

OFFICE OF THE HEARING EXAMINER
CITY OF CAPE CORAL

HEARING EXAMINER RECOMMENDATION
VAC HEX Recommendation 7-2024

Rendered August 9, 2024

DCD CASE #VAC24-000005

APPLICATION FOR: Vacation of Canal right-of-way and additional platted easements adjacent to Monticello Canal

OWNER/APPLICANT: Freedom Boat Company

APPLICANT'S REPRESENTATIVE: Eric Feichthaler, Esquire

LOCATION OF PROPERTY: 849 Montclair Court, Cape Coral, Florida, 33904
Lots 30 and 31, Block 23, Unit 1, Part 2, Cape
Coral Subdivision

STRAP NUMBER: 18-45-24-C400023.0300

URBAN SERVICE: Infill

ZONING DISTRICT: (R-1)

FUTURE LAND USE CLASSIFICATION: Single Family (SF)

HEARING DATE: August 6, 2024

SUMMARY OF REQUEST:

The owner requests vacating:

- 1,436.11 sq. ft. of canal Right-of-Way (ROW) adjacent to Lots 30 and 31, Block 23, Unit 1, Part 2, Cape Coral Subdivision.
- 1,227.34 sq. ft. of platted easements occupying Lots 30 and 31, Block 23, Unit 1, Part 2, Cape Coral Subdivision.

SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends that City Council **approve** the application for the requested vacations, subject to Conditions one through three and Conditions five through eight below, and with deletion of Condition #4.

NOTICE OF HEARING

Based on the testimony of Patrick Carlton White 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 provided pursuant to 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.

I. PARTICIPANTS IN HEARING

CITY STAFF: Patrick Carlton White, Senior Planner ¹

CITY CLERK’S OFFICE: Sheri Rhine

CITY ATTORNEY’S OFFICE: Cody Vaughn-Birch, Assistant Attorney

APPLICANT’S REPRESENTATIVE: Eric Feichthaler, Esquire

MEMBERS OF PUBLIC: James Lear, Faith McCormick and Mark Miller.
This testimony is discussed below.

TELEPHONE/EMAIL CORRESPONDENCE FROM PUBLIC: Staff received six telephone calls regarding this Application. The callers inquired about the definition of “Vacation” but did not express an opinion for or against.

II. EXHIBITS

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

III. 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:

¹ Mr. White was determined to be an expert witness for purpose of this Hearing, based upon his C.V. on record with the Clerk’s Office and his testimony in prior Hearings regarding issues similar to those under consideration in this Hearing.

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.

TESTIMONY AT HEARING

Incorporation of Staff Report by Applicant’s Representative

The Applicant’s Representative incorporated the Staff Report and Staff Testimony (“Staff Input”) into his presentation by reference, except for any

reference to Condition #4, which he is objecting to and therefore he did not incorporate by reference.

The Applicant's Representative complimented Mr. White on his professionalism and timely work on this Application.

Incorporation of Staff Report by Staff

Staff incorporated his Staff Report and Hearing PowerPoint into his presentation by reference.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony referenced below, other than testimony at public comment, is accepted by the Hearing Examiner as recommended findings of fact, except as specifically noted otherwise. However, all testimony at Public Comment is not incorporated as findings of fact unless the Hearing Examiner specifically so incorporates.

IV. **DISCUSSION**

Site Information and Background of Application

The Applicant's Representative and staff testified that the subject property is a two-lot platted site with water frontage along both the Monterey and Monticello Canals and is located at the terminus of Montclair Court in southern Cape Coral.

Staff testified that the pre-existing structure was demolished in late 2017 pursuant to City demolition permit WEB17-22628. The property is currently vacant.

Surrounding Area

Staff testified that properties to the south, east, west, and north share the same FLU and zoning classifications as this property. The site is in a residential area of the city that is built out with single-family homes.

