

OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL  
HEARING EXAMINER RECOMMENDATION

VAC HEX Recommendation 10-2023  
September 19, 2023

DCD CASE #VP21-0016

**APPLICATION FOR:** Vacation of street right-of-way; Vacation of additional easements

**OWNERS:** Nelson M. Pinney/Paula Sterrenberg; and Kim Hoa Huynh (separate parcels)

**APPLICANT:** Nelson M. Pinney

**LOCATION OF PROPERTIES:**

1933 SE 2<sup>nd</sup> Street, Lots 1-2, Block 1339, Unit 18.  
204 SE 20<sup>th</sup> Place, Lots 30-32, Block 1338, Unit 18.

**ZONING DISTRICT:** Single-Family Residential (R-1)

**FUTURE LAND USE CLASSIFICATION:** Single-Family (SF)

**HEARING DATE:** September 19, 2023

**SUMMARY OF REQUEST:** The Applicant requests the following vacations:

1. Vacate 2,000 sq. ft. of street right-of-way (ROW) associated with SE 2<sup>nd</sup> Street.
2. Vacate 354 sq. ft. of platted easements in Lots 1 and 2, Block 1339.
3. Vacate 354 sq. ft. of platted easements in Lot 32, Block 1338.

**SUMMARY OF HEARING EXAMINER RECOMMENDATION**

The Hearing Examiner recommends that City Council **approve** the application for the requested vacations, subject to the conditions set forth below.

I. **NOTICE OF HEARING**

Based on the testimony of City Staff Justin Heller at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article 3 (Development Review), Chapter 1, § 3.1.10 ("Public Hearing Scheduling and Notice Requirements") of the City of Cape Coral Land Development Code ("LDC").

In addition, the Hearing Examiner finds that proper notice of this hearing was also provided in accordance with the applicable specific notice requirements for vacations, as set forth in Article 3 (Development Review), Chapter 4 (Specific Review Procedures – Quasi-Judicial Permits and Approvals), LDC §3.4.5.C.1-2.

II. **PARTICIPANTS IN HEARING**

CITY STAFF: Justin Heller, Senior Planner

CITY CLERK'S OFFICE: Sheri Rhine

APPLICANT: Nelson M. Pinney

MEMBERS OF PUBLIC/EMAIL CORRESPONDENCE: None

III. **EXHIBITS**

APPLICANT'S AND CITY STAFF'S EXHIBITS: previously submitted.

IV. **REVIEW OF LDC REQUIREMENTS**

**Authority.** The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of easements, pursuant to Article 2 (Decision Making and Administrative Bodies), Chapter 2 (Hearing Examiner), LDC §2.2.3B.4:

A Hearing Examiner shall hear and decide, or, when applicable, make recommendations, on the following....

.... 4. Applications for vacations”.

**Entirety of the Record/Standard of Review of Evidence.** The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LDC, based upon the entirety of the record before the Hearing Examiner.

The decision or recommendation of the Hearing Examiner must be based upon competent substantial evidence in the record. LDC Article 3 (Development Review), Chapter 1 (Development Review Procedures), Section 3.1.11 (Public Hearing Procedures), §3.1.11E

**Presumption of Relevance and Materiality.** Matters related to an Application's consistency with the Comprehensive Plan, the City Code of Ordinances, or the LDC will be presumed to be relevant and material. LDC Article 3 (Development Review), Chapter 1 (Development Review Procedures), Section 3.1.11 (Public Hearing Procedures), §3.1.11F.4.

**Hearsay Evidence.** Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. LDC Article 3 (Development Review), Chapter 1 (Development Review Procedures), Section 3.1.11 (Public Hearing Procedures), §3.1.11F.5.

**LDC Standards.** The Hearing Examiner reviewed the application in accordance with the standards for Vacations of Plats, Easements and Rights-of-way as set forth in LDC § 3.4.5 and specifically set forth in LDC § 3.4.5.A (General) and LDC

§ 3.4.5.B (Standards and Criteria) in addition to the general standards set forth elsewhere in the LDC and the City Comprehensive Plan.

Site Visit. The Hearing Examiner performed a site visit to the subject property prior to the Hearing, as permitted by the LDC.

### **TESTIMONY AT HEARING**

#### **Incorporation of Staff Report and Staff Testimony by Applicant and Staff**

The Applicant incorporated the Staff Report and Staff Testimony ("Staff Input") into his presentation by reference. Staff incorporated his Staff Report into his presentation by reference as well.

#### **Hearing Examiner's Recommended Findings of Fact.**

All documentary and oral testimony referenced below is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. The Hearing Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

## **V. DISCUSSION**

### **Site, Zoning Information, Surrounding Area and Application**

Staff testified that the instant application was initiated by the owner of property at 1933 SE 2nd Street, which is a 10,874 square-foot site improved with a seawall and concrete cantilever dock. Staff testified that the Owner-applicant intends to construct a new single-family dwelling on the site.

The Applicant confirmed that he intends this home to be his "last hurrah" after living in Cape Coral for 40 years.

By letter of October 28, 2023, the Applicant stated that they wished the vacation because it

"will enable us to provide a circular-type driveway to ease safe automobile egress. Without the vacation, vehicles will be limited to unsafe backing out onto SE 2 Street. With the vacation, vehicles will have safe forward motion existing the property."

In that same letter, Applicant confirmed that the adjacent property owner agrees with and supports their application, and the adjacent property owner is referenced herein.

Both sites have Single-Family Residential (R-1) Zoning and a Future Land Use Classification (FLUC) of Single-Family (SF), as do the surrounding parcels.

Analysis of Request in Application Pursuant to LDC Section 3.4.5.A

1. Owner **has** color of title (LDC §3.4.5.A.1.a)

The necessary documents are part of the Hearing record.

2. **Letters of Approval** from Lee County Electric Cooperative, Inc. (LCEC), Century Link, and Comcast were supplied by Applicant. (LDC §3.4.5.A.1.b-e)

Century Link's letter of "no objection" dated October 12, 2021, indicated that Century Link has no facilities in the proposed area but contained the further provisos that if "CenturyLink facilities are found and/or damaged within the areas as described, the Applicant will bear the cost of relocation and repairs of said facilities."

