

AGENDA FOR THE HEARING EXAMINER

Tuesday, December 4, 2018 9:00 AM Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. Case #DE18-0023*; Address: The site is located north of Commercial Park Place and is northwest of the intersection of SW 19th Avenue and Pine Island Road; Applicant: City of Cape Coral
- B. Case #SE18-0009*; Address: The site is located north of Commercial Park Place and is northwest of the intersection of SW 19th Avenue and Pine Island Road.; Applicant: City of Cape Coral
- C. Case #SE18-0011*; Address: 221 and 227 SW 3rd Avenue; Applicant: 227 Nicholas Pines Center, LLC
- D. Case #SE18-0012*; Address: 19 Chiquita Boulevard North; Applicant: New Cape Properties, LLC
- E. Case #SE18-0013*; Address: 1600 and 1604 Beach Parkway; Applicant: V and A Builders, Inc.

3. DATE AND TIME OF NEXT HEARINGS

A. Tuesday, January 8, 2019, at 9:00 a.m., in Council Chambers

4. ADJOURNMENT

In accordance with the Americans with Disabilities Act and <u>Florida Statutes</u> 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0411 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

If a person decides to appeal any decision made by the Board/Commission/Committee with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon

PLEDGE OF CIVILITY We will be respectful of each other even when we disagree. We will direct all comments to the issues. We will avoid personal attacks.

The hearing shall, to the extent possible, be conducted as follows:

- 1. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or the Applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
- 2. The Applicant, staff, and all Participants requesting to speak or present evidence or both the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
- 3. Staff will testify regarding proper notice of the Hearing in accordance with City requirements.
- 4. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the Applicant, a Public Hearing shall be held for all decisions requiring an ordinance or resolution.

5. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner, determines to proceed in a different order, taking proper consideration of fairness and due process:

- The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
- Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner with the agenda materials, as staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
- Participants in opposition to or support of the application shall make their presentation in any order as determined by the Hearing Examiner. Each Participant shall present their argument in 5 minutes.
- The Applicant may cross-examine any witness and respond to any testimony presented.
- Staff may cross-examine any witness and respond to any testimony presented.
- The Hearing Examiner may choose to allow Participants to respond to any testimony if the Hearing Examiner deems the response to be necessary to ensure fairness and due process.
- The Hearing Examiner, may ask questions of the staff, Applicant, and Participants.
- Final argument may be made by the Applicant, related solely to the evidence in the record.
- Final argument may be made by the staff, related solely to the evidence in the record.
- For good cause shown, the Hearing Examiner may grant additional time to any of the hereinabove time limitations.
- The Hearing Examiner's, decisions must be based upon Competent Substantial Evidence in the record.

Item Number: 2.A. Meeting Date: 12/4/2018 Item Type: HEARINGS

AGENDA REQUEST FORM

CITY OF CAPE CORAL



TITLE:

Case #DE18-0023*; Address: The site is located north of Commercial Park Place and is northwest of the intersection of SW 19th Avenue and Pine Island Road; Applicant: City of Cape Coral

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?	No
2. Is this a Strategic Decision?	No
If Yes, Priority Goals Supported are listed below.	
If No, will it harm the intent or success of the Strategic Plan?	No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The owner, the City of Cape Coral, requests a deviation from the Land Use and Development Regulations, Section 5.6, to allow a booster pump station building in the Corridor District to be exempt from the non-residential design standards.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Materials"

PREPARED BY:

Kristin Kantarze

Division- Planning

Department-Community Development

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

ATTACHMENTS:

Description

Backup Materials

Type Backup Material





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FEE \$673.00 - In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

APPLICANT/OWNER OF PROPERTY CITY OF CAPE CORAL	Address 1015 Cultural Park Blvd
Email Address khiggins@capecoral.net	Cape Coral, FL Zip Code 33990
	Phone239-574-0706
AUTHORIZED REPRESENTATIVE	Address
Kevin Higginson	815 Nicholas Parkway East
Email Addresskhiggins@capecoral.net	Cape Coral, FL Zip Code 33990
	Phone 239-574-0706
Location: UnitBlock	_Lot(s) Subdivision
Legal Description	
Address Of Property Commercial Park Blvd	Plat Book, Page Strap Number 16-44-23-C3-00007.001A
THIS APPLICATION SHALL ALSO HAVE ANY ADDITIO	NAL REQUIRED SUPPORTING DOCUMENTS
Name (Type or Print)	Applicant's Signature
STATE OF FLORIDA COUNTY OF LEI	
STATE OF COUNT OF	
Sworn to (or affirmed) and subscribed before me th	- 0 -1

Deviation_non_residential_design_standards_11_21_16



Case # DE18-0023

ACKNOWLEDGEMENT FORM

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner, Planning & Zoning Commission/Local Planning Agency, and City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

A. John Szerlag, City Manager PROPERTY OWNER (PLEASE PRINT)

OWNER (SIGNATURE

STATE OF FLORIDA COUNTY OF LEE Sworn to (or affirmed) and subscribed before me this 15 day of Augs 2018 . by who is personally known or has produced amon Connie as identification. Commission Number 65-009419 Exp. Date 71 RACHEL MURPHY Signature of Notary Publi COMMISSION # GG009419 EXPIRES July 06, 2020 Print Name of Notary Public



Case # DE18-0023

	AUTHORIZA	TION TO REPRESENT PF	OPERTY OWNER(s)	
PLEASE BE ADVISED	THAT Kevin Higgin	son		
			erson giving presentation)	
IS AUTHORIZED TO	REPRESENT ME IN THI	APPEAL TO THE HEARI	NG EXAMINER, OR CITY CO	UNCIL FOR
Deviation (Non-residential Design	Standards)		
(Type of Public	Hearing - i.e. PDP, Zo	ning, Special Exception,	Variance, etc.)	
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		16 Tur 14 Cauth Day	22 Fret Les Courts Fl	
OR LEGAL DESCRIPT	ION Parcel in Sectio	n 10, Twp 44 South, Rgt	23 East, Lee County, FL	
OR LEGAL DESCRIPT		DUNTY OF LEE, FLORIDA		
	TY OF CAPE CORAL, CC		loume Ban	
LOCATED IN THE CIT	TY OF CAPE CORAL, CC			
LOCATED IN THE CI A. John Szerlag, Cit PROPERTY OWNER	TY OF CAPE CORAL, CC	DUNTY OF LEE, FLORIDA	loume Ban	
LOCATED IN THE CIT A. John Szerlag, Cit PROPERTY OWNER STATE OF FLORIDA	TY OF CAPE CORAL, CO by Manager (PLEASE PRINT) COUNT ed) and subscribed be	OUNTY OF LEE, FLORIDA	loume Ban	ATURE)
A. John Szerlag, Cit PROPERTY OWNER STATE OF FLORIDA Sworn to (or affirme	TY OF CAPE CORAL, CO y Manager (PLEASE PRINT) COUNT ed) and subscribed be	OUNTY OF LEE, FLORIDA	Course Ban PROPERTY OWNER (SIGN	ATURE) 20_ 1% , by or has produced

Note: Please list all owners, if a corporation, please supply the Planning Division with a copy of corporation papers.



Case # DE18-0023

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

A. John Szerlag, City Manager OWNER/APPLICANT (PLEASE TYPE OR PRINT)

Ser A Set Seekay

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FLORIDA

COUNTY OF LEE

Exp. Date 7/6 Commission #

Notan Signature of

Print Name of Notary Public

MY COMMISSION # GG009419 EXPIRES July 08, 2020

MEMORANDUM

CITY OF CAPE CORAL UTILITIES DEPARTMENT

TO: Vincent A. Cautero, Community Development Director

FROM: Jeff Pearson, Utilities Director

DATE: July 19, 2018

SUBJECT: Non-Residential Design Standards – Letter of Intent – Irrigation Storage Tank Strap Number: 16-44-23-C3-00007.001A

The Utilities Department respectfully requests evaluation of our Deviation Application to permit the development of an Irrigation Storage and Plumbing Facility on the subject property. The proposed site is currently zoned Corridor (CORR) and is located north of Pine Island Road and west of Chiquita Boulevard. A deviation from the Non-Residential Standards is requested for the proposed use, Essential Facilities Group 1, in the CORR District. This application is being submitted concurrently with a request for Special Exception. The purpose of the deviation is to eliminate design requirements that will result in unnecessary or undue hardship to the City in development of the essential facility, given that the equipment building will be shielded by landscape buffer vegetation and set back approximately 900 feet from Pine Island Road, the nearest public right-of way.

Your consideration of this request is appreciated. Should you have any questions or concerns please feel free to contact me.

JP/KLH:sle

C: Dolores Menendez, City Attorney Terri Hall, Assistant to the City Manager Dana Brunett, Economic Development Director Kevin Higginson, Utilities Extension Manager Paul Clinghan, Public Works Director

Irrigation Storage Tank

Deviations to the Non-Residential Design Standards

Justification Narrative

August 17, 2018

Request: Approve Deviations to the Non-Residential Design Standards to permit development of an Essential Services Group I facility in the Corridor (CORR) Zoning District.

In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner (or the City Council, when applicable) shall consider include, but are not limited to, the following:

- 1. Site constraints such as shape, topography, dimensions, and area of the property,
 - a. The site is located approximately 900 feet from the closest public right-ofway. The building will not be visible from the street and it is impractical to meet the standards for design of the two 5-million-gallon storage tanks.
- The effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable,
 - a. The proposed pump station must include design elements that provide access for servicing the proposed pumps, chemical feed and standby power. These design elements include lorge garage doors, roof access doors that would make compliance with the design standards impracticable.
- The effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and
 - a. As noted above, the site is located approximately 900 feet away from the closest public street. In addition, the proposed building and tanks are over 400 feet away from existing and approved buildings an nearby sites and a minimum 50-foot vegetative buffer will be provided that will shield the proposed building and tanks from view by the public.
- The relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas.
 - a. All equipment and loading areas will be screened.





IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR LEE COUNTY, FLORIDA Civil Action

CITY OF CAPE CORAL,

Petitioner,

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Case No. 2017-CA-002626

FLORIDA PROPERTIES III, LLC, a Florida limited liability company; et al.,

Defendants.

ORDER OF TAKING

THIS CAUSE having come upon Petitioner, CITY OF CAPE CORAL'S application for an Order of Taking, and it appearing to the Court that proper notice was first given to Defendants, FLORIDA PROPERTIES III, LLC, a Florida limited liability company, HENRY A. MORRONI, Individually and as Trustee; and LARRY D. HART, LEE COUNTY TAX COLLECTOR, and to all persons having or claiming any equity, lien, title, or other interest in or to the real property described in the Petition, and the Court being fully advised in the premises, it is

ORDERED AND ADJUDGED:

 This Court has jurisdiction of this action, of the subject property, and of the parties in this cause pursuant to Chapters 73 and 74 of the Florida Statutes.

 The pleadings in this cause are sufficient and the Petitioner is properly exercising its delegated authority.

3. The Declaration of Taking (estimate of value) filed in this cause by the Petitioner was made in good faith and based upon a valid appraisal.

 The acquisition of the property by the CITY OF CAPE CORAL is necessary for the uses and purposes set forth in the Petition filed herein.

The Petitioner shall deposit its good faith estimate of value in the sum of THREE

HUNDRED TWENTY-ONE THOUSAND SIX HUNDRED and NO/100 DOLLARS (\$321,600.00),

into the Registry of the Court, within twenty (20) days of the date of this Order.

6. Upon the payment of the deposit of Petitioner's good faith estimate into the Registry of this Court, all right, title and interest in the property, more particularly described in Exhibit "A" attached hereto, shall vest in the CITY OF CAPE CORAL.

7. That upon deposit of the sum set forth above and without further notice or order of this Court, the Petitioner shall be entitled to immediate possession of the property described in Exhibit "A".

 This Order is entered without prejudice to the Defendants' right to a trial by jury to determine the amount of compensation ultimately to be paid for the property.

DONE AND ORDERED in Lee County, Ft. Myers, Florida, this 13⁺ day of November, 2017.

HONORABLE JAY B.4 OSMAN

CIRCUIT COURT JUDGE

Copies to: All Parties on attached Service List

EXHIBIT A

Property Description

Portion of STRAP #: 16-44-23-C3-00007.0010 Folio ID: 10069925

A PARCEL OF LAND LYING IN THE SE 1/4 OF SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SE 1/4; THENCE N 87°42'20" E ALONG THE SOUTH LINE OF SAID SE 1/4 FOR 334.95 FEET TO THE EAST LINE OF THE W 1/2 OF THE W 1/2 OF THE W 1/2 OF THE SE 1/4 OF SAID SECTION 16; THENCE N 00°03'31" E ALONG SAID EAST LINE FOR 966.98 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE N 00°03'31" E FOR 641.30 FEET; THENCE N 89°47'58" W LEAVING SAID EAST LINE FOR 333.98 FEET TO THE WEST LINE OF THE SE 1/4 OF SAID SECTION 16; THENCE S 00°05'00" W ALONG SAID WEST LINE FOR 642.13 FEET; THENCE S 89°56'29" E LEAVING SAID WEST LINE FOR 334.25 FEET TO THE **POINT OF BEGINNING**. CONTAINING 4.922 ACRES, MORE OR LESS.

SAID PARCEL BEING A PORTION OF A TRACT OF LAND RECORDED IN INSTRUMENT #2014000265033 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

SUBJECT TO AND TOGETHER WITH THE FOLLOWING DESCRIBED NON-EXCLUSIVE ROADWAY, DRAINAGE AND UTILITY EASEMENT, 50.00 FEET IN WIDTH CENTERED ALONG THE EAST LINE OF THE WEST ONE HALF (W 1/2) OF THE WEST ONE HALF (W 1/2) OF THE WEST ONE HALF (W 1/2) OF THE SOUTHEAST ONE QUARTER (SE 1/4) OF SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, LESS RIGHT-OF- WAY FOR PINE ISLAND ROAD (SR NO. 78), SAID EASEMENT BEGINS AT THE NORTH RIGHT-OF-WAY LINE OF SAID PINE ISLAND ROAD AND TERMINATES AT THE NORTH LINE OF THE SOUTHEAST ONE QUARTER (SE 1/4) OF SAID SECTION 16.

BEARINGS ARE BASED ON THE WEST LINE OF SAID SECTION 16, BEING \$ 00°05'00" W ACCORDING THE DESCRIPTION RECORDED IN SAID INSTRUMENT #2014000265033.

SERVICE LIST

John M. LeRoux, Esq. Law Offices of John M. Leroux, P.A. 3090 Charles Av., Suite 200 Clearwater, FL 33761

Florida Properties III, LLC Serve: Eric S. Adams, Esq. Shutts & Bowen, LLP 4301 W. Boy Scout Blvd., Suite 300 Tampa, FL 33607

and

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Michael E. Siegel, Esq. Shutts & Bowen, LLP 1858 Ringling Blvd., Suite 300 Sarasota, FL 34235

Lee County Tax Collector Serve: R. Noelle Branning, Esq. P.O. Box 850 Fort Myers, FL 33902

Henry A. Morroni, Individually and as Trustee 13540 Brynwood Ln. Fort Myers, FL 33912

- E: John@jmleroux.com Pleadings@jmleroux.com
- E: eadams@shutts.com shatfield@shutts.com
- E: msiegel@shutts.com pdailey@shutts.com
- E: servicecourtdocs@leetc.com noelleb@leetc.com

U.S. Mail

2625486

STATE OF FLORIDA COUNTY OF LEE

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EASEMENT DEDICATION

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THIS INDENTURE made and entered into this __28th_ day of March, 1989, by and between HENRY A. MORRONI, as Trustee, MARSHALL A. PEEPLES, as Trustee, DOUGLAS L. JONES, MARY O. JONES, Individually and as Co-Trustees of THE JONES TRUST AGREEMENT DATED MARCH 19, 1982, and JOHN C. CONNELL, Trustee, and K. T. ENTERPRISES, a Tennessee General Partnership, hereinafter referred to as "Grantors" and all citizens, corporations, individuals, adjoining property owners and the individuals named herein as Grantors, hereinafter referred to as "Grantees";

WITNESSETH:

WHEREAS, the Grantors are seized in fee simple and in possession of lands lying in the East 1/2 of the West 1/2 of the West 1/2 of the Southeast 1/4 of Section 16, Township 44 South, Range 23 East, Lee County, Florida, and that a particular portion of it described in attached Exhibit "A" incorporated herein and by reference made a part hereof; and

WHEREAS, the Grantors hereby dedicate the portion of land that each owns as set forth and attached hereto and described in Exhibit "A" incorporated herein and by reference made a part hereof, to Grantees as an easement for road and utility right-of-way including drainage over and across said property; and

WHEREAS, the Grantors will continue to own their respective fee simple interest in and to that portion of the property set forth in Exhibit "A" which is reflected in the Public Records as being owned by each of them and independent of the What when 155 What when the weather July Daw out other.

NOW, THEREFORE, Pursuant to this document and in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, receipt is hereby acknowledged by said Grantors, Grantors hereby grant unto Grantees, their heirs, assigns, and successors in interest and to all other likely situated as above described and their heirs, assigns, and successors;

Full and free right and liberty for them and their tenants, servants, visitors and licensees in common with all persons having the like right, at all times hereafter, for all purposes connected with the use and enjoyment of the land of the Grantee and those likely situated for whatever purposes the land, from time to time, lawfully may be used and enjoyed to pass and repass along the provided roadway or roadways more particularly described as set forth in Exhibit "A" incorporated herein and by reference made a part hereof.

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To have and to hold the easement or right-of-way hereby granted unto Grantees, their heirs, assigns, successors and these likely situated as described above, and their heirs, assigns and successors, as appurtenant to the land of the Grantee and those likely situated in every part of it.

It is understood that the easement is given upon the express understanding and condition that it may be used by Grantors, their heirs, executors, administrators, and assigns in conjunction with the use of the Grantee, their heirs, assigns and successors in interest and others likely situated and their heirs and assigns.

It is further understood that Grantors, their heirs, assigns, and tenants, in no way will be bound to improve, maintain or construct a roadway or to keep it in repair nor do Grantors, their heirs and assigns, assume any liability or responsibility to Grantees, their heirs and assigns, others likely situated, their heirs and assigns, or any person using the land by invitation, express or implied, or by reason of any business conducted with Grantees, their heirs and assigns, or otherwise. The obligation for improvement, maintaining, constructing said

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roadway, drainage, utilities, etc. shall be the responsibility of the individual Grantee over whose land this casement may pass and said obligation shall only be as to that portion of said easement that passes over said Grantees real property.

IN WITNESS WHEREOF, Grantors have set their hands and seals on the day and year first written above.

Signed, Sealed and Delivered in the Presence of:

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STATE OF Florida COUNTY OF LEE

HENRY A. MORRONI As Trustee

Trustee PEEPEES, As Trustee MARSHALL A.

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DOUGLAS (E. JONES, Co-Trustee

DOUGLAS (E. JONES, Co-Trustee and Individually

Mary V. spile

MARY O. JONES, Co-Trustee and Individually

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JOHN C. CONNELL, Trustee and Individually

	ENTERPRISES,		nessee
BY:	USTO WILLALON.	General	Partner

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared HENRY A. MORRONI, As Trustee, to me known and known to me to be the

SS

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person who made and subscribed to the foregoing EASEMENT DEDICA-TION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

NOTAFY PUBLIC STATE OF FLORIDA NY COMMISSION EXP. MAR.20,1992 BONDED THRU GEMERAL INS. UND.

My Commission Expires:

Public

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Notary Public

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STATE OF Florida COUNTY OF Lee

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BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared MARSHALL A. PEEPLES, As Trustee, to me known and known to me to be the person who made and subscribed to the foregoing EASE-MENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

NOTARY PUBLIC STATE OF FLORIDA MY COMMISSION EXP. NAR.20,1992 BONDED THRU GENERAL INS. UND.

My Commission Expires:

STATE OF VIRGINIA SS COUNTY OF ARLINGTON

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer caths, personally appeared DOUGLAS L. JONES, Individually and as Co-Trustee of THE JONES TRUST AGREEMENT DATED MARCH 19, 1982, to me known and known to me to be the person who made and subscribed to the foregoing EASE-MENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

WITNESS MY hand and official seal this $\frac{16^{12}}{16}$ day of $\frac{16^{12}}{10}$. Much

My Commission Expires: January/19,1992

STATE OF VIRGINIA) COUNTY OF VARIAGING TON) SS

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer caths, personally appeared MARY O. JONES, Individually and as Co-Trustee of THE JONES TRUST AGREEMENT DATED MARCH 19, 1982, to me known and known to me to be the person who made and subscribed to the foregoing EASEMENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

WITNESS MY hand and official seal this 1/7 day of M_{14} , L_{2} , 19_{24} .

My Commission Expires: January /19,1992

STATE OF Florida)

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared JOHN C. CONNELL, Trustee and Individually, to me known and known to me to be the person who made and subscribed to the foregoing EASE-MENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

WITNESS MY hand and official seal this 29 th day of

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NOTARY PUBLIC STATE OF FLORIDA MY COMMISSION EXP. MAR.20,1992 BONDED THRU GENERAL INS. UND.

Notary Public Huller

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My Commission Expires:

STATE OF

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COUNTY OF

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared ________, of K. T. <u>AUGUSTO VILLAION</u>, <u>General Partner</u>, of K. T. ENTERPRISES, a Tennessee General Partnerhip, to me known and known to me to be the person who made and subscribed to the foregoing EASEMENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed on behalf of said partnership.

WITNESS MY hand and official seal this 28th day of

Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA MY COMMISSION EXP. MAR.20,1992 BONDED THRU GENERAL INS. UNQ.