Applicant's Letter of Intent and Purpose of Application

Applicant's letter of intent, dated April 6, 2024, stated that the purpose of the Vacation request is to remove issues with home loans and title

insurance as well as to allow for an increase to the City's tax base and remove maintenance responsibilities for the City.

The application letter also indicated Applicant's willingness to deed a contiguous six (6) foot public utility and drainage easement around the perimeter of the property to the City.

Public Comment:

James Lear testimony:

Mr. Lear opposed the imposition of a Tree Fund obligation for this property. He testified there exists no ordinance or other action approved by City Council to authorize this fee/assessment. In addition, he stated that the methodology utilized in computation of the contribution had not been approved by Council.

Faith McCormick testimony:

Ms. McCormick testified against the Vacation. She stated this would allow for the construction of larger homes which would block the beautiful views from other properties. Her quality of life would be affected by continued approvals of Vacations allowing these bigger homes and ultimately bigger boats.

Mark Miller testimony:

Mr. Miller testified that he lives next to the subject property. He testified that the City's green space is being swallowed up by approval of Vacations, since the goal is to build bigger structures, bigger pools and bigger foundations. He agreed with Ms. McCormick's testimony. With regard to the amount of the Tree Fund contribution, he testified that the amount seemed to be arbitrary and calculated without any standard.

The City Tree Fund: Proposed Condition #4

Staff proposed the following Condition #4:

*In order to ensure that this vacation request complies with the City's duty to hold certain platted lands in trust for the public interest, the Owner will make a one-time, nonrefundable contribution totaling a minimum of \$32,722.11 into the General Tree Fund. The City may use these funds to acquire and plant black (*Avicennia germinans*) or red (*Rhizophora mangle*) mangrove trees on property owned or managed by the City of Cape Coral to enhance water quality, or any*

other appropriate purposes in accordance with the City of Cape Coral Land Development Code. The General Tree Fund contribution must be completed prior to advertising the adoption of the Resolution approving this vacation request. In the event the City Council does not approve the vacation request, the City shall return these funds to the owner.

Staff testified that the following staff-created methodology was utilized for determination of this Tree Fund contribution by Applicant: the Lee County Property Appraiser's records were used to assess value per square feet, multiplied by the requested vacation area, and then divided in half. Staff confirmed that it had not been reviewed or approved by City Council.

Staff further testified that it might be possible to include language in Condition #4 to provide for a refund if Council determined that was appropriate.

The Applicant's Representative opposed the imposition of Condition #4.² He stated as follows:

1. He had authored the 2006 Cape Coral Tree Ordinance which expanded the ability to plant trees and create tree canopies in Cape Coral. He supports the planting of trees and creation of tree canopies.
2. The Applicant had no notice of a required contribution to the Tree Fund.
3. The proposed charge to Applicant is a 2,100% increase from the Tree Fund charge of \$2,800.00 previously imposed upon other Applicants. This is not reasonable.
4. The draft language proposed by staff for a Tree Fund contribution addresses contributions by developers, not individual homeowners. It has not been adopted by or even formally proposed to City Council.
5. Condition #4 would require payment prior to the Application being heard by City Council and there is no provision in the draft Condition for partial or total refund of the Applicant's funds were City Council

² The Applicant's Representative proffered that, were the City Council to impose a condition requiring the Owner to contribute to the Tree Fund, the Owner would agree to a fee of \$1.00 per square foot, i.e., \$1,436.11. However, he reiterated that this fee was not proper. The Hearing Examiner does not recommend that this offer be accepted, due to her concerns about the Fee process itself.

to determine the funds need not be paid in full or in part. This is not appropriate.

6. It is in the public interest that residents can rely on the written regulations of the City when seeking these types of Council approvals.

The General Tree Fund and the South Cape Tree Fund were legally established by City Council in LDC Section 5.5.19.

