Mayor
Joe Coviello
Council Members
District 1: John Gunter
District 2: John M. Carioscia Sr.
District 3: Marilyn Stout
District 4: Jennifer I. Nelson
District 5: Dave Stokes
District 6: Richard Williams
District 7: Jessica Cosden

City Manager
John Szerlag
City Attorney
Dolores Menendez
City Auditor
Andrea R. Butola
Interim City Clerk
Kimberly Bruns

1015 Cultural Park Blvd.
Cape Coral, FL

AGENDA FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

January 7, 2019	4:30 PM	Council Chambers

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.

1. MEETING CALLED TO ORDER

A. MAYOR COVIELLO

2. INVOCATION/MOMENT OF SILENCE

A. COUNCILMEMBER CARIOSCIA

3. PLEDGE OF ALLEGIANCE

A. LOLA TOMAINO - GULF ELEMENTARY SCHOOL

4. ROLL CALL

A. MAYOR COVIELLO, COUNCIL MEMBERS CARIOSCIA, COSDEN, GUNTER, NELSON, STOKES, STOUT, WILLIAMS

5. CHANGES TO AGENDA/ADOPTION OF AGENDA

6. RECOGNITIONS/ACHIEVEMENTS

A. Florida Department of Environmental Protection's Environmental Stewardship Award for a Lifetime Commitment to Carl Veaux – Terry Cerullo, Ombudsman, DEP – South District Office

7. APPROVAL OF MINUTES

A. Regular Meeting - December 3, 2018
B. Regular Meeting - December 10, 2018

8. BUSINESS

A. PUBLIC COMMENT - CONSENT AGENDA

A maximum of 60 minutes is set for input of citizens on matters concerning the Consent Agenda; 3 minutes per individual.

B. CONSENT AGENDA

(1) Resolution 3-19 Approve Cape Coral R/Sea Hawks, Inc, agreement between the City of Cape Coral and the Cape Coral R/Seahawks, Inc. On January 1, 2019 and terminating on December 31, 2022. The agreement may be extended upon mutual consent of the parties for two (2) additional years; Department: Parks and Recreation; Dollar Value: N/A; (Fund: N/A)

(2) Resolution 4-19 Approve the Selection Advisory Committee (SAC) ranking of the Request for Proposal (RFP) RFP-UT18-98/MC to engage a firm to serve as Construction Manager at Risk for the Southwest Water Reclamation Facilities Operations Building project and authorize the City Manager or Designee to enter into negotiation with the number one ranked firm, Wharton-Smith, Inc.; Department: Utilities; Dollar Value: N/A; (Fund: N/A)

(3) Resolution 6-19 Approval of the Risk Protection Order (RPO) Task Force Memorandum of Understanding (MOU) between the Lee County Sheriff's Office (LCSO), Fort Myers Police Department (FMPD), and the City of Cape Coral o/b/o the Cape Coral Police Department (CCPD) and authorizing the Chief of Police to execute all necessary documents; Department: Police; Dollar Value: N/A; (Fund: N/A)

(4) Resolution 9-19 Approve Use of State Forfeiture Funds in compliance with F.S.S. 932.7055; Department: Police; Dollar Value: $39,433; (Special Revenue Fund)

C. CITIZENS INPUT TIME

A maximum of 60 minutes is set for input of citizens on matters concerning the City Government to include Resolutions appearing in sections other than Consent Agenda or Public Hearing; 3 minutes per individual.

D. PERSONNEL ACTIONS

(1) Resolution 14-19 Authorize City Manager to Pay up to Maximum When Hiring Economic Development Manager

E. PETITIONS TO COUNCIL

(1) NONE

F. APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

(1) Construction Regulation Board - 2 Vacancies

9. ORDINANCES/RESOLUTIONS

A. Public Hearings

(1) Ordinance 84-18 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance approving the Grant of Easement and Construction Agreement between the City of Cape Coral and The School Board of Lee County granting to the School Board an easement for the construction, installation, maintenance, operation, repair and replacement of the School Board's private horizontal directionally drilled underground chiller lines connecting and servicing the school properties crossing the Agualinda Boulevard right-of-way between Ida S. Baker High School and Gulf Middle School, and accepting the conveyance of a parcel of land from the School Board being a portion of Lots 21 and 22, as shown on the unrecorded plat of Agualinda Heights; authorizing and directing the Mayor to execute the Grant of Easement and Construction Agreement. (Applicant: Brought forward by City Management.)

(2) Resolution 282-18 (VP 18-0005*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE RESOLUTION ACCOMPLISHES:
A resolution providing for the vacation of plat for public utility and drainage easements underlying a previously vacated platted walkway and a previously vacated portion of a platted alley located within Block 3367, Cape Coral Unit 65; providing for the vacation of plat for all platted interior lot lines and public utility and drainage easements lying with Lots 36-45, 51-62, and 76-89, Block 3367, Cape Coral Unit 65; property located at 824 SW 42nd Terrace. (Applicant: Skyline Self Storage, LLC)
Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 10-2018.
City Management Recommendation: City Management recommends approval with conditions that appeared in the VP HEX Recommendation 10-2018.

(3) Ordinance 80-18 (ZA 18-0007*) Public Hearing

*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property described as Lots 1-28 and 55-82, Block 3170, Cape Coral Unit 66, from Pedestrian Commercial (C-1) to Single-Family Residential (R-1B) zone; property located north of SW 28th Street, south of SW 26th Street, east of SW 9th Avenue, and west of SW 8th Court.

(6.42 acres) (Applicant: Sullico II, LLC)
Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning.
City Management Recommendation: City Management recommends approval.

(4) Ordinance 82-18 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:
The ordinance amends Chapter 23 "Protected Species" of the Code of Ordinances by creating Article II "Burrowing Owl Protection", by providing for purpose and intent, definitions, development standards, protection and permit procedures, exempt activities within protection zones, penalties, and supplemental regulations. (Applicant: Brought forward by Councilmember Carioscia.)

(5) Ordinance 83-18 Public Hearing

WHAT THE ORDINANCE ACCOMPLISHES:
The ordinance authorizes the issuance of not to exceed $60,000,000 in aggregate principal amount of General Obligation Bonds, in one or more series, to finance the acquisition, construction and equipping of various parks, natural areas, recreational and athletic facilities, trails, boating, fishing and swimming facilities, and wildlife habitat and shoreline protection improvements; pledges the proceeds of ad valorem taxes levied without limit on all taxable property within the City to secure the payment of the principal of, redemption premium, if any, and interest on such bonds; provides for the rights of the holders of such bonds; and authorizes the reimbursement of expenditures made by the City from proceeds of the bonds. (Applicant: Brought forward by City Management.)

B. Introductions

(1) NONE

10. UNFINISHED BUSINESS

A. Water Quality - Update

B. Follow Up Items for Council

C. Sister City Visit - Mayor Coviello

11. NEW BUSINESS

A. Resolution 5-19 Lee County Interlocal Agreement for Joint Water Quality and Storage Improvements to Yellow Fever Creek Preserve; Department: Utilities; Dollar Value: N/A; (Water & Sewer Fund)

B. City 'Welcome' Signs - Mayor Coviello

C. ADDENDUM: Formal Request to postpone the Emergency Hearing scheduled for January 8, 2019 regarding Emergency Suspension of Dixie Roadhouse/Rockade Extended Hours permit – Mayor

Coviello

12. REPORTS OF THE MAYOR AND COUNCIL MEMBERS

13. REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

14. TIME AND PLACE OF FUTURE MEETINGS

A. A Special Meeting of the Cape Coral City Council is Scheduled for Tuesday, January 8, 2019 at 4:30 p.m. in Council Chambers

B. A Regular Meeting of the Cape Coral City Council is Scheduled for Monday, January 14, 2019 at 4:30 p.m. in Council Chambers

15. MOTION TO ADJOURN

GENERAL RULES AND PROCEDURES REGARDING THE CAPE CORAL CITY COUNCIL AGENDA

In accordance with the Americans with Disabilities Act and Section of 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Office of the City Clerk at least forty-eight (48) hours prior to the meeting. If hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

Persons wishing to address Council under Citizens Input or the Consent Agenda may do so during the designated times at each meeting. No prior scheduling is necessary.

All speakers must have their presentations approved by the City Clerk's office no later than 3:00 PM the day of the meeting.

Any citizen may appear before the City Council at the scheduled PUBLIC HEARING/INPUT to comment on the specific agenda item being considered. No prior scheduling is necessary.

When recognized by the presiding officer, a speaker shall address the City Council from the designated speaker's lectern, and shall state his or her name and whom, if anyone, he or she represents. An address shall only be required if necessary to comply with a federal, state of local law.

Copies of the agenda are available in the main lobby of Cape Coral City Hall and in the City Council Office, 1015 Cultural Park Boulevard. Copies of all back-up documentation are also available for review in the lobby of Council Chambers. You are asked to refrain from removing any documentation. If you desire copies, please request they be made for you. Copies are 15 cents per page. Agendas and back-up documentation are also available on-line on the City website (capecoral.net) after 4:00 PM on the Thursday prior to the Council Meeting.

***PUBLIC HEARINGS**
DEPARTMENT OF COMMUNITY DEVELOPMENT CASES

In all public hearings for which an applicant or applicants exist and which would affect a relatively limited land area, including but not limited to PDPs, appeals concerning variances or special exceptions, and small-scale rezonings, the following procedures shall be utilized in order to afford all parties or their representatives a full opportunity to be heard on matters

relevant to the application:

1. The applicant, as well as witnesses offering testimony or presenting evidence, will be required to swear or affirm that the testimony they provide is the truth.

2. The order of presentation will begin with the City staff report, the presentation by the applicant and/or the applicant's representative; witnesses called by the applicant, and then members of the public.

3. Members of the City Council may question any witness on relevant issues, by the applicant and/or the applicant's representative, City staff, or by any member of the public.

4. The Mayor may impose reasonable limitations on the offer of testimony or evidence and refuse to hear testimony or evidence that is not relevant to the issue being heard. The Mayor may also impose reasonable limitations on the number of witnesses heard when such witnesses become repetitive or are introducing duplicate testimony or evidence. The Mayor may also call witnesses and introduce evidence on behalf of the City Council if it is felt that such witnesses and/or evidence are necessary for a thorough consideration of the subject.

5. After the introduction of all-relevant testimony and evidence, the applicant shall have the opportunity to present a closing statement.

6. If a person decides to appeal any decision made by the City Council 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.

Item Number:	**7.A.**
Meeting Date:	**1/7/2019**
Item Type:	**APPROVAL OF MINUTES**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Regular Meeting - December 3, 2018

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
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?

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:
Regular Meeting - December 3, 2018

PREPARED BY:

Kimberly Bruns	Division- Managerial	Department-	City Clerk's Department

SOURCE OF ADDITIONAL INFORMATION:
Kimberly Bruns
City Clerk (Interim)
1-239-574-0417

ATTACHMENTS:

Description	Type
Regular Meeting - December 3, 2018	Backup Material

MINUTES FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

December 3, 2018

Council Chambers **4:30 p.m.**

Meeting called to order by Mayor Coviello at 4:31 p.m.

Invocation/Moment of Silence – Councilmember Gunter

Pledge of Allegiance – Councilmember Gunter

Roll Call: Mayor Coviello, Council Members Carioscia, Cosden, Gunter, Stokes, and Williams were present. Councilmember Stout was excused. Councilmember Nelson arrived at 5:56 p.m.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello asked if there were any changes to the agenda.

Councilmember Williams requested that 9 A (4), Ordinance 78-18, be withdrawn.

Councilmember Carioscia requested a vote to see if the majority wanted to keep it on the agenda.

Councilmember Williams stated many of the people who would speak on that Ordinance were not present tonight.

Mayor Coviello stated it could be left on the agenda, but just not move it forward or vote on it.

Councilmember Williams explained as we are moving forward with this, people are coming forward with ideas and concerns. He noted this would be an opportunity to make some tweaks on this Ordinance.

Mayor Coviello stated the Ordinance revolves around banning retail pet sales in the City.

Councilmember Gunter concurred with Councilmember Carioscia since this was the second time it was brought forth.

Mayor Coviello asked for a show of hands in the audience from who was present to speak on this Ordinance. (One hand was raised.)

City Attorney Menendez stated it would be appropriate to have a motion and a second.

Councilmember Carioscia moved, seconded by Councilmember Gunter, to keep Ordinance 78-18 on today's agenda.

Council polled as follows: Gunter, Stokes, Carioscia, and Coviello voted "aye." Williams and Cosden voted "nay." Four "ayes." Two "nays." Motion carried 4-2.

Mayor Coviello requested a motion to adopt the agenda, as presented.

Councilmember Carioscia moved, seconded by Councilmember Gunter, to adopt the agenda, as presented.

Council polled as follows: Gunter, Stokes, Carioscia, and Coviello voted "aye." Williams and Cosden voted "nay." Four "ayes." Two "nays." Motion carried 4-2.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

Regular Meeting – November 19, 2018

Councilmember Cosden moved, seconded by Councilmember Stokes, to approve the minutes for the November 19, 2018 regular meeting as presented. Voice Poll: All "ayes." Motion carried.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

Tim Trimble inquired about General Fund items 1, 2, 5, and 10. Where is the money coming from to fund these items?

Financial Services Director Bateman explained what Fund is paying for each item that Mr. Trimble questioned.

City Manager Szerlag explained where the money came from in Item 10.

Councilmember Gunter pulled item 8(B)(1).

CONSENT AGENDA

1) Resolution 227-18 Award Request for Proposal RFP-PW18-78/MM for Emergency Disaster Assistance and Debris Removal Services to Ceres Environmental Services, Inc. (Primary); Philllips and Jordan, Inc. (Secondary); CrowderGulf Joint Venture, Inc. (Tertiary); Custom Tree Care, Inc.; DRC Emergency Services, LLC.; Grubbs Emergency Services, LLC.; KDF Enterprises, LLC.; Omni Construction, Inc.; TAG Grinding Services, Inc. and T.F.R. Enterprises, Inc. on an as needed basis, at the unit price stated and authorize the City Manager or Designee to execute the contracts and renewals; Department: Public Works; Annual Dollar Value: N/A - Amounts based on the severity of the disaster; (Governmental Services – General Fund)

2) Resolution 248-18 Award ITB-PW18-127/MM Yacht Club Pool Renovations and Deck Improvements to AuMiller Pools LLC., as the lowest responsive responsible bidder, to renovate the Cape Coral Yacht Club Complex main pool, kiddie pool and surrounding concrete pool deck and walkways in the amount of $255,250 with a 12% City Controlled contingency of $30,630 for a total project cost of $285,880 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Public Works; Dollar Value $285,880; (Special Revenue Fund - Aquatics)

3) Resolution 252-18 Approve award of ITB-UT18-126/GL for the purchase and delivery of Water, Sewer & Irrigation Materials to: Core & Main LP, Ferguson Enterprise, Inc., Fortiline Inc. and Harrington Industrial Plastics, LLC, respectively, at the unit prices bid, not to exceed budgetary limit, as the lowest responsive responsible bidder in each particular group and authorize the City Manager or designee to execute the contract, purchase order and any renewals; Department: Utilities; Estimated Annual Dollar Value: $1,800,000; (Water & Sewer Fund)

4) Resolution 256-18 Acceptance of Warranty Deed from Elizabeth Benavidez for a portion of the 1994 vacated right of way of SW 28th Place being adjacent to Lot 53, Block 5972, Cape Coral Unit 93 (2811 SW 25th Terrace) and a Public Utility and Drainage Easement to clarify additional utility and drainage easement area

along the western perimeter easement of Lot 53, Block 5972; Department: Financial Services / Real Estate Division; Dollar Value: $80; (Fund: Public Works Planning & Permitting)

5) Resolution 259-18 Award ITB-PW18-132/MM Greenscape Median Landscape Maintenance for Areas 3, 8 and 9 to John Fideli Landscapes, LLC., as the lowest responsive responsible bidder, to maintain the landscaping and irrigation system in the amount of $74,260 with a $10,000 City Controlled contingency for a total project cost of $84,260 and authorize the City Manager or Designee to execute the agreements, amendment and any renewals; Department: Public Works; Dollar Value: $84,260; (General Fund)

6) Resolution 266-18 Acceptance of Cross Access Easement in a portion of 2315 Andalusia Boulevard (part of Lots 27 and 28, Block 2162, Unit 32, Strap #31-43-24-C1-02162.0270), to provide access to the alley right of way, as conditioned in the Vacation of Plat Resolution 187-18; Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)

7) Resolution 267-18 City of Cape Coral 2017-2018 Consolidated Annual Performance Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) Program; Department: Community Development; Dollar Value: N/A; (Fund: N/A)

8) Resolution 268-18 Single Family Impact Fee Deferral Program Developer Agreements between the City of Cape Coral and Habitat for Humanity of Lee and Hendry Counties; Department: Community Development; Dollar Value: N/A; (Fund: N/A)

9) Resolution 257-18 Lee County Tax Collector Building - Potable Water Main Reimbursement; Department: Utilities: Dollar Value: $43,361; (Water & Sewer Fund)

10) Resolution 269-18 Waive Fees for Fire Suppression Conversion from Reclaimed to Potable Water; Department: Fire; Dollar Value: Fluctuates with Property; (Utilities Enterprise, DCD Building Special Revenue, and General Fund)

Councilmember Carioscia moved, seconded by Councilmember Cosden, to approve items 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), 8(B)(7), 8(B)(8), 8(B)(9), and 8(B)(10), as presented.

Council polled as follows: Gunter, Stokes, Williams, Carioscia, Cosden, and Coviello voted "aye." All "ayes." Motion carried 6-0.

Councilmember Gunter inquired what the penalty was on Resolution 227-18 for a contractor who did not appear to do the work outlined or if it occurred later. He questioned if there was a clause within that contract to make sure the contractors are bound by the City to some degree.

Mayor Coviello commented on increasing the $1,000 per day fee for liquidated damages if they do not perform according to the clauses in the contract.

Councilmember Cosden commented on the matrix in the backup. She requested in the future to see a column for past contract adherence and have that weighted the highest.

Procurement Manager Roop noted how challenging it was to deal with contractors after the hurricane regarding disaster debris. She explained how the City regrouped to make the requirements clearer and more stringent. She mentioned liquidated damages were $1,000 per day if they did not mobilize within a specified period which was clearly stated on the RFP. The second item was $500 per day if they did not complete the debris removal or whatever project given on the time agreed upon. There was a potential of at

least $1,500. More important than liquidated damages are to designate primaries and secondaries which we did not have.

City Attorney Menendez explained how these contracts provided for two different tiers of liquidated damages, depending on the nature of the issue in terms of the contractor's failure to perform. She stated Council has the ability to not approve these contracts with these particular figures and to request more information about what fair and reasonable liquidated damages might be under these circumstances.

Mayor Coviello stated he was okay with $1,000 per day, but he wanted a clause where the non-performing contractor would pay the City the difference to hire a performing contractor.

City Attorney Menendez stated the other concept is the need to mitigate damages. Even when there is a liquidated damages clause, the City cannot just wait 90 days and let the $1,000 per day accumulate. The City has an obligation to try and mitigate our damages by entering into another contract or hiring someone else.

Councilmember Gunter concurred with Mayor Coviello. He stated terminology should be included to say that if we're paying $100,000 and we need to hire another contractor because someone did not show up, the likelihood is there that we will pay more money. There needs to be some type of liquidated penalty that if we have to incur an additional cost, they should be responsible for that. He inquired of staff if the listed contractors in the backup material were the ones who failed to show up during Hurricane Irma.

Manager Roop responded in the affirmative.

Public Works Director Clinghan noted that there were not many hurricane removal contractors since it is a specialized field.

Bryan S. Fike, Director of Government Relations, Ceres Environmental Services, Inc., provided background on himself and his firm including participation by Ceres Environmental during the 2017 hurricane season which included activations for Hurricanes Harvey and Irma, and was the primary for Puerto Rico, the Virgin Islands, St. Croix, and St. Thomas.

City Manager Szerlag inquired when a decision needed to be made on this bid.

Manager Roop stated she would have to check on this, but normally they run 90 to 120 days. They received the proposals on June 15th.

City Manager Szerlag asked the primary contractor if they would keep their proposal open until January?

Mr. Fike stated they would keep their prices in place.

City Manager Szerlag requested that Council table this Resolution until January for clarification on this issue.

Councilmember Cosden requested to find out why staff did not contact this company to execute the contract.

City Manager Szerlag stated that was the salient reason he wanted the postponement.

City Attorney Menendez noted Council could continue the item to a specific date in January or be withdrawn from tonight's agenda.

Discussion held regarding how many cities Ceres is the primary vendor.

Councilmember Gunter moved, seconded by Councilmember Cosden, that we take Resolution 227-18 and continue it and give staff the opportunity to answer some questions they have and hopefully answer some of the questions that Council has.

Director Clinghan requested that Facilities Manager Ridenour clarify a statement made about the communication with all six vendors.

Facilities Manager Ridenour confirmed that staff contacted a minimum of six vendors that we had contracts with. He did not personally speak to all six, maybe three or four. At the time one of our project management staff members reached out to Ceres. No conversation was made with Bryan until 3-4 weeks after we initiated a contract with another firm. All six of the vendors that we reached out to were well documented as far as who we spoke to and the time. When we spoke to Ceres at that time, they were in the process of evaluating numerous other municipalities and told us they would have to get back to us. That is when we continued to move forward with enacting a different contractor.

City Manager Szerlag reiterated that he would still like to have this matter continued until January 14, 2019.

Councilmember Cosden requested to see the documentation of that contact when this is brought back in January.

City Attorney Menendez stated a motion was needed to continue this to January 14, 2019.

Councilmember Gunter amended his motion to bring this item back on January 14, 2019. Second agreed.

Council polled as follows: Gunter, Stokes, Carioscia, Cosden, and Coviello voted "aye." All "ayes." Motion carried 5-0. *(Councilmember Williams was not present on the dais at the time the vote was taken.)*

CITIZENS INPUT TIME

Michael Hannon, Matlacha resident, appeared to discuss the proposed removal of the Chiquita Boat Lock. He noted they were preparing to challenge that. Please make sure that the scientists that have supported this application by the City of Cape Coral to convince Council that this is in the best interests of the residents of Cape Coral.

Yolanda Olsen, District 2 resident, appeared to discuss City Permits and the Chiquita Boat Locks. She understood that the City hired a Tallahassee law firm to oppose the request for an extension of filing a petition. She questioned the quote on how the City is willing to discuss matters with residents. She noted how there were no results on having a counsel of experts.

Jessica Blanks, District 1 resident, appeared to discuss the Chiquita Boat Lock. She encouraged Council to have an open mind and further study the long-term effects. She noted the impacted areas for the current habitat of endangered small tooth sawfish or threatened manatees need more studies. Please consider alternatives that give you everything other than just satisfy boating wait times.

Magnus Thiersmann, District 3 resident, appeared to discuss climate change and sea level rise. He mentioned how the water was sucked out of the canals during Hurricane Irma, especially on the Southwest Spreader. If the Lock is removed, low tides can leave some boaters stranded.

Jason Pim, District 1 resident, appeared to discuss five locks on the way to Jupiter Inlet, and how some of the gates were left open, depending on the water levels. He did not

want the City to make the same mistake with the Chiquita Boat Lock. He encouraged Council to dig deeper into the pros and cons and consider alternatives to the removal.

Terry Nelson, Cape Coral resident, appeared to discuss water quality. Sea grasses are decreasing at an alarming rate, and they need to be protected. The removal of the Lock will contribute to that. The Lock was put in place as a nutrient pollution source to protect the estuary. He urged Council to have a current nutrient study and budget study done now since the study that had been used to determine this decision is from 2004.

Karen Solgard, District 4 resident, requested that Council to creatively plan for more affordable housing in Cape Coral. Where in Cape Coral should affordable housing be built? How should communities be designed? She discussed sustainable living, not just cheaper and smaller replicas of what is already being built.

JoAnn Elardo, Cape Coral Animal Shelter, appeared to discuss Resolution 78-18. She realized that the Resolution needs some tweaking from its present state and explained the request to hold off on this until the beginning of January. She noted that 94% of the animals that are sold in pet stores are from puppy mills.

Rob Marder, District 3 resident, discussed the Chiquita Boat Lock, noting that he lives on the Spreader Canal. He urged Council to follow through on their commitment to remove the Lock. It would be in the best interest of the residents who live on the Spreader Canal, and it would improve the quality of life there.

Christina Jackson, District 5 resident, discussed how she went to Washington, DC to speak with Congressmen and Senators regarding the water quality issues. She has attended the US Army Corps of Engineers meetings. Why throw away the barrier by what could be the tipping point of an even greater disaster? She suggested fixing the Chiquita Boat Lock.

Louis Navarra, Cape Coral resident, discussed the GO Bond. He also discussed the purchase of the old golf course which was still in negotiations as of the last time he checked. He made the following suggestions: 1) redo the old golf course, 2) sell Coral Oaks, 3) keep the old ordinances that limit growth, 4) why can't we buy some of the lands with 20/20 like the land behind Publix on Del Prado and 5) discussed vacation rentals and the puppy mill ordinance.

Charlie Myers, Cape Coral resident, discussed FGCU's science program called Restore, which is a web-based interactive decision support tool for Adaptation of Coastal, Urban, and Natural Ecosystems. ACUNE is the acronym in Southwest Florida.

Tim Trimble, Cape Coral resident, discussed expired car registrations which are mostly out of state.

Bonnie Beatley, Cape Coral resident, questioned if the Ordinance on the dogs and cats would include Pet Smart who rehomes a lot of cats every year through an agency.

Councilmember Cosden addressed the person who asked about sea level rise. She noted that the City had a study done in 2016 and have been implementing some of the recommendations. She suggested the resident send her an email so that she could send him that study.

PERSONNEL ACTIONS

None

PETITIONS TO COUNCIL

None

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

None.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Ordinance 61-18 (ZA 18-0001*) Public Hearing
*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Official Zoning Map by rezoning property described as Lots 11-12, Block 665, Unit 21, Cape Coral Subdivision, from Multi-Family Residential (R-3) to Pedestrian Commercial (C-1) zone; property is located at 2121 SE 15th Place. (0.23 acres) (Applicant: Lazaro Flores)
Hearing Examiner Recommendation: The Hearing Examiner recommends that the City Council deny this application for rezoning.
City Management Recommendation: City Management recommends approval.

Interim City Clerk Bruns read the title of the Ordinance and administered the oath.

Senior Planner Heller explained the purpose of the Ordinance and displayed the following power point slides:

- Ordinance 61-18
- ZA 18-0001, owner, representative, location, urban services, request
- Vicinity
- Current Future Land Use Map
- Current Zoning Map
- Proposed Zoning Map
- Findings of Fact
- Analysis – Comp Plan
- Analysis – LUDR Section 8.7
- Recommendation
- Public Input
- Correspondence

Public Hearing opened.

Harvey Oh, resident of 221 SE 15th Place, noted he lived directly across the proposed rezoning request. He voiced his concern about whether or not this was a compatible use. He questioned whether a lot of this size meets the required development criteria. He requested to see some of the proposals as opposed to just giving them C-1 zoning where they could put any type of development they want by multi-family and residential homes across the street.

Andres Boral, Boral Engineering & Design, Inc., addressed some of the concerns this neighbor had. This parcel is .23 acres, and the intent is to rezone it to Commercial so that it can be used as a parking lot. Commercial adjacent to residential is required to have certain landscape buffers. This property will be developed basically with a parking lot and lots of buffers. There will be access from the alleyway; a lot of traffic will be through there and not necessarily the local right-of-way in front of the neighbors. Impact will be minimal. If this zoning is approved, his client will be able to develop the property as the property currently has a Future Land Use of Commercial Professional (CP). Without this rezoning, that property cannot be developed.

Councilmember Nelson arrived at 5:57 p.m.

Public Hearing closed.

Councilmember Carioscia discussed the recommendation from the Hearing Examiner. He questioned if the Hearing Examiner was present to provide testimony.

Planning Manager Pederson stated the Hearing Examiner does not attend Council meetings. The Hearing Examiner is a contract attorney, and her recommendation was

part of the meeting packet. He noted that some of the testimony on this hearing could be interpreted a number of ways. City Planning Staff recommended approval. He explained the slide entitled "Vicinity" and noted inconsistencies with Future Land Use and Zoning.

Councilmember Carioscia inquired what type of business is being anticipated for this property.

Manager Pederson stated the property owners have indicated they want to do a parking lot, and it can include any business allowed in the C-1 zoning district.

City Attorney Menendez stated zoning cannot be conditioned; it could be developed as any one of the uses, individually or as part of a larger assembly. She added that the Hearing Examiner will never come to defend her decision; she makes her decision based on the way she analyzes the facts that are before her. Council is free to take that recommendation into consideration. It is considered to be expert testimony as well as the testimony of the Planning Staff.

Councilmember Gunter reviewed the points made by the Hearing Examiner, noting that she only agreed to one of ten.

Manager Pederson explained how the standards and recommendation are evaluated.

Mayor Coviello questioned the access on the back side if there was a parking lot. He also inquired if there would be access from the residential street.

Manager Pederson noted the applicant indicated there would be some access through the alley. He added there would be access from all three sides.

City Attorney Menendez noted the Land Use being CP on this property and how it cannot develop as residential currently with that Land Use. If it is not going to be rezoned to C-1, then a P-1 rezoning may be in order unless the City changes the Land Use designation in the Comprehensive Plan.

Mr. Boral stated they had an approved site plan permit on the lot to the east facing Del Prado. They were planning on having a parking lot on this property to serve that development which has been approved for a use as a hair salon and business office. He noted rezoning to P-1 would be considered spot zoning. If they do not rezone and change the Comprehensive Plan, this would be the only lot on the block with a Residential Future Land Use; everything else would be CP and inconsistent. If you don't develop this, cars will park there anyway, and there will not be any of the required trees.

Councilmember Cosden confirmed that currently it was inconsistent with the Land Use which means it cannot be used unless the Zoning or Land Use is changed. She noted she would support this Ordinance.

Mr. Oh was allowed to speak again. He voiced his concern that there could be restrictions on a potential use in the future if they did rezone this parcel.

City Attorney Menendez reiterated that there cannot be conditions on a rezoning. She questioned Manager Pederson concerning R-3 zoning where there are certain circumstances under which commercial parking has a special exception that can be approved. Does this property qualify given the stated purpose and its relationship to adjacent commercial property?

Manager Pederson stated staff has not analyzed that because that is not the request that came before staff.

Public Hearing closed.

Councilmember Cosden moved, seconded by Councilmember Carioscia, to adopt Ordinance 61-18, as presented.

Council polled as follows: Williams, Cosden, and Coviello voted "aye." Carioscia, Gunter, Nelson, and Stokes voted "nay." Three "ayes." Four "nays." Motion denied 3-4.

Ordinance 76-18 (ZA 18-0009*) Public Hearing
*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property described as Lots 31-36, Block 807, Unit 22, Cape Coral, from Professional Office (P-1) to Pedestrian Commercial (C-1); property is located at 915-923 SE 10th Street. (0.69 acres) (Applicant: HBLB Properties III, LLC)
Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning.
City Management Recommendation: City Management recommends approval of the rezone.

Interim City Clerk Bruns read the title of the Ordinance and administered the oath.

Senior Planner Heller explained the purpose of the Ordinance and displayed the following power point slides:

- Ordinance 76-18
- ZA 18-0009: owner, applicant, location, request
- Findings of Fact
- Vicinity
- Current Future Land Use Map
- Proposed Zoning Map
- Analysis – Section 8.7.3.B
- Recommendation

Public Hearing opened.

Veronica Martin, Senior Planner, TDM Consulting, represented the applicant who owns HBLB Properties. She explained the request for rezoning from P-1 to C-1.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmembers Gunter to adopt Ordinance 76-18, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Williams, Carioscia, Cosden, and Coviello voted "aye." All "ayes." Motion carried 7-0.

Council recessed at 6:32 p.m. and reconvened at 6:45 p.m.

Ordinance 77-18 (PDP 18-0001*) Public Hearing
*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending Ordinance 6-98, as amended by Ordinance 17-17, approving a Planned Development Project in the City of Cape Coral entitled "A-1 Shelters Self Storage, Hancock Creek Site," providing for Planned Development Project approval for certain property described as a parcel of land located in the Southwest Quarter of Section 33, Township 43 South, Range 24 East and in the Northwest Quarter of Section 4, Township 44 South, Range 24 East, Lee County, Florida; properties located at 2555 NE Pine Island Road and near the southeast corner of Diplomat Parkway East and NE 24th Avenue; expanding the project area by 3.7 acres to include a parcel of land northwest of the existing site; granting a deviation from the requirement that building walls used for meeting the screening requirement within a CPO buffer be composed of

stucco, brick, stone, textured concrete masonry units, or other concrete surfaces to allow the walls of buildings within the new 3.7 acre project area to be composed of metal; granting a deviation from the Non-Residential Design Standards to allow all buildings within the new 3.7 acre project area to be exempt from the Non-Residential Design Standards; granting development plan approval pursuant to Section 4.2 of the City of Cape Coral Land Use and Development Regulations. (Applicant: Kirby Family Limited Partnership #3)
Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the Project, subject to the terms and conditions set forth in PDP HEX Recommendation 5-2018.
City Management Recommendation: City Management recommends approval.

Interim City Clerk Bruns read the title of the Ordinance and administered the oath.

Planning Team Coordinator Struve explained the purpose of the Ordinance and displayed the following power point slides:

- Ordinance 77-18: owner, authorized rep, project, location, area
- Ordinance 77-18, vicinity map, project site
- Current Zoning Map
- Requests
- Development Plan
- PDP Amendment for Expanding the Project Area Analysis (LUDR, Section 4.2.5A.3.b)
- Deviation to LUDR, Section 2.7.13J.6.c(5)
- Analysis (LUDR, Section 4.2.4.K)
- Map of buffer
- Deviation to LUDR, 5.6
- Analysis (LUDR, Section 5.6.10)
- Recommendations
- Correspondence

Public Hearing opened.

Linda Miller, Senior Planner, Avalon Engineering, represented the Kirby Family Limited Partnership #3 on PDP 18-0001. She noted the request would amend Ordinance 6-98 and 17-17. She stated that Lynn Kirby, managing partner for the Kirby Family Partnership, was present. She reviewed how long the Kirby Family has been in this warehouse business. She explained slides that were displayed:

- This PDP Amendment requests: Approval to expand the Project area of the PDP from 13.7 acres to 17.4 acres with the addition of 3.7 acres to the west. Master Development Plan approval for Self-Storage Facility and Storage Enclosed (RV Parking) separately or in any combination
- This PDP requests two Deviations to the City of Cape Coral's Land Use and Development Regulations.
- Environmental Concerns
- Landscaping Plan
- Elevations
- Stor-Rite Storage Facility
- This is a picture of the Kirby's existing RV Storage Facility on NE 25th Avenue.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Gunter, to adopt Ordinance 77-18, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Williams, Carioscia, Cosden, and Coviello voted "aye." Seven "ayes." Motion carried 7-0.

Ordinance 78-18 Public Hearing
WHAT THE ORDINANCE ACCOMPLISHES:
The ordinance amends Chapter 12, "Offenses and Miscellaneous Provisions" of the Code of Ordinances to create Section 12-128, Article XIII, "Retail Sale of Dogs and Cats Prohibited" prohibiting the retail sale of dogs and cats in the City; provides for definitions, prohibition, disclosures, amortization, enforcement and penalties. (Applicant: Brought forward by Councilmember Williams)

Interim City Clerk Bruns read the title of the Ordinance.

Public Hearing opened.

JoAnn Elardo, President, Board of the Cape Coral Animal Shelter, requested postponement of this Ordinance so that their attorney could review it again and bring it back to Council in a better form. She noted the people who would be supporting this did not come tonight; late this afternoon they were informed that this would be postponed. She displayed a fact sheet that was distributed to Council and reviewed the items listed on that sheet.

Charlie Myers discussed how he personally bred Labradors for 28 years. He also discussed how Greyhounds were bred in Florida which sickened him, as well as the process that breeders of puppy mills follow. He opined that trying to make this a Governmental regulation was like trying to find a cure for the worst disease.

Ms. Elardo was permitted to speak again. She noted that there are reputable breeders out there, and they would work with them, as well as shelters. She stated they also wanted to track businesses that have just opened up. She hoped that Council would support finding those businesses, bringing them into our City, and letting us work with breeders, but not puppy mills. She wanted that abolished in the Cape and added it was a Government function.

Public Hearing closed.

Councilmember Williams disagreed with Mr. Myers; he stated this was a Government issue because we are dealing with abused animals. He explained why it was withdrawn. He requested to table this for one week and allow us to get the people, evidence, and package here to enable us to make an informed decision.

Councilmember Williams moved, seconded by Councilmember Cosden, to table this for one week until our next meeting where we can have the people come in and have a full Council to vote on it.

Councilmember Carioscia stated the issue here is enforcement. If we banned sales in the one pet store in Cape Coral, people can still go over the bridge. We should be lobbying on a State or Federal level and not at the City level with only one pet store that sells dogs and cats. If you google breeders, there is a list of breeders that have been arrested or investigated. Will we also ban breeders? We won't ban breeders, but we will ban a pet store that sells dogs. Whether or not the dogs they sell are healthy, and whether or not they buy from breeders, we won't know. No pet store with this Ordinance will be allowed to come into the Cape. The Ordinance discloses that we will not be able to sell dogs and cats from stores. He had no opposition to delaying this for one week.

City Attorney Menendez addressed an issue raised earlier regarding whether or not pet stores such as Pet Smart, Petco, and Pet Supermarket that deal with rescue organizations and have them located in their stores would be affected by this or prohibited from engaging in that practice. The answer is no. Retail stores that work with an animal rescue organization for the purpose of getting those animals adopted and providing a show case for them is not affected. There is an exclusion in the Ordinance because that is not the retail sale. The only other point she made was that the motion

was actually a motion to continue this public hearing until December 10th as opposed to tabling it. She asked Councilmember Williams if he concurred.

Councilmember Williams responded in the affirmative.

Councilmember Stokes discussed the love he has for his dog and how he was excited about banning puppy mills. He noted this Ordinance was brought forth twice. He did not think a week was enough time. He asked the City Attorney how long the Ordinance can be tabled.

City Attorney Menendez explained what Councilmember Williams was requesting and that people interested in this Ordinance were not present due to the Ordinance being withdrawn today. If the Council wants to continue the public hearing, it can be continued to January, but not to have an indefinite period. Continuing a public hearing once it is opened is basically this Ordinance. She explained that Council could adopt this Ordinance with some tweaking, depending on what the proposed changes are. This Ordinance was already in the works and all that Council would be doing is continuing the public hearing on this Ordinance. If there is a desire to significantly change this Ordinance, then that would really be starting anew, not just continuing the public hearing regarding this and adopting it.

Mayor Coviello stated withdrawing it meant it needed more work. He suggested this should be brought back in a better form. He stated banning the sale of cats and dogs at pet stores in our City will not resolve the issue of puppy mills. When a person purchases an animal at the local small pet store, they then buy the leash, bowl, food, and collar which will spark sales. He did not want to interfere with small, private businesses in this issue or any other issues.

Councilmember Stokes stated tweaking will not work. He would support an Ordinance that would take care of the puppy mills and possibly a cooperation with the business owner in getting shelter dogs adopted.

Councilmember Nelson stated she would not support the current Ordinance. She discussed her experience visiting the Patriot Pet Store, noting that 30% of their sales was selling puppies. For this Ordinance to be effective within three weeks from today would not be reasonable for a small business to plan for that revenue loss. She was not sure that the way this Ordinance is written that it is Council's job to regulate. She questioned what was being done on a Federal or State level to prohibit and eliminate puppy mills. She was more concerned with backyard breeders and local puppy mills that are not regulated. She hoped that when the Cape shelter is opened, it can be used as community outreach to educate our residents. She recommended needing more time to have a stronger Ordinance.

Councilmember Gunter agreed with Councilmember Stokes and Councilmember Nelson. He could not support the current Ordinance, even with minor tweaks. He noted this seemed like an umbrella Ordinance. If the problem is puppy mills, then we should be addressing the puppy mill problem. He questioned if there were some legitimate puppy mills that existed. He opined that this is probably a bigger issue on a Federal or State level because puppies are transported across state lines. We should try to get a lobbyist together if this is the direction Council wants to go at our State and Federal level as well.

City Manager Szerlag explained the difference between denying an Ordinance and coming back at a later time with one that could be considered similar versus withdrawing it. He noted the comment from Councilmember Gunter about this possibly be considered at the legislative level. He stated that there is a proposed legislative platform on the December 10th agenda. He could ask Terri Hall to include something for consideration that would prohibit the sale of dogs via puppy mills. He agreed he could make that happen on the Monday agenda in terms of the legislative platform. He noted the timeline of the agenda approval and doubted that it could happen with any major changes.

City Attorney Menendez reiterated major changes cannot be done by merely continuing it. She addressed the comment about a retail pet store being out of business in January; that owner would be amortized for nine months. She provided some examples of minor changes that could be made to this Ordinance to not require withdrawal. She also went through a list of things that cannot be done. From the time it was originally brought up, this Ordinance was never a regulation of puppy mills. If the intention is to withdraw this, it can certainly be done. If it is to bring it back and still regulate the retail sale of dogs and cats in a different manner, that can be encompassed within Councilmember Williams' original proposition that was seconded by another Councilmember. If the desire is to bring back a completely different Ordinance on a different subject, which is a more direct regulation or prohibition of puppy mills, then that would need support by Council to bring forward an Ordinance on another topic.

Mayor Coviello questioned rushing this Ordinance. He felt the need for a new Ordinance that addresses the issue of puppy mills and not our stores.

Councilmember Williams realized that nothing can be done in a week. He explained the reason he made the motion was to keep this Ordinance alive. This Ordinance was not ready to be heard; that is why he went with the withdrawal. ***He noted he would be willing to change the motion.***

Mayor Coviello stated the target was to eliminate the sale of dogs purchased from puppy mills and not to eliminate the sale of dogs from retail stores; that is where the Ordinance needs to go in order to get acceptance and approval.

Councilmember Williams stated there are no puppy mills in Cape Coral; a lot of these dogs come from overseas. How could that be regulated?

Councilmember Cosden noted the invoices were distributed to Council during the recess. The invoices show that the one pet shop in question does purchase from puppy mills. She suggested googling the companies noted on these invoices. She opined that this should be a Federal issue, but it is not; it is up to Council to set an example. She noted that we have taken steps to regulate things that are not regulated at a higher level. She noted that false information was corrected tonight which is reason enough to withdraw, table, or continue it. Making a final decision tonight would be wrong.

Councilmember Cosden withdrew her second from the motion.

Councilmember Williams stated he wanted to go back to the original to move this to January. He asked the City Attorney for her advice on withdrawing the Ordinance or killing it to bring it back in January.

City Attorney Menendez stated she could address it if she understood what the issues he was planning on bringing forward. This Ordinance is not directly attacking puppy mills, and not regulating or prohibiting it. Not all pet stores will buy from puppy mills although it is rare for a reputable breeder to sell to a pet store. She suggested January might be a little soon to bring back a different Ordinance that will regulate what Council wants. If Council wants to broaden the regulatory scheme or find ways of modifying, she suggested withdrawing it tonight and reconsidering a new approach.

Councilmember Williams questioned if Council needed to set a new date if we withdraw this tonight.

City Attorney Menendez explained there would be no decision on this Ordinance if it is withdrawn. If someone wants to bring back an Ordinance on this or some other related topic, it will get a new number and drafted for that particular regulation. It will be scheduled for Introduction and a Public Hearing will be set for that Ordinance at that time.

Councilmember Williams changed his motion to withdraw this Ordinance.

City Manager Szerlag agreed with the City Attorney, but he also suggested a conjunctive motion so that it would withdraw this Ordinance but also at the same time indicate that you want to come back with an entirely new Ordinance to regulate the sale of puppy mills and other items that Council deems appropriate.

City Attorney Menendez suggested that if you're going to do that, that you severe those two issues. One would be the withdrawal of this Ordinance; second, seek a plus one to come back with this regulation of puppy mills and whatever regulatory features are related to it.

Councilmember Stokes explained there are two separate issues: puppy mills and the retail of pets at pet stores. He agreed with going with a new Ordinance. He suggested language to contain proof of being bred responsibly and locally.

Mayor Coviello stated there was a motion on the floor to withdraw this Ordinance and craft another Ordinance. He asked if there was a second to that motion.

Councilmember Carioscia seconded the motion.

City Attorney Menendez questioned if the only motion was to withdraw it. If it is not just to withdraw it, but to withdraw it and bring it back in some other form, she wanted to make sure that Councilmember Carioscia is the plus one to Councilmember Williams' desire to bring it back in some other form.

Mayor Coviello asked if it should be withdrawn first and then come back with the additional part.

City Attorney Menendez stated if this is being withdrawn and no one on Council is picking it up and Council just wants to see it done, she recommended that there be that vote. She understood from Councilmember Williams that right after you do that vote, he wants to bring a new Ordinance.

Mayor Coviello stated he already had a second.

City Attorney Menendez stated he had a second to bring back an Ordinance dealing with prohibiting the retail sale of dogs and cats in the City of Cape Coral, which is the Ordinance being presented.

Mayor Coviello stated we just need to withdraw that Ordinance and vote on it. Then come back with the request for a new Ordinance.

City Attorney Menendez stated after the vote, Councilmember Williams probably wants to get his plus one for him to do a broader regulation.

Councilmember Williams moved, seconded by Councilmember Carioscia, to withdraw Ordinance 78-18, as presented.

Council polled as follows: Gunter, Nelson, Stokes, Williams, Carioscia, Cosden, and Coviello voted "aye." All "ayes." Motion carried 7-0.

Councilmember Williams asked for a plus one to bring this Ordinance in a different form.

Councilmember Cosden stated she would be the plus one.

Ordinance 79-18 Public Hearing
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance approving the Interlocal Agreement between the City of Cape Coral and Lee County for the rental of space within City Fire Stations to house emergency vehicles

and personnel; authorizing the Mayor to execute the Interlocal Agreement. (Applicant: Brought forward by City Management.)

Interim City Clerk Bruns read the title of the Ordinance.

Fire Chief Lamb stated this is a housekeeping issue, and there would be a brief staff presentation.

EMS Fire Battalion Chief Solich displayed the following power point slides:

- What is the Interlocal Agreement?
- Current Interlocal Agreement
- Proposed Interlocal Agreement
- Two charts showing the Current Interlocal and Proposed Interlocal
- Recommendations
- Questions

Fire Chief Lamb stated our plan is to continue to work with the County as we have done for a number of years.

Lee County Public Safety and Emergency Medical Services Chief Benjamin Abes thanked City staff for having multiple meetings and coming to this agreement. He noted they were happy with the agreement presented tonight; it is a good representation of the partnership between Lee County and the City of Cape Coral.

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Gunter moved, seconded by Councilmember Williams, to adopt Ordinance 79-18, as presented.

Council polled as follows: Gunter, Stokes, Williams, Carioscia, Cosden, and Coviello voted "aye." All "ayes." Motion carried 6-0. *(Councilmember Nelson was not present on the dais at the time this vote was taken.)*

<u>Resolution 271-18 Public Hearing - Election to use Uniform Method of Collecting Non-Ad Valorem Special Assessments</u>
WHAT THE RESOLUTION ACCOMPLISHES:
The resolution approves electing to use the Uniform Method of Collecting Non-Ad Valorem Special Assessments levied within certain portions of the City as described in the resolution, states a need for such levy, and provides for the mailing of the resolution. (Applicant: Brought forward by City Management.)
NOTE: This resolution would approve a means of collection and does not impose a specific assessment.

Interim City Clerk Bruns read the title of the Resolution.

Director Bateman explained the purpose of the Resolution and displayed the following power point slides:

- Resolution 271-18
- Uniform Method of Collection & Statutory Requirements
- Non-ad valorem assessments

Public Hearing opened.

No speakers.

Public Hearing closed.

Councilmember Williams moved, seconded by Councilmember Gunter, to approve Resolution 271-18, as presented.

Council polled as follows: Gunter, Stokes, Williams, Carioscia, Cosden, and Coviello voted "aye." All "ayes." Motion carried 6-0. *(Councilmember Nelson was not present on the dais at the time this vote was taken.)*

INTRODUCTIONS

None.

UNFINISHED BUSINESS

Water Quality – Update

Public Works Director Clinghan reviewed the memo provided to Council and provided the most current update on Lake Okeechobee.

Follow Up Items Requested by Council

None

NEW BUSINESS

Resolution 258-18 City of Cape Coral Local Housing Incentive Plan for the State Housing Initiative Partnership Program (SHIP)

Housing Coordinator Yearsley explained the purpose of the Resolution and displayed the following power point slides:

- Resolution 258-18
- Local Housing Incentive Plan (2 slides)
- Incentives (Required Review) (3 slides)
- Other
- Recommendation

Councilmember Cosden moved, seconded by Councilmember Stokes, to approve Resolution 258-18, as amended to remove the micro cottage village development and ADUs.

City Manager Szerlag stated staff recommended that micro cottage development, Accessory Dwelling Units, and Guest Houses be eliminated from this proposal. They are being taken out of the LUDRS as well.

Council polled as follows: Gunter, Stokes, Williams, Carioscia, Cosden, and Coviello voted "aye." All "ayes." Motion carried 6-0. *(Councilmember Nelson was not present on the dais at the time this vote was taken.)*

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Gunter– Topics: Guest Speaker at Orchid Homeowners Association on 12/1, Attended the Holiday Festival of Lights and Tree Lighting.

Councilmember Nelson – Topics: Left Early

Councilmember Stokes – Topics: No Report

Councilmember Stout – Excused

Councilmember Williams – Topics: No Report

Councilmember Carioscia – Topics: No Report

Councilmember Cosden – Topics: Helped judge essays for a scholarship contest for the Voice of Democracy at the North Fort Myers VFW, attended the Festival of Lights.

Mayor Coviello: Topics: Animal Shelter Fundraising, Capital Bank, Fundraiser at Royal Tee called Bark at the Bar, Meeting with Lee Health officials regarding possible future expansion, Lifeline Walk at Jaycee Park, Festival of Lights, Grand Menorah Lighting at the Chabad Jewish Center. He requested a second for invocations to be offered to the church and clergies in our community. Councilmember Stokes provided the second. The Mayor will work on getting something brought forward on an agenda inviting them to come and do our invocations at the podium.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney – Topic: No Report.

City Manager – Topic: No Report.

TIME AND PLACE OF FUTURE MEETINGS

A regular meeting of the Cape Coral City Council was scheduled for Monday, December 10, 2018 at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 8:17 p.m.

Submitted by,

Kimberly Bruns, CMC
Interim City Clerk

Item Number:	**7.B.**
Meeting Date:	**1/7/2019**
Item Type:	**APPROVAL OF MINUTES**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Regular Meeting - December 10, 2018

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/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:
Regular Meeting - December 10, 2018

PREPARED BY:

Kimberly Bruns	Division- Managerial	Department-	City Clerk's Department

SOURCE OF ADDITIONAL INFORMATION:
Kimberly Bruns
Interim City Clerk
1-239-242-3243

ATTACHMENTS:

Description	Type
Regular Meeting - December 10, 2018	Backup Material

MINUTES FOR THE REGULAR MEETING OF THE CAPE CORAL CITY COUNCIL

December 10, 2018

Council Chambers **4:30 p.m.**

Meeting called to order by Mayor Coviello at 4:31 p.m.

Invocation/Moment of Silence – Councilmember Nelson

Pledge of Allegiance – Jaziah Ivy - Cape Coral Charter School

Roll Call: Mayor Coviello, Council Members Carioscia, Cosden, Gunter, Nelson, Stokes, and Williams were present. Councilmember Stout was excused.

CHANGES TO AGENDA/ADOPTION OF AGENDA

Mayor Coviello announced that an advertisement error occurred on Item 9(A)(1), Public Hearing for Ordinance 80-18. It must be rescheduled for re-introduction. He asked if there were any other changes to the agenda.

Councilmember Stokes moved, seconded by Councilmember Gunter, to adopt the agenda, as presented.

Council polled as follows: Nelson, Stokes, Williams, Carioscia, Cosden, Coviello, and Gunter voted "aye." All "ayes." Motion carried 7-0.

RECOGNITIONS/ACHIEVEMENTS

None.

APPROVAL OF MINUTES

None.

BUSINESS

PUBLIC COMMENT - CONSENT AGENDA

No speakers.

CONSENT AGENDA

1) Resolution 251-18 Approve Agreement CON-PW18-19/MC for the Design of Nicholas Parkway Access Management and Median Curbing Improvement project with Q. Grady Minor & Associates, P.A. for Professional Design Services for a not to exceed cost of $363,068 and authorize an additional 10% ($36,307) for additional services, if needed, for a total project cost of $399,375. The ranking was approved by Council on 7/23/2018 via Resolution 153-18; Department: Public Works/Utilities; Dollar Value: $399,375; (General Fund $237,207/Water & Sewer Fund $162,168)

2) Resolution 260-18 Approve the Selection Advisory Committee (SAC) ranking of the Request for Proposal (RFP) RFP-UT18-97/MC to engage a firm to provide Professional Design Services for the Southwest Water Reclamation Facilities Operations Building project and authorize the City Manager or Designee to enter into negotiation with the number one ranked firm, Stantec Consulting Services Inc. Department: Utilities; Dollar Value: N/A; (Fund: N/A)

3) Resolution 264-18 Approve Purchase Orders to Wallace International Trucks, Inc. via a piggyback of Lee County RFP #R167278RC contract for school bus parts, repairs and maintenance for an annual amount of $60,000 and via a Sole Source for the repair of International Heavy Equipment/Truck for an annual amount of $30,000 not to exceed budgetary limits, and authorize the City Manager or designee to execute the Purchase Orders. The Lee County Bid was competitively solicited and awarded, to the lowest responsive responsible bidders respectively, in January 2017; For the Sole Source – Wallace International is the only authorized dealer for Navistar/International Trucks in Lee County; Department: Public Works; Estimated Annual Dollar Value $90,000; (Internal Services Fund)

4) Resolution 270-18 Authorize the Charter School Authority to enter into a 60-month Operating Lease Agreement with Canon Solutions America, Inc. for the nine (9) Canon copiers a monthly cost of $1,850 for an annual lease cost of $22,200 and excess per image copy cost of $.0036 based on volume for an estimated amount of $20,300; And authorize the execution of the lease agreement; Department: Charter School; Estimated Annual Dollar Value: $42,500; (Lease $22,200/Copies $20,300 - Charter School General Fund)

5) Resolution 272-18 Approve Purchase Order(s) to GL Distributors, Inc, via a piggyback with the Florida State Contract 46151504-NASPO-17-ACS as a distributor for GH Armor Systems, Inc. at a cost of $159,169 for outer carriers, rifle plates, vest and to various vendors for smaller purchases for tactical equipment totaling $56,560 for a grand total purchase of $215,729; And approve the use of the Police Federal Confiscation Special Revenue Funds for these purchases; And authorize the City Manager or designee to execute the Purchase Orders; Department: Police; Estimated Annual Dollar Value $215,729; (Special Revenue Fund)

6) Resolution 273-18 Award ITB-PW19-06/CV Local Road Resurfacing FY2019 to Pavement Maintenance, LLC of Ft. Myers, FL, for the asphalt resurfacing of approximately 82 miles of local roads as the lowest responsive, responsible bidder, in the amount of $4,405,213 with a 5% city controlled contingency of $220,261 for a total project cost of $4,625,474 and authorize the City Manager or Designee to execute the contract and any subsequent amendments; Department: Public Works; Dollar Value: $ 4,625,474; (General Fund -$3,997,311/Water & Sewer-$628,163)

7) Resolution 275-18 Acceptance of three Utility Easements in a portion of 3305 Grant Cove Circle (Strap #20-44-23-C3-00001.102A), to provide access to and maintenance of the City utility facilities at this location, as conditioned in site plan review SP16-0041 – Sandoval Phase IV (4); Department: Financial Services / Real Estate Division; Dollar Value: N/A; (Fund: N/A)

8) Resolution 276-18 Approval of Contract for Purchase of Lots 5 and 6, Block 5539, Unit 91, Cape Coral Subdivision, 4221 NW 36th Avenue, Cape Coral, for the NW 36th Avenue Drainage Improvement Project, for the purchase price of $9,000 plus closing costs not to exceed $1,400; Department: Financial Services / Real Estate Division; Dollar Value: $10,400; (Stormwater Capital Project Fund) Note: Trade offer rejected by Seller.

9) Resolution 234-18 2019 State Legislative Platform; Department: City Manager; Dollar Value: N/A; (Fund: N/A)

10) Resolution 277-18 Federal Legislative Agenda; Department: City Manager; Dollar Value: N/A; (Fund: N/A)

11) Resolution 280-18 A Resolution authorizing payment up to $5,000 in eligible reimbursable relocation expenses to the selected candidate for the position of

Utilities Collection & Distribution Manager in the Utilities Department, Funding for the Utilities Department: Dollar Value: maximum of $5,000 (Water & Sewer Fund/Enterprise Fund)

12) Resolution 284-18 Approval of Stipulated Agreement with Roers Development, Inc., purchaser of 1200 SW 30th Street (Strap #34-44-23-C4-03194.A000) to apply penalties and interest, accrued as a result of the unpaid taxes on said parcel, towards unbilled SW4 Utility Capital Improvement Assessment balances after delinquent property taxes have been paid to the Lee County Tax Collector by Roers Development Inc.; Department: City Manager/Economic Development Office; Dollar Value: N/A; (Fund: N/A)

Mayor Coviello pulled 8(B)(9), Resolution 234-18.

Councilmember Stokes moved, seconded by Councilmember Williams, to approve items 8(B)(1), 8(B)(2), 8(B)(3), 8(B)(4), 8(B)(5), 8(B)(6), 8(B)(7), 8(B)(8), 8(B)(10), 8(B)(11), and 8(B)(12), as presented.

Council polled as follows: Nelson, Stokes, Williams, Carioscia, Cosden, Coviello, and Gunter voted "aye." All "ayes." Motion carried 7-0.

Mayor Coviello explained why he pulled item 8(B)(9). He stated what was being suggested here towards the State that we have not created an Ordinance for nor have we approved it. He read that part on page 5 under Growth Management Urban Administration Economic Affairs: "The City of Cape Coral supports legislation that prohibits the sale of dogs and cats purchased from puppy mills and kitten mills and offered for retail sale to the public. This legislation will foster a more humane environment for all dogs and cats sold from retail establishments and provides for an increase in minimum standards and regulations that will support a better future for animals in the hands of mill owners, breeders, brokers, and/or pet stores." He stated he was okay with the balance of this but as of now this Council has not adopted an Ordinance that has this in it. He opined that this was not something we should be sending off to our State Representatives.

Councilmember Cosden agreed with Mayor Coviello. She stated we needed to focus on this first as a City and then add it to the next year's legislative agenda, if needed.

Mayor Coviello stated it was something the State should be addressing.

Councilmember Carioscia supported Mayor Coviello's position.

Councilmember Gunter agreed as well.

Mayor Coviello asked the City Attorney if this could be moved forward without that paragraph.

City Attorney Menendez stated someone would make a motion to approve this Resolution with the deletion of that provision of the platform.

CRA Coordinator Hall requested to add an item regarding the Public Safety Facility for the gun range appropriations request for $5.5 million under local funding requests.

Mayor Coviello questioned if we would be looking for grant money for that facility.

CRA Coordinator Hall stated it would be an appropriations request.

Mayor Coviello stated a motion would be needed to eliminate the one paragraph and also the addition as mentioned by Ms. Hall.

Councilmember Cosden moved, seconded by Councilmember Nelson, to approve item 8(B)(9), as amended.

Council polled as follows: Nelson, Stokes, Williams, Carioscia, Cosden, Coviello, and Gunter voted "aye." All "ayes." Motion carried 7-0.

CITIZENS INPUT TIME

Jim McCormick appeared to discuss additional access areas to Seahawk Air Park.

Carl Veaux appeared to discuss environmental concerns regarding the Chiquita Boat Lock.

Bart Mazzara appeared to discuss the need for Yacht Club Basin restrictions on large vessels.

Councilmember Carioscia suggested residents call the police for late-night disturbances.

Mayor Coviello stated staff would be happy to work with the people at Seahawk Air Park.

PERSONNEL ACTIONS

Resolution 281-18 Approving the creation of the "Internal Auditor" classification; Department: City Auditor; Dollar Value: $8,307 Estimated cost savings; (General Fund)

City Auditor Butola discussed the purpose of Resolution 281-18 to create an entry-level position.

Mayor Coviello questioned if this was saving money.

City Auditor Butola responded in the affirmative, noting that it addressed the pay schedule.

Councilmember Gunter moved, seconded by Councilmember Nelson, to approve Resolution 281-18, as presented.

Council polled as follows: Nelson, Stokes, Williams, Carioscia, Cosden, Coviello, and Gunter voted "aye." All "ayes." Motion carried 7-0.

Resolution 283-18 A Resolution creating a new classification of Police Communications Training Coordinator within the Police Department and reclassifying one Lead Telecommunicator to the position; Department: Police; Dollar Value: $5,521 additional; (General Fund)

Police Chief Newlan explained they were looking to reclassify one Lead Telecommunicator to a Communications Training Coordinator.

Councilmember Stokes moved, seconded by Councilmember Nelson, to approve Resolution 283-18, as presented.

Council polled as follows: Nelson, Stokes, Williams, Carioscia, Cosden, Coviello, and Gunter voted "aye." All "ayes." Motion carried 7-0.

PETITIONS TO COUNCIL

None

APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS

Golf Course Advisory Board – 2 vacancies

Interviews
Tom Hinkle - present
David Jimenez – present
David Kenney – present
Duane Kolesar – present

Interim City Clerk Bruns stated there were two vacancies on the board due to term expirations. Four applications were received. Tom Hinkle and David Kenney were seeking re-appointment. David Jimenez and Duane Kolesar were seeking appointment.

The following selections were compiled: Carioscia: Kenney, Hinkle; Cosden: Kenney, Hinkle; Coviello: Kenney, Hinkle; Gunter: Kenney, Hinkle; Nelson: Kenney, Hinkle; Stokes: Kenney, Hinkle; and Williams: Kenney, Kolesar.

Interim City Clerk Bruns tallied the selection and announced there were seven for Kenney, six for Hinkle, and one for Kolesar.

Councilmember Cosden moved, seconded by Councilmember Gunter, to re-appoint Tom Hinkle and David Kenney to the Golf Course Advisory Board.

Council polled as follows: Nelson, Stokes, Williams, Carioscia, Cosden, Coviello, and Gunter voted "aye." All "ayes." Motion carried 7-0.

ORDINANCES/RESOLUTIONS

PUBLIC HEARINGS

Ordinance 80-18 (ZA 18-0007*) Public Hearing "Advertisement error occurred, Public Hearing must be rescheduled after re-introduction."
*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property described as Lots 1-28 and 55-82, Block 3170, Cape Coral Unit 66, from Pedestrian Commercial (C-1) to Single-Family Residential (R-1B) zone; property located north of SW 28th Street, south of SW 26th Street, east of SW 9th Avenue, and west of SW 8th Court. (6.42 acres) (Applicant: Sullico II, LLC)
Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning.
City Management Recommendation: City Management recommends approval.

Mayor Coviello noted this Resolution will need to be re-introduced due to an advertisement error.

Resolution 274-18 (AP 18-0004*) Public Hearing
*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE RESOLUTION ACCOMPLISHES:
A resolution either affirming or reversing the decision of the Hearing Examiner rendered on September 11, 2018, in VA HEX Order 6-2018, that denied a variance of seven (7) feet from the minimum front setback requirement of 25 feet to allow a single-family home to be constructed 18 feet from the front property line in a Single-Family Residential (R-1B) zone; property is located at 5205 Sea Gull Court. (Applicant: Robert W. Schmid, Trustee for the Robert W. Schmid Revocable Trust)
City Management Recommendation: City Management continues to recommend denial as hardship criteria was not met.

Interim City Clerk Bruns read the title of the Resolution and administered the oath.

DCD Director Cautero provided an overview before the presentation. He noted this was an appeal of a variance application that was denied by the Hearing Examiner. What

was being reviewed tonight is the case record and any new information that may come forward in order to affirm or overturn the HEX decision.

Joe Mazurkiewicz, President, BJM Consulting, Inc., stated he was the authorized representative for the appellant, Robert W. Schmid Trustee, who is the owner of the property located at 5205 Sea Gull Court. He explained the request for a seven-foot reduction to the required 25-foot front setback to allow a single-family residence to be built within 18 feet of the front setback that was denied by the Hearing Examiner on September 11th. He reviewed the Hearing Examiner's ruling and responded to each of the five criteria. He displayed the following slides:

- Survey of the property
- Future Land Use
- Aerial of the lot
- Standard Builder's Footprint on this lot with a seven-foot variance to allow construction of the front particle provides no negative impact to the neighborhood or to the City of Cape Coral. It provides the City to start earning taxes on a very nice upscale home on a ½ million-dollar waterfront lot.
- Requested adoption of the Resolution and to reverse the decision of the Hearing Examiner and grant the variance of the seven feet from the minimum front setback requirement of 25 feet to allow the single-family home to be constructed 18 feet from the front property line.

Planning Team Coordinator Struve explained the purpose of the Resolution and displayed the following slides:

- Resolution 274-18 AP18-0004
- Resolution 274-18, Owner, Applicant, Rep, Request, Location
- Background – Timeline
- Site - Subject Parcel
- Current Zoning Map
- Background – Site
- Variance
- Findings – Variances
- Analysis (LUDR, Sections 2.7.1 and 8.10.3 a-e)
- Analysis (continued)
- Analysis (continued)
- Map of Boundary and Topographic Survey
- Analysis (continued)
- Analysis (continued)
- Recommendations

Public Input opened.

Robert Schmid, property owner, appeared to discuss his request. He displayed the following slides showing the minimum setback and aerial views of neighbors' properties. He noted his neighbors were supportive of his request if he can get the variance approved. He mentioned one of his neighbors three doors down was approved for a similar request.

Tom Hinkle stated he was a local architect and discussed his experience with cul de sacs.

Public Input closed.

Councilmember Stokes moved, seconded by Councilmember Nelson, to approve the variance for the homeowner to build his house. *(Resolution 274-18 will reverse the decision by the Hearing Examiner granting the 7-foot variance.)*

Councilmember Gunter concurred to support this variance. He researched the variance for the lot that is three streets over and confirmed that the request presented today was identical to that one approved in 2009.

City Attorney Menendez clarified that the motion was to approve a Resolution that would be reversing the decision of the Hearing Examiner and granting a variance of seven feet from the minimum front setback requirement.

Councilmember Stokes stated that was correct.

Mayor Coviello concurred that was the motion, and there was a second to that motion.

Councilmember Cosden questioned the right-of-way on this property.

Mr. Struve stated that was not something they typically measure. It did not appear to be wider than other residential areas that he was aware of along local streets.

Councilmember Cosden questioned if this was identical to the 2009 property mentioned.

Mr. Struve stated in terms of the depth, it was very similar. He explained what was different to staff in this particular case is that there was a house previously constructed on this site. That was a big factor and difficult for staff to overlook. He stated if there is a lot that is considered a cul de sac lot, an application can be made for administrative relief from the City for front setback up to seven feet.

Councilmember Cosden questioned if the previous house on this property had the same variance.

Mr. Struve stated they found no evidence of a variance being granted to the house that existed on this site previously. It was unclear when that house was constructed. Some of the houses in that area go back to the 60's before the City was incorporated. Some records going back that far are rather spotty.

Councilmember Nelson questioned the footage on the previous house.

Mr. Struve stated he was fairly certain that the City did not grant setback relief. He did not know if that house was constructed before the City was incorporated, in which case it was possible that the County may have granted the side setback relief.

Councilmember Nelson thanked the appellant for asking his neighbors about his request. She supported this request.

Council polled as follows: Nelson, Stokes, Williams, Carioscia, Cosden, Coviello, and Gunter voted "aye." All "ayes." Motion carried 7-0.

INTRODUCTIONS

Resolution 282-18 (VP 18-0005*) Set Public Hearing Date for January 7, 2019
*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE RESOLUTION ACCOMPLISHES:
A resolution providing for the vacation of plat for public utility and drainage easements underlying a previously vacated platted walkway and a previously vacated portion of a platted alley located within Block 3367, Cape Coral Unit 65; providing for the vacation of plat for all platted interior lot lines and public utility and drainage easements lying with Lots 36-45, 51-62, and 76-89, Block 3367, Cape Coral Unit 65; property located at 824 SW 42nd Terrace. (Applicant: Skyline Self Storage, LLC)
Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 10-2018.

City Management Recommendation: City Management recommends approval with conditions that appeared in the VP HEX Recommendation 10-2018.

Interim City Clerk Bruns read the title of the Resolution.

The public hearing was scheduled for January 7, 2019 in Council Chambers.

Ordinance 80-18 (ZA 18-0007*) Set Public Hearing Date for January 7, 2019
*Quasi-Judicial, All Persons Testifying Must be Sworn In
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property described as Lots 1-28 and 55-82, Block 3170, Cape Coral Unit 66, from Pedestrian Commercial (C-1) to Single-Family Residential (R-1B) zone; property located north of SW 28th Street, south of SW 26th Street, east of SW 9th Avenue, and west of SW 8th Court. (6.42 acres) (Applicant: Sullico II, LLC)
Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning.
City Management Recommendation: City Management recommends approval.

Interim City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 7, 2019 in Council Chambers.

Ordinance 82-18 - Set Public Hearing Date for January 7, 2019

WHAT THE ORDINANCE ACCOMPLISHES:
The ordinance amends Chapter 23 "Protected Species" of the Code of Ordinances by creating Article II "Burrowing Owl Protection", by providing for purpose and intent, definitions, development standards, protection and permit procedures, exempt activities within protection zones, penalties, and supplemental regulations. (Applicant: Brought forward by Councilmember Carioscia.)

Interim City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 7, 2019 in Council Chambers.

Ordinance 83-18 Set Public Hearing Date for January 7, 2019

WHAT THE ORDINANCE ACCOMPLISHES:
The ordinance authorizes the issuance of not to exceed $60,000,000 in aggregate principal amount of General Obligation Bonds, in one or more series, to finance the acquisition, construction and equipping of various parks, natural areas, recreational and athletic facilities, trails, boating, fishing and swimming facilities, and wildlife habitat and shoreline protection improvements; pledges the proceeds of ad valorem taxes levied without limit on all taxable property within the City to secure the payment of the principal of, redemption premium, if any, and interest on such bonds; provides for the rights of the holders of such bonds; and authorizes the reimbursement of expenditures made by the City from proceeds of the bonds. (Applicant: Brought forward by City Management.)

Interim City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 7, 2019 in Council Chambers.

Ordinance 84-18 Set Public Hearing Date for January 7, 2019
WHAT THE ORDINANCE ACCOMPLISHES:
An ordinance approving the Grant of Easement and Construction Agreement between the City of Cape Coral and The School Board of Lee County granting to the School Board an easement for the construction, installation, maintenance, operation, repair and replacement of the School Board's private horizontal directionally drilled underground chiller lines connecting and servicing the school properties crossing the Agualinda

Boulevard right-of-way between Ida S. Baker High School and Gulf Middle School, and accepting the conveyance of a parcel of land from the School Board being a portion of Lots 21 and 22, as shown on the unrecorded plat of Agualinda Heights; authorizing and directing the Mayor to execute the Grant of Easement and Construction Agreement. (Applicant: Brought forward by City Management.)

Interim City Clerk Bruns read the title of the Ordinance.

The public hearing was scheduled for January 7, 2019 in Council Chambers.

UNFINISHED BUSINESS

Water Quality – Update

Public Works Director Clinghan reviewed the memo provided to Council and provided the most current update on Lake Okeechobee.

Follow Up Items Requested by Council

None

NEW BUSINESS

None

REPORTS OF THE MAYOR AND COUNCIL MEMBERS

Councilmember Nelson – Topics: Thanked the Mayor for the broadcast regarding his first year. Will attend the Boat-a-long this weekend.

Councilmember Stokes – Topics: Attended Bike Night, kudos to staff on the walkways; Will be speaker at the Wreaths Across America at Tarpon Point next Saturday and will attend the Boat-a-long on Saturday.

Councilmember Stout – Excused

Councilmember Williams – Topics: Informational Only

Councilmember Carioscia – Topics: Informational Only

Councilmember Cosden – Topics: Informational Only

Councilmember Gunter– Topics: Informational Only

Mayor Coviello: Topics: Attended Bike Night, Wreaths Across America at Coral Ridge with other veterans, will attend the Boat-a-long, thanked Councilmembers for their work this year, and thanked staff for a job well done.

REPORTS OF THE CITY ATTORNEY AND CITY MANAGER

City Attorney – Topics: Informational Only

City Manager – Topic: Invited everyone to the New Year's Eve Party on 47th Terrace which will be substantially complete by then.

TIME AND PLACE OF FUTURE MEETINGS

A Regular Meeting of the Cape Coral City Council was scheduled for Monday, January 7, 2019, at 4:30 p.m. in Council Chambers.

MOTION TO ADJOURN

There being no further business, the meeting adjourned at 5.50 p.m.

Submitted by,

Kimberly Bruns, CMC
Interim City Clerk

Item Number:	**B.(1)**
Meeting Date:	**1/7/2019**
Item Type:	**CONSENT AGENDA**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Resolution 3-19 Approve Cape Coral R/Sea Hawks, Inc, agreement between the City of Cape Coral and the Cape Coral R/Seahawks, Inc. On January 1, 2019 and terminating on December 31, 2022. The agreement may be extended upon mutual consent of the parties for two (2) additional years; Department: Parks and Recreation; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

   If Yes, Priority Goals Supported are listed below.

   If No, will it harm the intent or success of the Strategic Plan?

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
Renewal of the R/C Seahawk Club Park Use Agreement.

LEGAL REVIEW:
Yes

EXHIBITS:
Resolution 3-19
R/C Seahawk Park Agreement

PREPARED BY:

Karan Pepin	Division- Parks	Department-	Parks and Recreation

SOURCE OF ADDITIONAL INFORMATION:
Kerry Runyon, Director Parks and Recreation
Parks and Recreation

239-573-3110

ATTACHMENTS:

Description	Type
Resolution 3-19	Resolution

RESOLUTION 3 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE AGREEMENT BETWEEN THE CITY OF CAPE CORAL AND CAPE CORAL R/SEA HAWKS, INC.; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ANY FUTURE RENEWALS PROVIDED FOR IN THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 3, 2013, City Council approved an Agreement between the City of Cape Coral and Cape Coral R/Sea Hawks, Inc., ("the Sea Hawks") providing for "first priority" use by the Sea Hawks of the City's Seahawk Airpark located at 1030 NW 28th Street; and

WHEREAS, the Agreement expired on December 31, 2018; and

WHEREAS, City staff is requesting approval of a new Agreement between the City of Cape Coral and the Sea Hawks providing for "first priority" use by the Sea Hawks of the City's Seahawk Airpark for a three-year term, terminating on December 31, 2022, with the option to extend the term of the Agreement, upon mutual consent of the parties, for two (2) additional one-year terms; and

WHEREAS, the City Council desires to approve the Agreement between the City of Cape Coral and Cape Coral R/Sea Hawks, Inc., attached hereto as Exhibit A, and to authorize the City Manager to approve any future renewals provided for in the Agreement, should the City Manager deem it to be in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the Agreement between the City of Cape Coral and Cape Coral R/Sea Hawks, Inc., providing for "first priority" use by the Sea Hawks of the City's Seahawk Airpark located at 1030 NW 28th Street. A copy of the Agreement is attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the City Manager or his designee to execute the Agreement and authorizes the City Manager to execute any future renewals provided for in the Agreement, should the City Manager deem it to be in the best interest of the City.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez

DOLORES D. MENENDEZ
CITY ATTORNEY
Seahawk Park Agreement

AGREEMENT

This Agreement made and entered into this _____ day of January, 2019, by and between THE CITY OF CAPE CORAL, FLORIDA, hereinafter referred to as "CITY", and CAPE CORAL R/SEA HAWKS, INC., located at 3117 SE 17th Ave., Cape Coral, FL. 33904, hereinafter referred to as "LICENSEE".

