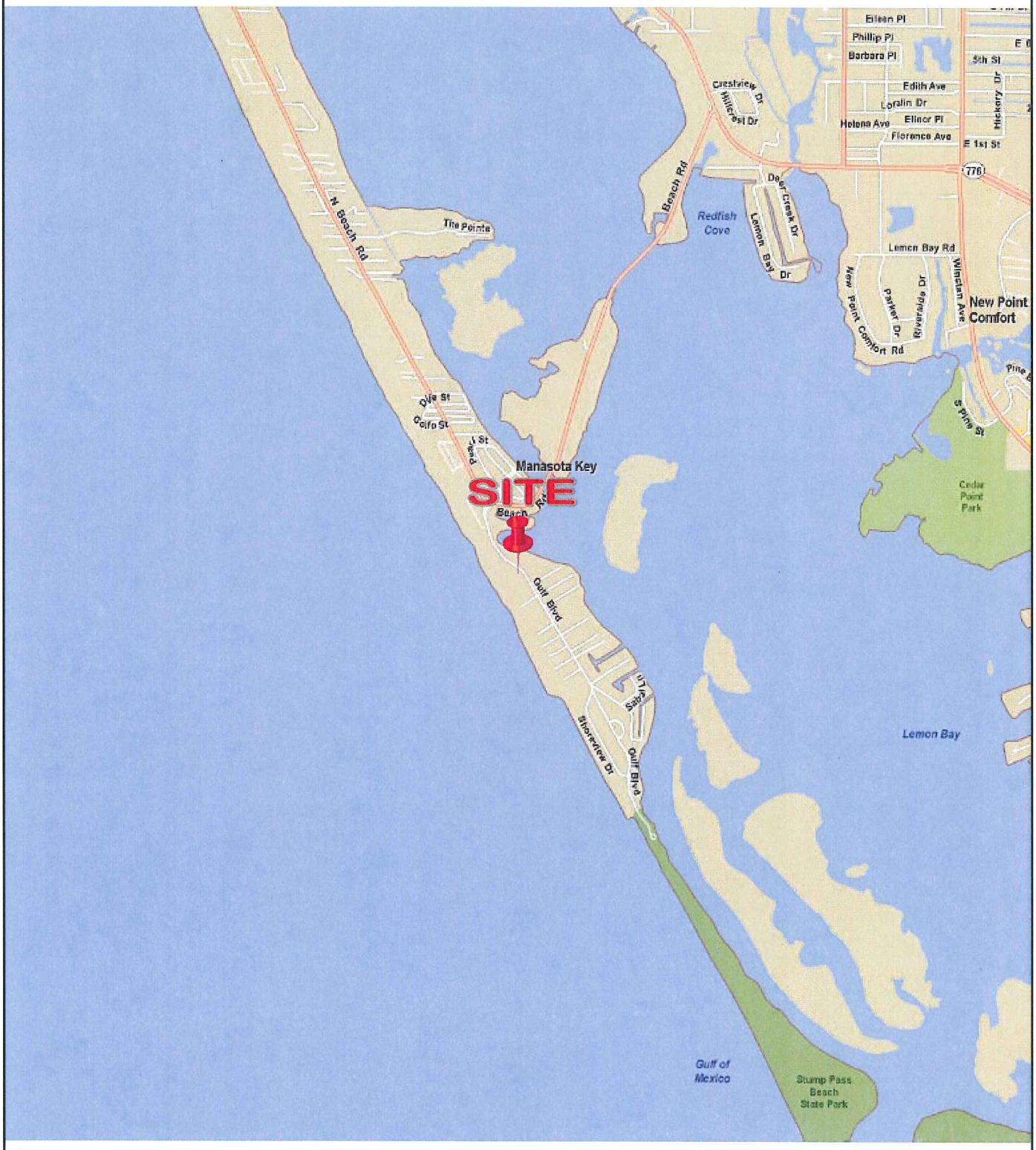
**Please be advised that the final decision regarding the petition rests with the Board of Zoning Appeals, and will be decided upon consideration of all the evidence introduced at the hearing.**

Attachments: Staff Report (3), Location Map, Zoning Map, Aerial Photo, Boundary Survey, Site Plan, Section 3-9-53 (7), Narrative (3), Environmental Specialist Memorandum, and Manasota Key recommendation

Community Development

# CHARLOTTE COUNTY

## *Location Map for VAR-13-006*




**12/41/19 West County**

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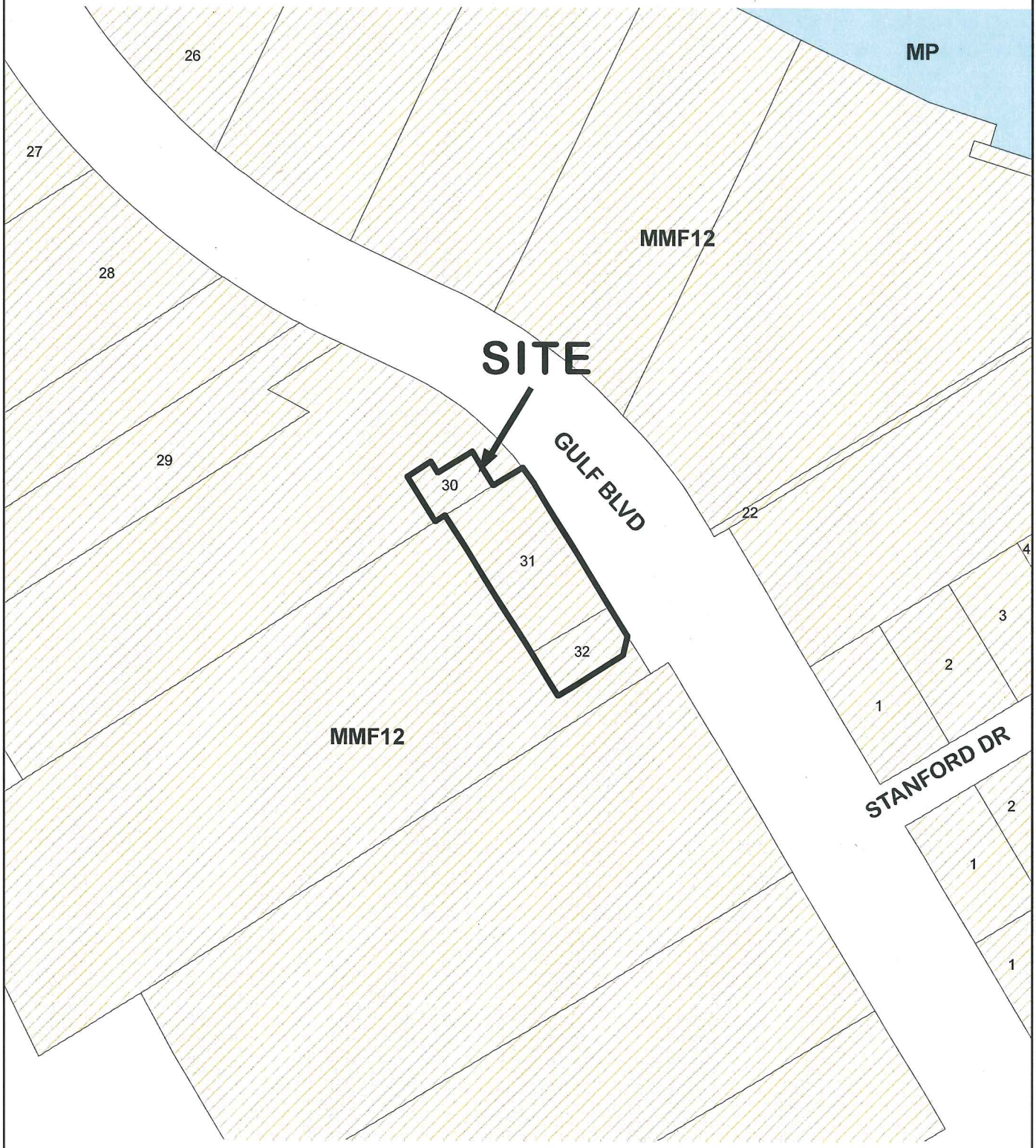
Community Development

# CHARLOTTE COUNTY

## *Zoning Map for VAR-13-006*

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Community Development

# CHARLOTTE COUNTY

## *Aerial View for VAR-13-006*

**12/41/19 West County**

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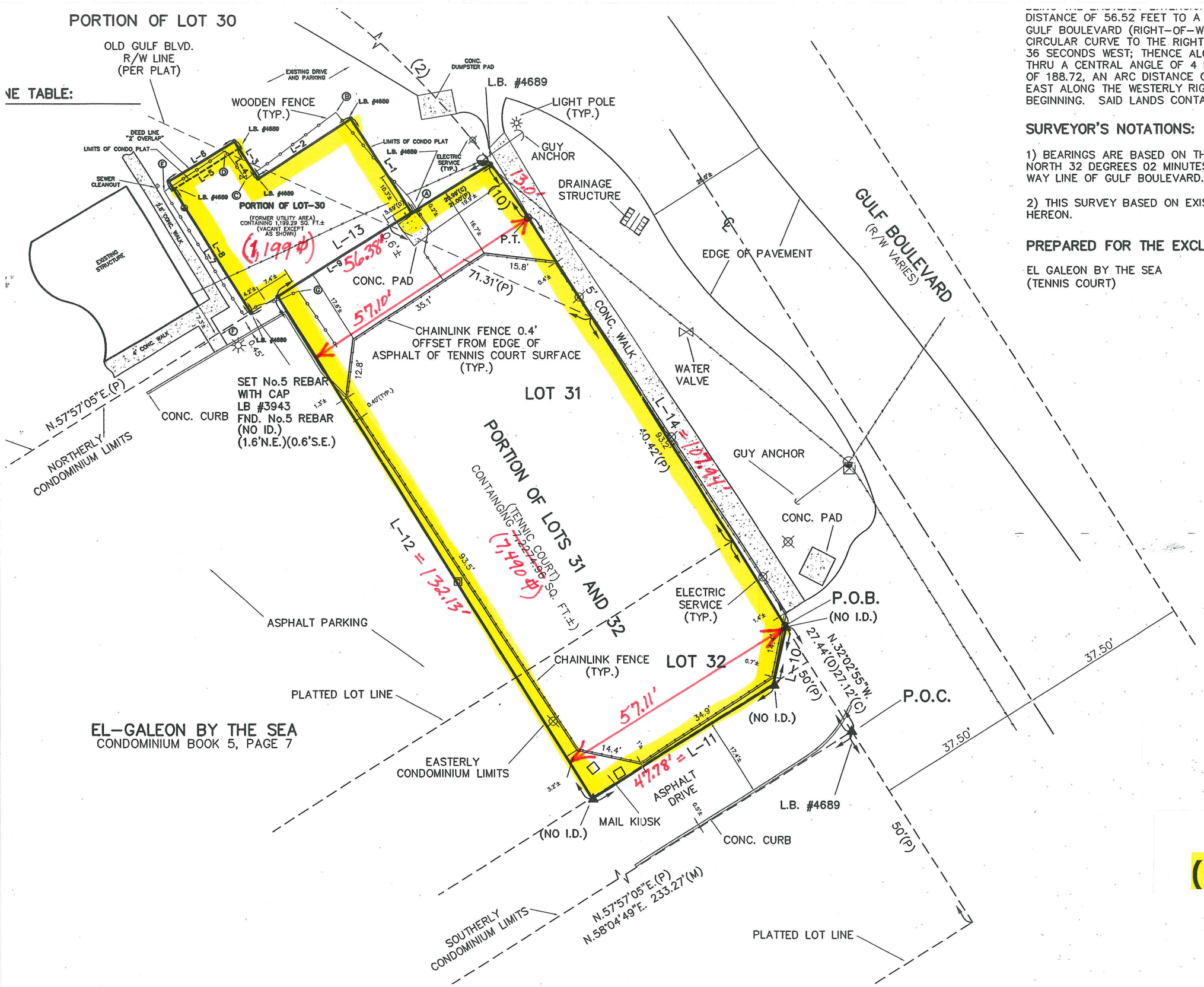


DISTANCE OF 56.52 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF R GULF BOULEVARD (RIGHT-OF-WAY VARIES) SAID POINT ALSO BEING ON THE ARC OF CIRCULAR CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS SOUTH 53 DEGREES 2 36 SECONDS WEST; THENCE ALONG THE ARC OF SAID CURVE IN A SOUTHEASTERLY THRU A CENTRAL ANGLE OF 4 DEGREES 29 MINUTES 27 SECONDS , HAVING A RADI OF 188.72, AN ARC DISTANCE OF 14.79 FEET; THENCE SOUTH 32 DEGREES 02 MINU EAST ALONG THE WESTERLY RIGHT-OF-WAY A DISTANCE OF 107.94 FEET TO THE P BEGINNING. SAID LANDS CONTAINING 7224.96 SQUARE FEET MORE OR LESS.

## SURVEYOR'S NOTATIONS:

1) BEARINGS ARE BASED ON THE CONDOMINIUM PLAT OF EL GALEON BY THE SEA B NORTH 32 DEGREES 02 MINUTES 55 SECONDS WEST ALONG THE WESTERLY RIGHT-O WAY LINE OF GULF BOULEVARD.

2) THIS SURVEY BASED ON EXISTING MONUMENTATION AND OCCUPATION AS SHOWN HEREON.

## PREPARED FOR THE EXCLUSIVE USE OF:

EL GALEON BY THE SEA
(TENNIS COURT)

**Survey**
**( Exhibit A )**

SURVEYOR'S CERTI

This sketch of survey re of a field survey prepare is true and correct to t knowledge and belief and prepared to comply with Standards effective the as set forth by the Flor Professional Surveyors a

**OWNER/DEVELOPER**

WILLIAM TRUEX
5 LONG MEADOW PLACE
ROTONDA WEST, FL. 33947
PHONE: 941-815-0590 FAX: 941-697-9335

**ENGINEERS**

DMK ASSOCIATES, INC.
4315 McCALL ROAD
ENGLEWOOD, FL, 34224
PHONE: 941-412-1293 FAX: 941-412-1043

**SURVEYOR:**

DMK ASSOCIATES, INC.
421 COMMERCIAL COURT, SUITES C-D
VENICE, FL, 34292
PHONE: 941-475-6596 FAX: 941-475-1881

**BUILDER**

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**DESCRIPTION:**

A PORTION OF LOT 30, A PORTION OF LOT 31, AND A PORTION OF THE NORTH HALF OF LOT 32, S.J. AND LAURA E. CHADWICK'S SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 50, PUBLIC RECORDS OF CHARLOTTE COUNTY FLORIDA.

**FLOOD ZONE**

1. FLOOD ZONE: "AE", BASE FLOOD ELEV.= 12'
   FLOOD ZONE: "VE", BASE FLOOD ELEV.= 14'
2. COMMUNITY PANEL NUMBER: EL12015C 0186 F
   INDEX DATED 5/5/03

**ZONING**

RESIDENTIAL MULTIFAMILY (MMF-12)

**UTILITIES**

WATER: ENGLEWOOD WATER DISTRICT. PHONE: 941-474-3217
SEWER: ENGLEWOOD WATER DISTRICT

**ENVIRONMENTAL**

NO WETLANDS OR ENDANGERED SPECIES ON SITE.
BASED ON CHARLOTTE COUNTY & SWFWMD GIS MAPS

**CHARACTER AND INTENTED USE STATEMENT**

THIS PROPERTY IS CURRENTLY COVERED WITH A CONCRETE TENNIS COURT, METAL FENCE, AND NATURAL VEGETATION;
PROPOSED IMPROVEMENTS ARE (1) ONE 1,980 S.F. 2 STORY SINGLE FAMILY BUILDING. GRADING, DRAINAGE CONTROLS.
MAX. BUILDING HEIGHT 52.0' N.V.G.D. - LOWEST STRUCTURAL MEMBER 19.8'
0.2 ACRES X 15 UNITS PER ACRE = 3 TOTAL UNITS ALLOWED
PROPERTY IS WITHIN THE COASTAL CONSTRUTION LINE AND WILL REQUIRE A CHARLOTTE COUNTY LETTER OF NO OBJECTION AND AN FDEP COASTAL PERMIT.

**PROJECT INFORMATION:**

| | | |
|---|---|---|
| TOTAL SITE SQUARE FOOTAGE | = 8,725 S.F. (0.200 ACRE) | 100.00% |
| TOTAL OUTSIDE BUILDING AREA | = 2,470 S.F. (0.057 ACRE) | 28.31% |
| TOTAL SHELL DRIVE AREA | = 663 S.F. (0.015 ACRE) | 7.60% |
| TOTAL LANDSCAPE/NATURAL AREA | = 5,592 S.F. (0.128 ACRE) | 64.09% |

**PARKING REQUIRED**

2 SPACES PER RESIDENTIAL UNIT
1 RESIDENCES x 2 = 2
2 PARKING SPACES PROVIDED

**SOLID WASTE DISPOSAL**

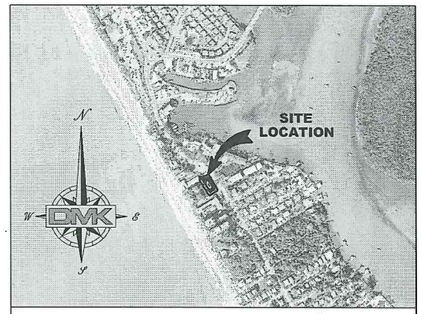
CHARLOTTE SANITATION OF WASTE MANAGEMENT:
CURB SIDE PICK-UP

SUMMATION:

This preliminary Site Plan has been conducted and prepared in accordance with the stated authorization and proposed Scope of Services. No warrantees, either stated or implied, are made as to the use of the subject site for its intended or anticipated purpose Actual conditions of development may only be determined upon the receipt of development approvals from appropriate Federal, state and local agencies have jurisdiction. While every attempt has been made to determine these agencies and their anticipated involvement in the proposed development, actual involvement may be significantly different than expected. DMK ASSOCIATES, Inc. reserves the right to modify the findings of this report based on new, more current or presently unfounded observations

NOTE:

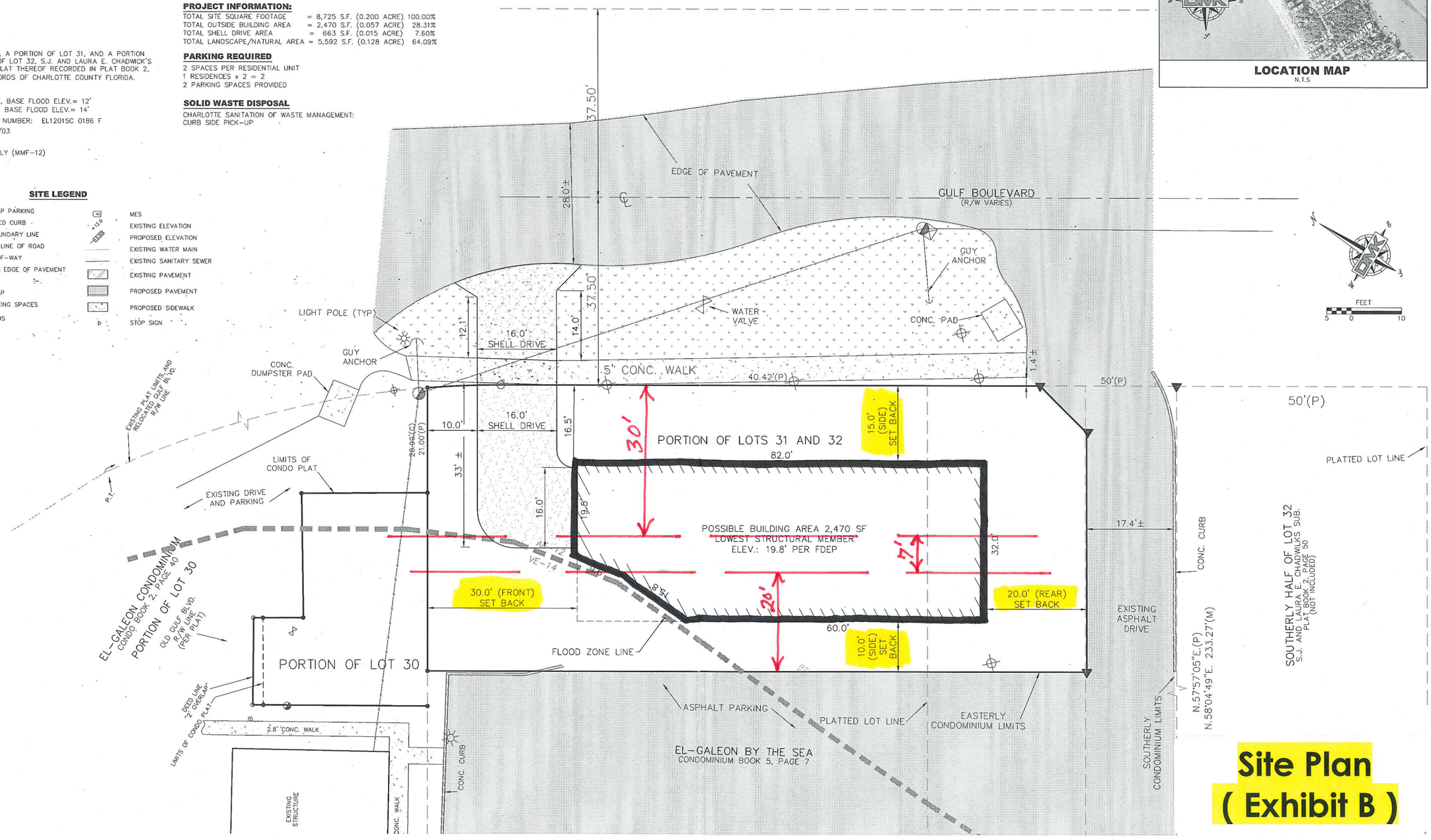
The Manasota and Sand Piper Key Overlay Code. Variances may be required to accommodate the parking and or buffers




**LOCATION MAP**
N.T.S

**SITE LEGEND**

| | | | |
|---|---|---|---|
| | HANDICAP PARKING | MES | |
| | PROPOSED CURB | 12.0 | EXISTING ELEVATION |
| | SITE BOUNDARY LINE | 12.0 | PROPOSED ELEVATION |
| | CENTER LINE OF ROAD | | EXISTING WATER MAIN |
| | RIGHT-OF-WAY | | EXISTING SANITARY SEWER |
| | EXISTING EDGE OF PAVEMENT | | EXISTING PAVEMENT |
| TYP | TYPICAL | | PROPOSED PAVEMENT |
| HC | HANDICAP | | PROPOSED SIDEWALK |
| (10) | 10 PARKING SPACES | P | STOP SIGN |
| R5' | 5' RADIUS | | |
| | INLET | | |







**PRELIMINARY SITE PLAN OPTION 1**

**Site Plan ( Exhibit B )**

DMK ASSOCIATES ENGINEERS & SURVEYORS
421 Commercial Court, Suites C-D
Venice, Florida 34292
TEL: (941) 412-1293 FAX: (941) 412-1043
Engineering Business No. 3943

Date: 10-23-13
Proj. No.: 13-0166
Checked By: KEM
SCALE: NOTED
Design By: KEM
Drawn By: RMS
CADD File: 13-0166-SITE-10-15-2013.dwg

| NO. | REVISION | DATE | BY |
|---|---|---|---|
| | | | |

Date Plotted: Wed, 23 Oct 2013 - 7:18am

In accordance with 61G15-30.003 (3) F.A.C., these preliminary engineering documents are incomplete and are subject to change while being transmitted to the public agency to receive agency reviews, comments and interpretations. The documents may not be sealed by the engineer of record until all comments and issues of issues with public agency prior to final action by the agency. Changes, revisions and modifications to a project may require additional engineering services not included in the agency approved action on the same project.

KREG E. MAHEU P.E.
FLA. LIC. NO. 45766
C.A. NO. 3943
DATE:

CLIENT: BILL TRUEX
PROJECT: TRUEX PERFERRED CONSTRUCTION
1770 GULF BLVD., (EL GALEON)
ENGELWOOD, FL 34224
DESC: PRELIMINARY SITE PLAN

1

Drawing name: F:\Projects\2013\13-0166 @ Galeon Site Plan\DWG\13-0166-SITE-10-15-2013.dwg Tab: C1

UH6
BCC
#14

FILED WITH THE DEPARTMENT OF STATE October 1, 2013

CHARLOTTE COUNTY CLERK OF CIRCUIT COURT
OR BOOK 3810, PGS 1993-2024 32 pg(s)
INSTR # 2216645
Doc Type COV, Recorded 10/10/2013 at 09:22 AM
Rec. Fee: $273.50
Cashiered By: NANCYLA Doc. #:2

# ORDINANCE NUMBER 2013-028

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AMENDING SECTION 3-9-53 OF CHAPTER 3-9, ARTICLE II, MANASOTA KEY ZONING DISTRICT OVERLAY, OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE COUNTY, FLORIDA; PROVIDING FOR A REVISED ZONING DISTRICT AND OVERLAY CODE; REMOVING THE EXISTING LANGUAGE IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 3-9-53; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

## RECITALS

WHEREAS, the Manasota and Sandpiper Key Advisory Committee ("Advisory Committee") was created by Resolution No. 2004-212 on October 12, 2004, by the Board of County Commissioners of Charlotte County, Florida ("Board"); and

WHEREAS, the Manasota Key Zoning District Overlay Code was enacted by the Board on February 15, 2005, pursuant to Ordinance No. 2005-101, and included in the Code of Laws and Ordinances of Charlotte County, Florida ("Code") as Section 3-9-53; and

WHEREAS, at this time, the citizens of Manasota and Sandpiper Key, through the Manasota and Sandpiper Key Advisory Committee, have submitted a revised zoning district and overlay code which would effectively change most of the language in the existing Section 3-9-53; and

WHEREAS, the Charlotte County Planning and Zoning Board has recommended approval of the changes recommended by the Advisory Committee; and

WHEREAS, the Board has determined that the changes are consistent with the Smart Charlotte 2050 Comprehensive Plan, will promote the Manasota and Sandpiper



( Exhibit C-1 )

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MIN

Keys' aesthetic and visual environment and character, and is in the best interests of the County and its citizens.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Charlotte County, Florida:

Section 1. , Section 3-9-53 of Chapter 3-9, Article II, of the Code of Laws and Ordinances of Charlotte County, Florida is hereby amended by replacing it in its entirety with the following new Section 3-9-53 as follows:

**3-9-53. – Manasota Key zoning district overlay.**

**(a)** ***Definitions.*** When terms are defined both in this Section 3-9-53 and elsewhere in the County Code, definitions for such terms in this subsection shall control. The following terms shall have the meanings set forth in this subsection:

*Advisory committee* shall mean the Manasota and Sandpiper Key Advisory Committee established by the board on October 12, 2004 pursuant to Resolution Number 2004-212.

*Appurtenances* shall mean something added to another, more important thing on a building that is customarily incidental and subordinate to a principal building.

*Building setback calculation* shall mean the methodology used in the Overlay Code to determine the stepped setback required from the property line for a building based on building height and stepped setback calculation points.

*Driveway* shall mean a permeable surface designed for use by vehicles that connect a road to a structure.

*Driveway crossover* shall mean that portion of a driveway located on a setback.

*Height, Building or Structure* in this Code shall mean the distance from 0 feet NGVD to the top of the highest constructed element.

*Highest constructed element* shall mean the highest point of a building or the highest point of any rooftop livable space or appurtenances thereto.

*Manasota Key Overlay Code* shall mean the Manasota and Sandpiper Key Zoning District Overlay Code established by section 3-9-53 and as amended into the County Code.



**( Exhibit C-2 )**

(2) The *intent* of the MSF district is to provide single-family residential dwellings and for other uses normally associated with single-family residential dwellings. Nothing herein is intended to prevent the grouping of lots or parcels for residential single-family uses.

(3) The *intent* of the MMF district is to provide low or medium-density residential districts with emphasis on multifamily use. There are variations among the MMF districts in requirements which include differing lot areas, width, yards and uses.

(4) The *intent* of MCG district is to provide areas in which the customary and traditional conduct of trade, retail sales and commerce may be carried on without disruption by the encroachment and intrusion of incompatible residential uses and protected from the adverse effects of undesirable industrial uses.

(5) The *intent* of the MCT district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for the commercial provision of accommodations and services for tourists and other visitors and short-term or seasonal residents. The term "accommodations" is intended to include housing and various amenities, including recreational facilities and local retail trade in goods and service both general and specific to the locality/tourist attraction or principal activities. Areas designated MCT are expected to be located near or adjacent to a tourist attraction such as Gulf beach frontage, major public or private parks, and other recreational or scenic resources.

(6) The *intent* of the MPD district is to retain standards that maintain current densities and zoning districts consistent with the goals of the Manasota Key Community Plan and provide standards for new planned developments.

**(g) District Development Standards**

**(1) Open Space & Rural District Standard**

| | MES |
|---|---|
| **Lot (min Acres)** | |
| Lot are inside Urban Service Area | 10 |
| Lot area outside Urban Service Area | 40 |
| Lot Width (ft.) | 250 |
| **Yard (min. ft.)** | |
| Front | 25 |
| Side | 20 |
| Rear | 20 |
| Abutting water | 20 |



( Exhibit C-3 )

| | |
|---|---|
| Side & rear abutting Gulf of Mexico | 50 |
| **Bulk (max.)** | |
| Lot Coverage | 10% |
| Height (ft.) | 43 ft. |
| Density (units per acre) | 0.025 |

a. Only one driveway crossover is permitted within the front yard setback.

b. Maximum building height shall not exceed forty-three (43) feet for MSF Zones landward of the CCCL as measured from Zero feet NGVD to the top of the highest constructed element. Building height calculations are contained under the development standards of this Code.

c. The property shall be maintained in natural vegetation rather than landscaped.

d. Temporary portable structures and mobile homes shall be prohibited in this district.

**(2) Residential District Standards**

**A. Single-family**

| | MSF-1 | MSF-3.5 | MSF-5 | Non-Conforming |
|---|---|---|---|---|
| **lot (min)** | | | | |
| **Lot area (sq.ft.)** | **43,560** | **12,445** | **8,712** | **Less than 8,712** |
| **Lot Width (ft.)** | **125** | **80** | **70** | **Less than 70** |
| **Yard (min. ft.)** | | | | |
| **front** | **25** | **25** | **25** | **25** |
| **Side yard (interior)** | **Stepped/10 See Below** | **Stepped/10 ft. See Below** | **Stepped/10 See Below** | **10** |
| **Side Yard (street)** | **20** | **15** | **15** | **15** |
| **Rear yard (interior)** | **Stepped/20 See Below** | **Stepped/20 ft. See Below** | **Stepped/20 See Below** | **10** |
| **Rear Yard (street)** | **25** | **25** | **25** | **25** |
| **Abutting water** | **20/50GM See Below** | **20/50GM See Below** | **20/50GM See Below** | **20/50GM See Below** |
| **Peripheral Landscape Strip** | **10** | **10** | **10** | **10** |
| **Bulk (max.)** | | | | |
| **Lot coverage** | **35%** | **35%** | **35%** | **35%** |



**( Exhibit C-4 )**

| | | | | |
|---|---|---|---|---|
| Height (ft.) | 48/43<br>See Below | 48/43<br>See Below | 48/43<br>See Below | 48/43<br>See Below |
| Density<br>(units/acre) | 1 | 3.5 | 5 | Same as District |

a. Side interior setbacks shall be stepped back as a function of building height as measured by the setback calculation provisions under the development standards of this Code, but shall be no less than 10 feet.

b. Rear interior setbacks shall be stepped back as a function of building height as measured by the setback calculation provisions under the development standards of this Code, but shall be no less than 20 feet.

c. Side and rear yards that abut any water but the Gulf of Mexico shall be at least 20 feet, and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.

d. Setback calculation provisions are contained under the development standards of this Code.

e. Maximum building height shall not exceed forty-eight (48) feet for all MSF Zones seaward of the Florida DEP Coastal Construction Control Line (CCCL) and forty-three (43) feet for MSF Zones landward of the CCCL as measured from Zero feet NGVD to the top of the highest constructed element. Building height calculations are contained under the development standards of this Code.

f. All properties shall have front, side and rear Peripheral Landscape Strips of no less than 10 feet. Peripheral Landscape Strip and parking standards are contained under the development standards of this Code. Parking and driveway requirements are specified under the architectural standards of this Code.

g. All non-conforming lots less than 70 feet in width or less than the District minimum lot area required shall have front, side, and rear Peripheral Landscape Strips of no less than 10 feet.

**B. Multifamily**

| | MMF-7.5 | MMF-10 | MMF-12 | Non-Conforming |
|---|---|---|---|---|
| **Lot (min.)** | | | | |
| Lot area (sq.ft.) | 7,500 | 7,500 | 7,500 | Less than 7,500 |
| Lot width (ft.) | 80 | 80 | 80 | Less than 80 |



( Exhibit C-5 )

| | | | | |
|---|---|---|---|---|
| **Yard (min. ft.)** | | | | |
| Front | 30 | 30 | 30 | 30 |
| Side yard (interior) | Stepped/10 See Below | Stepped/10 See Below | Stepped/10 See Below | 10 |
| Side yard (street) | 15 | 15 | 15 | 15 |
| Rear yard (interior) | Stepped/20 See Below | Stepped/20 See Below | Stepped/20 See Below | 10 |
| Rear yard (street) | 15 | 15 | 15 | 15 |
| Abutting water | 35/50GM See below | 35/50GM See below | 35/50GM See below | 35/50GM See below |
| Peripheral Landscape Strip | 10 | 10 | 10 | 10 |
| **Bulk (max.)** | | | | |
| Lot coverage | 35% | 35% | 35% | 35% |
| Height (ft.) | 55/48 See Below | 55/48 See Below | 55/48 See Below | 55/48 See Below |
| Density (unit per acre) | 7.5 | 10 | 12 | Same as district |

a. Side interior setbacks shall be stepped back as a function of building height as measured by the setback calculation provisions of this Code, but shall be no less than 10 feet.

b. Rear interior setbacks shall be stepped back as a function of building height as measured by the setback calculation provisions of this Code, but shall be no less than 20 feet.

c. Side and rear yards that abut any water but the Gulf of Mexico shall be at least 35 feet, and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.

d. No stormwater management systems shall be located within the Peripheral Landscape Strip. No side Yard setback areas shall contain conventional stormwater detention ponds.

e. Maximum building height shall not exceed fifty-five (55) feet for all MMF Zones seaward of the Florida DEP Coastal Construction Control Line (CCCL) and forty-eight (48) feet for MMF Zones landward of the CCCL as measured from Zero feet NGVD to the top of the highest constructed element. Building height calculations are contained under the development standards of this Code.

f. All properties shall have front, side, and rear Peripheral Landscape Strips of no less than 10 feet. Peripheral Landscape Strip and parking standards are contained under



( Exhibit C-6 )

the development standards of this Code. Parking and driveway requirements are specified under architectural standards of this Code.

g. All non-conforming lots less than 80 feet in width or less than the District minimum lot area required shall have front, side and rear Peripheral Landscape Strips of no less than 10 feet.

h. For non-conforming MMF lots 50 feet wide or less, the owner may request an administrative waiver of up to 20% of the side setback (2 feet on each side) to redress hardships associated with meeting driveways and parking requirements for multifamily development. Waiver limits are contained in the Development Standards of this Code.

i. Side and rear yards that abut any water but the Gulf of Mexico shall be at least 35 feet, and those that abut the Gulf of Mexico (GM) shall be at least 50 feet.

**C. Commercial District Standards**

| | MCG | MCT | MCT | MCT | MCT |
|---|---|---|---|---|---|
| | | Commercial use | Commercial-Nonconforming | Residential use | Mixed Use |
| **Lot (min.)** | | | | | |
| area (sq. ft.) | 12,000 | 12,000 | less than 12,000 | 7,500 | 12,000 |
| Width (ft.) | 100 | 100 | less than 100 | 80 | 100 |
| **Yard (min.ft.)** | | | | | |
| Front | 18 | 25 | **See Note 1** | 30 | 25 |
| Side yard (interior) | Stepped/25 See below | 10 | 10 | Stepped/10 See below | 10 |
| Side yard (street) | 20 | 20 | 20 | 15 | 20 |
| Rear yard (interior) | 10 | 10 | 10 | stepped/20 see below | 10 |
| Rear yard (street) | 25 | 25 | 25 | 15 | 25 |
| Abutting water | 20/50 GM See below | 20/50 GM See below | 20/50 GM See Below | 35/50 GM See below | 35/50 GM -R 20/50- GM -C **See Note 3** |
| Peripheral Landscape Strip | 10 | 10 | 10 | 10, **See Note 2** | 10 |
| Abutting property zoned MSF and MCT-residential | 25 | 25 | 25 | NA | 25 |



( Exhibit C-7 )

Narrative -- El Galeon by the Sea, Inc.

This is a request for a Variance to Section 3-9-53 B. of the Charlotte County Zoning Code. This section requires a front setback of 30 feet, a rear setback of 20 feet a side yard abutting a street of 15 feet and interior side setback of 10 feet for the MMF-10 zoning district. The subject property consists of 2 parcels, currently in separate legal ownership, which will be combined for the construction of a single family home. The separate parcels are a former utility site and tennis court site. Neither is currently being used, and are sitting vacant.

The combined property has approximately 122 feet of street frontage, and is approximately 57 foot deep. To meet the required setbacks would result in a building structure only 7 feet wide. The purpose of this variance request is to basically turn all of the required setbacks 90 degrees, treating the northern property line of lot 31 as the front setback, the southerly line of lot 32 as the rear setback, providing a 15 foot sideyard setback along the road frontage, and 10 foot along the westerly lot line. To the south of the property is the entrance drive to a multi-family developed property, and to the west is that property's parking lot.

This application meets the criteria for a Variance as follows:

1. Unique or peculiar conditions or circumstances exist which relate to the location, size, and characteristics of the land and structure involved, and are not generally applicable to other lands or structures. The subject property is rectangular in shape, with the long side on the road frontage. It exceeds the required lot area, but is narrow in depth along the roadway frontage. The site is a former tennis court and utility site. Central utilities

( Exhibit D-1 )

have been installed, eliminating the need for the utility site, and the tennis court has been unused for many years. This is a unique and peculiar situation.

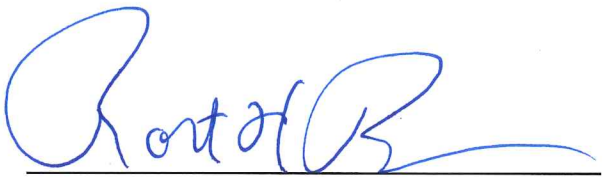
2. Strict and literal enforcement of the zoning regulations would create an undue hardship as distinguished from mere inconvenience on the property owners. Meeting required setbacks would result in a 7 foot wide house which could be over 100 feet long.
3. The Variance requested does not involve any use which is prohibited in the district where the property is located. Single family development will reduce the density on the barrier island.
4. The granting of the Variance would not be injurious to or incompatible with contiguous uses, the surrounding neighborhood or otherwise detrimental to the public welfare. A single family home, rather than a multiple unit development, will reduce overall density on the key.
5. The condition giving rise to the request of Variance is not being created by any person presently having interest in the property and the conditions cannot reasonably be corrected or avoided by the applicant. The properties were created before the establishment of the Manasota Key Overlay district, which increase setback requirements.
6. The requested Variance is the minimum modification of the regulations at issue that would afford relief. The proposed building envelope meets all required setbacks, if they are turned 90 degrees.
7. The requested Variance is consistent with the Charlotte County Comprehensive Plan. There are no comprehensive plan goals, objections, or policies that are contrary to this

**( Exhibit D-2 )**

request, and the use as a single family home reduces potential density over the allowed density..

Based on the foregoing, it is respectfully requested that the application for a Variance be approved.

Respectfully submitted, October 24, 2013.



Robert H. Berntsson

**( Exhibit D-3 )**

# MEMORANDUM

**Date:** November 27, 2013

**To:** Ken Quillen, Planner III

**From:** Jamie Scudera, Environmental Specialist

**Subject:** VAR-13-006
El Galeon by the Sea, Inc.

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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:

El Galeon by the Sea, Inc.
PID # 411912402002 & 411912402001

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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 or ordinances and offers the following comments:

- A GIS aerial and preliminary environmental review was conducted by staff. The property consists of an existing tennis court and an abandoned utility site in a highly sensitive coastal island community. The property is located seaward of the Florida Department of Environmental Protection Coastal Construction Control Line and is also located in the Charlotte County Sea Turtle Lighting review area. Due to this site being located in a coastal area there is a probability of listed species utilization.

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:

**( Exhibit E-1 )**

- All applicable county, state and federal authorizations or permits, and mitigation (if necessary) will be required.

- If this proposal moves forward, it will be reviewed for compliance with:

  Chapter 3-5:
  Article IV *CLEARING, FILLING AND SOIL CONSERVATION,*
  Article XII *SEA TURTLE PROTECTION,*
  Article XIII *SHORELINE PROTECTION.*

  Chapter 3-2:
  Article IX. *TREE REQUIREMENTS**
  **All heritage trees (per Section 3-2-190) must remain preserved.

- The project must also comply with the Charlotte County Smart Charlotte 2050 Comprehensive Plan.

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

JS

**( Exhibit E-2 )**



**COMMUNITY DEVELOPMENT DEPARTMENT- -Zoning Division**
18400 Murdock Circle | Port Charlotte, FL 33948
Phone: 941.743.1290 | Fax: 941.743.1598

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*Reply To:* Port Charlotte


October 29, 2013

***VIA HAND DELIVERY***
Kenneth J. Quillen, Jr., AICP, Planner III
Charlotte County
18400 Murdock Circle
Port Charlotte, Florida 33948

Re: El Galeon by the Sea, Inc. –Variance Application

Dear Ken:

Enclosed please find a Variance Application for El Galeon by the Sea, Inc., together with the following documents:

1. Robert H. Berntsson, as Agent, executed Affidavit, and El Galeon by the Sea, Inc.'s executed Property Owners Consent Forms.
2. Narrative.
3. Signed and Sealed Survey prepared by DMK Associates.
4. Site Plan prepared by DMK Associates.
5. Variance Application fee of $805.00.

Manasota/Sandpiper Key Architectural Committee Submitted Plans Recommendation to:
X Approve ___ Deny
Date 11-6-2013
Signed:
Comments:

If you have any questions or if you need any additional documentation, please feel free to contact the undersigned.

( Exhibit F )

Very truly yours,

Robert H. Berntsson

Enclosures