The only other LDC reference to these two tree funds exists in LDC § 5.5.13, which states that "*provisions of this section shall not apply to single-family detached dwellings.. unless otherwise specifically stated herein.*"

LDC § 5.5.13.A.3.c. addresses contributions to the Tree Fund but does not appear to include single-family detached dwellings in its scope. There is a reference in this subsection to City Council's establishing by Resolution the *developer's* tree contribution amount for mitigation purposes in this subsection, but it does not appear to apply to re-development of one single-family residence in an already built-out area of the City.

The Land Development Code section on Vacations does not address the necessity of contributions to the Tree Fund by residential property owners, nor did anything in the Application materials for this Hearing contain this requirement.

From testimony, it appears that the City Council has not approved, by Resolution or otherwise, imposition of this requirement on single-family homeowners and has not approved, by Resolution or otherwise, the methodology of computation of such fee if such Council approval were granted.

The LDC requirement that such Resolution would be required as to *developers'* contribution would lend weight to the perspective that, at a minimum, City Council would review such fee imposition on homeowners as well.

In short, the Hearing Examiner is concerned about how this Tree Fund obligation has been implemented as to owners of individual single-family residences, and specifically the imposition of the Tree Fund fee obligation solely on Applicants for Vacation.³ An additional concern is the methodology utilized by staff to compute the fee.

³ No testimony was proffered regarding whether this obligation is being imposed on other residential properties whose owners are requesting relief under City Ordinances.

The Assistant City Attorney present at the Hearing did not provide input regarding this matter. Accordingly, the position of the City Attorney as to Condition #4 is unclear.

The Hearing Examiner envisions three possible scenarios regarding Condition #4, insofar as it pertains *solely* to involuntary contributions to the City's Tree Fund:

1. *Proceed* with the imposition of the Tree Fund contribution as stated. The Hearing Examiner does not recommend this, for the reasons set forth above.
2. *Hold in abeyance* this Vacation application and all others in which the Applicant has opposed the involuntary imposition of this condition. The Hearing Examiner does not recommend this, due to the length of time it may take for the City to further consider and address all aspects of this policy. Such abeyance could have a chilling effect on commercial construction and post-Hurricane rebuilding of residential properties, to the detriment of both the City and its residents and citizens.
3. *Suspend* the requirement of mandatory involuntary contributions to the Tree Fund by Applicants for Vacations on a temporary basis, pending further review by the City Attorney, City staff and, ultimately, City Council. This would allow vacation applications to be considered and, potentially, approved without this obligation, while giving staff, the City Attorney, and Council the time and opportunity to review.

The Hearing Examiner recommends suspension of the mandatory involuntary contribution to the Tree Fund by Applicants for Vacations on a temporary basis, so as to allow for in-depth City review.

NOTE: The proposed suspension would not apply to those prior or pending Applications for vacations in which the Applicant stipulates/has stipulated to all the conditions proposed by staff (including but not limited to the imposition of a contribution by Applicant to the Tree Fund as part of the approval process). This would be deemed to be voluntary agreement to pay the fee.

The Hearing Examiner recommends deletion of the proposed Condition #4 below and approval of the Vacation with the remaining Conditions.

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, March 4, 2024), Century Link/Lumen (March 27, 2024), and Comcast (March 22, 2024) were supplied by Applicant. (LDC §3.4.5.A.1.b-e)

LCEC's letter of March 4, 2024, contained the proviso that if there were any substantial changes to the plans as submitted, LCEC reserves the right to further review and comment and also required a continuous perimeter easement surrounding the property. Applicant has agreed to the perimeter easement condition, as set forth below.

The Letter from Century Link stated that if Century Link facilities were found and/or damaged within the proposed vacation area, the Applicant would be solely responsible for the cost of relocation or repair thereof.

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)

These documents are part of the Application.

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 involved right-of-way (ROW) consists of a narrow unexcavated strip of land, lying between the northern and eastern property lines and the two adjacent canals and that the ROW is not part of the functioning canal system; accordingly, he testified, it would not support mobility or provide a transportation benefit. Based on these factors, staff testified that this ROW does not appear to have any foreseeable value for transportation purposes, access, water management, or utility functions.