EXHIBIT A

S. Bust .

DESCRIPTION OF: A Roadway, Drainage and Utility Easement, 50.00 feet in width centered along the east line of the West one half (W1) of the West one half (W1) of the West one half (W1) of the Southeast one quarter (SE1) of Section 16, Township 44 South, Range 23 East, Lee County, Florida, Less Right-of-Way for Pine Island Road (S.R. No. 78), said easement begins at the North Right-of-Way line of said Pine Island Road and terminates at the North line of the Southeast one quarter (SE1) of said Section 16.



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CLEFF, J. MIT COURT

Planning Division Case Report

DE18-00	23
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Review Date:	November 20, 2018
Property Owner:	City of Cape Coral
Applicant:	Kevin Higginson, Utilities Extension Project (UEP) Manager
Owner Address:	1015 Cultural Park Boulevard Cape Coral, FL 33990
Request:	The City requests a deviation from all nonresidential design standards (LUDR, Section 5.6) for a new booster pump station in the Corridor District.
Address:	North of the intersection of Pine Island Road and Commercial Park Place Strap Number 16-44-23-C3-00007.001A
Prepared By:	Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator
Reviewed By:	Robert H. Pederson, AICP, Planning Manager
Recommendation:	Approval with condition
Urban Service Area:	Transition
Right-of-Way Access:	Access to the site is provided by a private right-of-way (ROW) easement.

Site Description:

The 4.92-acre site is rectangular and is north of Commercial Park Place (Figure 1). The site is undeveloped and is surrounded by undeveloped properties except for a site to the west that is owned by the German American Social Club of Cape Coral Florida, Inc.

The site has a Pine Island Road District Future Land Use Classification and Corridor Zoning. All immediately surrounding sites share the same future land use classification. Sites to the north and east, have Corridor Zoning. The property to the south has Corridor Zoning with the Commerce Park Overlay applied to this site. A 101-acre site adjacent to the west has Single Family Residential (R-1A) Zoning.

Project Description:

The City seeks to construct an irrigation storage and pumping facility on the site. The use is classified as an Essential Service Facilities, Group I Use. Other Group I Uses include pumping stations and natural gas and water regulation stations. Essential Service Facilities are building or above ground structures that provide essential services including electricity, telephone, cable TV, gas, water, sewage, solid waste, and resource recovery.

Figure 1. Aerial map showing the subject site outlined in blue.



In a related case involving this same site, the City has requested a special exception (SE18-0008) to allow an Essential Service Facility, Group I Use. Both cases will be scheduled for the same hearing date.

A site plan shows a booster pump building and two irrigation storage tanks. The facility will primarily serve the North 2 Utility Expansion Project that includes lands north of Pine Island Road and south of Diplomat Parkway, between Old Burnt Store Road and Del Prado Boulevard. The tanks will store irrigation water that consists of a blending of canal and reuse water. The facility will augment irrigation water during periods of peak demand, particularly during the dry season. The facility will also help to maintain a uniform pressure in the delivery of irrigation water to properties in the project area.

This deviation is sought for a booster pump building. This building will be an estimated 10,400 sq. ft. The design of the building has not been finalized.

However, UEP and Utilities Department staff have confirmed the building will be constructed of concrete block stucco and will have a pitched roof.

Analysis:

LUDR, Section 5.6.10 addresses deviations to architectural requirements for nonresidential buildings. Such requests may be approved by the Hearing Examiner provided the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:

- 1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or,
- 2. Literal conformity with the regulations would inhibit innovation or creativity in design.

LUDR, Section 5.6.10.B states "In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner ... shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. Additionally, the Hearing Examiner ... shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the City."

The applicant has requested this deviation for the booster pump building based on a claim of hardship. The two tanks associated with this project are not considered buildings and therefore are not subject to architectural standards.

<u>Analysis</u>

Are site constraints present (like shape, topography, dimensions, or area of the properties) that would interfere or impede with the implementation of the nonresidential design standards?

Staff response: No. The applicant states that the site is about 900 feet from the closest public ROW (i.e., Pine Island Road) and therefore will not be visible from a City street. However, the distance from a public ROW is a locational factor, and not a site constraint.

The site is flat and rectangular and is about five acres. The site is wooded and most of the trees will be removed to prepare the site for construction. None of these factors, however, would interfere or impede the booster pump station building from complying with the nonresidential design standards.

Are other regulations or locational factors present that make compliance with this section (i.e., the nonresidential design standards) impossible or impractical?

Staff response: Yes. The building will be constructed at a remote location where this structure will likely not be visible to the public. The site is about 900 feet north of Pine Island Road. Access to the facility will be from a private ROW easement. The facility will have a perimeter fence for security. A landscape buffer with a minimum width of 15 feet with a wall will be provided along the north, south, and west property lines.

The site is surrounded by large parcels, all exceeding five acres. All properties are undeveloped except for the site to the south that has a stormwater treatment pond, and the site to the west that is owned by the German American Social Club that is used during event parking. The nearest existing single-family residence is over 300 feet to the east along SW 19th Avenue.

According to the applicant, due to the intended function of the facility, the building will have large garage doors and access from the roof that will render compliance with the architectural standards impractical. Staff notes these design features are often more associated with buildings used for industrial purposes. Building constructed on Industrial (I-1) zoned sites are exempt from the nonresidential design standards.

What effect will the requested deviation would have on the community appearance?

Staff response: The requested deviation is anticipated to have little if any negative effect on community appearance for the following reasons.

- The remoteness of the site. The site is about 900 feet north of Pine Island Road, the nearest public ROW. The nearest single-family residence is over 300 feet to the east.
- Landscape buffers will be along the north, south, and west property lines that will strongly buffer this building in these three directions.
- Employees will not be stationed at this facility; Utilities Department staff will visit this site for maintenance purposes.
- The site will be gated, and the public will be restricted from entering this property.

What affect would the deviation have on the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas?

Staff response: Traditional loading areas utilized by large commercial trucks will be absent. Up to 1-2 trips per day are anticipated to the site for maintenance. Some trips will include transporting chemicals fuel, and materials into and out of the building through a roll-up garage door. These loading activities will be infrequent and will be hidden from the public due to the remoteness of the site. Trees occupying buffers along the north, south, and east sides of the building will also obscure these maintenance activities from adjacent properties. Based on the remoteness of the site, the low number of trips to the facility, and the perimeter buffers, loading activities should have minimal effect on the surrounding area.

Will the approval of the deviation protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and interest in the City?

Staff response: The health, safety, and welfare of the public will be served by the approval of this deviation as the booster pump building is part of a facility associated with the North 2 Utility Expansion Project that will provide irrigation water to sites in the project area. The facility will help maintain a uniform pressure on delivering irrigation water throughout the project area.

The project will have no detrimental effect on community aesthetics as the site is remote and access to the property will be restricted to Utilities Department staff. The building and maintenance activities occurring on the site will likely be concealed by buffers along the north, south, and west property lines of the site. The facility will be out of view from the nearest single-family homes that are over 300 feet to the east.

Consistency with the Comprehensive Plan:

This request is consistent with several policies in the Comprehensive Plan identified below.

Capital Improvement Element

Policy 3.6

"Provision of full city services at adopted levels of service standards will be limited to the Urban Services Infill and Transition areas (as outlined in the adopted future land use map and as amended periodically via the plan amendment process) and to those other areas where the City has a legal commitment to provide services and facilities." Staff comments: The booster pump building and associated storage tanks is an important component for providing irrigation services to the North 2 UEP area. A Comprehensive Plan amendment adopted in 2015 (Ordinance 59-15) placed this site (and other UEP sites) into the Urban Services Transition area and out of the Urban Services Reserve area. This policy is supportive of this request.

Future Land Use Element

Policy 1.15.m

"Pine Island Road District: Under this land use designation, at least two distinctive zoning categories will be allowed: Village and Corridor zoning. The Village zone is intended to promote maximum pedestrian friendliness and minimal automobile traffic between residential areas, shopping destinations, a variety of entertainment establishments, and employment opportunities. The Corridor zone designation will be placed on the land located between the Villages and will include larger scale, less pedestrian-oriented uses. This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road. The Pine Island Road District will be defined as the union of two major mixed-use area defined below as follows: ...

... Corridor: The land located between the Villages and includes such uses as, retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single family residential, multifamily residential golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Polity 1.15.i of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.j of the Future Land Use Elements: The site has Corridor Zoning that is consistent with the Pine Island Road District Future Land Use Classification. The site will have an estimated FAR of 0.048. This policy is supportive of this request.

Policy 1.17

"Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses." Staff comments: Buffers with a minimum width of 15 feet is recommended along the north, south, and west property lines. This policy is supportive of this request.

Infrastructure Element

Policy 1.1.6

"Provision by the City of centralized sanitary sewer and potable water service will be limited to the urban services infill and transition areas, as outlined in the adopted future land use map and amended annually via the plan amendment process, and to those areas where the City has a legal commitment to provide services and facilities, including, but not limited to the North Spreader Ecological Management Agreement. The City hereby designates, when feasible, a dual water system which consists of both the irrigation and domestic water supply for the extension of public water service to those portions of the Urban Services Transition Area per the future land use map as amended not currently served by both public water and sewer. In accordance with this, the extension of public water and sewer service to these areas will include the extension of dual water service, when feasible, using non-potable sources for irrigation purposes." Staff comments: The site is in the North 2 UEP area. A booster pump station will be constructed on the site for the temporary storage of irrigation water and for maintaining uniform pressure within the irrigation system. This policy is supportive of this request.

Policy 2.2.1

"The City will meet projected demands by undertaking the following projects within the short-term planning timeframe:

- a. Sewer and Water Projects
- 1. Continue to provide planning and studies necessary for orderly expansion
- 2. North 1 Utility Expansion Program
- 3. North 2 Utility Expansion Program ..."

Staff comments: The site will be developed with an Essential Service Facility, Group I Use for supporting the North 2 Utility Expansion Program. This policy is supportive of this request.

Recommendation:

Staff recommends approval of this deviation with the following condition.

1. Approval of this deviation is contingent on approval of an Essential Service Facility, Group I Use for this site, consistent with Case Number SE18-0009. Should the special exception for the Essential Service Facility, Group I Use be denied, or should the property be developed with a use other than an Essential Service Facility, Group I Use, this deviation shall be considered null and void.





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: DE18-0023

<u>REQUEST</u>: The owner, the City of Cape Coral, requests a deviation from the Land Use and Development Regulations, Section 5.6, to allow a booster pump station building in the Corridor District to be exempt from the non-residential design standards.

LOCATION: The site is located north of Commercial Park Place and is northwest of the intersection of SW 19th Avenue and Pine Island Road

<u>CAPE CORAL STAFF CONTACT</u>: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, <u>mstruve@capecoral.net</u>

PROPERTY OWNER: City of Cape Coral

UPCOMING PUBLIC HEARING: Notice is hereby given that the Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, December 4, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, <u>www.capecoral.net/publichearing</u> (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

<u>APPEALS</u>: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



Classified Ad Receipt (For Info Only - NOT A BILL)

CITY OF CAPE CORAL_DEPT OF COM Customer:

Address: 1015 CULTURAL PARK BLVD CAPE CORAL FL 33990 USA

Run Times: 2

Run Dates: 11/24/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: DE18-0023

REQUEST: The owner, the City of Cape Coral, requests a deviation from the Land Use and Development Regula-tions, Section 5.6, to allow a booster pump station building in the Corridor District to be exempt from the non-residential design standards. LOCATION: The site is located north of Commercial Park Place and is north-west of the intersection of SW 19th Avenue and Pine Island Road

CAPE CORAL STAFF CONTACT: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

PROPERTY OWNER: City of Cape Coral

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All interested parties are invited to appear and be heard. All materials pre-sented before the Hearing Examiner will become a permanent part of the record. The public hearing may be con-tinued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be avail-able 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd, Cape Coral, FL. DETAILED INFORMATION: The case re-port and colored maps for this applica-

DETAILED INFORMATION: The case re-port and colored maps for this applica-tion are available at the City of Cape Coral website, www.capecoral.net/publ ichearing (Click on 'Public Hearing In-formation', use the case number refer-enced above to access the informa-tion); or, at the Planning Division coun-ter at City Hall, between the hours of 7:30 AM and 4:30 PM

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No. of Affidavits: 1

Ad No.:

Net Amt:

0003264373

\$

assistance.

by order of Kimberly Bruns, CMC Interim City Clerk REF # DE18-0023 AD#3264373, Nov. 23, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: City of Cape Coral

APPLICATION NO: DE18-0023

§

STATE OF FLORIDA)) COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this

day of

2018

IRASEMA COLLAZO MY COMMISSION # GG073042 EXPIRES February 14, 2021

Vincent A. Cautero, AICP

STATE OF FLORIDA COUNTY OF LEE

Commission #GG0730 Exp. Date

Signature of Notary Public

Print Name of Notary Public



CITY OF CAPE CORAL

CITY OF CAPE CORAL Department of Community Development Planning Division

Case No. DE18-0023





W E

OCTOBER 5TH, 2018



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.



Item Number: 2.B. Meeting Date: 12/4/2018 Item Type: HEARINGS

AGENDA REQUEST FORM

CITY OF CAPE CORAL



TITLE:

Case #SE18-0009*; Address: The site is located north of Commercial Park Place and is northwest of the intersection of SW 19th Avenue and Pine Island Road.; Applicant: City of Cape Coral

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?	No
2. Is this a Strategic Decision?	No
If Yes, Priority Goals Supported are listed below.	
If No, will it harm the intent or success of the Strategic Plan?	No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The owner, the City of Cape Coral, requests a special exception for an Essential Service Facility – Group I Use for an irrigation storage and pumping facility in the Corridor District.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Materials"

PREPARED BY:

Kristin Kantarze

Division- Planning

Department-Community Development

SOURCE OF ADDITIONAL INFORMATION:

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

ATTACHMENTS:

Description

Type Backup Material

Backup Materials


Case #SE18-000

PROCEDURE LIST FOR SPECIAL EXCEPTION REQUEST

- 1. Applicant's portion of request shall be typewritten and signature notarized.
 - a) All forms (Application, Acknowledgement Form, Authorization to Represent) must be signed by the property owner or the applicant. If the Authorized Representative is an attorney, the application and the Acknowledgement form may be signed by the attorney and an Authorization to Represent Form is not required.
 - b) If there are any deed restrictions on the property, a copy of the restrictions will be required.
- 2. Signature on the Acknowledgement Form must be notarized.
- Letter of intent stating the actual request. This appeal for a Special Exception is for a proposed use. In the case of an
 existing structure, it is recommended that the applicant request a site-check by the Fire and/or Building Division for
 suitability and compliance with codes, prior to filing the appeal.
- 4. Certified survey done within six (6) months MAY be required.
- Projected number of peak hour trips. If more than 300 peak hour trips are projected, a traffic impact study must be submitted.
- 6. Development plan drawn to scale (not less than 1" = 50') and containing the following:
 - a) Site layout showing dimensions, boundary lines, North directional arrow and complete legal description of the property.
 - b) The location and dimensions of all existing and/or proposed buildings and structures, including additions and eaves, overhangs, porches and patios.
 - c) The setback distance from all buildings, additions to structure to property lines. Indicate the square footage associated with each existing and proposed use of buildings.
 - d) Location and dimensions of driveways. Show parking areas with layout and number of spaces and traffic flow.
- 7. Landscaping:
 - a) A continuous strip of landscaping shall be provided along all property lines and streets serving the development.
 - b) Models. The models shall comply with the single family landscaping requirements as indicated in Section 5.2.3.8.1.
 - c) Identify method of irrigation and location of utility lines and easements.

Please note that any advisory comments provided by staff regarding approval or permits are canceptual only and are subject to change. Official review may result in additional changes not nated in the advisory process prior to submission af application. The finol design or project must comply with the Land Use and Development Regulations, Engineering Design Standards, City Code of Ordinances, Comprehensive Plan and other applicable laws and regulations.

In addition to the application fee (\$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres), all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

IT IS REQUIRED THAT APPLICANT AND/OR REPRESENTATIVE ATTEND THE HEARING EXAMINER MEETING.



Case #

REQUEST FOR A SPECIAL EXCEPTION USE

FEE: \$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

OWNER	OF PROPERTY		Address:							
	OF CAPE CORAL		City: CA	City: CAPE CORAL State FL Zip						
Email:	khiggins@capecora	l.net	Phone:	Phone: 239-574-0706						
PPLICA	NT (if different from	n Owner)	Address:							
			City:		State		Zip			
Email:			Phone:							
	RIZED REPRESENTAT	IVE	Address:	815 Nicholas R	Parkway East					
	Higginson		City: Ca	pe Coral	State	FL	Zip	33990		
Email:	khiggins@capecon	al.net	Phone:	239-574-0706	3					
Unit	Block	Lot(s)	Subdivisio	on						
Address	of Property	COMMERCIAL	PARK BOULEVARD							
			Plat Book		Page	_				
Current	Zoning CC	DRR	Strap Number	16-44-23-C3-000	007.001A					

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

A. John Szerlag, City Manager	CORPORATION/COMPANY NAME Louis Dans hi A Ha Section
NAME (PLEASE TYPE OR PRINT)	APPLICANT'S SIGNATURE



Case #

(SIGNATURE MUST BE NOTARIZED)

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

STATE OF FLORIDA , COUN	ITY OF LEE
Sworn to (or affirmed) and subscrib	bed before me this 15 day of Aug. 2018 by
connie Darron as identification.	who is personally known or produced
RACHEL MURPHY	Exp. Date: 7/10/20 Commission Number: 6606949
A SE MY COMMISSION # GG009419	Signature of Notary Public: Rachel Murphy
EXPIRES July 08, 2020	Printed name of Notary Public: Rachel Murphy



Case #

ACKNOWLEDGEMENT FORM

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner, or City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

I hereby acknowledge that I have r	ead and understo day of	ood the above affic	lavit on the	, 20	18
A. John Szerlag, City Manager		l	ounie Ban	y-for.	A Jula Secolog
PRINT APPLICANT'S NAME		APPI	LICANT'S SIGNATURE		
STATE OF FLORIDA	, COUNTY OF	LEE			
Subscribed and sworn to (or aff	irmed) before mo who is <u>pers</u>	e this sonally known or pr		5	, 2015 by
	Exp. Date:	7/6/20 0	ommission Number:	GG	1009419
RACHEL MURPHY MY COMMISSION # GG009419 EXPIRES July 06, 2020	Signature of No Printed name o	otary Public: of Notary Public:	Kach	1 m	unphy



DI EASE RE AL	OVISED THAT	Kevin Higginson	
FLEASE DE AL		(Name of person giv	ring presentation)
IS AUTHORIZ Special Exc		IE IN THE REQUEST TO THE	HEARING EXAMINER, OR CITY COUNCIL FOR
(Type of Pub	ic Hearing – i.e., PDF	P, Zoning, Special Exception	, Variance, etc.)
UNIT	BLOCK	LOT(S)	SUBDIVISION
OR LEGAL DE	SCRIPTION	Parcel in Section 16	TWP 44 South
		Range 23 East, Lee	County, FL
LOCATED I	N THE CITY OF CAPE	CORAL, COUNTY OF LEE, FL	ORIDA.
CITY OF PROPERTY	CAPE CORAL OWNER (Please Prin	nt)	ORIDA. PROPERTY OWNER (Please Print)
CITY OF PROPERTY John Szerlag,	CAPE CORAL	nt) un Barna tor A Ma Seak	
CITY OF PROPERTY John Szerlag,	CAPE CORAL OWNER (Please Prin City Manager	nt) W Burro for A Ha Seak & Title)	PROPERTY OWNER (Please Print)
CITY OF PROPERTY John Szerlag, PROPERTY TATE OF	CAPE CORAL OWNER (Please Prin City Manager J. Ull OWNER (Signature FLORIDA , COUNTY d sworn to (or affirm	nt) <u>uw Burna for A Ha Seak</u> & Title) OF <u>LEE</u>	PROPERTY OWNER (Please Print) PROPERTY OWNER (Signature & Title) day of August, 2045 b

Case #

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation paper.



Case #

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

A. John Szerlag, City Manager OWNER/APPLICANT (PLEASE TYPE OR PRINT)

Danne For A. Ste Sealing

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FLORIDA

COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me on this 15 day of Aug 2019 by Connie Darron , who is personally known or who has produced

as identification.

Exp. Date 7/4 Commission # 1-1-009

Signature of Notary Public

Print Name of Notary Public

RACHEL MURPHY Y COMMISSION # GG009419 EXPIRES July 08, 2020

MEMORANDUM

CITY OF CAPE CORAL UTILITIES DEPARTMENT

TO: Vincent A. Cautero, Community Development Director

FROM: Jeff Pearson, Utilities Director

DATE: July 19, 2018

SUBJECT: Special Exception – Letter of Intent – Irrigation Strap Number: 16-44-23-C3-00007.001A

The Utilities Department respectfully requests evaluation of our Special Exception Application to permit the development of an Irrigation Storage and Plumbing Facility on the subject property. The proposed site is currently zoned Corridor (CORR) and is located north of Pine Island Road and west of Chiquita Boulevard. A special Exception is required for the proposed use, Essential Facilities Group 1, in the CORR District.

Your consideration of this request is appreciated. Should you have any questions or concerns please feel free to contact me.

JP/KLH:sle

C: Dolores Menendez, City Attorney Terri Hall, Assistant to the City Manager Dana Brunett, Economic Development Director Kevin Higginson, Utilities Extension Manager Paul Clinghan, Public Works Director

Irrigation Storage Tank Special Exception Application

Justification Narrative

August 17, 2018

Request: Approve Special Exceptian to permit development of an Essential Services Group I facility in the Corridor (CORR) Zoning District.

