

**NATURAL RESOURCES DEPARTMENT  
MEMORANDUM**

**DATE:** April 18, 2012

**TO:** City Manager Judie Zimomra

**FROM:** Natural Resources Director Robert K. Loflin Ph.D.

**RE:** Environmental assessment of John W. McDonald vacant lots adjacent to Tarpon Bay Rd.

This site assessment was completed on April 12, 2012 and includes the lots owned by John W. McDonald on the attached map. This property is located alongside Tarpon Bay Road and was platted as part of the Sanibel Gardens Subdivision which was originally predominantly freshwater wetlands. The property is located within the Interior Wetland Conservation District. The eastern approximately 2/3 of the lots, including the portion adjacent to Tarpon Bay Rd., can be described as extremely degraded transitional wetlands. This is due to a major man-made ditch, which runs north-south, originating just north of the currently vacant restaurant building and continuing north bifurcating all of the road frontage lots. This ditch is wide and deep and still retained standing water despite the drought at the time of inspection. In constructing the ditch, the builders left a continuous series of spoil piles averaging approximately 10-12' in height on both sides. These spoil piles are vegetated mostly with large Australian pines. According to the Public Works Dept., this ditch is not part of the City's retention or drainage program.

The remaining approximately 1/3 of the property on its western border, west of the ditch and double line of spoil piles, is in relatively natural condition, including a mix of upland and wetland species, and dominated by buttonwood. Brazilian pepper has been removed from most of the property, except for several large trees located in its northwestern corner.

To utilize this property for any development purpose (according to the Planning Dept. it has one residential unit of density), or to restore it for the purpose of environmental conservation and wildlife habitat, major tree removal and earth moving must be done. The Australian pines must be removed from the spoil piles on both sides of the ditch (est. cost \$30-40k), and the spoil piles including the Australian pine stumps must be pushed back into the ditch by bulldozer with the site then re-graded flat (est. cost \$70-90k) and re-vegetated with native species (est. cost \$20k; site prep/restoration cost est. total \$120-150k, not including engineering, permitting or mitigation costs).



*Preliminary – For Discussion Only*

## **Preliminary Zoning Analysis of Three Vacant Parcels of Land in Sanibel Gardens**

Prepared by the Planning Department  
On April 12, 2012

The three separate vacant parcels of land that are the subject of this analysis are currently held under common ownership by John McDonald. The subject parcels of land consist of the following lots (see attached map) located within Block 22 of Sanibel Gardens Subdivision:

- **Parcel 1:** Lots 1, 2, 4, 5, 6, 18, 19, and 20;
- **Parcel 2:** Lot 3; and
- **Parcel 3:** Lot 17.

Pursuant to Land Development Code Section. 86-92. Existing parcels, (a) Regardless of the permitted residential density and the required minimum lot size for any zone, a single-family dwelling may be constructed on any vacant parcel, or assembly of adjoining parcels, which meets any of the following classifications:

(1) Any vacant parcel that was not in common ownership with any adjoining property on December 1, 1975; provided, however, that such parcel contains an area of at least:

- a. Mid-island ridge: 10,000 square feet.
- b. Altered land: 10,000 square feet.
- c. Upland wetlands: 15,000 square feet.
- d. A gulf beach ridge: 20,000 square feet.
- e. Lowland wetlands: 20,000 square feet.
- f. Blind Pass: 20,000 square feet.
- g. Mangrove forest zone: 5 acres.

And as long as each such parcel has the minimum land area set forth remaining after excluding any roads, rights-of-way and open bodies of water (measured to mean high water line) which are within the parcel's boundaries.

(2) Any contiguous combination of vacant parcels that were not in common ownership with any adjoining properties on December 1, 1975, provided the minimum area requirement specified in this subsection (a) is met.

According to the 1976 Lee County Tax Rolls the owners of record for the three subject parcels were identified below as follows:

- Lee County, was the owner of Parcel 1,
- Marion M. Cromwell Sr., was the owner of Parcel 2; and
- G. and Joan Ashworth were the owners of Parcel 3.