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **USE OF PARK FACILITIES.** LICENSEE shall be permitted, in accordance with the terms of this Agreement, to utilize Seahawk Airpark (PARK) located at 1030 NW 28th Street, a CITY owned, or controlled park operated by the City of Cape Coral's Parks and Recreation Department. The normal hours of public use are from 7:00 a.m. to sunset every day of the week. The PARK may be used by LICENSEE on a "first priority" basis during the term and any extensions of this Agreement. The phrase "first priority" as used herein shall mean that LICENSEE shall have the right to reserve for its exclusive use the aforesaid part of the park facilities used by LICENSEE during the aforesaid time period provided a) that LICENSEE shall submit annually to the CITY, not less than 30 days, excluding Sundays and legal holidays, prior to each year that this Agreement is in effect, a complete and fully executed "Application for Facility Use" stating the proposed dates and times that LICENSEE will utilize the PARK. The Application for Facility Use will set forth in a general manner the types of uses which LICENSEE will conduct at the PARK throughout the year. The approximate dates of any proposed routine activity will be sufficient. However, for any special event not listed on the annual "Application for Facility Use", or which date is different from the date listed on the Application for Facility Use, a new Application for Facility Use shall be completed and submitted for that event at least 60 days before the date of the planned event. Failure to timely submit a required Application for Facility Use form or holding an event not listed on an Application for Facility Use form may result in CITY's suspending use of the park and its facilities by LICENSEE for a defined period. Notwithstanding anything else stated to the contrary herein, LICENSEE's use of the park is at the sufferance of CITY, and at any time and for any reason, upon ten days written notice to LICENSEE, sent by regular United States Mail, postage pre-paid, CITY may require LICENSEE to cease use of the park facilities so that CITY may use the same for its own purposes. In the event of an emergency as determined by the CITY, LICENSEE may be required to immediately cease its use of the park facilities so that the CITY may use the same for its own purposes. CITY shall not make use of this provision in an unreasonable manner.

2. **USER FEES.** LICENSEE shall pay CITY for use of the PARK the current fees, as they may be changed by the CITY while this Agreement is in effect, charged to other similar users of CITY's park facilities. Failure by LICENSEE to timely pay such fees will be considered a break of this Agreement.

3. **AGREEMENT TERM.** The term of this Agreement shall commence on January 1, 2019 and terminate on December 31, 2022. This agreement may be extended upon mutual consent of the parties for two (2) additional one-year terms. If LICENSEE wishes to extend the agreement beyond the initial term, it must provide written notice to the CITY at least ninety (90) days prior to the expiration of this Agreement. Any obligation of a party that is not satisfied at the termination of this Agreement for whatever reason shall not terminate with the termination of the Agreement but shall be a continuing obligation of that party subject to enforcement by the other party.

4. **ALTERATIONS TO PARK FACILITIES.** LICENSEE shall not make any alterations or modifications to the PARK, including but not limited to, buildings, landscaping, fencing, or lighting, without the prior written consent of the CITY Parks and Recreation Director.

5. **RULES AND REGULATIONS.** LICENSEE shall abide by all CITY ordinances, rules, regulations, and policies concerning the use the PARK. Failure of LICENSEE to abide by said ordinances, rules, regulations, and/or policies may, in the sole discretion of the CITY, result in termination of this Agreement and loss by LICENSEE of its "first priority" usage of PARK. Failure of the CITY to terminate this Agreement in the event of LICENSEE's failure to abide by the terms of this Agreement or CITY ordinances, rules, regulations, and/or policies shall not constitute a waiver of the CITY of any of its rights hereunder. In the event of any direct conflict between the provisions of this Agreement and a CITY ordinance, the CITY ordinance shall control. In the event of any direct conflict between the provisions of this Agreement and a CITY rule, regulation, and/or policy, this Agreement shall control.

6. **USE OF PARK.** LICENSEE shall not use, cause, or allow the use of the PARK premises for any purpose that is in whole or in part illegal, immoral, indecent, obscene, slanderous, libelous or otherwise improper or detrimental to CITY. If CITY, in its sole discretion, believes that any use or proposed use of the premises is illegal, immoral, indecent, obscene, slanderous, libelous or otherwise improper or detrimental to CITY, CITY may immediately interrupt LICENSEE's event and terminate this license, with no further liability to CITY. LICENSEE shall take all necessary precautions when using any substance of an explosive or flammable nature and shall not contaminate any of the soil or groundwater. LICENSEE shall be solely responsible to ensure the safe use of any flammable or explosive materials, and to clean, remove or mitigate any environmental contamination that does occur at absolutely no cost to the CITY.

7. **CONCURRENT USE.** The parties agree and acknowledge that the public shall have the right to use such portions of CITY park facilities which have not been reserved for use by LICENSEE pursuant to this Agreement and the Application for Facility Use at the same time as the reserved facilities are used and/or occupied by LICENSEE. The parties further agree that, though LICENSEE'S use of CITY park facilities as provided herein shall be on a "first priority" basis, its use of the facilities is not exclusive and the CITY may permit other persons, groups, and/or the public to utilize such facilities during times when such facilities have not been approved by the CITY for use by LICENSEE. No concurrent use of the park will be allowed that interferes with the LICENSEE's use of the park. However, CITY may require LICENSEE to meet with other potential users to resolve any potential conflicts over concurrent use. CITY shall be the final judge as to any concurrent use of the PARK. LICENSEE, on a non-discriminatory basis, may allow non-licensee members to use the PARK facilities along with LICENSEE's members. However, all non-members doing so shall be under the supervision and control of LICENSEE and must agree to follow LICENSEE's safety rules and regulations and have insurance satisfactory to LICENSEE. Failure to follow the rules and regulations or to have satisfactory insurance will be grounds for the removal of the non-licensee member while LICENSEE is using the PARK on a first priority basis.

8. **CONTROL OF PREMISES.** The park facilities licensed hereunder shall be always under the control of the CITY Parks & Recreation Department.

9. **SIGNS.** No signs may be erected on CITY property by LICENSEE without the prior written consent of the CITY Parks and Recreation Director. Any signs so erected on park facilities by LICENSEE

shall be removed by LICENSEE no later than thirty (30) days from the last day of LICENSEE'S season. In the event of emergency weather conditions such as hurricane, high winds, etc., LICENSEE shall remove its signs from CITY park facilities no more than three (3) hours from notification by CITY of the need to do so. CITY shall have the right at any time to remove any sign from CITY property if such sign is deemed, in the sole discretion of the CITY, to be hazardous or poorly maintained. CITY shall incur no liability for any damage to LICENSEE's signs caused by the removal of such sign by the CITY. By executing this agreement, LICENSEE agrees to hold the CITY harmless for any damage caused by the removal of LICENSEE's signs by CITY. LICENSEE shall be responsible for any costs incurred for any defacement, damage, or cleanup resulting from the actions of LICENSEE, its agents, representatives, or employees.

10. **IMPROVEMENTS.** No fixed improvements, including but not limited to, buildings and/or fixtures, shall be erected, constructed, installed, or located on CITY property by LICENSEE except with the prior express written consent of CITY. The parties agree that any such improvements located on CITY property shall become the property of CITY.

11. **SUPERVISION.** LICENSEE shall provide CITY with the names, addresses, and telephone numbers for all of LICENSEE's officers and directors or other board members no less than ten (10) days after the effective date of this Agreement and shall keep such list current. At all times of use by LICENSEE or its members, LICENSEE shall be responsible for ensuring that the PARK and facilities are being used in compliance with this Agreement. Liaison with the Cape Coral Parks Department will be provided by the LICENSEE's City/Club Coordinator or the elected Club President or his designee.

12. **CLEANUP AND MAINTENANCE.** LICENSEE shall be solely responsible for ensuring that all park facilities are left in a clean and sanitary condition at the end of the use of the PARK by LICENSEE or its members. LICENSEE shall maintain portable sanitation facilities in the PARK for use by participants and patrons at any of its events. LICENSEE shall be responsible for ensuring that the sanitation facilities are always kept clean and sanitary. Daily trash is to be placed in the trash cans provided. For special events, LICENSEE must order an appropriate sized dumpster at a location both to be approved by the Parks and Recreation Department. Licensee can furnish a site map sketch showing the dumpster location and attach to the Application for Facility Use submitted for the special event. LICENSEE must provide the date it will request the dumpster to be removed on Application for Facility Use. For each special event, LICENSEE must pay CITY a refundable deposit of $200 to ensure that all trash is removed from the grounds. If the trash is properly picked up the deposit will be refunded, if in the City's opinion the trash is not adequately removed the $200 will be used to defray the City's costs in having the trash removed and properly disposed of. LICENSEE will be responsible for payment of any costs that exceed the $200 deposit. If Parks and Recreation employees are required to assist or perform trash pick up and clean up, LICENSEE agrees to pay City's standard fee for such services. Further, LICENSEE shall be responsible for mowing the grass around the runway used by LICENSEE and its members.

13. **SPECIAL EVENTS.** LICENSEE shall obtain the written consent of the CITY prior to LICENSEE operating and/or sponsoring a special event, such as a tournament or a jamboree, in the CITY park facility or grounds. LICENSEE shall request CITY approval of a special event and submit a special event application if one is required either in conjunction with the "Application for Facility Use provided by LICENSEE to the CITY in accordance with Section 1 of this Agreement or by submitting to the CITY a separate written request not less than sixty (60) days prior to the date LICENSEE is requesting that the special

event begin. In order to obtain City approval of a proposed special event, LICENSEE shall provide to the City in writing a statement containing the following information: a description of the type or nature of the proposed special event, the CITY facility or facilities proposed to be used for the special event, the dates and times that such facilities are proposed to be used for the special event, a good faith estimate of the number of persons that LICENSEE reasonably anticipates will participate in and/or attend the proposed special event, any special requests relevant to the special event including, but not limited to, a request that the services of extra groundskeepers or other CITY personnel be provided for the special event. The parties acknowledge and agree that CITY shall exert reasonable efforts to accommodate requests for special events by LICENSEE, but the parties further recognize and agree that CITY, in its sole discretion may disapprove request for a special event involving the use of the CITY park facilities or grounds.

In the event LICENSEE desires to erect a tent in the CITY park facility or grounds, LICENSEE shall be responsible for securing all necessary permits and inspections, including but not limited to building and/or fire permits and inspections, as required by City Code. It is understood by the parties that the CITY no longer erects tents, and the City assumes no liability for any damages to the tent before, during or after an event. LICENSEE at its own expense will pay for all required inspections and permits will pay a private contractor to erect and remove any tents. On any required application, LICENSEE must include the dimensions, location, and removal date of the tent. In the event LICENSEE desires the services of CITY personnel, such as a groundskeeper, for the purpose of cleaning or otherwise maintaining the CITY park facility or grounds prior to a special event such as a tournament or a jamboree, LICENSEE shall be solely responsible for paying for the services of such CITY personnel unless the parties enter into a written agreement prior to the special event otherwise providing for the payment of such personnel.

14. **SCHEDULE CHANGES.** LICENSEE shall provide to the CITY fourteen (14) days notice of any planned change or modification to its field usage schedule. The parties acknowledge and agree that CITY shall exert reasonable efforts to accommodate such schedule changes, but the parties further recognize and agree that CITY, in its sole discretion, may disapprove such a schedule change regarding the use of the CITY park facilities.

15. **DISCIPLINE OF PERSONS ACTING IN OFFICIAL CAPACITY.** Any person officially disciplined by the LICENSEE, or who otherwise is disorderly, disruptive, or does any act or activity that would disturb, endanger, or would interfere with LICENSEE's permitted activity in the PARK or designated portions thereof, may be removed from the park facility by the CITY.

16. **SECURITY.** LICENSEE shall be obligated to pay the cost of any security provided by the CITY Police Department.

17. **REPORTS OF VANDALISM AND/OR DAMAGE.** All vandalism and/or damage to CITY park facilities shall be reported to CITY by LICENSEE within twenty-four (24) hours of a LICENSEE board member being notified of such vandalism and/or damage. Within forty-eight (48) hours of receipt of notice by LICENSEE that such vandalism and/or damage has occurred, LICENSEE shall submit to the CITY Parks and Recreation Department a written description of such vandalism and/or damage including but not limited to the date and time at which notice of the damage and/or vandalism was received by LICENSEE and a brief description of the damaged and/or vandalized area. LICENSEE shall reimburse CITY for all damage and/or vandalism which occurs during the time LICENSEE is using the park facilities or holding any special event at

the park and/or which occurs as the result of LICENSEE's failure to comply with the terms of this Agreement with respect to maintaining the security of the park premises. LICENSEE shall reimburse CITY for the costs of such damage and/or vandalism not later than thirty (30) days from receipt by LICENSEE of an invoice from CITY for the costs of repairing such damage and/or vandalism.

18. **INSPECTION.** A representative of LICENSEE and of the CITY Parks and Recreation Department may inspect the park facilities at any time. LICENSEE shall be responsible for any damages resulting from its neglect or misuse of the premises. Failure of LICENSEE to completely and timely compensate CITY for any damages occurring from LICENSEE's use of CITY park facilities shall constitute a breach of this Agreement.

19. **ASSIGNMENT OF RIGHTS.** LICENSEE shall not assign this Agreement or any rights or obligations thereunder.

20. **INSURANCE.** LICENSEE shall provide insurance at its own expense such insurance shall cover both LICENSEE's routine use of the facility and any special event held at the park. The CITY must be named as Additional Insured on all policies where applicable; the City's Risk Manager must approve insurance coverage amounts. The policy must include: minimum limits of $1,000,000 each occurrence combined single limit for Bodily Injury Liability and Property Damage Liability, of $1,000,000 each occurrence Bodily Injury Liability and $250,000 each occurrence Property Damage Liability. Policy must include coverage for: Premises and/or Operations, Independent Contractors, Contractual Liability, Medical Payments Coverage with a limit of at least $1,000 each person.

21. **INDEMNIFICATION AND HOLD HARMLESS; COSTS AND ATTORNEY'S FEES.** LICENSEE agrees to hold harmless, release and indemnify the CITY and/or any of its agents, employees, officers, or other persons under its advisement and/or control from any and all damages, including environmental actions, injuries, actions, suits, claims, or demands of whatever kind, including any claims for damages or personal injuries, made by LICENSEE, against LICENSEE, or on LICENSEE's behalf, against the CITY OF CAPE CORAL arising from, pertaining to, or resulting, either directly or indirectly, from use by LICENSEE of CITY's park facilities during the term of this Agreement. Such indemnification expenses shall include, but not be limited to, liability settlements, clean up costs from environmental damage, damage awards, court costs and all out of pocket expenses, such as attorney's fees, incurred by the CITY and shall also include the reasonable value of any services rendered by the City Attorney or any employees of the City, directly or indirectly related to claims of injury or damage or otherwise to use by LICENSEE of CITY park facilities

22. **GOVERNING LAW.** This Agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida with venue in Lee County.

23. **ATTORNEY'S FEES AND COSTS.** In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

24. **TERMINATION.** Notwithstanding any other provision of this Agreement, this Agreement may be terminated by CITY at its sole discretion upon thirty (30) days prior written notice to LICENSEE.

25. **AUDITABLE RECORDS.** LICENSEE shall maintain auditable records adequate to account for all receipts and expenditures by LICENSEE. These records shall be kept in accordance with generally accepted accounting principles and shall be made available to City personnel with reasonable notice.

26. **SEVERABILITY.** If any section, paragraph, term or provision of this Agreement is determined to be illegal, invalid, or unconstitutional, or in violation of any bond covenants of the CITY in effect on the date of this Agreement, by any court of competent jurisdiction, such determination shall have no effect on any other section, paragraph, term, or provision hereof, all of which shall remain in full force and effect for the term of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the date and year first above written.

Witnessed by:

"LICENSEE"

CAPE CORAL R/SEA HAWKS, INC.

By: PRESIDENT
Title:

Michael Bilinski

12/12/18

"CITY"

CITY OF CAPE CORAL

By: _____
Title:

Judith Dugas

Judith Dugas

APPROVED AS TO FORM:

_____
DOLORES MENENDEZ
City Attorney

Item Number:	**B.(2)**
Meeting Date:	**1/7/2019**
Item Type:	**CONSENT AGENDA**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Resolution 4-19 Approve the Selection Advisory Committee (SAC) ranking of the Request for Proposal (RFP) RFP-UT18-98/MC to engage a firm to serve as Construction Manager at Risk for the Southwest Water Reclamation Facilities Operations Building project and authorize the City Manager or Designee to enter into negotiation with the number one ranked firm, Wharton-Smith, Inc.; Department: Utilities; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

   If Yes, Priority Goals Supported are listed below.

   If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

ELEMENT G: WORK TOWARD EFFICIENT AND COST-EFFECTIVE SOLUTIONS TO PROTECT AND CONSERVE NATURAL RESOURCES, WHILE PROMOTING ENVIRONMENTAL AWARENESS AND SUSTAINABILITY IN THE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. On September 5, 2018, a Request for Proposal RFP- UT18-98/MC was issued seeking qualified firms to provide services as Construction Manager at Risk for the Southwest Water Reclamation Facilities Operations Building project.
2. On November 2, 2018, four (4) firms responded to the RFP. The four (4) firms in alphabetical order are: Chris-Tel Construction, The Haskell Company, Wharton-Smith, Inc.,

and Wright Construction Group, Inc..

3. Proposals were evaluated based on City of Cape Coral, Code of Ordinance Article VII: Purchase and Sale of Real and Personal Property Section 2-144 (h) Consultant's Competitive Negotiation Act.
4. On December 11, 2018, the Selection Advisory Committee (SAC) interviewed the three (3) firms recommended by the internal evaluation committee. The SAC ranked the firms in the following order: #1 Wharton-Smith, Inc.; #2 The Haskell Company; #3 Wright Construction Group, Inc..
5. Upon Council approval, staff will begin contract negotiations with the #1 ranked firm and will bring back a contract for Council approval. In the event that the City is unable to negotiate a contract with the #1 ranked firm, staff will begin negotiations with the #2 ranked firm and so on.
6. The negotiated contract will be brought forward to Council for approval on a later date
7. Funding Information: N/A

LEGAL REVIEW:

EXHIBITS:

SAC Recommendation
Resolution 4-19
SAC Summary Matrix

PREPARED BY:

Wanda Roop	Division- Procurement	Department- Finance

SOURCE OF ADDITIONAL INFORMATION:

Selection Advisory Committee
Jeff Pearson, Utilities Director

ATTACHMENTS:

Description	Type
Selection Advisory Recommendation	Backup Material
Resolution 4-19	Resolution
Selection Advisory Committee Summary Matrix	Backup Material

CITY OF CAPE CORAL
FINANCIAL SERVICE DEPARTMENT

TO: John Szerlag, City Manager

FROM: Wanda Roop, SAC Chair
Procurement Manager WRoop

DATE: December 12, 2018

SUBJECT: Selection Advisory Committee (SAC) recommendation for RFP-UT18-98/MC Request for Proposal – Construction Manager at Risk for the Southwest Water Reclamation Facilities Operations Building

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On November 2, 2018, four (4) proposals were received for the Construction Manager at Risk for the Southwest Water Reclamation Facilities Operations Building - Request for Proposal (RFP), RFP-UT18-98/MC. The firms in alphabetical order are as follows: Chris-Tel Construction, The Haskell Company, Wharton-Smith, Inc., and Wright Construction Group, Inc..

An evaluation committee reviewed all proposals and recommended the top three (3) firms to the Selection Advisory Committee (SAC). The three (3) firms, listed in alphabetical order, were The Haskell Company; Wharton-Smith, Inc, and Wright Construction Group, Inc..

The firms made a presentation, to the Selection Advisory Committee (SAC), on December 11, 2018 and were evaluated based on the proposer's ability to demonstrate understanding of the City's requirements and plans for meeting them; the professional qualifications and related staff experience; the prior experience and references of the firm; prior experience with the City of Cape Coral, the size and organizational structure of the firm, local vendor preference and Small Business Certification status

The SAC, based on the presentation given by the three (3) firms, ranked the firms as follows:

#1 Wharton-Smith, Inc.
#2 The Haskell Company
#3 Wright Construction Group, Inc.

The recommendation for approval of ranking and entering negotiation with the #1 ranked firm will be presented to City Council for approval on January 7, 2019.

MC/WR

c: SAC members
Evaluation Committee

RESOLUTION 4 – 19

A RESOLUTION OF THE CITY OF CAPE CORAL COUNCIL DIRECTING THE CITY MANAGER OR DESIGNEE TO NEGOTIATE A CONTRACT FOR CONSTRUCTION MANAGER AT RISK SERVICES FOR THE SOUTHWEST WATER RECLAMATION FACILITIES OPERATIONS BUILDING PROJECT BASED ON THE SELECTION ADVISORY COMMITTEE RANKINGS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 5, 2018, the City issued Request for Proposal RFP-UT18-98/MC for Construction Manager at Risk Services for the Southwest Water Reclamation Facilities Operations Building project; and

WHEREAS, the City received four (4) proposals; and

WHEREAS, the proposals were evaluated based on the criteria set forth in the City of Cape Coral Code of Ordinances, Section 2-144(h), Consultants' Competitive Negotiation Act; and

WHEREAS, on December 11, 2018, the SAC interviewed the top three firms and ranked the firms as follows: Wharton-Smith, Inc., ranked #1; The Haskell Company, ranked #2; and Wright Construction Group, Inc., ranked #3; and

WHEREAS, City Staff has completed the selection process in accordance with the City of Cape Coral Code of Ordinances, Section 2-144, Procurement Procedures; and

WHEREAS, the City Council has carefully considered the recommendation of the SAC, has reviewed the qualifications of the firms, and accepts the ranking of the firms by the SAC.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby accepts the ranking of the SAC and directs the City Manager or his designee to begin negotiations with the #1 ranked firm and to bring the contract to City Council for approval.

Section 2. In the event the City Manager is unable to reach agreement on a Contract with the #1 ranked firm, the City Manager or his designee will begin negotiations with the #2 ranked firm, and so on.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez

DOLORES D. MENENDEZ
CITY ATTORNEY

res/SAC Ranking – SW Water Reclamation Facility Operations Building

City of Cape Coral
December 11, 2018

RFP-UT18-98/MC
Proposal Matrix - Construction Manager at Risk for the Southwest Water Reclamation Facilities Operations Building

Proposer	Understanding of City's Requirements and Approach for Meeting Them Possible Points = 25	Professional Qualifications, Related Experience and Adequacy of Personnel Possible Points = 20	Qualification / Experience of Key Personnel and Team Possible Points = 20	Team Management & Ability to Complete Work Possible Points = 20	Prior Experience and References Possible Points = 10	Prior Experience - City of Cape Coral Possible points = 5	Local Professional = (0-10)	SWMBE = (0-5)	Total Score	Ranking
The Haskell Company Jacksonville, FL	21.3	17.1	17.1	16.4	8.4	4.9	0.0	0.0	85.3	**2**
Wharton-Smith, Inc. Fort Myers, FL.	23.7	19.0	19.3	19.4	9.4	1.7	0.0	0.0	92.6	**1**
Wright Construction Group Inc. Fort Myers, FL.	19.9	16.9	16.9	16.9	8.0	4.6	0.0	0.0	83.0	**3**

** Scoring average is based on the scoring of seven (7) Selection Advisory Committee members **

Item Number:	**B.(3)**
Meeting Date:	**1/7/2019**
Item Type:	**CONSENT AGENDA**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Resolution 6-19 Approval of the Risk Protection Order (RPO) Task Force Memorandum of Understanding (MOU) between the Lee County Sheriff's Office (LCSO), Fort Myers Police Department (FMPD), and the City of Cape Coral o/b/o the Cape Coral Police Department (CCPD) and authorizing the Chief of Police to execute all necessary documents; Department: Police; Dollar Value: N/A; (Fund: N/A)

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

   If Yes, Priority Goals Supported are listed below.

   If No, will it harm the intent or success of the Strategic Plan?

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
1. The Marjory Stoneman Douglas High School Public Safety Act was enacted on March 9, 2018, and created section 790.401, Florida Statutes. This act is also known as "The Risk Protection Order Act". Risk Protection Orders are also referred to as RPO's. This Act is designed to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms by allowing family, household members, and law enforcement to obtain a court order when there is demonstrated evidence that the person poses a significant danger, including danger as a result of a dangerous mental health crisis or violent behavior.
2. The RPO Task Force will be located at LSCO headquarters, and CCPD will assign at least one detective to the Task Force who will cooperatively investigate and prepare petitions for potential RPO respondents and provide mutual assistance through the process.
3. Each party is responsible for all compensation for their respective employees including but not limited to salary, benefits, overtime, and workers compensation.
4. Each respective agency will be responsible for obtaining and filing its own firearms affidavits/receipts(s) as might be required by the RPO and will each have their own attorney file and pursue RPO litigation on behalf of their agency.
5. LCSO will be responsible for all civil process orders pertaining to RPO's.

LEGAL REVIEW:

EXHIBITS:
Resolution 6-19

PREPARED BY:

Martha LaForest	Division- Administration	Department- Police

SOURCE OF ADDITIONAL INFORMATION:
David Newlan, Police Chief or Darren McKenna, ISB Captain

ATTACHMENTS:

	Description	Type
	Department Memo	Backup Material
	Resolution 6-19	Resolution

CAPE CORAL POLICE DEPARTMENT

Office of the Chief of Police

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager
David Newlan, Chief of Police
Lisa Barnes, Deputy Chief of Police

DATE: December 26, 2018

SUBJECT: Risk Protection Order Task Force Memorandum of Understanding

This memo serves as a request to approve the Risk Protection Order (RPO) Task Force Memorandum of Understanding between the Lee County Sheriff's Office (LCSO), Fort Myers Police Department (FMPD), and the Cape Coral Police Department (CCPD).

On March 9, 2018, the Marjory Stoneman Douglas High School Public Safety Act was enacted which created section 790.401, Florida Statute. This Act, also known as the Risk Protection Order Act, is designed to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms. This Act allows family, household members, and law enforcement to obtain a court order when there is demonstrated evidence that the person poses a significant danger, including danger as a result of a dangerous mental health crisis or violent behavior. The RPO Task Force will assist in meeting the provisions of this Act.

The RPO Task Force will be located at LSCO headquarters and CCPD will assign at least one detective to the Task Force to cooperatively investigate and prepare petitions for potential RPO respondents, and provide mutual assistance through the process.

The Department will be responsible for all compensation for the detective assigned to the Task Force including but not limited to salary, benefits, overtime, and workers compensation.

The Department will also be responsible for obtaining and filing its own firearms affidavits/receipts(s) as might be required by the RPO and will have our attorney file and pursue RPO litigation on behalf of our agency. LCSO will be responsible for all civil process orders pertaining to RPOs.

JS/DN/LB:ml

RESOLUTION 6 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CAPE CORAL POLICE DEPARTMENT, THE FORT MYERS POLICE DEPARTMENT, AND THE LEE COUNTY SHERIFF'S OFFICE FOR RISK PROTECTION ORDER TASK FORCE; AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE MEMORANDUM OF UNDERSTANDING; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Marjory Stoneman Douglas High School Public Safety Act, also known as the Risk Protection Order Act (the "Act"), was enacted on March 9, 2018; and

WHEREAS, the Act, which created section 790.401, Florida Statutes, allows law enforcement agencies to obtain a court order to prevent persons who are at high risk of harming themselves or others from accessing firearms; and

WHEREAS, the Cape Coral Police Department, the Fort Myers Police Department, and the Lee County Sheriff's Office desire to provide mutual assistance to meet the provisions of this Act; and

WHEREAS, the City Council desires to enter into the Memorandum of Understanding between the Cape Coral Police Department, the Fort Myers Police Department, and the Lee County Sheriff's Office for Risk Protection Order Task Force, attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the Memorandum of Understanding between the Cape Coral Police Department, the Fort Myers Police Department, and the Lee County Sheriff's Office for Risk Protection Order Task Force, attached hereto as Exhibit A.

Section 2. The City Council hereby authorizes the Chief of Police to execute the Memorandum of Understanding.

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez

DOLORES D. MENENDEZ
CITY ATTORNEY
Res/MOU-RPO Task Force

MEMORANDUM OF UNDERSTANDING

Between

CAPE CORAL POLICE DEPARTMENT

And

FORT MYERS POLICE DEPARTMENT

And

THE LEE COUNTY SHERIFF'S OFFICE

For

RISK PROTECTION ORDER TASK FORCE

THIS MEMORANDUM OF UNDERSTANDING, (hereinafter the "Agreement"), is made and entered into by and between the **CAPE CORAL POLICE DEPARTMENT**, (hereinafter "**CCPD**"), the **FORT MYERS' POLICE DEPARTMENT**, (hereinafter "**FMPD**") and **THE LEE COUNTY SHERIFF'S OFFICE**, (hereinafter referred to as the "**LCSO**");

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, **CCPD**, **FMPD** and **LCSO** hereby agree as follows:

1. **LCSO** will provide office space, desks, etc. at LCSO headquarters for the Task Force members;

2. **LCSO** will provide computers and other technical equipment for use at headquarters to enable Task Force members access to NCIC/FCIC, etc.;

3. **LCSO** will arrange for a detective supervisor, (Sgt. or above) to monitor the Task Force activity;

4. **LCSO**, **CCPD**, and **FMPD** will each contribute at least one detective;

5. **LCSO** will provide an analyst (**CCPD** may provide an analyst of their own or from FDLE);

6. **LCSO** will accept, maintain and enter temporary and Final Risk Protection Orders ("RPO") into NCIC/FCIC/Extranet so that all agencies with access to the Extranet have access to the entered RPOs;

7. **LCSO** Civil Process will serve all Notices of Hearing for Final RPO petitions;

8. **LCSO** Civil Process will serve all Temporary RPOs emanating from ex parte Temporary RPO petitions;

9. **LCSO** Civil Process will serve all Final RPOs;

10. Each respective agency shall be responsible for obtaining and filing its own firearms affidavits/receipt(s) as might be required by RPOs;

11. **LCSO**, **CCPD**, and **FMPD** detectives assigned to the Task Force will cooperatively investigate and prepare petitions for potential RPO respondents, and otherwise provide mutual assistance through the process.

12. **LCSO**, **CCPD**, and **FMPD** will each have their own attorney file and pursue RPO litigation on behalf of their agency.

13. Any firearms/or other items seized shall be maintained by the Petitioning agency and/or affiant's respective agency when a Search Warrant is executed.

14. Each respective agency who is a party to this Agreement is responsible for its own employees' conduct and each respective agency is responsible for defending and paying judgments related to its own employees' conduct. Additionally, each Party to this Agreement agrees to indemnify and hold harmless the other Parties to this Agreement to the fullest extent allowed by law from and against any and all claims, suits, damages, including court costs and attorney's fees, arising out of the negligent or intentional acts or omissions of the respective agency's own employees in the course of the operation of this Agreement.

15. Each party is responsible for all compensation for their respective employees, including but not limited to salary, benefits, overtime, and workers compensation.

16. Any party may terminate this Agreement, with or without cause, upon twenty (20) days written notice to the other parties of this Agreement.

17. Nothing herein contained is intended, nor shall be construed as a waiver of limitations of liability, and other defenses provided by sovereign immunity, by any party.

18. Nothing herein is intended, nor shall be construed as creating any rights, claims, duties, or obligations as regards any person or entity not a signatory to this Agreement.

[Signature Page to Follow.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized officers.

CAPE CORAL POLICE DEPARTMENT

By: _____

Print Name: _____

Date: _____

FORT MYERS POLICE DEPARTMENT

By: _____

Print Name: _____

Date: _____

LEE COUNTY SHERIFF'S OFFICE

By: _____

Print Name: _____

Date: _____

Item Number:	**B.(4)**
Meeting Date:	**1/7/2019**
Item Type:	**CONSENT AGENDA**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Resolution 9-19 Approve Use of State Forfeiture Funds in compliance with F.S.S. 932.7055; Department: Police; Dollar Value: $39,433; (Special Revenue Fund)

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

   If Yes, Priority Goals Supported are listed below.

   If No, will it harm the intent or success of the Strategic Plan?

ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

1. FSS. 932.7055(5)(c)(3) states: Any local law enforcement agency that acquires at least $15,000, pursuant to the Florida Contraband Forfeiture Act within a fiscal year must expend or donate no less than 25 percent of such proceeds for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program or programs. The local law enforcement agency has the discretion to determine which program or programs will receive the designated proceeds.
2. FY 2018, Law Enforcement Trust Fund (LETF) proceeds totaled $157,730.34. Twenty-five (25%) percent of this requires expenditures of $39,432.59.
3. The following organizations/programs will be funded: Lee County Homeless Coalition and Lee County Coalition for a Drug-Free Southwest Florida. Additionally the Cape Coral Police Department School Resource Officer Program and the Heroin and Opioid Prevention Education (HOPE) Program.

LEGAL REVIEW:

EXHIBITS:
Resolution 9-19

PREPARED BY:

Shannon Northorp	Division- Administration	Department- Police

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

	Description	Type
🗋	Resolution 9-19	Resolution

RESOLUTION 9 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL APPROVING THE DONATION OF $39,432.59 OF LAW ENFORCEMENT TRUST FUNDS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral Police Department has received revenues as a result of criminal proceedings or forfeiture proceedings that have been deposited into the Law Enforcement Trust Fund (LETF); and

WHEREAS, pursuant to the Florida Contraband Forfeiture Act, Section 932.7055(5), agencies may apply to the Chief of Police to receive funds from the LETF, but such funds must be used for purposes specified; and

WHEREAS, when the police department acquires at least $15,000 within the fiscal year, it must expend or donate no less than 25 percent of the proceeds with the Chief of Police having the discretion to determine which programs will receive the funds; and

WHEREAS, the Chief of Police has reviewed applications submitted to him and has made a determination of the agencies to receive donations from the LETF and the amounts to be donated to each agency; and

WHEREAS, the Chief of Police requests that the City Council approve the donations as set forth in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

Section 1. The City Council hereby approves the donation of $39,432.59 of the Law Enforcement Trust Funds as determined by the Chief of Police. The list of agencies that will receive a donation and the amount of each donation is attached hereto as Exhibit A. The Chief of Police has certified that the expenditure of funds complies with the provisions of the Florida Contraband Forfeiture Act. A copy of the certification is attached hereto as Exhibit B.

Section 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez

DOLORES D. MENENDEZ
CITY ATTORNEY
res\LETF Donations

FY 2019 Law Enforcement Trust Fund Community Outreach Requests

Total 25% required community outreach donation = $39,432.59

Lee County Homeless Coalition (Drug abuse prevention/crime prevention)	**$250**	**Advocacy and Education**
Lee County Coalition for a Drug-Free Southwest Florida (Drug abuse education/prevention)	**$500**	**Drug House Odyssey**
Cape Coral Police Department Service Programs:		
School Resource Officer Program (School Resource Officer Program)	**$31,020**	**Equipment**
Heroin and Opioid Prevention Education (HOPE) program (Drug Abuse Education/Prevention)	**$7,662.59**	**Drug Abuse Education**

1. *Lee County Homeless Coalition* advocates, educates and promotes awareness of issues and obstacles facing homeless individuals in Lee County through community collaboration, planning and implementation of solutions. Funds will be used support educational and awareness of homelessness, particularly as it intersects with substance abuse and continue the City's support through the continuum of care.
2. *Coalition for a Drug-Free SWFL* hosts the Drug House Odyssey educational awareness event on an annual basis. Drug House Odyssey is a walk through play that illustrates the deadly effects of drinking and driving. Cape Coral schools are involved as attendees, as well as, volunteer actors. The Police Department is an active participant in this annual event. Funds will be used to assist with the cost of the event, which is free to attend.

3. *Cape Coral Police Department Service Programs:*

   a. *School Resource Officer Program* whose mission is to provide a safe learning environment in schools located within the City of Cape Coral, build upon the agency's philosophy of community engagement, serve as mentors and positive role models to students, and act as a resource with regards to preventing juvenile delinquency.
   b. *Heroin and Opioid Prevention Education (HOPE) Program* specifically addresses the opioid problem in the City of Cape Coral, Lee County. The primary goal is to be a conduit for individuals seeking treatment/social services addressing drug addiction.

CERTIFICATION FOR APPROPRIATION AND EXPENDITURE FROM THE LAW ENFORCEMENT TRUST FUND

I hereby certify to the Cape Coral City Council for purposes of the Law Enforcement Trust Fund, that this request for appropriation and expenditure of funds complies with the provisions of the Florida Contraband Forfeiture Act (Sections 932.701-932.706, F.S.) and that such funds are intended to be used for

Community outreach donations, the School Resource Officer Program, and drug abuse education/prevention in the total amount of $39,432.59 (see attached description).

12/18/18
Date

David Newlan, Chief of Police
City of Cape Coral, Fl.

CERTIFICATION FOR APPROPRIATION AND EXPENDITURE FROM THE LAW ENFORCEMENT TRUST FUND

I Deborah Comella on behalf of The Lee County Coalition for a Drug-Free SWFL hereby certify to the Cape Coral City Council for purposes of the Law Enforcement Trust Fund, that this request for appropriation and expenditure of funds complies with the provisions of the Florida Contraband Forfeiture Act (Sections 932.701-932.706, F.S.) and that such funds are intended to be used for:

☐	**Crime Prevention** – Attempt to deter and/or reduce criminal activity and potential offenders.
✓	**Drug Abuse Education/Prevention** – A proactive approach that is designed to deter, prevent, and/or hinder, the development of substance abuse problems.
☐	**Safe Neighborhood** – Designated district through the adoption of a planning ordinance pursuant to state statute 163.506, 163.508, 163.511 and 163.512.
☐	**School Resource Officer Program** – applies to local law enforcement only.

12-18-18
Date

Deborah Comella
TYPE NAME: Deborah Comella
ORGANIZATION: The Lee County Coalition for a Drug-Free SWFL

CERTIFICATION FOR APPROPRIATION AND EXPENDITURE FROM THE LAW ENFORCEMENT TRUST FUND

I **Janet Bartos, Executive Director** on behalf of **Lee County Homeless Coalition, Inc.** hereby certify to the Cape Coral City Council for purposes of the Law Enforcement Trust Fund, that this request for appropriation and expenditure of funds complies with the provisions of the Florida Contraband Forfeiture Act (Sections 932.701-932.706, F.S.) and that such funds are intended to be used for:

☐	**Crime Prevention** – Attempt to deter and/or reduce criminal activity and potential offenders.
☒	**Drug Abuse Education/Prevention** – A proactive approach that is designed to deter, prevent, and/or hinder, the development of substance abuse problems.
☐	**Safe Neighborhood** – Designated district through the adoption of a planning ordinance pursuant to state statute 163.506, 163.508, 163.511 and 163.512.
☐	**School Resource Officer Program** – applies to local law enforcement only.

12/17/18
Date

Janet Bartos
Janet Bartos
Lee County Homeless Coalition

Item Number:	**D.(1)**
Meeting Date:	**1/7/2019**
Item Type:	**PERSONNEL ACTIONS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Resolution 14-19 Authorize City Manager to Pay up to Maximum When Hiring Economic Development Manager

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/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
Pursuant to Section 2-37.3 of the Code of Ordinances, the City Manager is authorized to pay a newly hired employee a rate of pay up to the mid-point of a pay grade without Council approval, and may pay a newly hired employee a rate of pay over the mid-point of a pay grade up to the maximum of the pay grade upon City Council approval.

The City Manager is in the process of hiring the Economic Development Manager and has selected a candidate for the position. The City Manager would like the ability to negotiate a salary up to the maximum of the pay grade.

LEGAL REVIEW:

EXHIBITS:
Resolution 14-19
City Manager Memo

PREPARED BY:

City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
Resolution 14-19	Resolution
City Manager Memo	Backup Material

RESOLUTION 14 - 19

A RESOLUTION OF THE CITY OF CAPE CORAL, FLORIDA, AUTHORIZING THE CITY MANAGER TO PAY UP TO THE MAXIMUM OF THE PAY GRADE WHEN HIRING THE ECONOMIC DEVELOPMENT MANAGER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Manager is in the process of hiring the Economic Development Manager and has selected a candidate for the position; and

WHEREAS, pursuant to Section 2-37.3 of the City of Cape Coral Code of Ordinances, the City Manager is authorized to pay a newly hired employee a rate of pay up to the mid-point of a pay grade without Council approval, and may pay a newly hired employee a rate of pay over the mid-point of a pay grade up to the maximum of the pay grade upon City Council approval; and

WHEREAS, the City Manager requests approval to negotiate a salary up to the maximum of the pay grade for the Economic Development Manager in order to secure the highest rated candidate.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The City Council hereby authorizes the City Manager to fill the position of Economic Development Manager at any salary within the minimum to the maximum range of the general salary schedule for the position pursuant to Section 2-37.3 of the Code of Ordinances of the City of Cape Coral, Florida.

Section 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez

DOLORES D. MENENDEZ
CITY ATTORNEY
res/Hiring-Economic Dev Mgr to Maximum
12/31/18

MEMORANDUM

CITY OF CAPE CORAL
CITY MANAGER'S OFFICE

TO: Mayor and Council Members

FROM: John Szerlag, City Manager

DATE: December 31, 2018

SUBJECT: Request to Pay Above Midpoint for Mr. Ricardo Noguera as Economic Development Manager

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After interviewing candidates, I have selected Mr. Ricardo Noguera as the City's new Economic Development Manager. I am requesting permission from City Council to hire Mr. Noguera above the midpoint of pay range for the position, which is $74,672 - $119,516.80. My intent is to offer Mr. Noguera the maximum of the range.

Mr. Noguera has extensive experience (more than 25 years) in municipal economic development and redevelopment in the states of California, Florida and Washington (see attached resume). With his broad knowledge base and enthusiasm for the job, he will bring a new direction to our economic development efforts.

Following Council approval, Mr. Noguera has indicated he can begin his duties with the City the first week of February.

As always, please feel free to contact me should you have any questions.

Attachment

City of Cape Coral
City Manager's Office

December 28, 2018

VIA EMAIL

Mr. Ricardo Noguera
1240 Jasmine Walk
Torrance, California 90502

Re: Conditional Offer of Employment

Dear Ricardo:

As we discussed today, this letter serves as a conditional employment offer for the position of Economic Development Manager which reports to the City Manager and is part of the City Manager's Office.

Salary range for this position is from $74,672.00 to $119,516.80. City of Cape Coral Ordinances require Council approval for employment offers exceeding the midpoint. As such, on January 7, 2019 I will be asking Mayor and Council for authority to compensate you at the maximum of the salary range; $119,516.80. This offer is based upon your experience and qualifications, which will assist the City of Cape Coral in retaining and attracting business. After six months on the job, I will have your job classification reviewed for a possible upgrade. This, of course, will be dependent upon performance.

Additionally, the interview panel consisting of Lee County Manager Roger Desjarlais, Interim Assistant City Manager Connie Barron, Community Development Director Vince Cautero and myself, independently and unanimously rated you as the top candidate.

Assuming Mayor and Council approve your rate of pay, your start date will be February 4, 2019. Of course, you will also need to pass our drug test and background check. Interim Assistant City Manager Connie Barron will be your contact person for benefit and other HR matters. Her phone number is 239-574-0448.

We have some economic development challenges in Cape Coral, but I know you are up for them. I also know you will absolutely enjoy our great city.

Sincerely yours,

John Szerlag
City Manager

JS:pd

City Manager's Office ∘ City of Cape Coral • P.O. Box 150027 •Cape Coral, Florida 33915-0027
(239) 574-0447 ∘ Fax (239) 574-0452 • www.capecoral.net

Co-County Seat – Lee County, Florida

CAPE CORAL POLICE DEPARTMENT

Office of the Chief of Police

TO: John Szerlag, City Manager

FROM: David Newlan, Chief of Police

DATE: December 28, 2018

SUBJECT: Background Information on Ricardo Noguera

Per your request, this memo shall serve as a summary of my background investigation of Mr. Ricardo Noguera. I spoke with Mr. Noguera regarding his past employment with the City of Tacoma, WA as the Community and Economic Development Director. On December 1, 2017, it was determined there was reasonable cause to believe a violation had occurred regarding allegations of discrimination with regards to a hostile work environment. Due to the findings, Elizabeth Pauli, the City Manager of the City of Tacoma offered Mr. Noguera a new position with the City from his current position to chief development officer.

On May 10, 2018, both Mr. Noguera and the City of Tacoma went to mediation due to the findings of the investigation. As a result, the City of Tacoma agreed to pay a total of $174,000. Mr. Noguera received $115,605 (one-year salary) and HKM Employment Attorney received $58,395. The City of Tacoma agreed to write a positive letter of reference signed by the City Manager and all responses to employment will be neutral on any inquiries regarding Mr. Noguera.

I contacted the Human Resources Department for the City of Tacoma and spoke with Rodney Croston. I asked for their policies regarding administrative investigations. The Human Resources Department stated they follow the civil service procedures in their area and sent me the policy regarding the process. However, according to Mr. Croston, this does not apply to upper management since they are at-will employees. I asked Mr. Croston if all employees, regardless of position, are given the opportunity to be interviewed as a subject employee to address any allegations made against them. Mr. Croston stated yes, they usually interview any employee involved.

Upon reviewing the administrative investigation made against Mr. Noguera, he was never interviewed regarding his allegations. In the mediation, neither side accepted fault as part of the settlement. Mr. Noguera's attorney pointed out that the even if all allegations were true, no hostile work environment existed because it never met the legal standard. None of the positive comments given by the employees were used or considered which did not

support the findings. Mr. Noguera chose to settle and not pursue litigation against the city for the false allegations. They settled with a payout of one-year salary and a positive letter of recommendation.

I contacted personal references who worked with Mr. Noguera at the City of Tacoma. Ellie Walkowiak is the Assistant Community and Economic Director for the City of Tacoma. Ms. Walkowiak worked with Mr. Noguera for approximately five years. She had no issues with him. She commented he is a very driven person and a dedicated employee. He came at a very tough time during the recession. Ms. Walkowiak felt the City of Tacoma did not treat him very well during the investigation. Anyone who had issues with him never spoke to him about it. She feels Mr. Noguera is a very hard worker and always looking for opportunities for the city to move forward.

India Adams is the current Assistant City Manager for Del Ray Beach, Florida. Ms. Adams worked for Mr. Noguera for approximately two years at the City of Tacoma and left a month after Mr. Noguera. Ms. Adams stated Mr. Noguera was her mentor and supervisor. He came during the "me too movement". She felt a group of employees used the opportune time with a new City Manager to get rid of Mr. Noguera. Ms. Adams didn't agree with the investigation.

TC Broadnax is the former City Manager of Tacoma and current City Manager of Dallas. Mr. Broadnax worked with Mr. Noguera for a number of years at the City of Tacoma. Mr. Broadnax was very complimentary of Mr. Noguera's work ethic and said he was very good at his profession. Mr. Broadnax did comment it was very unfortunate what had happened to Mr. Noguera when he left the City of Tacoma. He recommends Mr. Noguera for the job at the City of Cape Coral and stated he would be available if anyone would like to contact him.

Mark Lauzier is the former Assistant City Manager of Tacoma and current City Manager at Del Ray Beach, Florida. Mr. Lauzier was very positive about Mr. Noguera as being a hard worker and held people accountable in his area. They worked at the City of Tacoma during a time where they, including Mr. Noguera, were trying to get employees motivated to do better work. Mr. Lauzier felt that when the new City Manager was hired, some of the current employees used that opportunity to try to get Mr. Noguera fired. Mr. Lauzier stated the administrative investigation was wrong and was handled improperly.

Based on my discussions with Mr. Noguera, reviewing the investigation (or lack thereof), and speaking to various personnel listed as Mr. Noguera's personal references, it is my opinion the investigation lacked accuracy and was not meticulous to define a proper disposition. Therefore, it is my recommendation that the City of Cape Coral should move forward and offer Mr. Noguera the position he applied for with the City.

RICARDO NOGUERA, M.C.P.

(253/241-4399; Riconogo@aol.com)

Key Attributes: Creative, Strategic, Driven, Passionate, Mentor, Results-Oriented, Team Player, Energetic

Key Skillsets: Extensive experience negotiating complex development agreements; real estate financing; strategic planning; public speaking; media communications and marketing; and thorough knowledge of the entitlement process.

EDUCATION

- U.C. Berkeley; Masters in City & Regional Planning: Emphasis: Land Use & Community Economic Development; Graduated 1988
- Hunter College (City University of N.Y.): B.A. Cultural Geography; Graduated 1986
- Suffolk County Community College: A.A. General Studies; Graduated 1984

KEY HIGHLIGHTS

- 27 years Municipal Economic Development & Redevelopment experience in California (S.F. Bay Area, Central Valley and Los Angeles), South Florida and Washington State
- Department Director/Project Manager experience including: multi-million dollar budget administration; supervision and mentoring of professional staff; project management from conceptual phase to build-out
- Revenue Enhancement/Job Growth. Successful recruitment of major employers including: IKEA, Bass Pro Sports, Macy's, VWR Medical Instruments, State Farm Insurance, Dick's Sporting Goods, Hobby Lobby, Forever 21, etc.

PROJECT HIGHLIGHTS

MuniServices (Los Angeles-based: January 2018-Present) Business Development Executive

- Serve as Business Development Executive for MuniServices. This 40 year old private company specializes in assisting cities/counties in maximizing tax revenues through the auditing of businesses to ensure local government is receiving its share of sales, property, business license, utility user taxes, etc. and completes various studies on behalf of their clients. Ricardo's territory stretches from Santa Barbara to Orange County and eastward to Riverside and San Bernardino counties. Ricardo is now assisting the company to expand its services to include: economic development such as business recruitment/retention as well as real estate project management services. Ricardo specializes in assisting cities and other public agencies in preparation of RFPs, RFQs, recruitment of developers, etc. negotiating ENRAs and development agreements and in the selection process.

Tacoma, WA. (2012-17) Community & Economic Development Director

Focus was on drawing private investment to Downtown public and privately owned vacant and underutilized properties.

Staff Size: 30

Budget: $30m

- Direct Foreign Investments. Led negotiations on 3 development agreements for projects valued at more than $300m in foreign investment projects in Tacoma, WA.: 4-star Marriott Convention Center Hotel, Town Center on city-owned land, mixed-use development on former library parking lot. Projects consisted of developments with 2 Chinese developers and 1 Vietnamese developer. Travelled to Ukraine to meet with developers and promote investment opportunities. All projects are under construction.
- Downtown Development. Facilitated the development and entitlements for more than 2,000 market rate mixed-use units as part of several developments primarily in Downtown with more than a dozen private developers.
- Transit-Oriented Development (TOD). Led negotiations with private developers to acquire and build TOD projects on properties owned by Pierce Transit and State Department of Commerce; long vacant properties (both breaking ground in 2018).
- Affordable Housing. Facilitated the development and financing of more than 500 affordable housing units with three developers.
- High-Tech. Established a tech hub including a biotech incubator working with the local universities and small business community and co-working space through the use of older historic buildings.
- Historic Preservation. Facilitated the purchase, disposition and adaptive reuse of historic edifices including: purchase of Old City Hall, sale of Brownstar Grill Building, and infrastructure support for the Former Chihuly Building converted to a regional brewery (Seven Seas).

Visalia, CA. (2007-12) Housing & Economic Development Director

Staff Size: 11

Budget: $10m

- Industrial Development. Secured a $2m U.S. EDA Grant to widen a major arterial in the City's Industrial Park and recruited major industrial firms including: VWR Medical Instruments, EdeniQ, Hydrite Chemicals and Perfection Pet Foods.
- Affordable Housing. Financed construction of more than 200 units; acquisition/renovation and resale of 39 single-family homes utilizing HUD's NSP Program.

- Master Planning. Oversaw the preparation of both the City's East Downtown Master Plan and Framework Strategic Plan on 30-acre undeveloped city-owned properties.
- Code Enforcement/Neighborhood Preservation. Oversaw Neighborhood Preservation Division which had a pro-active approach to resolving neighborhood violations with a community-oriented approach. Included successful programs: Abandoned and vacant home registration program; abandoned vehicle abatement program; abandoned pool program to prevent illegal access and West Nile Virus; illegal marijuana cultivation and a positive revenue recovery program.
- Retail Recruitment. During the recession, recruited more than 400k sf of national retailers including: Macy's, Hobby Lobby, Dick's Sporting Goods, Buffalo Wild Wings and Forever 21.

Los Angeles, CA. (2005-07) Regional Administrator

Staff Size: 18

Budget: $20m

- Redevelopment. Negotiated a development agreement with a private developer to build a mixed-use project near USC campus (University Gateway). Successfully negotiated the addition of 30% affordable housing as part of the agreement.
- Affordable Housing. Provided gap financing for two affordable housing developments: Morgan Place Senior Housing (in South LA) and Vermont Seniors near USC.

North Miami, FL. (2003-05) Community Planning & Development Director

Staff Size: 22

Budget: $25m

- Biscayne Landing Town Center. Negotiated development agreement and managed the entitlement process and development of a 190-acre residential mixed-use development "Biscayne Landing" (4,800 condo units and 100,000 sf of retail/office) on a former landfill site along Biscayne Bay.
- Planning & Building Division. Managed current planning, advanced planning and building division , affordable housing and economic development staff. Oversaw the administration of the City's Comprehensive Plan Update, master plan administration for Johnson & Wales University, and an Update of the Zoning Ordinance, established new Development Impact Fee, Planning Fee Schedule and amended an antiquated Building Fee Schedule.
- Neighborhood Preservation/Code Enforcement Division. Managed a 10-person division focused on pro-actively bringing illegal conversions of residences into compliance and working closely with neighborhood groups and individual property owners to bring properties into compliance and address their concerns.

Broward County, FL. (2002-03) Urban Redevelopment Manager

Staff Size: 3

- Negotiated Interlocal Agreements with cities seeking to either create or expand CRA's; developed strategies to revitalize unincorporated areas of the County; provided technical assistance to cities which sought to develop town centers; downtowns and industrial parks.

East Palo Alto, CA. (1999-02) Redevelopment Director

Staff Size: 6

Budget: $10m

- Redevelopment. Built out 2 of the 3 redevelopment project areas in the City. Represented the City/Agency in negotiating development agreements with property owners and developers. Projects completed include: 400k sf office/hotel development .(Four Seasons Hotel), 40-acre retail power center, including an IKEA and EXPO Design Center (Gateway 101/Retail Center); facilitation of the development of 217 single-family homes and 129 affordable townhomes with BRIDGE Housing and a local non-profit housing developer.

Union City, CA. (1997-99) Economic Development Coordinator

- Retail Recruitment. Recruited several national retailers to the Union Landing Retail Center (80 acres) including: Best Buy, Chevy's, Texas Roadhouse Steakhouse, Borders Books, etc.
- Managed a Small Business Loan Program and coordinated the update of the City's Economic Development Element.

Hayward, CA. (1995-97) Economic Development Specialist

- Business Recruitment/Retention. Served as the City's primary industrial recruiter and retention representative. Coordinated the City's retail attraction efforts in both the regional shopping center and neighborhood commercial corridors.
- High Technology. Recruited several high-tech, manufacturing and light industrial companies. Successfully retained Lynx Therapeutics and successfully led the upzoning of a planned warehouse/light industrial park to a high tech park.

Mission Economic Development Association (MEDA), San Francisco, CA. (1989-95)

- Various Roles. Over a 6-year period, served in three different positions: Economic Development Specialist, Planning Coordinator and Executive Director.
- Major Accomplishments. Managed a small business incubator entitled "Hispanic Corporate Center", which housed eight small businesses. Negotiated lease agreements,

coordinated several events. Managed a 320-space parking garage, prepared an Overall Economic Development Plan for the Mission District, authored an Industrial Protection Zone still in place 25 years later.

PLANNING/DEVELOPMENT EXPERTISE

- **Development Negotiations.** Several years of experience negotiating complex development agreements with private developers on multi-million dollar projects.
- **Entitlement Process.** Several years of experience managing the planning and entitlement process including hiring, negotiating contracts and supervising consultants: architects, engineers, appraisers, surveyors, etc.
- **Development Finance.** Experience in preparing and analyzing development pro formas and cash flow projections for development and construction projects;
- **Public Outreach/Presentations to Elected & Appointed Bodies.** Several years experience presenting before elected and appointed bodies (city councils, planning commissions, etc.) as well as facilitating and presenting at community meetings;
- **Proposals/Contracts.** Experienced in preparing proposals and drafting contracts with consultants;
- **Tenant Recruitment.** Experienced in recruitment of retailers, office and industrial tenants. Actively participate in ICSC, Urban Land Institute and NAIOP;

HONORS/AWARDS

- National League of Cities Technical Advisor on Equity & Economic Development: February 2017 (Houston, TX.)
- Urban Land Institute Daniel Rose Fellow (Tacoma, WA.): 2012-13
- Certificate of Achievement in Facilitative Leadership: Visalia, 2010
- Certificate of Appreciation: L.A. Councilman Bernard Parks, District 8: 2007
- Certificate of Appreciation: CRA/LA: 2007
- Proclamation from City of East Palo Alto for leading the City's Redevelopment Agency through successful projects for 3 years: 2002
- Certificate of Achievement "All American City Award"; Union City; 1999
- Certificate of Honor for Public Service in 1995: S.F. Board of Supervisors
- Certificate of Honor from MEDA Board of Directors: 1989-95
- Certificate of Achievement in Facilitative Leadership: 1994
- Graduate of S.F. Chamber of Commerce Leadership Class of 1993
- Certificate of Honor for Public Services in 1992: S.F. Board of Supervisors
- Recipient of T.J. Kent Professional Planner Award: U.C. Berkeley, 1988

Item Number:	**F.(1)**
Meeting Date:	**1/7/2019**
Item Type:	**APPOINTMENTS TO BOARDS / COMMITTEES / COMMISSIONS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Construction Regulation Board - 2 Vacancies

REQUESTED ACTION:
Appoint

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?	

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
Vacancy: 2 Vacancies (Categories: D. Licensed Plumbing Contractor and G. Roofing Contractor *Whenever possible for each appointment.)
Expiration: Due to expire - G. 1/9/2019 and D. 7/31/2019
Applications: One: Kevin Shedd
Advertisement: The vacancy was advertised on 4/27/18, 5/18/2018, 6/8/18, 7/13/18, 8/7/18, 9/21/18, 10/26/18, and 11/16/18 in the Breeze and was posted on the City website and Facebook page.

LEGAL REVIEW:

EXHIBITS:
Applicant: Kevin Shedd
Resignation Email from Don Herzing
Resignation Email from Mike Makedonski
Board Sheet

PREPARED BY:
Kimberly City Clerk's

Bruns Division- Managerial Department- Department

SOURCE OF ADDITIONAL INFORMATION:

Kimberly Bruns
City Clerk (Interim)
1-239-242-3243

ATTACHMENTS:

Description	Type
Applicant: Kevin Shedd	Backup Material
Resignation - Don Herzing	Backup Material
Resignation - Mike Makedonski	Backup Material
Board Sheet	Backup Material

RECEIVED

NOV 19 2018

CITY OF CAPE CORAL
CITY CLERKS OFFICE

CITY OF CAPE CORAL
APPOINTMENT INFORMATION FORM

Initials: KMS

This Appointment Information Form, when completed, signed and filed with the City Clerk's Office, is a PUBLIC RECORD under Chapter 119, Florida Statutes, and, therefore, is open to public inspection by any person.

YOU ARE RESPONSIBLE TO KEEP THE INFORMATION ON THIS FORM CURRENT. APPLICATIONS WILL BE RETAINED IN THE CLERK'S OFFICE IN ACCORDANCE WITH STATE RECORDS RETENTION LAWS.

Please Type, if possible (or print clearly) Date: 11-18-18

Name: Shedd (Last) Kevin (First) M. (Middle)

E-mail address: Kevin.Shedd@gmail.com

Address: (H) 2801 Gleason Pkwy. Zip Code 33914

(O) North and South R.O. plants. Zip Code 33914

Phone: (H) 239-896-4305 (O) 239-242-3422 (C)

Occupation: Electrical/Instrumentation Supervisor (city Employee 1/29/07)

Employer: Position: 10 mo. How Long:

Education: Highest education level achieved and institutions attended:

Name & Location	Dates Attended		Degrees Earned
Delhi Agr Tech.	1977-78	1981-82	AOS Electrical/INST.
Delhi N.Y. (SUNY)			

Have you ever held a professional or business license or certificate? Yes ____ No X

If "Yes", please provide the title, issue date and issuing authority.

License/Certificate Title	Issue Date	Issuing Authority

Board(s) /Commission(s) for which you are applying:
Construction Regulation Board.

1. Are you a U.S. Citizen? Yes ✓ No ____
2. Are you a Cape Coral Resident? Yes ✓ No ____
3. Are you currently serving on a City Board(s)? Yes ____ No ✓
   If yes, which Board(s) and since when?
4. Have you ever served on a City Board(s)? Yes ____ No ✓
   If yes, which Board(s) and when?
5. Are you currently serving on a Board, Authority, or Commission for another governmental agency?
   Yes ____ No ✓ If yes, what Board, etc. and since when?

Work Experience:

Electrical /Instrumentation Construction + maint. 40 yrs.

Community Involvement:

Board of Directors Cape Coral Democrat club - 3 yrs.

Interests/Activities:

Golf, Reading, Bicycling, Travel

Why do you desire to serve on this/these Board(s)?

Keep Abreast of Local Construction Projects.

How did you learn about the vacancy? ___ Cape Coral Website ___ Newspaper ___ Facebook ✓ Word of Mouth

A resume or separate sheet with additional information may be included.

Florida law requires that members of certain Boards file a financial disclosure form. Would you be willing to file a financial disclosure form? Yes____ No ✓

The City of Cape Coral Code of Ordinances, Section 2-60 has a limitation on offices held; however, this can be waived by a two-thirds (2/3) vote of City Council. If you are already serving on a Board, Authority, or Commission for the City of Cape Coral or for another governmental agency, you would have to be approved by a two-thirds (2/3) vote.

The City of Cape Coral Code of Ordinances, Section 2-57 states that an applicant for membership on a board, committee, or commission or a sitting member of those bodies shall not have any delinquent accounts with the City of Cape Coral at the time of appointment.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve on the above Board(s).

Signature

11/18/18
Date

If you have any questions, please call the office of the City Clerk at (239) 574-0411. Return this form to:

City of Cape Coral, City Clerk's Office, P.O. Box 150027, Cape Coral, Florida 33915-0027

FOR OFFICIAL USE ONLY

Interviewed: Date:_____ Yes____ No____

Council Action: Date:_____

Barbara Kerr

From: Don Herzing <don@tadlockroofing.com>
Sent: Wednesday, April 11, 2018 11:06 AM
To: Barbara Kerr
Subject: Construction Board

Barbara
My wife and I had to move suddenly for family reasons and have had no time to communicate with the board.
Your letter has reached my new address in Panama City Fl.
I have permanently relocated here so I will have to resign from the board.
Just want to say sorry for no notice but I did not have any notice on my move.
If you need anything else please email me at this email address.
Thanks
Don Herzing

Sent from my iPhone

Barbara Kerr

From: Michael Makedonski <mmakedonski@msn.com>
Sent: Saturday, May 12, 2018 7:20 AM
To: Barbara Kerr
Subject: Re: Construction Regulation Board Meeting - Wednesday, May 23, 2018, 6:00 p.m. Council Chambers

At this point my life I'm sorry to say I will have to resign from this board position.

Sent from Michael's iPhone

On May 10, 2018, at 10:39 AM, Barbara Kerr <bkerr@capecoral.net> wrote:

> Good morning,
>
> Just an update on responses for this meeting. Six members so far have replied .
>
> The following members have confirmed their attendance: Burgos, Classon, Makedonski, Miller, Moomjian, and Rist.
>
> **The balance of the membership needs to respond whether or not they are attending this meeting.** Please email me or call me since it is important to have a quorum. Five members are needed to approve licenses, **and seven members are needed to approve anything else on the agenda.** If you cannot attend, please notify me so that you can be marked excused.
>
> *Barbara Kerr*
> Recording Secretary
> City of Cape Coral
> City Clerk's Office
> P. O. Box 150027
> Cape Coral, FL 33915
> Phone: 239 242-3241
> Fax: 239 242-5344
>
> ---
>
> **From:** Barbara Kerr
> **Sent:** Wednesday, May 9, 2018 11:30 AM
> **To:** 'Brian Rist' <Brist@BrianRist.com>; 'Craig Miller' <mtneboer@gmail.com>; 'Dolores Classon' <dmclasson@gmail.com>; 'Gary Colley' <nassauelectric@aol.com>; 'Isaac Burgos' <isaac@ibhomes.net>; 'Matthew Sinclair' <schomes@me.com>; 'Mike Makedonski' <mmakedonski@msn.com>; 'Paul Prince' <CapeCivic1962@gmail.com>; 'Thomas Phillips' <Thomasa.Phillips@outlook.com>; 'Wayne Moomjiam' <wayne@custompoolsbydesign.com>; 'William Joseph' <bilcopools@gmail.com>
> **Cc:** Cathy Salvia <csalvia@capecoral.net>; Hal Eskin <jnotte@comcast.net>; Jim M. Litterello <jlittere@capecoral.net>; John Naclerio <jnacleri@capecoral.net>; Mari (Maricel) Hernandez <mhernand@capecoral.net>; Milagros Nunez <mnunez@capecoral.net>; Paul Gates <pgates@capecoral.net>; Priscilla Rodriguez <prodrigu@capecoral.net>; Patricia Sorrels <psorrels@capecoral.net>; Kimberly Bruns (kbruns@capecoral.net) <kbruns@capecoral.net>

Subject: Construction Regulation Board Meeting - Wednesday, May 23, 2018, 6:00 p.m. Council Chambers

Good morning,

There is a meeting of the Construction Regulation Board scheduled for Wednesday, May 23, 2018, at 6:00 p.m. in Council Chambers.

The following members have confirmed their attendance through the Outlook calendar: Classon, Makedonski, Moomjian, and Rist.

The balance of the membership needs to respond whether or not they are attending this meeting. Please email me or call me since it is important to have a quorum. Five members are needed to approve licenses, and seven members are needed to approve anything else on the agenda. If you cannot attend, please notify me so that you can be marked excused.

Thank you!

Barbara Kerr
Recording Secretary
City of Cape Coral
City Clerk's Office
P. O. Box 150027
Cape Coral, FL 33915
Phone: 239 242-3241
Fax: 239 242-5344

CITY OF CAPE CORAL - BOARDS AND COMMISSIONS

CONSTRUCTION REGULATION BOARD

BOARD INFO	MEMBERS	PHONE NUMBER	QUAL	INITIAL APPOINT	LAST REAPPT	TERM EXPIRES
Established by Ordinances 19-87, 20-87, 39-87, 97-89, 2-92, 23-92, 50-98, 32-99, 33-00, 128-00, 37-01, 66-05, 70-13 Resolution 88-87 established as Board of Adjustments & Appeals Ordinance 70-13 changed name to Construction Regulation Board Citizen's Positions Established by Ordinance 50-98 Twelve Members / Two Year Terms Seven Members for Quorum; Five to approve licenses. (Ord. 66-05) Presiding officers shall preside for 1 year. Meets: 4th Wed./Month in Council Chambers at 6 P.M. Review and approve or deny license applications along with hearing disciplinary actions and entering written decisions; also the Board serves as the Board of Adjustments & Appeals. Qualifications: Resident of Cape Coral and Citizen of U.S. Membership shall consist, whenever possible, of the following: (a) Licensed Architect or Licensed Engineer (b) Licensed Contractor, B Certificate or higher (2) (c) Licensed Electrical Contractor (d) Licensed Plumbing Contractor (e) Class A Air-Conditioning Contractor (f) Licensed Pool Contractor (g) Roofing Contractor (h) One member of any of above categories (i) Three Consumer Representatives who are not a member or practitioner of a profession regulated by the board or a member of any closely related profession. Financial Disclosure Required: No	Brian Rist 2812 SW 29th Ct Cape Coral, FL 33914	565-7737 (c) 938-1006 (w)	a*	3/21/2016	4/2/2018	4/2/2020
	Vice Chair Wayne A. Moomjian 1007 SE 12th Ct Cape Coral, FL 33990	574-3213 (h) 573-4439 (w)	b	7/25/2005	12/4/2017	12/31/2019
	Isaac Burgos 1810 SW 25th Street Cape Coral, FL 33914	440-1179 (cell) 205-5976 (o)	b	1/9/2017	12/4/2017	12/31/2019
	Chairman Gary Colley 4905 Nassau Court Cape Coral, FL 33904	945-0894 (fax) 945-2190 (W) 218-0081 (c)	c	11/3/2003	12/4/2017	12/31/2019
	Vacant		d			7/31/2019
	Paul Prince 1318 SE 43rd Terrace Cape Coral, FL 33904	233-2168 (h) 443-8768 (c)	e	9/18/2017		9/18/2019
	Dolores Classon 426 SE 18th St Cape Coral, FL 33990	910-8750 (c) 458-1908 (h)	f	8/17/2009	9/28/2015 9/18/2017	9/30/2019
	Vacant		g			1/9/2019

CITY OF CAPE CORAL - BOARDS AND COMMISSIONS

CONSTRUCTION REGULATION BOARD

BOARD INFO	MEMBERS	PHONE NUMBER	QUAL	INITIAL APPOINT	LAST REAPPT	TERM EXPIRES
Board Secretary: Barbara Kerr 239 242-3241	Matthew Sinclair 221 SE 21st Ln Cape Coral, FL 33990	229-2530	h	3/24/14	3/21/16 4/2/2018	4/2/2020
	Craig Miller 422 SE 21st Street Cape Coral, FL 33990	941 999-1579	i	9/18/2017		9/30/2019
	Thomas Phillips 1917 SW 12th Terrace Cape Coral, FL 33991	248 396-9431 (c) 612 761-5570 (o)	i	11/28/2016	12/4/2017	12/31/2019
	William Joseph 5824 SW 1st Avenue Cape Coral, FL 33914	239 910-5312	i	12/4/2017		12/31/2019

Item Number:	**A.(1)**
Meeting Date:	**1/7/2019**
Item Type:	**ORDINANCES/RESOLUTIONS - Public Hearings**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Ordinance 84-18 Public Hearing

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
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? No

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
An ordinance approving the Grant of Easement and Construction Agreement between the City of Cape Coral and The School Board of Lee County granting to the School Board an easement for the construction, installation, maintenance, operation, repair and replacement of the School Board's private horizontal directionally drilled underground chiller lines connecting and servicing the school properties crossing the Agualinda Boulevard right-of-way between Ida S. Baker High School and Gulf Middle School, and accepting the conveyance of a parcel of land from the School Board to be used for future access to the City's property adjacent and west of Ida S. Baker High School, being a portion of Lots 21 and 22, as shown on the unrecorded plat of Agualinda Heights; authorizing and directing the Mayor to execute the Grant of Easement and Construction Agreement.

LEGAL REVIEW:
Brian R. Bartos, Assistant City Attorney

EXHIBITS:
Ordinance 84-18
Staff Presentation

PREPARED BY:
City

Division- Department- Attorney

SOURCE OF ADDITIONAL INFORMATION:
Dawn Andrews, Property Broker

ATTACHMENTS:

Description	Type
Ordinance 84-18	Ordinance
Staff Presentation	Backup Material

ORDINANCE 84 - 18

AN ORDINANCE APPROVING A GRANT OF EASEMENT AND CONSTRUCTION AGREEMENT BETWEEN THE CITY OF CAPE CORAL AND THE SCHOOL BOARD OF LEE COUNTY, GRANTING TO THE SCHOOL BOARD AN EASEMENT FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, OPERATION, REPAIR AND REPLACEMENT OF THE SCHOOL BOARD'S PRIVATE HORIZONTAL DIRECTIONALLY DRILLED UNDERGROUND CHILLER LINES CONNECTING AND SERVICING THE SCHOOL PROPERTIES CROSSING THE AGUALINDA BOULEVARD RIGHT-OF-WAY BETWEEN IDA S. BAKER HIGH SCHOOL AND GULF MIDDLE SCHOOL, AS MORE PARTICULARLY DESCRIBED HEREIN, AND ACCEPTING THE CONVEYANCE OF A PARCEL OF LAND FROM THE SCHOOL BOARD BEING A PORTION OF LOTS 21 AND 22, AS SHOWN ON THE UNRECORDED PLAT OF AGUALINDA HEIGHTS, AS MORE PARTICULARLY DESCRIBED HEREIN; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE GRANT OF EASEMENT AND CONSTRUCTION AGREEMENT; A COPY OF THE EASEMENT IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

Section 1. The City Council hereby approves the Grant of Easement and Construction Agreement between the City of Cape Coral and The School Board of Lee County (the "School Board"), granting to the School Board a perpetual non-exclusive Utility Easement for subsurface utility installation, construction, maintenance, repair and replacement of the School Board's "private" horizontally drilled underground chiller lines within a 14" chill water pre-insulated high density polyethylene pipe, utilities and related improvements, sewer, water, telephone, cable, fiber optic, and any other similar utility, under, across, within and through property owned by the City which comprises a portion of Agualinda Boulevard between Ida S. Baker High School and Gulf Middle School, as more particularly described as follows:

A PARCEL OF LAND LYING IN THE NORTH ONE-HALF OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 4, RUN N89°49'10"E ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4 FOR A DISTANCE OF 1305.18 FEET; THENCE LEAVING SAID LINE S00°10'50"E A DISTANCE OF 78.60 FEET TO THE POINT OF BEGINNING;

THENCE S85°37'54"E A DISTANCE OF 77.41 FEET;
THENCE S00°18'34"W A DISTANCE OF 15.04 FEET;
THENCE N85°37'54"W A DISTANCE OF 80.68 FEET;
THENCE N12°43'00"W A DISTANCE OF 15.16 FEET TO THE POINT OF BEGINNING;

THE ABOVE DESCRIBES APPROXIMATELY 1,186 SQUARE FEET OF LAND.

COORDINATES SHOWN HEREON ARE RELATIVE TO NAD83 FLORIDA STATE PLANE, WEST ZONE, US FOOT;

and accepting the conveyance of a parcel of land from the School Board to be used for future access to the City's property adjacent and west of Ida S. Baker High School, as more particularly described as follows:

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST; ALSO BEING A PORTION OF LOTS 21 AND 22, AS SHOWN ON THE UNRECORDED PLAT OF AGUALINDA HEIGHTS, RECORDED IN OFFICIAL RECORDS BOOK 409 AT PAGES 63 THROUGH 65 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF TRACT "A", BLOCK 4702, CAPE CORAL UNIT 70 AS RECORDED IN PLAT BOOK 22 AT PAGES 58 THROUGH 87 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN NORTH 00°38'04" EAST ALONG THE WEST LINE OF LOT 21 AS SHOWN ON SAID UNRECORDED PLAT OF AGUALINDA HEIGHTS FOR A DISTANCE OF 30.00 FEET TO THE **POINT OF BEGINNING**; THENCE

CONTINUE NORTH 00°38'04" EAST, ALONG SAID LINE, FOR A DISTANCE OF 60.00 FEET; THENCE RUN SOUTH 89°59'48" EAST FOR A DISTANCE OF 537.51 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF AGUALINDA BOULEVARD (VARIABLE WIDTH RIGHT-OF-WAY) SAID POINT ALSO BEING A POINT ON A NON-TANGENT CIRCULAR CURVE WHOSE RADIUS POINT BEARS SOUTH 75°51'01" EAST; THENCE RUN SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY AND ALONG AN ARC OF A CURVE HAVING A RADIUS OF 450.00 FEET, THROUGH A CENTRAL ANGLE OF 7°46'10", SUBTENDED BY A CHORD OF 60.97 FEET, AT A BEARING OF SOUTH 10°15'56" WEST, FOR AN ARC DISTANCE OF 61.02 FEET; THENCE RUN NORTH 89°59'48" WEST, ALONG A LINE BEING 30.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST FOR A DISTANCE OF 527.31 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 31,901 SQUARE FEET, OR 0.73 ACRES, MORE OR LESS.

Section 2. The Mayor is hereby authorized and directed to execute the Grant of Utility Easement and Construction Agreement, a copy which is attached hereto and incorporated herein by reference.

Section 3. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

_____
BRIAN R. BARTOS
ASSISTANT CITY ATTORNEY
ord\Utility Easement & Construction Agreement-Lee County School Board

Prepared by:
City of Cape Coral
P.O. Box 150027
Cape Coral, FL 33915-0027
Strap: 04-45-23-C2-00005.0000
04-45-23-C1-00100.0210

GRANT OF EASEMENT AND CONSTRUCTION AGREEMENT

THIS GRANT OF EASEMENT AND CONSTRUCTION AGREEMENT ("Agreement") is made and entered into effective as of the _____ day of _____, 2018 ("Effective Date"), by and between the CITY OF CAPE CORAL, a Florida municipal corporation ("CITY"), whose address is P.O. Box 150027, Cape Coral, FL 33915-0027 and The School Board of Lee County, Florida ("SCHOOL BOARD"), whose address is 2855 Colonial Boulevard, Fort Myers, Florida 33966.

Background

WHEREAS, CITY is the owner of that certain real property located in Lee County, Florida, as more particularly described in **Exhibit "A"** attached hereto (hereinafter the "Easement Property") which comprises a portion of Agualinda Boulevard; and

WHEREAS, SCHOOL BOARD is the owner of that certain real property located in Lee County, Florida, abutting the Easement Property and upon which Ida S. Baker High School, Gulf Middle School, and Gulf Elementary School are located described in **Exhibit "B"** attached hereto (hereinafter the "School Properties"); and

WHEREAS, the parties desire to enter into this Agreement to provide for the construction, installation, maintenance, operation, repair and replacement of the SCHOOL BOARD's "private" horizontal directionally drilled underground chiller lines within a 14" chill water pre-insulated high density polyethylene pipe connecting and servicing the School Properties crossing Agualinda Boulevard right of way; and

WHEREAS, SCHOOL BOARD is willing to convey to the CITY fee title to land within the Ida S. Baker High School property, as more particularly described in **Exhibit "C"** attached hereto (hereinafter the "Donated Property") to benefit the CITY and to be used for future access to the City's property adjacent and to the west of Ida S. Baker High School.