- Generally. The proposal shall comply with all requirements of the zoning districts in which the property is located, the Land Use and Development Regulations, and all other applicable law.
 - a. The proposed development is a municipal Irrigation Storage Facility, which is categorized as an Essential Service Group I facility, which is permitted with approval of a Special Exception.
- Compatibility. The tract of land must be suitable for the type of special exception use proposed by virtue of its location, shape, topography and the nature of surrounding development.
 - a. The tract of land was selected and acquired based on the suitability for the praposed use. A site analysis was conducted by the Utilities Department, which determined the optimum location for the facility to achieve the needs of the irrigation system. Due to the size and aesthetics of the proposed tanks, the site is located approximately 900 feet away from Pine Island Road and is also over 300 feet from existing residential uses. Adjacent uses are commercial and light industrial in nature, which are campatible with the proposed use. The site is relatively flat, which is ideal for the development of the two proposed tanks.
- 3. Minimum lot frontage; access. Minimum lot frontage on a street shall be sufficient to permit properly spaced and located access points designed to serve the type of special exception use proposed. Wider spacing between access points and intersecting street right-of-way lines should be required when the lot has more than the minimum required frontage on a street. All access points shall be specifically approved by the Hearing Examiner.

a. Access to the site is via an existing 50-foot wide private access, utility and drainage easement that extends from Pine Island Road along the eastern boundary of the site.

4. Building location; setbacks. All buildings shall be located an adequate distance from all property lines and street right-of-way lines. Greater building setback lines may be required when the lot has more than the minimum lot area required or when deemed necessary to protect surrounding properties.

- a. Proposed setbacks are a minimum of 65 feet from all property boundaries, which exceeds the requirements of the Corridor (CORR) district.
- 5. Screening and buffering. A continuous strip of properly maintained landscaped area should be provided along all property lines and along all streets serving the premises. Such continuous strip of properly maintained landscaped area may, however, be allowed to contain walkway(s) and driveway entrances. The Hearing Examiner shall also require that the premises be permanently screened from adjoining and contiguous properties by a fence, evergreen hedge and/or other approved enclosure when deemed appropriate to buffer the special exception use from surrounding uses.
 - a. A 50-foot wide landscape buffer will be provided around the north, west and south sides of the parcel. No buffer is proposed along the east side of the parcel since the private access, drainage and utility easement runs along the length of the eastern boundary.





IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR LEE COUNTY, FLORIDA Civil Action

CITY OF CAPE CORAL,

Petitioner,

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Case No. 2017-CA-002626

FLORIDA PROPERTIES III, LLC, a Florida limited liability company; et al.,

Defendants.

ORDER OF TAKING

THIS CAUSE having come upon Petitioner, CITY OF CAPE CORAL'S application for an Order of Taking, and it appearing to the Court that proper notice was first given to Defendants, FLORIDA PROPERTIES III, LLC, a Florida limited liability company, HENRY A. MORRONI, Individually and as Trustee; and LARRY D. HART, LEE COUNTY TAX COLLECTOR, and to all persons having or claiming any equity, lien, title, or other interest in or to the real property described in the Petition, and the Court being fully advised in the premises, it is

ORDERED AND ADJUDGED:

 This Court has jurisdiction of this action, of the subject property, and of the parties in this cause pursuant to Chapters 73 and 74 of the Florida Statutes.

 The pleadings in this cause are sufficient and the Petitioner is properly exercising its delegated authority.

3. The Declaration of Taking (estimate of value) filed in this cause by the Petitioner was made in good faith and based upon a valid appraisal.

 The acquisition of the property by the CITY OF CAPE CORAL is necessary for the uses and purposes set forth in the Petition filed herein.

The Petitioner shall deposit its good faith estimate of value in the sum of THREE

HUNDRED TWENTY-ONE THOUSAND SIX HUNDRED and NO/100 DOLLARS (\$321,600.00),

into the Registry of the Court, within twenty (20) days of the date of this Order.

6. Upon the payment of the deposit of Petitioner's good faith estimate into the Registry of this Court, all right, title and interest in the property, more particularly described in Exhibit "A" attached hereto, shall vest in the CITY OF CAPE CORAL.

7. That upon deposit of the sum set forth above and without further notice or order of this Court, the Petitioner shall be entitled to immediate possession of the property described in Exhibit "A".

 This Order is entered without prejudice to the Defendants' right to a trial by jury to determine the amount of compensation ultimately to be paid for the property.

DONE AND ORDERED in Lee County, Ft. Myers, Florida, this 13⁺ day of November, 2017.

HONORABLE JAY B.4 OSMAN

CIRCUIT COURT JUDGE

Copies to: All Parties on attached Service List

EXHIBIT A

Property Description

Portion of STRAP #: 16-44-23-C3-00007.0010 Folio ID: 10069925

A PARCEL OF LAND LYING IN THE SE 1/4 OF SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SE 1/4; THENCE N 87°42'20" E ALONG THE SOUTH LINE OF SAID SE 1/4 FOR 334.95 FEET TO THE EAST LINE OF THE W 1/2 OF THE W 1/2 OF THE W 1/2 OF THE SE 1/4 OF SAID SECTION 16; THENCE N 00°03'31" E ALONG SAID EAST LINE FOR 966.98 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE N 00°03'31" E FOR 641.30 FEET; THENCE N 89°47'58" W LEAVING SAID EAST LINE FOR 333.98 FEET TO THE WEST LINE OF THE SE 1/4 OF SAID SECTION 16; THENCE S 00°05'00" W ALONG SAID WEST LINE FOR 642.13 FEET; THENCE S 89°56'29" E LEAVING SAID WEST LINE FOR 334.25 FEET TO THE **POINT OF BEGINNING**. CONTAINING 4.922 ACRES, MORE OR LESS.

SAID PARCEL BEING A PORTION OF A TRACT OF LAND RECORDED IN INSTRUMENT #2014000265033 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

SUBJECT TO AND TOGETHER WITH THE FOLLOWING DESCRIBED NON-EXCLUSIVE ROADWAY, DRAINAGE AND UTILITY EASEMENT, 50.00 FEET IN WIDTH CENTERED ALONG THE EAST LINE OF THE WEST ONE HALF (W 1/2) OF THE WEST ONE HALF (W 1/2) OF THE WEST ONE HALF (W 1/2) OF THE SOUTHEAST ONE QUARTER (SE 1/4) OF SECTION 16, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, LESS RIGHT-OF- WAY FOR PINE ISLAND ROAD (SR NO. 78), SAID EASEMENT BEGINS AT THE NORTH RIGHT-OF-WAY LINE OF SAID PINE ISLAND ROAD AND TERMINATES AT THE NORTH LINE OF THE SOUTHEAST ONE QUARTER (SE 1/4) OF SAID SECTION 16.

BEARINGS ARE BASED ON THE WEST LINE OF SAID SECTION 16, BEING \$ 00°05'00" W ACCORDING THE DESCRIPTION RECORDED IN SAID INSTRUMENT #2014000265033.

SERVICE LIST

John M. LeRoux, Esq. Law Offices of John M. Leroux, P.A. 3090 Charles Av., Suite 200 Clearwater, FL 33761

Florida Properties III, LLC Serve: Eric S. Adams, Esq. Shutts & Bowen, LLP 4301 W. Boy Scout Blvd., Suite 300 Tampa, FL 33607

and

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Michael E. Siegel, Esq. Shutts & Bowen, LLP 1858 Ringling Blvd., Suite 300 Sarasota, FL 34235

Lee County Tax Collector Serve: R. Noelle Branning, Esq. P.O. Box 850 Fort Myers, FL 33902

Henry A. Morroni, Individually and as Trustee 13540 Brynwood Ln. Fort Myers, FL 33912

- E: John@jmleroux.com Pleadings@jmleroux.com
- E: eadams@shutts.com shatfield@shutts.com
- E: msiegel@shutts.com pdailey@shutts.com
- E: servicecourtdocs@leetc.com noelleb@leetc.com

U.S. Mail

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STATE OF FLORIDA COUNTY OF LEE

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EASEMENT DEDICATION

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THIS INDENTURE made and entered into this __28th_ day of March, 1989, by and between HENRY A. MORRONI, as Trustee, MARSHALL A. PEEPLES, as Trustee, DOUGLAS L. JONES, MARY O. JONES, Individually and as Co-Trustees of THE JONES TRUST AGREEMENT DATED MARCH 19, 1982, and JOHN C. CONNELL, Trustee, and K. T. ENTERPRISES, a Tennessee General Partnership, hereinafter referred to as "Grantors" and all citizens, corporations, individuals, adjoining property owners and the individuals named herein as Grantors, hereinafter referred to as "Grantees";

WITNESSETH:

WHEREAS, the Grantors are seized in fee simple and in possession of lands lying in the East 1/2 of the West 1/2 of the West 1/2 of the Southeast 1/4 of Section 16, Township 44 South, Range 23 East, Lee County, Florida, and that a particular portion of it described in attached Exhibit "A" incorporated herein and by reference made a part hereof; and

WHEREAS, the Grantors hereby dedicate the portion of land that each owns as set forth and attached hereto and described in Exhibit "A" incorporated herein and by reference made a part hereof, to Grantees as an easement for road and utility right-of-way including drainage over and across said property; and

WHEREAS, the Grantors will continue to own their respective fee simple interest in and to that portion of the property set forth in Exhibit "A" which is reflected in the Public Records as being owned by each of them and independent of the What when 155 What when the working July Daw out other.

NOW, THEREFORE, Pursuant to this document and in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, receipt is hereby acknowledged by said Grantors, Grantors hereby grant unto Grantees, their heirs, assigns, and successors in interest and to all other likely situated as above described and their heirs, assigns, and successors;

Full and free right and liberty for them and their tenants, servants, visitors and licensees in common with all persons having the like right, at all times hereafter, for all purposes connected with the use and enjoyment of the land of the Grantee and those likely situated for whatever purposes the land, from time to time, lawfully may be used and enjoyed to pass and repass along the provided roadway or roadways more particularly described as set forth in Exhibit "A" incorporated herein and by reference made a part hereof.

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To have and to hold the easement or right-of-way hereby granted unto Grantees, their heirs, assigns, successors and these likely situated as described above, and their heirs, assigns and successors, as appurtenant to the land of the Grantee and those likely situated in every part of it.

It is understood that the easement is given upon the express understanding and condition that it may be used by Grantors, their heirs, executors, administrators, and assigns in conjunction with the use of the Grantee, their heirs, assigns and successors in interest and others likely situated and their heirs and assigns.

It is further understood that Grantors, their heirs, assigns, and tenants, in no way will be bound to improve, maintain or construct a roadway or to keep it in repair nor do Grantors, their heirs and assigns, assume any liability or responsibility to Grantees, their heirs and assigns, others likely situated, their heirs and assigns, or any person using the land by invitation, express or implied, or by reason of any business conducted with Grantees, their heirs and assigns, or otherwise. The obligation for improvement, maintaining, constructing said

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roadway, drainage, utilities, etc. shall be the responsibility of the individual Grantee over whose land this casement may pass and said obligation shall only be as to that portion of said easement that passes over said Grantees real property.

IN WITNESS WHEREOF, Grantors have set their hands and seals on the day and year first written above.

Signed, Sealed and Delivered in the Presence of:

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STATE OF Florida COUNTY OF LEE

HENRY A. MORRONI As Trustee

Trustee PEEPEES, As Trustee MARSHALL A.

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DOUGLAS (E. JONES, Co-Trustee

DOUGLAS (E. JONES, Co-Trustee and Individually

Mary V. spile

MARY O. JONES, Co-Trustee and Individually

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JOHN C. CONNELL, Trustee and Individually

	ENTERPRISES,		nessee
BY:	USTO WILLALON.	General	Partner

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared HENRY A. MORRONI, As Trustee, to me known and known to me to be the

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person who made and subscribed to the foregoing EASEMENT DEDICA-TION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

NOTAFY PUBLIC STATE OF FLORIDA NY COMMISSION EXP. MAR.20,1992 BONDED THRU GEMERAL INS. UND.

My Commission Expires:

Public

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Notary Public

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STATE OF Florida COUNTY OF Lee

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BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared MARSHALL A. PEEPLES, As Trustee, to me known and known to me to be the person who made and subscribed to the foregoing EASE-MENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

WITNESS MY hand and official seal this _28 day of Mourch_____, 19 54.

NOTARY PUBLIC STATE OF FLORIDA MY COMMISSION EXP. NAR.20,1992 BONDED THRU GENERAL INS. UND.

My Commission Expires:

STATE OF VIRGINIA SS COUNTY OF ARLINGTON

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer caths, personally appeared DOUGLAS L. JONES, Individually and as Co-Trustee of THE JONES TRUST AGREEMENT DATED MARCH 19, 1982, to me known and known to me to be the person who made and subscribed to the foregoing EASE-MENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

WITNESS MY hand and official seal this $\frac{16^{12}}{16}$ day of $\frac{16^{12}}{12}$. Much

My Commission Expires: January/19,1992

STATE OF VIRGINIA) COUNTY OF VARIAGING TON) SS

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer caths, personally appeared MARY O. JONES, Individually and as Co-Trustee of THE JONES TRUST AGREEMENT DATED MARCH 19, 1982, to me known and known to me to be the person who made and subscribed to the foregoing EASEMENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

WITNESS MY hand and official seal this 1/7 day of M_{14} , L_{2} , 19_{24} .

My Commission Expires: January /19,1992

STATE OF Florida)

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared JOHN C. CONNELL, Trustee and Individually, to me known and known to me to be the person who made and subscribed to the foregoing EASE-MENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed.

WITNESS MY hand and official seal this 29 th day of

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NOTARY PUBLIC STATE OF FLORIDA MY COMMISSION EXP. MAR.20,1992 BONDED THRU GENERAL INS. UND.

Notary Public Huller

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My Commission Expires:

STATE OF

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COUNTY OF

BEFORE ME the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared _________, of K. T. <u>AUGUSTO VILLAION</u>, <u>General Partner</u>, of K. T. ENTERPRISES, a Tennessee General Partnerhip, to me known and known to me to be the person who made and subscribed to the foregoing EASEMENT DEDICATION, and certifies and acknowledges that he made and executed said instrument for the use and purposes therein expressed on behalf of said partnership.

WITNESS MY hand and official seal this 28th day of

Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA MY COMMISSION EXP. MAR.20,1992 BONDED THRU GENERAL INS. UNQ.

EXHIBIT A

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DESCRIPTION OF: A Roadway, Drainage and Utility Easement, 50.00 feet in width centered along the east line of the West one half (W1) of the West one half (W1) of the West one half (W1) of the Southeast one quarter (SE1) of Section 16, Township 44 South, Range 23 East, Lee County, Florida, Less Right-of-Way for Pine Island Road (S.R. No. 78), said easement begins at the North Right-of-Way line of said Pine Island Road and terminates at the North line of the Southeast one quarter (SE1) of said Section 16.



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Planning Division Case Report

Review Date:	November 20, 2018
Property Owner:	City of Cape Coral
Owner Address:	1015 Cultural Park Boulevard Cape Coral, FL 33990
Authorized Rep:	Kevin Higginson, Utilities Extension Project (UEP) Manager
Request:	The owner requests a special exception for an Essential Service Facility, Group I Use for an irrigation storage and pumping facility in the Corridor District.
Location:	North of the intersection of Pine Island Road and Commercial Park Place Strap Number 16-44-23-C3-00007.001A
Prepared by:	Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator
Reviewed by:	Robert H. Pederson, AICP, Planning Manager
Recommendation:	Approval with conditions
Urban Service Area:	Transition
Right-of-Way Access:	Access to the site is provided by a private right-of-way easement.

Property Description:

The 4.92-acre site is rectangular and is north of Commercial Park Place (Figure 1). The site is undeveloped and is surrounded by undeveloped properties except for a site to the west that is owned by the German American Social Club of Cape Coral Florida, Inc.

The site has a Pine Island Road District Future Land Use Classification and Corridor Zoning. All immediately surrounding sites share the same future land use classification. Sites to the north and east, have Corridor Zoning. The property to the south has Corridor Zoning with the Commerce Park Overlay applied to this site. A 101-acre site adjacent to the west has Single Family Residential (R-1A) Zoning.

Background:

The City seeks to construct an irrigation storage and pumping facility on the site. The use is classified as an Essential Service Facilities, Group I Use. Other Group I Uses include pumping stations and natural gas and water regulation stations. Essential Service Facilities are building or above-ground structures that provide essential services including electricity, telephone, cable TV, gas, water, sewage, solid waste, and resource recovery.

Figure 1. Aerial map showing the subject site outlined in blue.



In a related case involving this same site, the City has requested a deviation from the nonresidential design standards for the booster pump building. Both cases will be scheduled for the same hearing date.

A site plan shows a booster pump building and two irrigation storage tanks. The facility will primarily serve the North 2 Utility Expansion Project area that includes lands north of Pine Island Road and south of Diplomat Parkway, between Old Burnt Store Road and Del Prado Boulevard. The tanks will store irrigation water that consists of a blending of canal and reuse water. The facility will augment irrigation water during periods of peak demand, particularly during the dry season, when water levels in canals recede. The facility will also maintain a constant pressure in the delivery of irrigation water to properties in the project area.

Analysis:

This application was reviewed based on the Land Use and Development Regulations (LUDR), Section 2.7.13, the Corridor District, and the five standards in Section 8.8.5a-e for special exceptions.

1. Generally

The Corridor Zoning of the site is consistent with the Pine Island Road District Future Land Use. There is no minimum area requirement for Essential Service Facilities, Group I Uses. The City does not have special regulations governing this use.

A site plan submitted with the special exception application shows the height of the two storage tanks at 50 feet. The maximum height in the Corridor District for nonresidential structures is 45 feet. Except for height, the project appears to comply with the Corridor

District requirements. Compliance with all City standards will be verified during the site plan review process.

2. Compatibility

The site is surrounded by large properties, all over five acres, that are either undeveloped or sparsely developed. Sites to the immediate north and east are undeveloped. The parcel to the south has a stormwater pond but no other improvements to this site exist. The parcel to the west is largely vegetated and is used by the German American Social Club for parking during Club events.

Five single-family homes are within 500 feet of the site, all to the west on SW 19th Avenue. These residential sites have a Pine Island Road District Future Land Use Classification and Residential Development Zoning.

The facility will not have employees stationed at the site. About 1-2 trips per day will be made to the site for maintenance purposes. Deliveries of sodium hypochlorite to the site, a chemical used for water disinfection, are expected monthly. The number of trips generated by this use are expected to be less than 20 trips per week.

The facility is not expected to produce odor. The pumping equipment housed within the building will generate sound from motors. However, most of this noise will be attenuated by building walls. Noise that would be audible or noticeable to the public beyond the property lines of the site is not anticipated.

The irrigation storage tanks will be a maximum of 45 feet in height. According to Utilities Department staff, tanks with less height and greater footprints are being considered for the site. Where possible, existing trees will be protected around the perimeter of the site to buffer the tanks. The tanks will have a non-reflective finish that will render the tanks less conspicuous to the public. The site is about 900 feet from Pine Island Road and over 300 feet from the nearest single-family residence. Because several design features have not been finalized, it is unclear how visible these tanks will be, particularly to residents living to the east of the site.

This site was selected in part because of its remoteness and the distances between this property and the nearest single-family residences. This use will not produce noise or odors that will be noticeable. The use will generate a small number of trips. Given the isolated nature of the site, surrounding land use patterns, and the relatively benign nature of this use, staff finds the use will be compatible with the area.

3. Minimum Lot Frontage; Access

The site lacks frontage on a public street. A 50-foot wide roadway, drainage, and utility easement provides legal access to the site. This easement extends from Pine Island Road to the eastern boundary of the site.

The minimum parking standard for Essential Service Facility Uses is one parking space per employee based on the largest shift. One employee will likely visit the site daily for maintenance. A site plan for the project shows that eight parking spaces are proposed south of the building.

4. Building Location; Setbacks

Minimum building setbacks for sites with Corridor Zoning that have 45,000 sq. ft. or more are as follows: front – 25 feet; side – 15 feet; and rear – 25 feet. A minimum 35-foot setback is required along the northern half of the west property line as the Corridor-zoned site is directly adjacent to a property to the west that has a Pine Island Road District Future Land Use Classification and R-1A Zoning. The building complies with all Corridor setbacks.

5. Screening and Buffering

A Buffer "D" is required along the west property line of the site, adjacent to the adjoining property with R-1A Zoning. While not required, the site plan shows landscape buffers with similar widths along the north and south property lines.

Consistency with the Comprehensive Plan

With conditions recommended by staff, the project will be consistent with the following goals and policies.

Future Land Use Element

Policy 1.15.m

"Pine Island Road District: Under this land use designation, at least two distinctive zoning categories will be allowed: Village and Corridor zoning. The Village zone is intended to promote maximum pedestrian friendliness and minimal automobile traffic between residential areas, shopping destinations, a variety of entertainment establishments, and employment opportunities. The Corridor zone designation will be placed on the land located between the Villages and will include larger scale, less pedestrian-oriented uses. This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road. The Pine Island Road District will be defined as the union of two major mixed-use area defined below as follows: ...

... Corridor: The land located between the Villages and includes such uses as, retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single family residential, multi-

family residential golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Polity 1.15.i of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.j of the Future Land Use Element." Staff comments: The site has Corridor Zoning that is consistent with the Pine Island Road District Future Land Use Classification. The site has an FAR of about 0.050. This policy is supportive of this request.

Policy 1.17

"Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses." Staff comments: A Buffer "D" is required along the west property line adjacent to a site with R-1A Zoning. Buffers with similar widths will be provided along the north and south property lines. The site is over 300 feet from the nearest existing single-family residence. This policy is supportive of this request.

Policy 8.3

"Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored." The site is in a secluded area, over 300 feet from the nearest single-family residence. Landscaping will be along the north, south, and west property lines. The project will generate a relatively low number of trips. The use will not produce any detectable noise or odor. This policy is supportive of this request.