LCEC's letter of "no objection" dated May 25, 2023, indicated that LCEC has no objection to the vacation and also stated a condition requiring a new PUE extending northward along the proposed new west boundary and northern property line to extend and meet with the proposed new western boundary, thereby creating a continuous perimeter easement surrounding the property, in order for LCEC to serve the property. This condition is addressed elsewhere herein.

Comcast's letter of approval dated October 18, 2021, stated that it had no objection to the vacation, so long as if Comcast facilities were to be found there, the cost of relocation would be borne by Applicant and Comcast were to be granted new easements.

**These letters are part of the Hearing record.**

3. A copy of a recent boundary survey or survey sketch of the property prepared by a registered surveyor, **has been provided**, showing the area requested to be vacated and providing a complete legal description(s). It shows all pavement and all utility and drainage facilities in said area, including water, sewer, cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and legal descriptions are required for each vacation area when right-of-way and easement configurations differ. (LDC §3.4.5.A.2)

All of the required documents **have been provided**.

Analysis of Request in Application Pursuant to LDC Section 3.4.5.B

1. Are the plat, easements, or rights-of-way required by the City for any future transportation, access, water management or public utility purpose? (LDC §3.4.5.B.1)

Staff testified that the right of way ("ROW) proposed to be vacated is at the end of SE 2<sup>nd</sup> Street and is relatively small in area. As such, staff testified, it would not be anticipated to eliminate access to any property.

In addition, as set forth in the conditions below, the easements underlying the ROW would remain for any future utility access. Under the above set of facts, staff testified that this ROW would not be needed to provide a future transportation, public access, or other foreseeable public benefit. Staff further testified that the platted 6 foot easements requested to be vacated would not be needed because underlying easements in the ROW would not be vacated and the City would retain a minimum six-foot wide perimeter easement as set forth in the conditions below.

Accordingly, the Hearing Examiner recommends a finding that this standard **has been met** by Applicant.

2. *Are any required easements necessary to accommodate the vacation of any plat, easement or right-of-way? (LDC §3.4.5.B.2)*

Staff testified that, if City Council approves the requested vacation, the easements underlying the ROW would remain and that the new easements to be provided in accordance with the conditions below would be sufficient to maintain a continuous public utility and drainage easement around the affected sites.

Accordingly, the Hearing Examiner recommends a finding that this standard **has been met** by Applicant.

3. *Are alternate routes required or available which do not cause adverse impacts to surrounding areas? (LDC §3.4.5.B.3)*

Staff testified that the Application concerns only the end of SE 2<sup>nd</sup> Street, so only the property owners involved in this Application would potentially be involved and their participation in this process would, of course, implicitly waive any concerns about adverse impacts. Further, each of the owners would retain access to the ROW adjacent to the site. Under this set of allegations there would be no need for alternate routes.

Accordingly, the Hearing Examiner recommends a finding that this standard **has been met** by Applicant.

4. *Does the closure of a right-of-way negatively affect areas utilized for vehicles to turn around and exit an area? (LDC §3.4.5.B.4)*

Staff testified that the proposed vacation would not impede vehicular travel, in that vehicles could still turn left onto SE 20<sup>th</sup> Place before reaching the terminus of SE 2<sup>nd</sup> Avenue, as is the current vehicular practice.

Accordingly, the Hearing Examiner recommends a finding that this standard **has been met**.

5. *Have local utility providers given consent to the vacation of the plat, easement(s), or right(s)-of-way? Note: The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation (LDC §3.4.5.B.5)*

Applicants' compliance with this requirement is addressed above.

Accordingly, the Hearing Examiner recommends a finding that this standard **has been met** by Applicant, with the caveat set forth above.

*Analysis of Request in Application Pursuant to LDC Section 3.4.5.C*

1. *Is there any reasonably foreseeable public use for the vacated area? (LDC §3.4.5.C.3)*

For the reasons set forth above, the Hearing Examiner recommends a finding that there is **no reasonably foreseeable public use** for the vacated area.

2. *Is the City retaining easement(s) for utilities or drainage in and upon the vacated area? LDC §3.4.5.C.3)*

This is addressed in the conditions set forth below.

*Consistency with the Comprehensive Plan*

Staff testified that the request is consistent with the Comprehensive Plan provisions set forth below.

Table 1, Policy 1.15 of the Future Land Use Element.

Staff testified that this table identifies the R-1 District as being consistent with the Single Family FLUC.

Policy 1.15: Single Family Residential: Sites of 10,000 square feet and greater, with densities not to exceed 4.4 units per acre.

Staff testified that this request would also be consistent with Policy 1.15a, as the property's density would be less than the maximum density of 4.4 DU per acre allowed in this FLUC.

It is recommended that City Council find that granting the requested vacations, as conditioned below, **is consistent** with the City Comprehensive Plan, Land Development Code, and all other applicable law.

VI. **RECOMMENDED CONDITIONS OF APPROVAL**

City staff testified regarding recommendations for conditions of approval, set forth below. The Applicant testified that the Owner has no objection to these conditions.

The Hearing Examiner **recommends** that these conditions of approval be adopted as part of the City Council's approval of Applicant's request:

1. The vacation of the 2,000 sq. ft. of ROW shall be consistent with the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC., dated September 13, 2021, entitled "*Exhibit A*".
2. The vacation of 354 sq. ft. of platted easements in Lots 1 and 2, Block 1339, shall be consistent with the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC., dated September 13, 2021, entitled "*Exhibit B*".
3. The vacation of 354 sq. ft. of platted easements in Lots 30-32, Block 1338, shall be consistent with the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC., dated March 04, 2022, entitled "*Exhibit D*".
4. The City shall retain easements sufficient for maintaining a six-foot wide perimeter easement around the expanded site at 1933 SE 2<sup>nd</sup> Street as depicted in the accompanying sketch and legal description prepared by Harris-Jorgensen, LLC entitled "*Exhibit C*".
5. The City shall retain easements sufficient for maintaining a six-foot wide perimeter easement around the expanded site at 204 SW 20<sup>th</sup> Place as depicted in the accompanying sketch and legal description prepared by Harris-Jorgensen, LLC entitled "*Exhibit E*".
6. Prior to the issuance of a certificate of occupancy (CO) for a new house at 1933 SE 2<sup>nd</sup> Street, the owner of the site shall remove the pavement associated with the vacated street right-of-way. This area shall be sodded following the removal of this pavement. The costs of all improvements identified in this condition shall be borne by the owner of 1933 SE 2<sup>nd</sup> Street.