NOW, THEREFORE, in consideration of the sum of TEN and no/100 DOLLARS ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, and intending to be legally bound, they hereby state as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated into this Grant as though fully set forth below.

2. Grant of Easement. CITY hereby grants and conveys to SCHOOL BOARD a perpetual non-exclusive utility easement under, across, within, and through the Easement Property for subsurface utility installation, construction, operation, maintenance, repair and replacement, including the right of access to perform any such purpose. "Utility" shall include, but not be limited to, the SCHOOL BOARD's "private" horizontal directionally drilled underground chiller lines within a 14" chill water pre-insulated high density polyethylene pipe, utilities and related improvements, sewer, water, telephone, cable, fiber optic, and any other similar utility in existence at the time of this Easement or in the future. Upon request by SCHOOL BOARD, CITY shall cooperate in good faith to assist SCHOOL BOARD in obtaining any necessary permits or government approvals necessary to construct, install, repair, or maintain said underground chiller lines contemplated herein; provided, however, CITY shall not be required to incur any cost or expense in connection therewith. CITY shall not unreasonably withhold, condition, or delay in providing any consent required for the construction, installation, repair, or maintenance of said underground chiller lines contemplated herein. No portion of the Easement shall be excavated, altered, or obstructed, without the prior written permission of the CITY.

3. Construction & Maintenance. SCHOOL BOARD shall install and maintain, at no costs to the CITY, the directionally drilled chiller pipes, as depicted in the Davidson Engineering Plan and Profile Sheets C-24.00 through C-24.03, attached hereto as **Exhibit "D"**, in perpetuity or until the lines are abandoned by grouting solid. Should any leaks be identified in said chiller lines, the lines shall be shut down and repaired immediately or replaced. In the event the surface of the Easement Property is disturbed by the SCHOOL BOARD's exercise of any of its easement rights under this Agreement, such repairs shall meet the FDOT paving design standards in effect at the time of any repair or as required by the City. In addition, the SCHOOL BOARD shall be responsible for the repair to any City facilities including, but not limited to, pavement, drainage swales and structures.

SCHOOL BOARD agrees any currently existing City facilities, including, but not limited to, utility lines, drainage or road improvements damaged by the "private" horizontal directional drilled chiller lines shall be repaired at SCHOOL BOARD's sole cost and expense.

4. Permit Required. The SCHOOL BOARD agrees to seek all necessary permits prior to the start of construction. The SCHOOL BOARD shall have the right to construct said chiller lines in accordance with the plans and specifications approved by CITY.

5. Insurance. SCHOOL BOARD agrees to maintain liability insurance for damage or personal injury caused by the negligent acts of Board, its officers, agents or employees in an amount not less than One Million and No/100 ($1,000,000.00) Dollars naming the CITY as an "additional insured" prior to performing any directional drilling, installation, construction, and any subsequent repairs under, across, within, and through the Easement Property.

6. Indemnification. Each party agrees to indemnify, defend and hold the other party harmless from and against any and all claims, losses, injuries (including death), costs or judgments arising as a consequence of the acts or omissions of such party and such party's contractors, agents, employees, patrons, licensees or invitees, including reasonable attorney fees at trial and on appeal, together with all costs associated with such litigation. However, the indemnity obligations in this Agreement shall be subject to the limitations in Fla. Stat. 768.28, and any subsequent amendments. The provisions of this paragraph are not intended to abrogate the

sovereign immunity of CITY or SCHOOL BOARD beyond that set forth in Section 768.28, Florida Statutes.

7. Rights, Cumulative and No Waiver. No right or remedy herein conferred upon or reserved to any of the parties to this Agreement is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter legally existing upon the occurrence of an event of default under this Agreement. The failure of any of the parties to this Agreement to insist at any time upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy as provided in this Agreement, shall not impair any such right or remedy or be construed as a waiver or relinquishment of such right or remedy with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties hereof may be exercised from time to time and as often as may be deemed expedient by those parties.

8. Interpretation. Should any provision of this Agreement require interpretation in any judicial, administrative or other proceeding or circumstance, it is agreed that the court, administrative body or other entity interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against any party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared the same, it being further agreed that both parties hereto have fully participated in the preparation of this Easement.

9. Attorney Fees. The parties agree that in the event any litigation arises in connection with this Agreement, the prevailing party or parties in any such litigation shall be entitled to recover its reasonable attorneys' fees, at trial and on appeal, and all costs of the action from the non-prevailing party.

10. Multiple Counterparts. This Agreement may be executed by all parties in multiple counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same Agreement.

11. Notice. All notices that are required or permitted under this Agreement shall be in writing and shall be deemed to have been delivered: (a) when delivered by personal delivery, (b) three (3) business days after having been deposited in the U.S. mail certified or registered, return receipt requested, with sufficient postage affixed, and with return receipt executed, or (c) one (1) business day after having been accepted for delivery by a nationally recognized overnight courier service (including, but not limited to, U.S. Express Mail, Federal Express or United Parcel Service). The addressees and addresses for the purpose of this paragraph may be changed by giving written notice to all other parties. Unless and until such written Notice is received, Notice will be sent to the attention of the Superintendent of Lee County Schools and to the City Manager of the City of Cape Coral, at the addresses first written in this Agreement.

12. Donated Property. Within 120 days of issuance of all permits relating to the construction of said chiller lines under Agualinda Boulevard right-of-way, the SCHOOL BOARD shall cause the Donated Property described in the attached **Exhibit "C"** to be conveyed to the CITY by Quit Claim Deed. Prior to execution the deed form shall be reviewed and approved by the City Attorney's office. SCHOOL BOARD shall pay real estate taxes, if any, and all non-ad

valorem fees on the Donated Property through the date of conveyance to the CITY. All other closing costs associated with the conveyance of the Donated Property, including documentary stamps, recording costs, and the cost of title insurance, if desired by the CITY, shall be paid by the CITY.

The SCHOOL BOARD shall maintain the existing driveway constructed on the Donated Property in accordance with SCHOOL BOARD standards until such time the CITY utilizes this access for public use to the park. In addition, prior to and subsequent to the City's use of the Donated Property, the SCHOOL BOARD shall continue to accept the discharge of the run-off from the existing driveway into the surface water management system (SWMS) for the Ida S. Baker High School development and shall provide any necessary easement(s) for same. Additionally, any such easement(s) shall contain a provision for maintenance by the CITY of the SWMS should the SCHOOL BOARD fail to maintain the SWMS to the extent that it effects the run-off from said driveway, however, the City shall not be obligated to maintain the SWMS.

13. Miscellaneous.

a. No waiver of any of the provisions of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance which it relates and shall not be deemed to be a continuing and permanent waiver unless so specifically stated.

b. This Agreement, together with all of the rights, covenants, terms, agreements, conditions and restrictions set forth herein are intended to and shall be construed as running with the title to the Easement Property, and shall be binding upon, inure to the benefit of, and enforceable by the parties hereto, their respective successors and assigns. This Agreement shall be recorded in the Public Records of Lee County, Florida. The recording fee shall be paid by the SCHOOL BOARD.

c. This Agreement shall be governed by and construed under the laws of the State of Florida. In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall remain in full force and effect.

d. This Agreement is the entire agreement between the parties and may not be modified except by written instrument executed by the parties. No representations or warranties have been made, or relied upon, except as set forth herein.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, each party has hereunto set its hand and seal the day and year first below written.

The School Board of Lee County, Florida

By: Pamela LaRiviere

Its: Pamela LaRiviere, Vice Chair

APPROVED

SEP 25 2018

SCHOOL BOARD OF LEE COUNTY

APPROVED AS TO FORM

By: _____

School Board Attorney

The City of Cape Coral, a Florida municipal corporation

By: _____

Its: Joe Coviello, Mayor

APPROVED AS TO FORM:

By: _____

City Attorney's Office

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was signed and acknowledged before me this 25th day of Sept. 2018, by Pamela LaRiviere, as Vice Chair of The School Board of Lee County, Florida, who produced the following as identification _____ or is personally known to me and who did/did not take an oath.

[stamp or seal]

Susan M. Johnson

[Signature of Notary]

Notary Public State of Florida
Susan M Johnson
My Commission FF 240716
Expires 06/15/2019

Susan M. Johnson

[Typed or Printed Name]

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was signed and acknowledged before me this _____ day of _____ 2018, by Joe Coviello as Mayor of The City of Cape Coral, a Florida municipal corporation, who is personally known to me and who did/did not take an oath.

[stamp or seal]

_____

[Signature of Notary]

_____

[Typed or Printed Name]

EXHIBIT "A"
EASEMENT

CITY OF CAPE CORAL
STRAP NO: 04-45-23-C1-00001.0000
FOLIO ID: 10100164

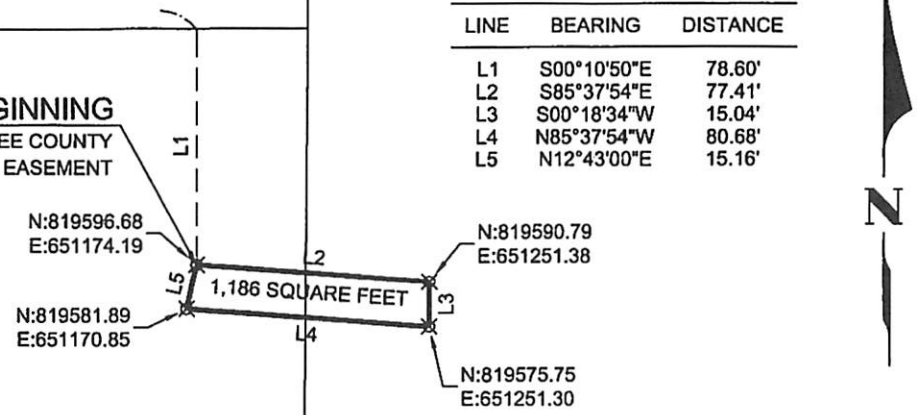
NORTH LINE OF SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST

N89°49'10"E 1305.18'

POINT OF COMMENCEMENT
NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY , FLORIDA.
N: 819671.18
E: 649868.77

POINT OF BEGINNING
PROPOSED LEE COUNTY PUBLIC SCHOOL EASEMENT

LEE COUNTY DISTRICT SCHOOL BOARD
IDA S. BAKER HIGH SCHOOL
STRAP NO: 04-45-23-C1-00100.0210
FOLIO ID: 10104146



NORTH-SOUTH QUARTER LINE OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST

60 0 30 60 120

SCALE: 1" = 60'

LXX - LINE TABLE

LINE	BEARING	DISTANCE
L1	S00°10'50"E	78.60'
L2	S85°37'54"E	77.41'
L3	S00°18'34"W	15.04'
L4	N85°37'54"W	80.68'
L5	N12°43'00"E	15.16'

IDA S. BAKER HIGH SCHOOL PROPOSED LEE COUNTY PUBLIC SCHOOL EASEMENT DESCRIPTION

A PARCEL OF LAND LYING IN THE NORTH ONE-HALF OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 4, RUN N89°49'10"E ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4 FOR A DISTANCE OF 1305.18 FEET; THENCE LEAVING SAID LINE S00°10'50"E A DISTANCE OF 78.60 FEET TO THE **POINT OF BEGINNING;**

THENCE S85°37'54"E A DISTANCE OF 77.41 FEET;
THENCE S00°18'34"W A DISTANCE OF 15.04 FEET;
THENCE N85°37'54"W A DISTANCE OF 80.68 FEET;
THENCE N12°43'00"W A DISTANCE OF 15.16 FEET TO THE POINT OF BEGINNING;

THE ABOVE DESCRIBES APPROXIMATELY 1,186 SQUARE FEET OF LAND.

COORDINATES SHOWN HEREON ARE RELATIVE TO NAD83 FLORIDA STATE PLANE, WEST ZONE, US FOOT.

LEE COUNTY DISTRICT SCHOOL BOARD
GULF MIDDLE SCHOOL
STRAP NO: 04-45-23-C2-00005.0000
FOLIO ID: 10100167

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 2464

Digitally signed by RICHARD J. EWING, P.S.M. 5295
DN: cn=RICHARD J. EWING, P.S.M. 5295, o=COASTAL ENGINEERING CONSULTANTS, INC., ou, email=rewing@cecifl.com, c=US
Date: 2018.08.03 08:16:12 -04'00'

RICHARD J. EWING, VP
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5295
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
DATE OF SIGNATURE:

COASTAL ENGINEERING CONSULTANTS INC.
A CECI GROUP COMPANY
Serving Florida Since 1977
3106 SOUTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104

CIVIL ENGINEERING
SURVEY & MAPPING
COASTAL ENGINEERING
ENVIRONMENTAL
PLANNING SERVICES

PHONE: (239)643-2324
FAX: (239)643-1143
www.coastalengineering.com
E-Mail: info@cecifl.com

CLIENT: DAVIDSON ENGINEERING

TITLE: SKETCH OF DESCRIPTION OF A PARCEL OF LAND LYING IN THE NORTH ONE-HALF OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA

DATE: 08/02/18	SCALE: 1" = 60'		
DRAWN: MMW	F.B. N/A		
CHECKED: RJE	PG. N/A		
SEC. 25	TWP. 46S	RNG. 25E	
ACAD NO. 17.028			
REF. NO. 17.028-SKETCH			

NO.	DATE	BY	REVISION DESCRIPTION

SHEET 1 OF 1
FILE NO.: 17.028

EXHIBIT "B"

LEGAL DESCRIPTION

PARCEL A

THE SW 1/4, OF THE SW 1/4, OF THE SE 1/4, OF THE NW 1/4;
THE SE 1/4, OF THE SW 1/4, OF THE SE 1/4 OF THE NW 1/4;
THE SW 1/4, OF THE SE 1/4, OF THE SE 1/4, OF THE NW 1/4;
THE SE 1/4, OF THE SE 1/4, OF THE SE 1/4, OF THE NW 1/4;
THE NE 1/4, OF THE SE 1/4, OF THE SE 1/4, OF THE NW 1/4;
THE NW 1/4, OF THE SE 1/4, OF THE SE 1/4, OF THE NW 1/4;
THE NE 1/4, OF THE SW 1/4, OF THE SE 1/4, OF THE NW 1/4; AND
THE NW 1/4, OF THE SW 1/4, OF THE SE 1/4 OF THE NW 1/4,
ALL IN SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; ALSO KNOWN AS LOTS 21 THROUGH 28, INCLUSIVE, AGUALINDA HEIGHTS SUBDIVISION, PER MAP ATTACHED TO INSTRUMENT IN OFFICIAL RECORD BOOK 409, PAGES 64 AND 65 PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PARCEL B

THE SW 1/4, OF THE NW 1/4, OF THE SE 1/4, OF THE NW 1/4 AND THE SE 1/4, OF THE NW 1/4, OF THE SE 1/4, OF THE NW 1/4, SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, ALSO KNOWN AS LOTS 37 AND 38, AGUALINDA HEIGHTS SUBDIVISION, PER MAP ATTACHED TO INSTRUMENT IN O.R. BOOK 409, PAGE 65, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PARCEL C

THE SW 1/4, OF THE NE 1/4, OF THE SE 1/4, OF THE NW 1/4, AND THE SE 1/4, OF THE NE 1/4 OF THE SE 1/4 OF THE NW 1/4, IN SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA; ALSO KNOWN AS LOTS 39 AND 40, AGUALINDA HEIGHTS SUBDIVISION, PER MAP ATTACHED TO INSTRUMENT IN O.R. BOOK 409, PAGE 65, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

PARCEL D

PARCEL 1: THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) ALSO KNOWN AS LOT 41, AGUALINDA HEIGHTS, UNDRECORDED.

PARCEL 2: THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) ALSO KNOWN AS LOT 42, AGUALINDA HEIGHTS, UNDRECORDED.

PARCEL 3: THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) ALSO KNOWN AS LOT 43, AGUALINDA HEIGHTS, UNDRECORDED.

PARCEL 4: THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) ALSO KNOWN AS LOT 44, AGUALINDA HEIGHTS, UNDRECORDED.

EACH CONTAINING 2.5 ACRES MORE OR LESS, ALL LOCATED IN SECTION 4, TOWNSHIP 45 SOUTH, RANGE 23 EAST, ALSO KNOWN AS AGUALINDA HEIGHTS SUBDIVISION, UNRECORDED AS RECAORDED IN O.R. BOOK 409, PAGE 64, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

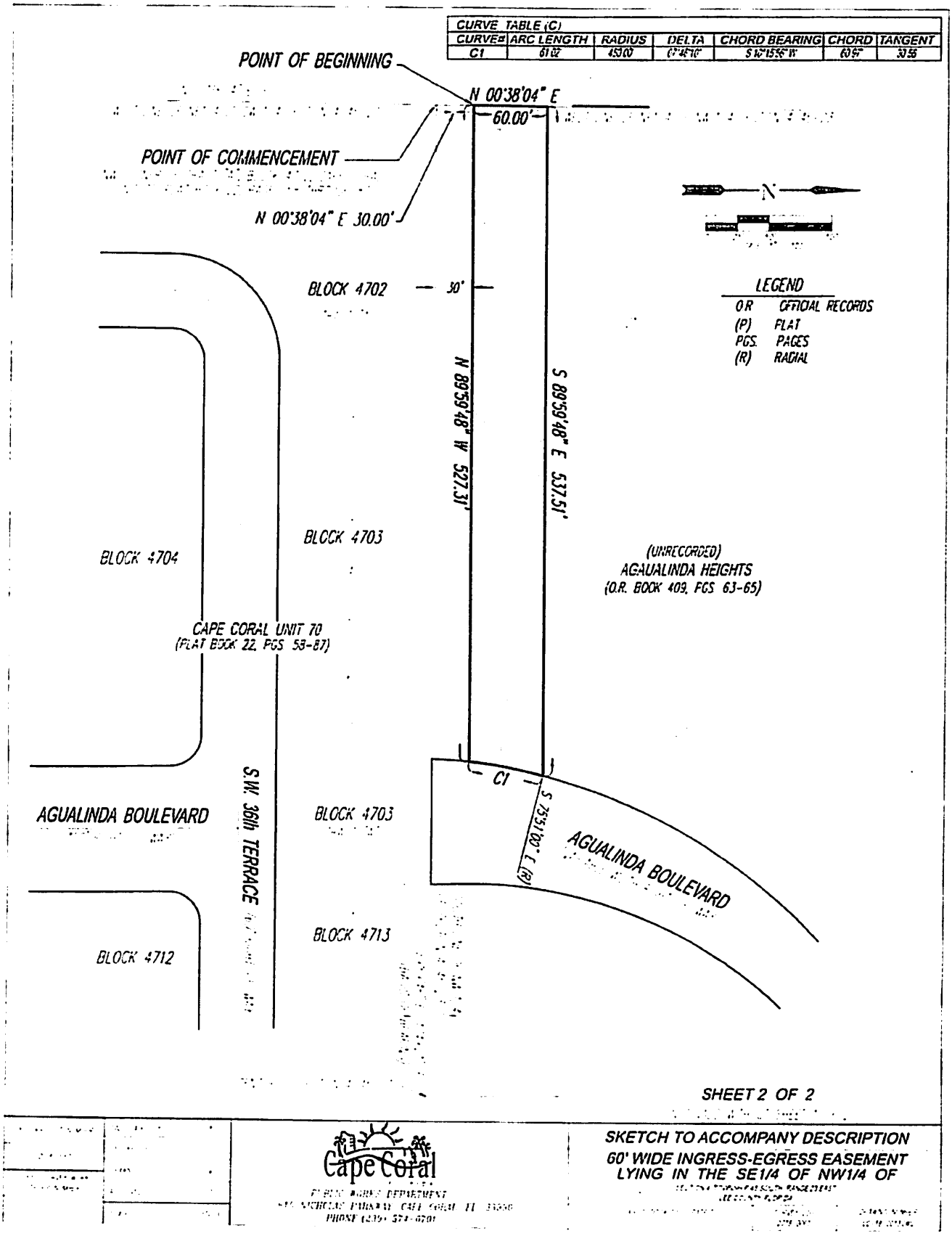
ALL OF THE ABOVE ALSO KNOWN AS THE SOUTHEAST ONE QUARTER (SE 1/4) OF THE NORTHWEST ONE QUARTER (NW 1/4) OF SECTION 04, TOWNSHIP 45 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA.

The Southwest quarter of the Northeast quarter of Section 4, Township 45 South, Range 23 East, Lee County, Florida.

South half (S½) of the Northwest quarter (NW¼) of the Northeast quarter (NE¼) of Section 4, Township 45 South, Range 23 East, Lee County, Florida.

EXHIBIT "C"

DONATED PROPERTY



60' INGRESS/EGRESS EASEMENT

(CC-18-0013)

A Parcel of land lying in the Northwest 1/4 of Section 4, Township 45 South, Range 23 East; also being a portion of Lots 21 and 22, as shown on the unrecorded Plat of Agualinda Heights, recorded in Official Records Book 409 at Pages 63 through 65 of the Public Records of Lee County, Florida; being more particularly described as follows:

Commence at the Northwest corner of Tract "A", Block 4702, Cape Coral Unit 70 as recorded in Plat Book 22 at Pages 58 through 87 of the Public Records of Lee County, Florida; Thence run North 00°38'04" East along the West line of lot 21 as shown on said unrecorded Plat of Agualinda Heights for a distance of 30.00 feet to the **Point of Beginning**; Thence continue North 00°38'04" East, along said line, for a distance of 60.00 feet; Thence run South 89°59'48" East for a distance of 537.51 feet to a point on the Westerly right-of-way of Agualinda Boulevard (variable width right-of-way) said point also being a point on a non-tangent circular curve whose radius point bears South 75°51'01" East; Thence run southerly along said westerly right-of-way and along an arc of a curve having a radius of 450.00 feet, through a central angle of 7°46'10", subtended by a chord of 60.97 feet, at a bearing of South 10°15'56" West, for an arc distance of 61.02 feet; Thence run North 89°59'48" West, along a line being 30.00 feet North of and parallel to the South line of the Northwest 1/4 of Section 4, Township 45 South, Range 23 East for a distance of 527.31 feet to the **Point of Beginning.**

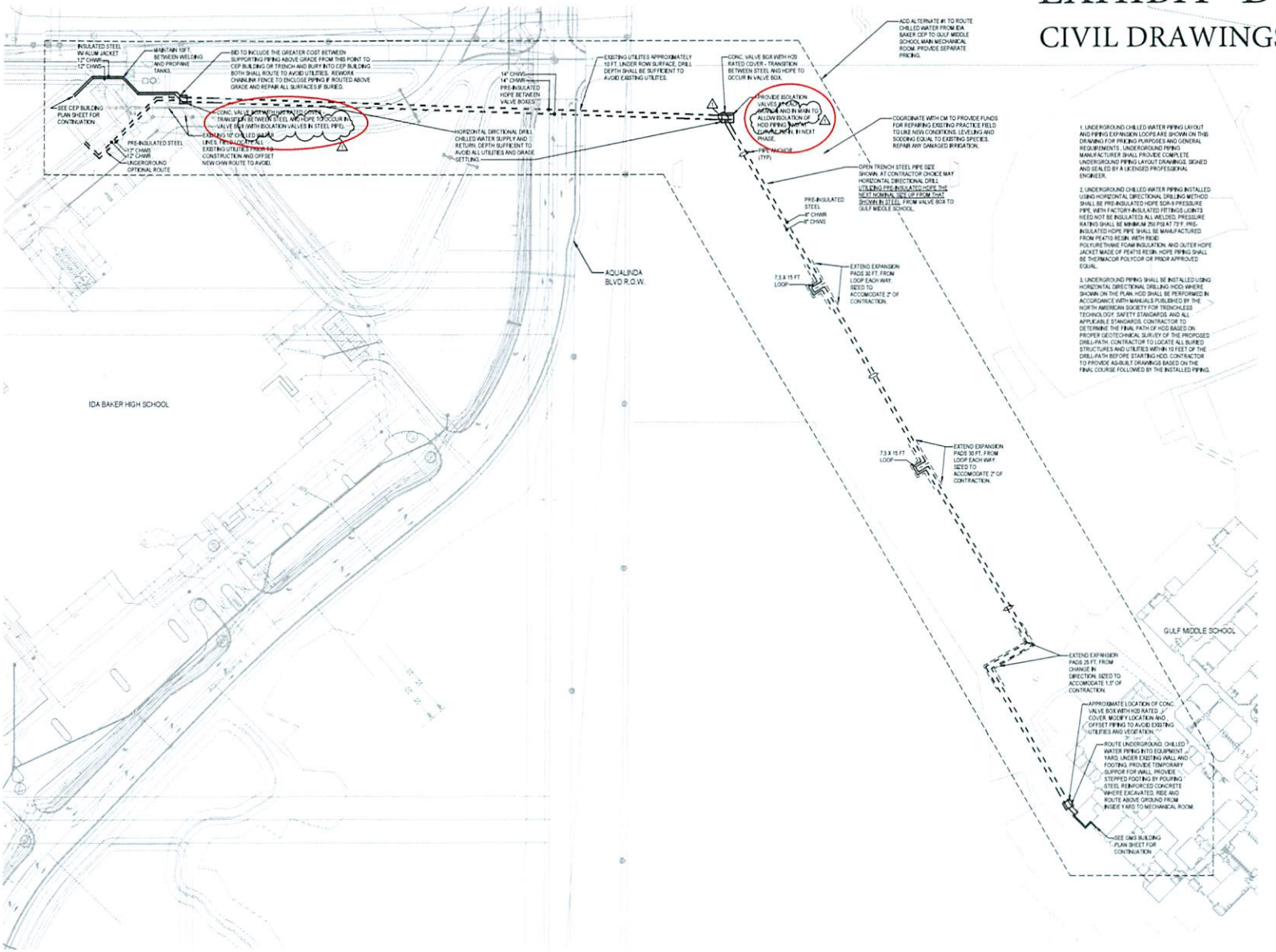
Said parcel contains 31,901 square feet, or 0.73 acres, more or less.

Digitally signed by Tom Chernesky, PSM #5426
DN: cn=Tom Chernesky, PSM #5426, o=City of Cape Coral, ou=Public Works Survey Division, email=TChernes@capecoral.net, c=US
Date: 2018.08.24 09:09:01 -04'00'

Sheet 1 of 2

EXHIBIT "D"

CIVIL DRAWINGS



1. UNDERGROUND CHILLED WATER PIPING LAYOUT AND PIPING EXPANSION LOOPS ARE SHOWN ON THIS DRAWING FOR PRICING PURPOSES AND GENERAL REQUIREMENTS. UNDERGROUND PIPING MANUFACTURER SHALL PROVIDE COMPLETE UNDERGROUND PIPING LAYOUT DRAWINGS, SIGNED AND SEALED BY A LICENSED PROFESSIONAL ENGINEER.

2. UNDERGROUND CHILLED WATER PIPING INSTALLED USING HORIZONTAL DIRECTIONAL DRILLING METHOD SHALL BE PRE-INSULATED HDPE SDR-9 PRESSURE PIPE, WITH FACTORY-INSULATED FITTINGS. JOINTS NEED NOT BE INSULATED ALL WELDED. PRESSURE RATING SHALL BE MINIMUM 250 PSI AT 73°F. PRE-INSULATED HDPE PIPE SHALL BE MANUFACTURED FROM PEAT10 RESIN, WITH RIGID POLYURETHANE FOAM INSULATION, AND OUTER HDPE JACKET MADE OF PEAT10 RESIN. HDPE PIPING SHALL BE THERMACOR POLYCOR OR PRIOR APPROVED EQUAL.

3. UNDERGROUND PIPING SHALL BE INSTALLED USING HORIZONTAL DIRECTIONAL DRILLING HDD WHERE SHOWN ON THE PLAN. HDD SHALL BE PERFORMED IN ACCORDANCE WITH MANUALS PUBLISHED BY THE NORTH AMERICAN SOCIETY FOR TRENCHLESS TECHNOLOGY, SAFETY STANDARDS, AND ALL APPLICABLE STANDARDS. CONTRACTOR TO DETERMINE THE FINAL PATH OF HDD BASED ON PROPER GEOTECHNICAL SURVEY OF THE PROPOSED DRILL-PATH. CONTRACTOR TO LOCATE ALL BURIED STRUCTURES AND UTILITIES WITHIN 10 FEET OF THE DRILL-PATH BEFORE STARTING HDD. CONTRACTOR TO PROVIDE AS-BUILT DRAWINGS BASED ON THE FINAL COURSE FOLLOWED BY THE INSTALLED PIPING.

1 MECHANICAL SITE
1" = 60'-0"

ENGINEERING FOR ARCHITECTURE
13099 S. Cleveland Ave., Ste. 500
Fort Myers, Florida 33907-3869
PH: 239.275.4240
Fax: 239.275.3511
www.tlc-engineers.com
COA 15

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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 Aqualinda Blvd, Cape Coral, FL 33914

Revisions:

No.	Date	Description
1	01/18/18	ADDENDUM #1

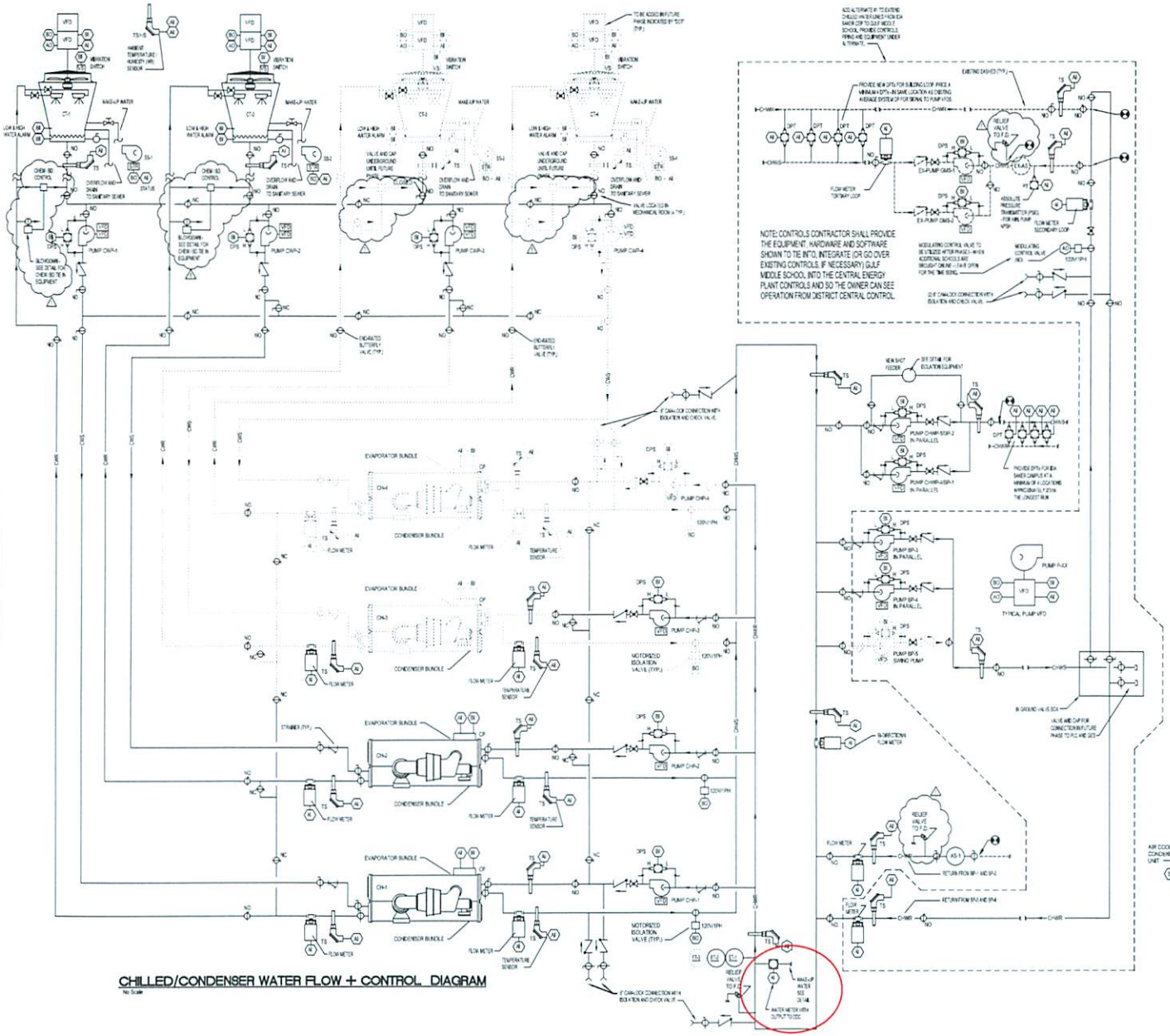
Seal

Project No.	717030
Issue Date	10/19/17
Drawn By	Author
Approved By	Approver
Scale	1" = 60'-0"

Drawing Title: MECHANICAL SITE

Drawing No. M0.06

THIS DRAWING IS BEING RELEASED FOR 95% GMP/PERMIT REVIEW ONLY.



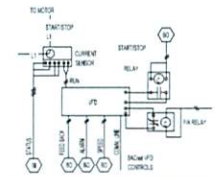
CHILLED/CONDENSER WATER FLOW + CONTROL DIAGRAM
No Scale

GENERAL NOTES:

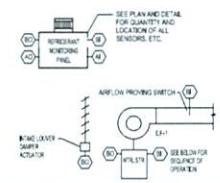
1. USE VFD OR PROVIDE CURRENT SENSOR SHEDULES FOR PUMPS AND FANS FOR STATUS.
2. PROVIDE FLOW METERS AND TEMPERATURE SENSORS WHERE INDICATED.
3. PROVIDE FLOW METERS ON CHILLER EVAPORATORS & CONDENSERS.
4. CHILLER AND VFD SHALL BE CAPABLE OF INTERFACING WITH THE BUILDING AUTOMATION SYSTEM TO ALLOW MONITORING AND ENERGY MEASUREMENT.
5. PROVIDE A PRESSURE TRANSMITTER AT MINIMUM 4 LOCATIONS across THE LENGTH OF LONGEST RUN

LEGEND

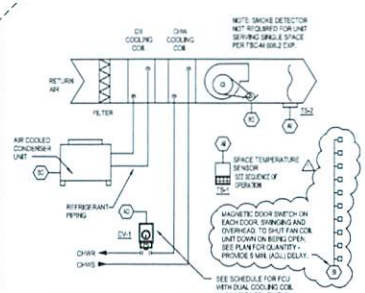
BO	BINARY OUTPUT
BI	BINARY INPUT
AO	ANALOG OUTPUT
AI	ANALOG INPUT
DPT	DIFFERENTIAL PRESSURE TRANSMITTER
CS	CURRENT SENSOR SWITCH
N.C.	NORMALLY CLOSED
N.O.	NORMALLY OPEN



TYP. VFD WIRING DIAGRAM



EXHAUST FAN - CONTROL DIAG.
No Scale



FAN COIL UNIT (TYP.)
No Scale

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TLC ENGINEERING FOR ARCHITECTURE
13099 S. Cleveland Ave., Ste. 500
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COA 15

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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 Agualinda Blvd, Cape Coral, FL 33914

Revisions:		
No.	Date	Description
1	01/18/18	ADDENDUM #1

Seal

Project No.:	717030
Issue Date:	10/19/17
Drawn By:	MWH
Approved By:	MWH
Scale:	AS INDICATED

Drawing Title:

MECHANICAL CONTROLS

Drawing No.:

M0.08

THIS DRAWING IS BEING RELEASED FOR 95% GMP/PERMIT REVIEW ONLY

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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 AQUALINDA BLVD, CAPE CORAL, FL 33914

Revisions

No.	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON
4365 Radio Road, Suite 201
Naples, Florida 34104
P: 239.434.5050 F: 239.434.5054
Cert. of Authorization No. 00009496

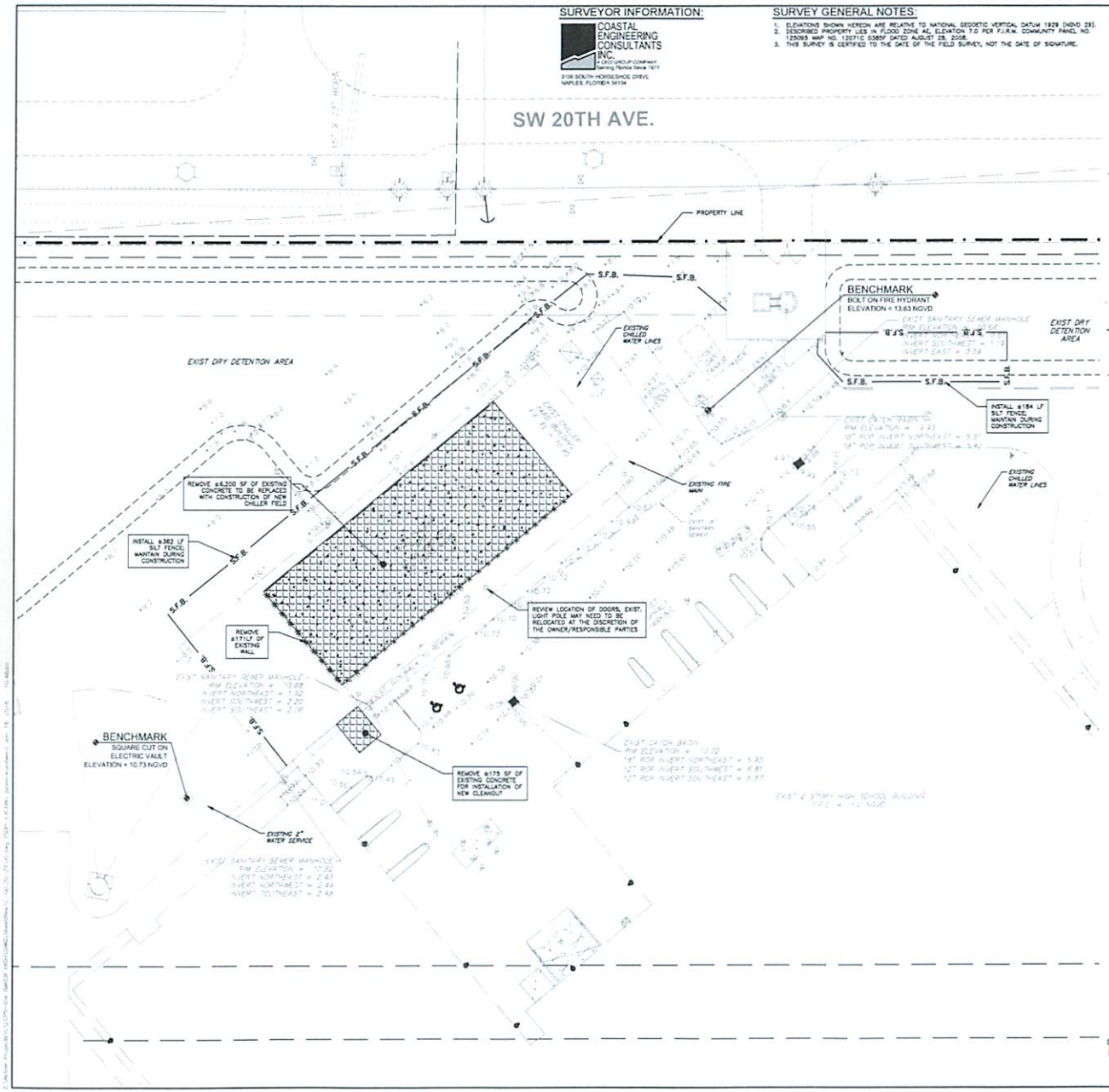
Project No.	717030
Issue Date	10/19/17
Drawn By	JAW
Approved By	JAW
Scale	
Drawing Title	AERIAL VIEW
Drawing No.	C-00.20

SURVEYOR INFORMATION:

COASTAL ENGINEERING CONSULTANTS INC.
A KEITH GROUP COMPANY
Serving Florida Since 1971
3106 SOUTH HORSESHOE DRIVE
NAPLES, FLORIDA 34104

SURVEY GENERAL NOTES:

1. ELEVATIONS SHOWN HEREON ARE RELATIVE TO NATIONAL GEODETIC VERTICAL DATUM 1929 (NGVD 29).
2. DESCRIBED PROPERTY LIES IN FLOOD ZONE AE, ELEVATION 7.0 PER F.I.R.M. COMMUNITY PANEL NO. 125093 MAP NO. 12071C 0385F DATED AUGUST 28, 2008.
3. THIS SURVEY IS CERTIFIED TO THE DATE OF THE FIELD SURVEY, NOT THE DATE OF SIGNATURE.

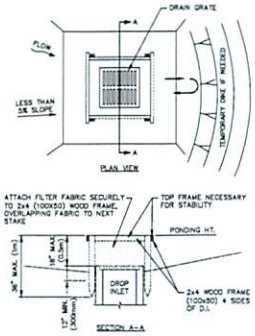


LEGEND

- (P) = PLAT DATA
- (S) = SURVEY DATA
- = LIGHT POLE
- = FIRE DEPARTMENT VALVE
- = FIRE HYDRANT
- = ELECTRIC SERVICE
- = WATER VALVE
- = WATER METER
- = IRRIGATION VALVE
- EXISTING FENCE
- EXISTING GRAVITY MAIN
- EXISTING WATER MAIN
- EXISTING DRAINAGE PIPE
- EXISTING CHILLED WATER LINES
- EXISTING FIRE MAIN
- EXISTING 2" WATER SERVICE

REMOVALS LEGEND

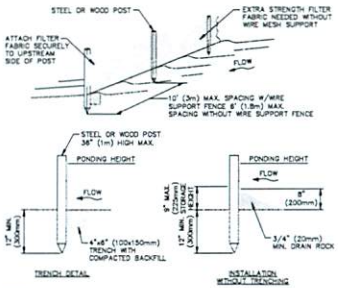
- S.F.B. — PROPOSED SILT FENCE
- CONCRETE REMOVAL
- WALL TO BE REMOVED



NOTES:
1. DROP INLET SEDIMENT BARRIERS ARE TO BE USED FOR SMALL, NEARLY LEVEL DRAINAGE AREAS. (LESS THAN 5%)
2. USE 2"x4" (100X50mm) WOOD OR EQUIVALENT METAL STAKES, 3' (1m) MINIMUM LENGTH.
3. INSTALL 2"x4" (100X50mm) WOOD TOP FRAME TO INSURE STABILITY.
4. THE TOP OF THE FRAME (PONDING HEIGHT) MUST BE WELL BELOW THE GROUND ELEVATION DOWNSLOPE TO PREVENT RUNOFF FROM BY-PASSING THE INLET. A TEMPORARY DIKE MAY BE NECESSARY ON THE DOWNSLOPE SIDE OF THE STRUCTURE.

DROP INLET SEDIMENT BARRIER

N.T.S.



NOTES:
1. SILT FENCE SHALL BE PLACED ON SLOPE CONTOURS TO MAXIMIZE PONDING EFFICIENCY.
2. INSPECT AND REPAIR FENCE AFTER EACH STORM EVENT AND REMOVE SEDIMENT WHEN NECESSARY. 9" (225mm) MAXIMUM RECOMMENDED STORAGE HEIGHT.
3. REMOVED SEDIMENT SHALL BE DEPOSITED TO AN AREA THAT WILL NOT CONTRIBUTE SEDIMENT OFF-SITE AND CAN BE PERMANENTLY STABILIZED.

CONSTRUCTION SPECIFICATIONS:
1. THE HEIGHT OF A SILT FENCE SHALL NOT EXCEED 36 INCHES (0.9 M). STORAGE HEIGHT AND PONDING HEIGHT SHALL NEVER EXCEED 18 INCHES (0.5 M).
2. THE FENCE LINE SHALL FOLLOW THE CONTOUR AS CLOSELY AS POSSIBLE.
3. IF POSSIBLE, THE FILTER FABRIC SHALL BE CUT FROM A CONTINUOUS ROLL TO AVOID THE USE OF JOINTS. WHEN JOINTS ARE NECESSARY, FILTER CLOTH SHALL BE SPLICED ONLY AT A SUPPORT POST, WITH A MINIMUM 6 INCH (0.2 M) OVERLAP AND BOTH ENDS SECURELY FASTENED TO THE POST.
4. POSTS SHALL BE SPACED A MAXIMUM OF 10 FEET (3.1 M) APART AND DRIVEN SECURELY INTO THE GROUND (MINIMUM OF 12 INCHES (0.3 M)). WHEN EXTRA-STRENGTH FABRIC IS USED WITHOUT THE WIRE SUPPORT FENCE, POST SPACING SHALL NOT EXCEED 6 FEET (1.8 M).
5. TURN THE ENDS OF THE FENCE UPHILL.
6. A TRENCH SHALL BE EXCAVATED APPROXIMATELY 4 INCHES (101 MM) WIDE AND 8 INCHES (0.2 M) DEEP ALONG THE LINE OF POSTS AND UPSLOPE FROM THE BARRIER.
7. WHEN STANDARD-STRENGTH FILTER FABRIC IS USED, A WIRE MESH SUPPORT FENCE SHALL BE FASTENED SECURELY TO THE UPSLOPE SIDE OF THE POSTS USING HEAVY DUTY WIRE STAPLES AT LEAST 1INCH (25.4 MM) LONG, TIE WIRES OR HOG RINGS. THE WIRE SHALL EXTEND INTO THE TRENCH A MINIMUM OF 2 INCHES (51 MM) AND SHALL NOT EXTEND MORE THAN 36 INCHES (0.9 M) ABOVE THE ORIGINAL GROUND SURFACE.
8. THE STANDARD-STRENGTH FILTER FABRIC SHALL BE STAPLED OR WIRED TO THE FENCE, AND 8 INCHES (0.2 M) OF THE FABRIC SHALL EXTEND INTO THE TRENCH. THE FABRIC SHALL NOT EXTEND MORE THAN 36 INCHES (0.9 M) ABOVE THE ORIGINAL GROUND SURFACE. FILTER FABRIC SHALL NOT BE STAPLED TO EXISTING TREES.
9. WHEN EXTRA-STRENGTH FILTER FABRIC AND CLOSER POST SPACING ARE USED, THE WIRE MESH SUPPORT FENCE MAY BE ELIMINATED. IN SUCH A CASE, THE FILTER FABRIC IS STAPLED OR WIRED DIRECTLY TO THE POSTS.
10. THE TRENCH SHALL BE BACKFILLED AND THE SOIL COMPACTED OVER THE TOE OF THE FILTER FABRIC.
11. SILT FENCES PLACED AT THE TOE OF A SLOPE SHALL BE SET AT LEAST 6 FEET (1.8 M) FROM THE TOE IN ORDER TO INCREASE PONDING VOLUME.
12. SILT FENCES SHALL BE REMOVED WHEN THEY HAVE SERVED THEIR USEFUL PURPOSE, BUT NOT BEFORE THE UPSLOPE AREA HAS BEEN PERMANENTLY STABILIZED AND ANY SEDIMENT STORED BEHIND THE SILT FENCE HAS BEEN REMOVED.

INSPECTION AND MAINTENANCE:
1. SILT FENCES AND FILTER BARRIERS SHALL BE INSPECTED WEEKLY AFTER EACH SIGNIFICANT STORM (1 INCH (25.4 MM) IN 24 HOUR).
2. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
3. SEDIMENT SHOULD BE REMOVED WHEN IT REACHES 1/3 HEIGHT OF THE FENCE OR 9 INCHES (0.3 M) MAXIMUM.
4. THE REMOVED SEDIMENT SHALL CONFORM WITH THE EXISTING GRADE AND BE VEGETATED OR OTHERWISE STABILIZED.

SILT FENCE BARRIER

N.T.S.

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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 AGUALINDA BLVD, CAPE CORAL, FL 33914

Revisions:

No	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON
4365 Radio Road, Suite 201
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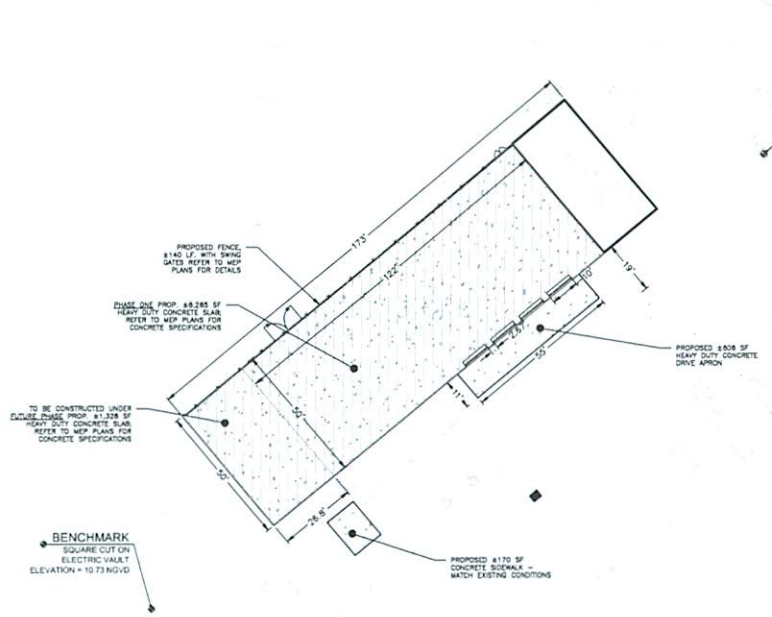
Cert. of Authorization No. 00009496

Project No.	717030
Issue Date	10/19/17
Drawn By	JAW
Approved By	JAW
Scale	

Drawing Title: EXISTING CONDITIONS, DEMOLITION, AND NPDES PLAN & DETAILS

Drawing No.: C-10.00



LEGEND

- EXISTING ELEVATION (FT-NAVD)
- PROPOSED ELEVATION (FT-NAVD)
- DIRECTION OF DRAINAGE FLOW
- HEAVY/STANDARD CONCRETE SECTION (COORDINATE WITH STRUCTURAL ENGINEER)
- STANDARD CONCRETE SECTION
- PROPOSED FENCE

PRE-DEVELOPMENT LAND USE TABLE FOR BASIN

USE	ACRES	% OF SITE
BUILDINGS	4.98 ACRES	12.2%
PAVEMENT/SIDEWALKS	11.91 ACRES	29.1%
LAKE	2.23 ACRES	5.4%
OTHER	4.31 ACRES	10.5%
PERVIOUS AREA	17.55 ACRES	42.8%
TOTAL AREA	40.98 ACRES	100.0%

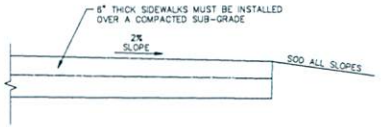
*PER APPROVED SFWMD PERMIT #36-04905-P (APP #040224-25).

POST-DEVELOPMENT LAND USE TABLE FOR BASIN

USE	ACRES	% OF SITE
BUILDINGS	5.01 ACRES	12.2%
PAVEMENT/SIDEWALKS	11.97 ACRES	29.2%
LAKE	2.23 ACRES	5.4%
OTHER	4.31 ACRES	10.5%
PERVIOUS AREA	17.46 ACRES	42.6%
TOTAL AREA	40.98 ACRES	100.0%

GENERAL SITE NOTES

1. THESE PLANS ARE PREPARED IN NGVD DATUM.
2. THE APPROVAL OF THESE CONSTRUCTION PLANS DOES NOT AUTHORIZE CONSTRUCTION OF REQUIRED IMPROVEMENTS WHICH ARE INCONSISTENT WITH EASEMENTS OF RECORD.
3. ALL CATEGORY 1 INVASIVE EXOTIC PLANTS AS DEFINED BY THE FLORIDA EXOTIC PEST PLANTS COUNCIL, SHALL BE REMOVED FROM WITHIN THE PRESERVE AREAS AND SUBSEQUENT ANNUAL REMOVAL OF THOSE PLANTS (IN PERPETUITY) SHALL BE THE RESPONSIBILITY OF THE OWNER.
4. FIRE FIGHTING WATER SUPPLY SHALL BE AVAILABLE PRIOR TO THE PLACEMENT OR STORAGE OF ANY COMBUSTIBLE MATERIALS ON SITE.
5. ALL PROHIBITED NON-NATIVE/EXOTIC VEGETATION AS DEFINED BY THE COLLIER COUNTY LDC SHALL BE REMOVED FROM THE SITE & IT SHALL BE MAINTAINED FREE OF EXOTICS IN PERPETUITY. ALL ANNUAL REMOVAL OF EXOTIC VEGETATION SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER
6. THIS SITE PLAN SHALL MEET ALL REQUIREMENTS OF THE CITY OF CAPE CORAL LDC UNLESS VARIANCES WERE OBTAINED PRIOR TO CONSTRUCTION.
7. THE SURFACE WATER MANAGEMENT SYSTEM & ALL INFRASTRUCTURE IMPROVEMENTS AND ONSITE UTILITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER.
8. RESTORE SITE TO ORIGINAL CONDITIONS
9. CONTRACTOR RESPONSIBLE TO LOCATE ALL EXISTING UTILITIES
10. ALL IDENTIFIED EXISTING UTILITIES HAVE BEEN SHOWN BASED ON RECORD DRAWINGS & HISTORIC PERMITS
11. THE SURFACE WATER MANAGEMENT SYSTEM, ALL INFRASTRUCTURE IMPROVEMENTS AND ONSITE UTILITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER.



SIDEWALK DETAIL
N.T.S.

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IDA BAKER HIGH SCHOOL - CENTRAL
ENERGY PLANT RENOVATION PHASE 1

3500 AQUALINDA BLVD. CAPE CORAL, FL 33914

Revisions

No.	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON ENGINEERING
4365 Radio Road, Suite 201
Naples, Florida 34104
P: 239.434.8080 F: 239.434.8084
Cert. of Authorization No. 00006496

Project No: 717030
Issue Date: 10/19/17
Drawn By: JAW
Approved By: JAW
Scale:
Drawing Title: MASTER SITE AND STRIPING PLAN
Drawing No: C-20.00

THIS DRAWING IS BEING RELEASED FOR 95% GMP/PERMIT REVIEW ONLY

FLOOD ZONE INFO

FLOOD ZONE: X
BASE FLOOD ELEVATION = 9.30 FT-NGVD (8.0 FT-NAVD)
DESIGN FLOOD ELEVATION = 10.30 FT-NGVD

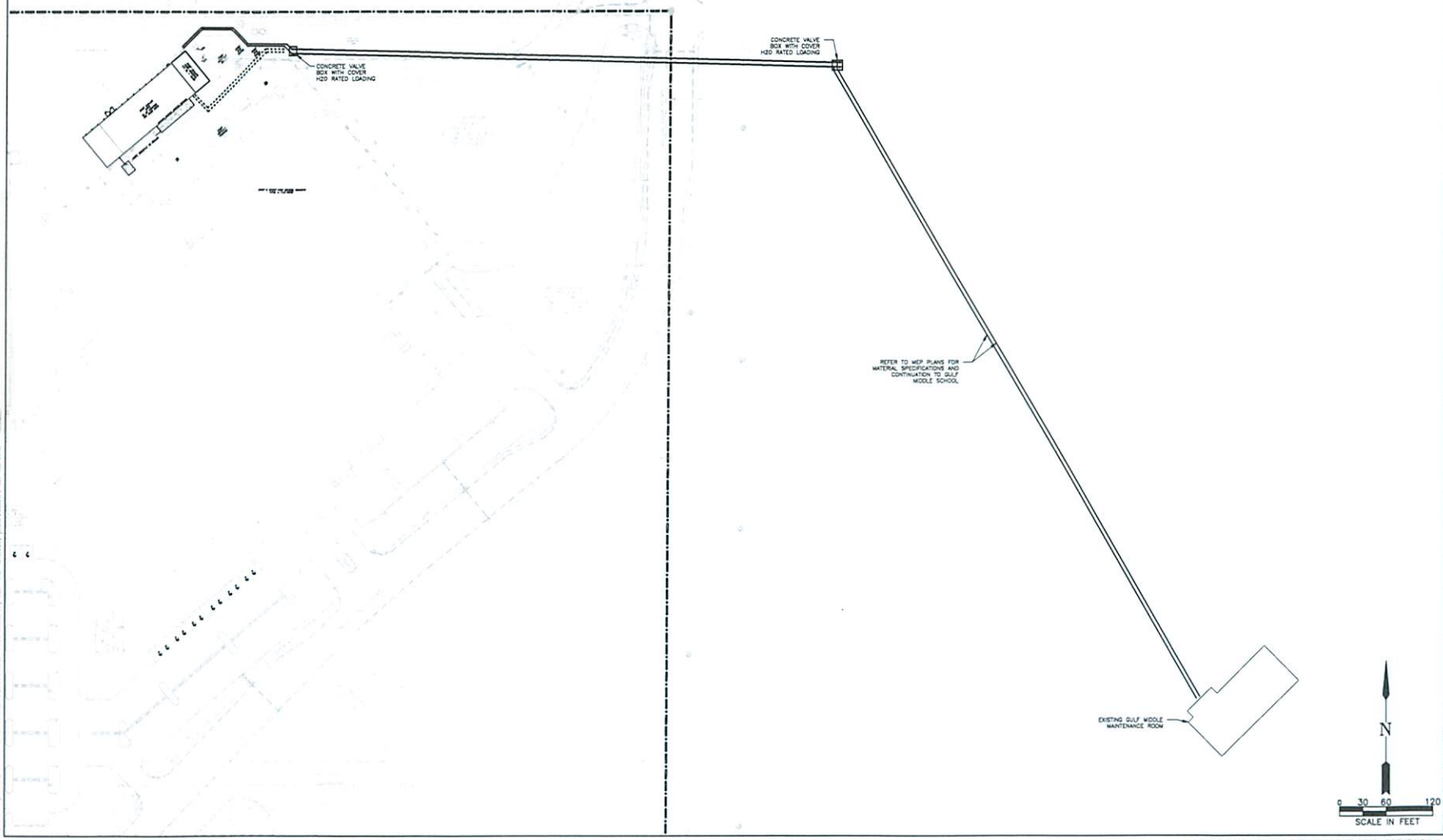
GENERAL SITE NOTES

1. THESE PLANS ARE PREPARED IN NGVD DATUM.
2. THE APPROVAL OF THESE CONSTRUCTION PLANS DOES NOT AUTHORIZE CONSTRUCTION OF REQUIRED IMPROVEMENTS WHICH ARE INCONSISTENT WITH EASEMENTS OF RECORD.
3. ALL CATEGORY 1 INVASIVE EXOTIC PLANTS AS DEFINED BY THE FLORIDA EXOTIC PEST PLANTS COUNCIL SHALL BE REMOVED FROM WITHIN THE PRESERVE AREAS AND SUBSEQUENT ANNUAL REMOVAL OF THESE PLANTS (IN PERPETUITY) SHALL BE THE RESPONSIBILITY OF THE OWNER.
4. FIRE FIGHTING WATER SUPPLY SHALL BE AVAILABLE PRIOR TO THE PLACEMENT OR STORAGE OF ANY COMBUSTIBLE MATERIALS ON SITE.
5. ALL PROHIBITED NON-NATIVE/EXOTIC VEGETATION AS DEFINED BY THE CITY OF CAPE CORAL LDC SHALL BE REMOVED FROM THE SITE & IT SHALL BE MAINTAINED FREE OF EXOTICS IN PERPETUITY. ALL ANNUAL REMOVAL OF EXOTIC VEGETATION SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.
6. THIS SITE PLAN SHALL MEET ALL REQUIREMENTS OF THE CITY OF CAPE CORAL LDC UNLESS VARIANCES WERE OBTAINED PRIOR TO CONSTRUCTION.
7. THE SURFACE WATER MANAGEMENT SYSTEM & ALL INFRASTRUCTURE IMPROVEMENTS AND ONSITE UTILITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER.
8. RESTORE SITE TO ORIGINAL CONDITIONS
9. CONTRACTOR RESPONSIBLE TO LOCATE ALL EXISTING UTILITIES
10. ALL IDENTIFIED EXISTING UTILITIES HAVE BEEN SHOWN BASED ON RECORD DRAWINGS & HISTORIC PERMITS
11. THE SURFACE WATER MANAGEMENT SYSTEM & ALL INFRASTRUCTURE IMPROVEMENTS AND ONSITE UTILITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER.

FLOOD ZONE INFO

PROPOSED SANITARY LATERAL AND CLEANOUT

PROPOSED 14" DHWR & DHWS PIPES



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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 AGUALINDA BLVD, CAPE CORAL, FL 33914

Revisions:

No.	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON
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Cert. of Authorization No. 00003496

Project No: 717030
Issue Date: 10/19/17
Drawn By: JAW
Approved By: JAW
Scale:

Drawing Title: OVERALL UTILITY PLAN

Drawing No: C-21.00

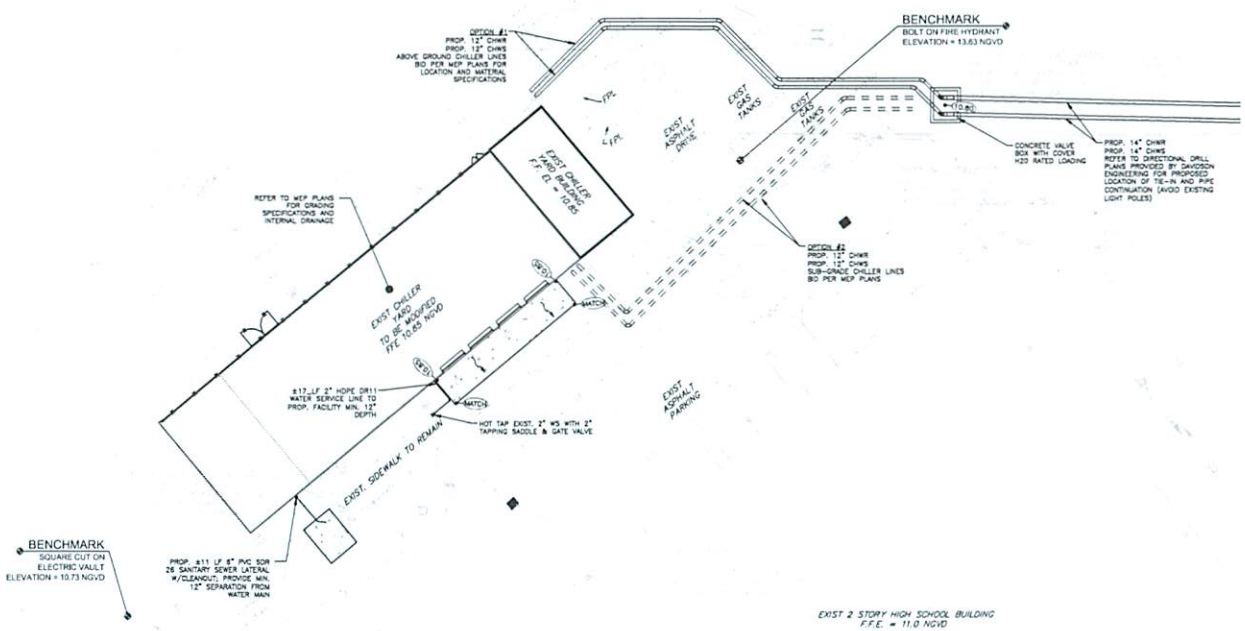
BIDDING NOTES OPTION #1:

1. THESE PLANS ARE PREPARED IN NGVD DATUM.
2. THE CHILLER LINES DEPICTED IN OPTION #1 ARE ABOVE GROUND. - REFER TO MEP PLANS FOR ALL FITTINGS, VALVES, PIPE SUPPORTS, AND ALL OTHER APPURTENANCES THAT ARE REQUIRED FOR CONSTRUCTION.

BIDDING NOTES OPTION #2:

1. THESE PLANS ARE PREPARED IN NGVD DATUM.
2. THE CHILLER LINES DEPICTED IN OPTION #2 ARE SUB-GRADE AND WILL REQUIRE THE FOLLOWING ADDITIONAL ITEMS FOR CIVIL SITE DESIGN:
   - 2.1.1. ±1,520 SF OF MATERIAL REMOVAL AND REPLACEMENT
     - 2.1.1.1. ±1,300 SF ASPHALT REPLACED TO EXIST. COND.
     - 2.1.1.2. ± 220 SF CONCRETE SIDEWALK REPLACED TO EXIST. COND.
   - 2.1.2. ADDITIONAL FITTINGS ON CHILLER LINES TO PROVIDE MIN. REQUIRED SEPARATION BETWEEN CHILLER LINES AND SANITARY SEWER AND WATER MAIN
3. REFER TO MEP PLANS FOR ALL FITTINGS, VALVES, PIPE SUPPORTS, AND ALL OTHER APPURTENANCES THAT ARE REQUIRED FOR CONSTRUCTION.

SW 20TH AVE.



FLOOD ZONE INFO

- EXISTING ELEVATION (FT-NAVD)
- PROPOSED ELEVATION (FT-NAVD)
- DIRECTION OF DRAINAGE FLOW
- STANDARD CONCRETE SECTION
- PROPOSED SANITARY LATERAL AND CLEANOUT
- PROPOSED 14" CHWR & CHWS PIPES

FLOOD ZONE INFO

FLOOD ZONE: X
BASE FLOOD ELEVATION = 9.30 FT-NGVD (8.0 FT-NAVD)
DESIGN FLOOD ELEVATION = 10.30 FT-NGVD

WATER MANAGEMENT SUMMARY

	FT-NGVD	FT-NAVD
CONTROL ELEVATION	5.5	4.32
MINIMUM ROAD CROWN ELEVATION	7.5	6.32
MINIMUM FINISH FLOOR ELEVATION	10.3	9.12

*PER APPROVED SFWMD PERMIT #36-04905-P (APP #040224-25).

WATER QUALITY VOLUME SUMMARY

	REQUIRED	PROVIDED
WATER QUALITY VOLUME*	2.77 AC-FT	4.30 AC-FT
PEAK DISCHARGE (0.10 CFS/ACRE)*	3.35 CFS	3.17 CFS

*PER APPROVED SFWMD PERMIT #36-04905-P (APP #040224-25).

PRE-DEVELOPMENT LAND USE TABLE FOR BASIN

USE	ACRES	% OF SITE
BUILDINGS	4.98 ACRES	12.2%
PAVEMENT/SIDEWALKS	11.91 ACRES	29.1%
LAKE	2.23 ACRES	5.4%
OTHER	4.31 ACRES	10.5%
PERVIOUS AREA	17.55 ACRES	42.8%
TOTAL AREA	40.98 ACRES	100.0%

*PER APPROVED SFWMD PERMIT #36-04905-P (APP #040224-25).

POST-DEVELOPMENT LAND USE TABLE

USE	ACRES	% OF SITE
BUILDINGS	5.01 ACRES	12.2%
PAVEMENT/SIDEWALKS	11.97 ACRES	29.2%
LAKE	2.23 ACRES	5.4%
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11. THE SURFACE WATER MANAGEMENT SYSTEM & ALL INFRASTRUCTURE IMPROVEMENTS AND ONSITE UTILITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER.

N

0 10 20 40
SCALE IN FEET

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IDA BAKER HIGH SCHOOL - CENTRAL
ENERGY PLANT RENOVATION PHASE 1

3500 AGUALINDA BLVD, CAPE CORAL, FL 33914

Revisions

No.	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON
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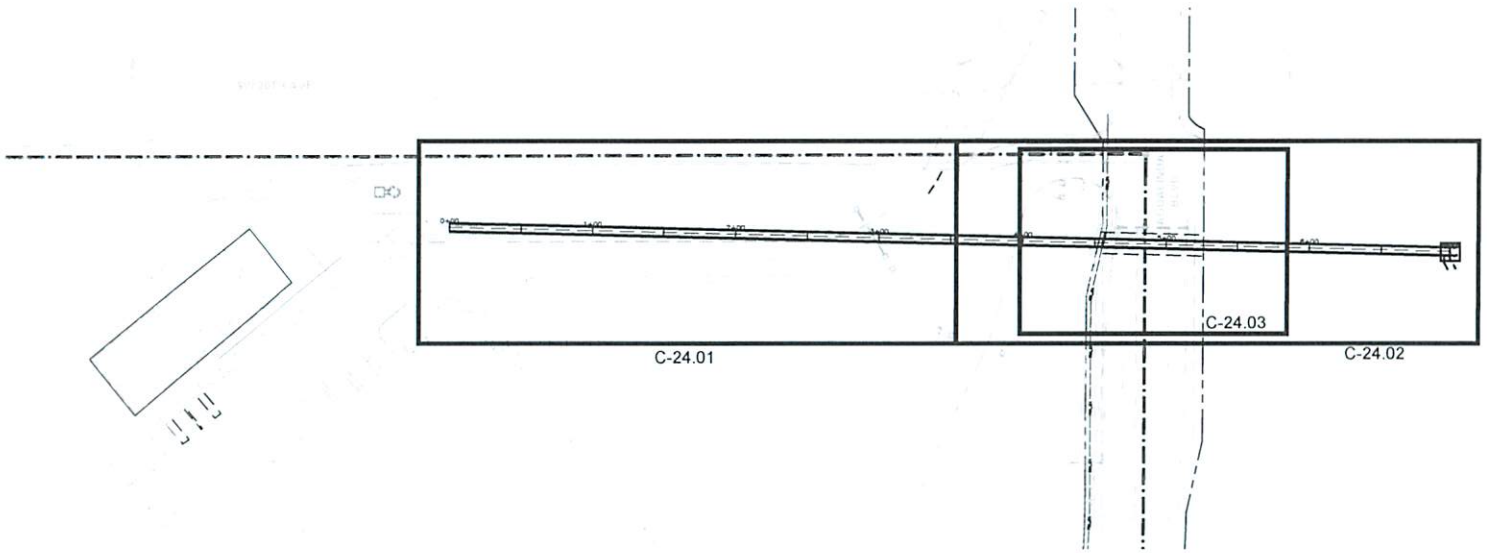
Cert. of Authorization No. 00003496

Project No. 717030
Issue Date 10/19/17
Drawn By JAW
Approved By JAW

Drawing Title
MASTER GRADING AND UTILITY PLAN

Drawing No.
C-21.01



LEGEND

	EXISTING ELEVATION
— — — 10"WM —	EXIST 10" WATER MAIN
— — — — —	EXIST STORM PIPE
———	PROPOSED 14" CHWS OR CHWR LINE

GENERAL NOTES

1. ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NATIONAL GEODETIC VERTICAL DATUM 1929 (NGVD 29)
2. MINIMUM 18" VERTICAL SEPARATION BETWEEN CHILLER LINES AND ALL UTILITIES.
3. MINIMUM 5' HORIZONTAL SEPARATION BETWEEN CHILLER LINES AND ALL UTILITIES.
4. REFER TO MEP FOR PIPE SPECIFICATION INCLUSIVE OF MATERIAL TYPE AND REQUIRED FITTINGS AND VALVES.

N

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SCALE IN FEET

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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 AGUALINDA BLVD, CAPE CORAL, FL 33914

Revisions

No.	Date	Description
1	01/15/2018	ADDENDUM #1

DAVIDSON ENGINEERING
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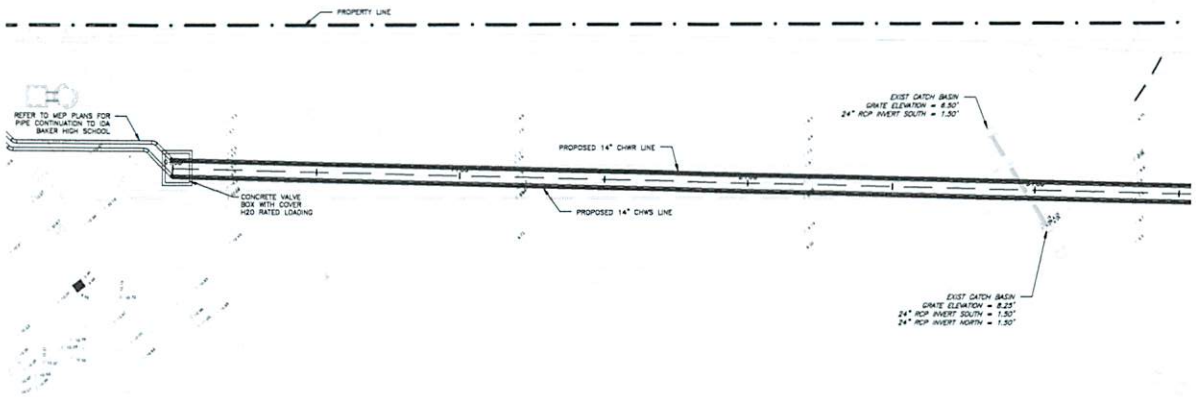
Cert. of Authorization No. 00009496

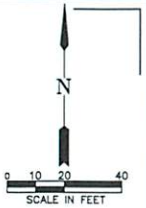
Project No. 717030
Issue Date 10/19/17
Drawn By JAW
Approved By JAW
Scale
Drawing Title

PLAN AND PROFILE INDEX SHEET

Drawing No.

C-24.00





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- 10"WM — EXIST 10" WATER MAIN
- EXIST STORM PIPE
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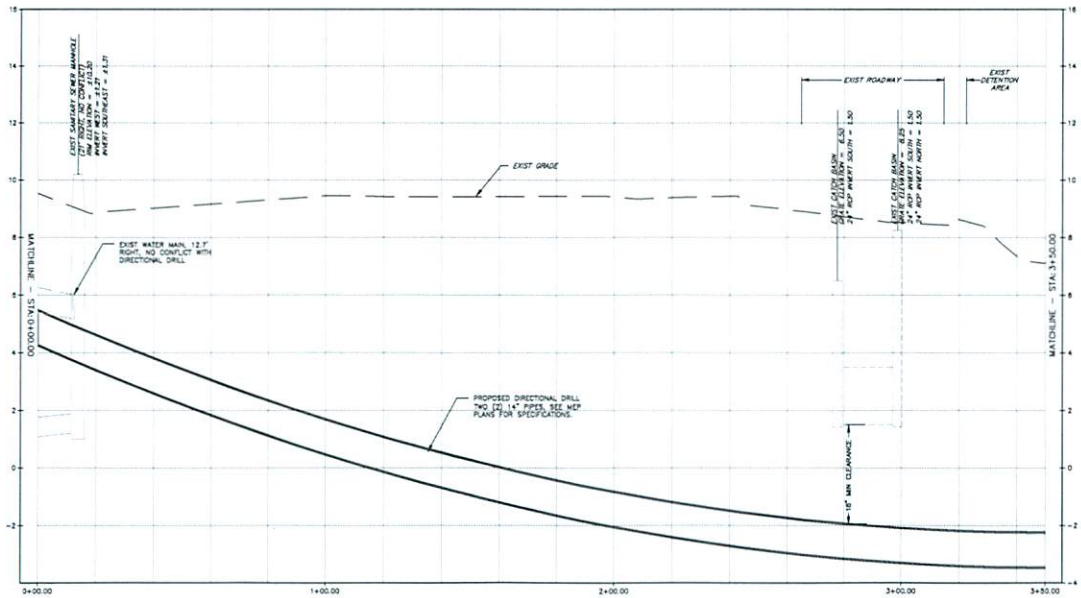

VERT. 0 1 2 4
HORZ. 0 10 20 40
SCALE IN FEET

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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 AGUALINDA BLVD, CAPE CORAL, FL 33914

Revisions

No	Date	Description
1	01/18/2018	ADDENDUM #1

DE DAVIDSON ENGINEERING
4365 Radio Road, Suite 201
Naples, Florida 34104
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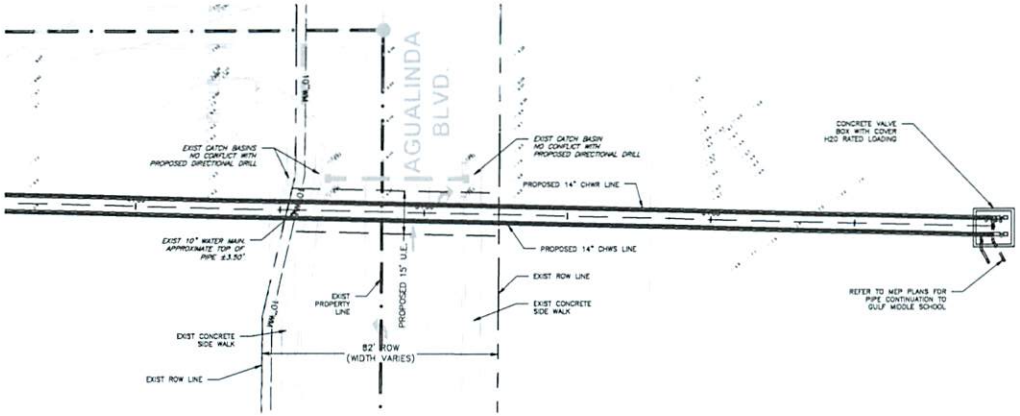
Cert. of Authorization No. 00006496

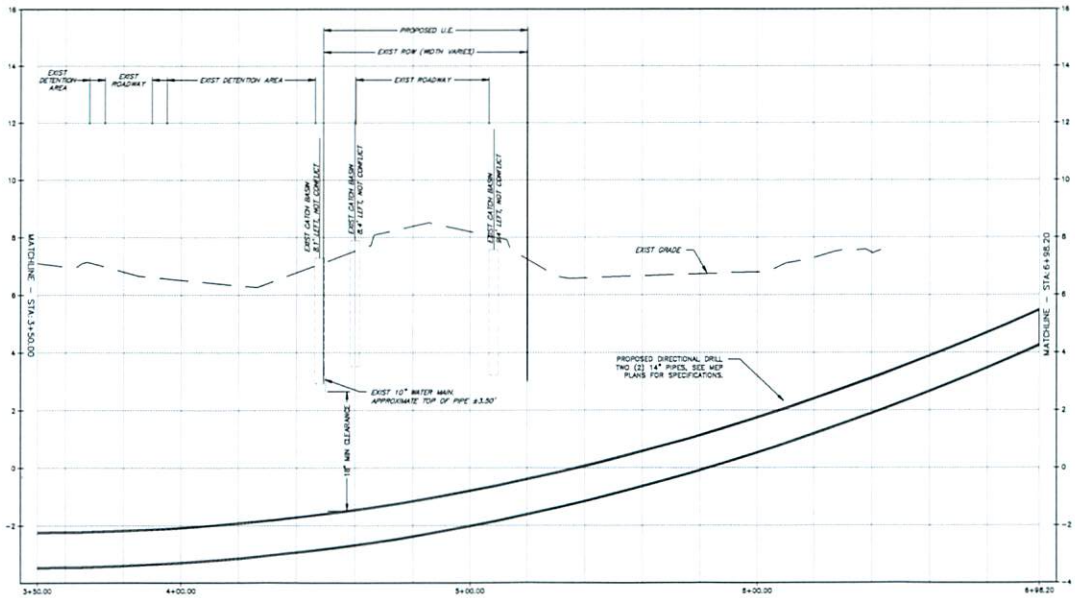
Project No. 717030
Issue Date 10/19/17
Drawn By JAW
Approved By JAW
Scale
Drawing Title

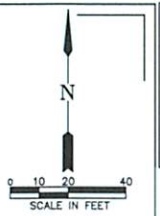
PLAN AND PROFILE
STA 0+00 - 3+50

Drawing No.