Recommendation:

Staff recommends **approval** of the requested special exception with the following conditions:

 Buffers with a minimum width of 15 feet shall be provided along the north, south, and west property lines of the site. Unless a higher standard is imposed by the Land Use and Development Regulations, each buffer shall consist of a single row of canopy trees and a single row of accent or palm trees. The two rows shall be off-set from one another. These trees shall meet the minimum spacing, height, and caliper requirements established by the City at the time of installation. Except for prohibited invasive exotics, existing trees on the site may be used to meet this requirement.

- 2. A wall with a height between six and eight feet tall shall be constructed around the perimeter of the site. The following materials, either singly or in combination, are the only materials that may be used to form the wall: concrete block coated with stucco, textured concrete block, stone, brick, or formed, decorative, or precast concrete. Landscaping materials described in Condition #1 above, shall be planted on the outside of the wall.
- 3. The tanks shall have a non-reflective finish to minimize the reflective qualities of these structures.

Staff Contact Information

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator Planning Division PH: 239-242-3255 Email: <u>mstruve@capecoral.net</u>





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: SE18-0009

<u>REQUEST</u>: The owner, the City of Cape Coral, requests a special exception for an Essential Service Facility – Group I Use for an irrigation storage and pumping facility in the Corridor District. **<u>LOCATION</u>**: The site is located north of Commercial Park Place and is northwest of the intersection of SW 19th Avenue and Pine Island Road.

<u>CAPE CORAL STAFF CONTACT</u>: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, <u>mstruve@capecoral.net</u>

PROPERTY OWNER: City of Cape Coral

<u>UPCOMING PUBLIC HEARING</u>: Notice is hereby given that Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, December 4, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, <u>www.capecoral.net/publichearing</u> (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

<u>APPEALS</u>: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Department of Community Development Post Office Box 150027 • Cape Coral, Florida 33915-0027 1015 Cultural Park Blvd. • Cape Coral, Florida 33990 Email: planningquestions@capecoral.net



Classified Ad Receipt (For Info Only - NOT A BILL)

CITY OF CAPE CORAL DEPT OF COM Customer:

Address: 1015 CULTURAL PARK BLVD CAPE CORAL FL 33990 USA

Run Times: 2

Run Dates: 11/23/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE18-0009

REQUEST: The owner, the City of Cape Coral, requests a special exception for an Essential Service Facility – Group I Use for an irrigation storage and pumping facility in the Corridor District. LOCATION: The site is located north of Commercial Park Place and is north-west of the intersection of SW 19th Avenue and Pine Island Road.

CAPE CORAL STAFF CONTACT: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

PROPERTY OWNER: City of Cape Coral

UPCOMING PUBLIC HEARING: Notice is hereby given that Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, December 4, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials pre-sented before the Hearing Examiner will become a permanent part of the record. The public hearing may be con-tinued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be avail-able 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planing Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case re-port and colored maps for this applica-tion are available at the City of Cape Coral website, www.capecoral.net/publ ichearing (Click on 'Public Hearing In-formation', use the case number refer-enced above to access the informa-tion); or, at the Planning Division coun-ter at City Hall, between the hours of 7:30 AM and 4:30 PM

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of con-duct. You are allowed sufficient time to write or appear at the public hear-ing to voice your objections or appro-val. Written comments filed with the Director will be entered into the re-cord. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Cord, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommoda-tion to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; tele-phone 1-239-574-0530 for assistance; if hearing impaired, telephone the Flori-da Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for

No. of Affidavits: 1

Ad No .:

Net Amt:

0003264383

\$

assistance.

by order of Kimberly Bruns, CMC Interim City Clerk REF # SE18-0009

AD#3264383, Nov 23, 24, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: City of Cape Coral

APPLICATION NO: SE18-0009

§

STATE OF FLORIDA)) COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this

day of

2018

anature

IRASEMA COLLAZO MY COMMISSION # GG073042 EXPIRES February 14, 2021

Vincent A. Cautero, AICP

STATE OF FLORIDA COUNTY OF LEE

Commission #660

of Notary Public

Print Name of Notary Public



CITY OF CAPE CORAL

CITY OF CAPE CORAL Department of Community Development Planning Division

Case No. SE18-0009





W S E

OCTOBER 5TH, 2018



This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.



Item Number:2.C.Meeting Date:12/4/2018Item Type:HEARINGS

AGENDA REQUEST FORM

CITY OF CAPE CORAL



TITLE:

Case #SE18-0011*; Address: 221 and 227 SW 3rd Avenue; Applicant: 227 Nicholas Pines Center, LLC

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?	No
2. Is this a Strategic Decision?	No
If Yes, Priority Goals Supported are listed below.	
If No, will it harm the intent or success of the Strategic Plan?	No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant requests a special exception for an Automotive Repair and Service, Group I use for a towing establishment in the Corridor District.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Materials"

PREPARED BY:

Kristin Division- Planning Department-Community Development

SOURCE OF ADDITIONAL INFORMATION:

Justin Heller, Senior Planner, 239-574-0587, jheller@capecoral.net

ATTACHMENTS:

Туре

DescriptionBackup Materials

Backup Material



Case #5 E18-0011

REQUEST FOR A SPECIAL EXCEPTION USE

FEE: \$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

OWNER OF PROPERTY						Address: 1046 Alfonso Avenue					
227 Nic	holas Pines	is Pines Center, LLC City: Cor					I Gables	State	FL	Zip	33146
Email:						Phone:		_			
	ANT (if diffe					Address:	2309 Hancock	Bridge Pkwy	<i>.</i>		
Wanted	Dead or Ali	ve Towin	ng & Reco	very, LLC		City: N. Ft	. Myers	State	FL	Zip	33903
Email:			_			Phone:					
AUTHO	RIZED REPR	ESENTAT	IVE			Address:	1821 Victoria	Avenue			
David [Douglas Asso	ociates, I	nc.			City: Fort	Myers	State	FL	Zip	33901
Email:	ls@ddai-e	ngineers	.com			Phone:	239-337-33	30			
Unit	29	Block	1952	Lot(s)	1-5	Subdivision	Cape Cora	ı			
Addres	s of Propert	y	221 & 2	27 SW 3rd	Ave.						
			1.0			Plat Book	16	Page	24		
Current	Zoning	CC	DRR		Strap Nu	mber	14-44-23-C3-0	1952.0010			

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

Christine Horgan

NAME (PLEASE TYPE OR PRINT)

Wanted Dead or Alive towing & Recovery, LLC COR OMPA AMF х



Case #

(SIGNATURE MUST BE NOTARIZED)

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

STATE OF	FLORIDA	, COUNTY OF	LEE				
Sworn to (or affirmed) and まChrishiへ り	subscribed before	me this _ rsonally k	17 day of <u>ans</u> , known or produced	20 <u>18</u> by F.A		HEIDI & SAIDI
as identific	cation.	Exp. Dat	e: 9	28 20 18 Commi	ssion Number:	A	Notary Public, State of Florida Commission# FF 154235 My comm. expires Sept. 28, 2018
				ary Public: Notary Public:	Heid a	Sect A. Said	


DEPARTMENT OF COMMUNITY DEVELOPMENT SPECIAL EXCEPTION APPLICATION Questions: 239-574-0776 Case #

ACKNOWLEDGEMENT FORM

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner, or City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

I hereby acknowledge that I have read and understood the above affidavit on the

	17th	day of	Aug	nat	- ,20 1	8
Christine Horgan			×	18tog	Flour	
PRINT APPLICANT'S	S NAME		APPLIC	ANT'S SIGNATURE	~	
STATE OF	FLORIDA	, COUNTY OF	LEE		U	
Subscribed and	sworn to (or af	firmed) before me	this	17 day of	aug.	, 20 <u>18</u> , by
Christing		who is perse	onally known or prod	uced	E	h
as identification	n. U	Exp. Date:	9/20/20/Eor	mission Number:		HEIDI A. SAIDI Notary Public, State of Florida Commission# FF 154235
		Signature of Not	tary Public:	Heich (Sed	My comm. expires Sept. 28, 2018
		Printed name of	Notary Public:	Heic	liA.Sai	cl.



DEPARTMENT OF COMMUNITY DEVELOPMENT SPECIAL EXCEPTION APPLICATION Questions: 239-574-0776

PLEASE BE ADVISED THAT		Linda Stewar	t, AICP	
		(Name of pe	erson givin	ng presentation)
IS AUTHORIZED T Special Excepti		ME IN THE REQUEST	TO THE HE	EARING EXAMINER, OR CITY COUNCIL FOR
(Type of Public H	earing – i.e., PD	P, Zoning, Special Ex	ception, V	Variance, etc.)
UNIT 29	BLOCK 19	952 LOT(S)	1-5	SUBDIVISION Cape Coral
OR LEGAL DESCR	IPTION			
Christine Horgan		6		RIDA. KKOKKKXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
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Christine Horgan	MARK(Please Pr haser	nt) M -owr & Title)		KK&KXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Christine Horgan	WWER (Signature	nt) M -owr & Title)	ur .	PROPERTY OWNER (Signature & Title)
Christine Horgan	WWER (Signature ORIDA, COUNT orn to (or affirm	NOF LEE	nown or p	PROPERTY OWNER (Signature & Title)

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation paper.

Case #



Questions: 239-574-0776

Case #

Noto SHI

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

Christine Horgan	× XOCO
OWNER/APPLICANT (PLEASE TYPE OR PR	RINT) OWNER APPLICANT SIGNATURE
(SIGNA	TURE MUST BE NOTARIZED)
STATE OF FLORIDA COUNTY	OF_LEE
Sworn to (or affirmed) and subscribed bef 20 18 by <u>Christike</u> Horgan as identification. Exp. Date <u>9</u> $\partial \delta$ $\partial 0$ f Commission #	ore me on this 17 day of <u>argust</u> , who is personally known or who has produced <u>FR</u> <u>Hard</u> <u>Abo</u> Signature of Notary Public
HEIDI A. SAIDI Notary Public, State of Florida Commission# FF 154235 My comm. expires Sept. 28, 2018	Heid' A. Said' Print Name of Notary Public

Wanted Dead or Alive Towing and Recovery, LLC

August 20, 2018

Mr. Vince Cautero, AICP Department of Community Development 1015 Cultural Park Blvd. South Cape Coral, FL 33990

RE: Special Exception Use 221 & 227 SW 3rd Avenue

Dear Director:

It is my intent to apply for a Special Exception Use on the property described above, to operate an automotive towing and recovery establishment with associated outdoor storage area at the above mentioned site.

I intend to comply with all applicable codes pertaining to this site specific use within an existing platted subdivision and existing structure.

We respectfully request you grant this Special Exception request.

Respectfully, Wanted Dead or Alive Towing and Recovery, LLC hristine Horgan Owner

		1.10				1	Florida	Realtors
1 Fa	Commerc	ial Contract						
	1 PARTIES	AND PROPER	ry:	Wanted Dea	ad or Alive Towing	& Recovery, LL	C	("Buyer")
11	agrees to bu	y and		227 NICHOL	AS PINES CENTE	RLLC		("Seller")
ŀ	agrees to se	If the property at			1942년 1943년	2 mg = 13-		
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	and the follo	wing Personal P	roperty: Any	and All Appliance	es, gate openers,	garage door oper	ners etc	12 42 A.
								Sec. Lines
	(all collective	y referred to as	the "Proper	rty") on the terms a	and conditions se	forth below.		1111
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1	(a) Dep	osit-held in escro	w by:	Safe	e Harbor Title	5	1.1	
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	Escrow	Agent's address	: 12734 Ke	nwood Ln Ft Mye	rs 33907 Phone:	239-936-3788	1 143	1.122
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j"	(d) Tota	financing (see l	Paragraph 5)		\$		1997
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				e purchase price a nents and proration			States	
*	via wire	transfer.	1.1.1.1.1.1.1			A. Mittins		15
	For the	purposes of this	paragraph,	"completion" mea	ns the end of the	Due Diligence Pe	riod or upon	delivery of Cl
1	Duyers	and children notice of	accepteesin	Contraction of the second	S		1	
-	and Runner o	hd an everitted	conv deliver	VE DATE; COMPI ed to all parties on	or before	July 25, 2018	5 · · · · · · · · · · · · · · · · · · ·	, this other
1.3	vill be withd	awn and the Bu	yer's deposition offer is a	it, if any, will be re delivered. The "Ef	turned. The time f fective Date" of t	or acceptance of this Contract is t	any counter he date on	which the
1	ast one of t	he Seller and B	uver has si	aned or initialed	and delivered thi	is offer or the fin	al counter	offer or
	ave or lose	Time periode of	5 days or le	ndar days will be a ss will be compute	used when computed without including	iung time periods, ig Saturday, Suine	except time	nal legal
1	iolidays. Any	time period end	ling on a Sa	turday, Sunday, o	r national legal ho	liday will extend t	mtil 5:00 p.n	n. of the next
-1	jusiness day	. Time is of the	essence in	this Contract.		*		11 (2
	. CLOSING	DATE AND LO	CATION:	uill be closed as	Sentemb	er 28, 2018	(Closing	Date), unless
	specific	ally-extended by	other provis	will be closed on sions of this Contra	act. The Closing	Date will prevail o	ver all othe	time periods
	includin	a, but not limited	to, Financin	g and Due Diligen	ce periods. In the	event insurance	underwriting	is suspended
6	AL.	CD) and Seller (AB.) acknowledge receipt	of a copy of this page	which is Page 1 of 8	Pages.	1
-	Buyer (H)		14	A neuronaien Re, iereiht (The set of the set held of		1.0.1.	Florida Realtors*
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on Closing Date and Buver is unable to obtain property insurance. Buver may postpone closing up to 5 days after 41 the insurance underwriting suspension is lifted. 42

Lee (b) Location: Closing will take place in County, Florida. (If left blank, closing will take place in the 43 county where the property is located.) Closing may be conducted by mail or electronic means. 44

5. THIRD PARTY FINANCING: 45

BUYER'S OBLIGATION: On or before 5 days (5 days if left blank) after Effective Date, Buyer will apply for third 46 70% of the purchase price or \$ party financing in an amount not to exceed , with a fixed 47 interest rate not to exceed 6.5% per year with an initial variable interest rate not to exceed 6.5%, with points or 48 2% of the principal amount, for a term of 30 years, and amortized commitment or loan fees not to exceed _ 49 over 30 years, with additional terms as follows: 50 51 Buyer will timely provide any and all credit, employment, financial and other information reasonably required by any 52 45 Days lender. Buver will use good faith and reasonable diligence to (i) obtain Loan Approval within 32 days (42 days if left 53 blank) from Effective Date (Loan Approval Date), (ii) satisfy terms and conditions of the Loan Approval, and (iii) close 54 the loan. Buyer will keep Seller and Broker fully informed about loan application status and authorizes the mortgage 55 broker and lender to disclose all such information to Seller and Broker. Buyer will notify Seller immediately upon 56 obtaining financing or being rejected by a lender. CANCELLATION: If Buyer, after using good faith and reasonable 57 diligence, fails to obtain Loan Approval by Loan Approval Date, Buyer may within days (3 days if left blank) 58 deliver written notice to Seller stating Buyer either waives this financing contingency or cancels this Contract. 59 If Buyer does neither, then Seller may cancel this Contract by delivering written notice to Buyer at any time thereafter. 60 Unless this financing contingency has been waived, this Contract shall remain subject to the satisfaction, by closing, of 61 those conditions of Loan Approval related to the Property. DEPOSIT(S) (for purposes of Paragraph 5 only): If Buyer 62 has used good faith and reasonable diligence but does not obtain Loan Approval by Loan Approval Date and 63 thereafter either party elects to cancel this Contract as set forth above or the lender fails or refuses to close on or 64 before the Closing Date without fault on Buyer's part, the Deposit(s) shall be returned to Buyer, whereupon both 65 parties will be released from all further obligations under this Contract, except for obligations stated herein as surviving 66 the termination of this Contract. If neither party elects to terminate this Contract as set forth above or Buyer fails to use 67 good faith or reasonable diligence as set forth above, Seller will be entitled to retain the Deposit(s) if the transaction 68 does not close. For purposes of this Contract, "Loan Approval" means a statement by the lender setting forth the terms 69 and conditions upon which the lender is willing to make a particular mortgage loan to a particular buyer. Neither a pre-70 approval letter nor a prequalification letter shall be deemed a Loan Approval for purposes of this Contract. 71 6. TITLE: Seller has the legal capacity to and will convey marketable title to the Property by X statutory warranty 72 , free of liens, easements and deed special warranty deed i other 73 encumbrances of record or known to Seller, but subject to property taxes for the year of closing, covenants, 74 restrictions and public utility easements of record; existing zoning and governmental regulations; and (list any other 75 matters to which title will be subject) 76 77 provided there exists at closing no violation of the foregoing and none of them prevents Buyer's intended use of the 78 **Towing Company** Property as 79 (a) Evidence of Title: The party who pays the premium for the title insurance policy will select the closing agent 80 and pay for the title search and closing services. Seller will, at (check one) X Seller's D Buyer's expense and 81 15 days after Effective Date or at least 25 days before Closing Date deliver to Buyer (check one) 82 within (i) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by 83 Seller at or before Closing and, upon Buyer recording the deed, an owner's policy in the amount of the purchase 84 price for fee simple title subject only to exceptions stated above. If Buyer is paying for the evidence of title and 85 Seller has an owner's policy, Seller will deliver a copy to Buyer within 15 days after Effective Date. [(ii.) an 86 abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. 87 However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed 88 insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy 89 exceptions and an update in a format acceptable to Buyer from the policy effective date and certified to Buyer or 90

) acknowledge receipt of a copy of this page, which is Page 2 of 8 Pages.

CC-5 Rev 9/17 Senal#: 070739-000153-2450192

aing eSignOnline ** (Session ID : 2/113/74-cd24-44/4-8e02-926e21156a08)