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Nelson M. Pinney Application

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7. If utilities are found and/or damaged within the vacated area as described, the applicant will bear the cost of relocation and repair of said facilities at the sole discretion of the affected utility provider.
8. The City shall record this resolution with the Office of the Lee County Clerk of Court following the receipt of the recording fees from the applicant.

VII. **EXHIBITS**

Exhibits "A", "B", "C", "D" and "E", as described more fully above, are attached hereto and incorporated by reference:

The Hearing Examiner herewith **RECOMMENDS APPROVAL** of the request for the above-referenced Vacation filed by Applicant, **WITH THE CONDITIONS** set forth above.

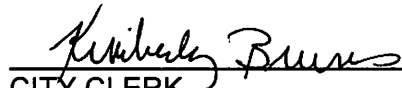
This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

  
\_\_\_\_\_  
ANNE DALTON, ESQUIRE

September 19, 2023  
DATE

ATTEST:

  
\_\_\_\_\_  
CITY CLERK



**"EXHIBIT A"**

DESCRIPTION TO ACCOMPANY SKETCH:

(PROPOSED)

**VACATION OF A PORTION OF S.E. 2ND STREET  
RIGHT OF WAY, CAPE CORAL UNIT 18,**

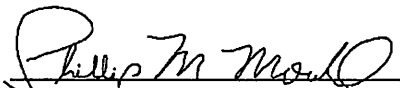
(PLAT BOOK 13, PAGES 96-120,  
PUBLIC RECORDS OF  
LEE COUNTY, FLORIDA

**\*\*NOT A BOUNDARY SURVEY\*\***

DESCRIPTION:

A PLOT OR PORTION OF RIGHT OF WAY, OF S.E. 2ND STREET, CAPE CORAL UNIT 18, AS RECORDED IN PLAT BOOK 13, PAGES 96-120, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID PLOT OR PORTION BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 2, BLOCK 1339 AND THE NORTH RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 18, FOR A POINT OF BEGINNING; THENCE RUN SOUTH TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE) FOR 50.02 FEET; THENCE RUN S.88°21'26"W. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 40.00 FEET; THENCE RUN NORTH TO THE SOUTHWEST CORNER OF THE AFORESAID LOT 2, BLOCK 1339 FOR 50.02 FEET; THENCE RUN N.88°21'26"E. ALONG THE NORTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE) TO THE SOUTHEAST CORNER OF LOT 2, BLOCK 1339, CAPE CORAL UNIT 18, AS RECORDED IN PLAT BOOK 13, PAGES 96-120, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR 40.00 FEET, TO THE POINT OF BEGINNING. CONTAINING: 1,999.98 SQUARE FEET, MORE OR LESS.

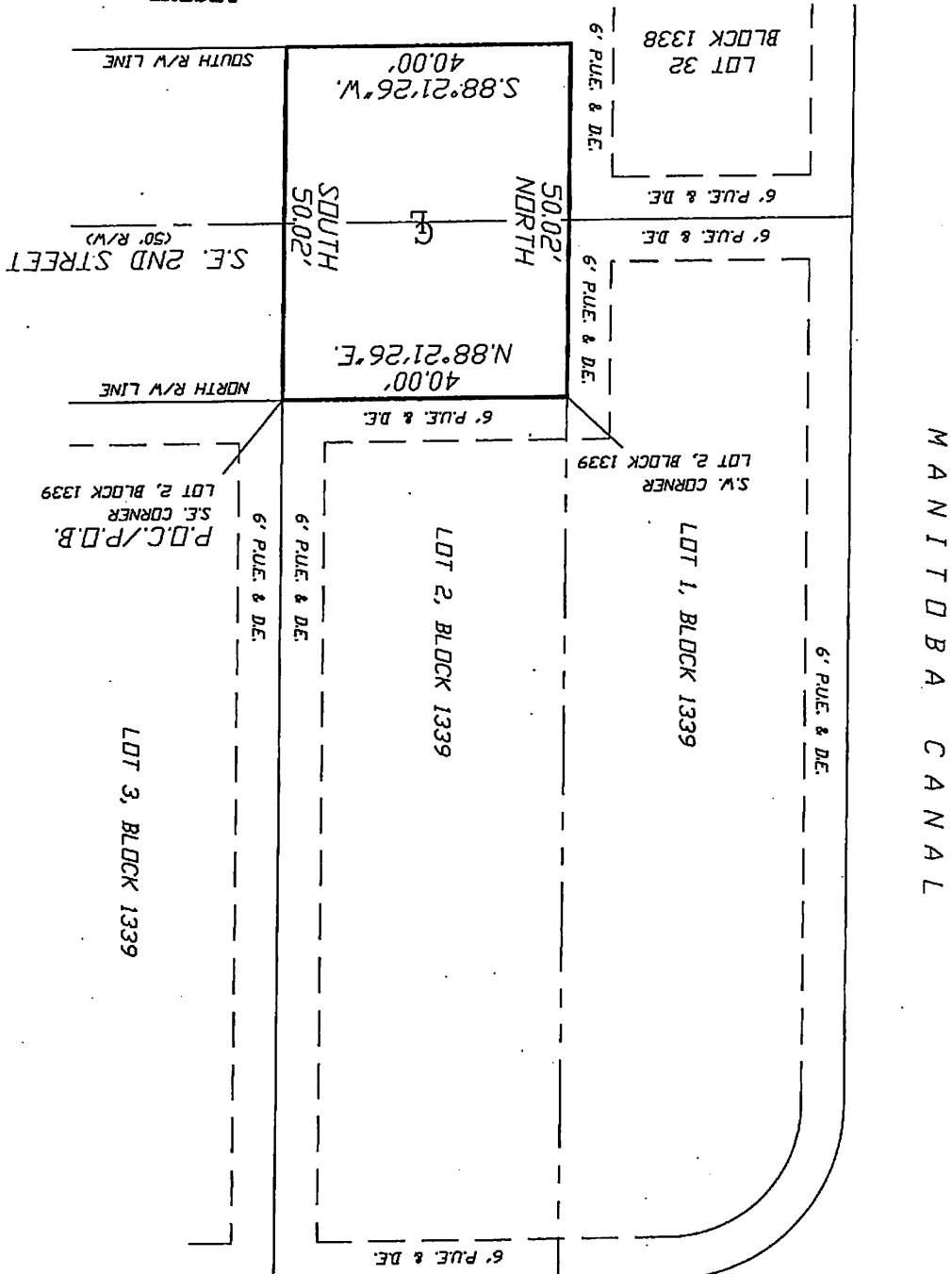
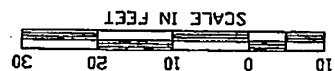