C-24.01







LEGEND

- EXISTING ELEVATION
- 10"WM — EXIST 10" WATER MAIN
- EXIST STORM PIPE
- PROPOSED 14" CHWS OR CHWR LINE

GENERAL NOTES

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4. REFER TO MEP FOR PIPE SPECIFICATION INCLUSIVE OF MATERIAL TYPE AND REQUIRED FITTINGS AND VALVES.

VERT. 0 1 2 4
HORZ. 0 10 20 40
SCALE IN FEET

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3500 AGUALINDA BLVD. CAPE CORAL, FL 33914

Revisions

No.	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON
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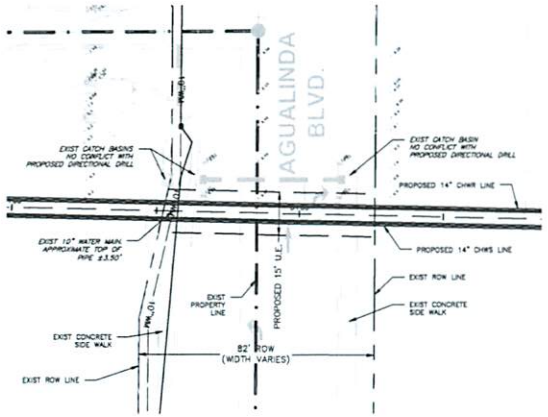
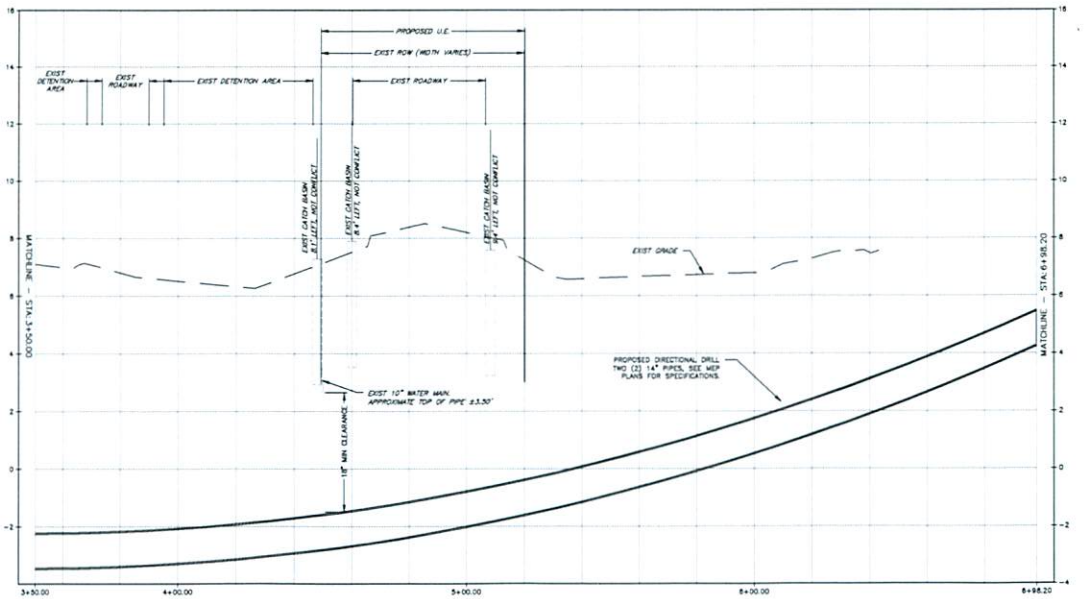
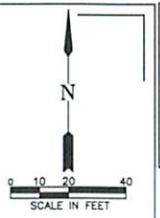
Project No. 717030
Issue Date 10/19/17
Drawn By JAW
Approved By JAW
Scale
Drawing Title

PLAN AND PROFILE
STA 3+50 - 6+98

Drawing No.
C-24.02







LEGEND

- EXISTING ELEVATION
- EXIST 10" WATER MAIN
- EXIST STORM PIPE
- PROPOSED 14" CHWS OR CHWR LINE

GENERAL NOTES

1. ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NATIONAL GEODETIC VERTICAL DATUM 1929 (NGVD 29)
2. MINIMUM 18" VERTICAL SEPARATION BETWEEN CHILLER LINES AND ALL UTILITIES.
3. MINIMUM 5' HORIZONTAL SEPARATION BETWEEN CHILLER LINES AND ALL UTILITIES.
4. REFER TO MEP FOR PIPE SPECIFICATION INCLUSIVE OF MATERIAL TYPE AND REQUIRED FITTINGS AND VALVES.

VERT. 0 1 2 4
HORZ. 0 10 20 40
SCALE IN FEET

THIS DRAWING IS BEING RELEASED FOR 95% GMP/PERMIT REVIEW ONLY

TLC ENGINEERING FOR ARCHITECTURE
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PH: 239.275.4240
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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 AGUALINDA BLVD, CAPE CORAL, FL 33914

Revisions

No	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON
4365 Radio Road, Suite 201
Naples, Florida 34104
P. 239.434.8080 F. 239.434.0094
Cert. of Authorization No. 00008496

Project No: 717030

Issue Date: 10/19/17

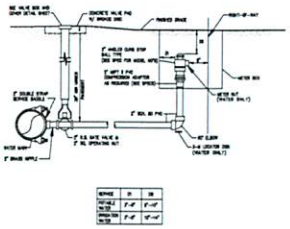
Drawn By: JAW

Approved By: JAW

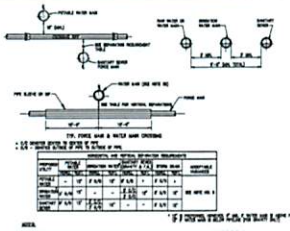
Scale:

Drawing Title: PLAN AND PROFILE - AGUALINDA BLVD. ROW

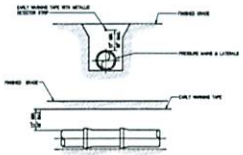
Drawing No: C-24.03



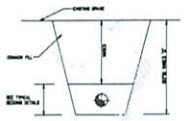
2" WATER AND IRRIGATION (COMMERCIAL) SERVICE CONNECTION DETAIL



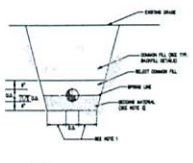
UTILITY SEPARATION REQUIREMENTS



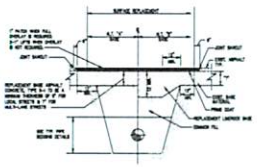
PIPE LOCATING TAPE, STRIPING, AND MARKERS



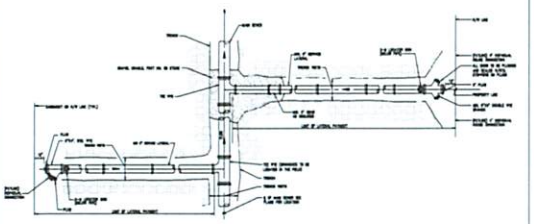
TYPICAL SECTION
BACKFILL DETAIL, UNPAVED AREAS



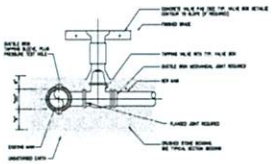
TYPICAL SECTION
PVC BEDDING DETAIL



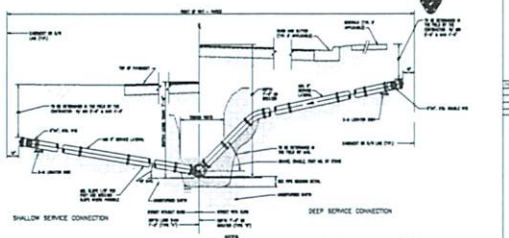
TYPICAL SECTION
BACKFILL DETAIL WITH PAVEMENT PATCHING



TYPICAL SERVICE LATERAL – PLAN
(SEE SERVICE LATERAL SECTION)



TAPPING SLEEVE AND VALVE



SHALLOW SERVICE CONNECTION

DEEP SERVICE CONNECTION

TYPICAL SERVICE LATERAL – SECTION

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IDA BAKER HIGH SCHOOL - CENTRAL
ENERGY PLANT RENOVATION PHASE 1

3500 AGUALINDA BLVD, CAPE CORAL, FL 33914

Revisions

No.	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON
4365 Radio Road, Suite 201
Naples, Florida 34104
P: 239.434.6080 F: 239.434.6084
Cert. of Authorization No. 00008496

Project No.	717030
Issue Date	10/19/17
Drawn By	JAW
Approved By	JAW
Scale	
Drawing Title	

GENERAL DETAILS

Drawing No.

C-26.00

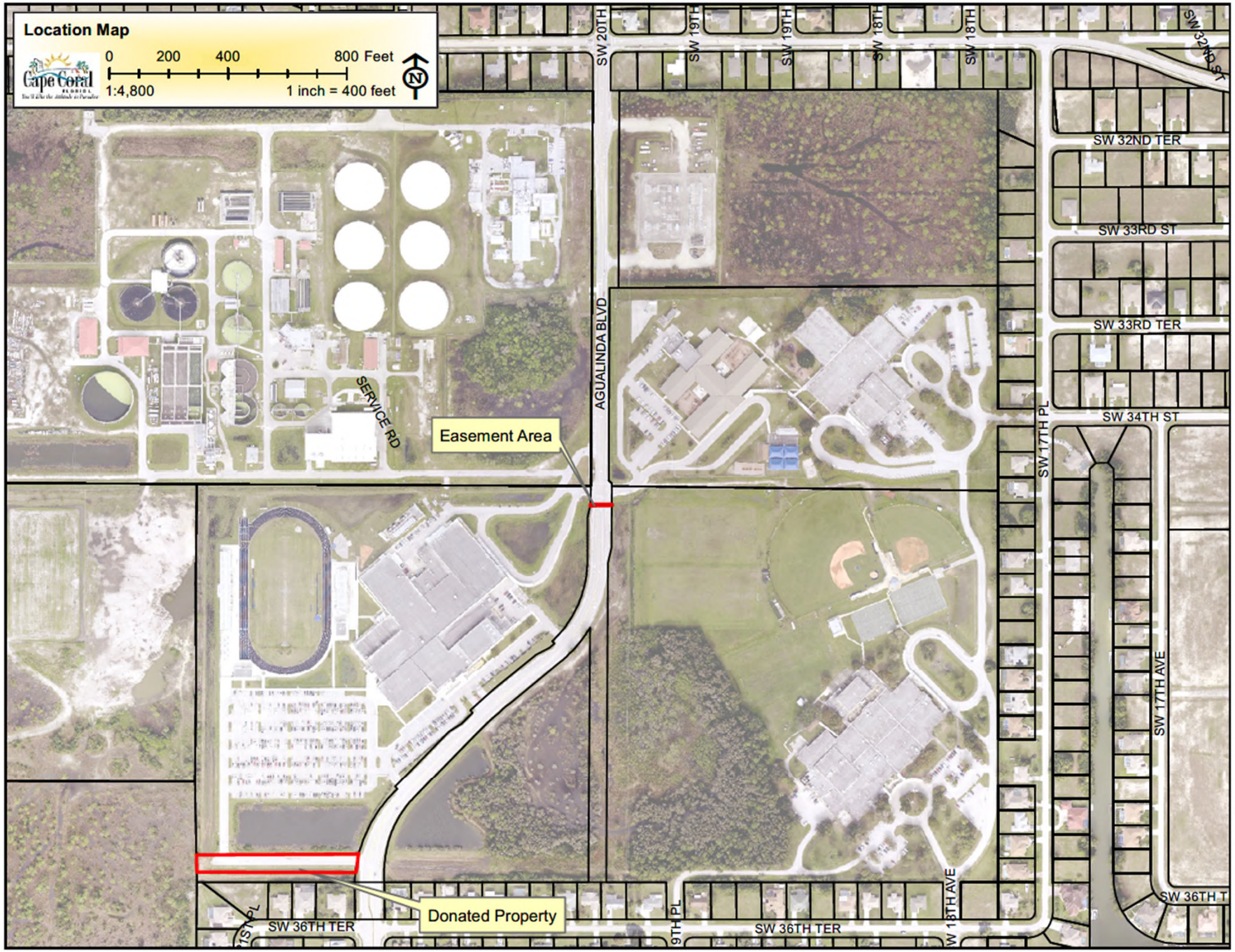
THIS DRAWING IS BEING RELEASED FOR 95% GMP/PERMIT REVIEW ONLY

ORDINANCE 84-18

Agreement between the City of Cape Coral and the
Lee County School District

Agreement Purposes

1. Granting to the Lee County School Board an easement for the construction, installation, maintenance, operation, repair and replacement of the School Board's AC chiller lines crossing the Agualinda Boulevard right-of-way between Ida S. Baker High School and Gulf Middle School
2. Accepting the conveyance of a parcel of land from the Lee County School Board to be used for future access to the City's property adjacent and west of Ida S. Baker High School


Location Map
Cape Coral
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800 Feet
1:4,800
1 inch = 400 feet
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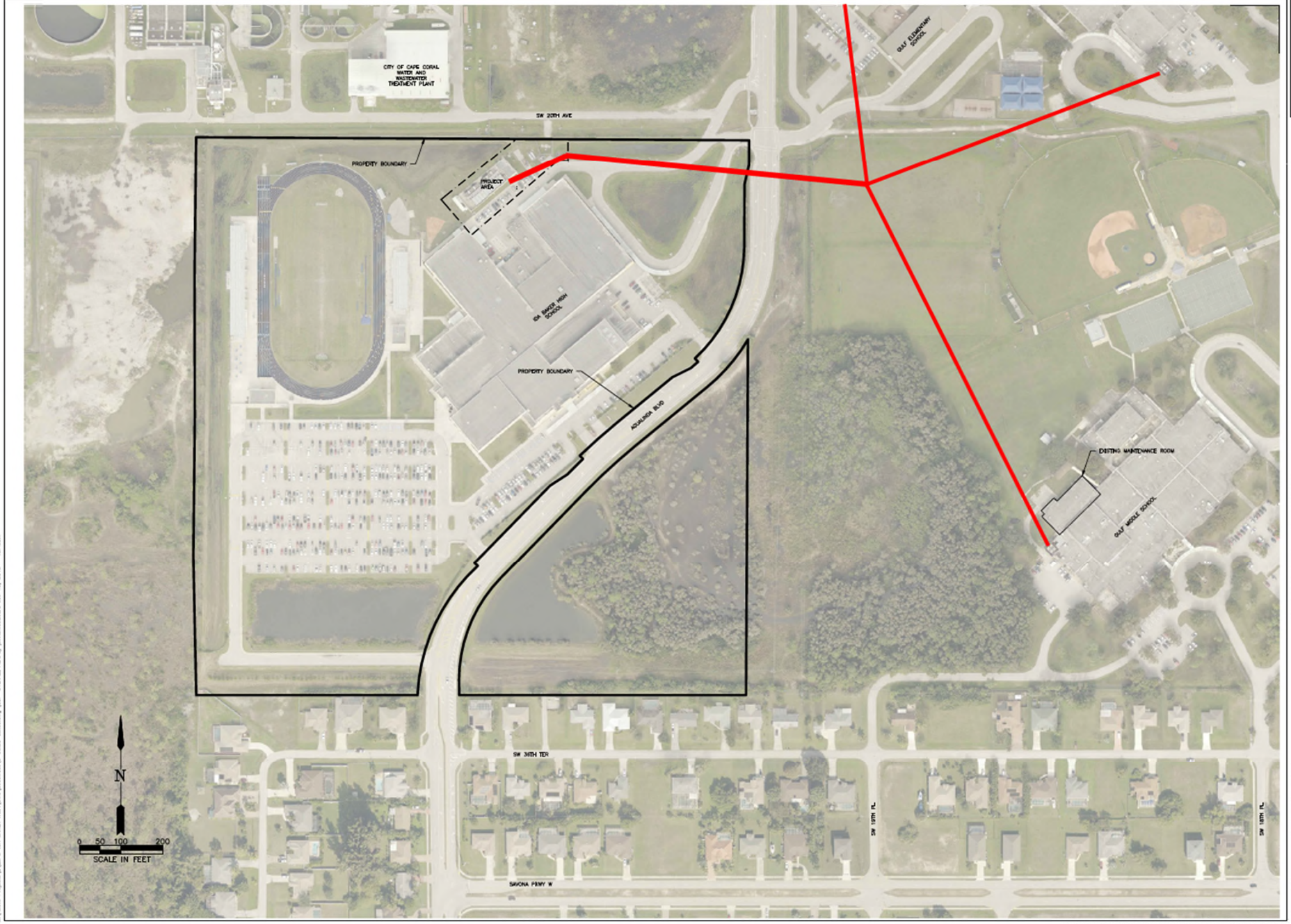
SW 32ND TER
SW 33RD ST
SW 33RD TER
SW 34TH ST
SW 17TH PL
SW 17TH AVE
SW 36TH T
AGUALINDA BLVD
SERVICE RD
Easement Area
Donated Property
SW 36TH TER
SW 36TH TER
9TH PL
W 18TH AVE

1. Easement for Utility Installation

- School Board is requesting an easement to install a water distribution pipe via directional drilling under Agualinda Blvd. The pipe would connect to a centralized water-cooled chiller plant to service Ida Baker High, Gulf Elementary and Middle and the Preferred Learning Center.
- Based on a 25-Year Life Cycle Cost Analysis, the construction of a new centralized energy plant located at Ida Baker High School is the most cost effective and efficient option.
- The centralized plant ultimately eliminates major maintenance and equipment costs at the five education facilities as well as provides for redundancy not currently present at any of the existing campuses.

1. Easement for Utility Installation (cont.)

- The Life Cycle Cost Analysis predicts that a new centralized water-cooled chiller plant located at Ida Baker High School is feasible, with a 25-year Life Cycle cost savings of $754,209 versus replacing and maintaining the existing equipment individually at each campus.



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IDA BAKER HIGH SCHOOL - CENTRAL ENERGY PLANT RENOVATION PHASE 1

3500 AQUALINDA BLVD, CAPE CORAL, FL 33914

Revisions:

No.	Date	Description
1	01/18/2018	ADDENDUM #1

DAVIDSON ENGINEERING
4365 Radio Road, Suite 201
Naples, Florida 34104
P: 239.434.8080 F: 239.434.8084
Cert. of Authorization No. 00009495

Project No.: 717030

Issue Date: 10/19/17

Drawn By: JAW

Approved By: JAW

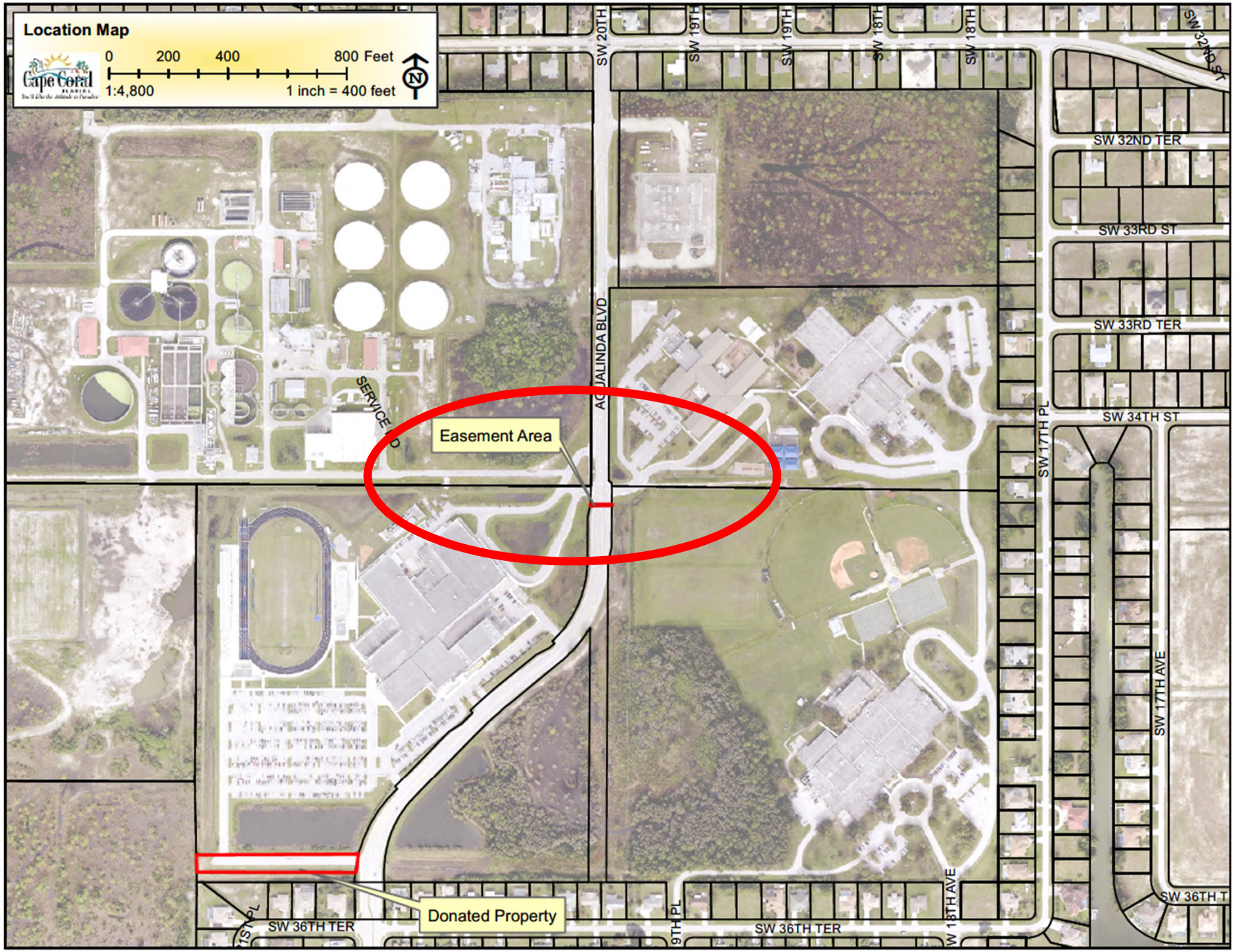
Scale:

Drawing Title:

AERIAL VIEW

Drawing No.:

C-00.20


Location Map
Cape Coral
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800 Feet
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1 inch = 400 feet
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SW 18TH
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SW 32ND ST
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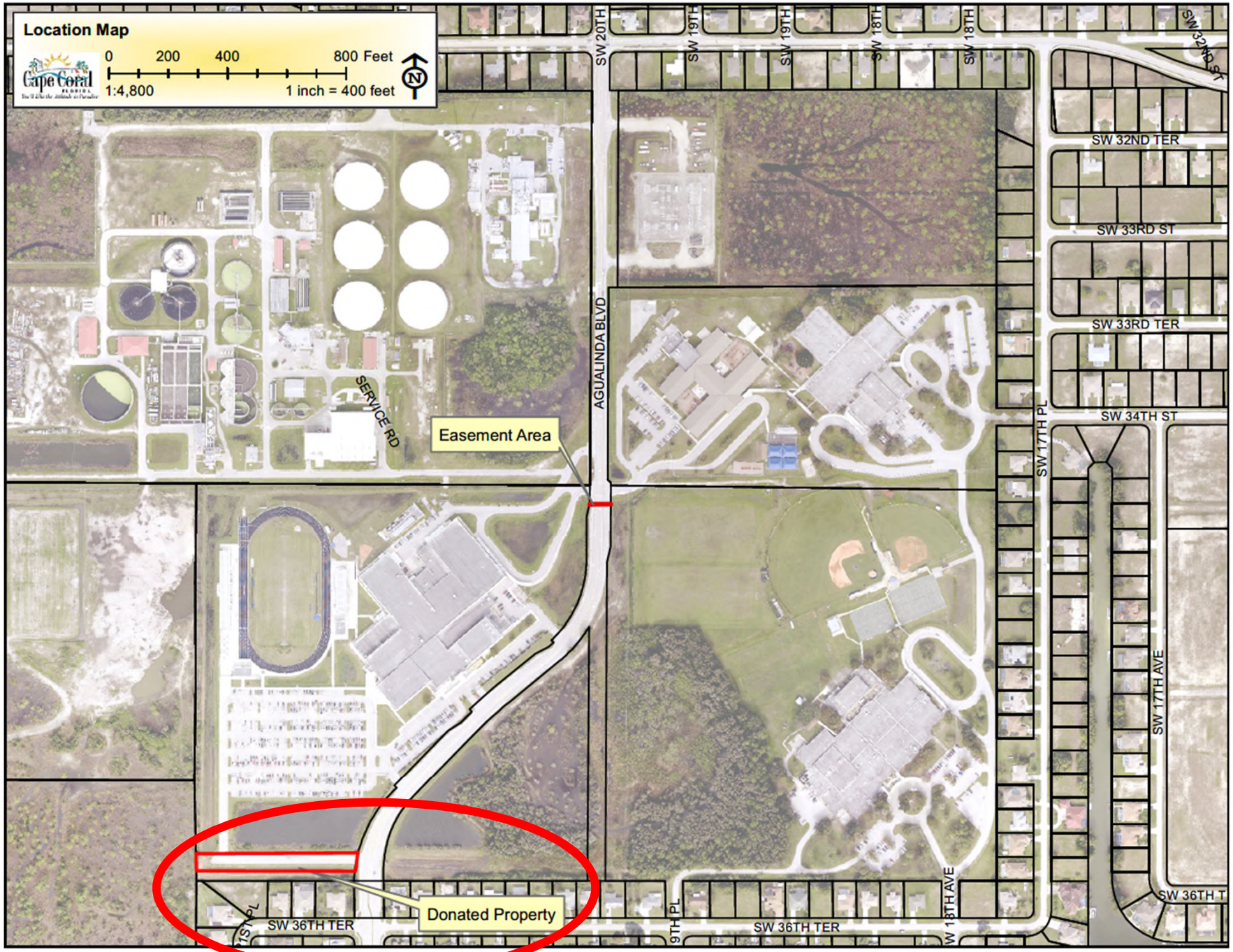
SW 17TH PL
SW 17TH AVE
SW 36TH T
AQUALINDA BLVD
SERVICE RD
Easement Area
Donated Property
SW 36TH TER
SW 36TH TER
9TH PL
W 18TH AVE

1. Easement for Utility Installation (cont.)

- City permit is required.
- School Board responsible for construction and maintenance.
- In the event the surface of Agualinda Boulevard is disturbed by the School Board's exercise of any of its easement rights:
  - *Pavement repairs will meet FDOT paving design standards.*
  - *The School Board will be responsible for repairs to any other City facilities within the easement area.*

2. Land Donation

- Since 2005 the City and the School Board have been negotiating an easement for access across a portion of Ida Baker property to connect to the future park site.
- School Board and City couldn't agree on the verbiage of the easement due to maintenance and student security concerns.
- As part of the current Agualinda easement negotiations, both agencies reinitiated discussions on this matter.
- School Board will donate the land to make this access viable.


Location Map
Cape Coral
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800 Feet
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SW 18TH
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SW 32ND TER
SW 33RD ST
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SW 34TH ST
SW 17TH PL
SW 17TH AVE
SW 36TH T
AGUALINDA BLVD
SERVICE RD
Easement Area
Donated Property
SW 36TH TER
SW 36TH TER
9TH PL
W 18TH AVE

2. Land Donation (cont.)

- The Lee County School Board will maintain the existing driveway on the donated land until the City uses it to access the future park site.

QUESTIONS?

Item Number:	**A.(2)**
Meeting Date:	**1/7/2019**
Item Type:	**ORDINANCES/RESOLUTIONS - Public Hearings**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Resolution 282-18 (VP 18-0005*) Public Hearing

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/HEARING EXAMINER/STAFF RECOMMENDATIONS:
Hearing Examiner Recommendation: The Hearing Examiner recommends that City Council approve the application for the requested vacations, subject to the conditions set forth in VP HEX Recommendation 10-2018.
Staff Recommendation: Staff recommends approval with conditions that appeared in the VP HEX Recommendation 10-2018.

SUMMARY EXPLANATION AND BACKGROUND:
A resolution providing for the vacation of plat for public utility and drainage easements underlying a previously vacated platted walkway and a previously vacated portion of a platted alley located within Block 3367, Cape Coral Unit 65; providing for the vacation of plat for all platted interior lot lines and public utility and drainage easements lying with Lots 36-45, 51-62, and 76-89, Block 3367, Cape Coral Unit 65; property located at 824 SW 42nd Terrace.

LEGAL REVIEW:
John E. Naclerio III, Assistant City Attorney

EXHIBITS:
Resolution 282-18
Back up material from Hearing
Hearing Examiner Recommendation Order
Staff Presentation
Additional Back up received

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:
Mike Struve, Planning Team Coordinator

ATTACHMENTS:

Description	Type
Resolution 282-18	Resolution
Back up material from HEX Hearing	Backup Material
Hearing Examiner Recommendation Order	Backup Material
Staff Presentation	Backup Material
Additional Back up received	Backup Material

VP 18-0005

RESOLUTION 282 - 18

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR PUBLIC UTILITY AND DRAINAGE EASEMENTS UNDERLYING A PREVIOUSLY VACATED PLATTED WALKWAY AND A PREVIOUSLY VACATED PORTION OF A PLATTED ALLEY LOCATED WITHIN BLOCK 3367, CAPE CORAL UNIT 65; PROVIDING FOR THE VACATION OF PLAT FOR ALL PLATTED INTERIOR LOT LINES AND PUBLIC UTILITY AND DRAINAGE EASEMENTS LYING WITHIN LOTS 36-45, 51-62, AND 76-89, BLOCK 3367, CAPE CORAL UNIT 65; PROPERTY LOCATED AT 824 SW 42ND TERRACE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petition was filed by SKYLINE SELF STORAGE, LLC, for the vacation of plat on property described herein; and

WHEREAS, the Petition meets the requirements of Land Use Development Regulations, Article VIII, Section 8.11, Vacation of Plats, Streets and Other Property of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following-described public utility and drainage easements, as shown in Exhibit A, are hereby vacated by the City of Cape Coral, to wit:

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE EASEMENTS OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65, SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 89, BLOCK 3367, CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.89°54'00"W. ALONG THE SOUTH LINE SAID LOT 89, BLOCK 3367 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°54'00"W. FOR 136.92 FEET; THENCE RUN N.00°43'32"W. FOR 213.99 FEET; THENCE RUN N.89°54'00"E. FOR 13.81 FEET; THENCE RUN N.00°43'32"W. FOR 182.00 FEET; THENCE RUN S.89°54'00"W. FOR 16.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT LYING 6.00 FEET SOUTH AS MEASURED ON A PERPENDICULAR OF THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 65 FOR 38.00 FEET; THENCE RUN N.89°54'00"E. FOR 20.00 FEET; THENCE RUN S.00°43'42"E. FOR 113.01 FEET; THENCE RUN N89°54'00"E. FOR 473.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT 6.00 SOUTH AS MEASURED ON A PERPENDICULAR FROM SAID SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) FOR 113.0 FEET; THENCE RUN N89°54'00"E. FOR 6.00 FEET; THENCE RUN S.00°43'32"E. FOR 123.01 FEET; THENCE RUN S.89°54'00"W. FOR 50.99 FEET; THENCE RUN S.00°43'32"E. FOR 22.00 FEET; THENCE RUN S.89°54'00"W. FOR 278.00 FEET; THENCE RUN S.00°43'32"E. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 37.00 FEET; THENCE RUN N.00°43'32"W. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 282.98 FEET; THENCE RUN N.89°54'00"E. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 27,429.27 SQ FT, MORE OR LESS.

Section 2. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be

granted. The platted public utility and drainage easements within Lots 36-45, Lots 51-62, and Lots 76-89, Block 3367, Cape Coral Unit 65, as recorded in Plat Book 21, Pages 151-164, Public Records of Lee County, Florida are hereby vacated.

Section 3. The Petition meets the requirements of Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The platted lot lines associated with Lots 36-45, Lots 51-62, and Lots 76-89, Block 3367, Cape Coral Unit 65, as recorded in Plat Book 21, Pages 151-164, Public Records of Lee County, Florida, Florida, are hereby vacated.

Section 4. Within sixty (60) days from the date of adoption of this resolution, applicant shall provide to the City for recording an easement deed for a six-foot wide public utility and drainage easement around the perimeter of the site.

Section 5. Within sixty (60) days from the date of adoption of this resolution, applicant shall provide to the City for recording an easement deed for a 12-foot wide public utility and drainage easement along the east property line of Lots 36-45, Block 3367, as shown in Exhibit B and described as follows:

12-FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65, SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164), PUBLIC RECORDS OF LEE COUNTY, FLORIDA;

DESCRIPTION: UTILITY EASEMENT

COMMENCING AT THE SOUTHWEST CORNER OF LOT 36, BLOCK 3367 AND THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE (60 FEET WIDE), CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°54'00"E. ALONG THE SOUTH LINE SAID LOT 36, BLOCK 3367 FOR 115.10 FEET TO THE POINT OF BEGINNING; THENCE RUN N.00°43'32"W. TO A POINT ALONG THE NORTH LINE OF LOT 45, OF SAID BLOCK 3367 FOR 400.00 FEET; THENCE RUN N.89°54'00"E FOR 12.00 FEET; THENCE RUN S.00°43'32"E. FOR 400.00 FEET; THENCE RUN S.89°54'00"W. FOR 12.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,800 SQ FT, MORE OR LESS.

Section 6. The Applicant shall meet the following terms and conditions:

1. The vacation of the underlying easements associated with the vacated alley and walkway shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc., entitled "Vacation of any and all easements including public utility and drainage over, across, and through lying in a portion of Block 3367, Cape Coral, Unit 65," (Sheets 1-3), and attached hereto as Exhibit "A."

2. Within 60 days of the adoption of this resolution, the owner shall provide to the City an easement deed that grants a minimum six-foot wide public utility and drainage easement around the perimeter of the site. This easement deed shall be approved by the City Property Broker prior to recording.

3. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed that grants a 12-foot wide public utility and drainage easement along the east property line of Lots 36 to 45 in Block 3367 consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc., entitled "12 foot wide utility easement in Block 3367, Cape Coral, Unit 65," and attached hereto as Exhibit "B." The deed shall be approved by the City Property Broker prior to execution.

4. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with the easement deeds as described in Conditions #2 and #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deeds.

Section 7. This Resolution shall take effect upon its recording within the Office of the Lee County Clerk of Court by the City of Cape Coral.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2018.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

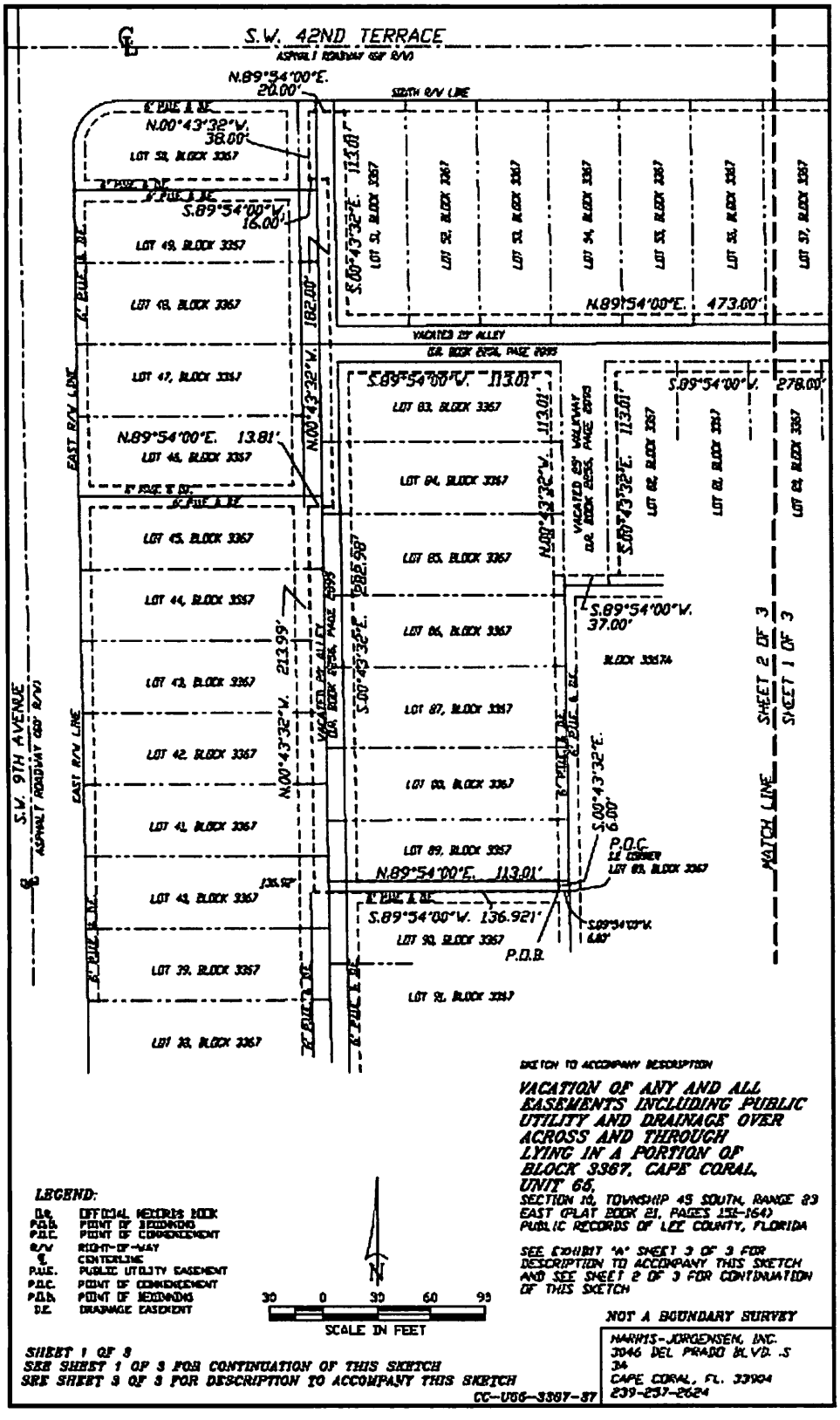
ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

_____
JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
res/vp18-0005

Exhibit "A" (Page 1 of 3)



SKETCH TO ACCOMPANY DESCRIPTION

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 66,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 152-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "A" SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH AND SEE SHEET 2 OF 3 FOR CONTINUATION OF THIS SKETCH

LEGEND:

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

N

30 0 30 60 90

SCALE IN FEET

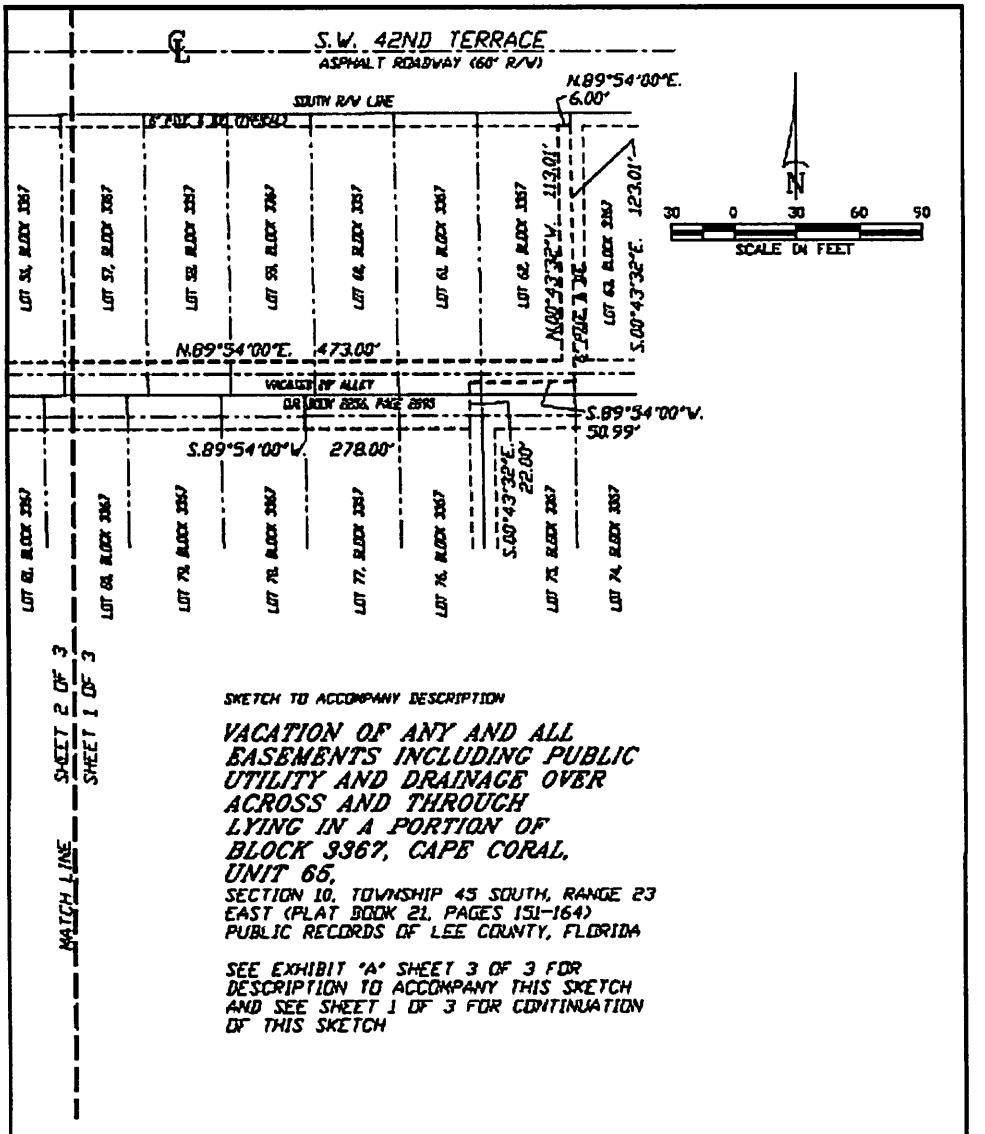
NOT A BOUNDARY SURVEY

SHEET 1 OF 3
SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH
SEE SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

CC-U66-3367-S7

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S
34
CAPE CORAL, FL. 33904
239-257-2624

Exhibit "A" (Page 2 of 3)



SKETCH TO ACCOMPANY DESCRIPTION

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "A" SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH AND SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE, AS BEING N.89°54'00"E.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8½x14, 60 SCALE DRAWING

LEGEND:

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

NOT A BOUNDARY SURVEY

SHEET 2 OF 3
SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH
SEE SHEET 3 OF 3 (EXHIBIT "A") FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

CC-066-3367-37

MARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S
34
CAPE CORAL, FL. 33904
239-257-2624

Exhibit "A" (Page 3 of 3)

Legal Description of Vacated Area

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE EASEMENTS OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65, SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 89, BLOCK 3367, CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.89°54'00"W. ALONG THE SOUTH LINE SAID LOT 89, BLOCK 3367 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°54'00"W. FOR 136.92 FEET; THENCE RUN N.00°43'32"W. FOR 213.99 FEET; THENCE RUN N.89°54'00"E. FOR 13.81 FEET; THENCE RUN N.00°43'32"W. FOR 182.00 FEET; THENCE RUN S.89°54'00"W. FOR 16.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT LYING 6.00 FEET SOUTH AS MEASURED ON A PERPENDICULAR OF THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 65 FOR 38.00 FEET; THENCE RUN N.89°54'00"E. FOR 20.00 FEET; THENCE RUN S.00°43'42"E. FOR 113.01 FEET; THENCE RUN N89°54'00"E. FOR 473.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT 6.00 SOUTH AS MEASURED ON A PERPENDICULAR FROM SAID SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) FOR 113.0 FEET; THENCE RUN N89°54'00"E. FOR 6.00 FEET; THENCE RUN S.00°43'32"E. FOR 123.01 FEET; THENCE RUN S.89°54'00"W. FOR 50.99 FEET; THENCE RUN S.00°43'32"E. FOR 22.00 FEET; THENCE RUN S.89°54'00"W. FOR 278.00 FEET; THENCE RUN S.00°43'32"E. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 37.00 FEET; THENCE RUN N.00°43'32"W. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 282.98 FEET; THENCE RUN N.89°54'00"E. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 6.00 FEET TO THE POINT OF BEGINNING.

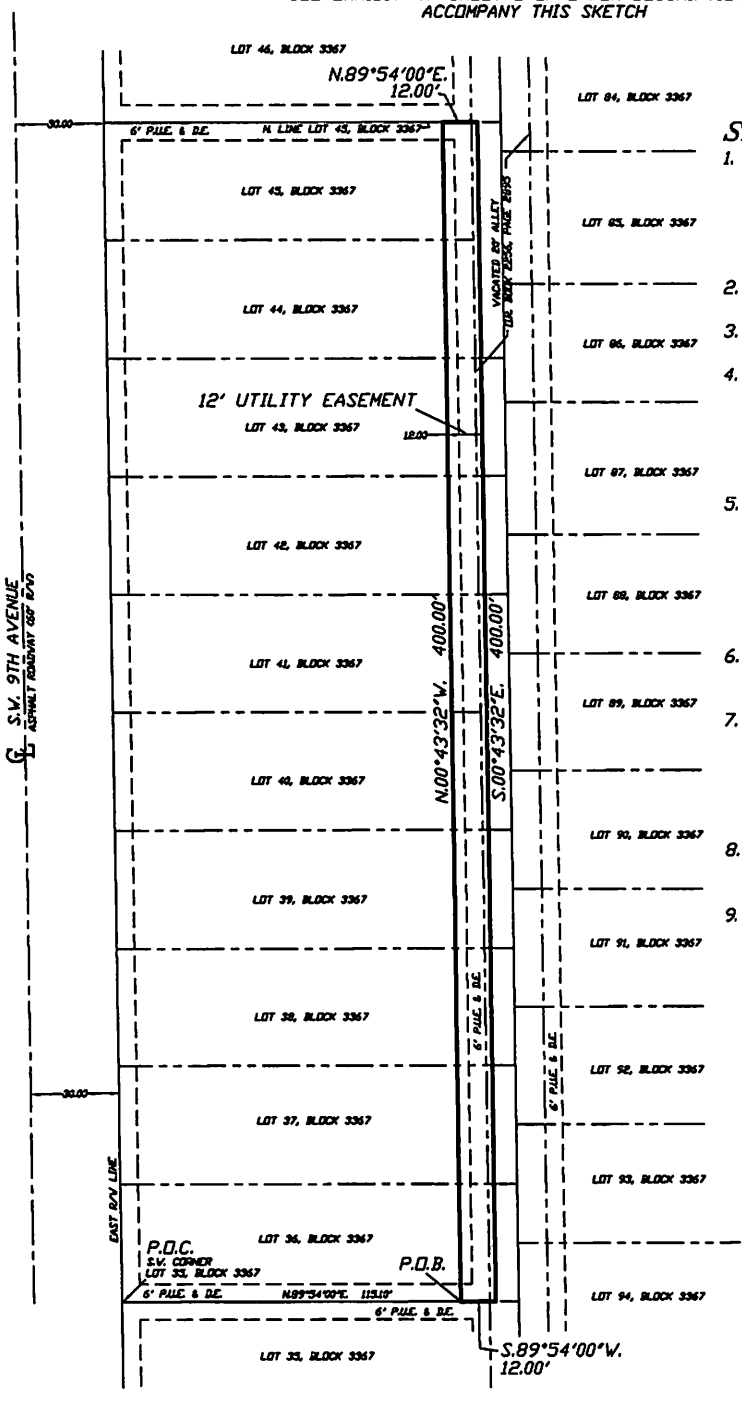
CONTAINING 27,429.27 SQ FT, MORE OR LESS.

SKETCH TO ACCOMPANY DESCRIPTION

12 FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST
(PLAT BOOK 21, PAGES 151-164)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT 'A' SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE TERRACE, AS BEING 'ASSUMED' AS N.00°43'32"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8½x14, 50 SCALE DRAWING.

LEGEND:

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

N

25 0 25 50 75

SCALE IN FEET

SHEET 1 OF 2
SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
NOT A BOUNDARY SURVEY

CC-U65-3367-37

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. .S
3A
CAPE CORAL, FL. 33904
239-257-2624

Exhibit "B" (Page 2 of 2)

12-FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164)

PUBLIC RECORDS OF LEE COUNTY, FLORIDA;

DESCRIPTION: UTILITY EASEMENT

COMMENCING AT THE SOUTHWEST CORNER OF LOT 36, BLOCK 3367 AND THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE (60 FEET WIDE), CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°54'00"E. ALONG THE SOUTH LINE SAID LOT 36, BLOCK 3367 FOR 115.10 FEET TO THE POINT OF BEGINNING; THENCE RUN N.00°43'32"W. TO A POINT ALONG THE NORTH LINE OF LOT 45, OF SAID BLOCK 3367 FOR 400.00 FEET; THENCE RUN N.89°54'00"E FOR 12.00 FEET; THENCE RUN S.00°43'32"E. FOR 400.00 FEET; THENCE RUN S.89°54'00"W. FOR 12.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,800 SQ FT, MORE OR LESS.

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT
VACATION OF PLAT APPLICATION
Questions: 239-574-0776

Case # VP 18-0005

MAY 2'18 PM 11:48

REQUEST TO PLANNING & ZONING COMMISION AND COUNCIL FOR A VACATION OF PLAT

FEE: $843.00 – 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 must be paid prior to public hearing otherwise case will be pulled from public hearing.

Following the approval of your request, the applicant shall be responsible for reimbursing 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
Skyline Self Storage, LLC
Address: 4848 SW 23rd Ave
City: Cape Coral State: FL Zip 33914
Phone: 239-980-4613

APPLICANT
Skyline Self Storage LLC
EMAIL john@ringland.bz
Address: 4848 SW 23rd Ave
City: Cape Coral State: FL Zip 33914
Phone: 239-980-4613

AUTHORIZED REPRESENTATIVE
Joe Mazurkiewicz/BJM Consulting, Inc
EMAIL joe@bjmconsult.com
Address: PO Box 101655
City: Cape Coral State: FL Zip 33910
Phone: 239-470-5778

Unit 65 Block 3367 Lot(s) See List Subdivision Cape Coral
Address of Property 818 SW 42nd Terrace
Current Zoning C-1 Plat Book 21 , Page 160
Strap Number 10-45-23-C2-03367.0600 plus (See List)

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0005

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.

(SIGNATURE MUST BE NOTARIZED)

Skyline Self Storage LLC, Charles Ringland, Manager
APPLICANT NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before ~~me this~~ 30 day of APRIL, 2018 by Charles Rayland who is personally known or produced _____ as identification.

Exp. Date: 7/6/2020 Commission Number: GG 009431

Signature of Notary Public:

Printed name of Notary Public: Davis Cox

DAVID M. COX
Notary Public - State of Florida
Commission # GG 009431
My Comm. Expires Jul 6, 2020

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP 18-0005

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.

Skyline Self Storage LLC
CORPORATION/COMPANY NAME

Charles Ringland, Manager
PROPERTY OWNER (PLEASE TYPE OR PRINT)

PROPERTY OWNER'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 30 day of April, 20 18 by Charles Ringland who is personally known or produced _____ as identification.

Exp. Date: 7/6/2020 Commission Number: GG 009431

Signature of Notary Public: _____

Printed name of Notary Public: David Cox

DAVID M. COX
Notary Public - State of Florida
Commission # GG 009431
My Comm. Expires Jul 6, 2020

(SIGNATURE MUST BE NOTARIZED)

Cape Coral FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0005

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Joe Mazurkiewicz/BJM Consulting, Inc.
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE PLANNING & ZONING COMMISSION/ LOCAL PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR
Vacation of all Internal Lot Lines, all existing PUD Easements and the establishment of a new PUD Easement

UNIT 65 BLOCK 3367 LOT(S) See List SUBDIVISION Cape Coral

OR LEGAL DESCRIPTION 10-45-23-C2-03367.0600 and others (See List)

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

Skyline Self Storage LLC, Charles Ringland, Manager
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 30 day of April, 2018, by Charles Ringland who is personally known or produced as identification.

DAVID M. COX
Notary Public - State of Florida
Commission # GG 009431
My Comm. Expires Jul 6, 2020

Exp. Date: 7/6/20 Commission Number: GG 009431

Signature of Notary Public:

Printed name of Notary Public: David Cox

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

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0005

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.

Skyline Self Storage LLC, Charles Ringland, Manager
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF Florida **COUNTY OF** Lee

Sworn to (or affirmed) and subscribed before me ~~on this~~ 30 day of April, 20 18 by Charles Ryland, who is personally known or who has produced _____ as identification.

Exp. Date 7/6/2020
Commission # GG009431

Signature of Notary Public

David Cox
Print Name of Notary Public

DAVID M. COX
Notary Public - State of Florida
Commission # GG 009431
My Comm. Expires Jul 6, 2020

Detail by Entity Name

Florida Limited Liability Company
SKYLINE SELF STORAGE, LLC

Filing Information

Document Number	L17000038737
FEI/EIN Number	81-5443770
Date Filed	02/17/2017
Effective Date	02/20/2017
State	FL
Status	ACTIVE

Principal Address

4848 S.W. 23RD AVENUE
CAPE CORAL, FL 33914

Mailing Address

4848 S.W. 23RD AVENUE
CAPE CORAL, FL 33914

Registered Agent Name & Address

ROLLINGS, HARVEY
1633 S.E. 47TH TERRACE
CAPE CORAL, FL 33904

Authorized Person(s) Detail

Name & Address

Title CO - MGR

RINGLAND, CHARLES J, II
4848 S.W. 23RD AVENUE
CAPE CORAL, FL 33914

Annual Reports

Report Year	Filed Date
2018	04/24/2018

Document Images

04/24/2018 -- ANNUAL REPORT	View image in PDF format
02/17/2017 -- Florida Limited Liability	View image in PDF format

Florida Department of State, Division of Corporations

Skyline Self Storage Strap Numbers and Lots

Strap Numbers	Lots
10-45-23-C2-03367.0350	35
10-45-23-C2-03367.0360	36
10-45-23-C2-03367.0370	37
10-45-23-C2-03367.0390	39
10-45-23-C2-03367.0400	40
10-45-23-C2-03367.0410	41
10-45-23-C2-03367.0420	42
10-45-23-C2-03367.0430	43
10-45-23-C2-03367.0440	44
10-45-23-C2-03367.0450	45
10-45-23-C2-03367.0500	50
10-45-23-C2-03367.0510	51
10-45-23-C2-03367.0520	52
10-45-23-C2-03367.0530	53
10-45-23-C2-03367.0540	54
10-45-23-C2-03367.0550	55
10-45-23-C2-03367.0560	56
10-45-23-C2-03367.0570	57
10-45-23-C2-03367.0580	58
10-45-23-C2-03367.0590	59
10-45-23-C2-03367.0600	60
10-45-23-C2-03367.0610	61
10-45-23-C2-03367.0620	62

Strap Numbers	Lots
10-45-23-C2-03367.0760	76
10-45-23-C2-03367.0770	77
10-45-23-C2-03367.0780	78
10-45-23-C2-03367.0790	79
10-45-23-C2-03367.0800	80
10-45-23-C2-03367.0820	82
10-45-23-C2-03367.0830	83
10-45-23-C2-03367.0860	86
10-45-23-C2-03367.0870	87
10-45-23-C2-03367.0880	88

BJM Consulting, Inc.

Joe Mazurkiewicz, Jr.
President
P O Box 101655
Cape Coral, FL 33910

Telephone 239-470-5778
Email: joe@bjmconsult.com

October 23, 2018

Mr. Vince Cautero, Director
Department Community Development
City of Cape Coral
PO Box 150027
Cape Coral FL 33915-0027

Dear Mr. Cautero,

BJM Consulting, Inc. representing Skyline Self Storage, LLC, requests the following vacations for property located at 842 SW 42nd Terrace:

- A vacation of all underlying easements associated with a previously vacated alley and walkway rights-of-way, that was approved by Resolution 140-91;
- A vacation of all platted easements associated with Lots 36-45, 51-62, and 76-89 in Block 3367; and
- A vacation of all platted lot lines associated with Lots 36-45, 51-62, and 76-89 in Block 3367.

The owner will provide to the City a six-foot wide perimeter easement around the site for public utility and drainage purposes.
The owner will also provide a 12-foot wide easement on the east side of Lots 36-45 to protect existing overhead power lines.

The site is adjacent to the City owned parking lot in Block 3367 fronting on Skyline Blvd. The entire site has a commercial/professional (C/P) land use and is zoned C-1 Commercial. The site is currently serviced by all three utilities which we will hook up to during the development process.

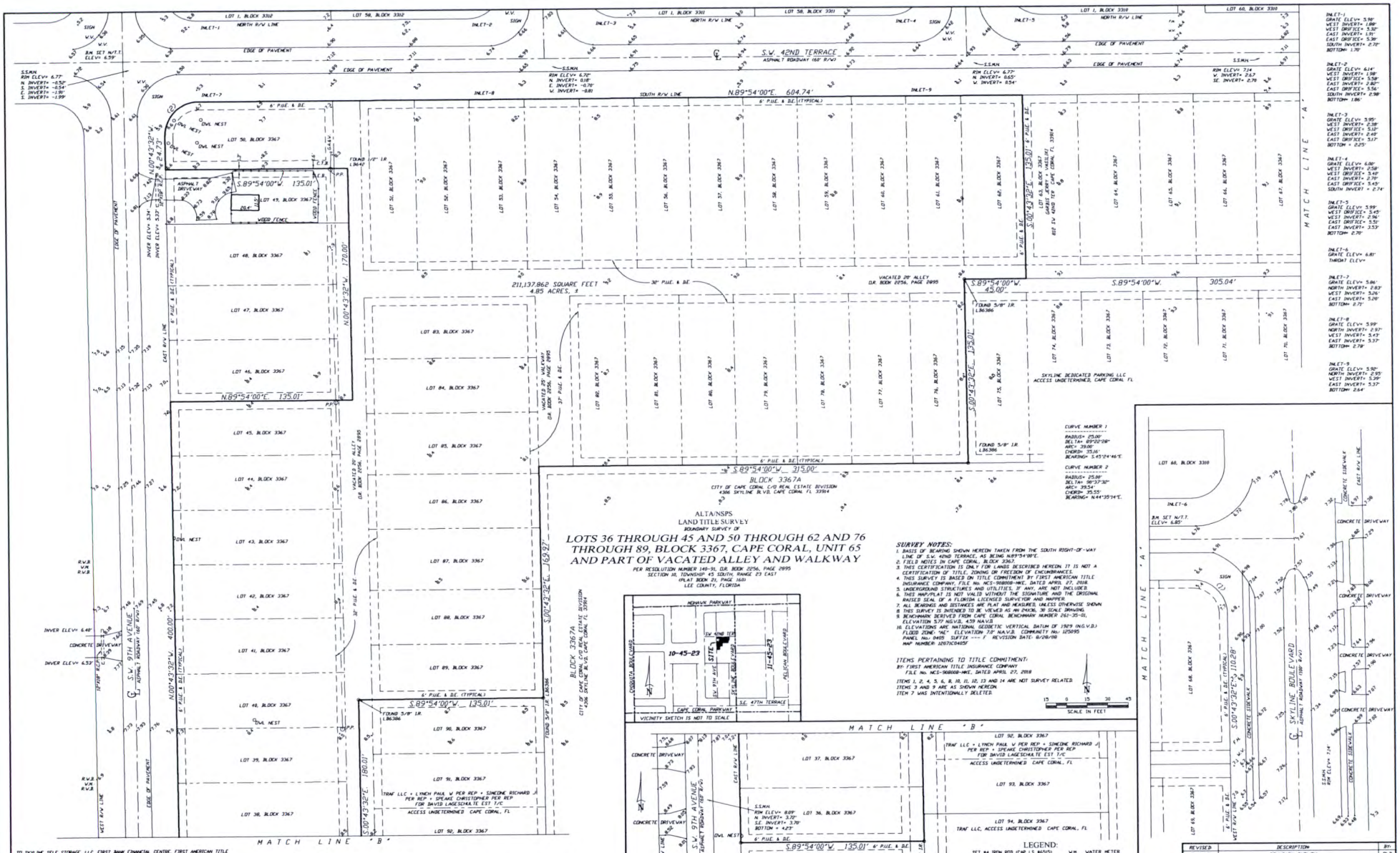
The site has been approved for a special exception to allow for self-storage units and a site plan has also been approved for the initial phase of the development. This vacation and creation of a new PUD easement will allow for the remaining phases of the development to be constructed as show in our latest site plan submittal.

Please let us know if you have any questions or concerns regarding these applications.

Sincerely,

Joe Mazurkiewicz, Jr.

Joe Mazurkiewicz, Jr. Ph.D.
President, BJM Consulting, Inc.



ALTA/NSPS
LAND TITLE SURVEY
BOUNDARY SURVEY OF

LOTS 36 THROUGH 45 AND 50 THROUGH 62 AND 76 THROUGH 89, BLOCK 3367, CAPE CORAL, UNIT 65 AND PART OF VACATED ALLEY AND WALKWAY

PER RESOLUTION NUMBER 140-91, O.R. BOOK 2256, PAGE 2895
SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST
(PLAT BOOK 21, PAGE 160)
LEE COUNTY, FLORIDA

SURVEY NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE, AS BEING N.89°54'00"E.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
4. THIS SURVEY IS BASED ON TITLE COMMITMENT BY FIRST AMERICAN TITLE INSURANCE COMPANY, FILE No. NCS-908808-MEC, DATED APRIL 27, 2018.
5. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
6. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN.
8. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 24X36, 30 SCALE DRAWING.
9. BENCHMARK DERIVED FROM CAPE CORAL BENCHMARK NUMBER 261-35-01, ELEVATION 5.77 NGVD, 4.59 NAVD.
10. ELEVATIONS ARE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D.)
FLOOD ZONE: "AE" ELEVATION 7.0' NAVD. COMMUNITY No.: 125095
PANEL No.: 0405 SUFFIX ==> F REVISION DATE: 8/28/08
MAP NUMBER: 12071C0405F

ITEMS PERTAINING TO TITLE COMMITMENT:

BY: FIRST AMERICAN TITLE INSURANCE COMPANY
FILE No. NCS-908808-MEC, DATED APRIL 27, 2018

ITEMS 1, 2, 4, 5, 6, 8, 10, 11, 12, 13 AND 14 ARE NOT SURVEY RELATED.
ITEMS 3 AND 9 ARE AS SHOWN HEREON.
ITEM 7 WAS INTENTIONALLY DELETED.

LEGEND:

O	SET 84 IRON ROD (CAP LS #6515)
O	FOUND IRON ROD (I.R.)
C.P.M.	CONCRETE MONUMENT (C.M.)
P.R.M.	PERMANENT REFERENCE MONUMENT
P.C.P.	PERMANENT CONTROL POINT
P.U.E.	PUBLIC UTILITY EASEMENT
B.E.	DRAINAGE EASEMENT
O.R.	OFFICIAL RECORDS BOOK
C.T.V.	CABLE TELEVISION BOX
T.S.B.	TELEPHONE SERVICE BOX
R.V.B.	RECLAIM WATER BOX
G.A.W.	GUY ANCHOR & WIRE
⊥	TYPICAL ELEVATION
A/C	AIR CONDITIONER
W.M.	WATER METER
W.V.	WATER VALVE
F.H.	FIRE HYDRANT
O.H.	OVERHEAD POWER
P.P.	POWER POLE
E.B.	ELECTRIC BOX
N/S	NAIL & DISK
N/T	NAIL & TINTAB
ELEV.	ELEVATION
B.M.	BENCHMARK
(1)	CURVE NUMBER
R/W	RIGHT-OF-WAY
℄	CENTERLINE
	CONCRETE

TO SKYLINE SELF STORAGE, LLC, FIRST BANK FINANCIAL CENTRE, FIRST AMERICAN TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS AND INCLUDES ITEMS 1, 2, 3, 4, 5, 8, 11, 13, 16, 17, 18 AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON JULY 10, 2017.

PHILLIP M. HOULB
LS #6515
JUNE 26, 2018

DESCRIPTION: (PER TITLE COMMITMENT)

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LEE, STATE OF FL, AND IS DESCRIBED AS FOLLOWS:

LOTS 36 THROUGH 45, INCLUSIVE, LOTS 50 THROUGH 62, INCLUSIVE AND LOTS 76 THROUGH 89, INCLUSIVE, ALL IN BLOCK 3367, CAPE CORAL UNIT 65, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 21, PAGES 151 THROUGH 164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA

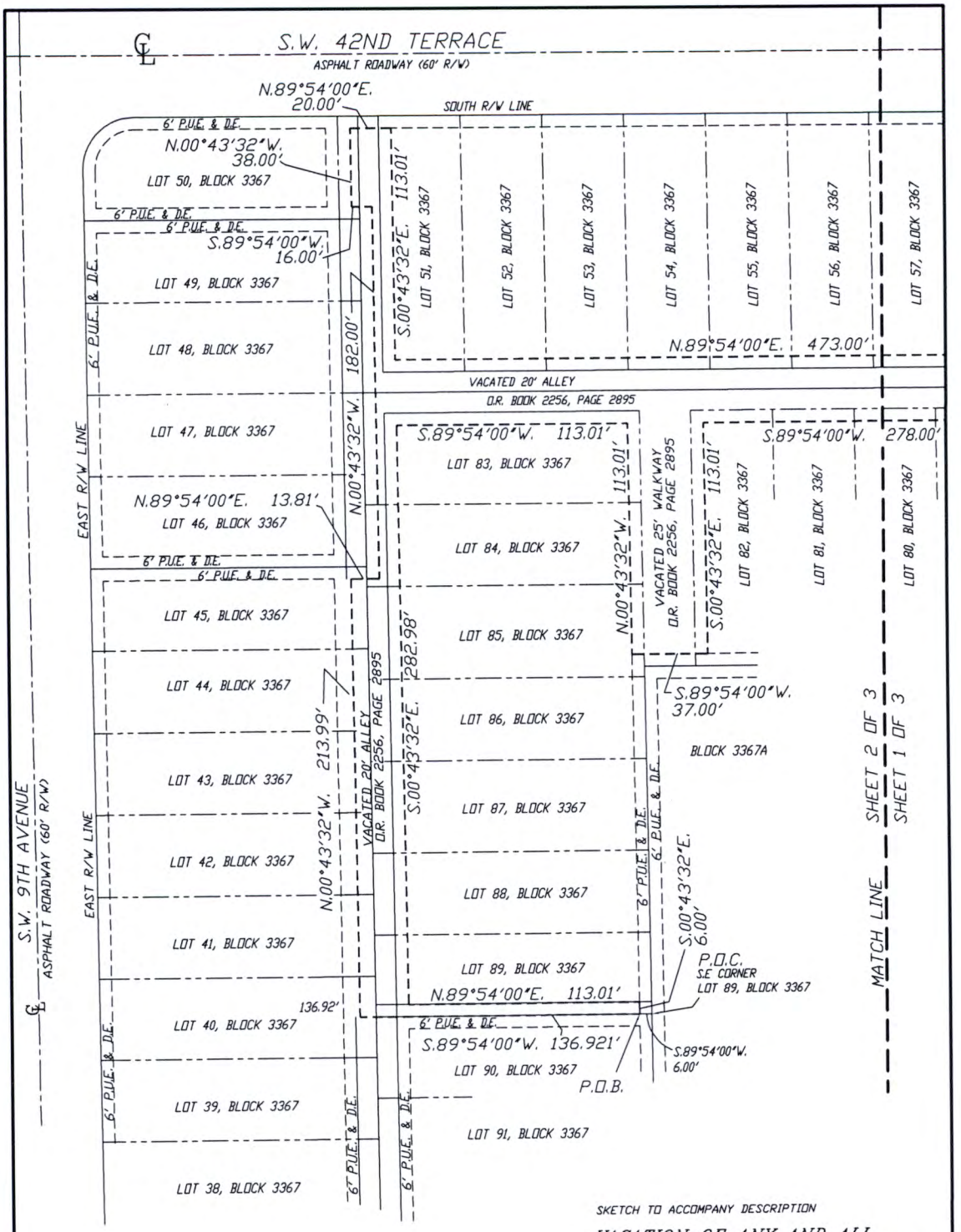
TOGETHER WITH THOSE PORTIONS OF THE VACATED ALLEY IN BLOCK 3367, AS SET FORTH IN RESOLUTION 140-91, RECORDED IN OFFICIAL RECORDS BOOK 2256, PAGE 2895, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

REVISED	DESCRIPTION	BY:
7/18/17	BOUNDARY SURVEY	RLB
6/26/18	REVISED TO ALTA SURVEY	FBH

DATE OF LAST FIELD WORK: 7/18/17

CERTIFICATE OF AUTHORIZATION LB #6921

DRAWN	CHECK	SCALE	PROJ. #	HARRIS-JORGENSEN, LLC 3946 DEL PRADO BLVD. S. 3A CAPE CORAL, FLORIDA 33904 PHONE: (239) 257-2624 FAX: (239) 257-2921
FBH	PMM	1"=30'	CC-LB6-3367-37	
SURVEY DATE		FILE NO.	SHT.- 1	
7/6/17		45-23-10	OF - 1	



SKETCH TO ACCOMPANY DESCRIPTION

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "A" SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH AND SEE SHEET 2 OF 3 FOR CONTINUATION OF THIS SKETCH

LEGEND:

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

N

30 0 30 60 90

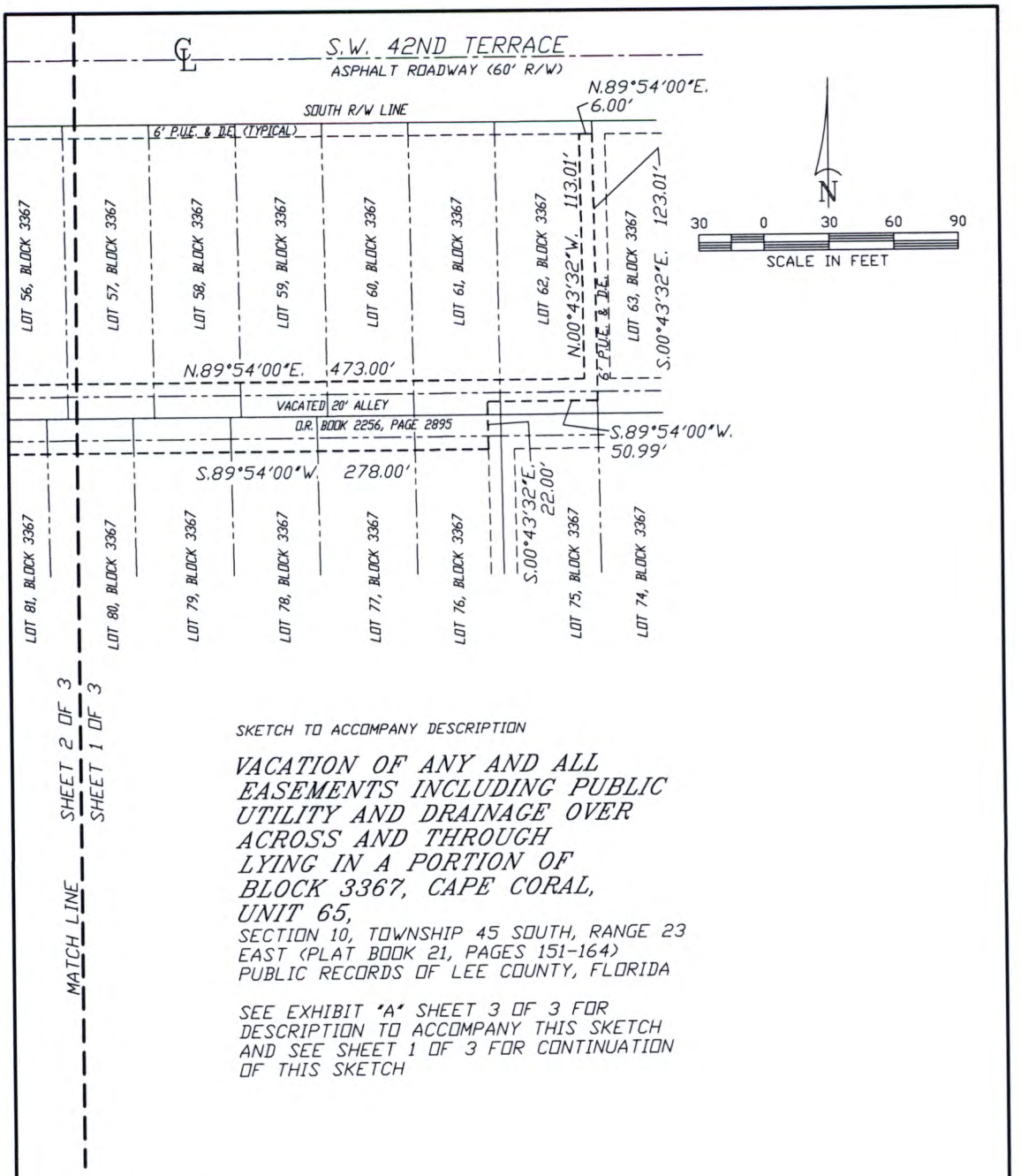
SCALE IN FEET

NOT A BOUNDARY SURVEY

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. .S
3A
CAPE CORAL, FL. 33904
239-257-2624

SHEET 1 OF 3
SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH
SEE SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

CC-U65-3367-37



SKETCH TO ACCOMPANY DESCRIPTION

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "A" SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH AND SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE, AS BEING N.89°54'00"E.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
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7. THIS MAP/SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8½x14, 60 SCALE DRAWING.

LEGEND:

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

NOT A BOUNDARY SURVEY

SHEET 2 OF 3
SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH
SEE SHEET 3 OF 3 (EXHIBIT "A") FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S
3A
CAPE CORAL, FL. 33904
239-257-2624

CC-U65-3367-37

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE EASEMENTS OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEETS 1 AND 2 OF 3 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 89, BLOCK 3367, CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.89°54'00"W. ALONG THE SOUTH LINE SAID LOT 89, BLOCK 3367 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°54'00"W. FOR 136.92 FEET; THENCE RUN N.00°43'32"W. FOR 213.99 FEET; THENCE RUN N.89°54'00"E. FOR 13.81 FEET; THENCE RUN N.00°43'32"W. FOR 182.00 FEET; THENCE RUN S.89°54'00"W. FOR 16.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT LYING 6.00 FEET SOUTH AS MEASURED ON A PERPENDICULAR OF THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 65 FOR 38.00 FEET; THENCE RUN N.89°54'00"E. FOR 20.00 FEET; THENCE RUN S.00°43'42"E. FOR 113.01 FEET; THENCE RUN N89°54'00"E. FOR 473.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT 6.00 SOUTH AS MEASURED ON A PERPENDICULAR FROM SAID SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) FOR 113.0 FEET; THENCE RUN N89°54'00"E. FOR 6.00 FEET; THENCE RUN S.00°43'32"E. FOR 123.01 FEET; THENCE RUN S.89°54'00"W. FOR 50.99 FEET; THENCE RUN S.00°43'32"E. FOR 22.00 FEET; THENCE RUN S.89°54'00"W. FOR 278.00 FEET; THENCE RUN S.00°43'32"E. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 37.00 FEET; THENCE RUN N.00°43'32"W. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 282.98 FEET; THENCE RUN N.89°54'00"E. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 27,429.27 SQ FT, MORE OR LESS.