) and Seller

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91 92	Buyer's closing agent together with copies of all documents recited in the prior policy and in the an abstract or prior policy is not available to Seller then (L) above will be the evidence of title.	update. If such
93	(b) Title Examination: Buver will, within 15 days from receipt of the evidence of title deliver writte	n notice to Seller
94 95	of title defects. Title will be deemed acceptable to Buyer if (1) Buyer fails to deliver proper notice a Buyer delivers proper written notice and Seller cures the defects within _30_ days from receipt of	if the notice
95	("Curative Period"). Seller shall use good faith efforts to cure the defects. If the defects are cured w Curative Period, closing will occur on the latter of 10 days after receipt by Buyer of notice of such of	vithin the
97 98	scheduled Closing Date. Seller may elect not to cure defects if Seller reasonably believes any def	ect cannot be
99	cured within the Curative Period. If the defects are not cured within the Curative Period, Buyer will from receipt of notice of Seller's inability to cure the defects to elect whether to terminate this Cont	have 10 days
100	title subject to existing defects and close the transaction without reduction in purchase price.	
102	(c) Survey: (check applicable provisions below)	
103	Seller will, within 15 days from Effective Date, deliver to Buyer copies of prior surveys, plans, specifications, and engineering documents, if any, and the following documents relevant	t to this
105	transaction:	
106	prepared for Seller or in Seller's possession, which show all currently existing structures. In the	e event this
108	transaction does not close, all documents provided by Seller will be returned to Seller within 1 date this Contract is terminated.	0 days from the
109	I Burver will at Seller's Buver's expense and within the time period allowed to deliver	and examine
111	title evidence, obtain a current certified survey of the Property from a registered surveyor. If the encroachments on the Property or that the improvements encroach on the lands of another,	e survey reveals
112	accept the Property with existing encroachments [2] such encroachments will constitute a title	defect to be
114	cured within the Curative Period.	
115	(d) Ingress and Egress: Seller warrants that the Property presently has ingress and egress.	
118 119 120 121 122	7. PROPERTY CONDITION: Seller will deliver the Property to Buyer at the time agreed in its present ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable cond makes no warranties other than marketability of title. In the event that the condition of the Property has changed since the expiration of the Due Diligence Period, Buyer may elect to terminate the Contract a refund of any and all deposits paid, plus interest, if applicable, or require Seller to return the Property to condition existing as of the end of Due Diligence period, the cost of which is not to exceed \$	ition. Seller materially and receive a the required (1.5% of
124 125	(a) As Is: Buyer has inspected the Property or waives any right to inspect and accepts the Prop condition.	perty in its "as is"
126 127 128 130 131 132 133 134 135 135 135 136 137 138 139 140 141 142 143 144	(x) (b) Due Diligence Period: Buyer will, at Buyer's expense and within <u>30</u> days from Effect Diligence Period"), determine whether the Property is suitable, in Buyer's sole and absolute discreterm of this Contract, Buyer may conduct any tests, analyses, surveys and investigations ("Inspected Buyer deems necessary to determine to Buyer's satisfaction the Property's engineering, architect environmental properties; zoning and zoning restrictions; flood zone designation and restrictions; regulations; soil and grade; availability of access to public roads, water, and other utilities; consist state and regional growth management and comprehensive land use plans; availability of permits, approvals and licenses; compliance with American with Disabilities Act; absence of asbestos, soil water contamination; and other inspections that Buyer deems appropriate. Buyer will deliver with Seller prior to the expiration of the Due Diligence Period of Buyer's determination of whether or n is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of its present "as is" condition. Seller grants to Buyer, its agents, contractors and assigns, the right of Property at any time during the term of this Contract for the purpose of conducting Inspections, up notice, at a mutually agreed upon time; provided, however, that Buyer, its agents, contractors and the Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harm losses, damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, liability to any person, arising from the conduct of any and all inspections or any work authorized is will not engage in any activity that could result in a mechanic's lien being filed against the Property Seller's prior written consent. In the event this transaction does not close, (1) Buyer will repair all euvers.	etion. During the ctions") which tural, subdivision ency with local, government and ground en notice to to the Property the Property in to enter the to enter the to enter the to n reasonable t assigns enter less from and from by Buyer, Buyer y without damages to the
		2017 Florida Realtorse
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145	Property resulting from the Inspections and return the Property to the condition it was in prior to conduct of the
146	Inspections, and (2) Buyer will, at Buyer's expense release to Seller all reports and other work generated as a
147	result of the Inspections. Should Buyer deliver timely notice that the Property is not acceptable, Seller agrees the Buyer's deposit will be immediately returned to Buyer and the Contract terminated.
148	· · · · · · · · · · · · · · · · · · ·
149	(c) Walk-through Inspection: Buyer may, on the day prior to closing or any other time mutually agreeable to the parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and
150 151	to ensure that all Property is on the premises.
152	8. OPERATION OF PROPERTY DURING CONTRACT PERIOD: Seller will continue to operate the Property and any
153	business conducted on the Property in the manner operated prior to Contract and will take no action that would
154	adversely impact the Property after closing, as to tenants, lenders or business, if any. Any changes, such as renting
155	vacant space, that materially affect the Property or Buyer's intended use of the Property will be permitted [] only with
156	Buyer's consent i without Buyer's consent.
157	9. CLOSING PROCEDURE: Unless otherwise agreed or stated herein, closing procedure shall be in accordance with
158	the norms where the Property is located.
159	(a) Possession and Occupancy: Seller will deliver possession and occupancy of the Property to Buyer at
160	closing. Seller will provide keys, remote controls, and any security/access codes necessary to operate all locks,
161	mallboxes, and security systems.
162	(b) Costs: Buyer will pay Buyer's attorneys' fees, taxes and recording fees on notes, mortgages and financing
163	statements and recording fees for the deed. Seller will pay Seller's attorneys' fees, taxes on the deed and
164	recording fees for documents needed to cure title defects. If Seller is obligated to discharge any encumbrance at o
165	prior to closing and fails to do so, Buyer may use purchase proceeds to satisfy the encumbrances.
165	(c) Documents: Seiler will provide the deed; bill of sale; mechanic's lien affidavit; originals of those assignable
167	service and maintenance contracts that will be assumed by Buyer after the Closing Date and letters to each
168	service contractor from Seller advising each of them of the sale of the Property and, if applicable, the transfer of its
169	contract, and any assignable warranties or guarantees received or held by Seller from any manufacturer,
170	contractor, subcontractor, or material supplier in connection with the Property; current copies of the condominium
171	documents, if applicable; assignments of leases, updated rent roll; tenant and lender estoppels letters (if applicable); tenant subordination, non-disturbance and attomment agreements (SNDAs) required by the Buyer of
172	applicable); tenant subordination, non-disturbance and autoniment agreements (Shubis) required by the buyer a Buyer's lender; assignments of permits and licenses; corrective instruments; and letters notifying tenants of the
173	change in ownership/rental agent if any tenant refuses to execute an estoppels letter, Seller, if requested by the
174	Biner in writing will certify that information regarding the tenant's lease is correct. If Seller is an entity, Seller will
175	deliver a resolution of its governing authority authorizing the sale and delivery of the deed and certification by the
177	appropriate party certifying the resolution and setting forth facts showing the conveyance conforms to the
178	requirements of local law. Seller will transfer security deposits to Buyer. Buyer will provide the closing statement
179	mortgages and notes, security agreements, and financing statements.
180	(d) Taxes and Prorations: Real estate taxes, personal property taxes on any tangible personal property, bond
181	normante assumed hy Rimer interest rents (based on actual collected rents), association dues, insurance
182	premiums acceptable to Buyer, and operating expenses will be prorated through the day before closing. If the
183	amount of taxes for the current year cannot be accertained, rates for the previous year will be used with due allowance being made for improvements and exemptions. Any tax proration based on an estimate will, at request
184	allowance being made for improvements and exemptions. Any tax protation based on an estimate with at request of either party, be readjusted upon receipt of current year's tax bill; this provision will survive closing.
185	(e) Special Assessment Liens: Certified, confirmed, and ratified special assessment liens as of the Closing Date
186	(e) Special Assessment Liens: Certified, confirmed, and ratified special assessment is payable in installments, Seller will will be paid by Seller. If a certified, confirmed, and ratified special assessment is payable in installments, Seller will
187	hav all installments due and havable on or before the Closing Date, with any installment for any period extending
189	beyond the Closing Date provated and Buyer will assume all installments that become due and payable after the
190	Closing Date Ruver will be responsible for all assessments of any kind which become due and owing after Closing
191	Date unless an improvement is substantially completed as of Closing Date. If an improvement is substantially
192	completed as of the Closing Date but has not resulted in a lien before closing. Seller will pay the amount of the last
193	estimate of the assessment. This subsection applies to special assessment liens imposed by a public body and
194	does not apply to condominium association special assessments.
195	(f) Foreign Investment in Real Property Tax Act (FIRPTA): If Seller is a "foreign person" as defined by FIRPTA,
196	Soller and Runer some to comply with Section 1445 of the Internal Revenue Code. Seller and Duyer will
197	complete, execute, and deliver as directed any instrument, affidavit, or statement reasonably necessary to comply
191	
107	all CO
107	Buyer (24) and Soller (22) acknowledge receipt of a copy of this page, which is Page 4 of 8 Pages.

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198	with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or
199	Social Security Numbers to the closing agent. If Buyer does not pay sufficient cash at closing to meet the
200	withholding requirement, Seller will deliver to Buyer at closing the additional cash necessary to satisfy the
201	requirement.
202	10. ESCROW AGENT: Seller and Buyer authorize Escrow Agent or Closing Agent (collectively "Agent") to receive,
203	deposit, and hold funds and other property in escrow and, subject to collection, disburse them in accordance with the
204	terms of this Contract. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to
205	Seller or Buyer, unless the misdelivery is due to Agent's willful breach of this Contract or gross negligence. If Agent has doubt as to Agent's duties or obligations under this Contract, Agent may, at Agent's option, (a) hold the escrowed
205	items until the parties mutually agree to its disbursement or until a court of competent jurisdiction or arbitrator
208	determines the rights of the parties or (b) deposit the escrowed items with the clerk of the court having jurisdiction over
209	the matter and file an action in Interpleader. Upon notifying the parties of such action, Agent will be released from all
210	liability except for the duty to account for items previously delivered out of escrow. If Agent is a licensed real estate
211 212	broker, Agent will comply with Chapter 475, Florida Statutes. In any suit in which Agent interpleads the escrowed items or is made a party because of acting as Agent hereunder, Agent will recover reasonable attorney's fees and costs
212	incurred, with these amounts to be paid from and out of the escrowed items and charged and awarded as court costs
214	in favor of the prevailing party.
215	11. CURE PERIOD: Prior to any claim for default being made, a party will have an opportunity to cure any alleged
215	default. If a party fails to comply with any provision of this Contract, the other party will deliver written notice to the non-
217	complying party-specifying the non-compliance. The non-complying party will have days (5 days if left blank) after
218	delivery of such notice to cure the non-compliance. Notice and cure shall not apply to failure to close.
219	12. FORCE MAJEURE: Buyer or Seller shall not be required to perform any obligation under this Contract or be liable
220	to each other for damages so long as performance or non-performance of the obligation, or the availability of services,
221	Insurance, or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure.
222	"Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, or wars, insurrections, or acts of terrorism, which, by exercise of reasonable diligent effort, the
224	non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will
225	be extended a reasonable time up to 7 days after the Force Majeure no longer prevents performance under this
228	Contract, provided, however, if such Force Majeure continues to prevent performance under this Contract more than
227	30 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to the other
228	and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.
229	3. RETURN OF DEPOSIT: Unless otherwise specified in the Contract, in the event any condition of this Contract is
230	not met and Buyer has timely given any required notice regarding the condition having not been met, Buyer's deposit
231	will be returned in accordance with applicable Florida Laws and regulations.
232	14. DEFAULT:
233	(a) In the event the sale is not closed due to any default or failure on the part of Seller other than failure to make the title marketable after diligent effort, Buyer may elect to receive return of Buyer's deposit without thereby
234	waiving any action for damages resulting from Seller's breach and may seek to recover such damages or seek
236	specific performance. If Buyer elects a deposit refund, Seller may be liable to Broker for the full amount of the
237	brokerage fee.
238	(b) In the event the sale is not closed due to any default or failure on the part of Buyer, Seller may either (1) retain all deposit(s) paid or agreed to be paid by Buyer as agreed upon liquidated damages, consideration for the
239 240	execution of this Contract, and in full settlement of any claims, upon which this Contract will terminate or (2) seek
241	specific performance. If Buyer fails to timely place a deposit as required by this Contract, Seller may either (1)
242	terminate the Contract and seek the remedy outlined in this subparagraph or (2) proceed with the Contract without
243	waiving any remedy for Buyer's default.
244	5. ATTORNEY'S FEES AND COSTS: In any claim or controversy arising out of or relating to this Contract, the
45	prevailing party, which for purposes of this provision will include Buyer, Seller and Broker, will be awarded reasonable
246	attomeys' fees, costs, and expenses.
247	16. NOTICES: All notices will be in writing and may be delivered by mail, overnight courier, personal delivery, or
248	electronic means. Parties agree to send all notices to addresses specified on the signature page(s). Any notice, document, or item given by or delivered to an attorney or real estate licensee (including a transaction broker)
249	representing a party will be as effective as if given by or delivered to that party.
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251	17. DISCLOSURES:
252	(a) Commercial Real Estate Sales Commission Lien Act: The Florida Commercial Real Estate Sales
253	Commission Lien Act provides that a broker has a lien upon the owner's net proceeds from the sale of commercial real estate for any commission earned by the broker under a brokerage agreement. The lien upon the
254 255	commercial real estate for any commission earned by the broker which attaches to the owner's net proceeds and does not owner's net proceeds is a lien upon personal property which attaches to the owner's net proceeds and does not
256	attach to any interest in real property. This lien right cannot be waived before the commission is earned.
257	(b) Special Assessment Liens Imposed by Public Body: The Property may be subject to unpaid special
258	assessment lien(s) imposed by a public body. (A public body includes a Community Development District.) Such liens, if any, shall be paid as set forth in Paragraph 9(e).
259	(c) Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in
260	sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that
262	exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding rador
263	and radon testing may be obtained from your county public health unit.
264	(d) Energy-Efficiency Rating Information: Buyer acknowledges receipt of the information brochure required by Section 553.996, Florida Statutes.
265	to DIEK OF LOSS.
267	(a) If after the Effective Date and before closing, the Property is damaged by fire or other casualty, Seller will
268	beer the risk of loss and Buyer may cancel this Contract without liability and the depositis) will be returned to
269	Buyer. Alternatively, Buyer will have the option of purchasing the Property at the agreed upon purchase price and Seller will credit the deductible, if any and transfer to Buyer at closing any insurance proceeds, or Seller's claim
270	to any insurance proceeds navable for the damage. Seller will cooperate with and assist Buyer in collecting any
272	such proceeds. Seller shall not settle any insurance claim for damage caused by casually without the consent of
273	the Buyer.
274	(b) If, after the Effective Date and before closing, any part of the Property is taken in condemnation or under the
275 276	right of eminent domain, or proceedings for such taking will be pending or threatened, Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of
275	our hasing what is left of the Property at the agreed upon purchase price and Seller will transfer to the Buyer at
278	closing the proceeds of any award, or Seller's claim to any award payable for the taking. Seller will cooperate
279	with and assist Buyer in collecting any such award.
280	19. ASSIGNABILITY; PERSONS BOUND: This Contract may be assigned to a related entity, and otherwise is not assignable is assignable. If this Contract may be assigned, Buyer shall deliver a copy of the assignment agreement
281 282	to the Saller at least 5 days prior to Closing. The terms "Buver, " "Seller" and "Broker" may be singular or plural. This
283	Contract is binding upon Buyer, Seller and their heirs, personal representatives, successors and assigns (IT
284	assignment is permitted).
285	20. MISCELLANEOUS: The terms of this Contract constitute the entire agreement between Buyer and Seller. Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound.
285	Signatures initials documents referenced in this Contract, counterparts and written modifications communicated
288	disstractically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwhiten or
289	time integrated in or attached to this Contract prevail over preprinted terms, if any provision of this Contract
290	is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be construed under Florida law and will not be recorded in any public records.
291	21. BROKERS: Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to, a
292	licensed real estate Broker other than:
294	a Seller's Broker East West Properties Ramon Santa Coloma
295	618 SW 3rd St. CC FL 33991 (305) 794-1938
296	(Address, Telephone, Fex, E-mail)
297	Seller Buyer both parties pursuant to a listing agreement other (specify)
298	2.50 % (1) (10
299	(b) Buyer's Broker: Domain Realty.com LLC Jacob Hansen
301	24201 Walden Center Dr# 206 Bonita Springs FL 34134 239-826-6132 Guifcoastre@aol.com
	(Addrass, Talaphone, Fax, E-mail)
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3 🗍 Seller's Broker 🗶 Seller 🗌 Bu	saction broker has no brokerage relation yer both parties pursuant to an MLS of 2,570 % Commission	offer of compensatio	n in other (specify)
5 (collectively referred to as "Broker")	in connection with any act relating to the Pri	operty, including but	not limited to
6 inquiries introductions consultation	s, and negotiations resulting in this transact from and against losses, damages, costs a	tion. Seller and Buy	er agree to
8 reasonable attorneys' fees at all leve	els, and from liability to any person, arising f	from (1) compensation	on claimed which is
9 inconsistent with the representation	in this Paragraph, (2) enforcement action to d by Broker at the request of Seller or Buye	collect a brokerage	fee pursuant to
1 services regulated by Chapter 475.	Florida Statutes, as amended, or (4) recomi	mendations of or ser	vices provided and
	y whom Broker refers, recommends, or retai	1 16 2 2 2 2 3 2 4	the 2
	if any of the following clauses are applicab	le and are attached	as an addendum t
4 this Contract): 5 Arbitration	Seller Warranty	Existing Mortga	
6 Section 1031 Exchange	Coastal Construction Control Lin	Buyer's Attorne	
7 Property Inspection and Repair 8 Seller Representations	Seller Financing	Other	у Арргома
			-0
9 23. ADDITIONAL TERMS:	there gotting a special exemption to shange	themes /	RB NDA
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3	CDO	S. S. Star	1-vere e
5 Effective date of contr	ract shall be July 30th 2018		+
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2 THIS IS INTENDED TO BE A LEGA	ALLY BINDING CONTRACT. IF NOT FULL R TO SIGNING. BROKER ADVISES BUYE	Y UNDERSTOOD, S	SEEK THE
FACTS AND REPRESENTATIONS	THAT ARE IMPORTANT TO THEM AND	TO CONSULT AN A	PPROPRIATE
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348 349	ADVICE. BUYER ACKNOWLEDGES THAT BROKE REPRESENTATIONS (ORAL, WRITTEN OR OTHE	RWISE) BY BROKER ARE BASE	D ON SELLER
350	OFFORESTATIONS OF BUDI IC PECOPOS UNI	ESS BROKER INDICATES PERS	ONAL VERIFICATION OF
351	THE REPRESENTATIONS OR FOLLOW REPRESENTATION. BUYER AGREES TO RE GOVERNMENTAL AGENCIES FOR VERIFICATION	I V SOLELY ON SELLER, PROF	ESSIONAL INSPECTORS AND
352 353	GOVERNMENTAL AGENCIES FOR VERIFICATION FACTS THAT MATERIALLY AFFECT PROPERTY	VALUE.	, 540/11 1 00 1/102 /010
354	Each person signing this Contract on behalf of a part		nts and warrants to the other
355	north that euch claratant has full nower and suthouth	to enter into and perform this Cor	tract in accordance with its
356	terms and each person executing this Contract and o	other documents on behalf of such	party has been duly authorized
357	to do so.		ALL AND THE
358	Christine Hogan	Date: 7/24/2018	
	(Signature of Buyer	Male 1. Section	
359	Christopher Oncken	Tax ID No.:	45-0687589
	(Typed or Printed Name of Buyer)		
360	Title: Managing Memeber	Telephone:	
	Christopher Onchen	Date: 7/24/2018	
361	(Signature of Buyer	Date: The Treated to	A STATE OF A
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862	(Typed or Printed Name of Buyer)	Tax ID No.:	
363	Title: Manager	Telephone:	
364	Buyer's Address for purpose gipnotice	2309 Hancock Bridge Pkwy #B Ca	pe Coral FL 33990
~		E-maile.	
365	Facsimile:	Email:	1
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366	(Signature) st seller)	Date:/45/	1
367	KATAEL BRU	Tax ID No.:	
	(Typed or Printed Name of Seller) Title: Mantgen / Memser	prise monthly serve	
368	Title: MAntger / Member	Telephone:	Wolfs -
369		Date:	
	(Signature of Seller)	10	
370	A Contraction of the local data	Tax ID No.;	1
10	(Typed or Printed Name of Seller)	State of the state	
74	Title	Telephone:	
371	Title:		
372	Seller's Address for purpose of notice:		
373	Facsimile:	Email:	Sector Contraction
		equacy of any provision of this form in any specifi	c transaction. This standardized form should
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LEGAL DESCRIPTION

PARCEL 1: LOTS 1, 2 AND 3, BLOCK 1952, CAPE CORAL, UNIT 29, A SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 16, PAGES 15 THROUGH 25, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PARCEL 3: LOTS 4 AND 5, BLOCK 1952, CAPE CORAL, UNIT 29, A SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 16, PAGES 15 THROUGH 25, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.







PERIOD SETTING

Analysis Name :		eak Hour of et Traffic, One n 7 and 9 a.m.					
Project Name :	18-0123 Wanted Dead or Alive Tow		No :				
Date:	8/23/2018		City:				
State/Province:			Zip/Pos	tal Code:			
Country:			Client M	Name:			
Analyst's Name:			Edition	0	ITE-TGM 1	Oth Edit	ion
Land Use	Independent Variable	Size Time	Period	Method	Entry	Exit	Total
		1. 1	Street Bridge	a state of the state of the			

	Variable	43.0					
943 - Automobile Parts and Service Center (General Urban/Suburban)	1000 Sq. Ft. GFA	5.8	Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 a.m.	8 73%	3 27%	11	

TRAFFIC REDUCTION	TRA	FFIC	REDU	ICTIONS
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Land Use	Entry Reduction	Adjusted Entry	Exit Reduction	Adjusted Exit
943 - Automobile Parts and Service Center	0 %	8	0 %	3

EXTERNAL TRIPS

Land Use	External Trips	Pass-by%	Pass-by Trips	Non-pass-by Trips	
943 - Automobile Parts and Service Center	11	0	0	11	

ITE DEVIATION DETAILS

Weekday, Peak Hour of Adjacent Street Traf	fic, One Hour Between 7 and 9 a.m.
--	------------------------------------

Landuse No deviations from ITE.

Methods No deviations from ITE.

External Trips 943 - Automobile Parts and Service Center (General Urban/Suburban) ITE does not recommend a particular pass-by% for this case. SUMMARY

Total Entering	8
Total Exiting	3
Total Entering Reduction	0
Total Exiting Reduction	0
Total Entering Internal Capture Reduction	0
Total Exiting Internal Capture Reduction	0
Total Entering Pass-by Reduction	0
Total Exiting Pass-by Reduction	0
Total Entering Non-Pass-by Trips	8
Total Exiting Non-Pass-by Trips	3

PERIOD SETTING

Analysis Name :	Weekday, Pe Adjacent Stre Hour Betwee	eet Traff	fic, One				
Project Name :	18-0123 War Alive Tow	nted De	ad or No:				
Date:	8/23/2018		City:				
State/Province:			Zip/Post	al Code:			
Country:			Client Na	ame:			
Analyst's Name:			Edition:		ITE-TGM 1	0th Edit	ion
Land Use	Independent Variable	Size	Time Period	Method	Entry	Exit	Total
943 - Automobile Parts and Service Center (General Urban/Suburban)	1000 Sq. Ft. GFA	5.8	Weekday, Peak Hour of Adjacent Street Traffic, One Hour	Average 2.26	5 38%	8 62%	13

One Hour Between 4 and 6

p.m.

TRAFFIC REDUCTIONS

Land Use	Entry Reduction	Adjusted Entry	Exit Reduction	Adjusted Exit
943 - Automobile Parts and Service Center	0 %	5	0 %	8

EXTERNAL TRIPS

Land Use	External Trips	Pass-by%	Pass-by Trips	Non-pass-by Trips	
943 - Automobile Parts and Service Center	13	0	0	13	

ITE DEVIATION DETAILS

Weekday, Peak Hour of Adjacent Street	Traffic, One Hour	Between 4 and 6 p.m.
---------------------------------------	-------------------	----------------------

No deviations from ITE. Landuse

Methods No deviations from ITE.