PHILLIP M. MOULD  
PROFESSIONAL SURVEYOR AND MAPPER  
LS6515 - STATE OF FLORIDA  
09/13/2021

CC-U18-1339-1

HARRIS-JORGENSEN, LLC.  
3048 DEL PRADO BLVD. S. #100  
CAPE CORAL, FL. 33904  
239-257-2624

SKETCH TO ACCOMPANY DESCRIPTION (PROPOSED)  
 VACATION OF A PORTION OF S.E. 2ND STREET  
 RIGHT OF WAY, CAPE CORAL UNIT 18,  
 (PLAT BOOK 13, PAGES 96-120.)  
 PUBLIC RECORDS OF  
 LEE COUNTY, FLORIDA  
 SEE EXHIBIT A, SHEET 2 OF 2  
 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH



**SKETCH NOTES:**

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE NORTH RIGHT-OF-WAY LINE OF S.E. 2ND STREET, AS BEING N88°21'26"E.
2. FIELD NOTES IN CAPE CORAL, BLOCK 1339.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED IN THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

P.U.E. PUBLIC UTILITY EASEMENT  
 D.E. DRAINAGE EASEMENT  
 R/W RIGHT-OF-WAY  
 C. CENTERLINE  
 P.O.B. POINT OF BEGINNING  
 P.O.C. POINT OF COMMENCEMENT

**LEGEND:**

CC-U18-1339-1  
 HARRIS-JORGENSEN, L.L.C.  
 3048 DEL PRADO BLVD. S. #100  
 CAPE CORAL, FL. 33904  
 239-257-2624

**"EXHIBIT B"**

DESCRIPTION TO ACCOMPANY SKETCH:

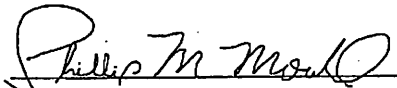
(PROPOSED)

**VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT,  
IN A PORTION OF LOTS 1 AND 2, BLOCK 1339, CAPE CORAL UNIT 18,  
(PLAT BOOK 13, PAGES 96-120,) PUBLIC RECORDS OF LEE COUNTY, FLORIDA**

**\*\*NOT A BOUNDARY SURVEY\*\***

DESCRIPTION:

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COMMENCING AT THE SOUTHEAST CORNER OF LOT 2, BLOCK 1339 AND THE NORTH RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 18; THENCE RUN S.88°21'26"W. ALONG THE NORTH RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE), OF SAID CAPE CORAL UNIT 18, FOR 6.00 FEET, TO THE POINT OF BEGINNING; THENCE RUN S.88°21'26"W. ALONG THE NORTH RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE), TO THE SOUTHWEST CORNER OF SAID LOT 2, BLOCK 1339, FOR 34.00 FEET; THENCE RUN SOUTH ALONG THE WEST RIGHT OF WAY LINE OF SAID S.E. 2ND STREET, FOR 19.01 FEET; THENCE RUN S.88°21'26"W. FOR 6.00 FEET; THENCE RUN NORTH ALONG A LINE 6.00 FEET WEST AS MEASURED ON A PERPENDICULAR, AND PARALLEL WITH THE WEST RIGHT OF WAY LINE OF SAID S.E. 2ND STREET FOR 25.01 FEET; THENCE RUN N.88°21'26"E. ALONG A LINE 6.00 FEET NORTH AS MEASURED ON A PERPENDICULAR, AND PARALLEL WITH THE NORTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE), FOR 40.00 FEET; THENCE RUN SOUTH TO A POINT ALONG THE NORTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE), FOR 6.00 FEET, TO THE POINT OF BEGINNING.  
CONTAINING: 354.04 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD  
PROFESSIONAL SURVEYOR AND MAPPER  
LS6515 - STATE OF FLORIDA  
09/13/2021

SHEET 2 OF 2

CC-U18-1339-1

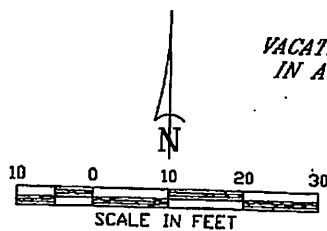
HARRIS-JORGENSEN, LLC.  
3048 DEL PRADO BLVD. S. #100  
CAPE CORAL, FL. 33904  
239-257-2624

SKETCH TO ACCOMPANY DESCRIPTION: (PROPOSED)