Phillip M Mould

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
2/14/18

CC-U65-3367-37
NOT A BOUNDARY SURVEY

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. .S
3A
CAPE CORAL, FL. 33904
239-257-2624

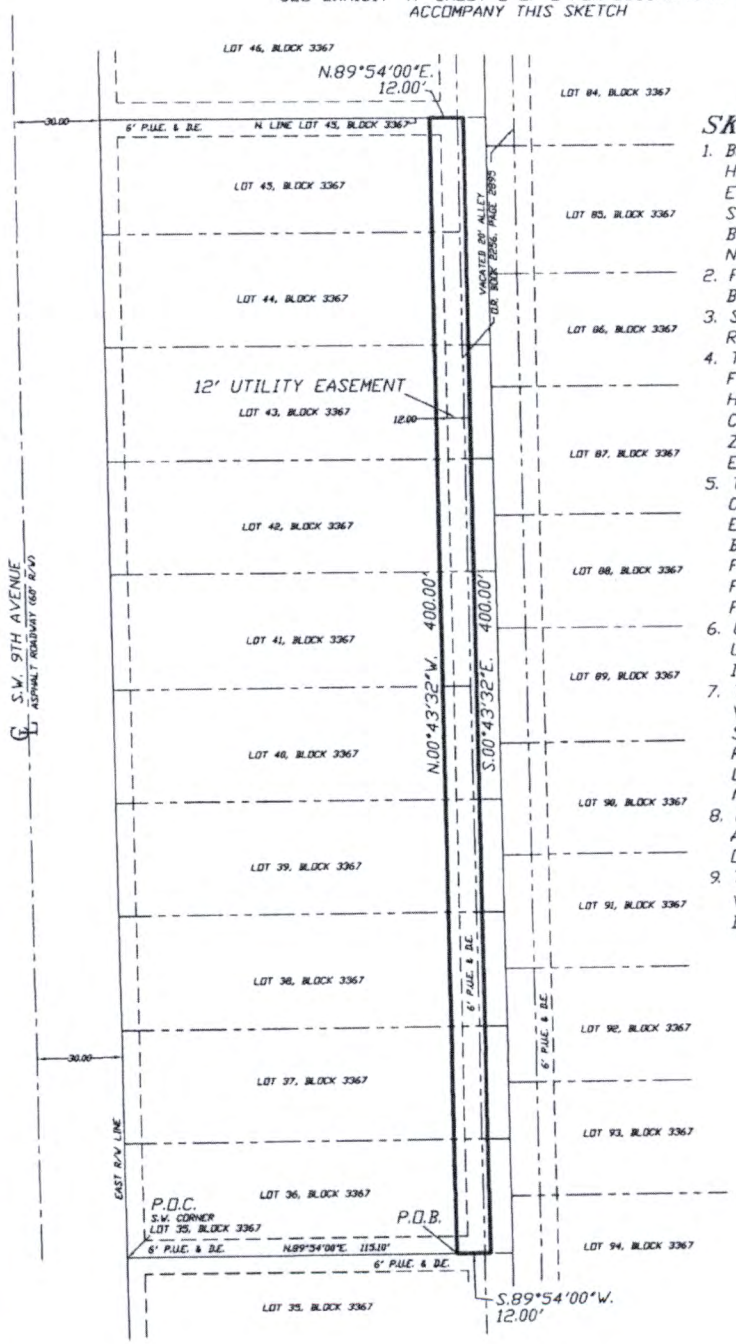
SHEET 3 OF 3
SEE SHEET 1 AND 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

SKETCH TO ACCOMPANY DESCRIPTION

12 FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST
(PLAT BOOK 21, PAGES 151-164)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

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



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE TERRACE, AS BEING "ASSUMED" AS N.00°43'32"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
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8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8½x14, 50 SCALE DRAWING.

LEGEND:

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

N

25 0 25 50 75

SCALE IN FEET

SHEET 1 OF 2
SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
NOT A BOUNDARY SURVEY

CC-U65-3367-37

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S
3A
CAPE CORAL, FL. 33904
239-257-2624

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH

12 FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

NOT A BOUNDARY SURVEY

DESCRIPTION: UTILITY EASEMENT

COMMENCING AT THE SOUTHWEST CORNER OF LOT 36, BLOCK 3367 AND THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE (60 FEET WIDE), CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°54'00"E. ALONG THE SOUTH LINE SAID LOT 36, BLOCK 3367 FOR 115.10 FEET TO THE POINT OF BEGINNING; THENCE RUN N.00°43'32"W. TO A POINT ALONG THE NORTH LINE OF LOT 45, OF SAID BLOCK 3367 FOR 400.00 FEET; THENCE RUN N.89°54'00"E FOR 12.00 FEET; THENCE RUN S.00°43'32"E. FOR 400.00 FEET; THENCE RUN S.89°54'00"W. FOR 12.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,800 SQ FT, MORE OR LESS.

Phillip M Mould

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
4/17/18

CC-U65-3367-37
NOT A BOUNDARY SURVEY

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. .S
3A
CAPE CORAL, FL. 33904
239-257-2624

SEE SHEET 1 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

CenturyLink

Attention:
Joe Mazurkiewicz
joe@bjmconsult.com
P O Box 101655
Cape Coral, Fl 33910
Phone: (239) 470-5778

Subject: - No Objection Request/ Vacation of Internal Lot Lines and PUD's, BLK 3367

Site Address: Skyline Self Storage 818 SW 42nd Terrace Cape Coral FL
33 lots in Block 3367 Strap# 10-45-23-C2-03367.0510

Dear Joe Mazurkiewicz (BJM Consulting, INC)

Regarding the referenced property above CenturyLink has **No Objection** to the Vacation of Internal Lot Lines and PUD's, BLK 3367 described by BJM Consulting. This will effectively remove all internal PUE between the 33 lots but keep a 6' PUE around the perimeter of said 33 lots described by BJM Consulting on their Exhibit Plan.

Sincerely

JUSTIN LANE

THANK YOU!
Justin Lane
OSP Engineering
3301 Del Prado Blvd S
Office: (239)-984-7009
justin.lane@centurylink.com

12600 Westlinks Drive Suite 4
Fort Myers Fl. 33913
Phone: 239-432-1805

May 3, 2018

BJM Consulting
C/O Joe Mazurkiewicz
P.O. Box 101655
Cape Coral, Florida 33910

Re; Vacation of Internal lot lines and PUD's, BLK 3367 (818 SW 42nd Terrace)

Dear Joe Mazurkiewicz,

This letter will serve to inform you that Comcast has no objection to your proposed vacation of the address referenced above.

Should you require additional information or assistance, please feel free to contact me here at 432-1805.

Cordially,

Mark Cook
Project Coordinator

Lee County Electric Cooperative, Inc.
Post Office Box 3455
North Fort Myers, FL 33918-3455
(239) 995-2121 • Fax (239) 995-7904
www.lcec.net

May 14, 2018

Mr. Joe Mazurkiewicz, Jr.
BJM Consulting
P.O. Box 101655
Cape Coral, FL 33910

Re: Letter of No Objection to Vacation of Internal Lot Lines Blks 4722 through 4725; Owner:Skyline Self Storage.

Dear Mr. Mazurkiewicz:

Your company, BJM Consulting, has opened up discussions on behalf of your client, Skyline Self Storage, LLC, with LCEC concerning development work performed affecting our easement located on blocks of the proposed subdivision plat.

We have reviewed your request, submitted related documents, and our internal files. LCEC has **no objection** to the development work being performed on the property and does not negatively affect our projected easement rights.

However, should there be any substantial changes to the plans as submitted, LCEC reserves its rights to additional, and further review and comment with additional conditions, if necessary, consistent with its findings.

Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at russel.goodman@lcec.net.

Very truly yours,

Russel Goodman, SR/WA

Russel Goodman, SR/WA
Senior Right of Way Agent - Land Rights

Planning Division Case Report VP 18-0005

Review Date: October 23, 2018

Property Owner: Skyline Self Storage, LLC

Applicant: Skyline Self Storage, LLC

Owner Address: 4848 SW 23rd Ave
Cape Coral, FL 33914

Authorized Rep. Joe Mazurkiewicz, BJM Consulting

Request: The applicant requests to vacate the following easements and lot lines in Unit 65, Block 3367, Cape Coral Subdivision:

1) Easements underlying a platted walkway and a portion of a platted alley whose rights-of-way were previously vacated by Resolution 140-91 as depicted in Exhibit A;
2) All platted easements associated with Lots 36-45, 51-62, and 76-89; and
3) All internal lot lines associated with Lots 36-45, 51-62, and 76-89.

Property Location: 824 SW 42nd Terrace

Prepared By: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

Approved By: Robert H. Pederson, AICP, Planning Manager

Recommendation: **Approval with conditions**

Urban Service Area: Infill and Transition

Property Description:

The site is ±4.85 acres, west of Skyline Boulevard, about 0.6 miles north of Cape Coral Parkway. The site is irregular and constitutes an assembly of 37 lots that includes a vacated walkway and part of a vacated alley (Figure 1). The site has frontage along two local streets; SW 42nd and Terrace SW 9th Avenue and is at the northwest corner of a deed-restricted City parking lot at 4306 Skyline Boulevard. Owners of sites adjacent to deed-restricted City parking lots are entitled to use these City properties to satisfy off-street parking area requirements provided the owner constructs the number of spaces necessary to satisfy the minimum number of parking spaces required by the Land Use and Development Regulations (LUDRs).

Resolution 140-91 vacated two, 25-foot wide walkways and part of a 20-foot wide alley in Block 3367. However, the underlying easements associated with the vacated alley were retained by the City. It is also unclear from the language in Resolution 140-91 whether easements associated with the walkways were retained by the City. For this reason, the applicant is requesting easements underlying a vacated walkway in the site be vacated as well.

The site has a Commercial/Professional Future Land Use Classification and Pedestrian Commercial (C-1) Zoning. Sites to the east and south share the same future land use and zoning classifications. Sites to the

north and west have either a Single Family or Multi-Family Future Land Use Classification and either Single Family Residential (R-1B) or Multi-Family Residential (R-3) Zoning.

Figure 1. Aerial map showing the parcel owned by Skyline Self Storage, LLC outlined in blue with respect to the adjacent City parking lot.

Zoning History of the Site

The Future Land Use Classification of the site has always been Commercial/Professional.

The zoning of the site has always been C-1.

On July 12, 2017 a special exception use for a Neighborhood Storage Facility use was approved for the site.

On June 14, 2018 a site plan for a 90,317 sq. ft. neighborhood storage facility was approved for the site.

Analysis:

Staff has analyzed this request for compliance with LUDR, Section 8.11, *"Vacation of plats, rights-of-way and other property,"* and consistency with the Comprehensive Plan.

<u>Request to Vacate Public Utility and Drainage Easements Underlying the Vacated Alley and Walkway</u>

Because of the earlier alley and walkway vacations, these easements now occupy the mid portion of the site and therefore restrict the future placement of buildings on the site. The applicant seeks to vacate easements underlying a platted walkway and a portion of a platted alley whose rights-of-way were previously vacated by Resolution 140-91 as more specifically depicted and described in Exhibit "A." The area of the easements requested to be vacated is ±27,429.27 sq. ft.

All easements are on property owned by Skyline Self Storage, LLC. The utility providers (CenturyLink, Comcast, and LCEC) lack facilities in these easements do not object to this request. The City also lacks facilities in the easements. Staff recommends a six-foot wide easement be provided by the applicant around the perimeter of the site for future utility installation and maintenance.

Request to Vacate Platted Easements

The applicant requests that all platted easements be vacated for Lots 36-45, 51-62, 76-89, all in Block 3367. Lot 50 that is owned by Skyline Self Storage, LLC is not included in this request as an anchor wire associated with a power pole occupies a platted easement associated with this lot. Overhead power lines are in the platted easements on the east side of Lots 36-45. These platted easements are proposed to be vacated. However, to protect these facilities, the owner will provide a 12-foot wide easement along the east side of Lots 36-45 as depicted and described in Exhibit "B." Elsewhere, utilities are lacking in the remaining platted easements. As a result, all three providers (Century Link, Comcast, and LCEC) do not object to this request. The City also lacks facilities in all the platted easements. This action will create a single parcel for new development that will be unencumbered by platted easements.

Request to Vacated Platted Lot Lines

The applicant requests that all platted lot lines be vacated for Lots 36-45, 51-62, 76-89, all in Block 3367. While the site can be developed lawfully consistent with City regulations with the lot lines intact, Planning staff has no objection to this request. Approval of this request may eliminate ambiguity on the part of developers, lenders, and insurers as to the immediate suitability of the site for development.

Consistency with the Comprehensive Plan

The vacation requests are consistent with the following policy that appears in the Comprehensive Plan.

Future Land Use Element

Policy 5.5. The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project. **Staff comment: The vacation of easements and lot lines will provide a "clean," consolidated building site and may eliminate uncertainty on the part of the development community as to the suitability of the site for new construction. This policy is supportive of this request.**

Recommendation:

Staff recommends **approval** of all requested vacations with the following conditions.

Conditions of Approval

1. The vacation of the underlying easements associated with the vacated alley along with the adjacent six-foot wide platted easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled *"Vacation of any and all easements including public utility and drainage over, across, and through lying in a portion of Block 3367, Cape Coral, Unit 65"*, (Sheets 1-3), and referred to as Exhibit "A" in this report.

2. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed that grants a minimum six-foot wide public utility and drainage easement around the perimeter of the site. The deed shall be approved by the City Property Broker prior to execution.

3. Within 60 days from the date of the adoption of this vacation, the owner shall provide to the City an easement deed that grants a 12-foot wide public utility and drainage easement along the east property line of Lots 36 to 45 in Block 3367 consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled *"12 foot wide utility easement in Block 3367, Cape Coral, Unit 65,"* and referred to as Exhibit "B" in this report. The deed shall be approved by the City Property Broker prior to execution.

4. This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with easement deeds as described in Conditions #2 and #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deeds.

Staff Contact Information

Mike Struve, AICP, LEED Green Associate, Development Management Team Coordinator
PH: 239-242-3255
Email: mstruve@capecoral.net

Exhibit "A" (Page 1 of 3)

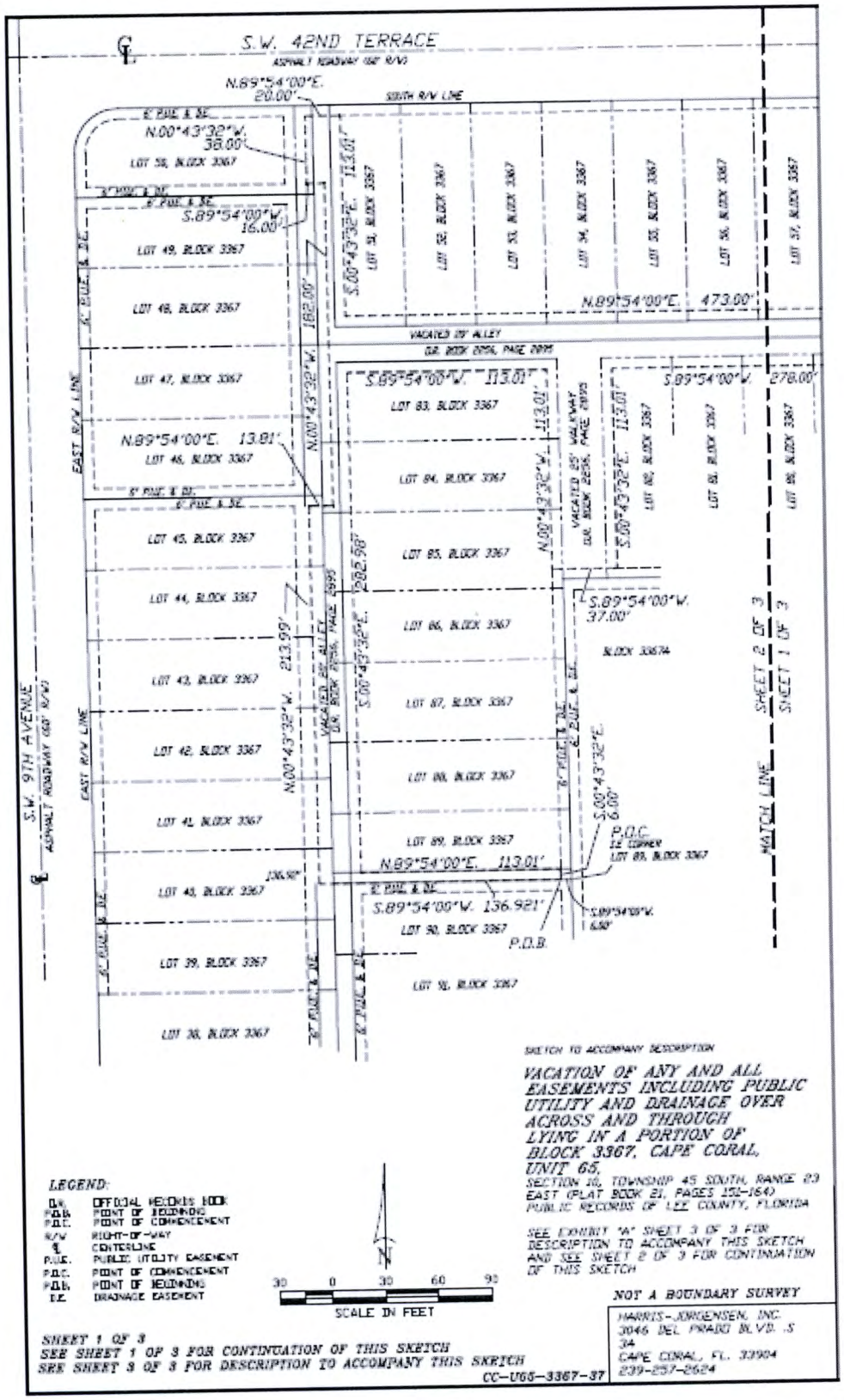
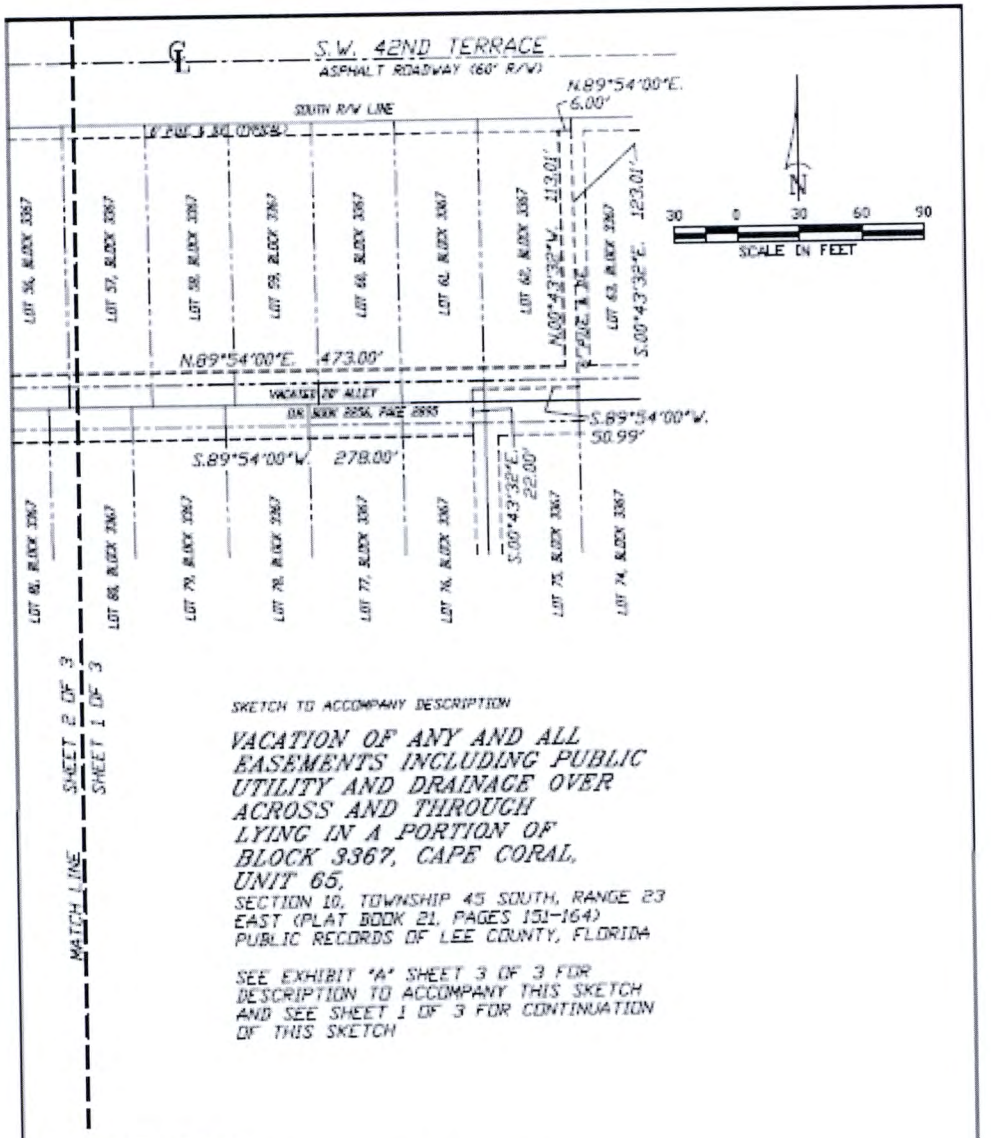


Exhibit "A" (Page 2 of 3)



SKETCH TO ACCOMPANY DESCRIPTION

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SEE EXHIBIT "A" SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH AND SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH

SKETCH NOTES:

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2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
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P.O.C.	POINT OF COMMENCEMENT
R/W	RIGHT-OF-WAY
℄	CENTERLINE
P.U.E.	PUBLIC UTILITY EASEMENT
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
D.E.	DRAINAGE EASEMENT

NOT A BOUNDARY SURVEY

SHEET 2 OF 3
SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH
SEE SHEET 3 OF 3 (EXHIBIT "A") FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

CC-065-3367-37

HARRIS-JORGENSEN, INC.
3646 DEL PRADO BLVD. S
3A
CAPE CORAL, FL. 33904
239-257-2624

Exhibit "A" (Page 3 of 3)

Legal Description of Vacated Area

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE EASEMENTS OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65, SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 89, BLOCK 3367, CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.89°54'00"W. ALONG THE SOUTH LINE SAID LOT 89, BLOCK 3367 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°54'00"W. FOR 136.92 FEET; THENCE RUN N.00°43'32"W. FOR 213.99 FEET; THENCE RUN N.89°54'00"E. FOR 13.81 FEET; THENCE RUN N.00°43'32"W. FOR 182.00 FEET; THENCE RUN S.89°54'00"W. FOR 16.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT LYING 6.00 FEET SOUTH AS MEASURED ON A PERPENDICULAR OF THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 65 FOR 38.00 FEET; THENCE RUN N.89°54'00"E. FOR 20.00 FEET; THENCE RUN S.00°43'42"E. FOR 113.01 FEET; THENCE RUN N89°54'00"E. FOR 473.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT 6.00 SOUTH AS MEASURED ON A PERPENDICULAR FROM SAID SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) FOR 113.0 FEET; THENCE RUN N89°54'00"E. FOR 6.00 FEET; THENCE RUN S.00°43'32"E. FOR 123.01 FEET; THENCE RUN S.89°54'00"W. FOR 50.99 FEET; THENCE RUN S.00°43'32"E. FOR 22.00 FEET; THENCE RUN S.89°54'00"W. FOR 278.00 FEET; THENCE RUN S.00°43'32"E. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 37.00 FEET; THENCE RUN N.00°43'32"W. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 282.98 FEET; THENCE RUN N.89°54'00"E. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 27,429.27 SQ FT, MORE OR LESS.

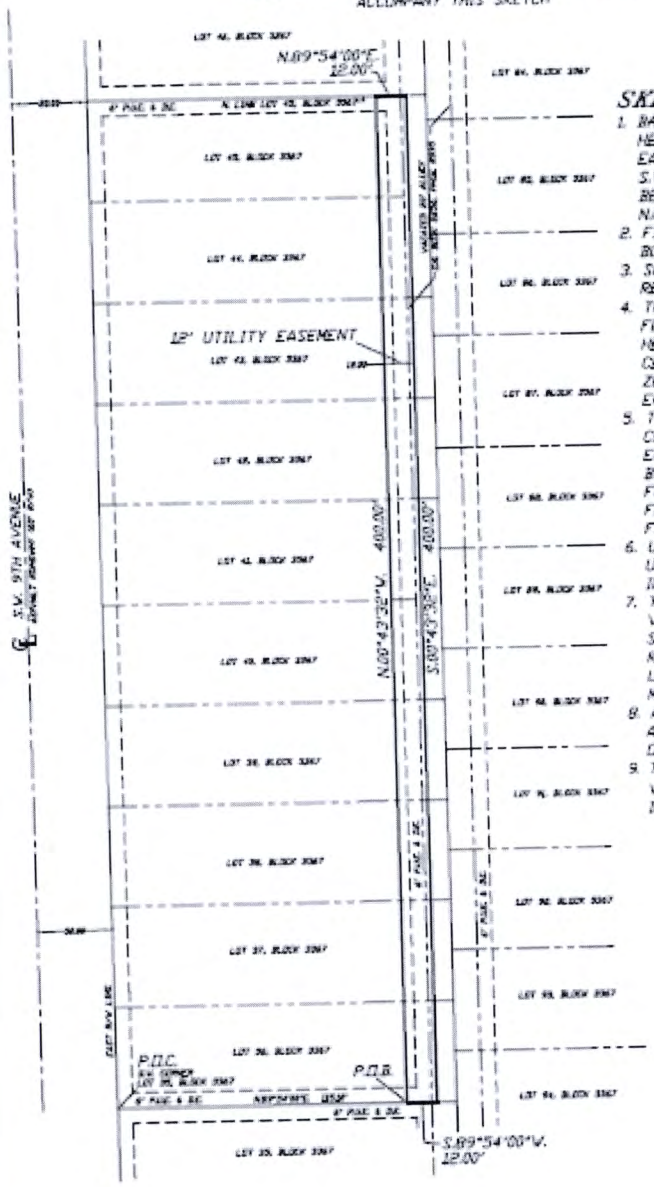
Exhibit "B" (Page 1 of 2)

SKETCH TO ACCOMPANY DESCRIPTION

12 FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65.

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST
(PLAT BOOK 21, PAGES 151-164)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

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



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE TERRACE, AS BEING "ASSUMED" AS N.00°43'32"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8½x14, 50 SCALE DRAWING.

LEGEND:

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

25 0 25 50 75
SCALE IN FEET

SHEET 1 OF 2
SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
NOT A BOUNDARY SURVEY

CC-U65-3367-37

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S
3A
CAPE CORAL, FL. 33904
239-257-2624

Exhibit "B" (Page 2 of 2)

Legal Description

12 FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164)

PUBLIC RECORDS OF LEE COUNTY, FLORIDA;

DESCRIPTION: UTILITY EASEMENT

COMMENCING AT THE SOUTHWEST CORNER OF LOT 36, BLOCK 3367 AND THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE (60 FEET WIDE), CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°54'00"E. ALONG THE SOUTH LINE SAID LOT 36, BLOCK 3367 FOR 115.10 FEET TO THE POINT OF BEGINNING; THENCE RUN N.00°43'32"W. TO A POINT ALONG THE NORTH LINE OF LOT 45, OF SAID BLOCK 3367 FOR 400.00 FEET; THENCE RUN N.89°54'00"E FOR 12.00 FEET; THENCE RUN S.00°43'32"E. FOR 400.00 FEET; THENCE RUN S.89°54'00"W. FOR 12.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,800 SQ FT, MORE OR LESS.

COUNCILMEMBER GIEBELS

VP 09-91-508
09/30/91

RESOLUTION 140 - 91

A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR A PORTION OF A TWENTY (20) FOOT ALLEY AND TWO (2) TWENTY-FIVE (25) FOOT WALKWAYS LYING WITHIN BLOCK 3367, UNIT 65, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 21, PAGE 157 AND 160, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; PROPERTY LOCATED WEST ON SKYLINE, BETWEEN SOUTHWEST 42ND TERRACE AND SOUTHWEST 44TH STREET; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petition was filed by CITY OF CAPE CORAL for the vacation of plat on property described herein; and

WHEREAS, the Petition meets the requirements of Land Use Development Regulations, Article VIII, Section 8.11, Vacation of Plats, Streets and Other Property of the Code of Ordinances of the City of Cape Coral and it is to the best interest of the public that such Petition be granted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. That the Petition meets the requirements of City of Cape Code Article VIII, Section 8.11, of the Code of Ordinances of the City of Cape Coral and it is in the best interest of the public that such Petition be granted. The following-described portion of a twenty (20) foot alley and two (2) twenty-five (25) foot walkways are hereby vacated except the City retains and reserves the entire described alley for public utilities and drainage, and incidentals therewith, and all existing utility easements, to wit:

Two certain tracts of land situated in the SE 1/4 NE 1/4, NE 1/4 SE 1/4 of Section 10, Township 45 South, Range 23 East, Lee County, Florida, being a portion of alleys and walkways located in Block 3367, Cape Coral Subdivision, Unit 65, as recorded in Plat Book 21, Pages 157 and 160, of the Public Records of Lee County, FLorida, being more particularly described as follows:

TRACT ONE: Commencing at the northwest corner of Lot 51, Block 3367, the Point of Beginning, being a point on the south right of way line of SW 42 Terrace; Thence S00°43'32"E a distance of 125.01 feet to the southwest corner of Lot 51; Thence N89°54'00"E a distance of 745.05 feet along the south line of Lots 51 through 68, to the southeast corner of Lot 68, being a point on the west right of way line of Skyline Boulevard; Thence S00°43'32"E a distance of 20.00 feet along the last described line, to the northeast corner of Lot 69; Thence S89°54'00"W a distance of 595.04 feet along the north line of Lots 69 through 82 to the northwest corner of Lot 82; Thence S00°43'32"E a distance of 125.01 feet to the southwest corner of Lot 82; Thence S89°54'00"W a distance of 25.00 feet along the south line of a walkway to a point on the east line of Lot 85; Thence N00°43'32"W a distance of 125.01 feet along the east line of Lots 83 through 85, to the northeast corner of Lot 83; Thence S89°54'00"W a distance of 125.01 feet to the northwest corner of Lot 83; Thence S00°43'32"E a distance of 1,019.98 feet along the west line of Lots 83 through 107 to the southwest corner of Lot 107; Thence S89°54'00"W a distance of 20 feet to a point on the east line of Lot 22; Thence N00°43'32"W a distance of 1164.99 feet along the west line of Lots 22 through 50, to the northeast corner of Lot 50, being also a point on the south right of way line of SW 42 Terrace; Thence N89°54'00"E a distance of 20.00 feet to the Point of Beginning, said tract containing 41,324 square feet of 0.949 acres, more or less.

TRACT TWO: Commencing at the northwest corner of Lot 108, Block 3367, the Point of Beginning; being also the northeast corner of a walkway; Thence S00°43'32"E a distance of 125.01 feet to the southwest corner of Lot 108, being a point on the north line of an alley and also the southeast corner of a walkway; Thence S89°54'00"W a distance of 25.00 feet along the last described line to the southeast corner of Lot 107, being also the southwest corner of a walkway; Thence N00°43'32"W a distance of 125.01 feet along the east line of Lots 104 through 107, to the northwest corner of a walkway; Thence N89°54'00"E a distance of 25.00 feet along the north line of a walkway, to the Point of Beginning, said tract containing 3,125 sqare feet, or 0.072 acres, more or less.

Section 2. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 28th DAY OF October, 1991.

JOSEPH M. MAZURKIEWICZ, JR.
MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 30th DAY OF October, 1991.

EULA R. JORGENSEN, CITY CLERK

LEGAL REVIEW:

BRUCE R. CONROY
CITY ATTORNEY
2544E/81

NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP18-0005

REQUEST: Skyline Self Storage, LLC seeks a vacation of plat for easements underlying a platted walkway and a portion of a platted alley whose rights-of-way were previously vacated by Resolution 140-91 in Block 3367, Unit 65, Cape Coral; and a vacation of platted easements and lot lines in Lots 36-45, 51-62, and 76-89 in Block 3367, Unit 65, Cape Coral. The property is located at 824 SW 42nd Terrace.
CAPE CORAL STAFF CONTACT: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator, 239-242-3255, mstruve@capecoral.net

PROPERTY OWNER(S): Skyline Self Storage, LLC

AUTHORIZED REPRESENTATIVE: Joe Mazurkiewicz, BJM Consulting, 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, November 6, 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 five 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.
After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice if this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (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.

APPEALS: 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.

The News-Press media group

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Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Ad No.: 0003219169

Net Amt: $393.14

Run Times: 1

No. of Affidavits: 1

Run Dates: 10/27/18

Text of Ad:

NOTICE OF PUBLIC HEARING
CASE NUMBER: VP18-0005

REQUEST: Skyline Self Storage, LLC seeks a vacation of plat for easements underlying a platted walkway and a portion of a platted alley whose rights-of-way were previously vacated by Resolution 140-91 in Block 3367, Unit 65, Cape Coral; and a vacation of platted easements and lot lines in Lots 36-45, 51-62, and 76-89 in Block 3367, Unit 65, Cape Coral. The property is located at 824 SW 42nd Terrace.

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

PROPERTY OWNER(S):
Skyline Self Storage, LLC

AUTHORIZED REPRESENTATIVE:
Joe Mazurkiewicz, BJM Consulting, Inc.

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by order of
Rebecca van Deutekom, MMC
City Clerk
REF # VP18-0005
AD# 3219169 Oct. 27, 2018

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Skyline Self Storage LLC

APPLICATION NO: VP18-0005

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 29th day of October, 2018.

Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

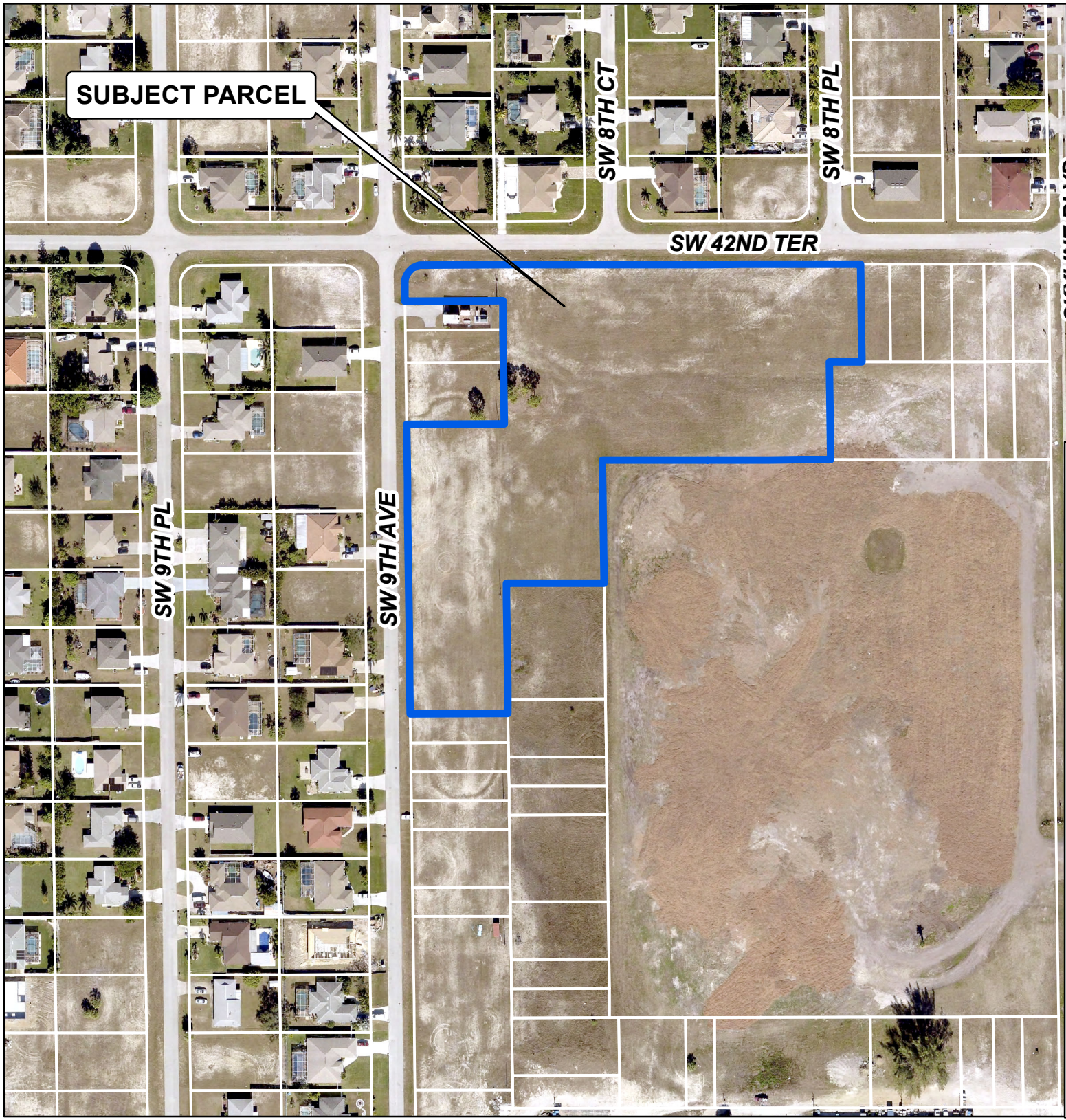
The foregoing instrument was acknowledged before me this 29th day of October, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # GG030474

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public



CITY OF CAPE CORAL
Department of
Community Development
Planning Division

Case No. VP18-0005

Subject Parcel

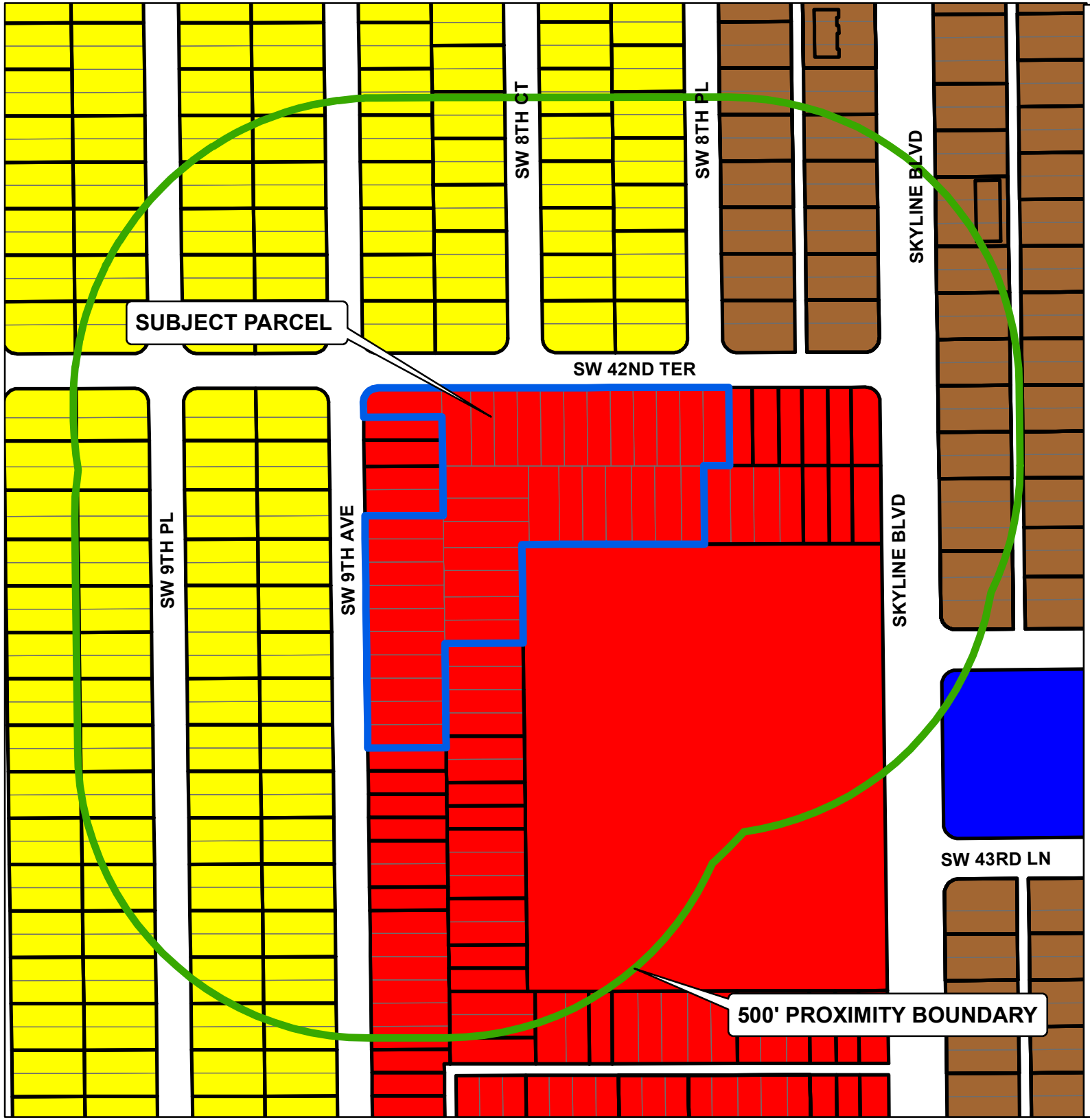
Cape Coral FLORIDA
You'll Like the Attitude in Paradise

N W E S

AUGUST 16TH, 2018

Feet
0 175 350

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.



CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Boundary

Case No. VP18-0005

LEGEND

500' Proximity Boundary
Subject Parcel

Zoning

C-1
R-1B
R-3
W

Cape Coral FLORIDA
You'll Like the Attitude in Paradise

N
W E
S

AUGUST 16TH, 2018

Feet
0 275 550

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OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL
HEARING EXAMINER RECOMMENDATION
VP HEX Recommendation 10-2018
DCD CASE # VP 18-0005
Rendered November 6, 2018

APPLICATION FOR: Vacation of Easements and Internal Lot Lines

OWNER/APPLICANT: Skyline Self Storage, LLC

APPLICANT'S REPRESENTATIVE: BJM Consulting, Joe Mazurkiewicz, Ph.D.

LOCATION OF PROPERTY: 824 SW 42nd Terrace, Cape Coral, FL

ZONING DISTRICT: Pedestrian Commercial (C-1)

FUTURE LAND USE CLASSIFICATION: Commercial/Professional

URBAN SERVICE: Transition and Infill

HEARING DATE: November 6, 2018

SUMMARY OF REQUEST: The Applicant requests the vacation of the following easements and lot lines in Unit 65, Block 3367, Cape Coral Subdivision:

1) Easements underlying a platted walkway and a portion of a platted alley (whose rights-of-way were previously vacated by Resolution 140-91);
2) All platted easements associated with Lots 36-45, 51-62, and 76-89; and
3) All internal lot lines associated with Lots 36-45, 51-62, and 76-89.

I. SUMMARY OF HEARING EXAMINER RECOMMENDATION

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

II. NOTICE OF HEARING

Based on the testimony of City Staff Michael Struve at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, §8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

III. PARTICIPANTS IN HEARING

CITY STAFF: Michael Struve, AICP [1]

[1] Mr. Struve was recognized as an expert in land planning issues associated with this Application, based upon his prior appearances before the Hearing Examiner and his credentials which are on file with the City Clerk's Office.

CITY CLERK'S OFFICE: Patricia Sorrels

APPLICANT'S REPRESENTATIVE: BJM Consulting, Joe Mazurkiewicz, Ph.D.[2]

MEMBERS OF PUBLIC: none

IV. EXHIBITS

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

V. REVIEW OF LUDR REQUIREMENTS

Authority. The Hearing Examiner has the authority to recommend approval or denial of an application for a vacation of a plat and associated easements pursuant to LUDR §9.2.3 b.8.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's recommendation is based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court. The Hearing Examiner must consider all competent substantial evidence in the record as defined by LUDR § 8.3.1.C.3.b.

LUDR Standards. The Hearing Examiner reviewed the application in accordance with the standards set forth in LUDR § 8.11, *Vacation of plats, rights-of-way and other property*, in addition to the general standards set forth in the LUDRs and the City Comprehensive Plan.

VI. TESTIMONY AT HEARING

Applicant's Representative's Incorporation of Staff Report and Staff Testimony

The Applicant's Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into his presentation by reference. He requested the Hearing Examiner to recommend that City Council find the Staff Input as findings of fact, in addition to those separately presented by him.

Hearing Examiner's Recommended Findings of Fact.

All documentary and oral testimony below is accepted by the Hearing Examiner as recommended findings of fact, unless specifically noted otherwise. The Hearing

[2] Mr. Mazurkiewicz, Ph.D. was recognized as an expert in land planning issues associated with this Application, based upon his prior appearances before the Hearing Examiner and his C.V. which is on file with the City Clerk's Office.

Examiner recommends that the City Council accept such testimony as findings of fact to substantiate its decision regarding this Application.

VII. DISCUSSION

Site, Zoning History and Surrounding Area

Staff testified that the site, located west of Skyline Boulevard and approximately 0.6 miles north of Cape Coral Parkway, is ±4.85 acres and is irregular in size. Staff further testified that the site constitutes an assembly of 37 lots that includes a vacated walkway and part of a vacated alley, has frontage along two local streets; SW 42nd and Terrace SW 9th Avenue and is at the northwest corner of a deed-restricted City parking lot at 4306 Skyline Boulevard.

It is important to note that owners of sites adjacent to deed-restricted City parking lots are entitled to use these City properties to satisfy off-street parking area requirements, provided the owner constructs the number of spaces necessary to satisfy the minimum number of parking spaces required by the Land Use and Development Regulations (LUDRs). That permission is not part of this application or this recommendation.

The City's Resolution 140-91 vacated two, 25-foot wide walkways and part of a 20-foot wide alley in Block 3367. However, the underlying easements associated with the vacated alley were retained by the City. It is also unclear from the language in Resolution 140-91 whether easements associated with the walkways were retained by the City. For this reason, the Applicant is requesting easements underlying a vacated walkway in the site be vacated as well, in an abundance of caution. The Future Land Use Classification of the site has always been Commercial/Professional.

The zoning of the site has always been C-1.On July 12, 2017 the Hearing Examiner approved a special exception use for a Neighborhood Storage Facility use for the site. On June 14, 2018 a site plan for a 90,317 square feet neighborhood storage facility was approved by City Staff for the site.

Sites to the east and south of the site share the subject property's Commercial/Professional Future Land Use Classification and Pedestrian Commercial (C-1) Zoning. Sites to the north and west have either a Single Family or Multi-Family Future Land Use Classification and either Single Family Residential (R-1B) or Multi-Family Residential (R-3) Zoning.

Review of Request

Staff testified that, due to the prior alley and walkway vacations, the referenced easements now occupy the mid portion of the site and therefore restrict the future placement of buildings on the site. The Applicant seeks to vacate easements underlying a platted walkway and a portion of a platted alley whose rights-of-way were previously vacated by Resolution 140-91. Staff further testified that the area of the easements requested to be vacated is ±27,429.27 square feet.

All easements are on property owned by Skyline Self Storage, LLC. The utility providers (CenturyLink, Comcast, and LCEC) lack facilities in these easements do not object to this request. The City also lacks facilities in the easements. Staff recommends a six-foot wide easement be provided by the applicant around the perimeter of the site for future utility installation and maintenance.

Secondly, the Applicant requests that all platted easements be vacated for Lots 36-45, 51-62, 76-89, all in Block 3367. It is important to note, however, that the Applicant has not requested vacation of the platted easement associated with Lot 50 that is owned by Applicant; staff testified that the reason for this omission is that an anchor wire associated with a power pole occupies a platted easement associated with this lot. Overhead power lines are in the platted easements on the east side of Lots 36-45. These platted easements are proposed to be vacated. However, to protect these facilities, the owner will provide a 12-foot wide easement along the east side of Lots 36-45. Elsewhere, utilities are lacking in the remaining platted easements. As a result, all three providers (Century Link, Comcast, and LCEC) do not object to this request. The City also lacks facilities in all the platted easements. Staff testified that Applicant's intention in making these requests is to create a single parcel for new development that will be unencumbered by platted easements.

Thirdly, the Applicant requests that all platted lot lines be vacated for Lots 36-45, 51-62, 76-89, all in Block 3367. Staff testified that, although the site can be developed lawfully consistent with City regulations with the lot lines intact, they have no objection to this request, as approval of this request may eliminate ambiguity on the part of developers, lenders, and insurers as to the immediate suitability of the site for development.

Recommendation that City Council Find That Applicant Has Complied with All Requirements for the Requested Vacations, as Set Forth in LUDR §8.11

1. *Applicant* ***has*** *color of title (LUDR §8.11.3b.1)*

   Staff testified that Applicant owns all properties subject to this Vacation request.

2. *A copy of the plat* ***has*** *been provided, showing the portions for which vacation is sought (LUDR §8.11.3b.2)*

   It is attached as an Exhibit hereto.

3. and 4. *Letter of Approval from LCEC and Letters of No Objection from Century Link and Comcast (LUDR §8.11.3b.3 and LUDR §8.11.3b.4-6)* ***have been obtained.***

   As set forth above, Century Link, LCEC and Comcast do not object to these vacations.

5. *A copy of a recent boundary survey or survey sketch of the property prepared and executed by a registered surveyor,* ***has been provided,*** *showing the area requested to be vacated; providing complete metes and bounds legal descriptions of said areas, and showing all pavement and all utility and drainage facilities in said area, including water, sewer and cable lines, utility poles, swales, ditches, manholes and catch basins. Separate drawings and metes and bounds legal descriptions will be required for each proposed vacation area when the right-of-way and easement configurations differ. (LUDR §8.11.3b.7.B)*

   All necessary documents are attached as Exhibit "A".

6. *No Reasonably Foreseeable Public Use of the Vacated Area. (LUDR, §8.11.3 d)*

   Staff testified that the City has no facilities in the property subject to this request and, for the reasons outlined above, the City has no reasonably foreseeable public use for the alley or easements which form the basis for this request.

   It is recommended that, for the above reasons, the City Council finds there **is no reasonably foreseeable public use** for the requested vacations.

7. *City's Retention of Easements for Utilities and/or Drainage in and Upon the Vacated Area.* (LUDR, §8.11.3 d)

   It is recommended that the City Council retain a perimeter easement for utilities and/or drainage in and upon the vacated areas, as set forth in the conditions below. The Owner/Applicant, through Applicant's Representative, has agreed to this perimeter easement.

Consistency with the Comprehensive Plan (LUDR §8.11)

This request has been reviewed for consistency with the Comprehensive Plan, and specifically for consistency with Policy 5.5 of the Future Land Use Element which states:

> *"The City may consider the vacation of rights-of-way to facilitate land assembly and the development of a unified, contiguous commercial project."*

Staff testified that the vacation of easements and lot lines, as requested by Applicant herein, would provide a "clean," consolidated building site and may eliminate uncertainty on the part of the development community as to the suitability of the site for new construction. The Hearing Examiner agrees with Staff's testimony that this policy is supportive of this request.

Accordingly, it is recommended that the City Council find that the vacation requests **are consistent with the City's Comprehensive Plan**

Consistency with City Requirements and All Applicable Law

It is recommended that City Council find that granting the requested vacation, as conditioned below, **would be consistent** with the City Comprehensive Plan, Land Use Development Regulations, and all other applicable law.

VIII. RECOMMENDED CONDITIONS OF APPROVAL

City staff testified regarding recommendations for conditions of approval, set forth below. Applicant's Representative testified that Applicant has no objection to these conditions.

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

1. *Vacations Consistency with Sketch and Legal Description.* The vacation of the underlying easements associated with the vacated alley along with the adjacent six-foot wide platted easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled *"Vacation of any and all easements including public utility and drainage over, across, and through lying in a portion of Block 3367, Cape Coral, Unit 65"*, (Sheets 1-3), and referred to as Exhibit "A" in this report.

2. *Provision of Deed for Six Foot Wide Easement to City.* Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed that grants a minimum six-foot wide public utility and drainage easement around the perimeter of the site. The deed shall be approved by the City Property Broker prior to execution.

3. *Provision of Deed for Twelve Foot Wide Easement to City.* Within 60 days from the date of the adoption of this vacation, the owner shall provide to the City an easement deed that grants a 12-foot wide public utility and drainage easement along the east property line of Lots 36 to 45 in Block 3367 consistent with that shown in the sketch and accompanying legal description prepared by Harris-Jorgensen, Inc. entitled *"12 foot wide utility easement in Block 3367, Cape Coral, Unit 65,"* and referred to as Exhibit "B" in this report. The deed shall be approved by the City Property Broker prior to execution.

4. *Recording of Resolution.* This resolution shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This resolution shall not be effectuated until the applicant provides the City with easement deeds as described in Conditions #2 and #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deeds.

5. *Compliance with Zoning District Standards and Requirements and Inclusion of LUDRs, City Ordinances and Other Applicable Law.* Applicant shall comply with all standards and requirements for the zoning district in which the property is

located and all other requirements set forth in the LUDRs, City ordinances and all other applicable laws and regulations, which are incorporated herein by reference.

The Hearing Examiner hereby **RECOMMENDS APPROVAL** of the request for the above-referenced Vacations filed by Applicant, **WITH THE FIVE (5) CONDITIONS** set forth above.

This Recommendation takes effect on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

ANNE DALTON, ESQUIRE

11/6/18
DATE

ATTEST:

CITY CLERK (Interim)

Exhibit "A" (Page 1 of 3)

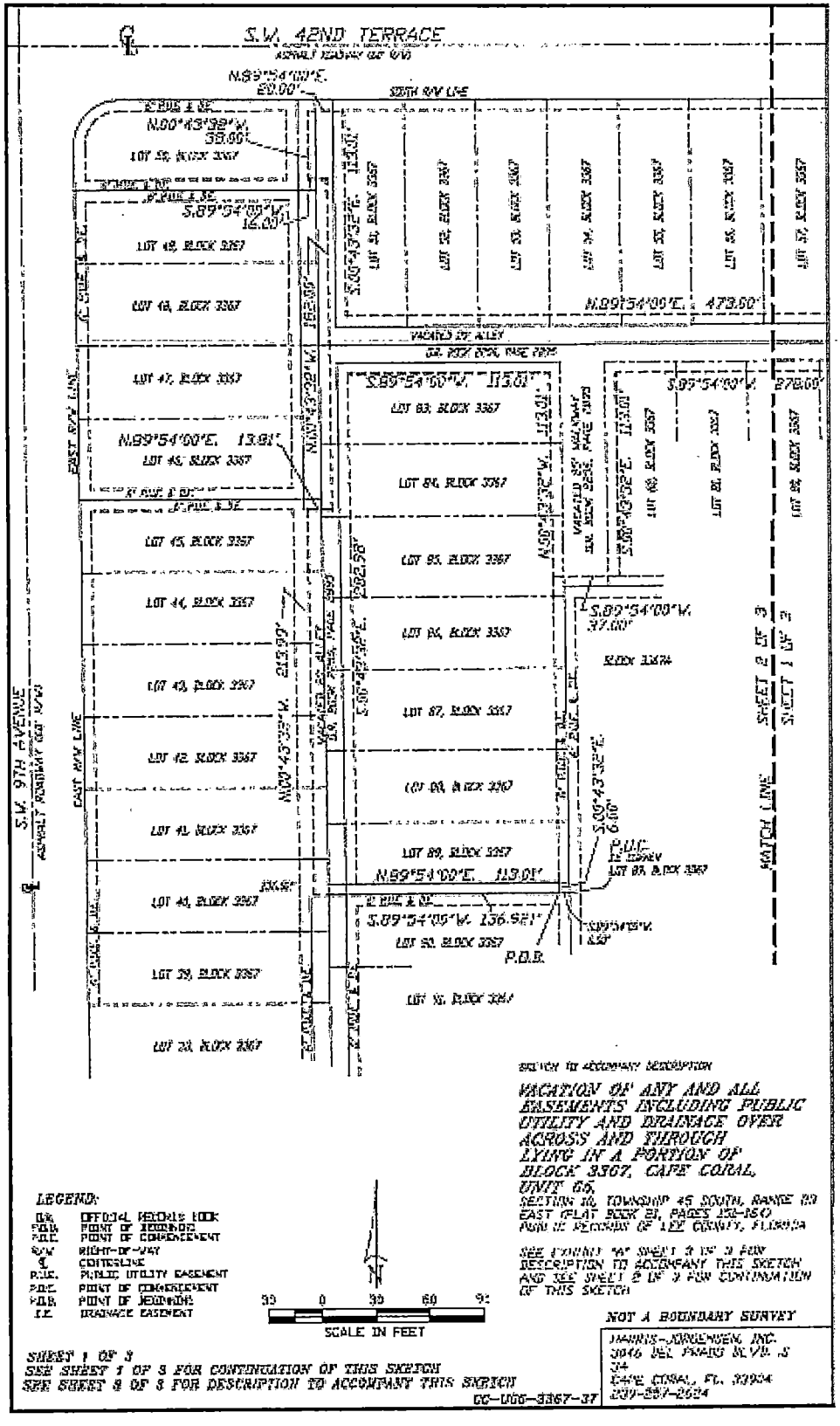
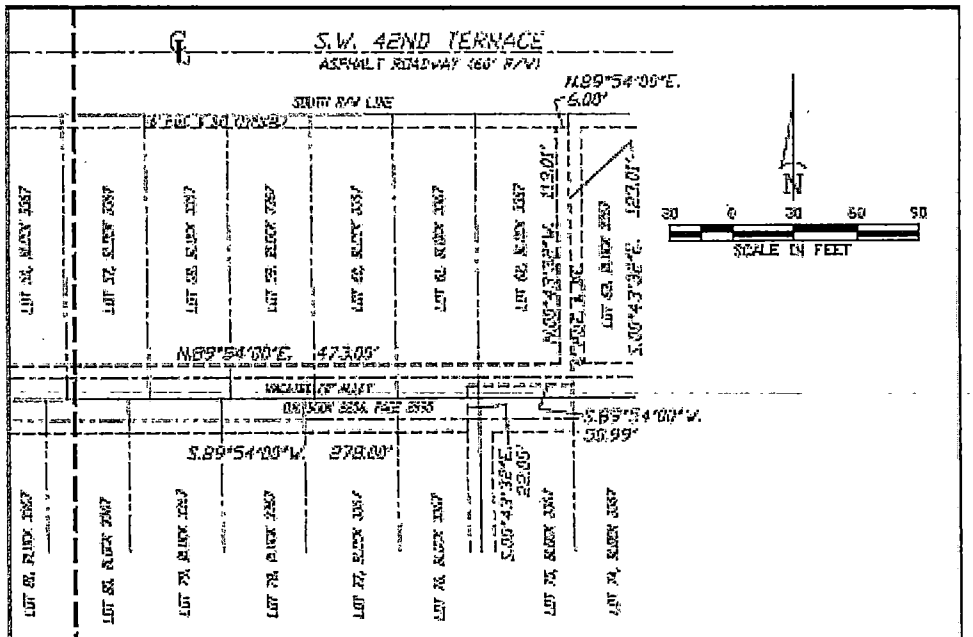


Exhibit "A" (Page 2 of 3)



SHEET 2 OF 3
SHEET 1 OF 3

MATCH LINE

SKETCH TO ACCOMPANY DESCRIPTION

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 43 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 131-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

SEE EXHIBIT "A" SHEET 3 OF 3 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH AND SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE, AS BEING N89°54'00"E
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED UNLESS OTHERWISE SHOWN
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8½x11 LO SCALE DRAWING

LEGEND:

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

NOT A BOUNDARY SURVEY

SHEET 2 OF 3
SEE SHEET 1 OF 3 FOR CONTINUATION OF THIS SKETCH
SEE SHEET 3 OF 3 (EXHIBIT "A") FOR DESCRIPTION TO ACCOMPANY THIS SKETCH

CC-005-3367-37

HARRIS-JOHANSEN, INC.
3046 DEL PRADO BLVD. S
CAPE CORAL, FL. 33904
(239)-257-5024

Exhibit "A" (Page 3 of 3)

Legal Description of Vacated Area

VACATION OF ANY AND ALL EASEMENTS INCLUDING PUBLIC UTILITY AND DRAINAGE EASEMENTS OVER ACROSS AND THROUGH LYING IN A PORTION OF BLOCK 3367, CAPE CORAL, UNIT 65, SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164) PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 89, BLOCK 3367, CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S.89°54'00"W. ALONG THE SOUTH LINE SAID LOT 89, BLOCK 3367 FOR 6.00 FEET TO THE POINT OF BEGINNING; THENCE RUN S.89°54'00"W. FOR 136.92 FEET; THENCE RUN N.00°43'32"W. FOR 213.99 FEET; THENCE RUN N.89°54'00"E. FOR 13.81 FEET; THENCE RUN N.00°43'32"W. FOR 182.00 FEET; THENCE RUN S.89°54'00"W. FOR 16.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT LYING 6.00 FEET SOUTH AS MEASURED ON A PERPENDICULAR OF THE SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) OF THE AFORESAID CAPE CORAL UNIT 65 FOR 38.00 FEET; THENCE RUN N.89°54'00"E. FOR 20.00 FEET; THENCE RUN S.00°43'42"E. FOR 113.01 FEET; THENCE RUN N89°54'00"E. FOR 473.00 FEET; THENCE RUN N.00°43'32"W. TO A POINT 6.00 SOUTH AS MEASURED ON A PERPENDICULAR FROM SAID SOUTH RIGHT-OF-WAY LINE OF S.W. 42ND TERRACE (60 FEET WIDE) FOR 113.0 FEET; THENCE RUN N89°54'00"E. FOR 6.00 FEET; THENCE RUN S.00°43'32"E. FOR 123.01 FEET; THENCE RUN S.89°54'00"W. FOR 50.99 FEET; THENCE RUN S.00°43'32"E. FOR 22.00 FEET; THENCE RUN S.89°54'00"W. FOR 278.00 FEET; THENCE RUN S.00°43'32"E. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 37.00 FEET; THENCE RUN N.00°43'32"W. FOR 113.01 FEET; THENCE RUN S.89°54'00"W. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 282.98 FEET; THENCE RUN N.89°54'00"E. FOR 113.01 FEET; THENCE RUN S.00°43'32"E. FOR 6.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 27,429.27 SQ FT, MORE OR LESS.

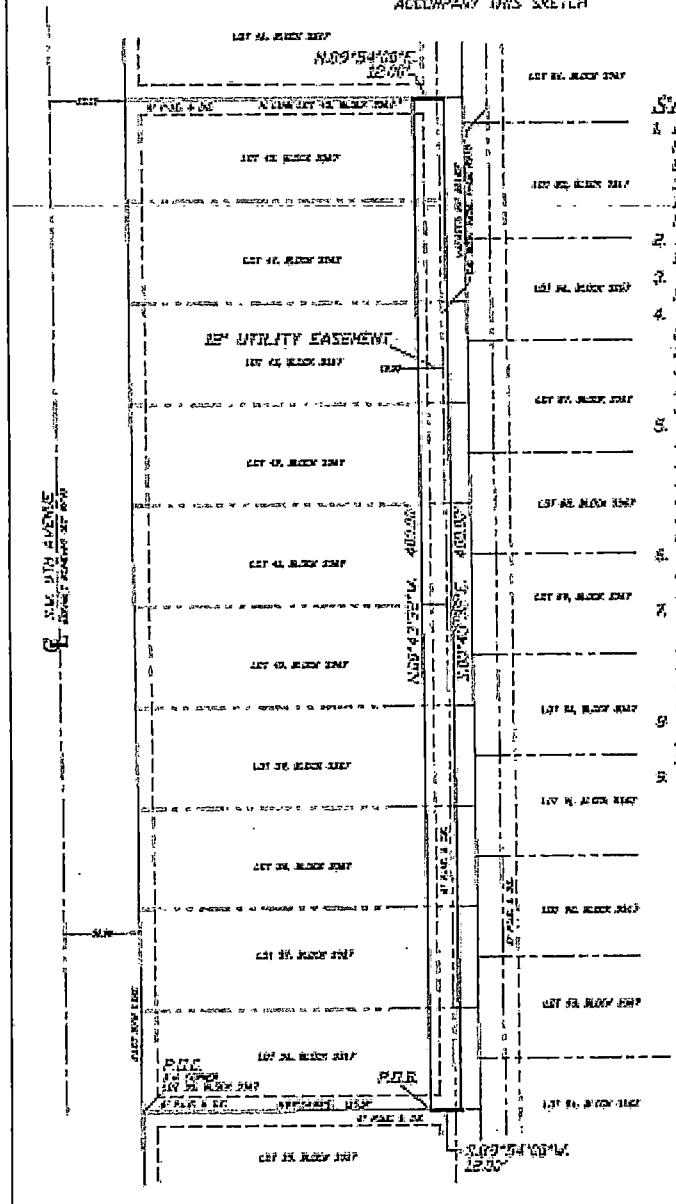
Exhibit "B" (Page 1 of 2)

SKETCH TO ACCOMPANY DESCRIPTION

12 FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST
(PLAT BOOK 21, PAGES 131-164)
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

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



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE TERRACE, AS BEING "ASSUMED" AS N.00°43'32"W.
2. FIELD NOTES IN CAPE CORAL, BLOCK 3367.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. ALL BEARINGS AND DISTANCES ARE FLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8½x14, 50 SCALE DRAWING.

LEGEND:

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

N

25 0 25 50 75

SCALE IN FEET

SHEET 1 OF 2
SEE SHEET 2 OF 2 FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
NOT A BOUNDARY SURVEY

CC-006-3367-37

HARRIS-JORGENSEN, INC.
3946 DEL PRADO BLVD. S
34
CAPE CORAL, FL. 33904
239-257-2694

Exhibit "B" (Page 2 of 2)

Legal Description

12 FOOT WIDE UTILITY EASEMENT IN BLOCK 3367, CAPE CORAL, UNIT 65,

SECTION 10, TOWNSHIP 45 SOUTH, RANGE 23 EAST (PLAT BOOK 21, PAGES 151-164)

PUBLIC RECORDS OF LEE COUNTY, FLORIDA;

DESCRIPTION: UTILITY EASEMENT

COMMENCING AT THE SOUTHWEST CORNER OF LOT 36, BLOCK 3367 AND THE EAST RIGHT-OF-WAY LINE OF S.W. 9TH AVENUE (60 FEET WIDE), CAPE CORAL UNIT 65, AS RECORDED IN PLAT BOOK 21, PAGES 151-164, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N.89°54'00"E. ALONG THE SOUTH LINE SAID LOT 36, BLOCK 3367 FOR 115.10 FEET TO THE POINT OF BEGINNING; THENCE RUN N.00°43'32"W. TO A POINT ALONG THE NORTH LINE OF LOT 45, OF SAID BLOCK 3367 FOR 400.00 FEET; THENCE RUN N.89°54'00"E FOR 12.00 FEET; THENCE RUN S.00°43'32"E. FOR 400.00 FEET; THENCE RUN S.89°54'00"W. FOR 12.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 4,800 SQ FT, MORE OR LESS.

Planning Division
City of Cape Coral

RESOLUTION 282-18
VP 18-0005

Cape Coral City Council Meeting
Final Public Hearing

January 7, 2019

Resolution 282-18

Owner: Skyline Self Storage, LLC

Rep: Joe Mazurkiewicz, BJM Consulting

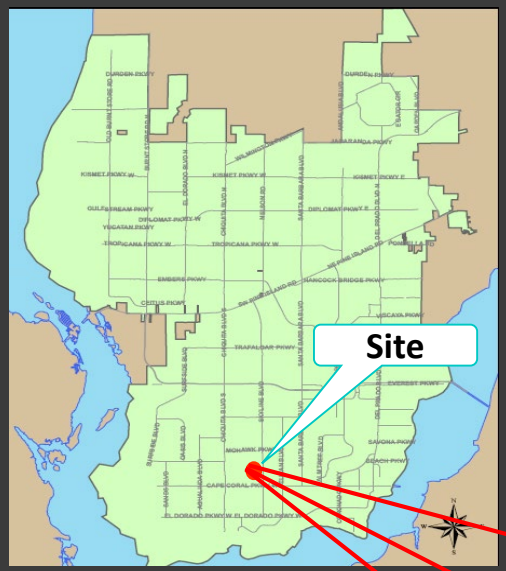
Request:

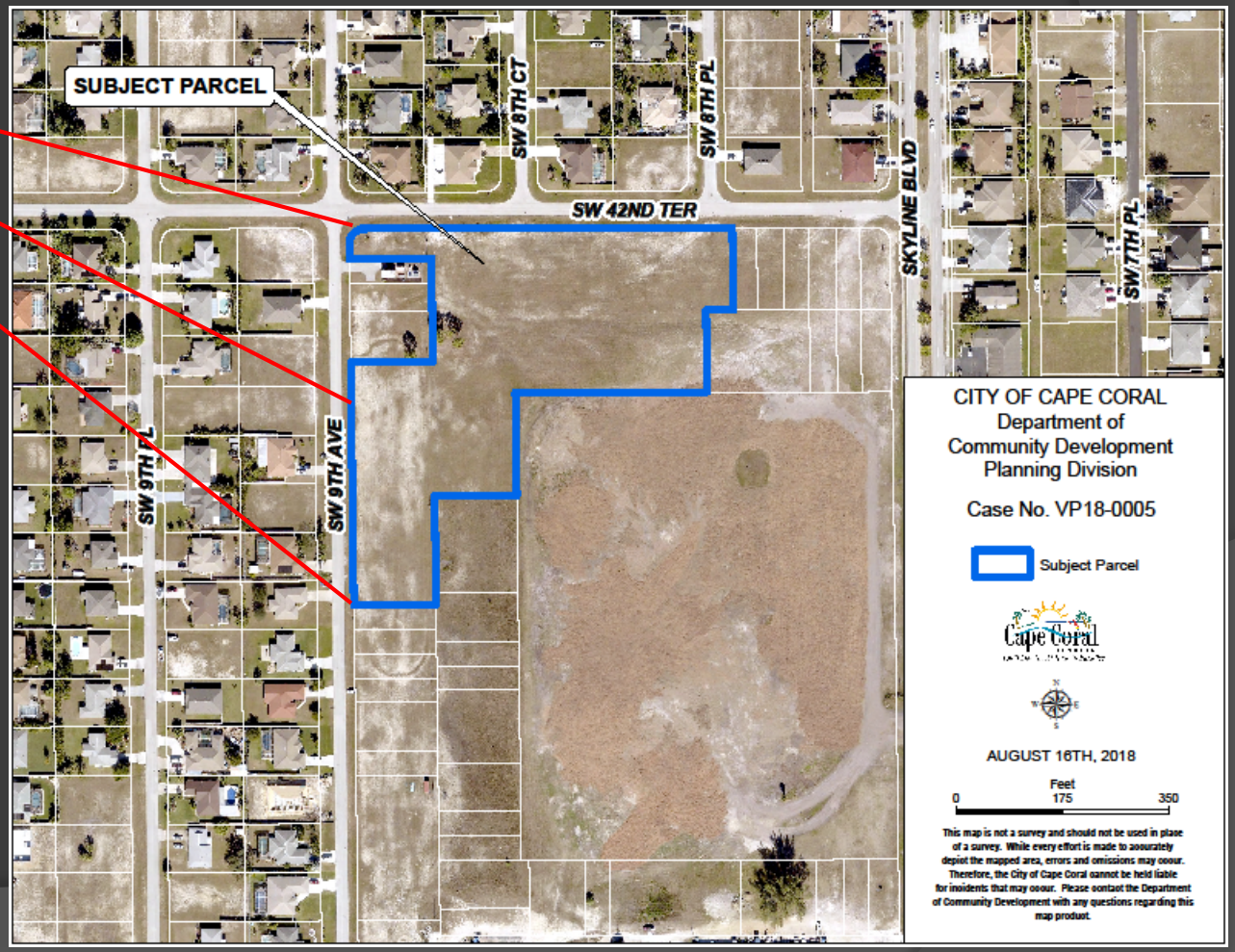
1) Vacate underlying easements associated with a vacated alley and walkway in Block 3367.

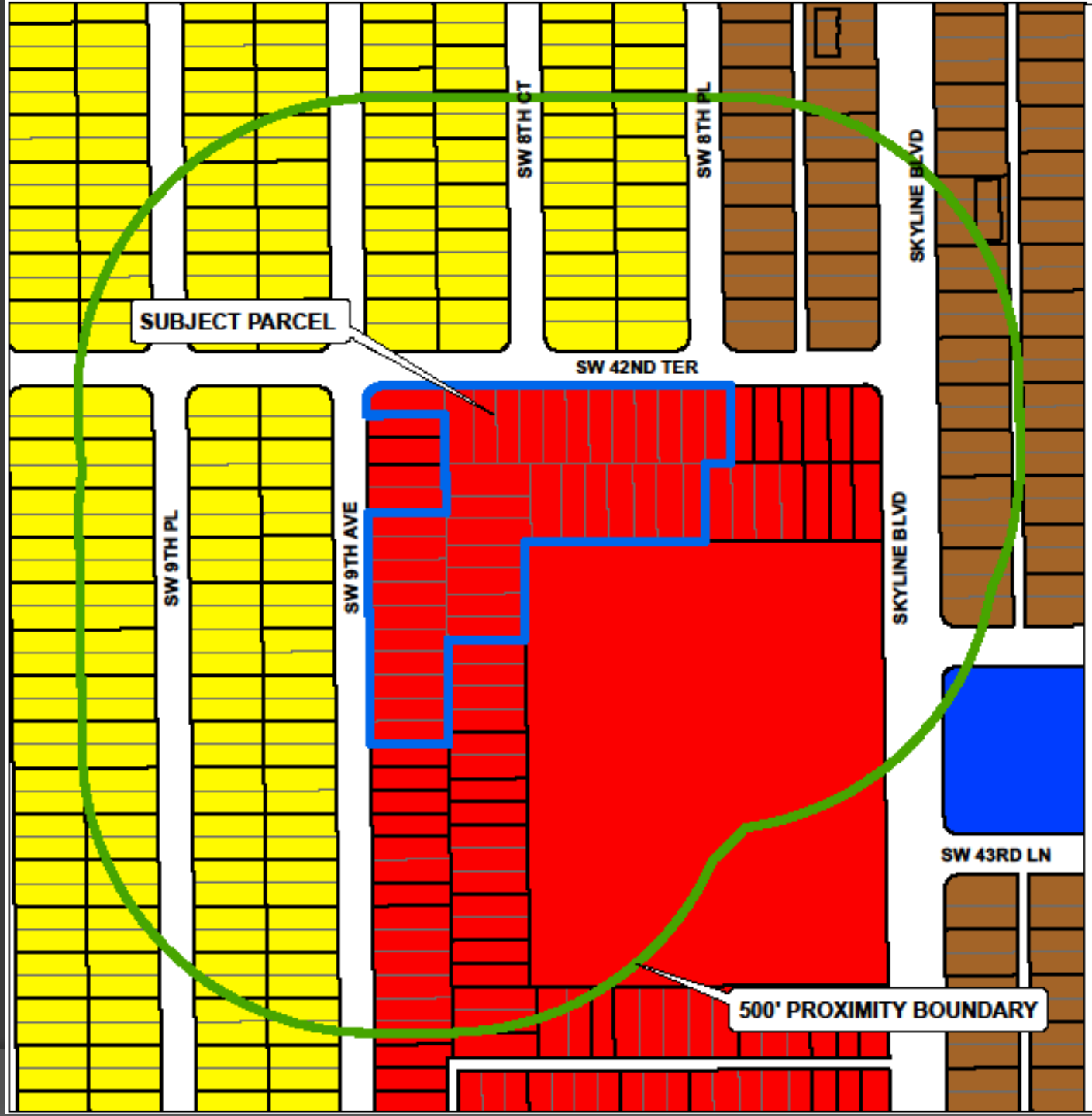
2) Vacate platted easements in Lots 36-45, 49-62, and 76-89.

3) Vacate internal lot lines in Lots 36-45, 49-62, and 76-89.