943 - Automobile Parts and Service Center (General Urban/Suburban) ITE does not recommend a particular pass-by% for this case. External Trips

SUMMARY

Total Entering	5
Total Exiting	8
Total Entering Reduction	0
Total Exiting Reduction	0
Total Entering Internal Capture Reduction	0
Total Exiting Internal Capture Reduction	0
Total Entering Pass-by Reduction	0
Total Exiting Pass-by Reduction	0
Total Entering Non-Pass-by Trips	5
Total Exiting Non-Pass-by Trips	8

Planning Division Case Report

Review Date:	November 3, 2018
Property Owner:	227 Nicholas Pines Center, LLC.
Applicant:	Wanted Dead or Alive Towing & Recovery, LLC.
Request:	The applicant requests a special exception for an Automotive Repair and Service, Group I use for a towing establishment in the Corridor District.
Location:	221 and 227 SW 3 rd Avenue Unit 29, Block 1952, Lots 1-5 Strap Numbers: 14-44-23-C3-01952.0010; 14-44-23-C2-01952.0040
Prepared by:	Justin Heller, Planner
Reviewed by:	Mike Struve, Planning Team Coordinator; Robert Pederson, Planning Manager
Recommendation:	Approval with conditions
Urban Service Area:	Transition

Property Description:

The 26,700 sq. ft. rectangular site is at the corner of SW 3rd Street and SW 3rd Avenue. The improved portion of the site has an existing 5,850 sq. ft. commercial building. The site has a Pine Island Road District (PIRD) Future Land Use Classification and Corridor (CORR) Zoning. All immediately surrounding sites to the north, east, and west share the same future land use and zoning classifications. Properties to the south across SW 3rd Street have a Multi-Family (MF) Future Land Use Classification and Multi-Family Residential (R-3) Zoning

Background:

Automotive Repair and Service, Group I uses include towing establishments, brake and carburetor repairs, inspection services, glass replacement and repair, muffler sales and installation, tire repairs, transmission repairs, wheel alignments, and oil changes. More extensive repair work including major body work, engine repairs, axle straightening, frame and front-end work, and painting and rust proofing are classified as Automotive Repair and Service, Group II uses.

The City defines automotive towing establishments as "a premise or portion of a premises occupied by an establishment in which a person, or persons, practice a vocation or occupation that performs a type of labor, act, or work off the premises that results in the towing of motor vehicles. Tow trucks or wreckers may be stored on the premises, but no towed vehicles shall be stored on the premises."

The applicant proposes to use the existing commercial building and the vacant property to the north for a towing business.

Zoning History of the Site

The Future Land Use Classification of the site was amended from Commercial/Professional to the Pine Island Road District by Ordinance 38-02.

The site was rezoned from Multi-Family (R-3) to Professional Office (P-1) by Ordinance 61-90, and to the Corridor District by Ordinance 8-04.

Analysis:

This application was reviewed based on the Land Use and Development Regulations (LUDR), Section 2.7.13, the Corridor District, and the five standards in Section 8.8.5a-e for special exceptions.

1. Generally

This standard involves whether a special exception complies with the requirements of the zoning district where the use is proposed, and any other applicable regulations.

The Corridor Zoning of the site is consistent with the Pine Island Road District Future Land Use. There is no minimum area requirement for automotive repair and service, group I uses. The City does not have special regulations governing this use.

2. Compatibility

The surrounding area is sporadically developed despite the proximity of these lands to Pine Island Road and the availability of centralized utilities. Uses are varied within 500 feet of the site and include residential uses, a church, light manufacturing, and a school. The nearest residential use is about 50 feet to the south across SW 3rd Street. In Block 1952, less than half of the land is developed. Another towing establishment was granted a special exception (SE08-400021; later amended by SE18-0008) for Lots 6-9, immediately north of this site.

Negative attributes associated with towing establishments would generally include site aesthetics, lighting, and noise. Each factor is addressed separately below.

Site aesthetics

Towing establishments typically impound vehicles on-site until each vehicle is reclaimed by the owner or transferred to auction, a scrap yard, or recycler. Since vehicles involved in accidents are frequently impounded at these facilities, screening these vehicles is important for maintaining good site aesthetics and promoting a development that is compatible with the area.

Lots 4 and 5 will contain an impoundment area where towed vehicles and towing trucks are kept. The perimeter of this area will be secured with an opaque fence. Landscaping is not currently shown on the site plan. Areas for impounding vehicles should be screened from surrounding sites. Landscaping in front of this area and the street is recommended to improve the aesthetics of the site.

Lighting

Services offered by towing companies include transporting vehicles involved in accidents that are inoperable. As a result, trips to the impoundment yards are unpredictable and can occur at any time of the day or night. Lights from vehicles could have a detrimental effect on residents living near to such establishments. A duplex to the west and a multi-family development to the south appear to have the greatest exposure to headlights from the site. Screening the impoundment area will restrict the exposure to lighting impacts for nearby residents.

Staff recommends all security and outdoor lighting shall be arranged to direct the light away from the nearby residential properties. Lighting trespass and glare shall be limited to a reasonable level through the use of shielding and directional lighting methods.

<u>Noise</u>

Towing establishments can produce noise especially if repairs occur on site. Minor repairs are allowed by Automotive Repair and Service, Group I uses. However, more substantial repairs that involve frame and axle repairs and rebuilding engines that typically produce greater levels of noise, are prohibited. Repairs are not currently proposed.

Summary

The site is in a sporadically developed area with a mix of residential and nonresidential uses. The nearest residential use is about 50 feet to the south. Since an existing towing business is already adjacent to this site, property owners and residents in the area are likely accustomed to the operation of this use. Based on the nature of the proposed use, the surrounding zoning and land use patterns, and staff recommended conditions, the use should be harmonious with the surrounding area. Recommended conditions include the screening and buffering of the impoundment area.

3. Minimum Lot Frontage; Access

The site has about 328 feet of frontage on SW 3rd Avenue and SW 3rd Street. The site has one existing driveway that provides access to the building on Lots 1-3. A proposed driveway will provide access to the impoundment area on Lots 4 and 5. The site exceeds the minimum width at the building line requirement of 50 feet for sites less than 45,000 sq. ft. in the Corridor District.

4. Building Location; Setbacks

The building is compliant with the minimum setbacks of the Corridor District for sites less than 45,000 sq. ft. (front: 25 feet; side: 0 feet; and rear: 10 feet). No building is proposed for Lots 4 and 5.

5. Screening and Buffering

Mature landscaping exists on Lots 1-3. Landscaping is absent on Lots 4 and 5. An opaque fence is proposed around the storage area. Staff recommends additional screening and buffering of the impoundment area.

Consistency with the Comprehensive Plan

With the implementation of conditions recommended by staff, the project will be consistent with the following goals and policies.

Future Land Use Element

Policy 1.15.m

"Pine Island Road District: Under this land use designation, at least two distinctive zoning categories will be allowed: Village and Corridor zoning. The Village zone is intended to promote maximum pedestrian friendliness and minimal automobile traffic between residential areas, shopping destinations, a variety of entertainment establishments, and employment opportunities. The Corridor zone designation will be placed on the land located between the Villages and will include larger scale, less pedestrian-oriented uses. This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road. The Pine Island Road District will be defined as the union of two major mixed-use area defined below as follows: ...

... Corridor: The land located between the Villages and includes such uses as, retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), single family residential, multi-family residential golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Polity 1.15.i of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.j of the Future Land Use Classification. The site has a FAR of 0.22. This policy is supportive of this request.

Policy 1.17

"Land development regulations, whether adopted or revised subsequent to the adoption of this plan, will address buffering and open space requirements, and will protect existing residential land uses from incompatible land uses." Landscaping exists along the perimeter of Lots 1 - 3. Lots 4 and 5 will be

required to meet minimum landscaping standards as part of the site plan review process. Landscaping is recommended along the opaque fence where vehicles will be impounded. This policy is supportive of this request.

Policy 8.2

"Land development regulations, adopted pursuant to s. 163.3202, F.S., will require the buffering of incompatible land uses." Landscaping exists along the perimeter of Lots 1 - 3. Lots 4 and 5 will meet minimum landscaping standards as part of the site plan review process. Landscaping is recommended along the opaque fence where vehicles will be impounded. This policy is supportive of this request.

Policy 8.3

"Commercial developments shall be designed to minimize negative impacts on surrounding residential uses and the land development regulations shall provide for adequate buffering between commercial and residential uses. The design should ensure adequate screening of unsightly views of commercial development (such as loading docks, rooftop equipment, service entrances, trash containers, parking areas and exterior storage) through the extensive uses of landscaping, berms, fencing, concealment, architectural features, open space, setbacks, and/or building orientation. Ensure that the placement of any noise generating activities such as ingress/egress, parking, deliveries, air conditioning equipment and dumpster collections are designed to minimize any adverse noise effects. Traffic and parking should not adversely affect neighborhood quality. Noise, safety and overall maintenance of commercial properties should be carefully monitored." The site lacks a loading dock and rooftop equipment that requires screening. Landscaping is recommended along the fence enclosing the impoundment area to buffer this use. This policy is supportive of this request.

Recommendation:

Staff recommends **approval** of the special exception with the following conditions:

- 1. A Site Development Plan must be approved for improvements proposed for Lots 4 and 5. These improvements must be constructed and inspected by the City prior to the issuance of a certificate of use for the towing establishment.
- 2. An opaque fence, with a height of six feet, shall be installed around the perimeter of the impoundment area. The fence shall be composed of PVC or vinyl materials. Brick, stone, concrete block coated with stucco, and formed, decorative, or precast concrete are also acceptable materials. The use of chain link and metal are prohibited.
- 3. A row of canopy trees spaced 20 feet on center and a row of shrubs installed at three feet on center shall be planted on the east and west sides of the impoundment area, directly in front of the fence. The rows of landscaping shall be continuous except for the drive isle that provides access to the impoundment area. The shrubs shall be maintained at a minimum height of four feet at maturity.

- 4. Automotive repairs performed on the site shall be limited to the hours beginning at 8:00 a.m. and ending at 6:00 p.m., Monday thru Saturday. No repair work shall be allowed on Sundays. All automotive repair work shall be performed indoors.
- 5. All outdoor lighting shall be arranged to direct the light away from adjacent residential properties. Lighting trespass and glare shall be limited using shielding and directional lighting methods, including, but not limited to, fixture location and height. The lighting shall be so designed that light measured along any residential property line shall not exceed one foot-candle.
- 6. All towed vehicles and tow trucks shall be parked within a fenced impoundment area or inside the building.





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: SE18-0011

<u>REQUEST</u>: The applicant requests a special exception for an Automotive Repair and Service, Group I use for a towing establishment in the Corridor District.

LOCATION: 221 and 227 SW 3rd Avenue

CAPE CORAL STAFF CONTACT: Justin Heller, Senior Planner, 239-574-0587, jheller@capecoral.net

PROPERTY OWNER(S): 227 Nicholas Pines Center, LLC

AUTHORIZED REPRESENTATIVE: David Douglas Associates, Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, December 4, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, <u>www.capecoral.net/publichearing</u> (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

<u>APPEALS</u>: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Department of Community Development Post Office Box 150027 • Cape Coral, Florida 33915-0027 1015 Cultural Park Blvd. • Cape Coral, Florida 33990 Email: planningquestions@capecoral.net



Classified Ad Receipt (For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD CAPE CORAL FL 33990 USA

Run Times: 2

Run Dates: 11/24/2018

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE18-0011

REQUEST: The applicant requests a special exception for an Automotive Repair and Service, Group I use for a towing establishment in the Corridor District. LOCATION: 221 and 227 SW 3rd Avenue

CAPE CORAL STAFF CONTACT: Justin Heller, Senior Planner, 239-574-0587, jh eller@capecoral.net

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DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publ ichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM

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No. of Affidavits: 1

by order of Kimberly Bruns, CMC Interim City Clerk REF # SE18-0011 AD#3264437

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: 227 Nicholas Pine Center LLC

8

APPLICATION NO: SE18-0011

STATE OF FLORIDA)) COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this

day of

November

IRASEMA COLLAZO MY COMMISSION # GG073042 EXPIRES February 14, 2021

Vincent A. Cautero, AICP

STATE OF FLORIDA COUNTY OF LEE

K Commission #GG73042 Exp. Date o

Signature of Notary Public

Print Name of Notary Public





Item Number:2.D.Meeting Date:12/4/2018Item Type:HEARINGS

AGENDA REQUEST FORM

CITY OF CAPE CORAL



TITLE:

Case #SE18-0012*; Address: 19 Chiquita Boulevard North; Applicant: New Cape Properties, LLC

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?	No
2. Is this a Strategic Decision?	No
If Yes, Priority Goals Supported are listed below.	
If No, will it harm the intent or success of the Strategic Plan?	No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant is requesting a special exception to construct and operate a Model Home Use in a Residential Development (RD) zoning district.

LEGAL REVIEW:

EXHIBITS:

See attached Backup Materials

PREPARED BY:

Kristin Kantarze Division- Planning

ning Department-

ment- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

ATTACHMENTS:

Туре

DescriptionBackup Materials

Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT SPECIAL EXCEPTION APPLICATION Questions: 239-574-0776 Case #

REQUEST FOR A SPECIAL EXCEPTION USE

FEE: \$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

OWNER OF PROPERTY	Address: 1505 SE 40th Street Suite F
New Cape Properties, LLC	City: Cape Coral State Fl Zip 33904
Email: Robert.Ryan.Knight@gmail.com	Phone: 239-850-8821
APPLICANT (if different from Owner)	Address: 1505 SE 40th Street Suite F
New Cape Properties, LLC	City: Cape Coral State Fl Zip 33904
Email: Robert.Ryan.Knight@gmail.com	Phone: 239-850-8821
AUTHORIZED REPRESENTATIVE	Address: 7370 College Parkway Suite 211
Maastricht Engineering	City: Ft Myers State Fl Zip 33907
Email: maastricht-eng.com	Phone: 239-362-1605
Unit 48 Block 3654 Lot(s) 9-11 Address of Property 19 Chiquita Blvd No	Subdivision Cape Coral
	Plat Book 17 Page 139
Current Zoning RD Strap Nu	mber 10-44-23-C4-03654.0090

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

Robert Knight

NAME (PLEASE TYPE OR PRINT)

New Cape Properties, LLC CORPORATION/COMPANY NAME

APPLICANT'S SIGNATURE

Therett



DEPARTMENT OF COMMUNITY DEVELOPMENT SPECIAL EXCEPTION APPLICATION Questions: 239-574-0776 Case #

(SIGNATURE MUST BE NOTARIZED)

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

STATE OF, CO	DUNTY OF LEE
Sworn to (or affirmed) and subs Robert Knight as identification.	who is personally known or produced
	Exp. Date: 2.16.18 Commission Number: FF179349
	Signature of Notary Public:
ACCELINE J. HOOKER MY COMMISSION # FF 179349 EXPIRES: December 16, 2018 Bonded Thru Budget Notary Services	Printed name of Notary Public: () Dacgeline J. Hooker


Case #

ACKNOWLEDGEMENT FORM

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner, or City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

I hereby acknowledge that I have read and understood the above affidavit on the

2714	day of	AUGUST	-	,20 <u>2018</u>
Robert Knight			John Ktry	To
PRINT APPLICANT'S NAME		APPLICA	ANT'S SIGNATURE	
STATE OF	, COUNTY OF	LEE		
subscribed and sworn to Robert Knight as identification.		this nally known or produ	27day of	<u>August</u> , 20 <u>18</u> , by
ver	Exp. Date:	12.16.18 Com	mission Number:	FF179349
ACOELINE J. HOOM 19349	Signature of Not	ary Public:	Acgel	me Nocker
JACOELINE J. HOONER JACOELINE J. HOONER IN COMMISSION # FF 179249 NN COMMISSION # FF 179249 * EXPIRES December 16, 2018 * EXPIRES December Notery Service	Printed name of	Notary Public:	Jacqelin	e J. Hooker
t to the second				



Case	#	

A	UTHORIZATION TO REPRESENT I	PROPERTY OWNER(s)
PLEASE BE ADVISED THAT	Pete Maastricht, P.E.	
	(Name of person givin	ng presentation)
IS AUTHORIZED TO REPRESEN Special Exceptio		HEARING EXAMINER, OR CITY COUNCIL FOR
(Type of Public Hearing – i.e.,	PDP, Zoning, Special Exception,	Variance, etc.)
UNIT 48 BLOCK	3654 LOT(S) 9-11	SUBDIVISION Cape Coral
OR LEGAL DESCRIPTION		
LOCATED IN THE CITY OF CA Robert Knight	PE CORAL, COUNTY OF LEE, FLO	DRIDA.
PROPERTY OWNER (Please	Print)	PROPERTY OWNER (Please Print)
PROPERTY OWNER (Signat	ure & Title)	PROPERTY OWNER (Signature & Title)
STATE OF <u>FL</u> , COU	NTY OF LEE	
Subscribed and sworn to (or aff Robert Enight as identification.	irmed) before me this who is personally known or	27 day of <u>August</u> , 20 <u>8</u> , by produced
	Exp. Date: 2.4.18 C	Commission Number: FF179349
JACQELINE J. HOOKER	Signature of Notary Public:	Alezelini Hellus
JACQELINE J. HOOKEN JACQELINE J. HOOKEN MY COMMISSION # FF 179349 MY COMMISSION # FF 179349 EXPIRES: December 16, 2018 Bonded Thru Budget Notary Services	Printed name of Notary Public:	Vacgeline J. Hooker

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation paper.



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case #

MODEL HOME SITE SPECIAL REGULATIONS

- 1. Model Homes: May be permitted as a Special Exception, subject to the following requirements:
 - a. Minimum site area of 15,000 square feet for (1) model home and a minimum of 10,000 square feet for each additional adjoining model home site.
 - b. The parking lot for a model home(s) shall be set back a minimum of five (5) feet from the side property line, and fifteen (15) feet from the rear property line. The setback areas shall contain at least a five (5) foot landscaped buffer to the adjoining rear and side properties.
 - c. No parking directly to the rear of a model home on one building site.
 - d. Parking: 5 paved spaces on site for the first model home, 3 additional paved spaces on site for any and all additional model homes.
 - e. Vehicle parking entrance to home site shall be from the same street which faces front entrance to the model home unless this requirement conflicts with Department of Transportation Standards or City of Cape Coral Engineering Design Standards. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the garage.
 - f. Time Limit: 5 years maximum, unless the model home site conforms to all other provisions of this Ordinance.
 - g. Deposit Required: A deposit of funds or other financial instruments payable to the City of Cape Coral is required as a construction conversion deposit to convert the property back to a residential use when the structure is converted or sold. The amount of the deposit to be set forth is as follows: \$5,000.00 for conversion of the parking lot: and \$1,500.00 per model home if driveway is not installed.
 - h. Model homes may be open for business between 9:00AM to 9:00PM daily.
 - i. Outside lighting permitted, except 10:00PM to 7:00AM.
 - j. Security lighting: two security lights permitted, one front and one rear of building.
 - k. Model homes must be used exclusively for the display and sale of the model home. No construction office or other real estate uses permitted.



Case #

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

Robert Knight

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF

COUNTY OF_LEE

Sworn to (or affirmed) and subscribed before me on this 2.1 day of <u>AUGUSE</u> 20_14_by <u>ROPERT KNIGHE</u>, who is personally known or who has produced ______ as identification.

Exp. Date 12-16-18 Commission #_FF119349

Signature of Notary Public,

Print Name of Notary Public



JACQELINE J. HOOKER MY COMMISSION # FF 179345 EXPIRES: December 16, 2015 Bonded Thru Budget Notarry Service



September 11, 2018

Mr. Vincent Cautero, Director Department of Community Development City of Cape Coral 1015 Cultural Park Boulevard Cape Coral, Florida 33990

PROJECT: MODEL HOME – 19 CHIQUITA BLVD NO SECTION 10, TOWNSHIP 44 S, RANGE 23 E

SUBJECT: Model Home Special Exception

Dear Mr. Cautero,

Please accept this letter of intent for the Model Home – 19 Chiquita Blvd No Special Exception.

The applicant, New Cape Properties, LLC, intends to construct a model home site with parking on a 15,000 square foot parcel. A Special Exception is requested for the use of this parcel for a model home site. The property is zoned RD as well as the abutting properties to the north, east, south and west. The parking area is proposed to contain five spaces with access to Chiquita Boulevard. A landscape screen is provided around the perimeter of the parking lot. A stormwater detention area is located on the lot for required water quality treatment from the parking area.

Should you have any questions or comments relative to the special exception request, please do not hesitate to contact us.

Sincerely, MAASTRICHT ENGINEERING, INC.

Daniel P. Johnson





BOUNDARY SURVEY

LOTS 9-11, BLOCK 3654, UNIT 48 CAPE CORAL SUBDIVISION

CERTIFIED TO: EMANUEL INVESTMENT OF CAPE CORAL, LLC PROFESSIONAL ASSOCIATES OF FLORIDA. LTD

PLAT BOOK 17, PAGES 135-144

LEE COUNTY, FLORIDA

CAPITAL FINANCE

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

COPYRIGHT 2016 - DAVIS SURVEYING, INC. THIS SURVEY MAY NOT BE REPRODUCED OR USED BY OTHER THAN THE CERTIFIED TO PARTIES ABOVE. NOT VALID FOR PERMITTING OR CONSTRUCTION WITHOUT WRITTEN CONTRACT WITH SURVEYOR.



D:\Dropbox (Davis Surveying Inc.)\Files\2017\17-0311.gxd -- 03/14/2017 -- 09:14 AM --



Property Value History

Tax Year	Just	Market Assessed	Capped Assessed	Taxable
1992	5,650	5,650	5,650	5,650
1993	4,630	4,630	4,630	4,630
1994	4,980	4,980	4,980	4,980
1995	4,200	4,200	4,200	4,200
1996	3,850	3,850	3,850	3,850
1997	3,850	3,850	3,850	3,850
1998	3,850	3,850	3,850	3,850
1999	3,850	3,850	3,850	3,850
2000	3,850	3,850	3,850	3,850
2001	3,850	3,850	3,850	3,850
2002	3,650	3,650	3,650	3,650
2003	6,590	6,590	6,590	6,590
2004	11,400	11,400	11,400	11,400
2005	44,880	44,880	44,880	44,880
2006	86,050	86,050	86,050	86,050
2007	40,950	40,950	40,950	40,950
2008	17,250	17,250	17,250	17,250
2009	6,900	6,900	6,900	6,900
2010	6,900	6,900	6,900	6,900
2011	4,800	4,800	4,800	4,800
2012	3,600	3,600	3,600	3,600
2013	4,600	4,600	3,960	3,960
2014	6,100	6,100	4,356	4,356
	Ì			ĺ

Lee County Property Appraiser - Online Parcel Inquiry

2015	8,000	8,000	4,792	4,792
2016	8,000	8,000	5,271	5,271
2017	12,032	12,032	5,798	5,798

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated January 1st of the tax year in question (<u>F.A.C. 12D-1.002</u>).