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)*

The Applicant and staff both testified that sufficient easements would be retained by the City so as to provide a continuous perimeter easement around the expanded site and that no additional easements would be necessary.

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 canal ROW proposed to be vacated is not part of any functioning waterway system. Accordingly, navigability and visibility would not be affected and the proposed vacation would not cause any adverse impacts to surrounding properties.

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)*

The area proposed for vacation does not include an area for a land or water-based vehicle to turn around and exit.

Staff further testified that the vacation would not result in the closure or alteration of either of the two involved canals and therefore have no effect on boat travel there.

Accordingly, the Hearing Examiner recommends a finding that this standard **does not apply** to Applicant.

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)*

Applicant's compliance with this requirement is addressed above.

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

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 City lacks specific policies in the Comprehensive Plan for vacations involving residential-zoned lands.

However, staff further testified that the Application is consistent with the requirements of Table 1 appearing in Policy 1.15 of the Future Land Use Element which identifies the R-1 District as consistent with the Single Family (SF) FLUC.

Staff further testified that this Application is also consistent with Policy 1.15: Single Family Residential: Sites of 10,000 square feet and greater, with densities not to exceed 4.4 units per acre.

He testified it is consistent specifically with Policy 1.15.a, as the site is proposed to be expanded to ±12,461.4 square feet, if the City Council were to grant the ROW vacation.

Finally, staff testified that following the vacation (if granted) and the eventual construction of a single-family dwelling, this site would have a density of 3.5 dwelling units (DU) per acre, 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, **would be consistent** with the City Comprehensive Plan, Land Development Code, and all other applicable law.

V. **RECOMMENDED CONDITIONS OF APPROVAL**

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

1. Consistency with Exhibit "A". The vacation of the 1,436.11 square feet of canal ROW and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC., labeled "Exhibit A".
2. Consistency with Exhibit "B". The vacation of 1,227.34 square feet of platted easements shall be consistent with that show in the sketch and accompanying legal description prepared by Harris-Jorgensen, LLC., labeled "Exhibit B".
3. Consistency with Exhibit "C". The City shall retain easements sufficient for maintaining a six-foot wide perimeter easement around the site as depicted in the accompanying sketches and legal descriptions prepared by Harris-Jorgensen, LLC., labeled "Exhibit C".
4. ~~In order to ensure that this vacation request complies with the City's duty to hold certain platted lands in trust for the public interest, the Owner will make a one time, nonrefundable contribution totaling a minimum of \$32,722.11 into the General Tree Fund. The City may use these funds to acquire and plant black (Avicennia germinans) or red (Rhizophora~~

~~mangle) mangrove trees on property owned or managed by the City of Cape Coral to enhance water quality, or any other appropriate purposes in accordance with the City of Cape Coral Land Development Code. The General Tree Fund contribution must be completed prior to advertising the adoption of the Resolution approving this vacation request. In the event the City Council does not approve the vacation request, the City shall return these funds to the owner. Recommend deletion of this Condition per above Hearing Examiner analysis.~~

5. Reimbursement of Recording Fee. The owner shall pay to the City of Cape Coral the cost of recording this resolution with the Office of the Lee County Clerk of Court.
6. Recording of Resolution. 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 owner.
7. Applicant's Sole Responsibility. It is the Applicant's full and complete responsibility for compliance with the requirements of law and the Vacation procedures as set out in the LDC, in connection with or arising out of any vacation proceedings initiated by Applicant. The City, City Council, and all officers, employees and agents thereof do not assume any responsibility or liability for any matters and things to be done or completed by Applicant under the LDC or other law.
8. Compliance with Zoning District Standards and Requirements and Inclusion of LDC, City Ordinances and Other Applicable Law. Applicant shall comply with all standards and requirements for the zoning district in which the property is located and all other requirements set forth in the LDC, City ordinances and all other applicable laws and regulations, incorporated herein by reference.