Each of the three parcels of land is located in the Upland Wetlands Ecological Zone. To qualify for a single family dwelling, under the existing parcel provisions of LDC Section 86-93, each parcel must contain at least 15,000 S.F:

- **Parcel 1** is approximately 37,450 S.F. and qualifies for 1 dwelling unit as it meets the 15,000 SF minimum lot size requirement of the Code;
- **Parcel 2** is approximately 7,350 S.F. and does not qualify for 1 dwelling unit as this parcel does not meet the 15,000 SF minimum lot size requirement of the Code; and
- **Parcel 3** is approximately 7,000 S.F. and does not qualify for 1 dwelling unit as this parcel also does not meet the 15,000 SF minimum lot size requirement of the Code.

**Also according to the Development Intensity Map the assigned residential density for the subject three parcels is .1 or 1 dwelling unit per 10 acres. Consolidation of the three parcels of land results in a total of 1.18 acres.**

These three parcels are also located within the Interior Wetlands Conservation District. Pursuant to Land Development Code (LDC) Section 126-551, to the extent that any other regulations and restrictions of the LDC conflicts with the standards of the Interior Wetlands Conservation District, the provisions of the Interior Wetlands Conservation District shall control.

### **Summary of Permitted Uses in the Interior Wetlands Conservation District**

- Single-family, duplex, or multifamily (except in the lowland wetlands zone) residential developments in accordance with section 86-91 or section 86-92 and the standards of this article;

provided, however, that:

- Multifamily development shall be limited to no more than four dwelling units in any structure;
  - Multifamily structures shall contain no more than two living floors above the base flood elevation;
  - No multifamily structure shall be closer than 40 feet to any other structure; and
  - Multifamily development shall not have the appearance of densely developed urban structures through excessive mass, bulk, or repetition of design features.
- 
- Wastewater Treatment Facilities
  - Construction of Sedimentation or Erosion Control Structures
  - Agricultural uses as a commercial nursery for native vegetation or noncompeting exotics, beekeeping, and noncommercial gardening
  - Passive recreation
  - Public and publicly regulated utilities, including the digging of wells to provide potable water
  - Institutional and special uses, except in the lowland wetlands ecological zone
  - Educational facilities, including workshops, laboratories and observation structures for the study of wildlife, conservation or ecology.

**Applicable Development Standards for Wetlands Conservation Lands within Sanibel Gardens.... (LDC 126-557 (1))**

- Placement of fill shall not exceed 20 percent of the gross area of The parcel proposed for development or 5,000 square feet, whichever is less, nor shall fill be permitted to an elevation higher than two feet above the average existing grade under predevelopment conditions....
- Where roads are filled within existing rights-of-way, they shall contain a sufficient number of culverts or be reconstructed to allow for the passage of water flows that will maintain the natural hydrologic regime from low to high water flows.
- All development shall be in compliance with the requirements of subsections 125-557(a) (4), (a) (8), through (a) (13), (a) (17) and (a) (20) of the Development Standards for Wetlands Conservation

Lands.

**Article IX. Interior Wetlands Conservation District, Land Development Code Section 126-560 Undevelopable lands states that**

*"If any wetlands conservation lands are undevelopable for even a single dwelling unit or other beneficial use because of the requirements and limitations of this article, the owner of such lands may apply for such amendments to the Sanibel Plan and of sections 78-1 through 78-11; chapter 86; chapter 94; chapter 98; chapter 106; chapter 110; chapter 118; chapter 122; and articles II through XV of this chapter as are necessary to permit the development of one dwelling unit or other beneficial use thereon, upon such terms and conditions as the city council deems reasonably necessary to accomplish the objectives of this article insofar as possible. If such amendments are denied, the city shall, within six months thereafter, purchase the lands from the owner. The purchase price shall be, in the discretion of the city council, either in the form of a cash payment equal to the fair market value of the undevelopable lands as determined by a qualified appraiser mutually chosen by the city and the landowner, or in the form of transferable development rights pursuant to any program which might be adopted by the city council by ordinance for the issuance, transfer and use of such rights."*

**Note:** *There are no qualifying provisions under Land Development Code Section 126-560 which would require the City to purchase either Parcels 2 or, as neither lot qualifies for a dwelling unit since each lot fails to meet the 15,000 S.F. minimum lot size requirements of Land Development Code Section 86-92 Existing Parcels*

**Environmentally Sensitive Lands Conservation Districts**

The subject three parcels are adjacent to City owned lands within the Environmentally Sensitive Lands Conservation District. These are lands which have been purchased by the city with funds from the environmentally sensitive lands acquisition program that are included in the environmentally sensitive lands conservation district. The Environmentally Sensitive Lands Conservation District was established for environmentally sensitive lands owned and managed for conservation purposes, as described in the Sanibel Plan

**Addition of lands to the district.** Land may be added to the environmentally sensitive lands conservation district by amendment to the environmentally sensitive lands conservation district map in accordance with procedures established in sections 78-12 through 78-15; chapter 82; and sections 90-3 through 90-5. However, to ensure compliance with the Sanibel Plan, all lands purchased by

the city with funds from the environmentally sensitive lands acquisition program shall automatically be included in the environmentally sensitive lands conservation district, effective upon closing of the purchase.

**Removal of lands from the district.** Land may be removed from the environmentally sensitive lands conservation district by amendment to the environmentally sensitive lands conservation district map

**LDC Sec. 126-587. - Permitted uses.**

The following uses and structures, along with appropriate accessory uses and structures, shall be the only permitted uses and structures, in the environmentally sensitive lands conservation district, regardless of the zone district in which they are located:

- (1) Preservation and conservation of environmentally sensitive lands, including restoration, enhancement and maintenance of these natural resources.
- (2) Passive recreation.
- (3) Surface water management facilities.
- (4) Minor public and publicly regulated utilities, primarily for transmission.
- (5) Educational facilities, including workshops, laboratories, and observation structures, for the study of wildlife, conservation or ecology.
- (6) Normal and incidental accessory uses, such as parking to accommodate permitted uses.

**Sec. 126-588. - Development standards.**

The following development standards shall control development on all lands in the environmentally sensitive lands conservation district:

- (1) Site alteration and development activities shall not decrease the water storage capacity or adversely impact the hydrologic regime of the wetlands.
- (2) Disturbance of native vegetation shall be limited to the minimum

necessary for the development or site alteration activity.

**Sec. 3.10.1. - Environmentally Sensitive Lands Conservation District.**

- a. The Environmentally Sensitive Lands Conservation District, established through appropriate legislation, shall continue in existence in perpetuity, and the lands contained therein shall be kept forever wild, consistent with Sanibel's designation as a sanctuary for wildlife and for humans who wish to experience nature in its indigenous beauty and diversity, free of disruptive human activity. Actions to restore and maintain the ecological integrity of degraded or stressed habitats, on the other hand, are consonant with the purposes of said District.
  
- b. Actions by the City to sell, exchange, donate, or otherwise alienate City-owned land, or any interest therein, or public rights-of-way within the Environmentally Sensitive Lands Conservation District; to remove any land, public or private, from said district; or to abolish the district, may be taken by the City only by affirmative vote of a majority of the electors at a referendum called for that purpose.



McDonald Property: "Existing Parcels" as per L. D. C. Section 86-92  
 Parcel features from Lee County Property Appraiser labeled as per plat of Sanibel Gardens Unit 3  
 Map prepared April 24, 2012 by the Planning Department

**CITY OF SANIBEL  
LEGAL DEPARTMENT**



**MEMORANDUM**

**TO:** Members of City Council

**FROM:** Kenneth B. Cuyler *KBC*  
City Attorney

**DATE:** March 28, 2012

**RE:** Offer to Sell Property Located Adjacent to and West of Tarpon Bay Road,  
South of Sanibel-Captiva Road and North of the Unoccupied Former  
Restaurant Property (Map Attached)

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Sanibel Gardens Unit 3, Block 22 is west of and adjacent to Tarpon Bay Road just north of the U.S. Post Office. Block 22 is composed of 20 lots which are owned as follows:

- (a) Lots 1, 2, 3, 4, 5, 6, 17, 18, 19 and 20 – MCD 1201 Ltd (denoted in yellow on the attached map);
- (b) Lots 7, 8 and 9 – City of Sanibel (denoted in green on the attached map);
- (c) Lots 10, 11 and 12 – SCCF (denoted in orange on the attached map); and
- (d) Lots 13, 14, 15 and 16 – P. Berger Holdings, LLC (denoted in pink on the attached map) (note: this is the unoccupied former restaurant property).

The map also denotes the U.S. Post Office property in blue and additional surrounding City of Sanibel owned property (conservation property) which is also denoted in green.

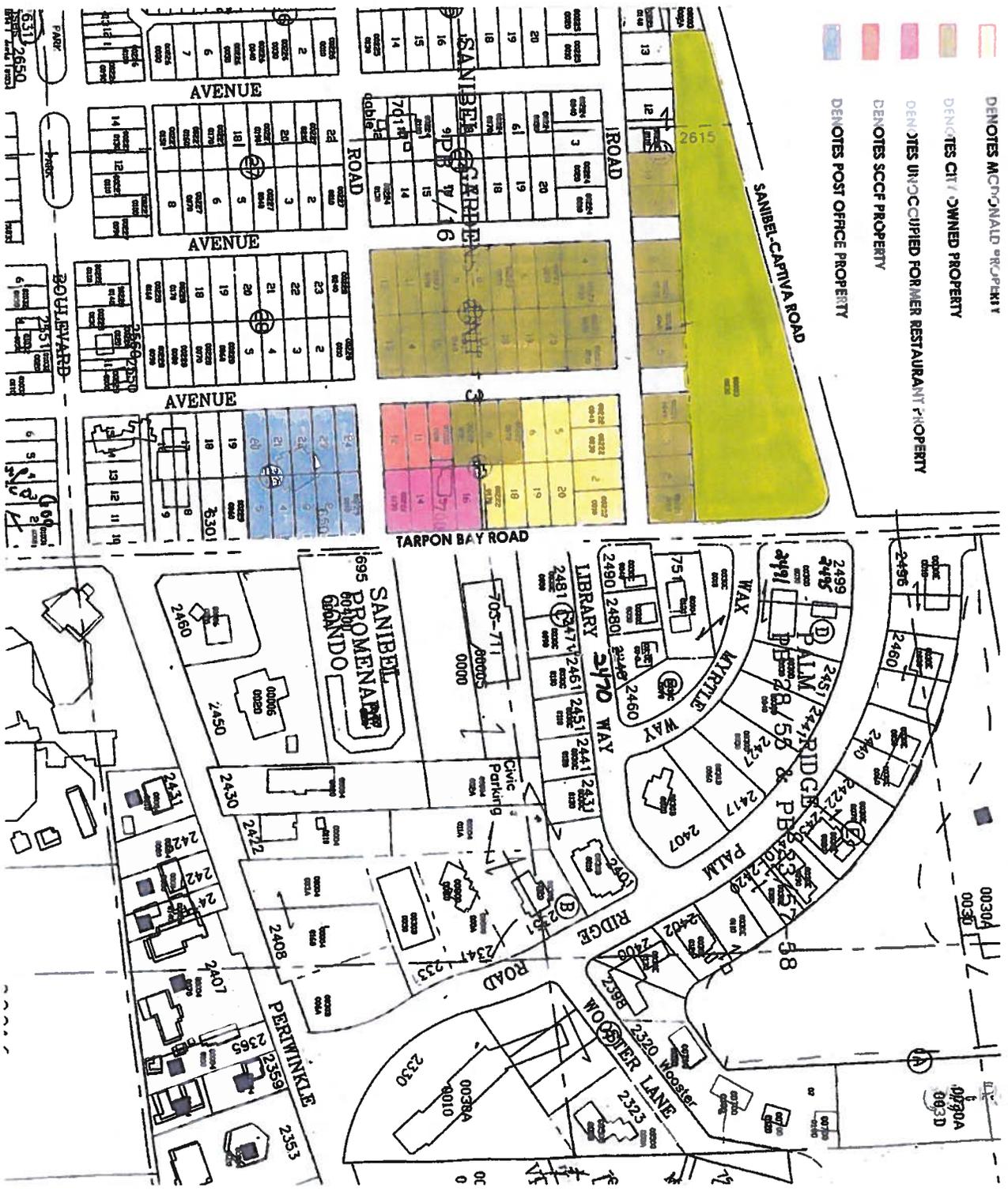
John W. McDonald recently contacted the City Attorney's office and met with me regarding property owned by MCD 1202 Ltd. Mr. McDonald has been advised by the City of Sanibel Planning Department that he is entitled to one dwelling unit on the property and Mr. McDonald has indicated that his plans would be to sell the property as a residential parcel or to construct a single-family dwelling on the property. However, prior to investing additional money in the parcel, he indicated that he would like to first offer the property for sale to the City of Sanibel and he indicated to me that his offering price would be \$250,000, which would include his original purchase price and additional money that he has invested in the property (exotics removal, etc.). Mr. McDonald indicated to me that he was willing to attend the City Council meeting on April 3, 2012 and would be available to answer any questions asked of him regarding the property and the offer to sell.

**This matter is being brought to the City Council for Council's review and consideration.**

**KBC/jg**

**cc: Judie A. Zimomra, City Manager  
Rob Loflin, Natural Resources Director  
James Jordan, Planning Director  
Pamela Smith, City Clerk**

- DENOTES MCDONALD'S PROPERTY
- DENOTES CITY / OWNED PROPERTY
- DENOTES UNOCCUPIED FORMER RESTAURANT PROPERTY
- DENOTES SCCF PROPERTY
- DENOTES POST OFFICE PROPERTY



Sanibel Gardens Unit 3 Block 22 Property Tax History  
MCD 1202 LTD  
Knightsbridge Company  
John W. McDonald

<b>Property Tax History</b>		<b>Current Value</b>	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>
Lots 1 + 2 + Lots 18 thru 20	26-46-22-T1-00222.0010	75,000	\$1,244.71	\$1,275.73	\$1,232.46	\$1,172.25	\$1,413.03	\$1,490.42	\$ 454.10
Lot 3	26-46-22-T1-00222.0030	15,000	\$ 248.95	\$ 255.15	\$ 246.49	\$ 234.44	\$ 282.60	\$ 298.07	\$ 90.83
Lots 4 thru 6	26-46-22-T1-00222.0040	45,000	\$ 746.82	\$ 765.44	\$ 739.44	\$ 703.32	\$ 847.83	\$ 894.24	\$ 272.46
Lot 17	26-46-22-T1-00222.0170	5,000	\$ 82.98	\$ 85.05	\$ 82.18	\$ 78.17	\$ 78.52	\$ 66.25	\$ 72.65
			\$2,323.46	\$2,381.37	\$2,300.57	\$2,188.18	\$2,621.98	\$2,748.98	\$ 890.04

## Pamela Smith

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**From:** Eric Pfeifer <Eric@pfeiferrealtygroup.com>  
**Sent:** Wednesday, April 25, 2012 9:41 AM  
**To:** Julia K. Guernsey; Pamela Smith  
**Cc:** Ken Cuyler  
**Subject:** RE: Update on Tarpon Bay Property

Julia, Ken & Pamela,

I am sorry for the delay. Fortunately, I have been very busy this season. Having said that, I have been busy selling houses while vacant lots have not been selling. The lots that have sold have been in only the most desirable locations. Due to the fact that the single family house prices have been declining, it is cheaper to buy an existing home and remodel it vs. build a new home.

Mr. McDonald bought four parcels for a total of \$180,000 (or \$200,000??) in 2004. Based on sales over the last eight years, the values have DECREASED overall since then. It is very difficult to determine a percentage decrease since most of the remaining parcels are less desirable (not good comparable lots) as we approach build out.

Going back to 1/1/10, there have been only five comparable lots sold:

[http://www.sancapmls.com/san/maildoc/pfee\\_1335360508-Apr-25-2012-9\\_28\\_28am.html](http://www.sancapmls.com/san/maildoc/pfee_1335360508-Apr-25-2012-9_28_28am.html)

Based on these sales, I would estimate the value of the assembled parcel would be in the very low \$100's or less. This is not a desirable residential location.

The Lee County assessed value is \$140,000, but this is high mostly based on the last sales price.

If the drainage ditch runs through the center of the property, and the Planning Department requires setbacks from the "open body of water", then the lot may be worthless.

If the City allowed a variance for commercial rezoning (highly doubtful), the value could be significantly higher.

**My recommendation is to work a deal where SCCF buys it for some cash and naming rights for the seller based on a donation.**

Sincerely,

*Eric Pfeifer, CRS, GRI, CIPS*

Broker-Owner

*Pfeifer Realty Group, LLC*

*Sanibel & Captiva Islands*

Office: 239-472-0004

Fax: 239-210-3356

[www.PfeiferRealtyGroup.com](http://www.PfeiferRealtyGroup.com)

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**From:** Julia K. Guernsey [<mailto:Julia.Guernsey@mysanibel.com>]

**Sent:** Friday, April 13, 2012 9:01 AM

**To:** Eric Pfeifer

**Cc:** Ken Cuyler

**Subject:** Update on Tarpon Bay Property

Good Morning Eric:

Just wanted to give you an update on the property. Our Natural Resources Director, Dr. Rob Loflin, walked and inspected the property and apparently there is a drainage ditch that runs through the middle of the property with spoil piles next to it. We were made aware of this late yesterday. We do not know whether this is a factor in your evaluation but wanted you to be aware of the facts that we receive.

Thanks.

**Julia Guernsey**

Paralegal

City of Sanibel

800 Dunlop Road

Sanibel, FL 33957

239-472-4359 Phone

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City Website: [www.mysanibel.com](http://www.mysanibel.com)

Email Address: [Julia.guernsey@mysanibel.com](mailto:Julia.guernsey@mysanibel.com)

**PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the City of Sanibel regarding business are public records available to the public and media upon request. Your e-mail communications, including your e-mail address, may be subject to public disclosure.**

## Pamela Smith

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**From:** Hall, Jim <jhall@viprealty.com>  
**Sent:** Monday, April 23, 2012 10:27 AM  
**To:** Julia K. Guernsey  
**Subject:** RE: Tarpon Bay Property

Dear Julia,

Per your request I have reviewed the information on the Tarpon Bay property. Based on lots currently for sale, under contract and recently sold my suggestion of an asking price would be \$219,000. Please contact me if you need any additional information.

Best regards,  
Jim

Jim Hall  
Managing Partner  
VIP Realty Group  
Sanibel, Florida

O 239.472.5187 x215  
C 239.850.3344  
F 239.437.7526

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**From:** Julia K. Guernsey [<mailto:Julia.Guernsey@mysanibel.com>]  
**Sent:** Monday, April 23, 2012 8:08 AM  
**To:** Hall, Jim  
**Subject:** RE: Tarpon Bay Property

Thank you so much....I will advise Mr. Cuyler.

Julia

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**From:** Hall, Jim [<mailto:jhall@viprealty.com>]  
**Sent:** Saturday, April 21, 2012 12:38 PM  
**To:** Julia K. Guernsey  
**Subject:** RE: Tarpon Bay Property

Will do.

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**From:** Julia K. Guernsey [<mailto:Julia.Guernsey@mysanibel.com>]  
**Sent:** Friday, April 20, 2012 3:40 PM  
**To:** Hall, Jim  
**Subject:** Tarpon Bay Property

Good Afternoon Jim:

I was just following up on our phone call last week on the property located on Tarpon Bay and a phone message I left with your office today. This is an item for the May 1<sup>st</sup> agenda, however, the

agenda deadline is actually next Tuesday for our City Clerk. Any information you have collected from what I previously emailed you would be greatly appreciated by next Tuesday.

Thanks so much for your assistance.

**Julia Guernsey**

**Paralegal**

**City of Sanibel**

**800 Dunlop Road**

**Sanibel, FL 33957**

**239-472-4359 Phone**

**239-472-2127 Fax**

**City Website:** [www.mysanibel.com](http://www.mysanibel.com)

**Email Address:** [Julia.guernsey@mysanibel.com](mailto:Julia.guernsey@mysanibel.com)

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**Pamela Smith**

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**From:** John McDonald <jmac0914@me.com>  
**Sent:** Wednesday, April 11, 2012 2:35 PM  
**To:** Julia K. Guernsey  
**Subject:** Re: Tarpon Bay Property

Sorry, no I don't have an appraisal.

On Apr 11, 2012, at 2:32 PM, "Julia K. Guernsey" <[Julia.Guernsey@mysanibel.com](mailto:Julia.Guernsey@mysanibel.com)> wrote:

Mr. McDonald:

Ken Cuyler asked me to email you to find out if you had a copy of an appraisal for the property?

Thanks.

**Julia Guernsey**

**Paralegal**

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**Sanibel, FL 33957**

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