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels a assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard (*F.S. 193.011*). For *Agriculturally Classified* parcels (or parts thereof), agricultural uses are considered in the assessment (*F.S. 193.461 (6) (a)*). The difference between the *Highest and Best Use* and the *Agricultural Us* often referred to as the *Agricultural Exemption*.

(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for no Homestead properties.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculat parcel's taxes.

(i.e. Taxable = Capped Assessed - Exemptions)



Property Values		Attributes
Just	12,032	Land Units Of Measure 🕒
Assessed	12,032	Units 🕒
Portability Applied	0	Frontage
Cap Assessed	5,798	Depth
Taxable	5,798	Total Number of Buildings
Cap Difference	6,234	Total Bedrooms / Bathrooms
		Total Living Area 🜗
		1st Year Building on Tax Roll 🔒
		Historic District

-	Taxing Authori	ties
	CITY OF CAPE CORAL	/ 057
Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
LEE CO ALL HAZARDS PROTECTION DIST / 101	Dependent District	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
LEE CO LIBRARY DIST / 052	Dependent District	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
MUNICIPAL SOLID WASTE DISPOSAL MSTU / 116	Dependent District	Lee County Office of Management & Budget PO BOX 398 FORT MYERS FL 33902-0398
LEE CO HYACINTH CONTROL DIST / 051	Independent District	RUSSELL BAKER 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
LEE CO MOSQUITO CONTROL DIST / 053	Independent District	RUSSELL BAKER 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	CHARLES W LISTOWSKI EXECUTIVE DIRECTOR

http://www.leepa.org/Display/DisplayParcel.aspx?FolioID=10062147&PrintDetails=true

Lee County Property Appraiser - Online Parcel Inquiry

 	=	
		200 MIAMI AVE E VENICE FL 34285-2408
CITY OF CAPE CORAL / 014	Municipal	VICTORIA BATEMAN FINANCIAL SERVICES DIRECTOR PO BOX 150027 CAPE CORAL FL 33915-0027
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	AMI DESAMOURS BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	AMI DESAMOURS BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
SFWMD-DISTRICT-WIDE / 110	Water District	MICHELLE QUIGLEY 3301 GUN CLUB RD WEST PALM BEACH, FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	MICHELLE QUIGLEY 3301 GUN CLUB RD WEST PALM BEACH, FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	MICHELLE QUIGLEY 3301 GUN CLUB RD WEST PALM BEACH FL 33406

-				Sales / Transactions	
Sale Price	Date	OR Number	Туре	Description	Vacant/Imprc
10.00	03/08/2017	<u>2017000066862</u>	11	Sales disqualified as a result of examination of the deed Corrective Deed, Quit Claim Deed, or Tax Deed; deed bearing Florida Documentary Stamp at the minimum rate prescribed under Chapter 201, F.S.; transfer of ownership in which no documentary stamps were paid	V
19,800.00	02/13/2017	<u>2017000034193</u>	01	Sales qualified and included for sales ratio analysis Transfers qualified as arm's length because of examination of the deed or other instrument transferring ownership of real property	V
79,900.00	04/21/2005	<u>4720/874</u>	08	Sales disqualified as a result of examination of the deed Disqualified (Doc Stamps Greater than .70/SP Gr. than \$100)	v
51,000.00	11/10/2004	<u>4507/3758</u>	06	Sales qualified and included for sales ratio analysis Qualified (Fair Market Value / Arms Length / One STRAP #)	v
13,500.00	06/08/1999	<u>3132/3555</u>	01	Sales disqualified as a result of examination of the deed Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	v
3,000.00	06/04/1999	<u>3130/3725</u>	01	Sales disqualified as a result of examination of the deed Disqualified (Doc Stamp .70 / SP less th \$100 / Other Disq)	v
3,400.00	12/01/1971	<u>774/209</u>	06	Sales qualified and included for sales ratio analysis Qualified (Fair Market Value / Arms Length / One STRAP #)	V

-	Parcel	Numbering Hist	ory	
Prior STRAP	Prior Folio ID	Renum	ber Reason	Renumber Date
10-44-23-A1-03654.0090	<u>N/A</u>	Reserved for Renumber C	ved for Renumber ONLY 02	
-	Loca	ation Informatio	n	
Township	Range	Section	Block	Lot
44	23E	10		
Municipality	Latitud	e	Longi	tude
City of Cape Coral	26.6529	8	-82.0	068
		Links		
View Parc	el on Google Maps		View Parcel on GeoVi	<u>ew</u>
-	Solid Was	te (Garbage) Ro	ll Data	
Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount

http://www.leepa.org/Display/DisplayParcel.aspx?FolioID=10062147&PrintDetails=true

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Flood and Storm Information						
Flo	od Insurance F	ind my flood zone	•	Sharm Surray Zong	Evacuation Zone	
Community	nity Panel Version		Date	Storm Surge Zone	Evacuation Zone	
125095	0245	F	8/28/2008	В	В	

	Land								
	Land Tracts								
Use Code	Use Code Description	Depth	Frontage	Number of Units	Unit of Measure				
0	Vacant Residential	125	120	1.00	Units				

-	Appraisal D	etails (C	urrent Wo	rking Values)	
			Land		
		La	nd Tracts		
Use Code	Use Code Description	Depth	Frontage	Number of Units	Unit of Measure
0	Vacant Residential	125	120	1.00	Units

Planning Division Case Report SE18-0012

Review Date:	October 31, 2018
Applicant/ Property Owner:	New Cape Properties, LLC.
Authorized Representative:	Maastricht Engineering, Inc.
Request:	The applicant is requesting a special exception to construct and operate a Model Home Use in a Residential Development (RD) zoning district.
Location:	19 Chiquita Boulevard North Unit 48. Block 3654. Lots 9-11. 10-44-23-C4-03654.0090
Prepared By:	Chad Boyko, AICP, Principal Planner
Approved By:	Robert Pederson, AICP, Planning Division Manager
Recommendation:	Approval with conditions
Urban Service Area:	Transition

	Zoning	Future Land Use
Subject	Residential Development (RD)	Single-Family (SF)
Parcel:		
	Surrounding Zoning	Surrounding Future Land Use
North:	RD	SF
South:	RD	SF
East:	RD	SF
West:	Pedestrian Commercial (C-1)	Commercial/Professional (CP)

Property Description/Project Background:

The site is an undeveloped 15,000 sq. ft. parcel in the northwestern portion of the City of Cape Coral. The site does not have any existing roadway access; however, the site has frontage along Chiquita Boulevard, which is a minor arterial¹. An undeveloped 20-foot wide alley right-of-way is adjacent to the east. The surrounding area consists of single-family homes and scattered, undeveloped lots. A parcel in the block was previously developed as a model home, however, the model home is no longer in operation and the building has converted to a single-family home.

¹ At this location.

Page 2 SE18-0012 October 31, 2018

The applicant is requesting a special exception to utilize the site as a model home. The model home will have access on Chiquita Boulevard along with a parking lot containing 5 parking spaces.

Analysis:

The Planning Division has reviewed this application based on the City's Land Use and Development Regulations (LUDR), Section 2.7.3, the Residential Development (RD) district, and the five (5) standards outlined within LUDR, Section 8.8.5a-e which covers special exceptions, and offers the following analysis for consideration:

1) Generally:

The site has Single-Family Residential (SF) future land use and Residential Development (RD) zoning. Model home uses are allowed as a special exception within the RD district with a minimum area of 15,000 sq. ft. for the first model home site. The site is comprised of three lots that collectively yield 15,000 sq. ft., therefore, the minimum land area criterion has been satisfied by the applicant.

2) Compatibility:

Historically, developers constructed model homes along four and six-lane streets in the City of Cape Coral presumably due to high levels of visibility and high volumes of traffic associated with these roadways. Occasionally, model homes have been constructed at locations that over time proved to be better suited for commercial development and as a result the City changed the future land use and zoning designations of these properties. These future land use and zoning amendments presented challenges in converting these sites that were intended to be utilized for residential purposes and that subsequently following these land use and zoning changes could only be used for supporting commercial developments.

This site was amended to the Single-Family future land use map classification recently, in 2017, and therefore, staff does not anticipate that the site will experience commercial challenges based upon the location of the proposed model home. The site is along a segment of Chiquita Boulevard that primarily supports single-family homes and single-family neighborhoods on the north and south side of the roadway. There is a large parcel to the west across Chiquita Boulevard that has commercial entitlements; however, that parcel is unplatted and the size and shape lends itself to a commercial designation. Block 3654 has retained a residential² future land use designation since in the implementation of the Comprehensive Plan in 1989. Furthermore, another model homes was developed in the block that was south of the site. This model home, at 9

² Single-Family/Multi-Family (SM), Multi-Family (MF) or Single-Family (SF)

Page 2 SE18-0012 October 31, 2018

Chiquita Boulevard North, was converted to a single-family home. Planning staff finds that these factors will contribute to a development that is compatible with the surrounding neighborhood.

Further enhancing the compatibility of the proposed model home are the requirements of the RD zoning district that requires landscaping along the parking lot, restrictions on the hours of operation, lighting, and the prohibition of real estate uses within the model home. Because the surrounding area is anticipated to remain residential in the future, the eventual conversion of the model home to a residential use should be a smooth transition.

3) Minimum Lot Frontage; Access:

The site has approximately 120 feet of frontage along Chiquita Boulevard. LUDR, Section 2.7.1 requires that the vehicle access area for a new model be located along the same street which faces the front entrance to the model home unless there is a conflict with the City of Cape Coral Engineering and Design Standards (EDS). The applicant has submitted a site plan depicting access from Chiquita Boulevard. The site only has frontage along Chiquita Boulevard, therefore the proposed access is adequate.

4) Building Location; Setbacks:

The proposed model home meets or exceeds the established setbacks for the RD district. (25 feet: front, 7.5 feet: non-corner side, 20 feet: rear).

5) Screening and Buffering:

The applicant proposes to install a row of landscaping along all four sides of the parking lot to buffer the parking area from the surrounding residents. The applicant has submitted a site plan that shows some additional trees in the front yard of the model home.

Recommendation:

The Planning Division recommends **approval** of the request for a special exception with the following conditions:

1. Prior to the issuance of a certificate of use by the City of Cape Coral, the Developer shall provide the City with a cash deposit or irrevocable letter of credit for \$5,000. This money shall be held by the City, and used if necessary, to remove the parking lot as part of the future conversion of the model home use to a residential property. Should the property owner not wish to remove the parking lot for the residential conversion, the

Page 2 SE18-0012 October 31, 2018

parking lot shall be re-configured to support a legal use³ allowed within the residential zoning, including any necessary structure reconfiguration

- 2. No right-of-way shall be used as a staging area for construction activities. This condition shall include prohibiting both the storage of construction materials and equipment, as well as prohibiting the parking of any vehicles and equipment being utilized for the construction of the model home use.
- 3. The project shall be consistent with the site plan submitted by the applicant labeled as "Exhibit A".

Staff Contact Information Chad Boyko, AICP, Principal Planner PH: (239)573-3162 Email: <u>cboyko@capecoral.net</u>

³ Basketball court, tennis court, and other recreational facilities permitted in Section 3.1





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: SE18-0012

<u>REQUEST</u>: The applicant is requesting a special exception to construct and operate a Model Home Use in a Residential Development (RD) zoning district.

LOCATION: 19 Chiquita Boulevard North

CAPE CORAL STAFF CONTACT: Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

PROPERTY OWNER(S): New Cape Properties, LLC

AUTHORIZED REPRESENTATIVE: Maastricht Engineering, Inc

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, December 4, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, <u>www.capecoral.net/publichearing</u> (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

<u>APPEALS</u>: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



Classified Ad Receipt (For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD CAPE CORAL FL 33990 USA

Run Times: 2

Run Dates: 11/24/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: SE18-0012

REQUEST: The applicant is requesting a special exception to construct and operate a Model Home Use in a Residential Development (RD) zoning district.

LOCATION: 19 Chiquita Boulevard North

CAPE CORAL STAFF CONTACT: Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

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DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publ ichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM

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Ad No.:

Net Amt:

0003264395

\$

assistance.

by order of Kimberly Bruns, CMC Interim City Clerk REF # SE18-0012 AD#3264395, Nov. 24, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: New Cape Properties LLC

§

APPLICATION NO: SE18-0012

STATE OF FLORIDA)) COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this

day of

November 2018

IRASEMA COLLAZO WY COMMISSION # GG073042 EXPIRES February 14, 2021

Vincent A. Cautero, AICP

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this 27 day of Wembel, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp, Date 214 21 Commission # 6673042

Signature of Notary Public

490

Print Name of Notary Public





Item Number:2.E.Meeting Date:12/4/2018Item Type:HEARINGS

AGENDA REQUEST FORM

CITY OF CAPE CORAL



TITLE:

Case #SE18-0013*; Address: 1600 and 1604 Beach Parkway; Applicant: V and A Builders, Inc.

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?	No
2. Is this a Strategic Decision?	No
If Yes, Priority Goals Supported are listed below.	
If No, will it harm the intent or success of the Strategic Plan?	No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant is requesting a special exception to construct and operate a Model Home Use in a Single-Family Residential (R1B) zoning district.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Materials"

PREPARED BY:

Kristin Division- Planning Department- Community Development

SOURCE OF ADDITIONAL INFORMATION:

Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

ATTACHMENTS:

Description

Туре

Backup Materials

Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

PROCEDURE LIST FOR SPECIAL EXCEPTION REQUEST

Case # 5E18-0013

- 1. Applicant's portion of request shall be typewritten and signature notarized.
 - a) All forms (Application, Acknowledgement Form, Authorization to Represent) must be signed by the property owner or the applicant. If the Authorized Representative is an attorney, the application and the Acknowledgement form may be signed by the attorney and an Authorization to Represent Form is not required.
 b) If there are any deed restrictions on the property, a copy of the restrictions will be required.
- 2. Signature on the Acknowledgement Form must be notarized.
- 3. Letter of intent stating the actual request. This appeal for a Special Exception is for a proposed use. In the case of an existing structure, it is recommended that the applicant request a site-check by the Fire and/or Building Division for suitability and compliance with codes, prior to filing the appeal.
- 4. Certified survey done within six (6) months MAY be required.
- 5. Projected number of peak hour trips. If more than 300 peak hour trips are projected, a traffic impact study must be submitted.
- 6. Development plan drawn to scale (not less than 1" = 50') and containing the following:
 - a) Site layout showing dimensions, boundary lines, North directional arrow and complete legal description of the property.
 - b) The location and dimensions of all existing and/or proposed buildings and structures, including additions and eaves, overhangs, porches and patios.
 - c) The setback distance from all buildings, additions to structure to property lines. Indicate the square footage associated with each existing and proposed use of buildings.
 - d) Location and dimensions of driveways. Show parking areas with layout and number of spaces and traffic flow.

7. Landscaping:

- a) A continuous strip of landscaping shall be provided along all property lines and streets serving the development.
- b) Models. The models shall comply with the single family landscaping requirements as indicated in Section 5.2.3.B.1.
- c) Identify method of irrigation and location of utility lines and easements.

Please note that any advisory comments provided by staff regarding approval or permits are conceptual only and are subject to change. Official review may result in additional changes not noted in the advisory process prior to submission of application. The final design or project must comply with the Land Use and Development Regulations, Engineering Design Standards, City Code of Ordinances, Comprehensive Plan and other applicable laws and regulations.

In addition to the application fee (\$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres), all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

IT IS REQUIRED THAT APPLICANT AND/OR REPRESENTATIVE ATTEND THE HEARING EXAMINER MEETING.



Questions: 239-574-0776

SPECIAL EXCEPTION APPLICATION

DEPARTMENT OF COMMUNITY DEVELOPMENT

REQUEST FOR A SPECIAL EXCEPTION USE

FEE: \$833.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising fees will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.

OWNER OF PROP	ERTY				Address:	943 Golden	Pond Court			
V & A Builders, Inc.	_				City: Cape	e Coral	State	FL	Zip	33909
Email: AVEN	DAOC	acgr	nail.c	Om	Phone:	786-59	9-4036			
APPLICANT (if diff	erent from	n Owner)		Address:	10541 Six M	1ile Cypress Parkw	ay		
D.R. Horton, Inc.		_			City: Fort	Myers	State	FL	Zip	33966
Email: jweverett@	drhorton.c	om			Phone: 2	39-225-2631				
AUTHORIZED REP	RESENTA	TIVE			Address:	10511 Six M	1ile Cypress Parkw	ay, Suit	e 101	
Stacy Ellis Hewitt, Ald	CP - Banks	Engineerir	ng		City: Fort	Myers	State	FL	Zip	33966
Email: shewitt@b	ankseng.co	om			Phone:	Office: 239	-939-5490 / Cell: 23	39-770-	2527	
Unit 70	Block	4740	Lot(s)	39-42	Subdivisio	on Cape C	oral			
Address of Proper	rty	1600 & 1	604 Beach	Parkway W	est					
					Plat Book	22	Page	74		
Current Zoning	R-1B			Strap Nu	mber	09-45-23-C2	2-04740.0390& 09-	45-23-0	22-04740	0.0410
Current Zohing				- 5trap Nu	moer			10 20 0		

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

Jonathan M. Pentecost, SWFL Division President

NAME (PLEASE TYPE OR PRINT)

D. R. Horton, Inc. CORPORATION/COMPANY NAME

APPLICANT'S SIGNATURE



Case # 5E18.0013

(SIGNATURE MUST BE NOTARIZED)

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

STATE OF Florida, cou	INTY OF Lee
Sworn to (or affirmed) and subscr	ibed before me this 17 day of 20 , 20 k, by
Sonothen Perticost	
as identification.	Exp. Date: 13/11/18 Commission Number: FF182842
NOTARY STAMP HERE	Signature of Notary Public: Printed name of Notary Public: Aswley Roza
SWARN STATE	Ashley Koza

COMMISSION # FF182842 EXPIRES: December 11, 2018 WWW.AARONNOTARY.COM



Case # 5E18-0013

ACKNOWLEDGEMENT FORM

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner, or City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

17th	day of aptember , 20 18
D.R. Horton, Inc. Jonathan M. Pentecost, SWFL Div	
PRINT APPLICANT'S NAME	APPLICANT'S SIGNATURE
STATE OF P	, COUNTY OF Lee
Subscribed and sworn to (or a	ffirmed) before me this 17 day of September, 2018, b
Subscribed and sworn to (or a	ffirmed) before me this 17 day of September, 2018, b who is personally known or produced
Jonathon Perticost	
Jonathon Perticost	who is personally known or produced



Case # SE18	-00 3
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uestions: 239-574	1-0776		
	AUTHO	RIZATION TO REPRESENT PR	OPERTY OWNER(s)
PLEASE BE ADV	ISED THAT	-	ng & D.R. Horton, Inc.
		(Name of person giving	presentation)
IS AUTHORIZED		IN THE REQUEST TO THE HEA	ARING EXAMINER, OR CITY COUNCIL FOR
(Type of Public	Hearing – i.e., PDP,	Zoning, Special Exception, Va	ariance, etc.)
UNIT 70	BLOCK 4740	LOT(S) 39-42	SUBDIVISION Cape Coral PB 22 PG 74
OR LEGAL DESC	CRIPTION		
V & A Builde CD CLOS PROPERTY C	rs, Inc.	S V.P.	DIDND VELDNDLD, PROPERTY OWNER (Please Print) PROPERTY OWNER (Signature & Title)
STATE OF FI	orida, COUNTY C	F Lee	
Subscribed and s	ENDAND W	l) before me this Sep <u>Ten</u> ho is <u>personally known</u> or pro	
- and the second		Date: 015, 2021 Con	mmission Number: 66 148 910
Notary Publ	CABRERA OSLE	ature of Notary Public:	Lw.
My Comm.	ion ± GG 148910 Expires Oct 5, 2021 It National Notary Assn. Prin	ted name of Notary Public:	Liana Cabrera - Osle
Bonded throug	r National Notary Assn.	teu name of Notary Fublic.	Civilio Costante Osit

Note: Please list all owners. If a corporation, please supply the Planning Division with a copy of corporation paper.



DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # 5E18-0013

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

MODEL HOME SITE SPECIAL REGULATIONS

- 1. Model Homes: May be permitted as a Special Exception, subject to the following requirements:
 - a. Minimum site area of 15,000 square feet for (1) model home and a minimum of 10,000 square feet for each additional adjoining model home site.
 - b. The parking lot for a model home(s) shall be set back a minimum of five (5) feet from the side property line, and fifteen (15) feet from the rear property line. The setback areas shall contain at least a five (5) foot landscaped buffer to the adjoining rear and side properties.
 - c. No parking directly to the rear of a model home on one building site.
 - d. Parking: 5 paved spaces on site for the first model home, 3 additional paved spaces on site for any and all additional model homes.
 - e. Vehicle parking entrance to home site shall be from the same street which faces front entrance to the model home unless this requirement conflicts with Department of Transportation Standards or City of Cape Coral Engineering Design Standards. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the garage.
 - f. Time Limit: 5 years maximum, unless the model home site conforms to all other provisions of this Ordinance.
 - g. Deposit Required: A deposit of funds or other financial instruments payable to the City of Cape Coral is required as a construction conversion deposit to convert the property back to a residential use when the structure is converted or sold. The amount of the deposit to be set forth is as follows: \$5,000.00 for conversion of the parking lot: and \$1,500.00 per model home if driveway is not installed.
 - h. Model homes may be open for business between 9:00AM to 9:00PM daily.
 - i. Outside lighting permitted, except 10:00PM to 7:00AM.
 - j. Security lighting: two security lights permitted, one front and one rear of building.
 - k. Model homes must be used exclusively for the display and sale of the model home. No construction office or other real estate uses permitted.