VI. EXHIBITS

The following Exhibits are attached hereto and incorporated by reference:

- Exhibit "A": as set forth above.
- Exhibit "B": as set forth above.
- Exhibit "C": as set forth above.

VAC HEX RECOMMENDATION 7-2024
August 9, 2024
Freedom Boat Company
DCD Case # VAC24-000005

The Hearing Examiner herewith **RECOMMENDS APPROVAL** of the request for the above-referenced Vacation filed by Applicant, inclusive of Conditions 1 through 3 and 5 through 8, and **DELETION OF CONDITION #4.**

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA



ANNE DALTON, ESQUIRE

August 9, 2024
DATE

ATTEST:

CITY CLERK

EXHIBIT "F"

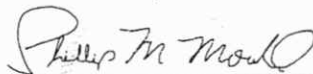
DESCRIPTION TO ACCOMPANY SKETCH:
PROPOSED VACATION OF:

PORTION OF MONITCELLO AND
MONTEREY CANAL RIGHT OF
WAYS, CAPE CORAL UNIT 1,
PART TWO

(PLAT BOOK 11, PAGES 29-36)
SECTION 18, TOWNSHIP 45 SOUTH, RANGE 24 EAST
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF LOT 31, BLOCK 23, CAPE CORAL UNIT ONE, PART TWO, AS RECORDED IN PLAT BOOK 11, PAGES 29-36, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN NORTH TO A POINT ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 6.06 FEET; THENCE RUN S.89°44'26"E. ALONG SAID SEAWALL TO A POINT OF CURVATURE FOR 132.69 FEET; THENCE RUN ALONG SAID SEAWALL AND THE ARC OF A CURVE TO THE RIGHT FOR 19.79 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 34.84 FEET, A CENTRAL DELTA ANGLE OF 32°32'20", A CHORD THAT BEARS S.73°53'21"E., AND A CHORD DISTANCE OF 19.52 FEET, TO A POINT OF CUSP OF CURVATURE; THENCE RUN ALONG SAID FACE OF SEAWALL AND THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST FOR 16.25 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 21.37 FEET, A CENTRAL DELTA ANGLE OF 43°33'37", A CHORD THAT BEARS S.25°47'39"E., AND A CHORD DISTANCE OF 15.86 FEET; THENCE RUN ALONG SAID FACE OF SEAWALL S.00°09'55"W. FOR 65.76 FEET; THENCE RUN WEST TO THE SOUTHEAST CORNER OF LOT 30, BLOCK 23, SAID CAPE CORAL UNIT ONE, PART TWO FOR 6.15 FEET; THENCE RUN NORTH 55.00 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT FOR 39.27 FEET; SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 25.00 FEET, A CENTRAL DELTA ANGLE OF 90°00'00", A CHORD THAT BEARS N.45°00'00"W., AND A CHORD DISTANCE OF 35.36 FEET; THENCE RUN WEST TO THE AFORESAID NORTHWEST CORNER OF LOT 31, BLOCK 23 FOR 127.00 FEET, TO THE POINT OF BEGINNING.
CONTAINING: 1,436.11 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
10/27/2022

CC-U1-23-30

SHEET 2 OF 2

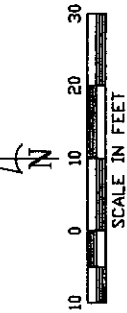
HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SEE EXHIBIT 'F' FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
 'NOT A BOUNDARY SURVEY'

SKETCH TO ACCOMPANY DESCRIPTION
 PROPOSED VACATION OF:

PORTION OF MONITCELLO AND MONTEREY CANAL RIGHT OF WAYS, CAPE CORAL UNIT 1, PART TWO,

(PLAT BOOK 11, PAGES 29-36)
 SECTION 18, TOWNSHIP 45 SOUTH, RANGE 24 EAST
 PUBLIC RECORDS OF LEE COUNTY, FLORIDA



MONITCELLO CANAL

WATERS EDGE FACE
 OF CONCRETE
 SEAWALL

S.89°44'26"E. 132.69'

WEST 127.00' 6' P.U.E. & D.E.

P.O.C./P.O.B.
 N.W. CORNER
 LOT 31, BLOCK 23

LOT 32
 BLOCK 23
 6' P.U.E. & D.E.

Curve number 1

Radius= 34.84'
 Delta= 32°32'20"
 Arc= 19.79'
 Tangent= 10.17'
 Chord= 19.52'
 Chord Brg.= S.73°53'21"E.

Curve number 2

Radius= 21.37'
 Delta= 43°33'37"
 Arc= 16.25'
 Tangent= 8.54'
 Chord= 15.86'
 Chord Brg.= S.25°47'39"E.

Curve number 3

Radius= 25.00'
 Delta= 90°00'00"
 Arc= 39.27'
 Tangent= 25.00'
 Chord= 35.36'
 Chord Brg.= N.45°00'00"W.

LEGEND:

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

WATERS EDGE FACE
 OF CONCRETE
 SEAWALL

MONTEREY CANAL
 S.00°09'55"W. 65.76'

NORTH 55.00' 6' P.U.E. & D.E.

LOT 31, BLOCK 23

LOT 30, BLOCK 23

LOT 29, BLOCK 23

WEST
 6.15'

6' P.U.E. & D.E.

6' P.U.E. & D.E.

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREIN TAKEN FROM THE NORTH LINE OF LOT 31, BLOCK 23, CAPE CORAL UNIT ONE PART TWO, AS BEING NORTH.
2. FIELD NOTES IN CAPE CORAL, BLOCK 23.
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. THIS SKETCH/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
8. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

DRAWN PMM	CHECK FBH	SCALE 1"=20'	PROJ. # CC-UI-23-30	HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921
SKETCH DATE 10/27/22	FILE NO. 45-24-18	SHT.- 1 OF - 2	FLORIDA CERTIFICATE OF AUTHORIZATION LB6921	

EXHIBIT "G"

DESCRIPTION TO ACCOMPANY SKETCH:
PROPOSED VACATION OF:

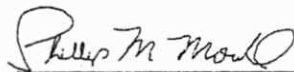
*PORTION OF PUBLIC UTILITY
AND DRAINAGE EASEMENT IN
LOTS 30 AND 31, BLOCK 23,
CAPE CORAL UNIT 1, PART TWO*

(PLAT BOOK 11, PAGES 29-36)
SECTION 18, TOWNSHIP 45 SOUTH, RANGE 24 EAST
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF LOT 31, BLOCK 23, CAPE CORAL UNIT ONE, PART TWO, AS RECORDED IN PLAT BOOK 11, PAGES 29-36, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN EAST FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN EAST FOR 121.00 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT FOR 39.27 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 25.00 FEET, A CENTRAL DELTA ANGLE OF 90°00'00", A CHORD THAT BEARS S.45°00'00"E., AND A CHORD DISTANCE OF 35.36 FEET; THENCE RUN SOUTH FOR 49.00 FEET; THENCE RUN WEST FOR 6.00 FEET; THENCE RUN NORTH FOR 49.00 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE LEFT FOR 29.85 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 19.00 FEET, A CENTRAL DELTA ANGLE OF 90°00'00", A CHORD THAT BEARS N.45°00'00"W., AND A CHORD DISTANCE OF 26.87 FEET; THENCE RUN WEST FOR 121.00 FEET; THENCE RUN NORTH FOR 6.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 1,227.34 SQUARE FEET, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
10/27/2022

CC-U1-23-30

SHEET 2 OF 2

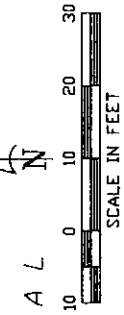
HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SEE EXHIBIT 'G' FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
 NOT A BOUNDARY SURVEY

SKETCH TO ACCOMPANY DESCRIPTION:
 PROPOSED VACATION OF:

PORTION OF PUBLIC UTILITY AND DRAINAGE EASEMENT IN LOTS 30 AND 31, BLOCK 23, CAPE CORAL UNIT 1, PART TWO,

(PLAT BOOK 11, PAGES 29-36)
 SECTION 18, TOWNSHIP 45 SOUTH, RANGE 24 EAST
 PUBLIC RECORDS OF LEE COUNTY, FLORIDA



MONTICELLO CANAL

P.O.B. NORTH 6.00'
 EAST 6.00'

CONCRETE SEAWALL

EAST 121.00'

WEST 121.00'

P.O.C. N.W. CORNER LOT 31, BLOCK 23

6' P.U.E. & D.E.

6' P.U.E. & D.E.

LOT 32 BLOCK 23

LOT 31, BLOCK 23

LOT 30, BLOCK 23

WEST 6.00'

6' P.U.E. & D.E.

6' P.U.E. & D.E.

- Curve number 1
 - Radius= 25.00'
 - Delta= 90°00'00"
 - Arc= 39.27'
 - Tangent= 25.00'
 - Chord= 35.36'
 - Chord Brg.= S. 45°00'00"E.
- Curve number 2
 - Radius= 19.00'
 - Delta= 90°00'00"
 - Arc= 29.85'
 - Tangent= 19.00'
 - Chord= 26.87'
 - Chord Brg.= N. 45°00'00"W.

MONTICELLO CANAL CONCRETE SEAWALL

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE NORTH LINE OF LOT 31, BLOCK 23, CAPE CORAL UNIT ONE PART TWO, AS BEING NORTH.
2. FIELD NOTES IN CAPE CORAL, BLOCK 23, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
4. 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.
5. THIS SKETCH/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
6. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
7. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

LEGEND:
 DR. OFFICIAL RECORDS BOOK
 P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCEMENT
 R/W RIGHT-OF-WAY
 & CENTERLINE
 P.U.E. PUBLIC UTILITY EASEMENT
 D.E. DRAINAGE EASEMENT

LOT 29, BLOCK 23

DRAWN: PMH	CHECK: FBH	SCALE 1"=20'	PROJ. # CC-UI-23-30	HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921
SKETCH DATE 10/27/22	FILE NO. 45-24-1B	SHT. - 1	DF - 2	

FLORIDA CERTIFICATE OF AUTHORIZATION LB6921

EXHIBIT "H"

DESCRIPTION TO ACCOMPANY SKETCH:

PROPOSED OF:

PUBLIC UTILITY AND DRAINAGE EASEMENT IN A PORTION OF MONITCELLO AND MONTEREY CANAL RIGHT OF WAYS, CAPE CORAL UNIT 1, PART TWO

(PLAT BOOK 11, PAGES 29-36)

SECTION 18, TOWNSHIP 45 SOUTH, RANGE 24 EAST

PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF LOT 31, BLOCK 23, CAPE CORAL UNIT ONE, PART TWO, AS RECORDED IN PLAT BOOK 11, PAGES 29-36, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTH FOR 0.06 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH TO A POINT ALONG THE WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 6.00 FEET; THENCE RUN S.89°44'26"E. ALONG SAID SEAWALL FOR 132.69 FEET TO A POINT OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE TO THE RIGHT FOR 19.79 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 34.84 FEET, A CENTRAL DELTA ANGLE OF 32°32'20", A CHORD THAT BEARS S.73°53'21"E., AND A CHORD DISTANCE OF 19.52 FEET TO A POINT OF CUSP OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST FOR 16.25 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 21.37 FEET, A CENTRAL DELTA ANGLE OF 43°33'37", A CHORD THAT BEARS S.25°47'39"E., AND A CHORD DISTANCE OF 15.86 FEET; THENCE RUN S.00°09'55"W. ALONG SAID WATERS EDGE FACE OF A CONCRETE SEAWALL FOR 65.76 FEET; THENCE RUN WEST FOR 6.00 FEET; THENCE RUN N.00°09'55"E. TO A POINT OF CUSP OF CURVATURE FOR 65.54 FEET; THENCE RUN ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST FOR 10.98 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 15.37 FEET, A CENTRAL DELTA ANGLE OF 40°54'44", A CHORD THAT BEARS N.25°13'09"W., AND A CHORD DISTANCE OF 10.74 FEET TO A POINT OF CUSP OF CURVATURE; THENCE RUN ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST FOR 15.83 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 28.84 FEET, A CENTRAL DELTA ANGLE OF 31°27'11", A CHORD THAT BEARS N.74°25'55"W., AND A CHORD DISTANCE OF 15.63 FEET; THENCE RUN N.89°44'26"W. FOR 132.66 FEET, TO THE POINT OF BEGINNING. CONTAINING: 1,378.11 SQUARE FEET, MORE OR LESS.

Phillip M. Mould

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
10/27/2022

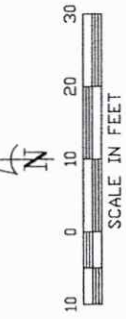
CC-U1-23-30

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SEE EXHIBIT 'H' FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
 'NOT A BOUNDARY SURVEY'

SKETCH TO ACCOMPANY DESCRIPTION PROPOSED:

PUBLIC UTILITY AND DRAINAGE EASEMENT IN A PORTION OF MONITCELLO AND MONTEREY CANAL RIGHT OF WAYS, CAPE CORAL UNIT 1, PART TWO,



MONITCELLO CANAL

WATERS EDGE FACE OF CONCRETE SEAWALL

NORTH 6.00'

P.O.B.

NORTH 0.06'

LOT 32

BLOCK 23

P.O.C. N.W. CORNER LOT 31, BLOCK 23

LOT 31, BLOCK 23

LOT 30, BLOCK 23

LOT 29, BLOCK 23

S.89°44'26"E. 132.69'

N.89°44'26"W. 132.66'

N.00°09'55"E. 65.54'

S.00°09'55"W. 65.76'

WATERS EDGE FACE OF CONCRETE SEAWALL

MONTEREY CANAL

WEST 6.00'

S. LINE LOT 30 BEARING=WEST

Curve number 3
 Radius= 15.37'
 Delta= 40°54'44"
 Arc= 10.98'
 Tangent= 5.73'
 Chord= 10.74'
 Chord Brg.= N.25°13'09"W.

Curve number 1
 Radius= 34.84'
 Delta= 32°32'20"
 Arc= 19.79'
 Tangent= 10.17'
 Chord= 19.52'
 Chord Brg.= S.73°53'21"E.

Curve number 4
 Radius= 28.84'
 Delta= 31°27'11"
 Arc= 15.83'
 Tangent= 8.12'
 Chord= 15.63'
 Chord Brg.= N.74°25'55"W.

Curve number 2
 Radius= 21.37'
 Delta= 43°33'37"
 Arc= 16.25'
 Tangent= 8.54'
 Chord= 15.86'
 Chord Brg.= S.25°47'39"E.

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREIN TAKEN FROM THE SOUTH LINE OF LOT 30, BLOCK 23, CAPE CORAL UNIT ONE PART TWO, AS BEING WEST.
2. FIELD NOTES IN CAPE CORAL, BLOCK 23, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
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6. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
7. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 20 SCALE DRAWING.

LEGEND:

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

DRAWN: PMM	CHECK: FBH	SCALE: 1"=20'	PROJ. #: CC-UI-23-30	HARRIS-JORGENSEN, LLC 3048 DEL PRADO BLVD. S. #100 CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921	
SKETCH DATE: 10/27/22	FILE NO.:	45-24-18	SHT.:- 1	OF - 2	FLORIDA CERTIFICATE OF AUTHORIZATION LB6921