Resolution 282-18







CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Boundary

Case No. VP18-0005

LEGEND

500' Proximity Boundary
Subject Parcel

Zoning

C-1
R-1B
R-3
W

AUGUST 16TH, 2018

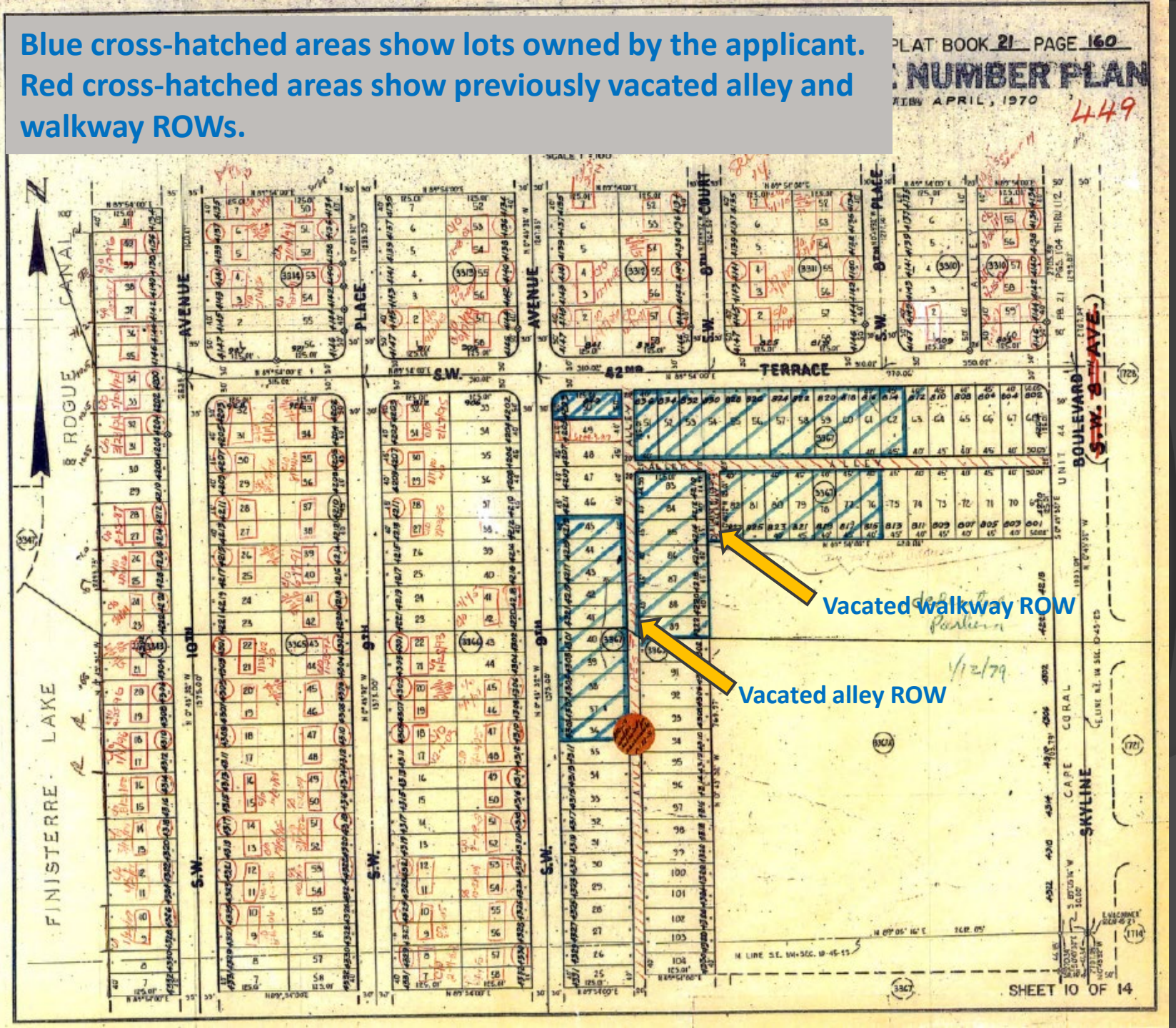
Feet
0 275 550

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.

Background

- The site is 4.85 acres and is adjacent to a deed-restricted City parking lot.
- The site is irregular and constitutes 37 lots that includes parts of a vacated alley and walkway.
- Vacations are sought to remove easements and lot lines to provide flexibility in developing the site.

Blue cross-hatched areas show lots owned by the applicant. Red cross-hatched areas show previously vacated alley and walkway ROWs.



Vacate Easements Underlying the Vacated Alley and Walkway (LUDR, Section 8.11)

- All easements occupy property owned by the applicant.
- Both the City and utility providers lack facilities in the easements.
- The vacation will eliminate easements occupying the middle of the parcel and will provide greater flexibility for developing the site.

Platted Easement Analysis (LUDR, Section 8.11)

- Platted easements are requested to be vacated for Lots 36-45, 51-62, and 76-89 in Block 3367.
- The City lacks facilities in all platted easements.
- The vacation will create a single parcel for new development that will be unencumbered by platted easements.
- The applicant will provide a 12-foot wide easement to protect overhead powerlines along the east side of Lots 36-45.
- A six-foot wide perimeter easement is recommended to provide for utility installation and maintenance.

Vacate Platted Lot Lines (LUDR, Section 8.11)

- Lot lines are requested to be vacated for Lots 36-45, 51-62, and 76-89 in Block 3367.
- The site can be developed without this vacation.
- Approval of this request may eliminate uncertainty on the part of developers, lenders, and insurers as to the suitability of the site for development.

Recommendations

Planning Division

Staff recommends approval.

Hearing Examiner

A public hearing was held before the Hearing Examiner on November 6, 2018. The Hearing Examiner recommends approval with staff conditions. No input from the public.

Correspondence

None.

The News-Press media group
news-press.com A GANNETT COMPANY

Please contact us with changes or cancellations as soon as possible, otherwise no further action needed.

TOLL-FREE	Local #	Email
888-516-9220	239-335-0258	FNPLegals@gannett.com

Customer: CITY OF CAPE CORAL_DEPT OF COM

Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Ad No.: 0003307336

Net Amt: $844.52

Run Times: 2

No. of Affidavits: 1

Run Dates: 12/21/18, 12/28/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP18-0005

RESOLUTION 282 – 18: A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR PUBLIC UTILITY AND DRAINAGE EASEMENTS UNDERLYING A PREVIOUSLY VACATED PLATTED WALKWAY AND A PREVIOUSLY VACATED PORTION OF A PLATTED ALLEY LOCATED WITHIN BLOCK 3367, CAPE CORAL UNIT 65; PROVIDING FOR THE VACATION OF PLAT FOR ALL PLATTED INTERIOR LOT LINES AND PUBLIC UTILITY AND DRAINAGE EASEMENTS LYING WITHIN LOTS 36-45, 51-62, AND 76-89, BLOCK 3367, CAPE CORAL UNIT 65; PROPERTY LOCATED AT 824 SW 42ND TERRACE; PROVIDING AN EFFECTIVE DATE.

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

PROPERTY OWNER: Skyline Self Storage, LLC

AUTHORIZED REPRESENTATIVE: Joe Mazurkiewicz, BJM Consulting, Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that The Cape Coral City Council will hold a public hearing at 4:30 P.M. on Monday, January 7, 2019 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 City Council 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 five 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, www.capecoral.net/publichearing (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

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.

by order of
Kimberly Bruns, CMC
Interim City Clerk
REF # VP18-0005
AD# 3307336 Dec. 21, 28, 2018

NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: VP18-0005

RESOLUTION 282 – 18: A RESOLUTION PROVIDING FOR THE VACATION OF PLAT FOR PUBLIC UTILITY AND DRAINAGE EASEMENTS UNDERLYING A PREVIOUSLY VACATED PLATTED WALKWAY AND A PREVIOUSLY VACATED PORTION OF A PLATTED ALLEY LOCATED WITHIN BLOCK 3367, CAPE CORAL UNIT 65; PROVIDING FOR THE VACATION OF PLAT FOR ALL PLA TIED INTERIOR LOT LINES AND PUBLIC UTILITY AND DRAINAGE EASEMENTS LYING WITHIN LOTS 36-45, 51-62, AND 76-89, BLOCK 3367, CAPE CORAL UNIT 65; PROPERTY LOCATED AT 824 SW 42ND TERRACE; PROVIDING AN EFFECTIVE DATE.

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

PROPERTY OWNER: Skyline Self Storage, LLC

AUTHORIZED REPRESENTATIVE: Joe Mazurkiewicz, BJM Consulting, Inc.

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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.

APPEALS: 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
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Skyline Self Storage

APPLICATION NO: VP18-0005

STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Richard Carr, having first been duly sworn according to law, state on my oath the following:

That I am the Acting 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 31st day of December, 2018.

Richard Carr

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 31st day of December 2018, by Richard Carr, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # GG030474

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

Item Number:	**A.(3)**
Meeting Date:	**1/7/2019**
Item Type:	**ORDINANCES/RESOLUTIONS - Public Hearings**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Ordinance 80-18 (ZA 18-0007*) Public Hearing

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/HEARING EXAMINER/STAFF RECOMMENDATIONS:
Hearing Examiner Recommendation: The Hearing Examiner recommends approval of the application for rezoning.
Staff Recommendation: Staff recommends approval.

SUMMARY EXPLANATION AND BACKGROUND:
An ordinance amending the City of Cape Coral Official Zoning District Map by rezoning property described as Lots 1-28 and 55-82, Block 3170, Cape Coral Unit 66, from Pedestrian Commercial (C-1) to Single-Family Residential (R-1B) zone; property located north of SW 28th Street, south of SW 26th Street, east of SW 9th Avenue, and west of SW 8th Court.

LEGAL REVIEW:
John E. Naclerio III, Assistant City Attorney

EXHIBITS:
Ordinance 80-18 (ZA 18-0007)
Hearing Examiner Recommendation Order
Back Up material from HEX Hearing
Staff presentation
Additional back up received

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:
Chad Boyko, Principal Planner

ATTACHMENTS:

Description	Type
Ordinance 80-18 (ZA 18-0007)	Resolution
Hearing Examiner Recommendation Order	Backup Material
Back up material from HEX Hearing	Backup Material
Staff Presentation	Backup Material
Additional Backup received	Backup Material

ZA 18-0007

ORDINANCE 80 – 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY DESCRIBED AS LOTS 1-28 AND 55-82, BLOCK 3170, CAPE CORAL UNIT 66, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM PEDESTRIAN COMMERCIAL (C-1) TO SINGLE-FAMILY RESIDENTIAL (R-1B) ZONE; PROPERTY LOCATED NORTH OF SW 28TH STREET, SOUTH OF SW 26TH STREET, EAST OF SW 9TH AVENUE, AND WEST OF SW 8TH COURT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral City Council has considered testimony, evidence, documentation and the application submitted by SULLICO II, LLC, for rezoning the below-described property from PEDESTRIAN COMMERCIAL (C-1) TO SINGLE-FAMILY RESIDENTIAL (R-1B) ZONE, and considered the recommendations of the Hearing Examiner and City Staff, and has considered the City of Cape Coral Comprehensive Plan with this zoning request.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

Section 1. That the City of Cape Coral Official Zoning District Map of all of the property within the limits of the City of Cape Coral is hereby amended with respect to real property described as follows:

PEDESTRIAN COMMERCIAL (C-1) TO SINGLE-FAMILY RESIDENTIAL (R-1B) ZONE

LOTS 1-27, BLOCK 3170, CAPE CORAL UNIT 66, ACCORDING TO PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGES 2 THROUGH 26, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LOT 28, BLOCK 3170, CAPE CORAL UNIT 66, ACCORDING TO PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGES 2 THROUGH 26, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ***LESS AND EXCEPT*** THAT PORTION OF SAID LOT 28 LYING WITHIN THE RIGHT OF WAY FOR THE EXTENSION OF SE 26TH STREET AS SET FORTH IN THAT CERTAIN PLAT OF HOME DEPOT ACCORDING TO THE MAP OR PLAT THEREOF AS BEARING OFFICIAL RECORDS INSTRUMENT # 2006000203514, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LOT 55, BLOCK 3170, CAPE CORAL UNIT 66, ACCORDING TO PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGES 2 THROUGH 26, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, ***LESS AND EXCEPT*** THAT PORTION OF SAID LOT 55 LYING WITHIN THE RIGHT OF WAY FOR THE EXTENSION OF SE 26TH STREET AS SET FORTH IN THAT CERTAIN PLAT OF HOME DEPOT ACCORDING TO THE MAP OR PLAT THEREOF AS BEARING OFFICIAL RECORDS INSTRUMENT # 2006000203514, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

LOTS 56-82, BLOCK 3170, CAPE CORAL UNIT 66, ACCORDING TO PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGES 2 THROUGH 26, INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

and the City administrative office shall amend the City of Cape Coral Official Zoning District Map to reflect this zoning change.

That the amendments to the City of Cape Coral Official Zoning District Map as prescribed herein are consistent with the City of Cape Coral Comprehensive Plan.

Section 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance which shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective immediately upon passage by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

_____
JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY
ord\ZA18-0007

OFFICE OF THE HEARING EXAMINER, CITY OF CAPE CORAL

HEARING EXAMINER RECOMMENDATION

ZA HEX Recommendation 9-2018

Rendered October 16, 2018

DCD Case # ZA18-0007

APPLICATION FOR: Rezoning from Pedestrian Commercial (C-1) Zoning District to the Single Family (R-1B) Zoning District

NAME OF APPLICANT/OWNER: Sullico II, LLC, by Elaine M. Sullivan, Managing Member

APPLICANT'S REPRESENTATIVE: Linda Miller, AICP, Avalon Engineering

PROPERTY ADDRESSES AND LEGAL DESCRIPTIONS:
Parcels on SW 8th Court and SW 9th Avenue
Unit 66, Block 3170, Lots 1-28 and 55-82
STRAPS: As listed on Exhibit "A" which is attached hereto and hereby incorporated by reference.

CURRENT ZONING: Pedestrian Commercial (C-1)

PROPOSED ZONING: Single Family (R-1B)

FUTURE LAND USE CATEGORY: Single Family (SF)

URBAN SERVICES AREA: Transition

HEARING DATE: October 16, 2018

I. SUMMARY OF REQUEST

The applicant requests an amendment to the Zoning Map to change the designation of 6.42 acres from the Pedestrian Commercial (C-1) Zoning District to the Single Family (R-1B) Zoning District.

II. SUMMARY OF HEARING EXAMINER RECOMMENDATION

The Hearing Examiner recommends **approval** of the application for rezoning.

III. NOTICE OF HEARING

Based on the testimony of City Staff Chad Boyko at the Hearing, the Hearing Examiner finds that proper notice of this hearing was provided, in accordance with the requirements of Article VIII, Section 8.3, Public Hearings, of the City of Cape Coral Land Use and Development Regulations ("LUDRs").

IV. PARTICIPANTS IN HEARING

CITY STAFF: Chad Boyko, AICP [1]

CITY CLERK'S OFFICE: Kimberly Bruns

APPLICANT'S REPRESENTATIVE: Linda Miller, AICP[2]

MEMBERS OF PUBLIC: none

CORRESPONDENCE FROM PUBLIC: Staff testified that he did not receive any phone calls of inquiry or correspondence. The Applicant's Representative testified that Applicant contacted the neighboring property owners and received several telephone calls of support and no negative comments.

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

V. REVIEW OF STATUTORY AND LUDR REQUIREMENTS

Authority. Section 163.3194, F.S. and LUDR §9.3.b.9 require the Hearing Examiner to review and make a recommendation to City Council about consistency of a rezoning application to the City's adopted Comprehensive Plan and whether the requested rezoning should be granted.

Site Visit by Hearing Examiner. The Hearing Examiner conducted a site visit of the subject property prior to the Hearing, in accordance with the authority set forth in LUDR § 8.3.1.C.6.a.

Standard of Review of Evidence; Hearsay Evidence. The Hearing Examiner's decision is based on whether the Application meets all applicable requirements of the Comprehensive Plan, City Code of Ordinances, and the LUDRs, upon review of the entirety of the record. It is Applicant's burden to prove that it does.

In rendering this Recommendation, the Hearing Examiner must consider all of competent substantial evidence in the record, as defined by LUDR § 8.3.1.C.3.b. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.

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[1] Based upon his prior testimony at hearings of this type and the recitation of his qualifications, certifications and education contained in his C.V. which is on file with the City Clerk's Office, the Hearing Examiner qualified Mr. Boyko as an expert witness for land planning issues relevant to this Hearing.

[2] Based upon her prior testimony at hearings of this type and the recitation of her qualifications, certifications and education contained in her C.V. which is on file with the City Clerk's Office, the Hearing Examiner qualified Ms. Miller as an expert witness for land planning issues relevant to this Hearing.

Rezoning Standards. In reviewing the rezoning application for consistency with the Comprehensive Plan of the City of Cape Coral, the Hearing Examiner must apply the general standards set forth in LUDR § 8.7.3.

VI. TESTIMONY AT HEARING

Applicant's Incorporation of Staff Report and Staff Testimony

The Applicant's Representative incorporated the Staff Report and Staff Testimony ("Staff Input") into her presentation and requested the Hearing Examiner to recommend that the City Council find Staff Input as findings of fact.

Hearing Examiner's Recommended Findings of Fact.

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

VII. DISCUSSION

Site and Surrounding Properties/Summary of Application

According to the Letter of Intent dated May 31, 2018, the subject Block is located south of Veterans Parkway and west of Skyline Boulevard, just south of the Home Depot Shopping Center, in southwestern Cape Coral.

The Letter further set forth that there are a total of 56 lots within Block 3170, of which 30 are owned by Applicant. This ownership comprises 53.5% of the Lots within this Block. As 51% is required to submit a Zoning Amendment Application, this request satisfies the City's prerequisite for submittal. In addition to the lots owned by Applicant, the Letter of Intent indicated that signed acknowledgments of support were received from four (4) other single family owners within the same block. [3]

Staff testified that 11 parcels in the block are developed with single-family homes, while the remaining parcels are undeveloped. Staff further testified that no other individual or business owns more than one parcel in the block and that most of the lots are a minimum of 10,000 square feet in size. The Applicant's Representative testified that utilities are currently available to the site.

Staff further testified that the subject site is bounded by four local streets; SW 26th Street to the north, SW 8th Court to the west, SW 28th Street to the south, and SW 9th Avenue to the east. Surrounding development consists of a Home Depot to the north and a combination of single-family homes and undeveloped parcels to east, west, and south. The Home Depot site was a part of Block 3170[4]

[3] Their names are set forth in the Letter of Intent.
[4] Prior to re-plat.

prior to the development being approved and subdivided by a Planned Development Project (PDP) in 2005.

Staff testified that the parcels in Block 3170 have gone through several future land use and zoning changes in the past. The Block was designated as Single-Family/Multi-Family (SM) upon the adoption of the Comprehensive Plan in 1989. In two separate amendments in 2002 and 2005, the future land use of the parcels was amended from SM to Commercial/Professional (CP).

Similarly, two separate rezones in 2002 and 2008 changed the zoning within the block from Single-Family Residential (R-1B) to Pedestrian Commercial (C-1). The future land use and zoning amendments were sought by a previous owner who owned most of the parcels in Block 3170.

In 2018, Ordinance 42-18 amended the future land use of the site to Single-Family Residential (SF). Applicant then sought the amendment to build more single-family homes in the block, however, the zoning for the site needed to be amended as well.

The Applicant's Letter of Intent set forth that following the Home Depot's development, the commercial vision to incorporate this 6.42 acre property into the current shopping center diminished, as commercial interests no longer look favorably on a second phase of this center for another big box or, alternatively, several anchor retail stores plus additional out-parcels.[5]

Staff testified regarding the adjacent sites as follows, with the table below included in the staff report on page 2: [6]

Site:	***Future Land Use***	***Zoning***
Current:	**Single-Family Residential (SF)**	**Pedestrian Commercial (C-1)**
Proposed:	**N/A**	**Single-Family Residential (R-1B)**
	Surrounding Future Land Use	***Surrounding Zoning***
North:	**Commercial/Professional (CP)**	**C-1**
South:	**SF**	**R-1B**
East:	**CP**	**C-1**
West:	**SF**	**R-1B**

Consideration of General Standards Set Forth in LUDR Section 8.7.3

1. *The extent to which the value of the property is diminished by the proposed land use restriction or zoning of the property.*

[5] Page one of the Letter of Intent from Applicant, dated May 31, 2018.
[6] This table was included in the Staff Report dated October 9, 2018.

Staff testified that the proposed change in zoning districts would decrease the number of uses permitted of-right or by special exception and could therefore affect the value of the property, although staff further testified that Applicant's desire for rezoning needs to be considered herein. The Applicant's Representative testified that the property cannot be developed as commercial property due to the nature of the nearby big-box store. She cites market studies prepared by various developers of national chains as support, in that she said they show that commercial developers do not favor retail development of this type due to the linear distance from Skyline Boulevard.[7] Accordingly, rezoning to a residential zoning district will facilitate development of this land and increase its value.

The Hearing Examiner recommends that City Council find that the value of the property **will not be diminished** by the rezoning.

2. *The extent to which the removal of a proposed land use restriction or change in zoning depreciates the value of other property in the area.*

The Applicant's Representative testified that the proposed rezoning would allow the existing single family homes to rebuild in case of a catastrophic event or other emergency. She further testified that this site has had the ability, over the years, to develop with commercial uses and has not done so.

For the reasons set forth above, the Hearing Examiner recommends a finding by the City Council that the proposed rezoning is **not anticipated** to depreciate the value of other properties in the area.

3. *The suitability of the property for the zoning purpose or land use restriction imposed on the property as zoned.*

The Hearing Examiner incorporates the suggested findings of fact set forth in Conditions 1 and 2 above.

Based on such testimony, the Hearing Examiner recommends that City Council find that the property **is not suitable** for the current zoning but is **well suited** for the proposed rezoning.

4. *The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning.*

At the hearing, the Applicant's Representative testified that the character and uses of the neighborhood consist of a majority of the area to the west and south of this Block being single family residential.

[7] She testified that Block 3170 is located 634 feet from Skyline Boulevard.

Commercial zoning with vacant and development parcels are closer to Skyline Boulevard. The current uses within this area consist of a Home Improvement Store, automotive services (repair and parts store), fast food restaurant (Dairy Queen), convenience store with gas pumps, a bank, a variety store and many single family homes.

The existing commercial square footage fronts on Skyline Blvd, with residential located at least 634 feet from Skyline Blvd and 1068 feet from Veteran's Parkway.

The Applicant's Representative testified that, in her expert opinion, the uses represented by the immediately surrounding properties are compatible with the proposed rezoning.

For the reasons set forth above, the Hearing Examiner recommends that City Council find the proposed rezoning is **compatible** with the character of the neighborhood, existing uses, and zoning of nearby and surrounding properties.

5. *The relative gain to the community as compared to the hardship, if any imposed, by the proposed land use restrictions or from rezoning said property.*

The Applicant's Representative testified that there would be a positive effect in amending the zoning for Block 3170, in that the property would have a better chance of being developed within the next few years, which would increase the City's tax base and provide an increase in the amount and type of housing products available within the Cape.

She further testified that the redevelopment of the existing Shopping Center to incorporate and integrate the proposed parcel, as required to create a commercial node and a unified development, is unlikely, thus leaving this Block isolated from the existing commercial, without visibility and direct access to a major street.

After considering the above factors, the Hearing Examiner recommends that City Council find the proposed rezoning would **create more gains than hardships** to the community.

6. *Community need for the use proposed by the zoning or land use restriction.*

The Applicant's Representative testified that the community need is to protect existing single family homes and to encourage new residential investment and redevelopment.

Based on the foregoing testimony, the Hearing Examiner recommends that City Council find the **community needs** the use proposed by the applicant.

7. *Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property.*

   As set forth above, the subject block was zoned commercial in 2001. The Applicant's Representative testified that the Block has been marketed as available commercial property since 2001 and there has been no interest in the development of this parcel for a commercial use, due to the lack of frontage along a major street.

8. *The extent to which the proposed land use restriction or zoning promotes the health, safety, morals, or general welfare of this community.*

   The Applicant's Representative testified that the proposed rezoning will provide the City with additional housing options in an area close to public transit, adjacent to shopping and within walking distance of job opportunities.

   Based upon the foregoing, the Hearing Examiner recommends that City Council find that this rezoning **will promote** the general welfare of the community.

9. *The extent to which the proposed land use, land use restriction, or zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan*

   Staff testified that the subject parcels have access to centralized water, sewer and irrigation services and that the level of service standards for utilities, roads, and public services are anticipated to be unaffected by this rezone.

   The Hearing Examiner recommends that City Council find the proposed rezoning will have **no negative impact** on level of service standards for public facilities hereunder.

10. *Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.*

    Comprehensive Plan

    The site has a future land use designation of Single-Family Residential (SF) which is described in the Comprehensive Plan Chapter 4, Policy 1.15 as:

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

Both the Applicant's Representative and staff testified that the proposed rezoning is consistent with this Policy.

A summary of Policy 1.14 Commercial Siting Guidelines, with staff's comments is set forth below:

Commercial Siting Guidelines. Policy 1.14 contains eight commercial siting guidelines. Overall, the site is consistent with three guidelines (major intersection, adequate depth, compactness); partially consistent with three guidelines (assembly, intrusion, ownership pattern). The site is not consistent with two of the guidelines (access, integration). The guidelines are meant to provide a compatibility analysis for potential commercial development and corresponding future land use amendments or rezones.

For all of the above reasons, the Hearing Examiner recommends that the City Council find the proposed rezoning to be **compatible** with the future land use classification that currently exists for the subject property and the proposed rezoning to be **consistent** with the goals and objectives of the Comprehensive Plan.

VIII. RECOMMENDATIONS

Based upon the testimony and documentary exhibits presented during the Hearing, the Hearing Examiner recommends that:

1. the City Council find the requested rezoning is consistent with the requirements of the Comprehensive Plan of the City of Cape Coral; and

2. the City Council **approve** the requested rezoning.

This Recommendation is effective on the date specified below.

HEARING EXAMINER OF THE CITY OF CAPE CORAL, FLORIDA

ANNE DALTON, ESQUIRE

10/16/18
DATE

ATTEST:
Rebecca Van Deutekom
CITY CLERK

Exhibit A p1 of 2

Zoning Map Amendment Application - Block 3170

Legal Description

Lots 1-27, Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida.

Lot 28, Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida, ***less and except*** that portion of said Lot 28 lying within the right of way for the extension of SE 26th Street as set forth in that certain plat of Home Depot according to the map or plat thereof as bearing Official Records Instrument # 2006000203514, Public Records of Lee County, Florida.

Lot 55, Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida, ***less and except*** that portion of said Lot 55 lying within the right of way for the extension of SE 26th Street as set forth in that certain plat of Home Depot according to the map or plat thereof as bearing Official Records Instrument # 2006000203514, Public Records of Lee County, Florida.

Lots 56-82 , Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida.

Block 3170	56 Lots (22 Developed -34 Undeveloped -30 are owned by Sullico II, LLC)			
Strap	**Improved**	**Lot**	**Address**	**Owner**
344423C2031700560	No	55, 56	2606 SW 8TH CT	INA GROUP LLC
344423C2031700570	No	57, 58	2608 SW 8TH CT	SULLICO II LLC
344423C2031700590	No	59, 60	2612 SW 8TH CT	SULLICO II LLC
344423C2031700610	No	61 - 63	2618 SW 8TH CT	SULLICO II LLC
344423C2031700640	No	64 - 66	2624 SW 8TH CT	SULLICO II LLC
344423C2031700670	No	67 - 69	2630 SW 8TH CT	SULLICO II LLC
344423C2031700700	No	70 - 72	2702 SW 8TH CT	SULLICO II LLC
344423C2031700730	Yes	73, 74	2706 SW 8TH CT	CAVANAUGH CYNTHIA A
344423C2031700750	Yes	75, 76	2710 SW 8TH CT	HANCOCK FRANCIS J
344423C2031700770	Yes	77, 78	2714 SW 8TH CT	2311803 ONTARIO INC
344423C2031700790	No	79, 80	2718 SW 8TH CT	SULLICO II LLC
344423C2031700810	No	81, 82	2722 SW 8TH CT	SULLICO II LLC
344423C2031700010	No	1, 2	2723 SW 9TH AVE	SULLICO II LLC
344423C2031700030	Yes	3, 4	2719 SW 9TH AVE	ARROW RE SUB 1 LLC
344423C2031700050	Yes	5, 6	2715 SW 9TH AVE	EQUITY TRUST COMPANY
344423C2031700070	No	7, 8	2711 SW 9TH AVE	SULLICO II LLC
344423C2031700090	Yes	9, 10	2707 SW 9TH AVE	ODDY JEFFREY A
344423C2031700110	Yes	11, 12	2703 SW 9TH AVE	NORTHUP SCOTT E
344423C2031700130	Yes	13, 14	2633 SW 9TH AVE	SASH THOMAS W
344423C2031700150	Yes	15, 16	2629 SW 9TH AVE	FLICK MARIA ROSA
344423C2031700170	No	17, 18	2625 SW 9TH AVE	SULLICO II LLC
344423C2031700190	Yes	19, 20	2621 SW 9TH AVE	KEMP STEPHEN G + ELLEN K
344423C2031700210	No	21, 22	2617 SW 9TH AVE	SULLICO II LLC
344423C2031700230	No	23, 24	2613 SW 9TH AVE	SULLICO II LLC
344423C2031700250	Yes	25, 26	2609 SW 9TH AVE	MCCRACKEN RANDY + MARLENE J
344423C2031700270	No	27, 28	2607 SW 9TH AVE	LJH INVESTMENTS LLC

Exhibit "A" p. 2 of 2

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0776

Case # ZA18-0007

REQUEST FOR A REZONING

FEE $2,050.00 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 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.

OWNER OF PROPERTY
Sullico, LLC
Address: 15946 Double Eagle Drive
City Morrison State: CO Zip 80465
Email:
Phone:

AUTHORIZED REPRESENTATIVE
Avalon Engineering, Inc
Address: 2503 Del Prado Blvd Suite 200
City Cape Coral State: FL Zip 33904
Email: linda@avaloneng.com
Phone: 239-573-2077

Unit 66 Block 3170 Lot(s) List Subdivision Cape Coral
Address of Property Parcels on SW 8th Court and SW 9th Avenue
Current Zoning C-1 Plat Book 23 , Page 23
Proposed Zoning R-1B Strap Number See Listing

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.

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.

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0776

Case # ZA18-0007

(SIGNATURE MUST BE NOTARIZED)

Sullico II LLC

Elaine M. Sullivan, Managing Member
NAME (PLEASE TYPE OR PRINT)

Elaine M. Sullivan, Managing Member
APPLICANT'S SIGNATURE

STATE OF Colorado, COUNTY OF Jefferson

Sworn to (or affirmed) and subscribed before me this 16th day of May, 2018, by Elaine M Sullivan who is personally known or produced Florida Drivers License as identification.

Exp. Date: 04/22/2022 Commission Number: 20024013317

Signature of Notary Public: Kristen Lahey

Printed name of Notary Public: Kristen Lahey

SIGNATURE MUST BE NOTARIZED)

KRISTEN LAHEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20024013317
MY COMMISSION EXPIRES APRIL 22, 2022

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0776

Case # ZA18-0007

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Avalon Engineering Inc
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE HEARING EXAMINER, OR CITY COUNCIL FOR
Zoning Map Amendment
(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT 66 BLOCK 3170 LOT(S) Listing SUBDIVISION

OR LEGAL DESCRIPTION

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

Sullico II LLC

Elaine M. Sullivan, Managing Member
PROPERTY OWNER (Please Pint)

Elaine M. Sullivan, Managing Member E.S.
PROPERTY OWNER (Please Print)

Elaine M. Sullivan Managing Member
PROPERTY OWNER (Signature & Title)

N/A
PROPERTY OWNER (Signature & Title)

STATE OF Colorado COUNTY OF Jefferson

Subscribed and sworn to (or affirmed) before me this 16th day of May, 2018, by Elaine M. Sullivan who is personally known or produced Florida drivers license as identification.

Exp. Date: 04/22/2022 Commission Number: 20024013317

Signature of Notary Public: Kristen Lahey

Printed name of Notary Public: Kristen Lahey

KRISTEN LAHEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20024013317
MY COMMISSION EXPIRES APRIL 22, 2022

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

Cape Coral
FLORIDA

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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.

I hereby acknowledge that I have read and understood the above affidavit on the ___ day of _____, 20 18

Sullico II LLC

Elaine M. Sullivan, Managing Member
NAME (PLEASE TYPE OR PRINT)

Elaine M. Sullivan, Managing Member
APPLICANT'S SIGNATURE

STATE OF Colorado. COUNTY OF Jefferson

Subscribed and sworn to (or affirmed) before me this 16th day May, 20 18, by Elaine M. Sullivan who is personally known or Florida drivers license as identification.

Exp. Date: 04/22/2022 Commission Number: 20024013317

Signature of Notary Public: Kristen Lahey

Printed name of Notary Public: Kristen Lahey

KRISTEN LAHEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20024013317
MY COMMISSION EXPIRES APRIL 22, 2022

Cape Coral
FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
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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.

Sullivan II LLC

Elaine M. Sullivan, Managing Member
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

Elaine M. Sullivan Managing Member
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF Colorado **COUNTY OF** Jefferson

Sworn to (or affirmed) and subscribed before me on this 16th day of May, 2018 by Elaine M. Sullivan, who is personally known or who has produced Florida drivers license as identification.

Exp. Date 04/22/2022
Commission # 20024013317

Kristen Lahey
Signature of Notary Public

Kristen Lahey
Print Name of Notary Public

KRISTEN LAHEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20024013317
MY COMMISSION EXPIRES APRIL 22, 2022

Detail by Entity Name

Florida Limited Liability Company
SULLICO II, LLC

Filing Information

Document Number	L13000173163
FEI/EIN Number	46-5305473
Date Filed	12/16/2013
Effective Date	12/12/2013
State	FL
Status	ACTIVE

Principal Address

83 OCEAN DRIVE
PUNTA GORDA, FL 33950

Mailing Address

83 OCEAN DRIVE
PUNTA GORDA, FL 33950

Changed: 03/02/2015

Registered Agent Name & Address

SULLIVAN, ELAINE M
83 OCEAN DRIVE
PUNTA GORDA, FL 33950

Authorized Person(s) Detail

Name & Address

Title MGRM

SULLIVAN, ELAINE M
83 OCEAN DRIVE
PUNTA GORDA, FL 33950

Annual Reports

Report Year	Filed Date
2015	03/02/2015
2016	02/12/2016
2017	01/20/2017

Document Images

01/20/2017 -- ANNUAL REPORT	View image in PDF format
02/12/2016 -- ANNUAL REPORT	View image in PDF format
03/02/2015 -- ANNUAL REPORT	View image in PDF format
04/18/2014 -- ANNUAL REPORT	View image in PDF format
12/16/2013 -- Florida Limited Liability	View image in PDF format

Avalon Engineering, Inc.
2503 Del Prado Boulevard South, Suite 200
Cape Coral, Florida 33904
Phone: (239) 573-2077 Fax: (239) 573-2076
#AA C001936 #EB 0003128

May 31, 2018

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

PROJECT: BLOCK 3170 LOTS 1-28 & 55-82

SUBJECT: ZONING AMENDMENT LETTER OF INTENT

Dear Mr. Cautero:

As provided for in Section 8.7 of the City of Cape Coral Land Use and Development Regulations, and on behalf of a property owner within Block 3170, Sullico II LLC, we respectfully request an amendment to the Zoning Map to change the designation of the subject 6.42 acres within Block 3170 for Lots 1-28 and 55-82. The subject property has a Land Use designation of SF (Single Family). The applicant is requesting to amend the zoning from C-1 (Pedestrian Commercial) to R-1 (Single Family).

In addition to the applicant for this case, we have also received signed acknowledgements of support from four (4) other single family home owners within this Block, Jeffrey Oddy, Cynthia Cavanaugh, Equity Trust Company for Katherine Davis, and Maria Rosa Flick.

The subject Block is located south of Veterans Parkway and west of Skyline Blvd, just south of the Home Depot Shopping Center in Section 34, Township 44E, and Range 23 S in the SW Section of Cape Coral. There are a total of 56 Lots within Block 3170. The applicants, Sullico II, LLC owns thirty (30) Lots, for a total ownership of 53.5% of the Lots within this Block. 51% is required for the submittal of a Zoning Amendment Application.

In 2001, the Land Use and Zoning were amended for this Block and four (4) other Blocks, north to Veterans Parkway and east to Skyline Blvd, from SF (Single Family) to CP (Commercial Professional), in order to support a large commercial subdivision that was planned to contain two (2) Big Box developments, several national anchor stores, some local space, and outparcels fronting Skyline Blvd. As a result of the development of the Home Depot, the vision to incorporate this 6.42 acres into the current Shopping Center diminished, as commercial interest no longer looks favorable on a second phase of this center, for an another big box, or a couple of anchor retail stores and additional out-parcels.

Twenty-two (22) Lots (or 39% of this Block) are developed with Single Family Homes, all of which were constructed prior or during the Land Use and Zoning Amendments to commercial. No new Single Family Homes have been constructed on Block 3170 since the Land Use and Zoning was amended, as the City's C-1 (Pedestrian Commercial) Zoning does not permit single family development.

Development Blocks to the west 3172, 3171, and 3166, currently have single family development consisting of between 58% to 75%, with new single family building permits being submitted monthly within this area.

Market Studies, that have been prepared by developers of National Chains, over and over since 2003, indicate that retail development is not conducive on this Block, due to the linear distance from Skyline Blvd, however, there is much developer interest in expanding on the success of the single family development to the west of the site.

Commercial development has occurred on Blocks that have Lots fronting Skyline Blvd. Since the Lots fronting Skyline have been developed, it is not feasible for Block 3170, which is located 634 feet from Skyline Blvd to be developed with commercial uses.

Please accept this evaluation of the propose amendment with respect to determining consistency with these General Standards:

1. The extent to which the value of the property is diminished by the proposed land use restriction or zoning of the property;

   The value of the property will not be diminished with the proposed Zoning Amendment. Prior to approval of the Zoning Amendment to commercial within this area of the Cape, including Block 3170, Blocks that did not front Skyline Blvd were designated as Single Family.

   Eleven (11) Single Family homes were constructed within Block 3170 prior to the approval of the Zoning Amendment to Commercial Professional.

   All parcels within this area have been assessed for City water, wastewater, and irrigation. Due to the commercial zoning and land use owners of the Lots within Block 3170, are currently not able to permit a single family home on their parcel.

   The Zoning Amendment to commercial zoning was approved in 2001, and for seventeen years this Block has been available for commercial development. Commercial development has occurred only along Skyline Blvd and the corner of Veterans Parkway and Skyline Blvd. Since commercial development has not occurred, it is necessary to consider the needs of the existing homeowners within this Block.

2. The extent to which, the removal of a proposed land use restriction or change in zoning depreciates the value of other property in the area;

   The proposed change will allow the existing single family homes to be a permitted use with the ability to rebuild in case of an natural event or an emergency. The amendment would have little effect on the existing or future commercial development, since this site, over the years, has had the ability to develop with commercial uses and has not.

3. The suitability of the property for the zoning purpose or land use restriction imposed on the property as zoned;

   Block 3170 is adjacent to other existing single family zoned Blocks, directly to the west and behind the Shopping Center. The proposed zoning amendment would not only be suitable for this Block, but it will provide the current homeowners a sense of security that they deserve, as their existing home will be a permitted use and the homeowners will know that they will have only single family uses constructed adjacent to them. The current single family home owners within this Block have been living with the uncertainty of not knowing what would be built next or in close proximity to them since 2001.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning;

   The character of the neighborhood consists of a majority of the area being single family residential with commercial zoned vacant and development parcels fronting Skyline Blvd. The current uses consist of a Home Improvement Store, automotive services (repair and parts store), fast food restaurant (Dairy Queen), convenience store with gas pumps, a bank, and a variety store. The existing commercial square footage fronts on Skyline Blvd, with residential located at least 634 feet from Skyline Blvd and 1068 feet from Veteran's Parkway.

5. The relative gain to the community as compared to the hardship, if any imposed, by the proposed land use restrictions or from rezoning said property;

   There would be a positive effect in amending the zoning for Block 3170. The property would have a better chance of being developed within the next few years, which would increase the City's tax base and provide an increase in the amount and type of housing products available within the Cape.

The redevelopment of the existing Shopping Center to incorporate and integrate the proposed parcel, as required to create a commercial node and a unified development, is unlikely, thus leaving this Block isolated from the existing commercial, without visibility and direct access to a major street.

6. The community need for the use proposed by the zoning or land use restriction;

Block 3170 was originally designated for Single Family use. The Block contains 11 single family homes. Over the last 17 years, the character of the Block has not changed. The community need is to protect the existing Single Family homes within this Block and to encourage investment and development rather than foster an area that can't invest in the improvements to their developed properties, thus allowing for the possibility of Blight.

7. Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property;

The Block was zoned commercial in 2001. This Block has been marketed as available commercial property since that date. There has been no interest in the development of this parcel for a commercial use, due to the lack of frontage along a major street.

8. The extent to which the proposed land use restriction or zoning promotes the health, safety, morals, or general welfare of this community;

The proposed zoning from C-1 (Pedestrian Commercial) to R-1B (Single Family) will provide the City of Cape Coral with additional housing options in an area, which are in close proximity to public transit, adjacent to shopping and within walking distance of job opportunities.

9. The extent to which the proposed land use, land use restriction, or zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan; and

This proposed zoning change from C-1 (Pedestrian Commercial) to R-1B (Single Family) will not degrade the level of service of any public facility below the adopted level of service. In addition, the peak hour trips associated with the number of Single Family homes that would be able to be developed is less than the peak hour trips associated with retail, commercial service, or even a mini-warehouse use.

10. Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.

Policy 1.13 of the City's Future Land Use Element of the Comprehensive Plan states that commercial nodes should be located around or in the vicinity of intersection of major city roadways.

Block 3170 is over 634 feet away from a major city roadway and over 1068 feet from the intersection. This Block would not be considered a commercial node. Commercial uses are not consistent with this Policy.

Policy 1.14 of the City's Future Land Use Element of the Comprehensive Plan states that the benefits derived by having commercial properties located in the vicinity of the intersection diminish with distance from the intersection and whether the subject property represents a new commercial property or an expansion of an existing commercial area.

New commercial properties should preferably be located adjacent to the intersection, while commercial properties that clearly represent an expansion of an existing commercial area can be any distance from the intersection, provided that such properties are integrated with existing properties.

The subject property currently has a zoning designation of commercial. If a commercial development were to occur on this site it would be considered new development according to Policy 1.14 and as such this new commercial development would not meet the requirements of this policy, which is to be located in the vicinity of the intersection. Commercial uses are not consistent with this Policy.

Policy 1.14 of the City's Future Land Use Element of the Comprehensive Plan states that in the City of Cape Coral there are two ideal access provisions for a commercial property a) Access via a platted City parking area and b) Direct access onto an arterial or collector roadway having an adopted City access management plan. If a subject property would meet the requirements for one or more of these provisions, the creation of a commercial future land use at the proposed location should be encouraged.

Block 3170 property currently has a zoning designation as commercial. If a commercial development were to develop on this site the development would not meet the requirements of this policy as it does not meet either ideal access provisions. The subject parcel should be encouraged to develop with a single family use and not a commercial use. Commercial uses are not consistent with this Policy.

The Commercial Corridor Study identified 17 separate commercial corridors within the City of Cape Coral. Each of these Corridors will require a certain amount of commercial square footage to meet the needs of that particular area, and that each of those Corridor areas should be viewed separately to determine those needs. Additional commercial land that is available within one corridor may not provide a benefit if not within an area needing commercial space nor within an area without a commercial market, as commercial is market driven.

This Block should be considered additional commercial land that is in an area that has existing commercial square footage and without a commercial market, as such this Block would be best suited for residential development.

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

Lots within this Block are consistent with the requirements for Single Family Development.

Single Family Land Use Advantages for this Block:

1) This Block contains existing single family homes.

2) This Block is located within a centralized area and has a large percentage of commercial square footage already developed within this corridor.

3) This Block has accessibility to public transit.

4) A single family zoning will encourage improvements to the existing single family homes, and allow the owners to obtain home mortgages and home insurance since the SF use will be permitted.

5) The change in zoning will allow the owners of the existing homes to market their properties as single family homes rather than future investment properties. This will create a more stable neighborhood with more owner occupied homes.

6) The subject parcel is located out-side of the Coastal High Hazard Area and would be permitted to request a residential zoning.

7) The Block is currently platted into single family lots, typical of Cape Coral, with enough land area to support a single family home and individual amenities (pools, playgrounds, barbeque areas, etc). In addition, these lots have access to City utilities.

On behalf of the applicant, Avalon has reached out to each homeowner within this Block with two direct mailings explaining the request within this application to amend the Zoning on this Block. Avalon has not received any unfavorable response to this zoning change from the homeowners within this Block. Should you or your staff have questions or require additional information, please let us know.

Sincerely,

AVALON ENGINEERING, INC.

Linda Miller

Linda Miller, AICP
Senior Planner

G:\2017\17-250\Zoning Map Amendment\Zoning Amendment Letter of Intent.doc

Exhibit A

Zoning Map Amendment Application - Block 3170

Legal Description

Lots 1-27, Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida.

Lot 28, Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida, ***less and except*** that portion of said Lot 28 lying within the right of way for the extension of SE 26th Street as set forth in that certain plat of Home Depot according to the map or plat thereof as bearing Official Records Instrument # 2006000203514, Public Records of Lee County, Florida.

Lot 55, Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida, ***less and except*** that portion of said Lot 55 lying within the right of way for the extension of SE 26th Street as set forth in that certain plat of Home Depot according to the map or plat thereof as bearing Official Records Instrument # 2006000203514, Public Records of Lee County, Florida.

Lots 56-82 , Block 3170, CAPE CORAL UNIT 66, according to plat thereof, recorded in Plat Book 22, Pages 2 through 26, inclusive, Public Records of Lee County, Florida.

Block 3170	56 Lots (22 Developed -34 Undeveloped -30 are owned by Sullico II, LLC)			
Strap	**Improved**	**Lot**	**Address**	**Owner**
344423C2031700560	No	55, 56	2606 SW 8TH CT	INA GROUP LLC
344423C2031700570	No	57, 58	2608 SW 8TH CT	SULLICO II LLC
344423C2031700590	No	59, 60	2612 SW 8TH CT	SULLICO II LLC
344423C2031700610	No	61 - 63	2618 SW 8TH CT	SULLICO II LLC
344423C2031700640	No	64 - 66	2624 SW 8TH CT	SULLICO II LLC
344423C2031700670	No	67 - 69	2630 SW 8TH CT	SULLICO II LLC
344423C2031700700	No	70 - 72	2702 SW 8TH CT	SULLICO II LLC
344423C2031700730	Yes	73, 74	2706 SW 8TH CT	CAVANAUGH CYNTHIA A
344423C2031700750	Yes	75, 76	2710 SW 8TH CT	HANCOCK FRANCIS J
344423C2031700770	Yes	77, 78	2714 SW 8TH CT	2311803 ONTARIO INC
344423C2031700790	No	79, 80	2718 SW 8TH CT	SULLICO II LLC
344423C2031700810	No	81, 82	2722 SW 8TH CT	SULLICO II LLC
344423C2031700010	No	1, 2	2723 SW 9TH AVE	SULLICO II LLC
344423C2031700030	Yes	3, 4	2719 SW 9TH AVE	ARROW RE SUB 1 LLC
344423C2031700050	Yes	5, 6	2715 SW 9TH AVE	EQUITY TRUST COMPANY
344423C2031700070	No	7, 8	2711 SW 9TH AVE	SULLICO II LLC
344423C2031700090	Yes	9, 10	2707 SW 9TH AVE	ODDY JEFFREY A
344423C2031700110	Yes	11, 12	2703 SW 9TH AVE	NORTHUP SCOTT E
344423C2031700130	Yes	13, 14	2633 SW 9TH AVE	SASH THOMAS W
344423C2031700150	Yes	15, 16	2629 SW 9TH AVE	FLICK MARIA ROSA
344423C2031700170	No	17, 18	2625 SW 9TH AVE	SULLICO II LLC
344423C2031700190	Yes	19, 20	2621 SW 9TH AVE	KEMP STEPHEN G + ELLEN K
344423C2031700210	No	21, 22	2617 SW 9TH AVE	SULLICO II LLC
344423C2031700230	No	23, 24	2613 SW 9TH AVE	SULLICO II LLC
344423C2031700250	Yes	25, 26	2609 SW 9TH AVE	MCCRACKEN RANDY + MARLENE J
344423C2031700270	No	27, 28	2607 SW 9TH AVE	LJH INVESTMENTS LLC

Protected Species Assessment

Block 3170
Lots 1, 2, 7, 8, 17, 18, 21 - 24, 57-72, 79-82
Cape Coral, Florida 33914
Section 34, Township 44S, Range 23E

December, 2017

Prepared for:

Sullico II LLC
15946 Double Eagle Drive
Morrison, CO 80465

Prepared by:

Avalon Engineering, Inc.
2503 Del Prado Boulevard South, Suite 200
Cape Coral, Florida 33904

INTRODUCTION

This 3.44 acre area is located between SW 8th Court and SW 9th Avenue, west of Skyline Blvd and south of Veterans Parkway. Adjacent properties consist of the following: to the north is commercial building, to the south is residential, to the east is lots zoned commercial but developed with some single family homes, and to the west is developed and undeveloped single family lots. The parcel is located in Section 34, Township 44S, Range 23E, Cape Coral, Florida.

SITE CONDITIONS

A site inspection was conducted by Scott Tucker on December 27, 2017. The weather was partly cloudy with temperatures in the 50's.

VEGETATION CLASSIFICATIONS

The table below displays the (#1) vegetative associations found on the subject parcel. These vegetative associations were identified using the Florida Land Use Cover Classification System. (FLUCCS) and are shown on the table below. Also included is a description of each FLUCCS association below.

FLUCCS CODE	DESCRIPTION	APPROXIMATE ACREAGE
192	Inactive land with street patterns but without structures (routinely mowed).	3.44
	TOTAL ACREAGE	**3.44**

SURVEY METHOD

To provide at least 100% visual coverage, four centered transects were completed at 20' intervals within the construction area. This method was selected to examine for the presence or absence of protected or listed species within the entire construction area.

If a sign or sighting was observed, an aerial photograph was marked depicting the approximate location. The attached scale aerial map depicts the results of this survey. Other listed protected species which could occur on the subject parcel according to City of Cape Coral which were surveyed for are as follows:

SPECIES	SCIENTIFIC NAME	OBSERVED
Burrowing Owl	Athene cunicularia	No
Gopher Tortoise	Gopherus polyphemus	No

RESULTS

The Protected Species Survey revealed the presence of no species listed by either the U.S. Fish & Wildlife Service (USFWS) or by the Florida Fish & Wildlife Conservation Commission (FFWCC).

Attachment: Transect Line Map

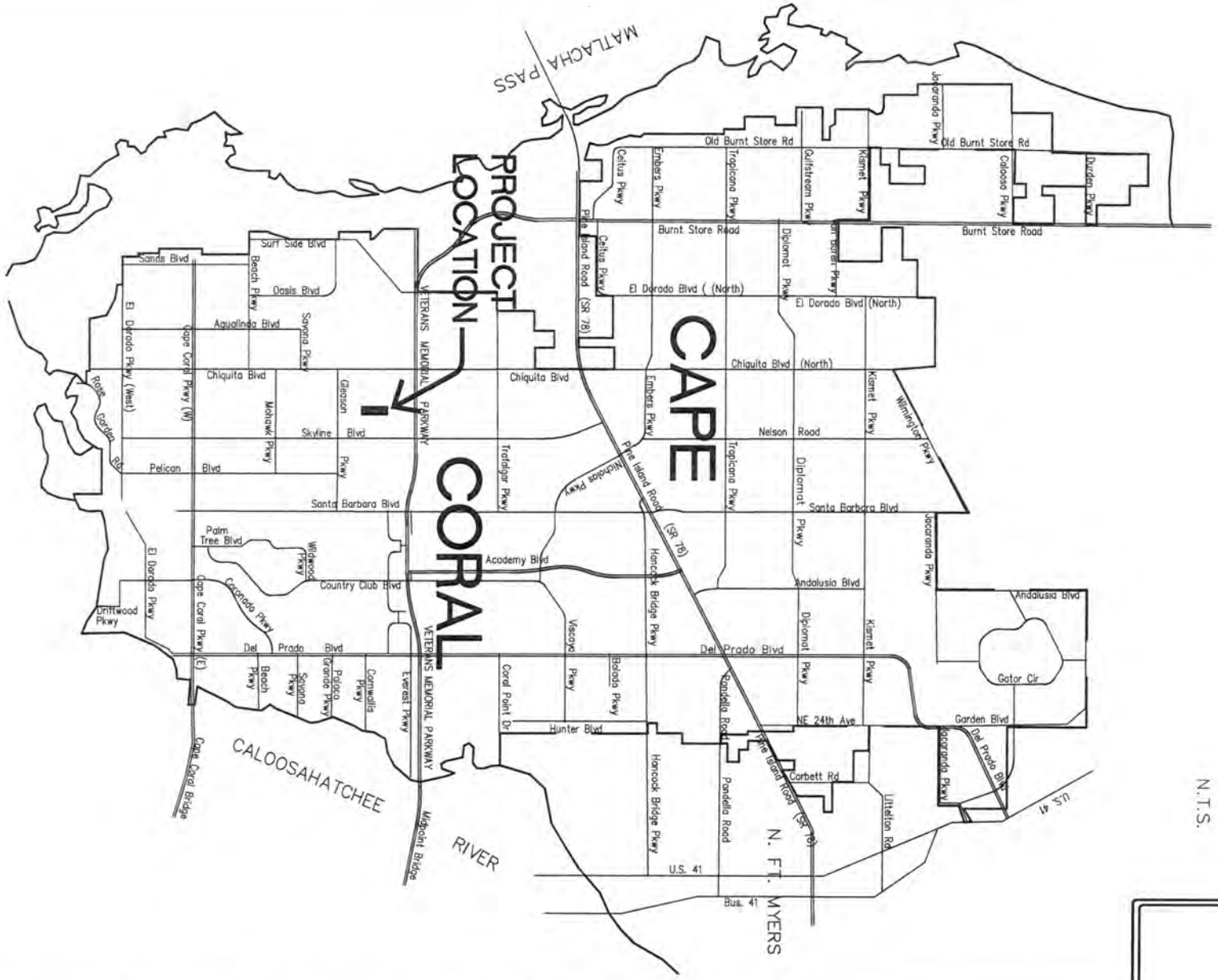
0 125 250
(IN FEET)

PROTECTED SPECIES TRANSECT LINE JANUARY 10, 2018

1 OF 1	#17-250/LUMA	TRANSECT MAP (AERIAL)	*LAND USE MAP AMENDMENT* *BLOCK 3170, UNIT 66* *CAPE CORAL, FLORIDA*	*AVALON ENGINEERING, INC.* 2503 DEL PRADO BLVD. #200 CAPE CORAL, FLORIDA 33904 FBPE#3128 (239) 573-2077

DATE	BY	REVISION DESCRIPTION
12/12/17	LM	INITIAL SUBMITTAL

THIS PLAN IS INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. SITE LAYOUT MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENVIRONMENTAL AND REGULATORY CONSTRANTS. "NOT FOR CONSTRUCTION"



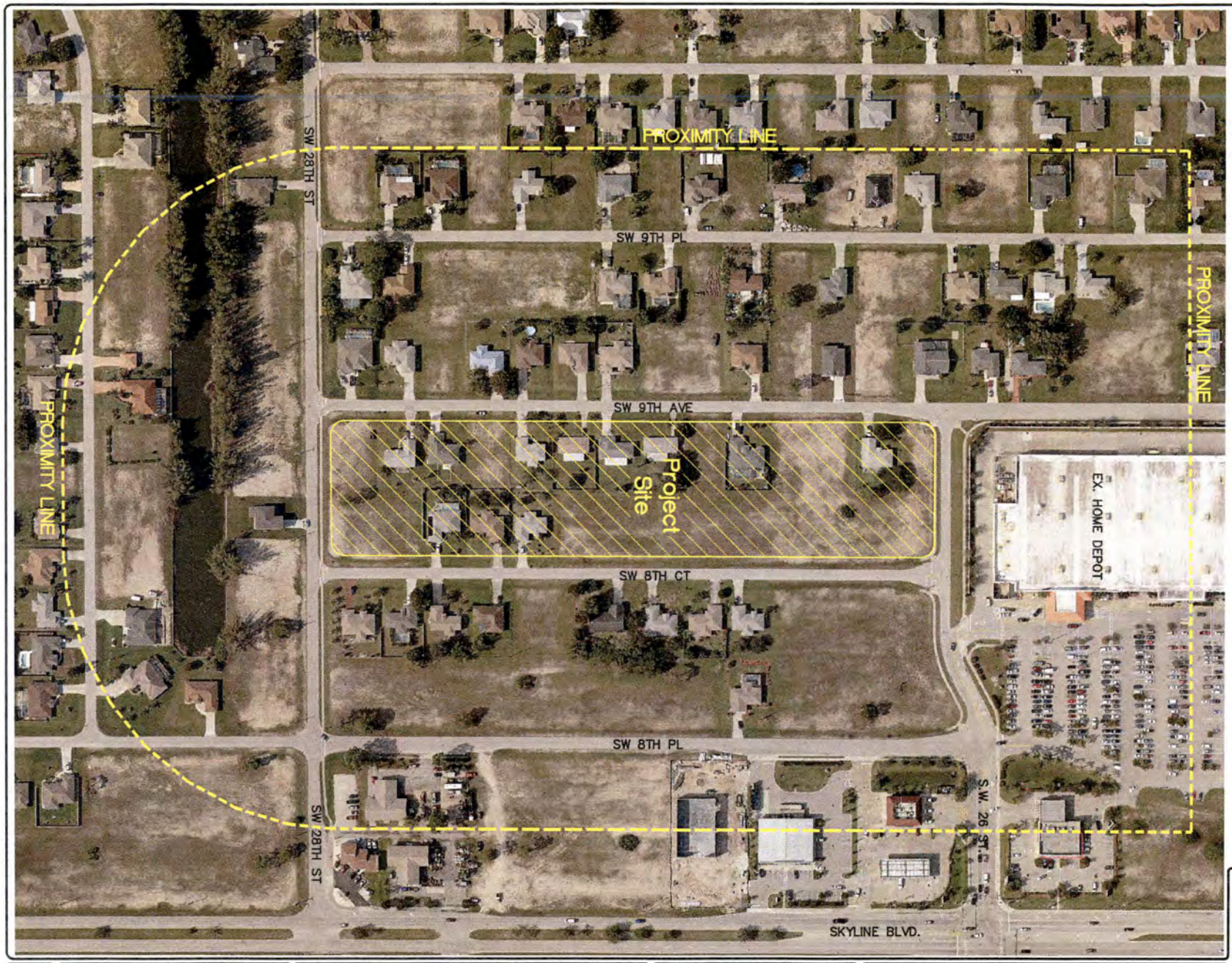
1 OF 1	#17-250/70N	LOCATION MAP	ZONING MAP AMENDMENT BLOCK 3170, UNIT 66 CAPE CORAL, FLORIDA	AVALON ENGINEERING, INC. 2503 DEL PRADO BLVD. #200 CAPE CORAL, FLORIDA 33904 FBPE#3128 (239) 573-2077	DATE / BY / REVISION DESCRIPTION 05/29/18 LM INITIAL SUBMITTAL THIS PLAN IS INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. SITE LAYOUT MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENVIRONMENTAL AND REGULATORY CONSTRANTS. "NOT FOR CONSTRUCTION"

1 OF 1	#17-250/ZON	500' PROXIMITY MAP	ZONING MAP AMENDMENT BLOCK 3170, UNIT 66 CAPE CORAL, FLORIDA

AVALON ENGINEERING, INC.
2503 DEL PRADO BLVD. #200
CAPE CORAL, FLORIDA 33904
FBPE#3128 (239) 573-2077

DATE	BY	REVISION DESCRIPTION
05/29/18	LM	INITIAL SUBMITTAL

THIS PLAN IS INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. SITE LAYOUT MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENVIRONMENTAL AND REGULATORY CONSTRANTS. "NOT FOR CONSTRUCTION"



0 125 250
(IN FEET)

N

1 OF 1	#17-250/ZON	VICINITY MAP (AERIAL)	*ZONING MAP AMENDMENT* *BLOCK 3170, UNIT 66* *CAPE CORAL, FLORIDA*

AVALON ENGINEERING, INC.
2503 DEL PRADO BLVD. #200
CAPE CORAL, FLORIDA 33904
FBPE#3128 (239) 573-2077

DATE	BY	REVISION DESCRIPTION
05/29/18	LM	INITIAL SUBMITTAL

THIS PLAN IS INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY. SITE LAYOUT MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENVIRONMENTAL AND REGULATORY CONSTRANTS. "NOT FOR CONSTRUCTION"

Avalon Engineering, Inc.
2503 Del Prado Boulevard South, Suite 200
Cape Coral, Florida 33904
Phone: (239) 573-2077 Fax: (239) 573-2076
#AA C001936 #EB 0003128

May 29, 2018

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

PROJECT: ZONING AMENDMENT - BLOCK 3170

SUBJECT: TRAFFIC GENERATION STATEMENT

Dear Mr. Cautero,

Included herewith are the traffic generation calculations for the above referenced project. As the project creates less than 300 vehicle trips, peak hour of the generator, a traffic impact statement will not be necessary.

Source: I.T.E. Trip Generation Manual, 9th Edition
Land Use: (210) Single Family Detached Housing
Dwelling Unit: 28 (maximum dwelling units)

A.M. Peak Hour of the Generator:
0.77 Average Rate per dwelling unit

5.61 vehicles entering 26%
15.95 vehicles exiting 74%
21.56 TOTAL VEHICLES

P.M. Peak Hour of the Generator:
1.02 Average Rate per dwelling unit

18.27 vehicles entering 64%
10.29 vehicles exiting 36%
28.56 TOTAL VEHICLES

If you should have any questions or require additional information, please feel free to call me.

Sincerely,

AVALON ENGINEERING, INC.

Linda Miller

Linda Miller, AICP
Senior Planner

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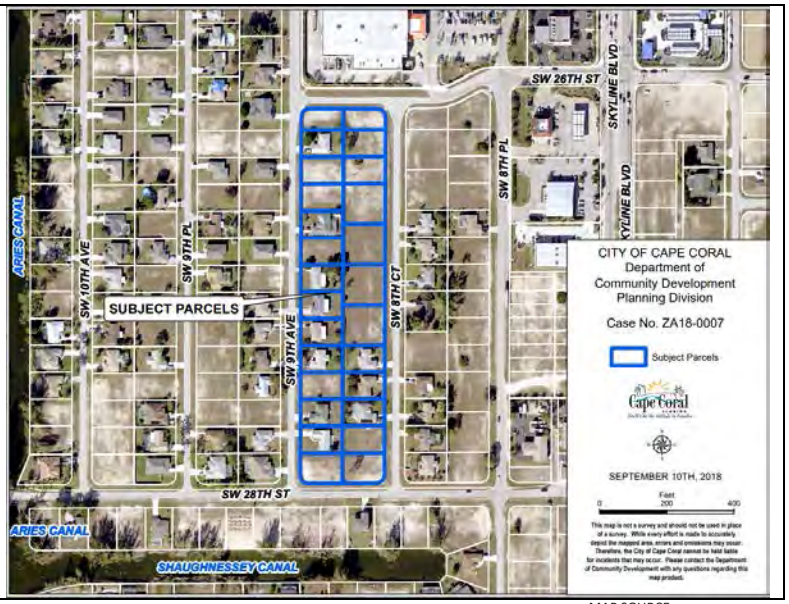
PLANNING DIVISION STAFF REPORT
ZA18-0007

SITE ADDRESSES Multiple addresses. Southeast of Veterans Parkway and Skyline Boulevard intersection.	**APPLICANT/PROPERTY OWNER** Sullico II, LLC
AUTHORIZED REPRESENTATIVE Avalon Engineering, Inc.	

SUMMARY OF REQUEST

The applicant requests a rezone from the Pedestrian Commercial (C-1) zoning district to the Single-Family Residential (R-1B) district. The site is 6.42 acres, although, only 3.44 acres is owned by the applicant. The site is a mix of single-family homes and undeveloped parcels.



MAP SOURCE

STAFF RECOMMENDATION: **Approval**

Positive Aspects of Application:	Rezone will make the site consistent with the future land use. Rezone will be compatible with area to the south and west.
Negative Aspects of Application:	Loss of commercial zoned land that has some assemblage.
Mitigating Factors:	Site has not developed for over 10 years with commercial entitlements and may not be well suited for non-residential uses.

SITE INFORMATION

Location: Multiple addresses.
Unit 66. Block 3170. Lots 1 through 28 and 55 through 82.
South of Veterans Parkway and West of Skyline Boulevard.

STRAP Numbers: Multiple STRAPs

Site Area: 6.42 acres

Site:	***Future Land Use***	***Zoning***
Current:	**Single-Family Residential (SF)**	**Pedestrian Commercial (C-1)**
Proposed:	**N/A**	**Single-Family Residential (R-1B)**
	Surrounding Future Land Use	***Surrounding Zoning***
North:	**Commercial/Professional (CP)**	**C-1**
South:	**SF**	**R-1B**
East:	**CP**	**C-1**
West:	**SF**	**R-1B**

Urban Service Area: Transition

City Water/Sewer: Yes

FINDINGS OF FACT

The site is 26 parcels in Block 3170 which is in southwestern Cape Coral that totals 6.42 acres. 11 parcels in the block are developed with single-family homes, while the remaining parcels are undeveloped. The applicant, Sullico II, LLC, owns 30 parcels in the block and the remaining parcels are owned by a variety of owners. No other individual or business owns more than one parcel in the block. The site is bounded by four local streets; SW 26th Street to the north, SW 8th Court to the west, SW 28th Street to the south, and SW 9th Avenue to the east. Surrounding development consists of a Home Depot to the north and a combination of single-family homes and undeveloped parcels to east, west, and south. The Home Depot site was a part of Block 3170[1] prior to the development being approved and subdivided by a Planned Development Project (PDP) in 2005.

The parcels in Block 3170 have gone through several future land use and zoning changes in the past. The Block was designated as Single-Family/Multi-Family (SM) upon the adoption of the Comprehensive Plan in 1989. In two separate amendments in 2002 and 2005, the future land use of the parcels was amended from SM to Commercial/Professional (CP). Similarly, two separate rezones in 2002 and 2008 changed the zoning within the block from Single-Family Residential (R-1B) to Pedestrian Commercial (C-1). The future land use and zoning amendments were sought by a previous owner who owned most of the parcels in Block 3170.

[1] Prior to re-plat.

The future land use of the site was recently amended to Single-Family Residential (SF) via Ordinance 42-18. The applicant sought the amendment to build more single-family homes in the block, however, the sites must also be rezoned to Single-Family Residential (R-1B). The applicant states there is little demand for commercial development in the block, while, there is demand for single-family home development.

ANALYSIS

Comprehensive Plan

The site has a future land use designation of Single-Family Residential (SF) which is described as:

Single-Family Residential

Sites of 10,000 square feet and greater, with densities not to exceed 4.4 units per acre.

Response: The site is within the Urban Services Transition Area and municipal utilities to are available to the site. The majority of parcels are a minimum of 10,000 sq. ft.

Land Use and Development Regulations

The Planning Division reviewed this request to rezone the site from Pedestrian Commercial (C-1) to Single-Family Residential (R-1B) based on the ten General Standards in LUDR, Section 8.7.3.B and offers the following analysis for consideration:

1. The extent to which the property is diminished by the proposed zoning of the property:

Response: The rezone may decrease the value of the property. The existing C-1 zoning allows a broad range of commercial uses. The requested R-1B district allows single-family homes and a few additional uses that are compatible with single-family homes such as daycares, parks, etc. Additionally, commercial property is generally valued higher than residential property, although many factors determine property values. Planning staff notes that while the rezone may decrease the value of the property, the rezone is requested by the applicant, therefore concerns regarding diminished property values are lessened.

2. The extent to which the removal of a proposed change in zoning depreciates the value of other property in the area:

Response: The rezone is likely to not have an effect on the value of surrounding properties. The rezone will likely result in additional single-family homes which are compatible with the areas to the south and west. The areas to the north and east are commercial, however, additional single-family homes are unlikely to depreciate the value of commercial sites.

3. The suitability of the property for the zoning purpose:

Response: Planning staff finds that the site is suited for both R-1B or C-1 zoning. The site is developed with single-family homes and similar development exists to the south and west. Additionally, the site has a Single-Family future land use designation and the R-1B district is consistent with this designation. The site is also suitable for the C-1 zoning due to property assemblage and nearby commercial development.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed zoning:

Response: The surrounding area consists of residential dwelling units to the south and west (along with corresponding future land use and zoning designations) and commercial development to the north and east. The R-1B zone will be compatible as there are several homes within the site and the R-1B zone will allow for additional construction of homes.

5. The relative gain to the community as compared to the hardship, if any imposed, from rezoning said property:

Response: While single-family homes are not a documented need in Cape Coral, the rezone will bring the site into compatibility with the recently adopted SF future land use designation. The rezone will result in a loss of C-1 zoned land, however, the land may not be suitable for commercial development.

6. The community need for the use proposed by the zoning:

Response: The rezone will add single-family homes in an area that is predominantly single-family or commercial. The rezone does not meet documented needs of adding additional commercial land or multi-family dwelling units.

7. Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property:

Response: The future land use of Block 3170 was amended from Commercial/Professional (CP) to Single-Family Residential (SF) in 2018, and the site has been zoned Pedestrian Commercial (C-1) since 2002.

8. The extent to which the proposed zoning promotes the health, safety, morals, or general welfare of this community:

Response: R-1B zoning will be consistent with the City's Comprehensive Land Use Plan and the change will provide additional area for single-family residential at an appropriate location. The proposed rezone should not negatively affect the health, safety, or welfare of the community because similar zoning already exists in general proximity to the site.

9. The extent to which the proposed zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan.

Response: The site is in the City Urban Service Transition Area. Water, sewer, and irrigation are available. Future development will be required to connect to City utility system.

10. Whether the proposed zoning is consistent with the City of Cape Coral's Comprehensive Land Use Plan.

Response: The proposed rezone is consistent Comprehensive Plan Policy 1.15 as the Future Land Use classification is SF. Properties with the SF future land use are compatible with the R-1B district. Staff finds that the requested R-1B zone is appropriate for the site.

ECONOMIC DEVELOPMENT MASTER PLAN ANALYSIS

The rezone is not supported by the City Economic Development Master Plan. The site is not within an Economic Opportunity Area, however, the amendment will result in the loss of commercial land which the Economic Development Master Plan has identified as a need in Cape Coral.

PUBLIC NOTIFICATION

This case will be publicly noticed as required by LUDR, Section 8.3.2.A and 8.3.4 as further described below.

Publication: A legal ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to rezone the site described within this report. The ad will appear in the *News-Press* a minimum of 10 days prior to the public hearing scheduled before the Cape Coral Hearing Examiner. Following the public hearing before the Hearing Examiner, the ad announcing the final public hearing before the City Council will appear once in the *News-Press*. The ad will appear in the newspaper not less than 10 days prior to the date of the final public hearing before the City Council.

Written notice: Property owners located within 500 feet from the site will receive written notification of the scheduled public hearing. These letters will be mailed to the aforementioned parties a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Posting of a Sign: A large sign identifying the case and providing salient information will be posted on the site, as another means of providing notice of the rezone request.

RECOMMENDATION

Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the proposed rezone to Single-Family Residential (R-1B) zoning is consistent with the Comprehensive Plan, the Land Use and Development Regulations, and is compatible with the surrounding area, therefore, Planning Division staff recommends **approval** of the rezone request.

NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: ZA18-0007

REQUEST: The applicant requests a rezone from the Pedestrian Commercial (C-1) zoning district to the Single-Family Residential (R-1B) district. The site is 6.42 acres, although, only 3.44 acres is owned by the applicant. The site is a mix of single-family homes and undeveloped parcels.

LOCATION: Multiple addresses. Southeast of Veterans Parkway and Skyline Boulevard intersection.

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

PROPERTY OWNER(S): Sullico II, LLC

AUTHORIZED REPRESENTATIVE: Avalon 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, October 16, 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.

After Hearing Examiner has made a written recommendation, the case may be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice if this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (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.

APPEALS: 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

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Address: 1015 CULTURAL PARK BLVD
CAPE CORAL FL 33990
USA

Ad No.: 0003191448

Net Amt: $389.45

Run Times: 1

No. of Affidavits: 1

Run Dates: 10/06/18

Text of Ad:

NOTICE OF PUBLIC HEARING

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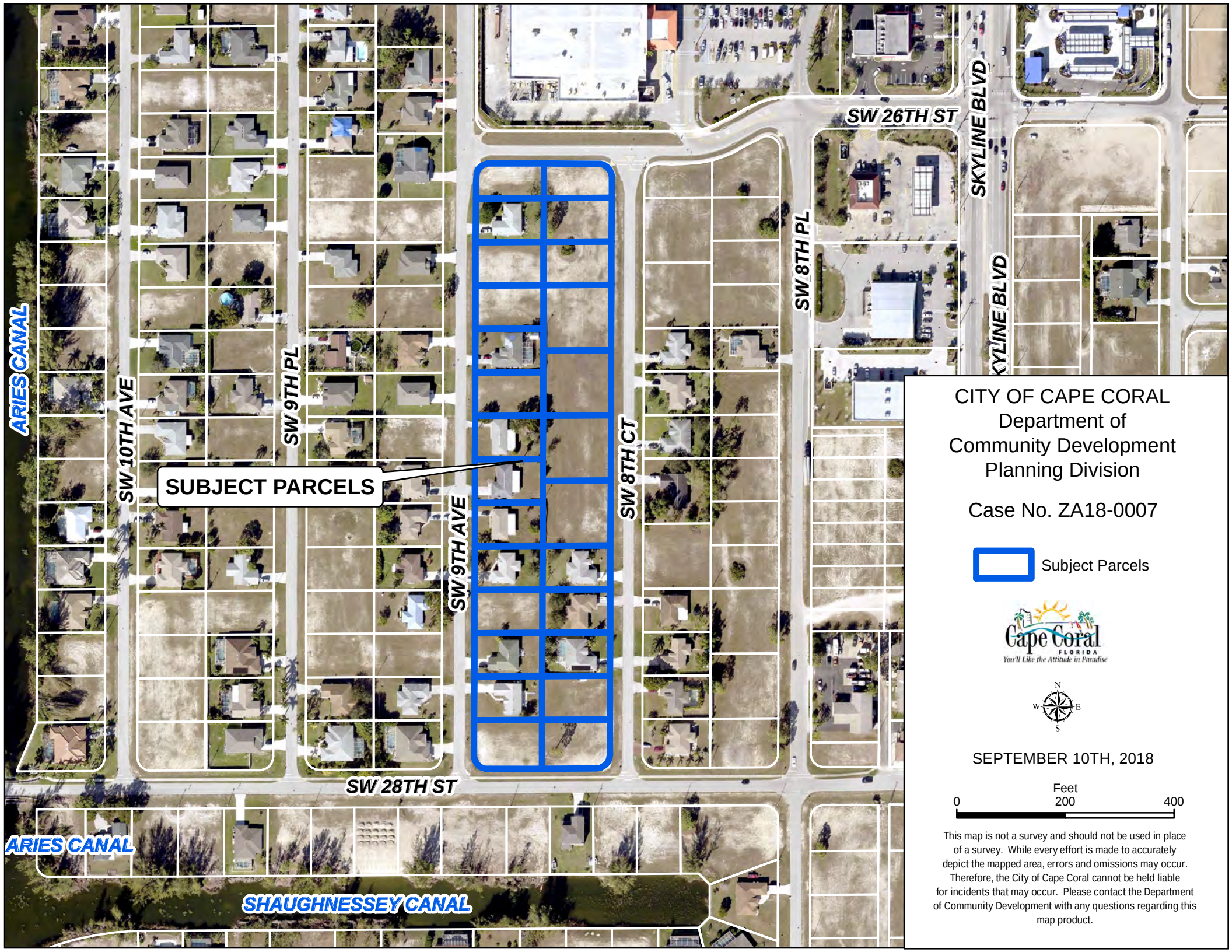
by order of
Rebecca van Deutekom, MMC
City Clerk
REF # ZA18-0007
AD# 3191448 Oct. 6, 2018


SW 26TH ST
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SKYLINE BLVD
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SW 8TH CT
SW 9TH PL
SW 10TH AVE
SW 9TH AVE
ARIES CANAL
SUBJECT PARCELS
SW 28TH ST
ARIES CANAL
SHAUGHNESSEY CANAL
CITY OF CAPE CORAL
Department of
Community Development
Planning Division
Case No. ZA18-0007
Subject Parcels
Cape Coral
FLORIDA
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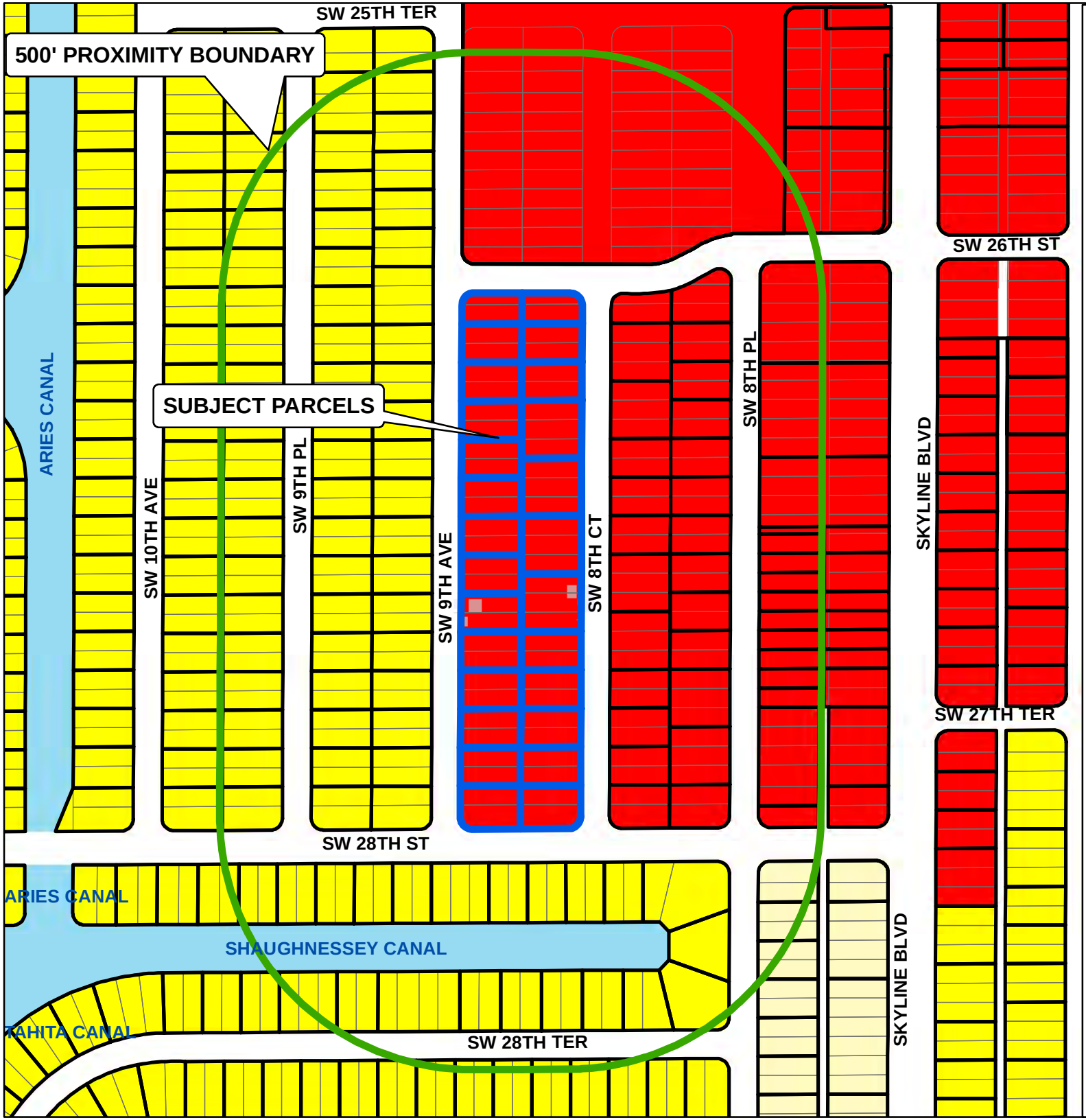
This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.



CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT ZONING MAP
500' Proximity Buffer

Case No. ZA18-0007

LEGEND

- 500' Proximity Boundary
- Subject Parcels

Zoning

- C-1
- R-1B
- RD

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N W E S

SEPTEMBER 10TH, 2018

Feet
0 330 660

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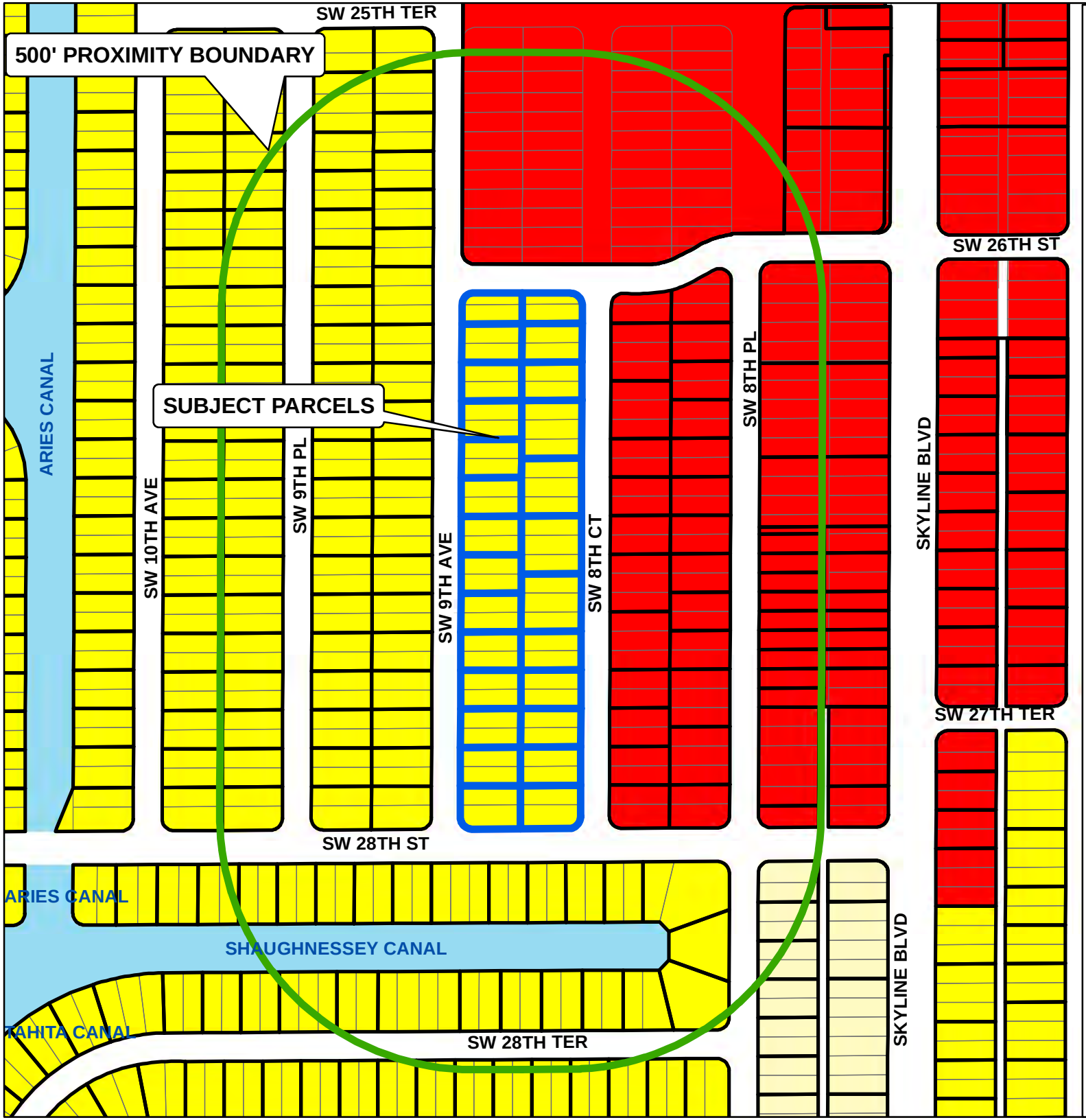

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

PROPOSED ZONING MAP
500' Proximity Buffer

Case No. ZA18-0007

LEGEND

500' Proximity Boundary
Subject Parcels

Zoning

C-1
R-1B
RD

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N W E S

SEPTEMBER 10TH, 2018

Feet
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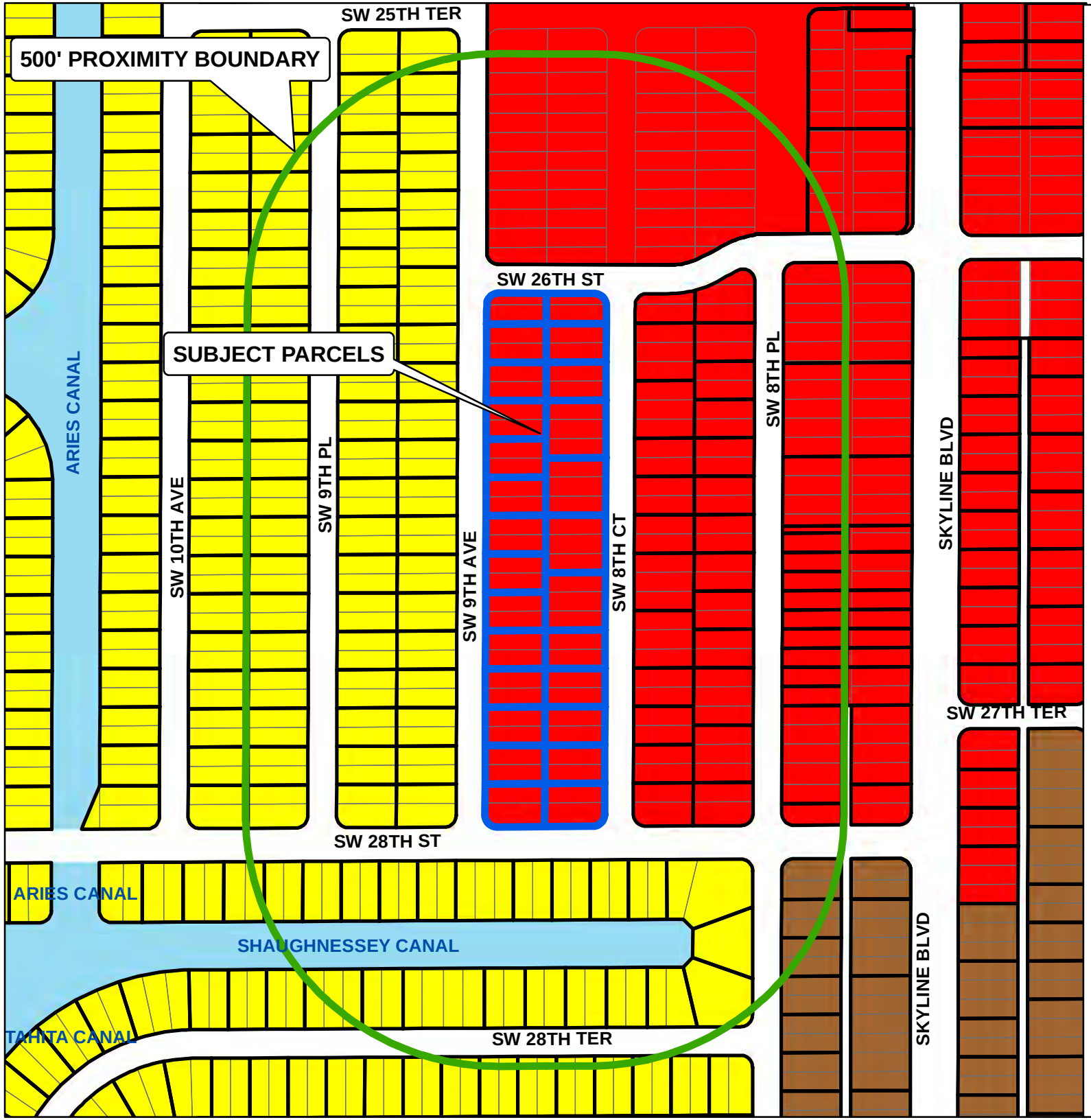

CITY OF CAPE CORAL
Department of
Community Development
Planning Division

CURRENT FUTURE
LAND USE MAP
500' Proximity Boundary

Case No. ZA18-0007

LEGEND

Subject Parcels

500' Proximity Boundary

Future Land Use

SF

MF

CP

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N W E S

SEPTEMBER 10TH, 2018

Feet
0 330 660

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Owner_Name	Mailing_Ad	Mailing_Ci	Maili	Mailing_Zi
2311803 ONTARIO INC	161 PEEL ST	BARRIE	ON	L4M 3L7 CA
CAMIRE R + MARTHE	581 MAHEUX ST	THETFORD MINES	QC	G6H 1S7 CA
MARENTETTE RONALD R	778 ASSUMPTION ST	WINDSOR	ON	N9A 3B6 CA
PB&A MANAGEMENT AND DEVELOPMENT 2 INC	116 CHEPSTOW CLOSE	LONDON	ON	N6G 3S2 CA
JOURDAIN SERGE + JOURDAIN MARC-FABIAN J/T	32 ALLE JACQUES THIBAUD	26000 VALENCE		FRANCE
BUECHERL HEINRICH	MUGLHOF 19	92637 WEIDEN I D OPF		GERMANY
DEJA GUENTER + SABINE	WEINBERG STR 25	74918 ANGELBACHTAL		GERMANY
HIMMELSPACH RALPH + HIMMELSPACH MONICA T/C	AM SONNENBERG 15	SEELBACH 77960		GERMANY
RICKERMANN ERNST	KIRCHSTRASSE 6	49774 LAEHDEN		GERMANY
HERNANDEZ J A + DOLORES	PO BOX 190	SAN PEDRO SULA		HONDURAS
LARSSON ROBIN	PO BOX 24852	NAIROBI		KENYA
CUARE LLC	CALLE GUADARRAMA 22 PORTAL 1D	MADRID		28670 SPAII
RAMDASS RAMNARINE + JEAN TARA	4 GASTON ST	CHAGUANAS LANGE PARK		TRINIDAD A
2018-3 IH BORROWER LP	1717 MAIN ST STE 2000	DALLAS	TX	75201
ABC FINANCIAL TRUST INC	4406 DEL PRADO BLVD S	CAPE CORAL	FL	33904
AMBER US INVESTMENTS LLC	2709 SW 28TH AVE	CAPE CORAL	FL	33914
AMERICAN ESTATE + TRUST	6900 WESTCLIFF DR STE 603	LAS VEGAS	NV	89145
ANDREW R ADAM + AMANDA	840 SW 28TH TER	CAPE CORAL	FL	33914
APITZSCH RUTH	217 LAKEVIEW ST	SAINT CLAIRSVILLE	OH	43950
ARROW RE SUB 1 LLC	6358 OLD MAHOGANY CT	NAPLES	FL	34109
ASKEW NICOLE L	2632 SW 9TH PL	CAPE CORAL	FL	33914
AVENDANO GOMEZ DORIS P	2542 SW 9TH AVE	CAPE CORAL	FL	33914
BANK OF AMERICA NA	101 N TRYON ST	CHARLOTTE	NC	28255
BOSTER BRET A	PO BOX 10	TOWNSEND	MT	59644
BUSCH DONALD L + THERESA J	6334 WATERFORD RD	MADISON	WI	53719
CAHILL WILLIAM A III TR + CAHILL LINDA A TR FOR 2719 SW 9TH PL LAND TRUST	1707 SW 6TH AVE	CAPE CORAL	FL	33991
CAJUN HOMES LLC	226 SW 41ST TER	CAPE CORAL	FL	33914
CAMILO VINCENT + AIDA M	924 NE 36TH AVE	HOMESTEAD	FL	33033
CAPE CORAL POOH LLC	101 W 55TH ST	NEW YORK	NY	10019
CASTELFORTE MARIE E	2601 SW 9TH PL	CAPE CORAL	FL	33914
CATOMER JOSEPH J & CATOMER SAMANTHA K	2541 SW 9TH PL	CAPE CORAL	FL	33914
CAVANAUGH CYNTHIA A	2706 SW 8TH CT	CAPE CORAL	FL	33914
CERBERUS SFR HOLDINGS II LP	1850 PARKWAY PL STE 900	MARIETTA	GA	30067
COMMONWEALTH FOUNDATION FOR CA	800 CANAL ST STE 1900	RICHMOND	VA	23219
D R HORTON INC	10541 BEN C PRATT	FORT MYERS	FL	33966
DALASKEY DAVID B + TRACY	824 SW 28TH TER	CAPE CORAL	FL	33914
DARBIE LLC	7700 MILESTRIP RD	ORCHARD PARK	NY	14127
DUNCAN WM + ISABELLA	7588 LIME LN	PARMA	OH	44129
EASY STREET PROPERTY INVESTORS	319 VANND R STS E # 112	JACKSON	TN	38305

EQUITY TRUST COMPANY DBA STERLING TRUST CUSTODIAN FBO KATHERINE DAVIS 401K	15301 RIVER BY ROAD	FORT MYERS	FL	33908
FEDEWA THOMAS R + BARBARA	2723 SW 8TH CT	CAPE CORAL	FL	33914
FISCHER VINCENSA + FISCHER JOSEPH T/C	525 HENRY ST	BROOKLYN	NY	11231
FLICK MARIA ROSA	2629 SW 9TH AVE	CAPE CORAL	FL	33914
GAINES MARK + DEBORAH A	828 SW 28TH TER	CAPE CORAL	FL	33914
GARCIA JOAN JOSNELL & GUATARASMA DAVID A	2608 SW 9TH PL	CAPE CORAL	FL	33914
GARGANO GIUSEPPE + ANAHIT	2625 SW 8TH CT	CAPE CORAL	FL	33914
GATTURNA FRANCIS + BETH	2620 SW 8TH PL	CAPE CORAL	FL	33914
GEARY DAVID M + MARTHA M	2633 SW 9TH PL	CAPE CORAL	FL	33914
GOODWIN CONSTRUCTION CORP	2733 OAK RIDGE CT STE 101-102	FORT MYERS	FL	33901
GRASSL PETRA	1941 ACADEMY BLVD	CAPE CORAL	FL	33990
HANCOCK FRANCIS J	2710 SW 8TH CT	CAPE CORAL	FL	33914
HENRY JUANITA	900 SW 28TH TER	CAPE CORAL	FL	33914
HOME DEPOT USA INC	PO BOX 105842	ATLANTA	GA	30348
HOOPES ERNEST R + RACHEL M	832 SW 28TH ST	CAPE CORAL	FL	33914
INA GROUP LLC	6333 APPLES WAY STE 115	LINCOLN	NE	68516
JUMALON PENIEL T + JEANETTE R	2613 SW 9TH PL	CAPE CORAL	FL	33914
KEMP MATTHEW C	2612 SW 9TH AVE	CAPE CORAL	FL	33914
KEMP STEPHEN G + ELLEN K	2621 SW 9TH AVE	CAPE CORAL	FL	33914
KERR FRANK + SANDRA	2714 SW 9TH PL	CAPE CORAL	FL	33914
KIZZIRE TIMOTHY POWELL II + SLAFER SUMMER RUTH	2540 SW 9TH PL	CAPE CORAL	FL	33914
KOTLER DAVID M	2722 SW 9TH PL	CAPE CORAL	FL	33914
LADY LU LLC	6358 OLD MAHOGANY CT	NAPLES	FL	34109
LASCELLES KATHLEEN TR FOR KATHLEEN LASCELLES TRUST	2330 CHATHAM RD	SPRINGFIELD	IL	62704
LEVENTURES LLC	224 93RD ST	BROOKLYN	NY	11209
LIBRETTO NICHOLAS P TR FOR NICHOLAS P LIBRETTO TRUST	1134 NW 2ND PL	CAPE CORAL	FL	33993
LJH INVESTMENTS LLC	2524 LAUREL GLEN DR	LAKELAND	FL	33803
LONEGRAN BRADLEY A & LONEGRAN JOANNE M	22420 CEDAR DR	BETHEL	MN	55005
LONG RUSSEL H JR + PATRICIA A	91 OTIS RD	BARRINGTON	IL	60010
LOPEZ JERRY + MARIBEL	2715 SW 8TH CT	CAPE CORAL	FL	33914
LOPEZ JOSUE ARMANDO DIAZ	2530 SW 9TH AVE	CAPE CORAL	FL	33914
MANZI DOUGLAS J	PO BOX 101349	CAPE CORAL	FL	33910
MATACHANA YISSEL EMILA	2621 SW 9TH PL	CAPE CORAL	FL	33914
MCCRACKEN RANDY + MARLENE J	2609 SW 9TH AV	CAPE CORAL	FL	33914
MITCHELL DIANNIA	2221 SE 15TH ST	CAPE CORAL	FL	33990
MOHRMANN ANDREA	21740 S TAMIAMI TRL STE 112	ESTERO	FL	33928
MORAN DENNIS L + VICKIE L	2710 SW 9TH AV	CAPE CORAL	FL	33914
MPK GATOR PROPERTIES LLC	77 TROY RD	EAST GREENBUSH	NY	12061
MYOTT CAROL	15 PERHAM ST	CHELMSFORD	MA	01824
NASON JENNIFER	2711 SW 8TH CT	CAPE CORAL	FL	33914
NICHOLS MARGARET + ESTURO JAMES CARL	2629 SW 9TH PL	CAPE CORAL	FL	33914
NORTHUP SCOTT E	2703 SW 9TH AVE	CAPE CORAL	FL	33914

O NEAL WILLIAM DENNIS TR FOR O NEAL FAMILY TRUST	462 WREN AVE	MIAMI SPRINGS	FL	33166
OCONNOR TAMI L	1410 SE 21ST LANE	CAPE CORAL	FL	33990
ODDY JEFFREY A	5819 SW 1ST PL	CAPE CORAL	FL	33914
OREILLY AUTOMOTIVE STORES INC	PO BOX 9167	SPRINGFIELD	MO	65801
ORTA SAMUEL + ORTA MARIA G T/C	15221 SW 172ND ST	MIAMI	FL	33187
ORTIZ PEDRO + JACQUELINE	2604 SW 9TH AVE	CAPE CORAL	FL	33914
PAHOLSKY DANIEL JAMES & PAHOLSKY AMANDA LYNN	836 SW 28TH TER	CAPE CORAL	FL	33914
PEASE AMY	1500 PANTIGO LN APT 105	CHESAPEAKE	VA	23320
PERALTA JACQUELINE	4530 BROADWAY APT 3J	NEW YORK	NY	10040
PERSONALIZED HEARING SOLUTIONS LLC	2825 SW 35TH ST	CAPE CORAL	FL	33914
PETITTE DAWN & RONALD	2625 SW 9TH PL	CAPE CORAL	FL	33914
PINNEY NELSON M	2703 SW 10TH AVE	CAPE CORAL	FL	33914
RAUSCH ANN	1223 SW 50TH ST	CAPE CORAL	FL	33914
REALTY INCOME PROPERTIES 29 LL	PO BOX 1017	CHARLOTTE	NC	28201
REYES AMMY RAFAELA & REYES DANIEL RICARDO	2710 SW 9TH PL	CAPE CORAL	FL	33914
RINDL DIANNA M TR + RINDL MANFRED TR FOR DIANNA M RINDL TRUST	PO BOX 72	PERRYVILLE	MO	63775
RINDL MANFRED + DIANNA M TR FOR DIANNA M RINDL TRUST	PO BOX 72	PERRYVILLE	MO	63775
RIVERA ERIC + RIVERA ANNISHA T/C	804 ZANA DR	FORT MYERS	FL	33905
RODRIGUEZ VICTOR HUGO	2605 SW 10TH AVE	CAPE CORAL	FL	33914
SAINEGHI RANDY E & SAINEGHI REBECCA S	2600 SW 9TH PL	CAPE CORAL	FL	33914
SANTIAGO DANIEL JOSE & LUIS LOURDES B	2715 SW 9TH PL	CAPE CORAL	FL	33914
SANTORO DOMINIC & LINDA	4 CUTTERS RUN	BARRINGTON	IL	60010
SASH THOMAS W	18110 LONGWATER RUN DR	TAMPA	FL	33647
SCHIFF EDWARD	2821 SW 51ST ST	CAPE CORAL	FL	33914
SFR 2012-1 FLORIDA LLC	1775 HANCOCK ST STE 200	SAN DIEGO	CA	92110
SHEEHAN BRIAN G	4658 158TH ST	FLUSHING	NY	11358
SHELTON TIMOTHY A & KAREN J	1101 MCCRORY ST	PUNTA GORDA	FL	33951
SHIPLEY ADAM	2723 SW 9TH PL	CAPE CORAL	FL	33914
SMITH JANAN L	2629 SW 8TH CT	CAPE CORAL	FL	33914
SODERLUND PROPERTY LLC	5305 MALAUKA CT	CAPE CORAL	FL	33904
SORCE PASQUALE A + PATRICIA R	904 SW 28TH TER	CAPE CORAL	FL	33914
SPRUCE DOROTHY B	2612 SW 9TH PL	CAPE CORAL	FL	33914
STEELE DOROTHY J	144 SW 38TH TER	CAPE CORAL	FL	33914
SULLICO II LLC	15946 DOUBLE EAGLE DR	MORRISON	CO	80465
TAYLOR NORMAN I JR + MICHELLE	2537 SW 9TH PL	CAPE CORAL	FL	33914
TICICH CHRISTOPHER & ANGELA	2536 SW 9TH PL	CAPE CORAL	FL	33914
VANISKA JAMES	2608 SW 9TH AVE	CAPE CORAL	FL	33914
VOGTLAND H DIETER TR FOR H DIETER VOGTLAND TRUST	4400 GULF PINES DR	SANIBEL	FL	33957
WALDRON GERARD + JEANMARIE	2608 MALAITA CT	CAPE CORAL	FL	33991

WALKER SALLY	12 HIGH ST	MORGANVILLE	NJ	07751
WALSH MAUREEN TR FOR FRANCIS L MCVEY + MAUREEN H WALSH TRUST	2621 SW 10TH AVE	CAPE CORAL	FL	33914
WEAVER ANGIE Z TR + WEAVER DONALD J TR FOR ANGIE Z WEAVER TRUST	1725 SW 51ST ST	CAPE CORAL	FL	33914
WHEELER LISA	PO BOX 61265	FORT MYERS	FL	33906
WHEELER PATRICK	2718 SW 9TH AVE	CAPE CORAL	FL	33914
WITT DAVID C + SUSAN	2609 SW 10TH AVE	CAPE CORAL	FL	33914
YAPELLO JOSEPH NICHOLAS & BRALEY-YAPELLO BONNIE SUSAN	2617 SW 10TH AVE	CAPE CORAL	FL	33914
YEBERNETSKY LISA	6 CHERRYWOOD DR	DU BOIS	PA	15801
ZESKE THOMAS F	10569 BRANDY LN	ABINGDON	VA	24210

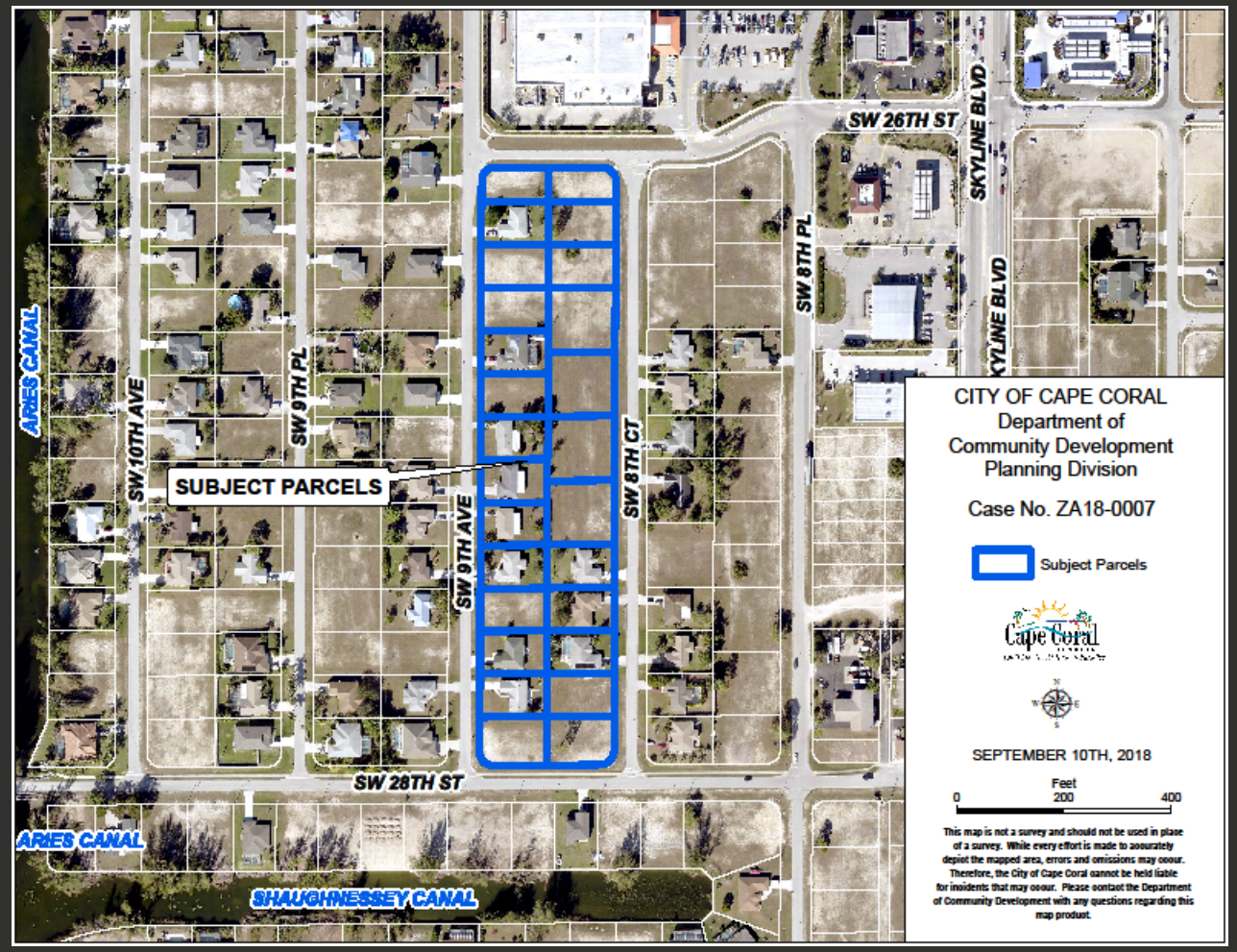
ZA18-0007

Cape Coral City Council

ZA18-0007

- Applicants: Sullico, LLC (Multiple Owners)
- Location: Lots 1-28 and 55-82 in Block 3170 / South of Veterans Parkway and West of Skyline Boulevard
- Area: 6.4 acres
- Urban Services: Transition
- Request: A rezone from Pedestrian Commercial (C-1) to Single-Family Residential (R-1B)

ZA18-0007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ARIES CANAL
SHAUGHNESSEY CANAL
CITY OF CAPE CORAL
Department of
Community Development
Planning Division
Case No. ZA18-0007
Subject Parcels
Cape Coral
SEPTEMBER 10TH, 2018
Feet
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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.

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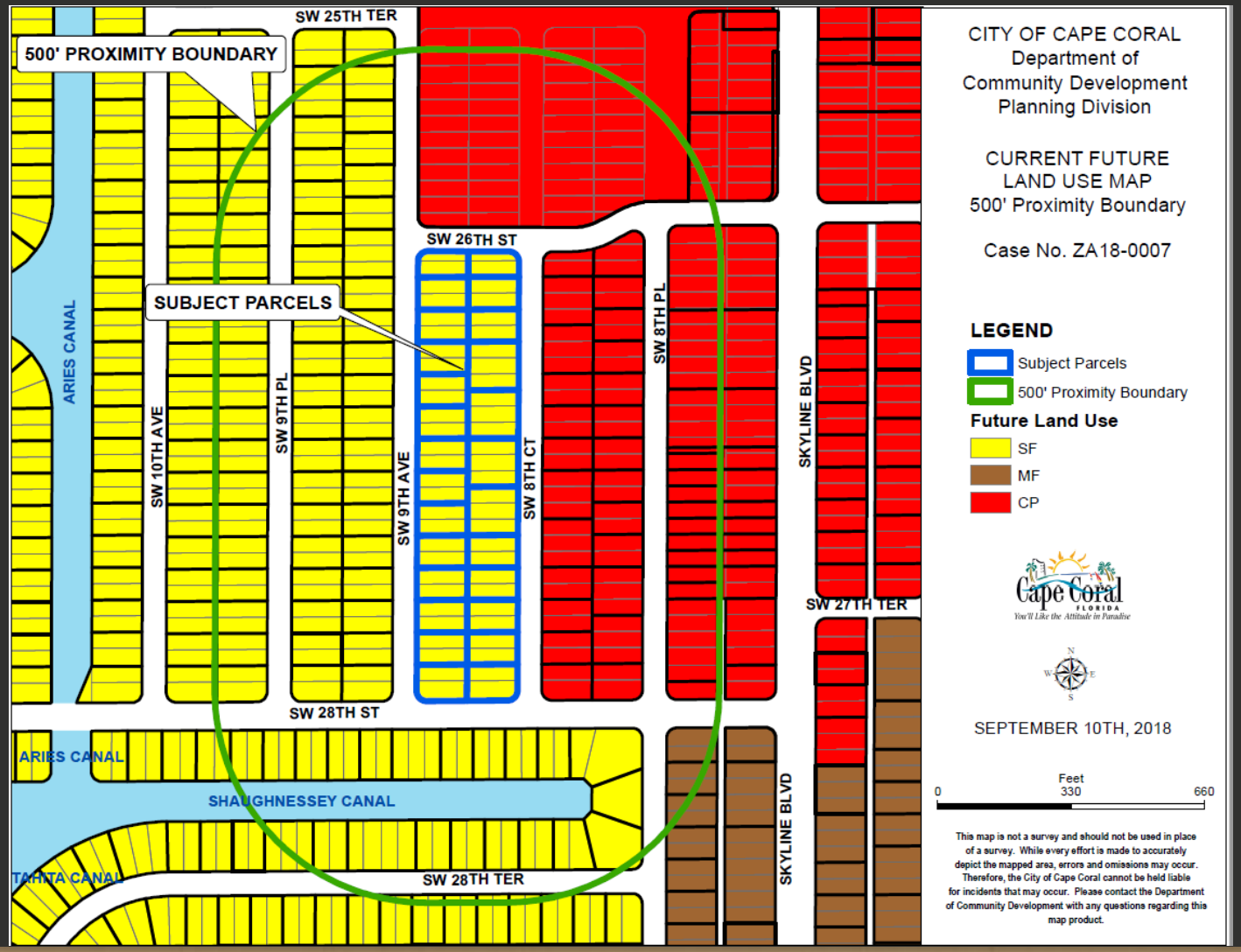
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SKYLINE BLVD
CITY OF CAPE CORAL
Department of
Community Development
Planning Division
CURRENT FUTURE
LAND USE MAP
500' Proximity Boundary
Case No. ZA18-0007
LEGEND
Subject Parcels
500' Proximity Boundary
Future Land Use
SF
MF
CP
Cape Coral
FLORIDA
You'll Like the Attitude in Paradise
SEPTEMBER 10TH, 2018
Feet
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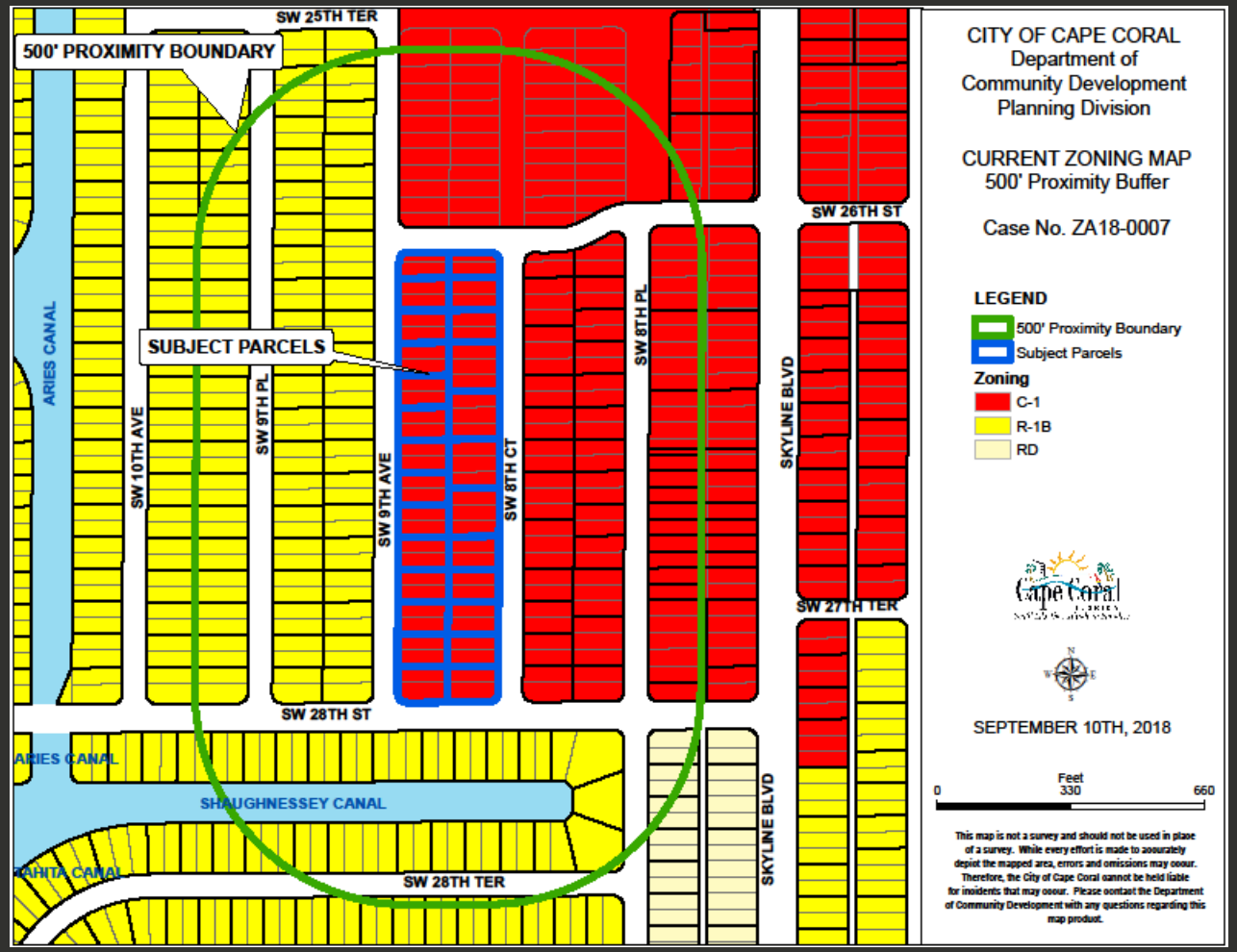
This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may occur. Please contact the Department of Community Development with any questions regarding this map product.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SW 9TH PL
SW 9TH AVE
SW 8TH CT
SW 8TH PL
SKYLINE BLVD
CITY OF CAPE CORAL
Department of
Community Development
Planning Division
CURRENT ZONING MAP
500' Proximity Buffer
Case No. ZA18-0007
LEGEND
500' Proximity Boundary
Subject Parcels
Zoning
C-1
R-1B
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SEPTEMBER 10TH, 2018
Feet
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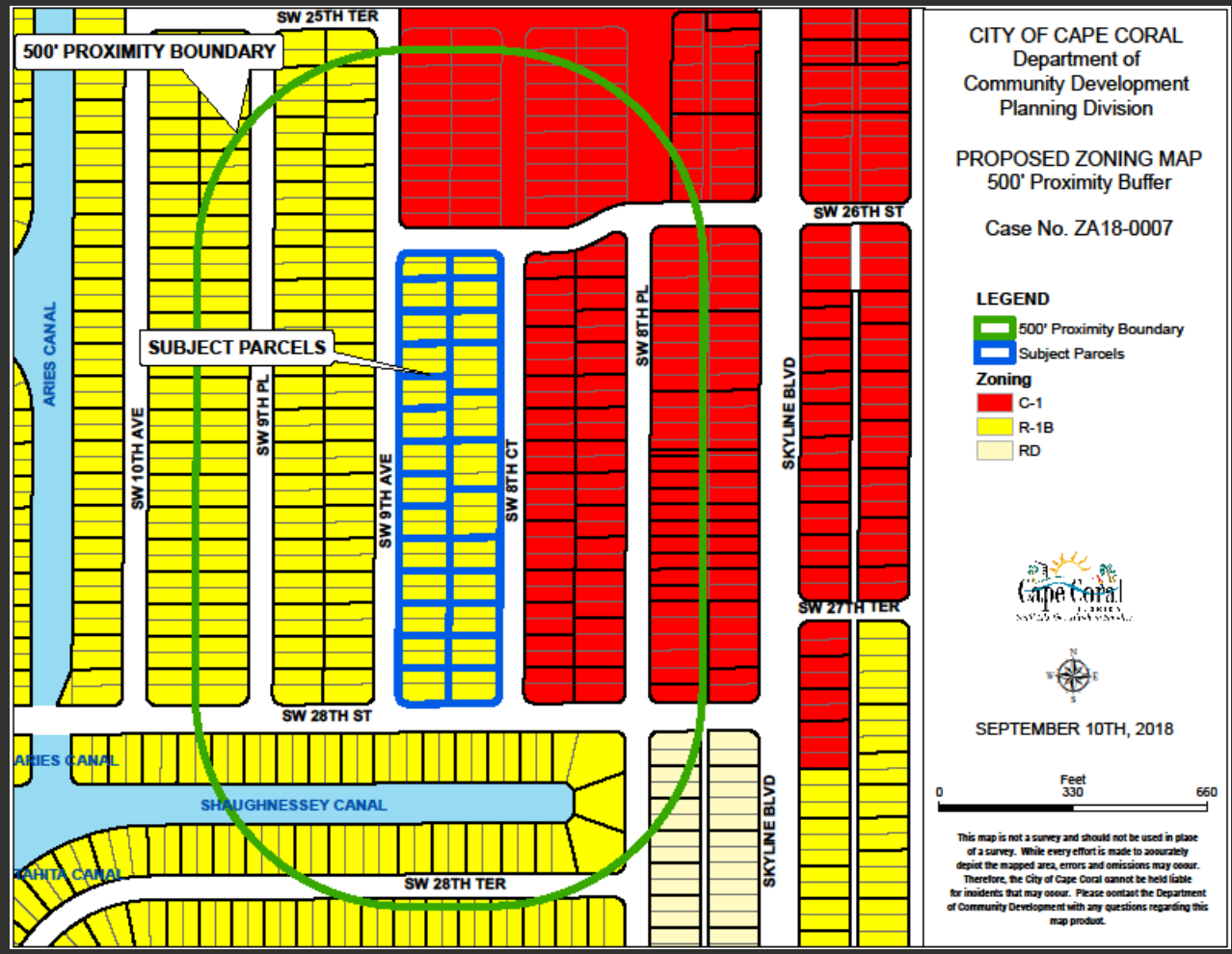
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SW 9TH PL
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SW 8TH CT
SW 8TH PL
SKYLINE BLVD
CITY OF CAPE CORAL
Department of
Community Development
Planning Division
PROPOSED ZONING MAP
500' Proximity Buffer
Case No. ZA18-0007
LEGEND
500' Proximity Boundary
Subject Parcels
Zoning
C-1
R-1B
RD
SEPTEMBER 10TH, 2018
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Findings of Fact

- Site is 56 lots / 26 parcels.
- 11 homes have been developed.
- The applicant owns 13 parcels – remainder are scattered ownership.
- A portion of Block 3170 is a part of the Home Depot development.
- The site is bounded by 4 local streets.
- Applicant is seeking to build single-family homes.

Future Land Use and Zoning History

- 1989 – Block 3170 designated as Single-Family/Multi-Family (SM)
- 2002/2005 – Future Land Use amended to Commercial/Professional (CP)
- 2002/2008 – Zoning changed from Single-Family Residential (R-1B) to Pedestrian Commercial (C-1).
- 2018 – Amendment approved from CP to Single-Family Residential (SF)

Analysis

- Planning staff reviewed the rezone with following Comp Plan policies
  - Policy 1.13 (Commercial Nodes) – The site is 1,300 linear feet away from intersection of Skyline Boulevard and Veterans Parkway, however, existing commercial land is between the site and the node. Staff finds the site is still at a commercial node but the location may make commercial development difficult.
  - Policy 1.14 (Commercial Siting Guidelines) – The site is consistent or partially consistent with 6 of the 8 guidelines (major intersection, adequate depth, compactness, assembly, intrusion, and ownership pattern). Non consistent with 2 guidelines (access, integration).

LUDR, Section 8.7

- Rezone may decrease value of the site. Rezone is requested by applicant, therefore, risk is diminished.
- Surrounding area is unlikely to be diminished by rezone. Single-family homes to the west and south.
- Rezone would make site consistent with future land use designation.
- No commercial development has occurred in 10 years since site was designated commercial.
- Rezone would make site compatible with areas to west and south.
- The rezone would be a loss of designated commercial land / staff notes the land may have difficulty developing as commercial.

Recommendation

- Through the analysis of the Cape Coral Comprehensive Plan and specifically the Future Land Use Element, the rezone to Single-Family Residential (R-1B) zoning is consistent with the Comprehensive Plan, the Land Use and Development Regulations, and is compatible with the surrounding area, therefore, Planning Division staff recommends **approval** of the rezone request.
- The Hearing Examiner recommended **approval of the rezone.**

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CAPE CORAL FL 33990
USA

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No. of Affidavits: 1

Run Dates: 12/28/18

Text of Ad:

NOTICE OF PUBLIC HEARING

CASE NUMBER: ZA18-0007

ORDINANCE 80 – 18: AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY DESCRIBED AS LOTS 1-28 AND 55-82, BLOCK 3170, CAPE CORAL UNIT 66, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM PEDESTRIAN COMMERCIAL (C-1) TO SINGLE-FAMILY RESIDENTIAL (R-1B) ZONE; PROPERTY LOCATED NORTH OF SW 28TH STREET, SOUTH OF SW 26TH STREET, EAST OF SW 9TH AVENUE, AND WEST OF SW 8TH COURT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

LOCATION: Multiple addresses. Southeast of Veterans Parkway and Skyline Boulevard intersection.

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

PROPERTY OWNER(S): Sullico II, LLC

AUTHORIZED REPRESENTATIVE: Avalon Engineering, Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Council will hold a public hearing at 4:30 P.M. on Monday, January 7, 2019 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 City Council 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, www.capecoral.net/publichearing (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.

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.

by order of
Kimberly Bruns, CMC
Interim City Clerk
REF # ZA18-0007
AD# 3297812 Dec. 28, 2018

NOTICE TO SURROUNDING PROPERTY OWNERS

CASE NUMBER: ZA18-0007

ORDINANCE 80 – 18: AN ORDINANCE AMENDING THE CITY OF CAPE CORAL OFFICIAL ZONING DISTRICT MAP OF ALL PROPERTY WITHIN THE LIMITS OF THE CITY OF CAPE CORAL BY REZONING PROPERTY DESCRIBED AS LOTS 1-28 AND 55-82, BLOCK 3170, CAPE CORAL UNIT 66, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM PEDESTRIAN COMMERCIAL (C-1) TO SINGLE-FAMILY RESIDENTIAL (R-1B) ZONE; PROPERTY LOCATED NORTH OF SW 28TH STREET, SOUTH OF SW 26TH STREET, EAST OF SW 9TH AVENUE, AND WEST OF SW 8TH COURT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

LOCATION: Multiple addresses. Southeast of Veterans Parkway and Skyline Boulevard intersection.

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

PROPERTY OWNER(S): Sullico II, LLC

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APPEALS: If a person decides to appeal any decision made by City Council 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
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Sullico, LLC

APPLICATION NO: ZA18-0007

STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Richard Carr, having first been duly sworn according to law, state on my oath the following:

That I am the Acting 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 31ST day of December, 2018.

Richard Carr

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 31st day of December, 2018, by Richard Carr, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # GG030474

ELISABETH A DELGADO
MY COMMISSION # GG030474
EXPIRES December 06, 2020

Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public

Item Number:	**A.(4)**
Meeting Date:	**1/7/2019**
Item Type:	**ORDINANCES/RESOLUTIONS - Public Hearings**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Ordinance 82-18 Public Hearing

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT G: WORK TOWARD EFFICIENT AND COST-EFFECTIVE SOLUTIONS TO PROTECT AND CONSERVE NATURAL RESOURCES, WHILE PROMOTING ENVIRONMENTAL AWARENESS AND SUSTAINABILITY IN THE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
The Florida Fish and Wildlife Conservation Commission designated the burrowing owl as a "threatened species" in January, 2017 after having previously been designated as a "species of special concern". The City of Cape Coral has a significant population of burrowing owls and finds that the protection of the burrowing owl is an important public purpose.

The ordinance amends Chapter 23 "Protected Species" of the Code of Ordinances by creating Article II "Burrowing Owl Protection", by providing for purpose and intent, definitions, development standards, protection and permit procedures, exempt activities within protection zones, penalties, and supplemental regulations.

LEGAL REVIEW:

EXHIBITS:
Ordinance 82-18

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

	Description	Type
🗋	Ordinance 82-18	Ordinance

ORDINANCE 82 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 23, "PROTECTED SPECIES", BY CREATING ARTICLE II, "BURROWING OWL PROTECTION", PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINTIONS; PROVIDING FOR DEVELOMENT STANDARDS; PROVIDING FOR PROTECTION AND PERMIT PROCEDURES; PROVIDING FOR EXEMPT ACTIVITIES WITHIN PROTECTION ZONES; PROVIDING FOR PENALTIES; PROVIDING FOR SUPPLEMENTAL REGULATIONS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2, Constitution of the state of Florida, and Chapter 166, Florida Statutes, the Cape Coral City Council ("Council") is authorized to adopt ordinances, except as otherwise provided by law; and

WHEREAS, the Florida Fish and Wildlife Conservation Commission had previously designated the burrowing owl as a "Species of Special Concern," however, in January 2017, the Commission designated the burrowing owl as a "Threatened Species" in the state of Florida; and

WHEREAS, the Council hereby finds that the protection of the burrowing owl is an important public purpose; and

WHEREAS, the Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 23, Article II, is hereby created to read as follows:

CHAPTER 23: - PROTECTED SPECIES

. . .

ARTICLE II: - BURROWING OWL PROTECTION

§ 23-10 Purpose and intent.

The purpose of this article is to protect and preserve the burrowing owl (athene cunicularia floridana) by protecting, enhancing, and preserving the burrows of the burrowing owl and its immediate environs. The burrowing owl is currently classified as State Threatened by the Florida Fish and Wildlife Conservation Commission (hereinafter "Commission"). With reasonable and proper management, the population of the burrowing owl can be conserved and improved.

§ 23-11 Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Active burrow means a potentially occupied burrow that contains eggs or is used by flightless young. (Per Commission guidelines, the Commission typically does not issue permits to take active nests, except in situations involving health and human safety. Removing an active nest may also require a Federal permit from the U.S. Fish and Wildlife Service.)

Applicant means the property owner, or the property owner's agent or authorized representative.

Burrow means a hole or tunnel dug by a small animal to use as a dwelling.

Development means any improvement or change of the land induced by human activities.

Inactive burrow means a potentially occupied burrow that does not contain eggs or flightless young. (Per Commission guidelines, inactive burrows provide important shelter for burrowing owls

year-round, and impacts to potentially occupied burrows may cause a take, even when burrows are inactive.)

Potentially occupied burrow means a burrow with obvious indications of use and those with minimal or no obvious indications of use. Obvious indicators of use include burrowing owls present in or near the burrow entrance or evidence around the entrance, such as whitewash, feces, pellets, prey remains, or adornments.

Protection zone means the land area that surrounds a burrow.

Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or an attempt to engage in any such conduct. The term "harm" in the definition of take means an act which actually kills or injures a burrowing owl. Such act may include significant habitat modification or degradation where it actually kills or injures burrowing owls by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. The term "harass" in the definition of take means an intentional or negligent act or omission which creates the likelihood of injury to a burrowing owl by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.

§ 23-12 Development standards.

For development, the following, as applicable, shall serve as guidelines or standards for the protection of burrowing owls as prescribed by the goals, objectives, and policies of the conservation and coastal management element of the Cape Coral Comprehensive Plan:

(a) Prior to submission of development applications, the following procedures are required:

1. Applicants shall conduct a visual survey of the affected property for burrowing owl burrows. If a burrow is found on the subject property, or observed on an adjoining property where the protection zone extends into the subject property, the applicant shall contact the Commission for management guidelines. The applicant shall include the visual survey results with the development application and expressly indicate whether a take permit is being sought from the Commission.

2. In addition to the visual survey required in subsection (a)1., development applications requiring PDP or site plan approval are required to submit an environmental survey of the development site. The environmental survey shall indicate whether there is the presence of burrowing owls or burrows on site; whether the development proposal will impact owl burrows; and whether a take permit is being sought from the Commission.

(b) All development applications will be reviewed against the City database for burrowing owls. If the City database or the surveys required by subsections (a)1. or (a)2. above indicate the presence of burrowing owls or burrows, the applicant shall submit an affidavit identifying such presence and indicate whether a take permit is being sought from the Commission.

§ 23-13 Protection and permit procedures.

The requirements for taking or protecting the burrowing owl are as follows:

(a) It shall be a violation of this article to take any active or inactive burrowing owl burrow without proper state permits issued by the Commission.

(b) Permits issued by the Commission shall be posted on site during all phases of the construction.

(c) Protection zone requirements shall include the following:

1. A protection zone having at least a 10-foot buffer during the non-breeding season (July 11 - February 14), and at least a 33-foot buffer during the breeding season (February 15 – July 10), shall be maintained around the entrance of potentially occupied burrows during all phases of construction. A protection

zone shall comply with Commission guidelines, as such guidelines may be amended.

2. Contractors and property owners shall be responsible for maintaining the protection zone and informing all employees, workers, agents, and subcontractors to avoid the protection zone and to do nothing to affect the burrow(s) in such a manner as to make it collapse or to cause a take. Contractors and property owners shall be fully responsible for the actions of their employees, workers, agents, and subcontractors to ensure that all applicable laws, rules, and regulations protecting the burrowing owl are adhered to. Any take or violation of this article may subject the contractor and property owner to penalties as provided herein.

(d) The City Building Official, code enforcement officers, law enforcement officers, or other City officials as may be designated by the City Council, may issue stop work orders for any development or construction that is not in compliance with the provisions of this article until any such violations have been inspected and complied with, and until any avoidance, minimization, or mitigation measures required by the Commission have been complied with or satisfied.

(e) All Commission rules and guidelines relating to protection and taking procedures shall be followed at all times, even if not described in this article.

§ 23-14 Exempt activities within protection zones.

The following activities conducted within the protection zone of burrowing owl burrows shall not constitute a violation of this article, with the understanding that if any burrow does collapse or get damaged by the activity, it shall be immediately reported to the Commission and the City of Cape Coral to ensure proper rescue efforts may take place:

(a) Burrow maintenance activities for the protection of owls, including the clipping of vegetation within the protection zone, staking and posting the protection zone with flagging tape and signage, and recording pertinent data.

(b) Contractors and the property owner(s) may enter the protection zone for the limited purpose of removing debris with the full understanding that they can do nothing to disturb or harm the burrowing owl or burrow in any manner. Contractors and lawn maintenance companies shall be fully responsible for the actions of their employees to ensure that all applicable laws, rules, and regulations protecting the burrowing owl are adhered to.

(c) City employees, City agents and representatives, and the property owner(s) may enter the protection zone for the purpose of maintaining vegetation if using equipment that does not exert pressure on the ground to ensure the burrow does not collapse.

(d) Scientific research or investigations approved by the Commission or the United States Fish and Wildlife Service. The City of Cape Coral shall be notified of all such research or investigations and provided with all study reports and publications produced.

(e) Professional environmental consultants that are conducting surveys or monitoring of burrowing owls in conjunction with private or public construction.

§ 23-15 Penalties.

(a) Any person found violating any of the provisions of this article shall, upon conviction, be punished by a fine not to exceed $500 or by imprisonment in the county jail for a period not to exceed 60 days, or by both fine and imprisonment. Such person shall also pay all costs and expenses incurred by the City in instituting such action. Each day a violation continues shall be considered a separate and distinct offense.

(b) In addition to any other penalty provided by this article, any person who violates this article may be required to restore the protection zone to its condition prior to the violation. In the event restoration is not completed within a reasonable time after notice to the violator of the restoration requirement, then the City may perform the

restoration and the cost of the restoration shall constitute a lien upon the subject property until paid in full. Any such restoration must be approved by the Commission.

(c) In addition to any other penalty provided by this article, any violation of this article shall constitute a public nuisance and may be subject to restraint by injunction.

(d) The City Manager, or the City Manager's designee, shall inform the Commission of any violations of this article by any person or entity within fourteen (14) days of such violation.

§ 23-16 Supplemental regulations.

This article is not intended to replace the Florida Endangered and Threatened Species Act or any other applicable federal, state, or local laws, rules, and regulations. Rather, this article is intended to supplement those laws, rules, and regulations to ensure the protection of the burrowing owl.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

_____
JOHN E. NACLERIO, III
ASSISTANT CITY ATTORNEY
Ord/Burrowing Owls
11/7/18

Item Number:	**A.(5)**
Meeting Date:	**1/7/2019**
Item Type:	**ORDINANCES/RESOLUTIONS - Public Hearings**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Ordinance 83-18 Public Hearing

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

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

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
The ordinance authorizes the issuance of not to exceed $60,000,000 in aggregate principal amount of General Obligation Bonds, in one or more series, to finance the acquisition, construction and equipping of various parks, natural areas, recreational and athletic facilities, trails, boating, fishing and swimming facilities, and wildlife habitat and shoreline protection improvements; pledges the proceeds of ad valorem taxes levied without limit on all taxable property within the City to secure the payment of the principal of, redemption premium, if any, and interest on such bonds; provides for the rights of the holders of such bonds; and authorizes the reimbursement of expenditures made by the City from proceeds of the bonds.

LEGAL REVIEW:

EXHIBITS:
Ordinance 83-18

PREPARED BY:

Division- Department- City Attorney

SOURCE OF ADDITIONAL INFORMATION:
Victoria Bateman, Financial Services Director

ATTACHMENTS:

	Description	Type
🗋	Ordinance 83-18	Ordinance

ORDINANCE 83 - 18

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $60,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF VARIOUS PARKS, NATURAL AREAS, RECREATIONAL AND ATHLETIC FACILITIES; TRAILS, BOATING, FISHING AND SWIMMING FACILITIES, AND WILDLIFE HABITAT AND SHORELINE PROTECTION IMPROVEMENTS; PLEDGING THE PROCEEDS OF AD VALOREM TAXES LEVIED WITHOUT LIMIT ON ALL TAXABLE PROPERTY WITHIN THE CITY TO SECURE THE PAYMENT OF THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON SUCH BONDS; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH BONDS; AUTHORIZING THE REIMBURSEMENT OF EXPENDITURES MADE BY THE CITY FROM PROCEEDS OF THE BONDS; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless some other meaning is plainly intended:

"Ad Valorem Taxes" shall mean the ad valorem taxes levied by the City without limit on all taxable property within the City to pay the annual debt service on the Bonds as authorized by the Referendum Ordinance and approved by a majority of the qualified electors of the City voting in the Bond Referendum Election.

"Bond Referendum Election" shall mean the bond referendum election held on November 6, 2018, to determine whether the City was authorized to issue not exceeding $60,000,000 aggregate principal amount of general obligation bonds payable from Ad Valorem Taxes derived from a levy without limit against all taxable property within the City for the purpose of financing costs of the Project.

"Bonds" shall mean the revenue bonds or notes or other debt obligations authorized to be issued in one or more series by the City pursuant to this Ordinance and the Referendum Ordinance.

"City" shall mean the City of Cape Coral, Florida, a municipal corporation established by the State of Florida.

"Council" shall mean the City Council of the City of Cape Coral, Florida.

"Ordinance" shall mean this Ordinance enacted by the Council on the date hereof, as it may be amended and supplemented from time to time.

"Project" shall mean, collectively, the acquisition, construction and equipping of various parks, natural areas, recreational and athletic facilities, trails, boating, fishing and swimming facilities, and wildlife habitat and shoreline protection improvements, as generally described in the Referendum Ordinance and more particularly described in the plans and specifications on file with the City, as the same may be amended and supplemented from time to time.

"Referendum Ordinance" shall mean Ordinance No. 38-18 enacted by the Council on June 18, 2017.

"Resolution" shall mean the resolution or resolutions of the City, or any loan agreement or loan agreements approved thereby, providing for the security for and repayment of the Bonds, the rights and remedies of the Bondholders and various other terms and details relating to the Bonds, as the same may be amended or supplemented from time to time.

The words "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms shall refer to this Ordinance.

Words importing the singular number include the plural number, and vice versa.

SECTION 2. FINDINGS. The Council hereby finds and determines that:

(A) Pursuant to the Referendum Ordinance, the Council called for a bond referendum election to be held to determine if the qualified electors within the City would approve the issuance of not exceeding $60,000,000 aggregate principal amount of general obligation bonds payable from Ad Valorem Taxes derived from a levy without limit against all taxable property within the City for the purpose of financing costs of the Project.

(B) On November 6, 2018, the Bond Referendum Election was held and the issuance of not exceeding $60,000,000 aggregate principal amount of general obligation bonds payable from Ad Valorem Taxes derived from a levy without limit against all taxable property within the City for the purpose of financing costs of the Project was approved by a majority of the qualified electors within the City voting in said Bond Referendum Election.

(C) In order to improve and maintain the health, safety and welfare of the residents of the City, it is necessary and desirable to acquire and construct the Project.

(D) It is in the best interests of the City to finance costs of the Project through the issuance of the Bonds, in one or more series, payable from the Ad Valorem Taxes in the manner and to the extent provided herein and in the Resolution.

(E) The form, terms and details of the Bonds shall be determined in accordance with the Resolution.

(F) The repayment of the Bonds shall be secured by and payable from the Ad Valorem Taxes in the manner and to the extent provided herein and in the Resolution; the Bonds shall constitute general obligations of the City and shall be secured by and payable from the City's full faith and credit and taxing power, and the City shall be obligated to levy Ad Valorem Taxes without limit on all taxable property within the City in order to pay the scheduled debt service for the Bonds, all in the manner and to the extent provided herein and in the Resolution.

(G) The City has incurred and expects to incur various costs in relation to the Project and the approval of the Bonds prior to the issuance of the Bonds and intends to reimburse itself from proceeds of the Bonds for all or a portion of such costs.

SECTION 3. AUTHORIZATION OF THE PROJECT; REIMBURSEMENT. (A) The City hereby authorizes the acquisition, construction and equipping of the Project and the financing thereof with proceeds of the Bonds.

(B) The City may reimburse itself from proceeds of the Bonds for any funds the City has expended or expends for the Project and the approval of the Bonds to the extent Bond Counsel to the City approves the reimbursement. Such expenditures have been made and/or are expected to be made from the City's general fund and/or a capital project fund

for the Project. The expenditures to be reimbursed shall be consistent with the City's budgetary and financial policy as being the type of expenditures which shall be paid on a long-term basis. It is the intent of this Ordinance to meet the requirements of Treasury Regulations Section 1.150-2 and to be a declaration of official intent under such Section.

SECTION 4. ISSUANCE OF THE BONDS. The Bonds are hereby authorized to be issued in an aggregate principal amount of not exceeding $60,000,000. The Bonds may be issued in one or more series and any series may be issued as one bond or note or other debt obligation or as multiple bonds, notes or other debt obligations. The particular designation of the Bonds shall be established by the Resolution. The Bonds shall be issued for the purposes of providing moneys to (A) finance costs of the Project, (B) establish a debt service reserve if deemed necessary by the Council and set forth in the Resolution, (C) pay for any credit or liquidity enhancement for the Bonds if deemed necessary by the Council and set forth in the Resolution, and (D) pay the costs and expenses of issuing the Bonds. The principal of, redemption premium, if any, and interest on the Bonds shall be payable from the Ad Valorem Taxes to the extent and in the manner provided herein and in the Resolution.

The Bonds shall be dated such date or dates, shall bear interest at such rate or rates, shall mature at such times and in such amounts as may be determined by the Resolution, and may be made redeemable before maturity, at the option of the City, at such price or prices and under such terms and conditions as may be fixed by the Resolution. The Council shall determine by the Resolution the form of the Bonds, the manner of executing such Bonds, and shall fix the denomination or denominations of such Bonds, the place or places and dates of payment of the principal and interest, and such other terms and provisions of the Bonds as it deems appropriate. The Bonds may be issued as capital appreciation bonds, current interest paying bonds, variable rate bonds, serial bonds, term bonds, taxable bonds, tax-exempt bonds or any combination thereof, as shall be determined by the Resolution. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery. The Council may sell the Bonds in such manner and for such price as it may determine by the Resolution to be in the best interests of the City. The Bonds may be further secured by a municipal bond insurance policy or a letter of credit or such other credit enhancement or liquidity, including any reserve account insurance or surety bond, as the Council by the Resolution deems appropriate.

Prior to the preparation of definitive Bonds of any series, the Council may, by the Resolution, under like restrictions, issue interim receipts, interim certificates, or temporary Bonds, exchangeable for definitive Bonds when such Bonds have been executed and are available for delivery. The Council may also provide for the replacement of any Bonds which shall become mutilated, or be destroyed or lost. Bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Ordinance.

The proceeds of Bonds shall be disbursed in such manner and under such restrictions, if any, as may be provided by the Resolution.

SECTION 5. TAXING POWER PLEDGED. Pursuant to the Resolution, the full faith, credit and taxing power of the City shall be pledged for the full and prompt payment of the principal of and interest on the Bonds. A direct annual tax without limit shall be levied by the City upon all taxable property within the City to make such payments. The Resolution shall require that provision be included and made in the City's annual budget and tax levy for the levy of the Ad Valorem Taxes in an amount sufficient to pay the principal of and interest on the Bonds, as the same shall become due, to the extent and in the manner provided in the Resolution. Such Ad Valorem Taxes shall be levied and collected at the same time, and in the same manner, as other ad valorem taxes of the City are assessed, levied and collected. The Ad Valorem Taxes shall be levied and collected in

accordance with all applicable law, including, but not limited to, the Referendum Ordinance. The City, pursuant to the Resolution, shall irrevocably pledge and grant a lien on the Ad Valorem Taxes and the moneys on deposit in any or all of the funds and/or accounts established under the Resolution, including investment earnings thereon.

SECTION 6. REMEDIES OF HOLDERS OF BONDS. The holders of the Bonds, except to the extent the rights herein given may be restricted by the Resolution, may, whether at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce and compel the performance of all duties required hereby, or by such Resolution, to be performed by the City.

SECTION 7. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the doing of things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the health, safety and welfare of the inhabitants and/or property owners of the City, shall be liberally construed to effect the purposes hereof.

SECTION 8. GENERAL AUTHORITY. The members of the Council of the City and the officers, attorneys and other agents or employees of the City are hereby authorized to do all acts and things required of them by this Ordinance, or desirable or consistent with the requirements hereof for the full punctual and complete performance of all the terms, covenants and agreements contained herein.

SECTION 9. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

[Remainder of page intentionally left blank]

SECTION 10. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the City Council of the City of Cape Coral, Florida.

ADOPTED AT A REGULAR COUNCIL MEETING THIS ____ DAY OF JANUARY, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS ____ DAY OF JANUARY, 2019.

_____
KIMBERLY BRUNS, INTERIM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY

Item Number:	**10.A.**
Meeting Date:	**1/7/2019**
Item Type:	**UNFINISHED BUSINESS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Water Quality - Update

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/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:
Water Quality Memo

PREPARED BY:
Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
Water Quality Memo	Backup Material

MEMORANDUM

CITY OF CAPE CORAL
PUBLIC WORKS DEPARTMENT

TO: John Szerlag, City Manager

FROM: Paul Clinghan, Public Works Director PRC
Michael Ilczyszyn, Senior Public Works Manager MI
Maya Robert, Environmental Resources Manager MR

DATE: January 4, 2019

SUBJECT: Lake Okeechobee Level and Release Information

As of Friday, January 4, 2019, the elevation of Lake Okeechobee decreased further to 12.65 feet vs. 12.94 feet last month. The weekly average outflows measured at the Franklin Lock & Dam (S-79) was 1,869 cfs. In the estuary, salinities have been within an acceptable range.

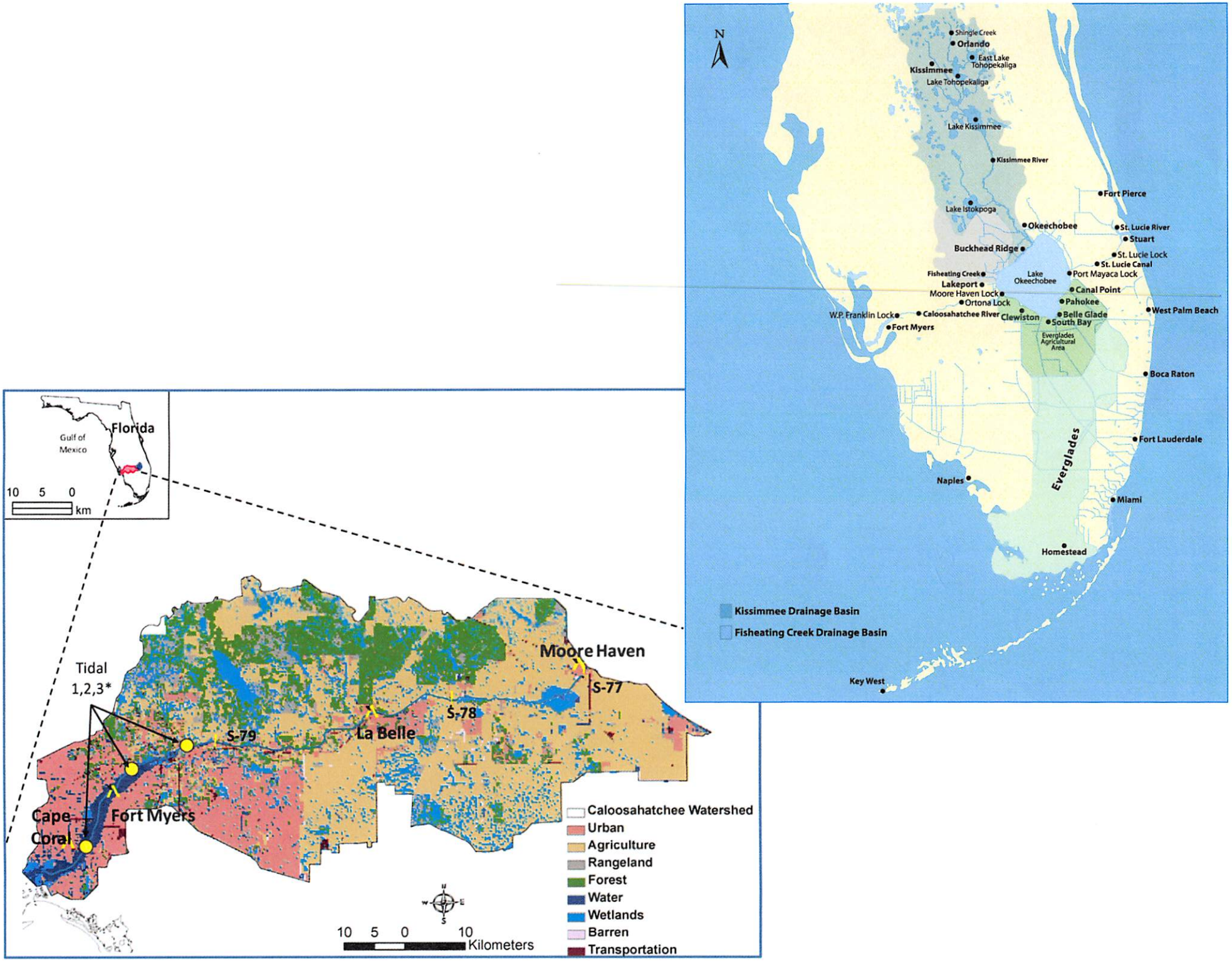
The next periodic scientists' call to discuss conditions of the Lake and releases strategy with the US Army Corps and stakeholders will be on Tuesday, January 8, 2019.

Blue Green Algae has declined and was only slightly visible upstream the Franklin Lock & Dam (S-79).

The Red Tide bloom that has been plaguing the West Coast of Florida for over a year has finally subsided.

Attached is a map showing drainage basins of the Lake Okeechobee and the position of the Caloosahatchee River Locks.

PC/MI:mr (Weekly Lake Okeechobee Level and Release Information)
Attachment; Lake Okeechobee drainage basins, Caloosahatchee River Locks map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Shingle Creek
Orlando
East Lake Tohopekaliga
Kissimmee
Lake Tohopekaliga
Lake Kissimmee
Kissimmee River
Fort Pierce
Lake Istokpoga
Okeechobee
St. Lucie River
Stuart
Buckhead Ridge
St. Lucie Lock
St. Lucie Canal
Fisheating Creek
Lake Okeechobee
Port Mayaca Lock
Lakeport
Moore Haven Lock
Canal Point
Ortona Lock
Pahokee
W.P. Franklin Lock
Caloosahatchee River
Clewiston
Belle Glade
South Bay
West Palm Beach
Fort Myers
Everglades Agricultural Area
Boca Raton
Fort Lauderdale
Everglades
Naples
Miami
Homestead
Key West
Kissimmee Drainage Basin
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Moore Haven
S-77
S-78
La Belle
S-79
Cape Coral
Fort Myers
Caloosahatchee Watershed
Urban
Agriculture
Rangeland
Forest
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Wetlands
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Item Number:	**10.C.**
Meeting Date:	**1/7/2019**
Item Type:	**UNFINISHED BUSINESS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Sister City Visit - Mayor Coviello

REQUESTED ACTION:
Staff Direction

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT A: INCREASE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE CITY

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

PT Division- Department- Council Offices

SOURCE OF ADDITIONAL INFORMATION:

Council Offices

Item Number:	**11.A.**
Meeting Date:	**1/7/2019**
Item Type:	**NEW BUSINESS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
Resolution 5-19 Lee County Interlocal Agreement for Joint Water Quality and Storage Improvements to Yellow Fever Creek Preserve; Department: Utilities; Dollar Value: N/A; (Water & Sewer Fund)

REQUESTED ACTION:
Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes

If Yes, Priority Goals Supported are listed below.

If No, will it harm the intent or success of the Strategic Plan?

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

ELEMENT G: WORK TOWARD EFFICIENT AND COST-EFFECTIVE SOLUTIONS TO PROTECT AND CONSERVE NATURAL RESOURCES, WHILE PROMOTING ENVIRONMENTAL AWARENESS AND SUSTAINABILITY IN THE COMMUNITY.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:
N/A

SUMMARY EXPLANATION AND BACKGROUND:
City staff is requesting formal City Council approval for an interlocal agreement (Agreement) between Lee County (County) and the City of Cape Coral (City).

The construction of Gator Slough in North Fort Myers and northeast Cape Coral altered the historic flow patterns to the Caloosahatchee River and Charlotte Harbor, including Yellow Fever Creek. There is a desire to restore water flow and water quality to the extent practicable without negatively impacting the City's surface water supplies.

County and City staff believe that the Agreement for outlining the responsibilities for design, permitting, construction, operation and maintenance of certain surface water management system within Yellow Fever Creek, known as the YFC Interconnect System (YFC) and generally depicted on the concept plans attached as Exhibits "A" and "B" collectively known as the Concept Plan. The YFC will be designed, constructed and operated to also help reduce excess water and the reduction of fresh water into Matlacha Pass and waters will be stored and treated prior to discharge into the Caloosahatchee River. The City's Weir #29 System will be designed, constructed and

operated to store excess waters and will be utilized in the City's irrigation water system.

The Agreement will allow the City to construct a new Weir #29 that will allow up to 3,000-acre feet of additional surface water storage in the City's nearby canal system. The County's improvements include a pond and pumping facilities that will complement the City's Park's Master Plan for the Yellow Fever Creek Preserve. Additionally, the fill dirt from the construction of the pond by the County will be used for future potable and reclaimed water storage tanks.

The County has a State General Appropriations Grant for $175,000 to assist in funding their pond and pumping facilities for the YFC related improvements.

The City's future Weir #29 Project as discussed in the Agreement is estimated at $1.2M and the future water storage tanks is estimated at $10M will be presented for approval to City Council at a later date.

Lee County's improvements related to the Agreement are estimated at $2M.

LEGAL REVIEW:

EXHIBITS:

1. Resolution 5-19
2. Memorandum - Lee County Inter-Local - Yellow Creek Improvements
3. Agreement - Lee County Inter-local Yellow Creek Improvements
4. Staff Presentation

PREPARED BY:

Amy Burdier Division- Administration Department- Utilities

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director

ATTACHMENTS:

	Description	Type
	Resolution 5-19	Resolution
	Memorandum - Lee County Inter-Local - Yellow Creek Improvement	Backup Material
	Agreement - Leet County Inter-Local Yellow Creek Improvements	Backup Material
	Staff Presentation	Backup Material

RESOLUTION 5 - 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT BETWEEN CAPE CORAL AND LEE COUNTY FOR THE INTERCONNECTION OF SURFACE WATER MANAGEMENT SYSTEMS WITHIN YELLOW FEVER CREEK AND THE WEIR #29 INTERCONNECT SYSTEM; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 163.01, Florida Statutes, the City has the authority to enter into agreements with other local governments for sharing of certain governmental powers and obligations; and

WHEREAS, the surface water flow patterns to the Caloosahatchee River and Charlotte Harbor, including Yellow Fever Creek in northern Cape Coral and North Fort Myers, have been altered due to the construction of Gator Slough Canal; and

WHEREAS, the City of Cape Coral desires to restore such flows to the extent practicable without negatively impacting the City's surface water supplies; and

WHEREAS, the City and Lee County desire to construct and operate an Interconnect System consisting of a pump station, lake/reservoir, fill storage area, temporary haul path, and Weir #29; and

WHEREAS, the City and County desire to each have certain responsibilities in the design, construction, and operation of the Interconnect System; and

WHEREAS, the Interconnect System will help reduce excess water at the North Spreader Waterway System and Matlacha Pass, reduce the fresh water flow into Matlacha Pass, store excess waters to be utilized in the City's irrigation system, restore the natural hydrologic flow to Matlacha Pass and provide for wetland enhancement, provide enhancement of groundwater recharge, and provide an overall improvement to the water quality of Matlacha Pass, Charlotte Harbor, the Caloosahatchee River, and additional estuaries and water bodies in Lee County; and

WHEREAS, the City of Cape Coral Utilities Director recommends entering into the Interlocal Agreement with Lee County to restore surface water flow patterns and improve water quality within the City and Lee County.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The City Council hereby approves the Interlocal Agreement between Cape Coral and Lee County for the interconnection of surface water management systems within Yellow Fever Creek and the Weir #29 Interconnect System. A copy of the Interlocal Agreement is attached hereto as Exhibit 1.

SECTION 2. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS _____ DAY OF _____, 2019.

_____
JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2019.

_____
KIMBERLY BRUNS
INTERIM CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
res\Interlocal-Yellow Fever Creek
12/26/18

EXHIBIT 1

INTERLOCAL AGREEMENT
FOR INTERCONNECTION TO YELLOW FEVER CREEK

THIS Interclocal Agreement for Interconnection to Yellow Fever Creek ("*Agreement*") is made and entered into this _____ day of _____ of 2018, by and between, Lee County, a political subdivision of the State of Florida ("*County*"), and the City of Cape Coral, a Florida municipal corporation, of the State of Florida ("*City*"), collectively known as the parties ("*Parties*" or "*Party*").

RECITALS:

WHEREAS, the construction of Gator Slough Canal in North Fort Myers and northeast Cape Coral has altered the historic flow patterns to the Caloosahatchee River and Charlotte Harbor, including Yellow Fever Creek; and

WHEREAS, there is a desire to restore such flows to the extent reasonably practicable without negatively impacting the City's surface water supplies; and

WHEREAS, the County and the City desire to enter into this Agreement for the purpose of outlining the responsibilities for design, permitting, construction, operation and maintenance of those certain surface water management systems within Yellow Fever Creek, known as the YFC Interconnect System ("*YFC*" or "*YFC System*") and Weir #29 Interconnect System ("*Weir 29*" or "*Weir 29 System*"), collectively known as the Interconnect System ("*Interconnect System*") and generally depicted on the concept plans attached as Exhibits "A" and "B", both being incorporated herein by reference and collectively known as the Concept Plan ("*Concept Plan*"); and

WHEREAS, the Concept Plan also depicts the following system components to be constructed and utilized for the Interconnect System: 1) a pump station on the 0.3 ± acre City-owned parcel on the north side of Del Prado Boulevard; 2) a 15.0± acre lake/reservoir to be constructed on City-owned property; 3) a 5.0± acre fill storage area for excavated material from the lake/reservoir, located on City-owned property to the east of the lake/reservoir; 4) a companion temporary haul path between the lake/reservoir and the fill storage area; and Weir 29 (collectively known as the "System Components"); and

WHEREAS, the Concept Plan also depicts the intended outfall from the depicted lake/reservoir, extending in a generally southerly direction to Yellow Fever Creek, and the outfall from Weir 29, that will also flow to Yellow Fever Creek; and

WHEREAS, the Interconnect System will be designed, constructed and operated to help reduce excess water at the North Spreader Waterway System and Matlacha Pass; and

WHEREAS, the Interconnect System will be designed, constructed and operated to also help reduce excess water and the reduction of fresh water flow into Matlacha Pass; and

WHEREAS, such excess waters will be stored and treated prior to discharge into the Caloosahatchee River; and

WHEREAS, the City's irrigation system is recognized by the South Florida Water Management District ("*SFWMD*") as an Alternative Water Supply ("*AWS Irrigation System*"); and

WHEREAS, the Weir 29 System will be designed, constructed and operated to store excess waters and will be utilized in the City's AWS Irrigation System; and

WHEREAS, the YFC System may will be designed, constructed and operated to help to restore the natural hydrologic flow to Matlacha Pass and provide for wetland enhancement; and

WHEREAS, the YFC System will provide enhancement of groundwater recharge; and

WHEREAS, the Interconnect System will provide an overall improvement to the water quality of Matlacha Pass, Charlotte Harbor, the Caloosahatchee River and additional estuaries and water bodies in Lee County; and

WHEREAS, the City and County will cooperate in the permitting process, when necessary, joining as co-permittees to achieve the intended purposes of this Agreement; and

WHEREAS, both the City and County must agree on the approval of designs and any future modifications to the Interconnect System as depicted on the Concept Plan; and

WHEREAS, the County intends to obtain water quality credits from Florida Department of Environmental Protection ("*FDEP*") towards the County's Total Maximum Daily Load ("*TMDL*") obligation as a result of implementation of the YFC System; and

WHEREAS, the City and County are duly empowered pursuant to Florida Statutes §163.01, to enter into this Agreement for the sharing of certain governmental powers and obligations.

NOW THEREFORE, in consideration of the mutual benefits and promises contained herein, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

I. INCORPORATION OF RECITALS.

The Recitals as set forth above are true and are incorporated into the terms of this Agreement as if set out herein at length.

II. OWNERSHIP.

The County will be granted an easement and will be responsible for maintenance and operation of the YFC System located in the City of Cape Coral. This will include, but is not be limited to, use of telemetry monitoring instruments, a pump operated storm water transfer station (with electrical control panel), and additional components. A portion of the resulting Interconnect System will be placed within City's public road rights-of-way.

The City will own and be responsible for maintenance and operation of the Weir 29 System. The will include, but not be limited to, any weir structure(s), gates, motor control systems, telemetry monitoring instrument, system control instruments and additional appurtenant components. The Weir 29 structure will be constructed within the City's road rights-of-way.

III. OPERATION SCHEDULE FOR THE INTERCONNECT SYSTEM.

The City and County agree to the System Operation and Maintenance Protocol ("*Operation Protocol*") as detailed in Exhibit "C", attached hereto and incorporated herein by reference. This Operation Protocol will be subject to an annual review by both the City and County. Should any term or requirement within the Operation Protocol be changed as a result of the aforesaid annual review, both the City and County must agree in writing to any resulting change to the Operation Protocol. The Lee County Division of Natural Resources Director and the City of Cape Coral Utilities Director will have the authority to mutually approve any changes to the Operation Protocol.

IV. MAINTENANCE AND OPERATION OF THE INTERCONNECT SYSTEM.

A. The County will, at its sole cost and expense, maintain and operate the YFC System throughout its expected useful life.

B. The City will, at its sole cost and expense, maintain and operate the Weir 29 System throughout its expected useful life.

C. In maintaining the YFC System, the County will be responsible to perform all activities necessary to keep the YFC System fully and properly functioning at all times for its normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage, or acts of nature. Said maintenance will include, but not be limited to, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the YFC System, and the locating/relocating of facilities as may be necessary.

D. In maintaining the Weir 29 System, the City will be responsible to perform all activities necessary to keep the Weir 29 System fully and properly functioning at all times for its normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidents or intentional damage, or acts of nature. Said maintenance will include, but not be limited to, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the Weir 29 System, and the locating/relocating of facilities as may be necessary.

E. As the owner and operator of the YFC System, the County will be solely responsible for any local, state or federal permit violations and fines or penalties that may be assessed. The County will promptly remedy any permit violation(s) and failure to do so will constitute a material breach of this Agreement.

F. As the owner and operator of the Weir 29 System, the City will be solely responsible for any local, state or federal permit violations and fines or penalties that may be assessed. The City will promptly remedy any permit violation(s) and failure to do so will constitute a material breach of this Agreement.

V. TOTAL MAXIMUM DAILY LOAD.

The County intends to obtain water quality credits from FDEP for the TMDL's resulting for the implementation of the YFC System as depicted in the Concept Plan. The County will construct the lake and receive the TMDL credits and agrees to offset the City's decreased flows from the Weir 29 System. As approved by Florida permitting agencies.

VI. ACCESS AND EASEMENTS.

A. To the extent any portion of the resulting YFC System is located on City property, the City agrees to timely provide those easements necessary for access, maintenance and operation of the YFC System.

B. The City will be responsible for acquiring easements necessary for access maintenance and operation of the Weir 29 System.

C. In the event either the YFC System or the Weir 29 System must be relocated or removed due to other infrastructure installation, the cost of relocation or removal of these systems will become the responsibility of the party requesting relocation or removal.

VII. OPERATING COSTS.

A. In addition to the costs of maintaining the YFC System, the County will be responsible for all costs of operating the YFC System, including, but not limited to, all costs for electrical power consumed by the YFC System and all other electrical charges.

B. In addition to the costs of maintaining the Weir 29 System, the City will be responsible for all costs of operating the Weir 29 System, including, but not limited to, all costs for electrical power consumed by the Weir 29 System and all other electrical charges.

VIII. RECORD KEEPING.

A. For YFC System, the County agrees to keep records of all activities performed and costs expended pursuant to this Agreement. All such records will be deemed to be public records subject to the provisions of Chapter 119, Florida Statutes

B. For Weir 29 System, the City agrees to keep records of all activities performed and costs expended pursuant to this Agreement. All such records will be deemed to be public records subject to the provisions of Chapter 119, Florida Statutes.

IX. DEFAULT.

If either Party fails to fulfill its obligations under this Agreement, that party will be considered to be in default. The other Party to the Agreement must provide written notice of the default and an opportunity to cure the default within 30 days of receipt of said notice. If the defaulting Party fails to cure the default within said time period, the other party may terminate this Agreement for cause or breach. The failure of either party to exercise its rights in the event of any breach will not constitute a waiver of such rights. Neither the City nor the County will be deemed to have waived any failure to perform by the other party unless such waiver is in writing and signed by the waiving Party. In any litigation arising out of this Agreement, the prevailing Party will be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party.

X. ASSUMPTION OF LIABILITY.

A. Each Party hereby agrees to assume liability for the negligent acts of its own officers, employees and agents arising directly, or indirectly, from that Party's activities pursuant to the terms of this Agreement and will defend all claims, causes of action, damages, suits or other actions which any person may pursue based on the willful or negligent acts of that Party's officers, employees or agents during the term of this Agreement. Neither Party assumes any liability beyond that allowed by §768.28, Florida Statutes.

B. Additionally, both Parties agree when project construction, maintenance or monitoring is not performed by either County or City employees, only licensed and insured consultants and contractors with an insurance policy in an amount not less than One Million Dollars, will be used. Further, either Party may request to be named as an "*additional insured*" if the work is being performed on their respective property by a consultant or contractor engaged by the other Party.

XI. FORCE MAJEURE.

Neither the City nor the County will be liable to the other for any failure to perform under the terms of this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence, provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimate duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent reasonably possible, and (c) resumed performance as soon as possible.

XII. TIME AND NOTICES.

A. Time is of the essence in the performance of all obligations under this Agreement.

B. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and will be deemed to have been received by the end of 5 business days from the proper sending thereof unless proof of prior actual receipt is provided.

C. Unless otherwise notified in writing, notices will be sent to the following addresses:

If to City of Cape Coral:

Utilities Director
City of Cape Coral
Post Office Box 150027
Cape Coral, Florida 33915-0027

With a copy to the City Attorney.

If to Lee County:

Director, Division of Natural Resources
Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398

With a copy to the County Attorney.

XIII. TERM OF AGREEMENT.

The term of this Agreement will be from the date first written above, and will continue until terminated according to the provisions contained herein.

XIV. NO THIRD PARTY BENEFICIARIES.

Nothing in this Agreement may be construed as creating any rights or entitlement that inure to the benefit of any person or entity not a party of this Agreement.

XV. ASSIGNMENT.

Neither party has the right to assign or transfer this Agreement, in whole or in part, without the prior written agreement of the other party.

XVI. TERMINATION.

This Agreement may only be terminated by mutual agreement of the Parties. If the Interconnect System is intended to continue to be operated after termination of this Agreement, the resulting agreement to terminate must include a mutual agreement concerning responsibility for operation and maintenance of the Interconnect System. If the Parties contemplate that the Interconnect System will no longer be operated and maintained upon termination of this Agreement, then such agreement to terminate will be subject to the consent of any and all state and federal agencies with jurisdiction over the Interconnect System. If all or any portion of the Interconnect System is to be removed upon termination of this Agreement, the cost of removal will be shared equally unless otherwise agreed.

XVII. AMENDMENTS.

With exception to an annual change in Operation Schedule as provided herein, this Agreement may only be amended by written amendment approved with the same formalities as this Agreement. All unchanged terms and conditions of this Agreement will be incorporated into any such amendment and will otherwise remain in full force and effect.

XVIII. GOVERNING LAWS.

This Agreement will be controlled and interpreted according to the laws, rules and regulations of the State of Florida. Any provision hereof found to be unlawful or unenforceable will be severable and will not affect the validity of the remaining provisions hereof.

XIX. EFFECTIVE DATE.

This Agreement will become effective on upon date first written above. This Agreement, and any subsequent amendment(s) thereto, will be filed with the Clerk of the Circuit Court for Lee County.

[End of provisions.]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers and their official seals affixed hereto.

ATTEST:

BY: _____
[Signature]

_____
[Type or print name]
City Clerk

CITY OF CAPE CORAL

BY: _____
[Signature]

_____
[Type or print name]
Mayor

APPROVED AS TO LEGAL FORM:

BY: _____
[Signature]

Mark Mariano
Type or print name]
for City Attorney

ATTEST:
LINDA DOGGETT, CLERK

BY: _____
Deputy Clerk

_____
[Type or print name]

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

By: _____
[Signature]

_____
[Type or print name]
Chair/Vice-Chair

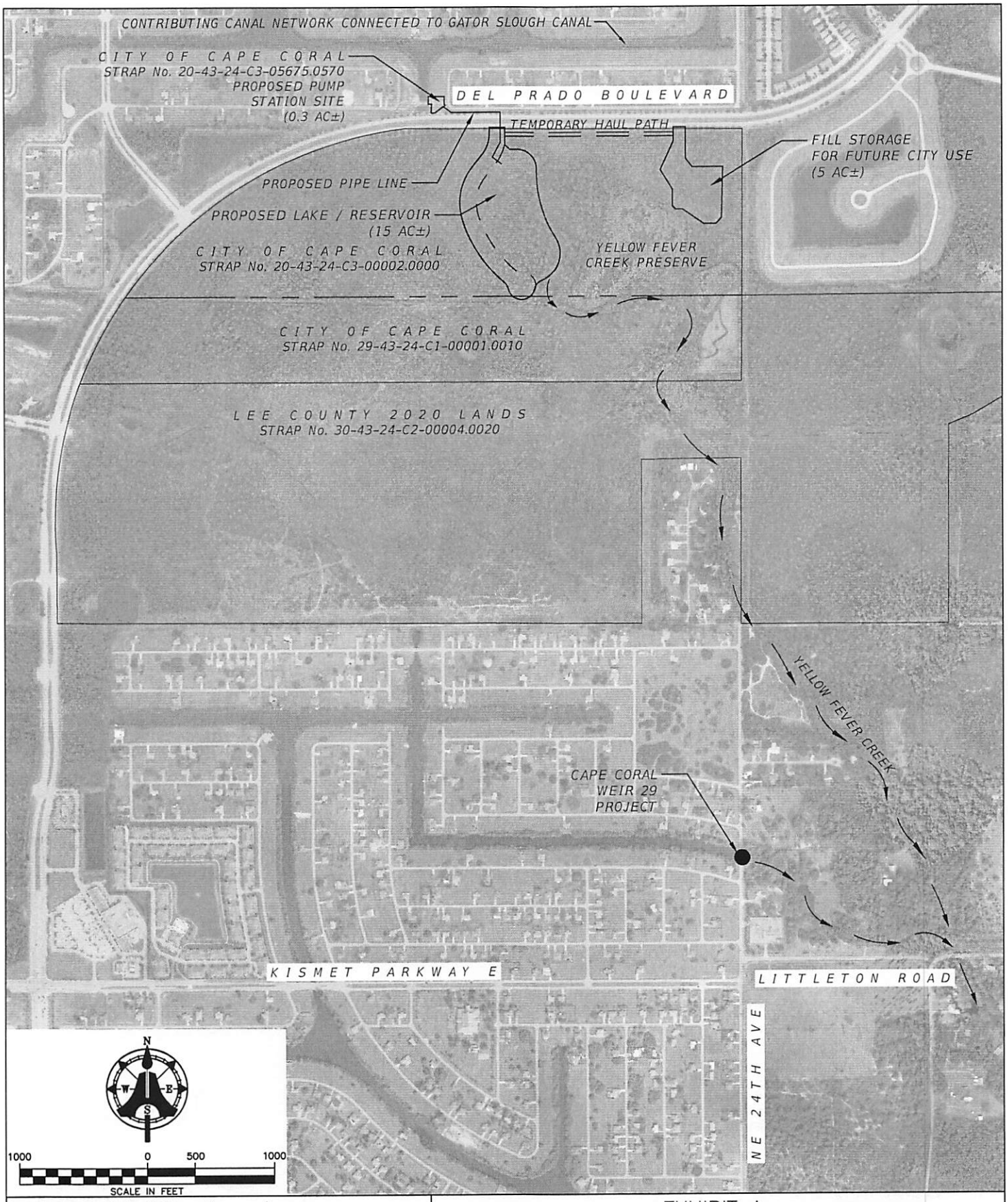
APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

By: _____
[Signature]

_____
[Type or print name]
Lee County Attorney's Office

Attachments: Exhibit "A" and "B" - YFC and Weir #29 Concept Plan(s)
Exhibit "C" - System Operation and Maintenance Protocol

I:\docs\NR\004253\11F3941.DOCX (090618/1315)



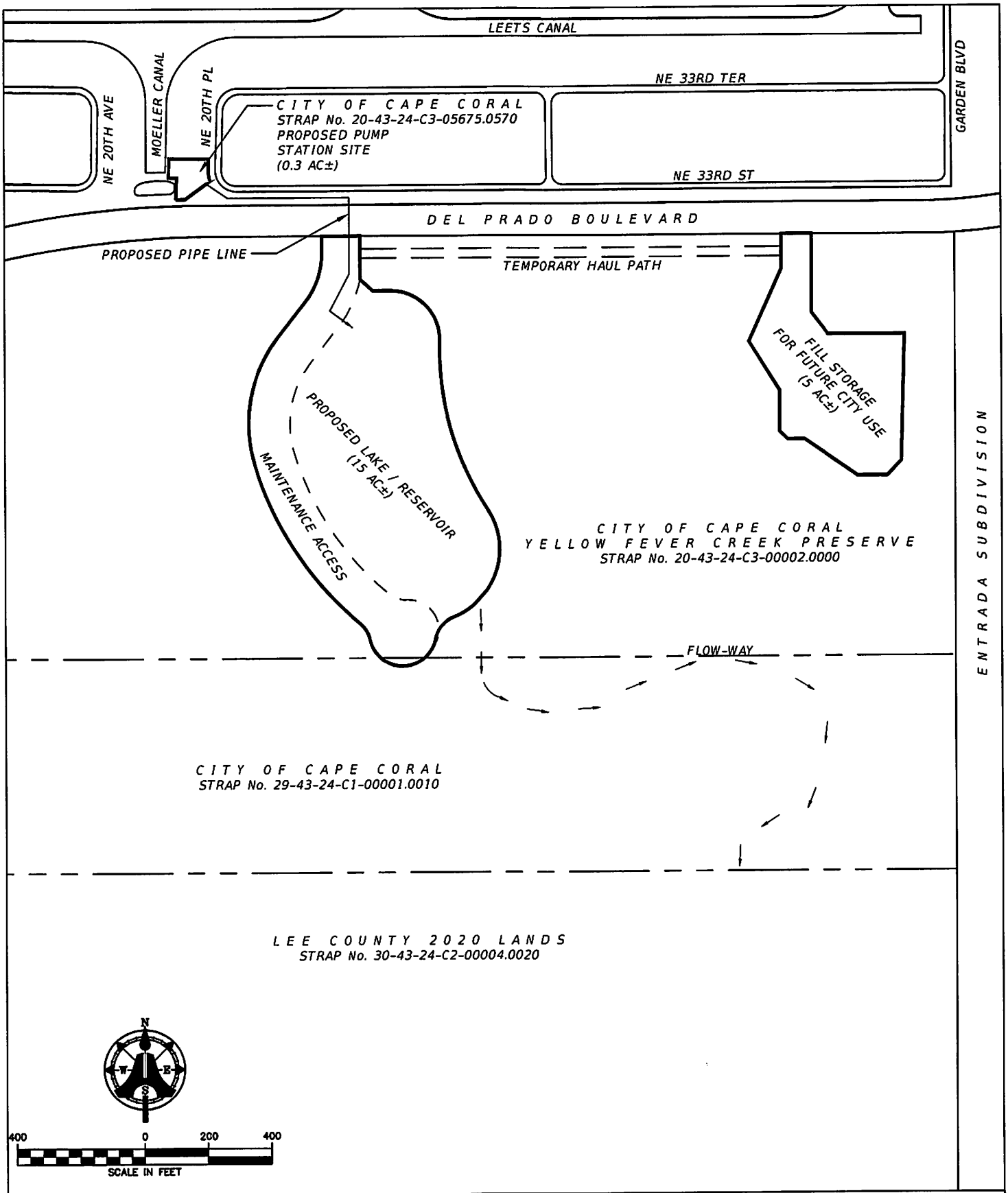
AIM Engineering & Surveying, Inc.
2161 FOWLER ST. FORT MYERS, FL 33901
Phone: 239.332.4569 www.aimengr.com
Engineering Business Certificate of Authorization No. 3114

EXHIBIT A

LEE COUNTY DIVISION OF NATURAL RESOURCES

YELLOW FEVER CREEK HYDROLOGIC RESTORATION PROJECT / GATOR SLOUGH TRANSFER FACILTY

SCALE: 1"=1000'	BY: JS	DATE: 05/23/18	REV.:	SHEET: 1 OF 1



AIM Engineering & Surveying, Inc.
2161 FOWLER ST. FORT MYERS, FL 33901
Phone: 239.332.4569 www.aimengr.com
Engineering Business Certificate of Authorization No. 3114

EXHIBIT B

LEE COUNTY DIVISION OF NATURAL RESOURCES

YELLOW FEVER CREEK HYDROLOGIC RESTORATION PROJECT / GATOR SLOUGH TRANSFER FACILTY

SCALE: 1"=400'	BY: JS	DATE: 04/30/18	REV.: 5/23/2018	SHEET: 1 OF 1

EXHIBIT C

Operating Plan for Weir 29 and Gator Slough/Yellow Fever Interconnect

Weir 29 Operation. Weir 29 is proposed to be a gated weir that will be constructed in Cape Coral Surface Water Basin 3 on the Midsummer Canal at NE 24th Ave (see **Figure 1**). The structure will have a 60-ft wide weir with a fixed top elevation of 9.83 ft-NGVD and two 8-ft wide overflow gates that have a closed top position of 9.83 ft-NGVD, and a fully-open position of 8.33 ft-NGVD. The gates will typically be maintained in a fully open position during a normal wet season (considered to be June 1 – September 15) and closed in a normal dry season (considered to be September 16 – May 31). Gate adjustment dates may be modified depending upon actual seasonal weather conditions. The overflow gates will generally stay closed in the dry season when the Yellow Fever Interconnect (YFI) is operational. However, until the YFI is operational, Weir 29's gates will be routinely adjusted to release approximately 2 cfs until the canal water level reaches the fixed weir elevation (9.83ft-NGVD) at which time the overflow gates will be closed. The systematic adjustment of the weir gates may resume upon a rise in canal levels.

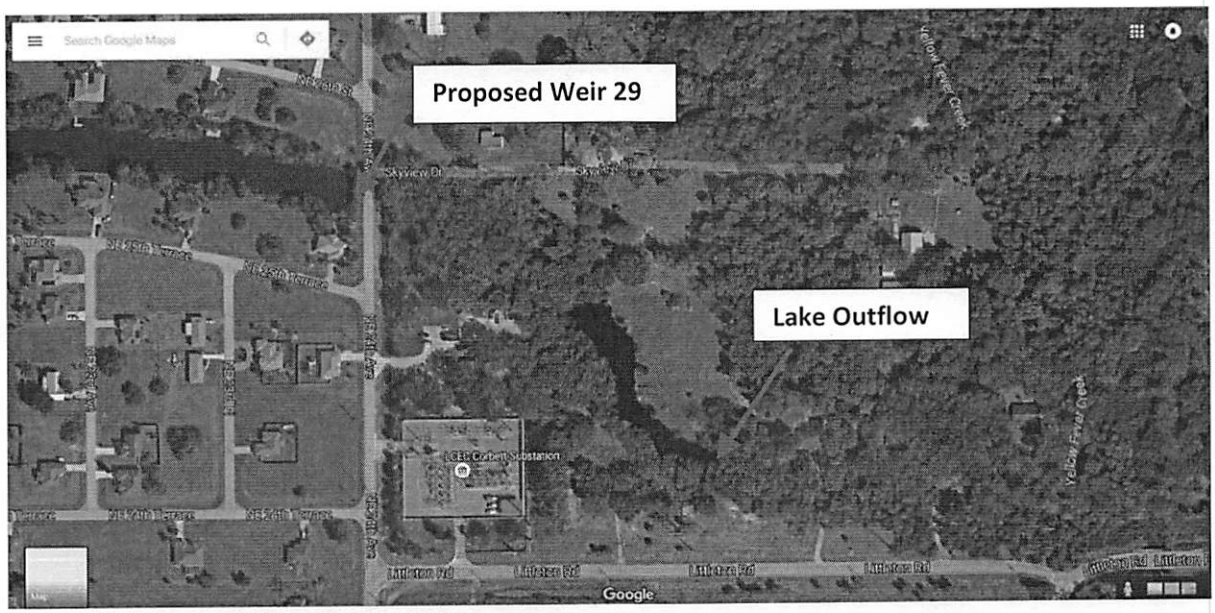


Figure 1 - Proposed Weir 29 and Downstream Lake

Gator Slough/Yellow Fever Interconnect. The Gator Slough/Yellow Fever Interconnect is a proposed 10-cfs pump station designed to transfer water from Leets Canal in Cape Coral Surface Water Basin 1, south under Del Prado Boulevard N to the Yellow Fever Creek Preserve (see **Figure 2**). Leets Canal connects to Gator Slough, so the Interconnect will act as an inter-basin transfer from the Gator Slough basin to the Yellow Fever Creek basin. The proposed interconnect will discharge from Leets Canal through the pump station into a shallow reservoir that is proposed to be constructed on the Yellow Fever Creek Preserve. The proposed plan is to operate the interconnect pump during seasonal periods when there is positive flow over the weir in Gator Slough at Burnt Store Road (Weir 11 – top elevation of 3.33 ft-NGVD) and Gator Slough at Andalusia Boulevard (Weir 19 - top elevation of 12.0 ft-NGVD). Another condition governing the operation of the interconnect pump will be when the receiving body downstream of the transfer pump system has an elevation less than 21.3 ft-NGVD.

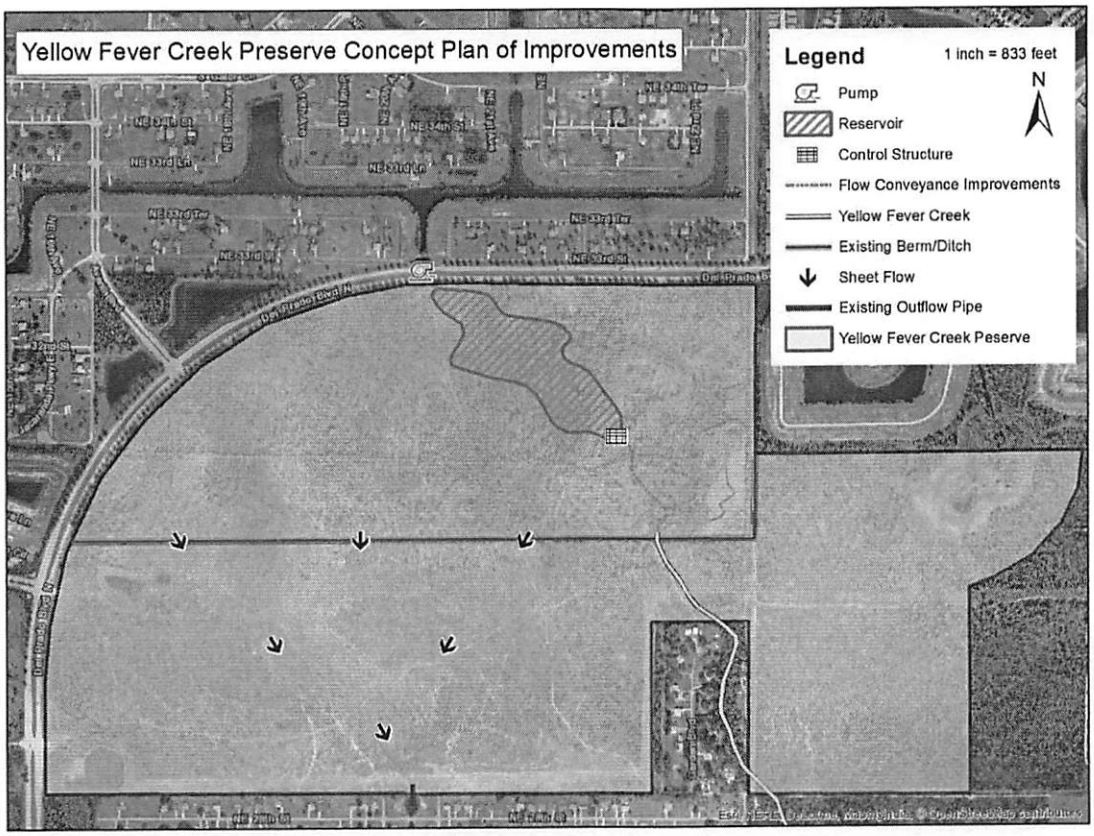


Figure 2 - Proposed Components of the Gator Slough/Yellow Fever Creek Interconnect

City of Cape Coral electronically monitors the levels of Weir 11 and Weir 19. This continuous level recording will be utilized by the City to dictate the overall operational control of the system. This information will be shared with the County. In addition, the County will use strategically located level indicators to indicate the capacity of the Yellow Fever Creek system relative to its ability to accept additional flow. When Weir 11 and Weir 19 are indicating flow over the respective weirs the County will be notified by a system control dashboard or by monthly reports that transfer pumping into the Yellow Fever Creek basin may occur. If the County determines the Yellow Fever Creek basin is able to absorb the additional flow the interconnect pump system may be placed into operation. If the County determines the Yellow Fever Creek basin cannot absorb additional flow then the interconnect transfer pump will be placed in the off position. When Weir 11 and Weir 19 are not indicating a flow over the respective weirs then the interconnect transfer pump will normally be in the off position. Because flows over Weir 11 are rare during December through May, the Interconnect transfer pump may operate during only a portion of the early dry season. However, if the City determines that available capacity in the canal system can support additional flow and the County's control system indicates that it can accept flow into the Yellow Fever Creek basin then the interconnect transfer pump system may be placed into operation.

The water that will be transferred via the Interconnect will increase overall water inputs to the Yellow Fever Creek Preserve thereby restoring flows to the Yellow Fever Creek watershed, which historically was larger than the present boundaries. Initially discharging the imported water into the proposed shallow reservoir is expected to increase groundwater elevations in the headwaters of the Yellow Fever Creek watershed. This action is expected to result in higher baseflows during at least a portion of the dry season.

The County will be responsible for, but limited to, the maintenance and support of all functions of the pump station, electrical system, electrical usage, downstream telemetry and the flow meter.

The City will be responsible for, but not limited to, the maintenance and support of all functions of the SCADA system, software programing and upstream telemetry.

MEMORANDUM

CITY OF CAPE CORAL
UTILITIES DEPARTMENT

TO: John Szerlag, City Manager

FROM: Jeff Pearson, Utilities Director

DATE: December 13, 2018

SUBJECT: Lee County Inter-Local Agreement for joint Water Quality & Storage Improvements to Yellow Fever Creek

---

City staff is requesting formal City Council approval for an interlocal agreement (Agreement) between Lee County (County) and the City of Cape Coral (City). The construction of Gator Slough in North Fort Myers and northeast Cape Coral altered the historic flow patterns to the Caloosahatchee River and Charlotte Harbor, including Yellow Fever Creek. There is a desire to restore water flow and water quality to the extent practicable without negatively impacting the City's surface water supplies.

County and City staff believe that this Agreement for outlining the responsibilities for design, permitting, construction, operation and maintenance of certain surface water management system within Yellow Fever Creek, known as the YFC Interconnect System (YFC) and generally depicted on the concept plans attached as Exhibits "A" and "B" collectively known as the Concept Plan. The YFC will be designed, constructed and operated to also help reduce excess water and the reduction of fresh water into Matlacha Pass and waters will be stored and treated prior to discharge into the Caloosahatchee River. The City's Weir #29 System will be designed, constructed and operated to store excess waters and will be utilized in the City's irrigation water system.

The Agreement will allow the City to construct a new Weir #29 that will allow up to 3,000-acre feet of additional surface water storage in the nearby canal system. The County's improvements include a pond and pumping facilities that will complement the City's Park's Master Plan for the Yellow Fever Creek Preserve. Additionally, the fill dirt from the construction of the pond by the County will be used for future potable and reclaimed water storage tanks.

The County has a State General Appropriations Grant for $175,000 to assist in funding the pond and pumping facilities for the YFC related improvements.

Attachments: Lee County-Cape Coral YFC Interlocal Agreement

INTERLOCAL AGREEMENT
FOR INTERCONNECTION TO YELLOW FEVER CREEK

THIS Interclocal Agreement for Interconnection to Yellow Fever Creek ("*Agreement*") is made and entered into this _____ day of _____ of 2018, by and between, Lee County, a political subdivision of the State of Florida ("*County*"), and the City of Cape Coral, a Florida municipal corporation, of the State of Florida ("*City*"), collectively known as the parties ("*Parties*" or "*Party*").

RECITALS:

WHEREAS, the construction of Gator Slough Canal in North Fort Myers and northeast Cape Coral has altered the historic flow patterns to the Caloosahatchee River and Charlotte Harbor, including Yellow Fever Creek; and

WHEREAS, there is a desire to restore such flows to the extent reasonably practicable without negatively impacting the City's surface water supplies; and

WHEREAS, the County and the City desire to enter into this Agreement for the purpose of outlining the responsibilities for design, permitting, construction, operation and maintenance of those certain surface water management systems within Yellow Fever Creek, known as the YFC Interconnect System ("*YFC*" or "*YFC System*") and Weir #29 Interconnect System ("*Weir 29*" or "*Weir 29 System*"), collectively known as the Interconnect System ("*Interconnect System*") and generally depicted on the concept plans attached as Exhibits "A" and "B", both being incorporated herein by reference and collectively known as the Concept Plan ("*Concept Plan*"); and

WHEREAS, the Concept Plan also depicts the following system components to be constructed and utilized for the Interconnect System: 1) a pump station on the 0.3 ± acre City-owned parcel on the north side of Del Prado Boulevard; 2) a 15.0± acre lake/reservoir to be constructed on City-owned property; 3) a 5.0± acre fill storage area for excavated material from the lake/reservoir, located on City-owned property to the east of the lake/reservoir; 4) a companion temporary haul path between the lake/reservoir and the fill storage area; and Weir 29 (collectively known as the "System Components"); and

WHEREAS, the Concept Plan also depicts the intended outfall from the depicted lake/reservoir, extending in a generally southerly direction to Yellow Fever Creek, and the outfall from Weir 29, that will also flow to Yellow Fever Creek; and

WHEREAS, the Interconnect System will be designed, constructed and operated to help reduce excess water at the North Spreader Waterway System and Matlacha Pass; and

WHEREAS, the Interconnect System will be designed, constructed and operated to also help reduce excess water and the reduction of fresh water flow into Matlacha Pass; and

WHEREAS, such excess waters will be stored and treated prior to discharge into the Caloosahatchee River; and

WHEREAS, the City's irrigation system is recognized by the South Florida Water Management District ("*SFWMD*") as an Alternative Water Supply ("*AWS Irrigation System*"); and

WHEREAS, the Weir 29 System will be designed, constructed and operated to store excess waters and will be utilized in the City's AWS Irrigation System; and

WHEREAS, the YFC System may will be designed, constructed and operated to help to restore the natural hydrologic flow to Matlacha Pass and provide for wetland enhancement; and

WHEREAS, the YFC System will provide enhancement of groundwater recharge; and

WHEREAS, the Interconnect System will provide an overall improvement to the water quality of Matlacha Pass, Charlotte Harbor, the Caloosahatchee River and additional estuaries and water bodies in Lee County; and

WHEREAS, the City and County will cooperate in the permitting process, when necessary, joining as co-permittees to achieve the intended purposes of this Agreement; and

WHEREAS, both the City and County must agree on the approval of designs and any future modifications to the Interconnect System as depicted on the Concept Plan; and

WHEREAS, the County intends to obtain water quality credits from Florida Department of Environmental Protection ("*FDEP*") towards the County's Total Maximum Daily Load ("*TMDL*") obligation as a result of implementation of the YFC System; and

WHEREAS, the City and County are duly empowered pursuant to Florida Statutes §163.01, to enter into this Agreement for the sharing of certain governmental powers and obligations.

NOW THEREFORE, in consideration of the mutual benefits and promises contained herein, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

I. INCORPORATION OF RECITALS.

The Recitals as set forth above are true and are incorporated into the terms of this Agreement as if set out herein at length.

II. OWNERSHIP.

The County will be granted an easement and will be responsible for maintenance and operation of the YFC System located in the City of Cape Coral. This will include, but is not be limited to, use of telemetry monitoring instruments, a pump operated storm water transfer station (with electrical control panel), and additional components. A portion of the resulting Interconnect System will be placed within City's public road rights-of-way.

The City will own and be responsible for maintenance and operation of the Weir 29 System. The will include, but not be limited to, any weir structure(s), gates, motor control systems, telemetry monitoring instrument, system control instruments and additional appurtenant components. The Weir 29 structure will be constructed within the City's road rights-of-way.

III. OPERATION SCHEDULE FOR THE INTERCONNECT SYSTEM.

The City and County agree to the System Operation and Maintenance Protocol ("*Operation Protocol*") as detailed in Exhibit "C", attached hereto and incorporated herein by reference. This Operation Protocol will be subject to an annual review by both the City and County. Should any term or requirement within the Operation Protocol be changed as a result of the aforesaid annual review, both the City and County must agree in writing to any resulting change to the Operation Protocol. The Lee County Division of Natural Resources Director and the City of Cape Coral Utilities Director will have the authority to mutually approve any changes to the Operation Protocol.

IV. MAINTENANCE AND OPERATION OF THE INTERCONNECT SYSTEM.

A. The County will, at its sole cost and expense, maintain and operate the YFC System throughout its expected useful life.

B. The City will, at its sole cost and expense, maintain and operate the Weir 29 System throughout its expected useful life.

C. In maintaining the YFC System, the County will be responsible to perform all activities necessary to keep the YFC System fully and properly functioning at all times for its normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage, or acts of nature. Said maintenance will include, but not be limited to, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the YFC System, and the locating/relocating of facilities as may be necessary.

D. In maintaining the Weir 29 System, the City will be responsible to perform all activities necessary to keep the Weir 29 System fully and properly functioning at all times for its normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidents or intentional damage, or acts of nature. Said maintenance will include, but not be limited to, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the Weir 29 System, and the locating/relocating of facilities as may be necessary.

E. As the owner and operator of the YFC System, the County will be solely responsible for any local, state or federal permit violations and fines or penalties that may be assessed. The County will promptly remedy any permit violation(s) and failure to do so will constitute a material breach of this Agreement.

F. As the owner and operator of the Weir 29 System, the City will be solely responsible for any local, state or federal permit violations and fines or penalties that may be assessed. The City will promptly remedy any permit violation(s) and failure to do so will constitute a material breach of this Agreement.

V. TOTAL MAXIMUM DAILY LOAD.

The County intends to obtain water quality credits from FDEP for the TMDL's resulting for the implementation of the YFC System as depicted in the Concept Plan. The County will construct the lake and receive the TMDL credits and agrees to offset the City's decreased flows from the Weir 29 System. As approved by Florida permitting agencies.

VI. ACCESS AND EASEMENTS.

A. To the extent any portion of the resulting YFC System is located on City property, the City agrees to timely provide those easements necessary for access, maintenance and operation of the YFC System.

B. The City will be responsible for acquiring easements necessary for access maintenance and operation of the Weir 29 System.

C. In the event either the YFC System or the Weir 29 System must be relocated or removed due to other infrastructure installation, the cost of relocation or removal of these systems will become the responsibility of the party requesting relocation or removal.

VII. OPERATING COSTS.

A. In addition to the costs of maintaining the YFC System, the County will be responsible for all costs of operating the YFC System, including, but not limited to, all costs for electrical power consumed by the YFC System and all other electrical charges.

B. In addition to the costs of maintaining the Weir 29 System, the City will be responsible for all costs of operating the Weir 29 System, including, but not limited to, all costs for electrical power consumed by the Weir 29 System and all other electrical charges.

VIII. RECORD KEEPING.

A. For YFC System, the County agrees to keep records of all activities performed and costs expended pursuant to this Agreement. All such records will be deemed to be public records subject to the provisions of Chapter 119, Florida Statutes

B. For Weir 29 System, the City agrees to keep records of all activities performed and costs expended pursuant to this Agreement. All such records will be deemed to be public records subject to the provisions of Chapter 119, Florida Statutes.

IX. DEFAULT.

If either Party fails to fulfill its obligations under this Agreement, that party will be considered to be in default. The other Party to the Agreement must provide written notice of the default and an opportunity to cure the default within 30 days of receipt of said notice. If the defaulting Party fails to cure the default within said time period, the other party may terminate this Agreement for cause or breach. The failure of either party to exercise its rights in the event of any breach will not constitute a waiver of such rights. Neither the City nor the County will be deemed to have waived any failure to perform by the other party unless such waiver is in writing and signed by the waiving Party. In any litigation arising out of this Agreement, the prevailing Party will be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party.

X. ASSUMPTION OF LIABILITY.

A. Each Party hereby agrees to assume liability for the negligent acts of its own officers, employees and agents arising directly, or indirectly, from that Party's activities pursuant to the terms of this Agreement and will defend all claims, causes of action, damages, suits or other actions which any person may pursue based on the willful or negligent acts of that Party's officers, employees or agents during the term of this Agreement. Neither Party assumes any liability beyond that allowed by §768.28, Florida Statutes.

B. Additionally, both Parties agree when project construction, maintenance or monitoring is not performed by either County or City employees, only licensed and insured consultants and contractors with an insurance policy in an amount not less than One Million Dollars, will be used. Further, either Party may request to be named as an "*additional insured*" if the work is being performed on their respective property by a consultant or contractor engaged by the other Party.

XI. FORCE MAJEURE.

Neither the City nor the County will be liable to the other for any failure to perform under the terms of this Agreement to the extent such performance is prevented by an act of God, war, riots, natural catastrophe, or other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence, provided that the party claiming the excuse from performance has (a) promptly notified the other party of the occurrence and its estimate duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent reasonably possible, and (c) resumed performance as soon as possible.

XII. TIME AND NOTICES.

A. Time is of the essence in the performance of all obligations under this Agreement.

B. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and will be deemed to have been received by the end of 5 business days from the proper sending thereof unless proof of prior actual receipt is provided.

C. Unless otherwise notified in writing, notices will be sent to the following addresses:

If to City of Cape Coral:

Utilities Director
City of Cape Coral
Post Office Box 150027
Cape Coral, Florida 33915-0027

With a copy to the City Attorney.

If to Lee County:

Director, Division of Natural Resources
Lee County Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33902-0398

With a copy to the County Attorney.

XIII. TERM OF AGREEMENT.

The term of this Agreement will be from the date first written above, and will continue until terminated according to the provisions contained herein.

XIV. NO THIRD PARTY BENEFICIARIES.

Nothing in this Agreement may be construed as creating any rights or entitlement that inure to the benefit of any person or entity not a party of this Agreement.

XV. ASSIGNMENT.

Neither party has the right to assign or transfer this Agreement, in whole or in part, without the prior written agreement of the other party.

XVI. TERMINATION.

This Agreement may only be terminated by mutual agreement of the Parties. If the Interconnect System is intended to continue to be operated after termination of this Agreement, the resulting agreement to terminate must include a mutual agreement concerning responsibility for operation and maintenance of the Interconnect System. If the Parties contemplate that the Interconnect System will no longer be operated and maintained upon termination of this Agreement, then such agreement to terminate will be subject to the consent of any and all state and federal agencies with jurisdiction over the Interconnect System. If all or any portion of the Interconnect System is to be removed upon termination of this Agreement, the cost of removal will be shared equally unless otherwise agreed.

XVII. AMENDMENTS.

With exception to an annual change in Operation Schedule as provided herein, this Agreement may only be amended by written amendment approved with the same formalities as this Agreement. All unchanged terms and conditions of this Agreement will be incorporated into any such amendment and will otherwise remain in full force and effect.

XVIII. GOVERNING LAWS.

This Agreement will be controlled and interpreted according to the laws, rules and regulations of the State of Florida. Any provision hereof found to be unlawful or unenforceable will be severable and will not affect the validity of the remaining provisions hereof.

XIX. EFFECTIVE DATE.

This Agreement will become effective on upon date first written above. This Agreement, and any subsequent amendment(s) thereto, will be filed with the Clerk of the Circuit Court for Lee County.

[End of provisions.]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers and their official seals affixed hereto.

ATTEST:

BY: _____
[Signature]

_____
[Type or print name]
City Clerk

CITY OF CAPE CORAL

BY: _____
[Signature]

_____
[Type or print name]
Mayor

APPROVED AS TO LEGAL FORM:

BY: _____
[Signature]

Mark Mariano
Type or print name]
for City Attorney

ATTEST:
LINDA DOGGETT, CLERK

BY: _____
Deputy Clerk

_____
[Type or print name]

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

By: _____
[Signature]

_____
[Type or print name]
Chair/Vice-Chair

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

By: _____
[Signature]

_____
[Type or print name]
Lee County Attorney's Office

Attachments: Exhibit "A" and "B" - YFC and Weir #29 Concept Plan(s)
Exhibit "C" - System Operation and Maintenance Protocol

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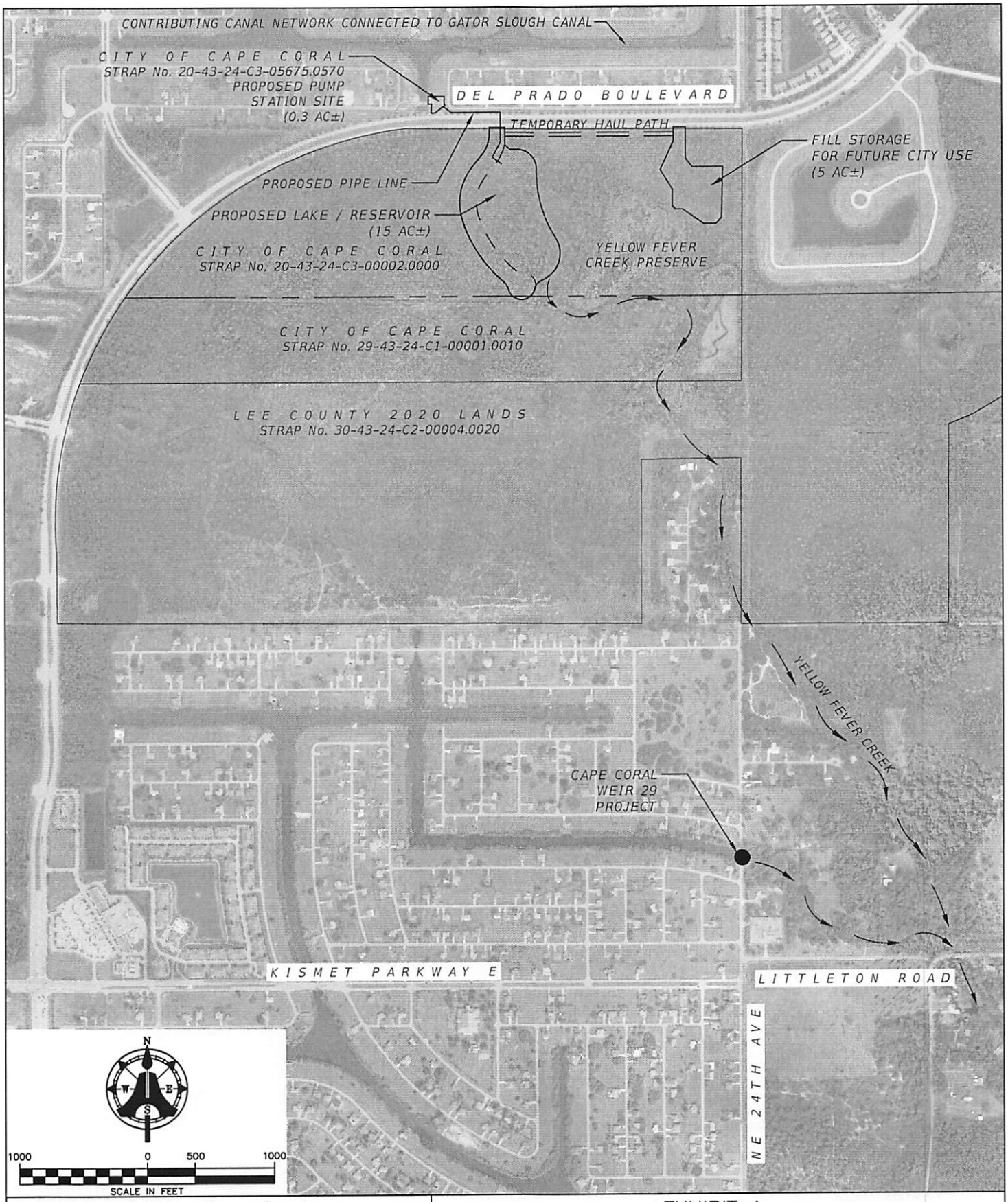


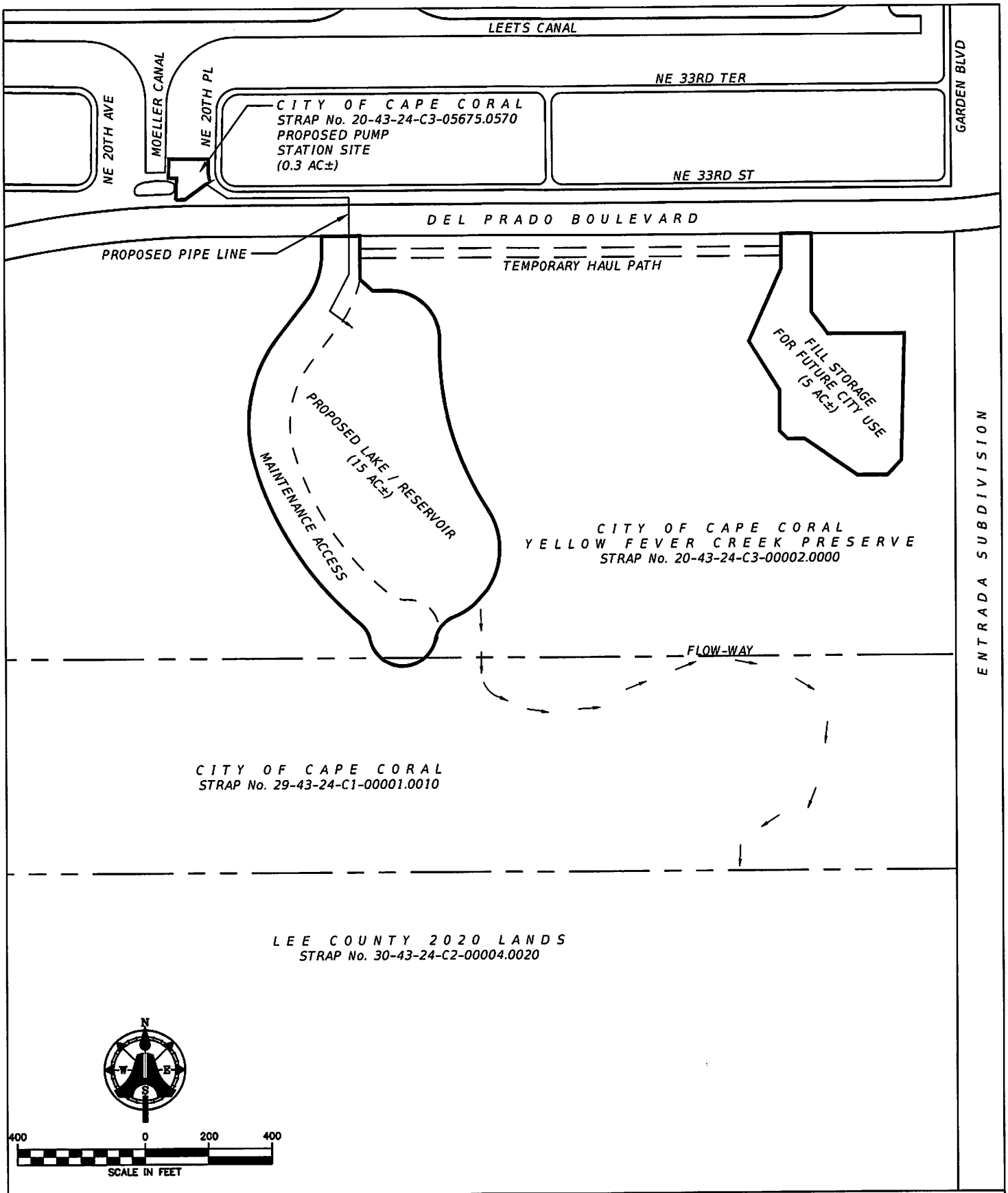
AIM Engineering & Surveying, Inc.
2161 FOWLER ST. FORT MYERS, FL 33901
Phone: 239.332.4569 www.aimengr.com
Engineering Business Certificate of Authorization No. 3114

EXHIBIT A

LEE COUNTY DIVISION OF NATURAL RESOURCES

YELLOW FEVER CREEK HYDROLOGIC RESTORATION PROJECT / GATOR SLOUGH TRANSFER FACILTY

SCALE: 1"=1000'	BY: JS	DATE: 05/23/18	REV.:	SHEET: 1 OF 1



AIM Engineering & Surveying, Inc.
2161 FOWLER ST. FORT MYERS, FL 33901
Phone: 239.332.4569 www.aimengr.com
Engineering Business Certificate of Authorization No. 3114

EXHIBIT B

LEE COUNTY DIVISION OF NATURAL RESOURCES

YELLOW FEVER CREEK HYDROLOGIC RESTORATION PROJECT / GATOR SLOUGH TRANSFER FACILTY

SCALE: 1"=400'	BY: JS	DATE: 04/30/18	REV.: 5/23/2018	SHEET: 1 OF 1

EXHIBIT C

Operating Plan for Weir 29 and Gator Slough/Yellow Fever Interconnect

Weir 29 Operation. Weir 29 is proposed to be a gated weir that will be constructed in Cape Coral Surface Water Basin 3 on the Midsummer Canal at NE 24th Ave (see **Figure 1**). The structure will have a 60-ft wide weir with a fixed top elevation of 9.83 ft-NGVD and two 8-ft wide overflow gates that have a closed top position of 9.83 ft-NGVD, and a fully-open position of 8.33 ft-NGVD. The gates will typically be maintained in a fully open position during a normal wet season (considered to be June 1 – September 15) and closed in a normal dry season (considered to be September 16 – May 31). Gate adjustment dates may be modified depending upon actual seasonal weather conditions. The overflow gates will generally stay closed in the dry season when the Yellow Fever Interconnect (YFI) is operational. However, until the YFI is operational, Weir 29's gates will be routinely adjusted to release approximately 2 cfs until the canal water level reaches the fixed weir elevation (9.83ft-NGVD) at which time the overflow gates will be closed. The systematic adjustment of the weir gates may resume upon a rise in canal levels.

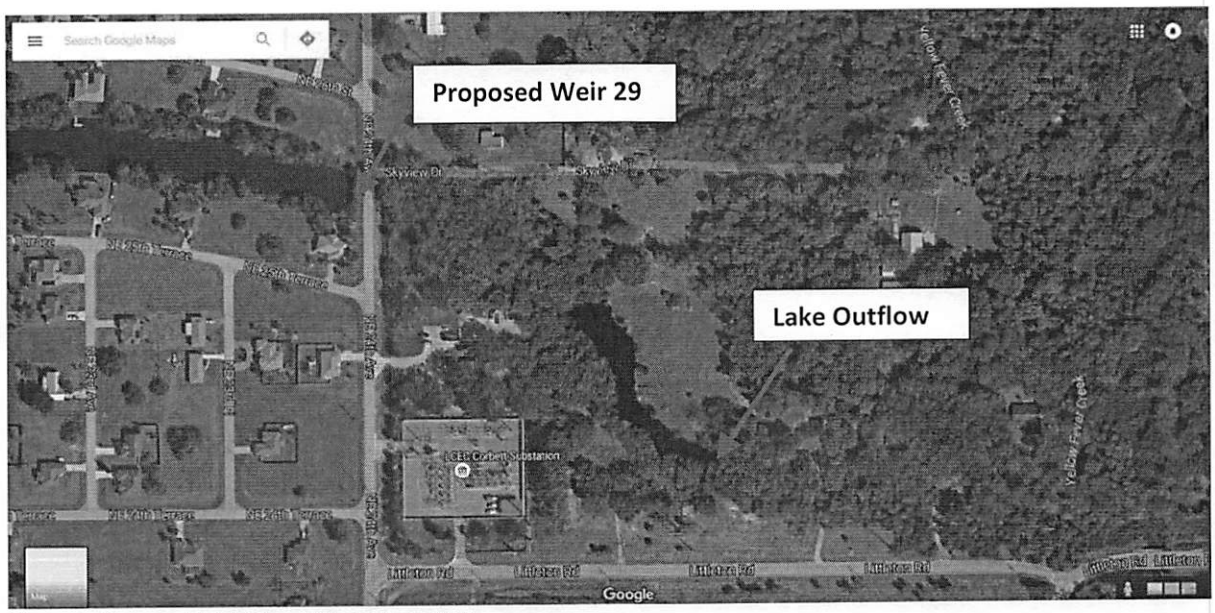


Figure 1 - Proposed Weir 29 and Downstream Lake

Gator Slough/Yellow Fever Interconnect. The Gator Slough/Yellow Fever Interconnect is a proposed 10-cfs pump station designed to transfer water from Leets Canal in Cape Coral Surface Water Basin 1, south under Del Prado Boulevard N to the Yellow Fever Creek Preserve (see **Figure 2**). Leets Canal connects to Gator Slough, so the Interconnect will act as an inter-basin transfer from the Gator Slough basin to the Yellow Fever Creek basin. The proposed interconnect will discharge from Leets Canal through the pump station into a shallow reservoir that is proposed to be constructed on the Yellow Fever Creek Preserve. The proposed plan is to operate the interconnect pump during seasonal periods when there is positive flow over the weir in Gator Slough at Burnt Store Road (Weir 11 – top elevation of 3.33 ft-NGVD) and Gator Slough at Andalusia Boulevard (Weir 19 - top elevation of 12.0 ft-NGVD). Another condition governing the operation of the interconnect pump will be when the receiving body downstream of the transfer pump system has an elevation less than 21.3 ft-NGVD.

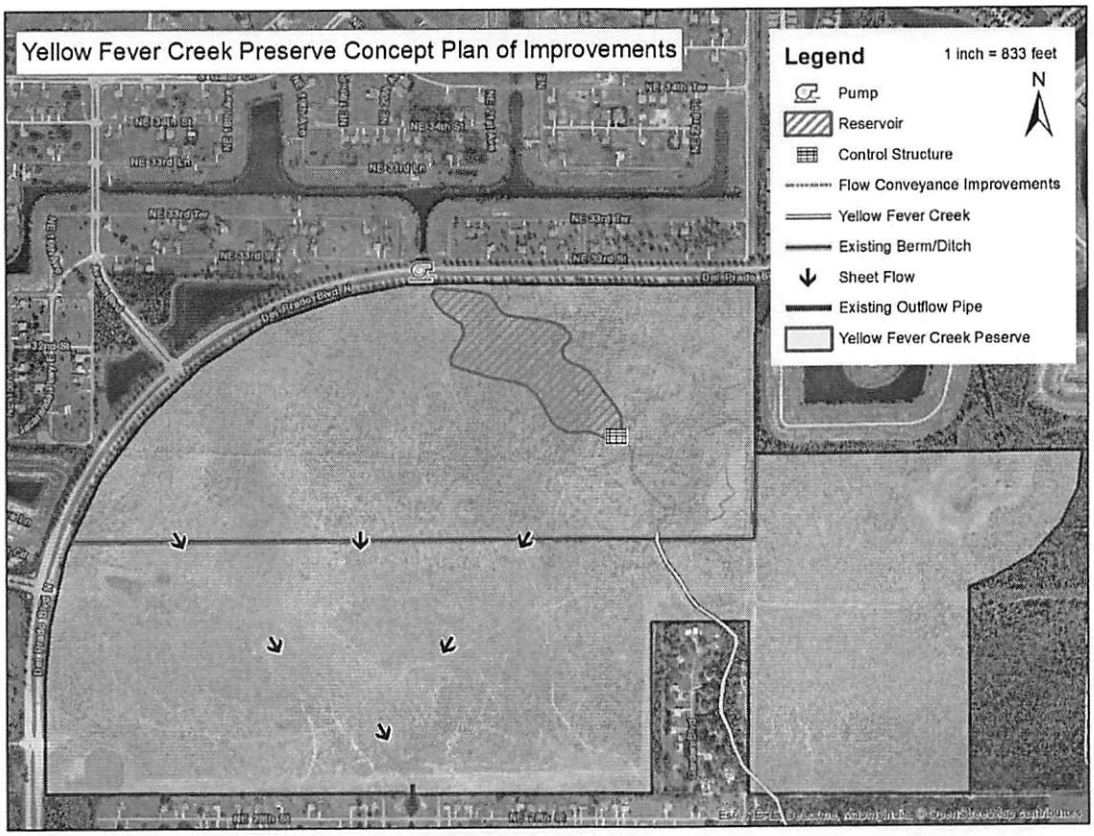


Figure 2 - Proposed Components of the Gator Slough/Yellow Fever Creek Interconnect

City of Cape Coral electronically monitors the levels of Weir 11 and Weir 19. This continuous level recording will be utilized by the City to dictate the overall operational control of the system. This information will be shared with the County. In addition, the County will use strategically located level indicators to indicate the capacity of the Yellow Fever Creek system relative to its ability to accept additional flow. When Weir 11 and Weir 19 are indicating flow over the respective weirs the County will be notified by a system control dashboard or by monthly reports that transfer pumping into the Yellow Fever Creek basin may occur. If the County determines the Yellow Fever Creek basin is able to absorb the additional flow the interconnect pump system may be placed into operation. If the County determines the Yellow Fever Creek basin cannot absorb additional flow then the interconnect transfer pump will be placed in the off position. When Weir 11 and Weir 19 are not indicating a flow over the respective weirs then the interconnect transfer pump will normally be in the off position. Because flows over Weir 11 are rare during December through May, the Interconnect transfer pump may operate during only a portion of the early dry season. However, if the City determines that available capacity in the canal system can support additional flow and the County's control system indicates that it can accept flow into the Yellow Fever Creek basin then the interconnect transfer pump system may be placed into operation.

The water that will be transferred via the Interconnect will increase overall water inputs to the Yellow Fever Creek Preserve thereby restoring flows to the Yellow Fever Creek watershed, which historically was larger than the present boundaries. Initially discharging the imported water into the proposed shallow reservoir is expected to increase groundwater elevations in the headwaters of the Yellow Fever Creek watershed. This action is expected to result in higher baseflows during at least a portion of the dry season.

The County will be responsible for, but limited to, the maintenance and support of all functions of the pump station, electrical system, electrical usage, downstream telemetry and the flow meter.

The City will be responsible for, but not limited to, the maintenance and support of all functions of the SCADA system, software programing and upstream telemetry.

Lee County-Cape Coral Yellow Fever Creek/Weir 29 Projects Inter-local Agreement

Presenter: Jeff Pearson MS, PMP, PWE
Utilities Director

January 7, 2019

Interlocal Agreement – Lee Co.

Interlocal
Weir #29
Utilities Storage
Conclusions

- Development has altered historic surface water flows from US41 to YFC along North Del Prado Blvd
- Lee County proposes to restore YFC flow without negatively impacting the City's irrigation water supply
- The concept plan depicts the components and construction of a surface water transfer pump station
- The Pond is consistent with the City Park's Master Plan
- City staff support the County's water quality/flow Restoration Project
- Lee County will support the City's weir #29 Project that will increase water storage for our irrigation system
- City owns 197.66 acres and Lee County owns 333.8 acres

Cape Coral FLORIDA

Weir #29

Interlocal
Weir #29
Utilities Storage
Conclusions

- Weir #29 has been approved for construction in the Utilities 5 YR CIP
- Hydraulic Modeling has been Completed
- Environmental Resource Permit (ERP) Completed
- Final design and construction of weir #29
- Concept configuration depicted in photo

Utilities Storage Tanks

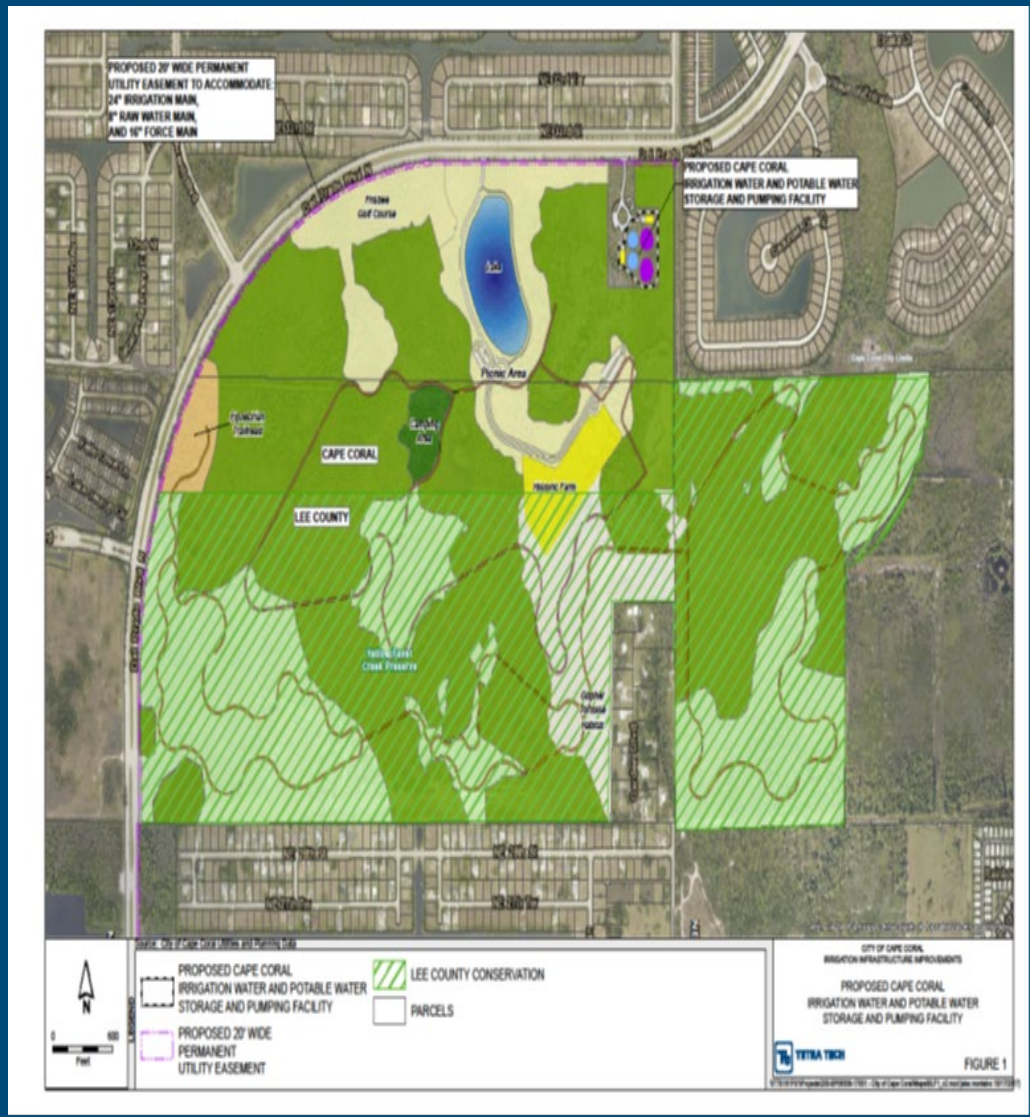
Interlocal

Weir #29

Utilities Storage

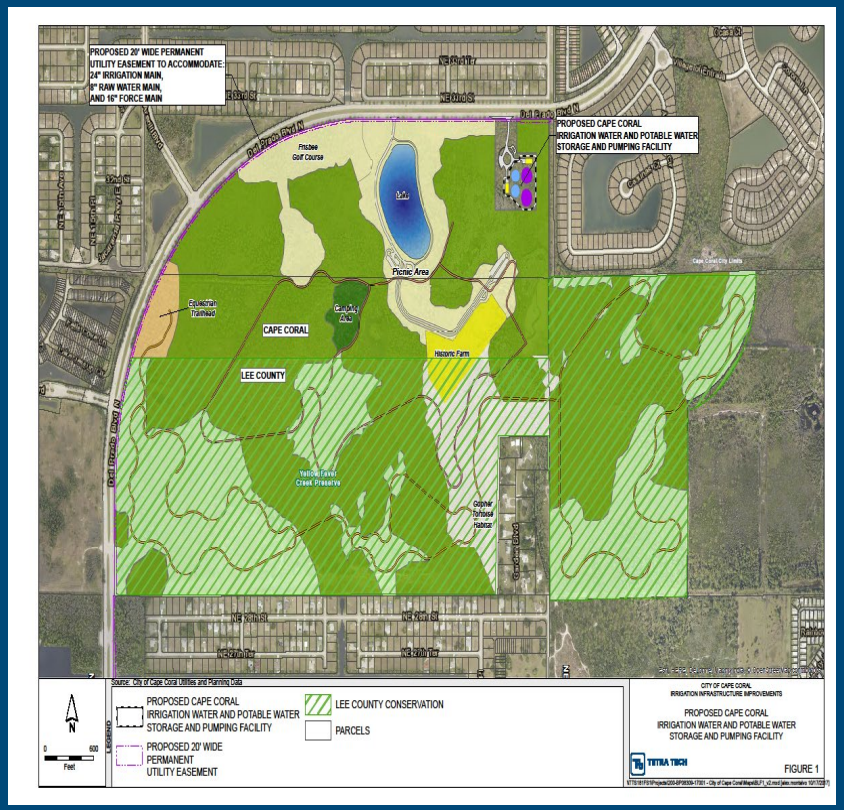
Conclusions

- Storage Tank site located in the NE Cape Coral 2005
- Irrigation Tanks could provide service by 2022
- Potable Water tanks anticipated 2030 - 2040 timeframe
- Weir #29 Cost: $1.2M est.
- Irr. Tanks Cost: $10M



Conclusions

- Project consistent with Park's Master Plan and new Park will have entrance and parking for Dog Park
- New deceleration lane
- Project improves water quality to River and Matlacha Pass- 72kg total P and 523 kg of N
- 3,000 acre feet/year or 3 million gallons per day of additional water
- Opportunity to combine construction projects



Questions?

Cape Coral
FLORIDA

Item Number:	**11.B.**
Meeting Date:	**1/7/2019**
Item Type:	**NEW BUSINESS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
City 'Welcome' Signs - Mayor Coviello

REQUESTED ACTION:
Staff Direction

STRATEGIC PLAN INFO:

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

ELEMENT C: INVEST IN COMMUNITY INFRASTRUCTURE INCLUDING UTILITIES EXPANSION IMPROVEMENTS TO ENHANCE THE CITY'S ABILITY TO MEET THE NEEDS OF ITS CURRENT AND FUTURE RESIDENTS AND BUSINESSES

ELEMENT D: IMPROVE THE CITY'S IMAGE WITH THE PURPOSE OF BUILDING LASTING RELATIONSHIPS WITH OUR RESIDENTS AND VALUABLE PARTNERSHIPS WITH OTHER ORGANIZATIONS, AND CONTINUALLY PROVIDE A WELL-BALANCED AND POSITIVE WORKPLACE FOR OUR INTERNAL STAKEHOLDERS.

PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:
Discuss installing "Welcome to Cape Coral" signs at every entryway into the city. To include seeking FDOT approval for appropriate signage on Pine Island Rd / SR 82.

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

PT Division- Department- Council Offices

SOURCE OF ADDITIONAL INFORMATION:
Council Offices

Item Number:	**11.C.**
Meeting Date:	**1/7/2019**
Item Type:	**NEW BUSINESS**

AGENDA REQUEST FORM
CITY OF CAPE CORAL

TITLE:
ADDENDUM: Formal Request to postpone the Emergency Hearing scheduled for January 8, 2019 regarding Emergency Suspension of Dixie Roadhouse/Rockade Extended Hours permit – Mayor Coviello

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/HEARING EXAMINER/STAFF RECOMMENDATIONS:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:
Email Correspondence - Letter of Representation

PREPARED BY:
Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
Email Correspondence	Backup Material

Kimberly Bruns

From: Dolores Menendez
Sent: Friday, January 4, 2019 5:53 PM
To: Joe Coviello; John Gunter; Richard Williams; Marilyn Stout; Jennifer I. Nelson; Dave Stokes; John Carioscia; Jessica Cosden
Cc: John Szerlag; Brian R. Bartos; Kimberly Bruns
Subject: Request by Dixie Roadhouse for Postponement of Hearing
Attachments: [EXTERNAL] - Letter of Representation - Dixie Roadhouse/Rockade

Good afternoon, Mayor and Councilmembers:

I have attached an email that I received from attorney Sawyer Smith informing the City that he has been engaged to represent Dixie Roadhouse/Rockade in the matter concerning the suspension of its extended hours permit. Because Mr. Smith was only retained today, he is requesting that the hearing scheduled for Tuesday, January 8, 2019 be postponed so he has adequate time to prepare for the hearing. I recommend that the issue of the request for postponement be added to the Council agenda for Monday, January 7, 2019. If postponed the hearing could be rescheduled at a mutually convenient time. As Council is aware, this proceeding has taken an accelerated path due to the time frames established in the City Code regarding emergency suspensions in recognition of the fact that permitholders are unable to exercise their privilege of selling alcoholic beverages after 2 am on Saturday or Sunday mornings during the time period in which an emergency suspension is in place. During the postponement, if approved by Council, the emergency suspension would remain in effect and Dixie Roadhouse is waiving the need for the accelerated time frame.

Please let me know if you have any questions or desire any additional information.

Dolores

Kimberly Bruns

From: Callie Burley <cburley@wilburlaw.com>
Sent: Friday, January 4, 2019 3:50 PM
To: Dolores Menendez
Cc: Sawyer Smith; Daniel Garza
Subject: [EXTERNAL] - Letter of Representation - Dixie Roadhouse/Rockade
Attachments: Letter of Representation - Dixie Roadhouse.pdf

Good afternoon,
Please see the attached correspondence from Attorney Sawyer C. Smith.

Thank you,

CALLIE BURLEY
Legal Assistant | Wilbur Smith Attorneys at Law
1415 Hendry Street | Fort Myers, FL | 33901
o. 239.334.7696 | f. 239.334.3669 | www.wilburlaw.com

WILBUR SMITH
ATTORNEYS AT LAW
EST. 1970

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WILBUR SMITH
ATTORNEYS AT LAW
EST. 1970

WILBURLAW.COM
CALL 239.334.7696
FAX 239.334.3669

January 4, 2019

Sent via Email and US Mail

City of Cape Coral
c/o Dolores Menendez, Esq.
Cape Coral City Attorney
1015 Cultural Park Blvd.
Cape Coral, FL 33990

RE: Emergency Suspension of Dixie Roadhouse/Rockade Extended Hours Permit

Dear Ms. Menendez:

Please be advised that our law firm, Wilbur Smith Attorneys at Law, represents Lynn Pippenger on behalf of Dixie Roadhouse/Rockade. We ask that you waive the 30 day requirement for a hearing to be held in this matter, and accept this letter as a formal request to postpone the Emergency Hearing scheduled for January 8, 2019. The basis for my request is that my firm was retained today, January 4, 2019 and would like to have adequate time to prepare for this hearing. Please contact my office to coordinate an appropriate date and time for this hearing to take place.

I would appreciate you acknowledging receipt of this and please direct any and all phone calls and requests to my office.

Thank you for your courtesy and cooperation in this matter.

Sincerely,

Sawyer C. Smith
Managing Partner

SCS:cb