Case # 5E18-0013

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree	e to comply with this provision.
D.R. Horton, Inc. Jonathan M. Pentecost, SWFL Division President	
OWNER/APPLICANT (PLEASE TYPE OR PRINT)	OWNER APPLICANT SIGNATURE
(SIGNATURE I	MUST BE NOTARIZED)
STATE OF PL COUNTY OF	Lee
Sworn to (or affirmed) and subscribed before me 20 <u>18</u> by <u>Tonorthen Pertces</u> , who i as identification.	e on this 17 day of September, s personally known or who has produced
Exp. Date $12/11/18$	Osuenth
Commission # FF182842	Signature of Notary Public
	Ashley Koza
Ashlev Koza	Print Name of Notary Public



ASTITEY ROZA COMMISSION # FF182842 EXPIRES: December 11, 2018 WWW.AARONNOTARY.COM





Professional Engineers, Planners & Land Surveyors

September 26, 2018

SEP 26 18 PM 115 *

City of Cape Coral Department of Community Development 1015 Cultural Park Boulevard Cape Coral, Florida 33990

Reference: Beach Parkway Model Home Center SPECIAL EXCEPTION - LETTER OF INTENT 1600 & 1604 Beach Parkway West Strap No.: 09-45-23-C2-04740.0390 & 09-45-23-C2-04740.0410

To Whom It May Concern:

It is the intent of our client, D.R. Horton, Inc., to request a Special Exception in order to operate a model home center in the Single-Family Residential (R-1B) zoning district for the location of one (1) model home site and one (1) temporary parking lot.

The subject parcel consists of four unimproved lots identified as lots 39 through 42, Block 4740, Cape Coral Unit 70, Plat Book 22, Page 24. The total area of the site is 21,121± square feet. The property is located in southwestern Cape Coral at the southwest corner of the intersection of Beach Parkway W., a collector roadway, and Chiquita Boulevard S., a major arterial roadway. The surrounding area consists of single-family residential and model home center uses. The parcel has a future land use classification of Single-Family and is zoned Single-Family Residential (R-1B). Adjacent properties to the west, south, and east across Chiquita Boulevard S. from the subject parcel also share the same future land use classification and zoning designation. Property to the north across Beach Parkway W. is within the Commercial Activity Center future land use district and is zoned Marketplace-Residential (MR) and is vacant. The lots adjacent to the south are vacant. The lot to the west is developed with a model home center parking lot and a single-family residence.

Lots 39 and 40 are proposed for a model home with a temporary parking lot on lots 41 and 42. The parking lot is accessed from Beach Parkway W. and contains 9 spaces. Landscaping is proposed in compliance with model home parking lot screening and single-family lot planting requirements, as noted on the attached site plan.

It should be noted that the proposed Land Use Development Regulations Code Rewrite proposes to remove the special exception requirement for model homes so that they will be allowed as a permitted use subject to special regulations.

The applicant offers the following analysis of the City's Land Use and Development Regulations (LUDR), Section 2.7.1.D.1, which states, "Model home site(s) may be permitted as a special exception, subject to the following requirements:

SERVING THE STATE OF FLORIDA

10511 Six Mile Cypress Parkway • Suite 101 • Fort Myers, Florida 33966 Phone 239-939-5490 • www.bankseng.com • Fax 239-939-2523 Engineering License No. EB 6469 • Surveying License No. LB 6690 a. Minimum site area of 15,000 square feet for the first model home site and a minimum of 10,000 square feet for each additional model home site adjoining.

The subject property is comprised of four lots with a combined total area of $21,121 \pm$ square feet. The site exceeds the minimum site area requirement for the model home.

b. The parking lot for a model home site(s) shall be set back a minimum of five feet from the side property line and 15 feet from the rear property line. The setback area shall contain at least a five-foot landscaped buffer to the adjoining rear and side property lines.

The attached site plan demonstrates the proposed parking meets the minimum five feet from the side property line and minimum 15 feet from the rear property line. There is a note on the site plan requiring at least a five-foot landscaped buffer to the adjoining rear and side property lines. The project meets this standard.

c. No parking directly to the rear of the model home site(s) on one building site.

The attached site plan demonstrates the proposed parking is located on the lot adjacent to the proposed model home site and not on the same building site of the proposed model homes. The project meets this standard.

d. Parking: five paved spaces on site for the first model home site, three additional paved spaces for each additional model home site.

The attached site plan demonstrates 9 paved parking spaces including 1 handicap space. The provided 9 parking spaces exceeds the required 5 parking spaces. The project meets this standard.

e. Vehicle parking entrance(s) to the model home site shall be from the same street which faces front entrance to the model home site(s) unless this requirement conflicts with Department of Transportation Standards or City of Cape Coral Engineering Design Standards. On corner sites where the garage is on the side of the structure, the entrance to the parking area may be located on the same side as the driveway to the garage.

The attached site plan demonstrates the vehicle parking entrance to the parking lot will be from Beach Parkway W., the street which faces the front entrance to the model home. The project meets this standard.

f. Time limit: five years maximum unless conforms to all provisions of this ordinance.

The applicant acknowledges that the Special Exception will be limited to a maximum of five years unless an extension is granted. The project meets this standard.

g. Deposit required: A deposit of funds or other financial instruments payable to the City of Cape Coral is required as a construction conversion deposit to convert the property back to a residential or other permitted use when the structure is converted or sold. The amount of the deposit to be set forth as follows: \$5,000 for conversion of the parking lot; and, \$1,500 per model home site if driveway is not installed. The deposit shall be used by the city to remove any parking area not allowed in a residential zone or to convert the property to a residential or other permitted use. Such deposit shall be used when the model home site is abandoned as a model home, or at the expiration of the model home time limit, or if the model home site is sold as a residence or other permitted use and not converted to a residence or other permitted use, or if the structure is abandoned as a model home for 30 consecutive days. Conversion of the model home site must be completed within 60 days of the expiration of the time limit for the model home, or within 60 days of the structure being abandoned as a model home site, or prior to sale of the model home site for a residential or other permitted use. Any funds and interest resulting from these funds shall be returned to the party who made the deposit upon conversion of the model home site to a residential or other permitted use if such conversion is done by parties other than the city. Should the city be required to perform the conversion, all unused monies, including interest accrued, shall be refunded to the party making the deposit.

The applicant acknowledges the deposit will be required prior to permitting. The project meets this standard.

h. Model home sites may be open for business between 9:00 a.m. and 9:00 p.m. daily.

The applicant acknowledges that the Special Exception will be limited to the hours of 9:00 a.m. to 9:00 p.m. daily. The project meets this standard.

i. Outside lighting permitted, except from 10:00 p.m. to 7:00 a.m.

The applicant acknowledges that the Special Exception will allow outside lighting, except from 10:00 p.m. to 7:00 p.m. daily. The project meets this standard.

j. Security lighting: two security lights permitted, one at the front and one at the rear of building.

The applicant acknowledges that the Special Exception will allow one security light in the front and one in the rear of the building. The project meets this standard.

k. Model homes must be used exclusively for the display and sale of model homes. No construction office or other real estate uses permitted.

The applicant acknowledges that the Special Exception will be limited exclusively for the display and sale of model homes and that no construction office or other real estate uses are permitted. The project meets this standard.

The requested application meets the five standards outlined within LUDR, Section 8.8.5a-e which covers Special Exception Standards as follows:

a. Generally. The proposal shall comply with all requirements of the zoning districts in which the property is located, the Land Use and Development Regulations, and all other applicable law.

The subject property has a SF Future Land Use Classification and has R-1B Zoning. Model home uses are allowed as a Special Exception within the R-1B Zoning District, as long as the project complies with the requirements contained in LUDR Section 2.7.1.D.1. Compliance with the Section is outlined above demonstrating that all standards are met.

b. Compatibility. The tract of land must be suitable for the type of special exception use proposed

by virtue of its location, shape, topography and the nature of surrounding development.

The subject property is bound by a collector roadway to the north and major arterial roadway to the east. There is an existing model home adjacent to the west. The proposed use will comply with the requirements for hours of operation, buffering and landscaping as outlined above which is compatible with the vacant single-family lots adjacent to the south. The model and parking lot will be converted into single-family homes in the future. The proposed use will be compatible with surrounding development.

c. Minimum lot frontage; access. Minimum lot frontage on a street shall be sufficient to permit properly spaced and located access points designed to serve the type of special exception use proposed. Wider spacing between access points and intersecting street right-of-way lines should be required when the lot has more than the minimum required frontage on a street. All access points shall be specifically approved by the Hearing Examiner.

The subject property consists of four platted lots that are planned for one model home and one parking lot. The four lots have frontage on Beach Parkway W. and Chiquita Boulevard S. and will provide access onto Beach Parkway W. for the model home driveway and the temporary parking lot driveway. The lot frontage is sufficient for the proposed Special Exception.

d. Building location; setbacks. All buildings shall be located an adequate distance from all property lines and street right-of-way lines. Greater building setback lines may be required when the lot has more than the minimum lot area required or when deemed necessary to protect surrounding properties.

Please see attached special exception site plan and survey plat plan demonstrating the building location and setbacks for the proposed model home. The model use will be converted to single-family use in the future and complies with the regulations for the R-1B zoning district. No additional setbacks are required to protect surrounding properties.

e. Screening and buffering. A continuous strip of properly maintained landscaped area should be provided along all property lines and along all streets serving the premises. Such continuous strip of properly maintained landscaped area may, however, be allowed to contain walkway(s) and driveway entrances. The Hearing Examiner shall also require that the premises be permanently screened from adjoining and contiguous properties by a fence, evergreen hedge and/or other approved enclosure when deemed appropriate to buffer the special exception use from surrounding uses.

Landscaping for home sites consistent with LUDR Section 5.2.12 will be provided as well as the perimeter 5' landscaping buffer consisting of a hedge required for the temporary parking lot as noted on the site plan.

Attached for your review is the following information:

- 1. One (1) Completed Special Exception Application
- 2. One (1) Original Acknowledgement Form
- 3. One (1) Original Authorization to Represent
- 4. One (1) Original Documentary Evidence
- 5. One (1) Check in the amount of \$833.00 for the Application Fee
- 6. One (1) Statement of Model Home Trip Generation
- 7. One (1) Special Exception Site Plan
- 8. One (1) Survey Plat Plan

Beach Parkway Model Home Center Special Exception – Letter of Intent

Should you or your staff have any questions, or require additional information, please feel free to contact me at (239) 770-2527.

Sincerely, BANKS ENGINEERING

а.

-

Stacy Ellis Hewitt, AICP Director of Planning



SURVEY PLAT

LOTS 39 & 40, BLOCK 4740, CAPE CORAL UNIT 70 AS RECORDED IN PLAT BOOK 22, PAGES 58 THROUGH 87, PUBLIC RECORDS, LEE COUNTY, FLORIDA

LYING IN SECTION 9, TOWNSHIP 45 SOUTH, RANGE 23 EAST

THIS PLAT PREPARED AS A BOUNDARY AND TOPOGRAPHIC SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER

BOUNDARY SURVEY BASED ON THE RECORD PLAT OF CAPE CORAL UNIT TO AND

ASSUMED NORTH BASED ON THE SOUTH RIGHT-OF-WAY LINE OF BEACH PARKWAY WEST AS BEARING S89'43'07"E.

THE SUBJECT PARCEL AS SHOWN HEREON IS LOCATED IN A SPECIAL FLOOD HAZARD AREA ON THE NATIONAL FLOOD INSURANCE PROGRAM'S FLOOD INSURANCE RATE MAP 12071C0385F, EFFECTIVE DATE AUGUST 28, 2008.

THE PARCEL LIES IN FLOOD ZONE AE, BASE FLOOD ELEVATION OF 7 FEET.

ABOVEGROUND AND UNDERGROUND IMPROVEMENTS WERE NOT LOCATED UNLESS

PARCEL SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS AND

ALL BEARINGS AND DISTANCES AS SHOWN ON THE PARCEL BOUNDARY ARE PER THE RECORD PLAT, UNLESS OTHERWISE SHOWN.

ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.

PARCEL CONTAINS 10,000 SQUARE FEET, MORE OR LESS.

SURVEYOR'S CERTIFICATION: I HEREBY CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE THAT THIS PLAT OF THE HEREON DESCRIBED PROPERTY IS A TRUE REPRESENTATION OF A FIELD SURVEY MADE UNDER WY DIRECTION AND MEETS THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER SJ-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.



THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.

- IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF

ABSTRACT OF TITLE AND ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

BOUNDARY AND TOPOGRAPHIC SURVEY

LOTS 39 & 40, BLOCK 4740, CAPE CORAL UNIT 70 LEE COUNTY, FLORIDA

RMR 1"=30'

09-45-23

Statement of Model Home Trip Generation

The subject application is for a model home and a temporary parking lot. Model homes typically do not generate large numbers of trips, with the majority of these trips occurring during the daytime. Since model homes cannot open until 9:00 am, the hours of operation of this use should not conflict with weekday commuters. Due to the anticipated small number of trips generated by this use, and the timing of the trips, the applicant submits that no further analysis be necessary.

Planning Division Case Report SE18-0013

Review Date:	November 16, 2018
Property Owner:	V and A Builders, Inc.
Applicant:	D.R. Horton, Inc.
Authorized Representative:	Banks Engineering / Stacey Hewitt, AICP
Request:	The applicant is requesting a special exception to construct and operate a Model Home Use in a Single-Family Residential (R-1B) zoning district.
Location:	1600 and 1604 Beach Parkway Unit 70. Block 4740. Lots 39-42. 09-45-23-C2-04740.0390 and 09-45-23-C2-04740.0390
Prepared By:	Chad Boyko, AICP, Principal Planner
Approved By:	Robert Pederson, AICP, Planning Division Manager
Recommendation:	Approval with conditions
Urban Service Area:	Transition

	Zoning	Future Land Use
Subject	Single-Family Residential (R-1B)	Single-Family (SF)
Parcel:		
	Surrounding Zoning	Surrounding Future Land Use
North:	Commercial Activity Center (CAC)	Marketplace Residential (MR)
South:	R-1B	SF
East:	R-1B	SF
West:	R-1B	SF

Property Description/Project Background:

The site is two undeveloped parcels totaling 21,120 sq. ft. in the southwestern portion of Cape Coral. The site does not have any existing roadway access; however, the site has frontage along Beach Parkway, a collector road, and Chiquita Boulevard, which is a major arterial¹. The surrounding area consists of single-family homes and scattered, undeveloped lots. A model home is adjacent to the site to the west.

 $^{^{\}scriptscriptstyle 1}$ At this location.

Page 2 SE18-0013 November 16, 2018

The applicant is requesting a special exception to utilize the site as a model home. The model home would have access on Beach Parkway along with a nine-space parking lot. The model home would be on the parcel at 1604 Beach Parkway and the parking lot would on the parcel at 1600 Beach Parkway.

Analysis:

The Planning Division has reviewed this application based on the City's Land Use and Development Regulations (LUDR), Section 2.7.1, the Single-Family Residential (R-1B) district, and the five (5) standards outlined within LUDR, Section 8.8.5a-e which covers special exceptions, and offers the following analysis for consideration:

1) Generally:

The site has Single-Family Residential (SF) future land use and Single-Family Residential (R-1B). Model home uses are allowed as a special exception within the R-1B district with a minimum area of 15,000 sq. ft. for the first model home site. The site is comprised of four lots that collectively yield 21,120 sq. ft., therefore, the minimum land area criterion has been satisfied by the applicant.

2) Compatibility:

Historically, developers constructed model homes along four and six-lane streets in the City of Cape Coral presumably due to high levels of visibility and high volumes of traffic associated with these roadways. Occasionally, model homes have been constructed at locations that over time proved to be better suited for commercial development and as a result the City changed the future land use and zoning designations of these properties. These future land use and zoning amendments presented challenges in converting these sites that were intended to be utilized for residential purposes and that subsequently following these land use and zoning changes could only be used for supporting commercial developments.

Staff does not anticipate that the site will experience those challenges based upon the location of the proposed model home. The site is along a segment of Beach Parkway that primarily supports single-family homes and single-family neighborhoods on the north and south side of the roadway. There is a large parcel to the north across Beach Parkway and with frontage on Chiquita Boulevard that has commercial entitlements, however, the parcel's size and shape lends itself to a commercial designation. Block 4740 has retained a residential-oriented future land use designation since in the implementation of the Comprehensive Plan in 1989. Furthermore, another model homes was developed in the block that is west of the site. This model home was converted to a single-family home. Planning staff finds that these factors will contribute to a development that is compatible with the surrounding neighborhood.

Page 2 SE18-0013 November 16, 2018

Further enhancing the compatibility of the proposed model home are the requirements of the R-1B zoning district that requires landscaping along the parking lot, restrictions on the hours of operation, lighting, and the prohibition of real estate uses within the model home. Because the surrounding area is anticipated to remain residential in the future, the eventual conversion of the model home to a residential use should be a smooth transition.

3) Minimum Lot Frontage; Access:

The site has approximately 155 feet of frontage along Beach Parkway and 110 feet along Chiquita Boulevard. LUDR, Section 2.7.1 requires that the vehicle access area for a new model be located along the same street which faces the front entrance to the model home unless there is a conflict with the City of Cape Coral Engineering and Design Standards (EDS). The applicant has submitted a site plan depicting access from Beach Parkway which is where the front of the home will face. Planning staff finds that the proposed access is adequate.

4) Building Location; Setbacks:

The proposed model homes meet or exceed the established setbacks for the R-1B district. (25 feet: front, 7.5 feet: non-corner side, 20 feet: rear).

5) Screening and Buffering:

The applicant proposes to install a row of landscaping along all four sides of the parking lot to buffer the parking area from the surrounding residents.

Recommendation:

The Planning Division recommends **approval** of the request for a special exception with the following conditions:

1. Prior to the issuance of a certificate of use by the City of Cape Coral, the Developer shall provide the City with a cash deposit or irrevocable letter of credit for \$5,000. This money shall be held by the City, and used if necessary, to remove the parking lot as part of the future conversion of the model home use to a residential property. Should the property owner not wish to remove the parking lot for the residential conversion, the parking lot shall be re-configured to support a legal use² allowed within the residential zoning, including any necessary structure reconfiguration

² Basketball court, tennis court, and other recreational facilities permitted in Section 3.1

Page 2 SE18-0013 November 16, 2018

- 2. No right-of-way shall be used as a staging area for construction activities. This condition shall include prohibiting both the storage of construction materials and equipment, as well as prohibiting the parking of any vehicles and equipment being utilized for the construction of the model home use.
- 3. The project shall be consistent with the site plan submitted by the applicant labeled as "Exhibit A".

Staff Contact Information

Chad Boyko, AICP, Principal Planner PH: (239)573-3162 Email: <u>cboyko@capecoral.net</u>





NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: SE18-0013

<u>REQUEST</u>: The applicant is requesting a special exception to construct and operate a Model Home Use in a Single-Family Residential (R1B) zoning district.

LOCATION: 1600 and 1604 Beach Parkway

CAPE CORAL STAFF CONTACT: Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

PROPERTY OWNER(S): V and A Builders, Inc.

AUTHORIZED REPRESENTATIVE: Banks Engineering / Stacey Hewitt, AICP

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, December 4, 2018 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, <u>www.capecoral.net/publichearing</u> (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

<u>APPEALS</u>: If a person decides to appeal any decision made by the Hearing Examiner with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Department of Community Development Post Office Box 150027 • Cape Coral, Florida 33915-0027 1015 Cultural Park Blvd. • Cape Coral, Florida 33990 Email: planningquestions@capecoral.net



Classified Ad Receipt (For Info Only - NOT A BILL)

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD CAPE CORAL FL 33990 USA

Run Times: 2

Run Dates: 11/24/18

Text of Ad:

NOTICE OF PUBLIC HEARING CASE NUMBER: SE18-0013

REQUEST: The applicant is requesting a special exception to construct and operate a Model Home Use in a Single-Family Residential (R1B) zoning district.

LOCATION: 1600 and 1604 Beach Parkway

CAPE CORAL STAFF CONTACT: Chad Boyko, AICP, Principal Planner, 239-573-3162, cboyko@capecoral.net

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DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publ ichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM

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\$

0003264404

No. of Affidavits: 1

Ad No.:

Net Amt:

by order of Kimberly Bruns, CMC Interim City Clerk REF # SE18-0013 AD#3264404, Nov. 24, 2018

Department of Community Development Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: VA Builders Inc.

APPLICATION NO: SE18-0013

§

STATE OF FLORIDA)) COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this

day of

vembe 2018

IRASEMA COLLAZO MY COMMISSION # GG073042 EXPIRES February 14, 2021

Vincent A. Cautero, AICP

STATE OF FLORIDA COUNTY OF LEE

The foregoing instrument was acknowledged before me this day of *November* 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Commission #GG 190 Exp.

Signature

Print Name of Notary Public





Item 3.A. Number: 3.A. Meeting 12/4/2018 Date:

Item Type: DATE AND TIME OF NEXT MEETING AGENDA REQUEST FORM CITY OF CAPE CORAL



TITLE:

Tuesday, January 8, 2019, at 9:00 a.m., in Council Chambers

REQUESTED ACTION:

STRATEGIC PLAN INFO:

- 1. Will this action result in a Budget Amendment?
- 2. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below. If No, will it harm the intent or success of the Strategic Plan?

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND: WHAT THE ORDINANCE ACCOMPLISHES:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION: