

**VARIANCE NO. VA-16-02  
MENDOZA VARIANCE – DTS20160259**

**FINAL ORDER OF MANATEE COUNTY HEARING  
OFFICER DENNIS STOTTS ON BEHALF OF  
MANATEE COUNTY GRANTING A VARIANCE NO.  
VA-16-02 TO ALLOW A VARIANCE TO THE  
SETBACKS REQUIREMENTS ESTABLISHED IN  
THE PDR (PLANNED DEVELOPMENT  
RESIDENTIAL) ZONING DISTRICT BY ZONING  
ORDINANCE PDR-96-09, TO REDUCE THE  
MINIMUM WATERFRONT SETBACK FOR LOT 45  
OF THE HARBOUR LANDINGS ESTATES  
SUBDIVISION FROM 30 FEET TO 15 FEET  
LOCATED ON THE EAST SIDE OF BAYPOINTE  
TERRACE, COMMONLY KNOWN AS 12305  
BAYPOINTE TERRACE, CORTEZ (MANATEE  
COUNTY) 0.37± ACRES RESPECTIVELY;  
PROVIDING FOR SEVERABILITY; AND PROVIDING  
AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code, Manatee County Ordinance 90-01, as amended; and

**WHEREAS**, pursuant to the Land Development Code, Manatee County Ordinance 15-17, as amended, the Hearing Officer has the authority to grant Variances; and

**WHEREAS**, Robert E. Mendoza requested a Variance to the setback requirements established in the Planning Development Residential (PDR) Zoning District by Zoning Ordinance PDR-96-09, to reduce the minimum waterfront setback for Lot 45 of the Harbour Landings Estates Subdivision from 30 feet to 15 feet; and

**WHEREAS**, on July 18, 2016 the aforementioned Hearing Officer held a public hearing to receive the staff report, applicant, and public comment, and argument regarding the proposed Variance.

**NOW, THEREFORE**, after consideration of the application for Variance No. VA-16-02 requested by Robert E. Mendoza the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the Final Order as follows:

**Section 1. Findings of Fact.** The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The site is in the RES-9/CHHA (Residential – 9 dwelling units per acre/Coastal High Hazard Overlay) Future Land Use Category.
- B. The site is on 0.37± acres zoned PDR (Planned Development Residential).
- C. The overall site lies within Zone AE with a Base Flood Elevation of 11 feet per FIRM Panel 1201530281E.
- D. The request is to approve a Variance to the setback requirements established in the Planned Development Residential (PDR) Zoning District by Zoning Ordinance PDR-96-09, to reduce the minimum waterfront setback for Lot 45 of the Harbour Landings Estates Subdivision located on the east side of Baypointe Terrace, commonly known as 12305 Baypointe Terrace, Cortez (Manatee County), from 30 feet to 15 feet
- E. The waterfront setback of 30 feet is established in Section 401.4 of the Manatee County Land Development Code, and is established as a Code based setback through Tables 4-4, 4-5 and 4-6.
- F. Section 367.2 of the Land Development Code specifies that a variance may be granted to allow a single lot or parcel to depart from dimensional regulations of the Code that restrict required yards, buffers or setbacks.
- G. The variance is not of the type prohibited by Section 367.3 of the Land Development Code.
- H. The alleged hardship was not created intentionally by the applicant.
- I. The conditions upon which the request for a variance is based are unique to the parcel, and do not appear to be applicable to other properties within the vicinity.
- J. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.
- K. The variance will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger public safety, or substantially diminish or impair property values within the vicinity.
- L. The owner of the property is advised that any future additions and/or alterations must conform to the requirements applicable to the remaining established setbacks.

**Section 2. Conclusions of Law.** Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, and a review of the applicable provisions of the Manatee County Comprehensive Plan and

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Manatee County Land Development Code, the above referenced Hearing Officer hereby makes the following Conclusions of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the Land Development Code.
- B. The applicant has the burden of proving entitlement to the Variance it seeks, Gomez v. City of St. Petersburg, 550 So. 2d 7 (Fla 2<sup>nd</sup> DCA 1989).
- C. The variance is not of the type prohibited by Section 367.3 of the Land Development Code.
- D. The variance meets all of the criteria set forth in Section 367.6 of the Land Development Code.

**Section 3. Order.** Based upon the foregoing, a Variance is hereby approved and issued to Robert E. Mendoza on the east side of Baypointe Terrace, commonly known as 12305 Baypointe Terrace, Cortez (Lot 45 of the Harbour Landings Estates Subdivision), and more particularly described in Exhibit "A" attached hereto and incorporated herein, for a Variance to the setback requirements of the PDR (Planned Development Residential) zoning district (PDR-96-09) to reduce the minimum waterfront setback from 30 feet to 15 feet, subject to the following conditions:

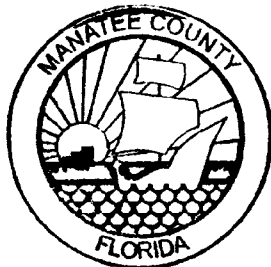
- 1. This variance shall not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded order is received by the Building and Development Services Department.
- 2. Any future additions and/or alterations must conform to the established setback requirements.
- 3. The variance shall run with the land.

**Section 4. Severability.** In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Variance which shall remain in full force and effect.

**Section 5. Effective Date.** The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Building and Development Services Department.

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ORDERED ON BEHALF OF MANATEE COUNTY this 11<sup>th</sup> day of August 2016.



MANATEE COUNTY, FLORIDA

BY: Dennis M. Scott, as  
Hearing Officer for Manatee County

ATTEST: ANGELINA COLONNESO,  
Clerk of the Circuit Court

BY: Angelina L. Colonnese  
Deputy Clerk

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**EXHIBIT "A"**  
**Legal Description**

**Lot 45 Harbour Landings Estates Plat Bk 32 Pgs 124-133**