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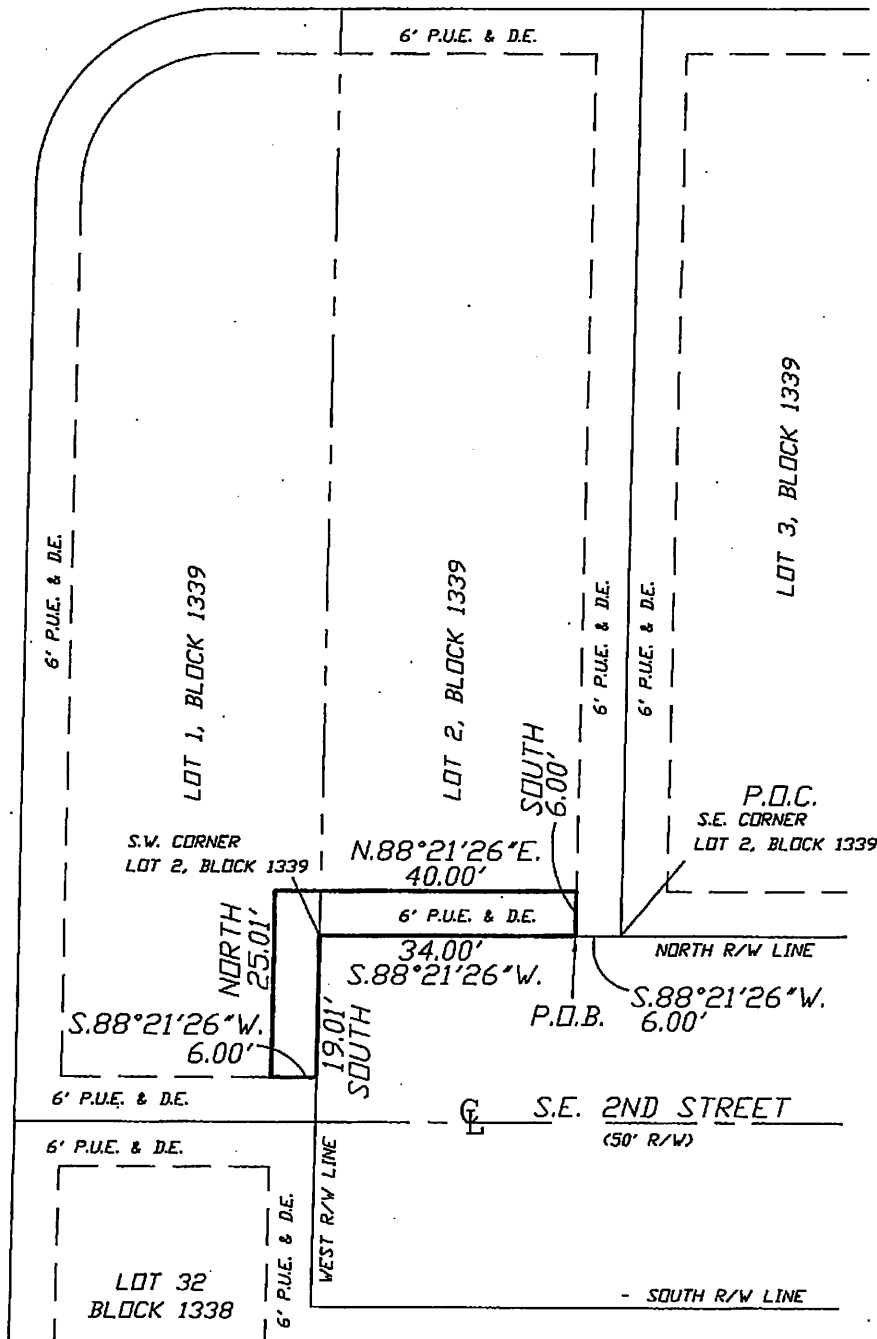
SEE "EXHIBIT B" SHEET 2 OF 2  
FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

\*\*\*NOT A BOUNDARY SURVEY\*\*\*



PEABODY CANAL

MANITOBA CANAL



**SKETCH NOTES:**

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE NORTH RIGHT-OF-WAY LINE OF S.E. 2ND STREET, AS BEING S.88°21'26"W.
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3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
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5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
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**LEGEND:**

P.U.E. PUBLIC UTILITY EASEMENT  
D.E. DRAINAGE EASEMENT  
R/W RIGHT-OF-WAY  
CL CENTERLINE  
P.D.B. POINT OF BEGINNING  
P.D.C. POINT OF COMMENCEMENT

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HARRIS-JORGENSEN, L.L.C.  
3048 DEL PRADO BLVD. S. #100  
CAPE CORAL, FL. 33904  
239-257-2624

**"EXHIBIT C"**

DESCRIPTION TO ACCOMPANY SKETCH:

(PROPOSED)

***PUBLIC UTILITY AND DRAINAGE EASEMENT IN A  
PORTION OF S.E. 2ND STREET RIGHT OF WAY,  
CAPE CORAL UNIT 18,***

***(PLAT BOOK 13, PAGES 96-120,) PUBLIC RECORDS OF  
LEE COUNTY, FLORIDA***

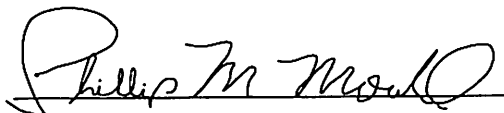
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COMMENCING AT THE SOUTHEAST CORNER OF LOT 2, BLOCK 1339 AND THE NORTH RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 18, FOR A POINT OF BEGINNING; THENCE RUN SOUTH TO A POINT ALONG THE CENTERLINE OF S.E. 2ND STREET (50 FEET WIDE) FOR 25.01 FEET; THENCE RUN S.88°21'26"W. TO A POINT ALONG THE WEST RIGHT OF WAY LINE OF S.E. 2ND STREET AND THE SOUTHEAST CORNER OF LOT 1, BLOCK 1339, SAID CAPE CORAL UNIT 18, FOR 40.00 FEET; THENCE RUN NORTH ALONG SAID WEST RIGHT OF WAY LINE FOR 6.00 FEET; THENCE RUN N.88°21'26"E. FOR 34.00 FEET; THENCE RUN NORTH TO A POINT ALONG THE NORTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE) FOR 19.01 FEET; THENCE RUN N.88°21'26"E. TO THE AFORESAID SOUTHEAST CORNER OF LOT 2, BLOCK 1339 AND THE NORTH RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 18, FOR 6.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 354.04 SQUARE FEET, MORE OR LESS.



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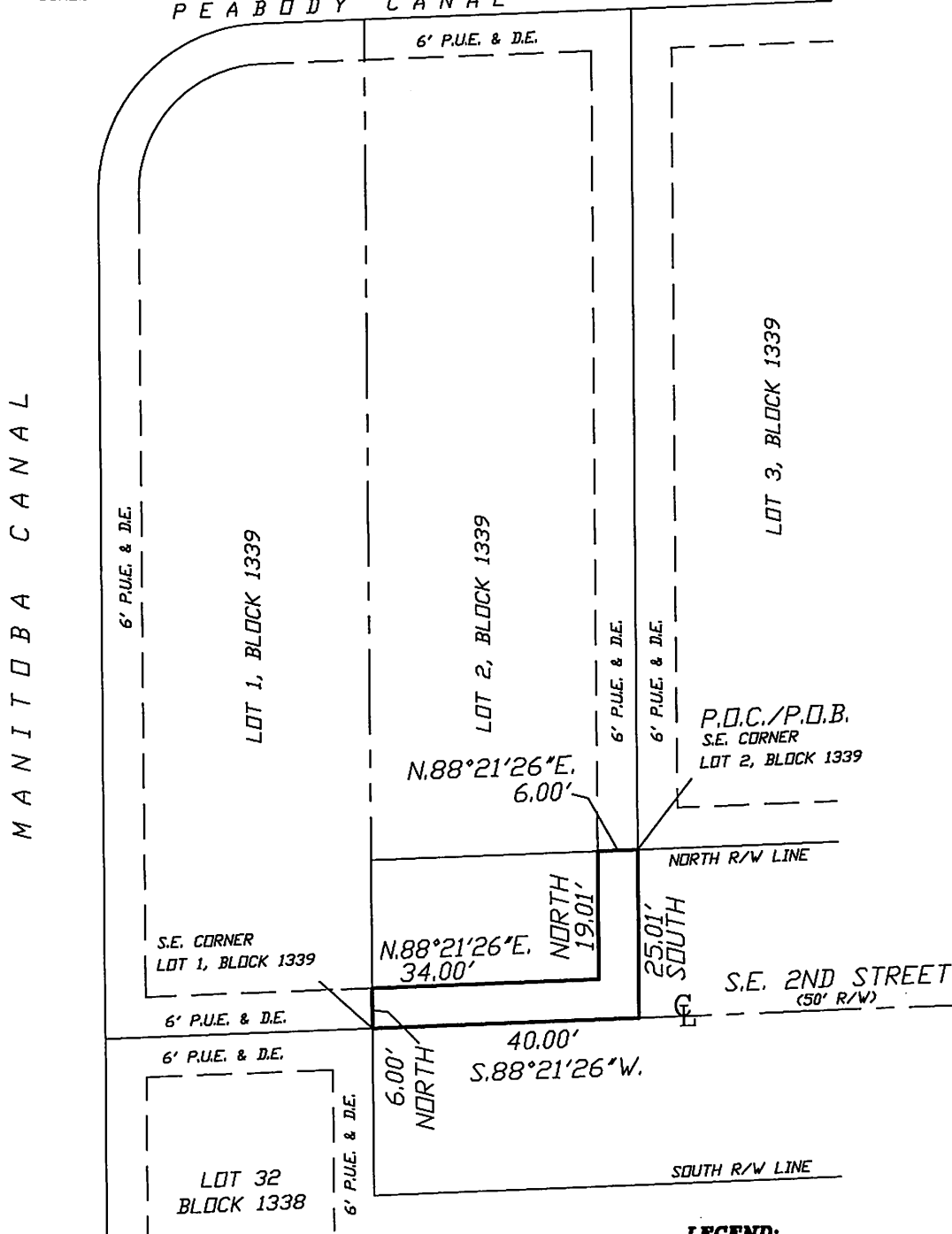
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***PUBLIC UTILITY AND DRAINAGE EASEMENT IN A  
PORTION OF S.E. 2ND STREET RIGHT OF WAY,  
CAPE CORAL UNIT 18,  
(PLAT BOOK 13, PAGES 96-120,) PUBLIC RECORDS OF  
LEE COUNTY, FLORIDA***

A horizontal scale bar labeled "SCALE IN FEET" is shown. The bar has markings at 10, 0, 10, 20, and 30 feet. The bar is divided into segments by vertical lines, with the segments between 0 and 10, 10 and 20, and 20 and 30 being longer than the segments between 10 and 0 and 0 and 10.

PEABODY CANAL \*\*\*NOT A BOUNDARY SURVEY\*\*\*



**SKETCH NOTES:**

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE NORTH RIGHT-OF-WAY LINE OF S.E. 2ND STREET, AS BEING N.88°21'26"E.
2. FIELD NOTES IN CAPE CORAL, BLOCK 1339.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 x 14", 20 SCALE DRAWING.

P.U.E.	PUBLIC UTILITY EASEMENT
D.E.	DRAINAGE EASEMENT
R/W	RIGHT-OF-WAY
CL	CENTERLINE
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT

HARRIS-JORGENSEN, LLC.  
3048 DEL PRADO BLVD. S. #100  
CAPE CORAL, FL. 33904  
239-257-2624

**"EXHIBIT D"**

DESCRIPTION TO ACCOMPANY SKETCH:

(PROPOSED)

**VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT,  
IN A PORTION OF LOT 32, BLOCK 1338, CAPE CORAL UNIT 18,  
(PLAT BOOK 13, PAGES 96-120,) PUBLIC RECORDS OF LEE COUNTY, FLORIDA**

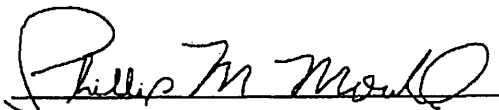
**\*\*NOT A BOUNDARY SURVEY\*\***

**DESCRIPTION:**

A PLOT OR PORTION OF LOT 32, BLOCK 1338, CAPE CORAL UNIT 18, AS RECORDED IN PLAT BOOK 13, PAGES 96-120, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID PLOT OR PORTION BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 32, BLOCK 1338 AND THE EAST RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 18; THENCE RUN SOUTH ALONG THE WEST RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE), OF SAID CAPE CORAL UNIT 18, FOR 6.00 FEET, TO THE POINT OF BEGINNING; THENCE RUN SOUTH ALONG SAID WEST RIGHT OF WAY LINE FOR 19.01 FEET; THENCE RUN N.88°21'26"E. ALONG THE SOUTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE) FOR 34.00 FEET; THENCE RUN SOUTH FOR 6.00 FEET; THENCE RUN S.88°21'26"W. ALONG A LINE 6.00 FEET SOUTH, AS MEASURED ON A PERPENDICULAR, AND PARALLEL WITH THE SOUTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET FOR 40.00 FEET; THENCE RUN NORTH ALONG A LINE 6.00 FEET WEST AS MEASURED ON A PERPENDICULAR, AND PARALLEL WITH THE WEST RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE), FOR 25.01 FEET; THENCE RUN N.88°21'26"E. TO A POINT ALONG THE WEST RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE), FOR 6.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 354.03 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD  
PROFESSIONAL SURVEYOR AND MAPPER  
LS6515 - STATE OF FLORIDA  
3/4/2022

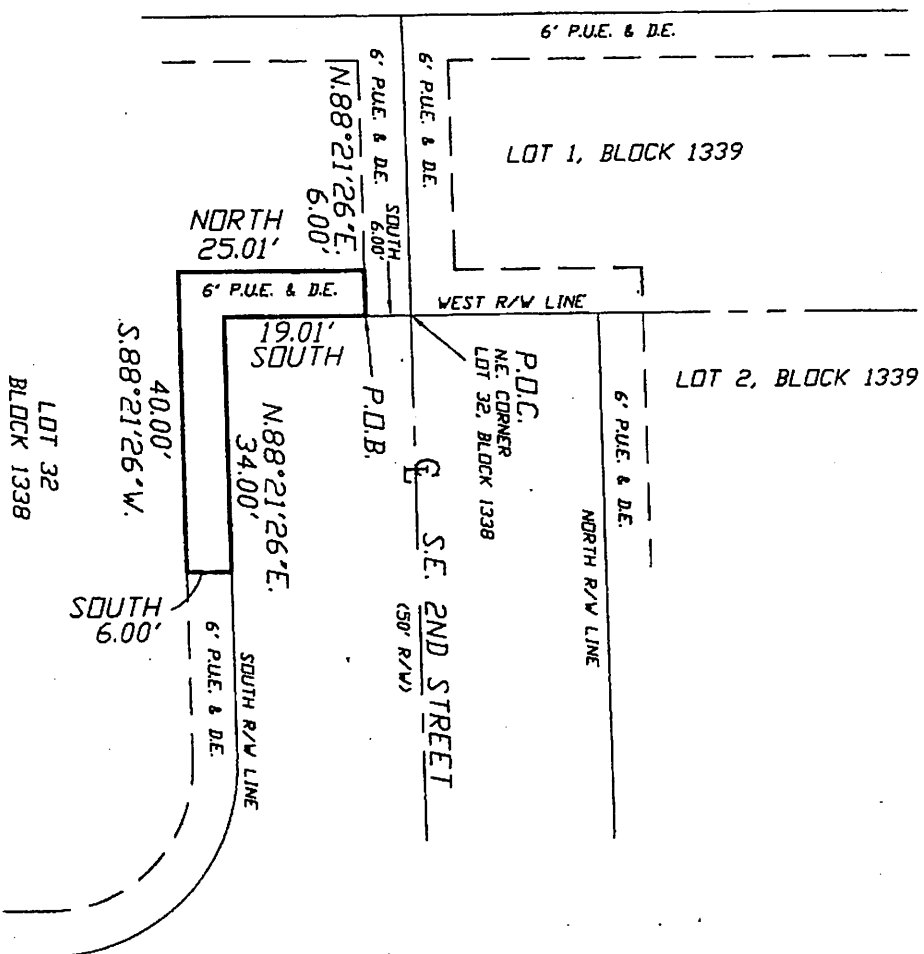
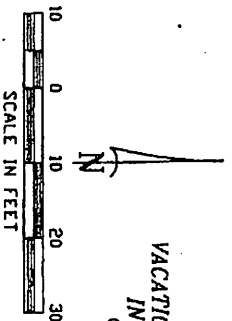
CC-U18-1339-1

HARRIS-JORGENSEN, LLC.  
3048 DEL PRADO BLVD. S. #100  
CAPE CORAL, FL. 33904  
239-257-2624

VACATION OF A PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT,  
IN A PORTION OF LOT 32, BLOCK 1338, CAPE CORAL UNIT 18,  
(PLAT BOOK 13, PAGES 96-120), PUBLIC RECORDS OF LEE COUNTY, FLORIDA

(PLAT BOOK 13, PAGES 96-120.) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

## END A BOUNDARY SURVEY



1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF S.E. 2ND STREET, AS BEING N88W126.2E.
2. FIELD NOTES IN CAPE CORAL, BLOCK 1339.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.

P.U.E. D.E. R/W & P.O.B. P.I.C.	PUBLIC UTILITY EASEMENT DRAINAGE EASEMENT RIGHT-OF-WAY CENTERLINE POINT OF BEGINNING POINT OF COMMENCEMENT
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HARRIS-JORGENSEN, LLC.  
3048 DEL PRADO BLVD. S. #100  
CAPE CORAL, FL. 33904  
239-257-2624



**"EXHIBIT E"**

DESCRIPTION TO ACCOMPANY SKETCH:

(PROPOSED)

**PUBLIC UTILITY AND DRAINAGE EASEMENT IN A  
PORTION OF S.E. 2ND STREET RIGHT OF WAY,  
CAPE CORAL UNIT 18,**

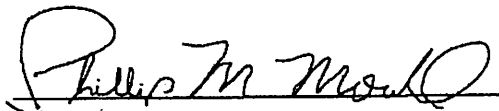
(PLAT BOOK 13, PAGES 96-120,) PUBLIC RECORDS OF  
LEE COUNTY, FLORIDA

**\*\*NOT A BOUNDARY SURVEY\*\***

**DESCRIPTION:**

A PLOT OR PORTION OF RIGHT OF WAY, OF S.E. 2ND STREET, CAPE CORAL UNIT 18, AS RECORDED IN PLAT BOOK 13, PAGES 96-120, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, SAID PLOT OR PORTION BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 32, BLOCK 1338, AND THE WEST RIGHT OF WAY LINE OF S.E. 2ND STREET (50 FEET WIDE), OF THE AFORESAID CAPE CORAL UNIT 18, FOR A POINT OF BEGINNING; THENCE RUN N.88°21'26"E. ALONG THE CENTERLINE OF SAID S.E. 2ND STREET (50 FEET WIDE), FOR 40.00 FEET; THENCE RUN SOUTH TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE), FOR 25.01 FEET; THENCE RUN S.88°21'26"W. ALONG SAID SOUTH RIGHT OF WAY LINE FOR 6.00 FEET; THENCE RUN NORTH FOR 19.01 FEET; THENCE RUN S.88°21'26"W. TO A POINT ALONG THE WEST RIGHT OF WAY LINE OF SAID S.E. 2ND STREET (50 FEET WIDE), FOR 34.00 FEET; THENCE RUN NORTH ALONG SAID WEST RIGHT OF WAY LINE TO THE NORTHEAST CORNER OF THE AFORESAID LOT 32, BLOCK 1338, FOR 6.00 FEET, TO THE POINT OF BEGINNING.  
CONTAINING: SQUARE FEET, MORE OR LESS.

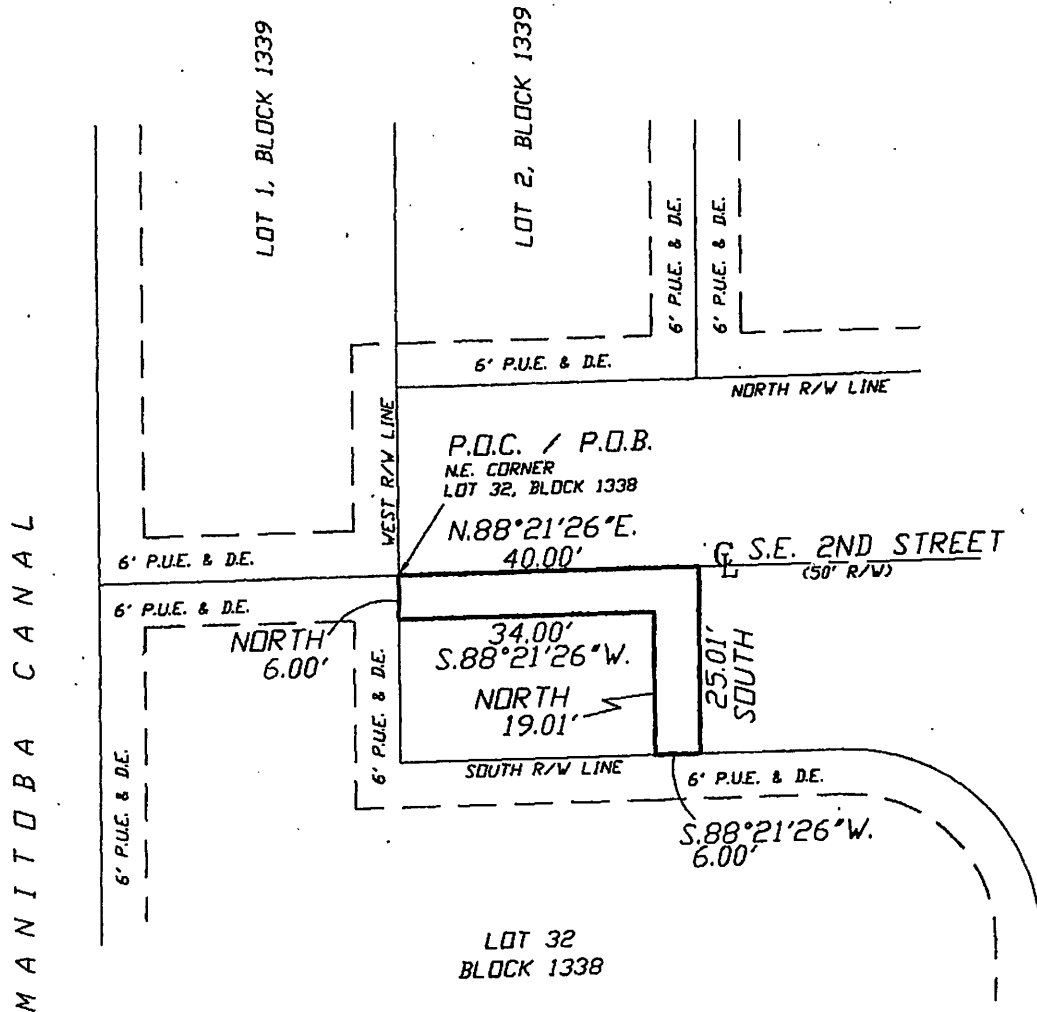


PHILLIP M. MOULD  
PROFESSIONAL SURVEYOR AND MAPPER  
LS6515 - STATE OF FLORIDA  
03/04/2022

CC-U18-1339-1

**PUBLIC UTILITY AND DRAINAGE EASEMENT IN A  
PORTION OF S.E. 2ND STREET RIGHT OF WAY,  
CAPE CORAL UNIT 18,  
(PLAT BOOK 13, PAGES 96-120.) PUBLIC RECORDS OF  
LEE COUNTY, FLORIDA**

NOT A BOUNDARY SURVEY



1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF S.E. 2ND STREET, AS BEING S.88°21'26"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 1339.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
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D.E.	DRAINAGE EASEMENT
R/W	RIGHT-OF-WAY
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