



## **AGENDA FOR THE HEARING EXAMINER**

Tuesday, January 22, 2019

9:00 AM

Council Chambers

### **1. HEARINGS CALLED TO ORDER**

### **2. HEARINGS**

- A. Case #VP18-0006\*; Address: 1823 Old Burnt Store Road North; Applicant: John Dewey Polt and Doris Jean Polt
- B. Case #VP18-0012\*; Address: 218 Bayshore Drive; Applicant: OBIR Rental, LLC

### **3. DATE AND TIME OF NEXT HEARINGS**

- A. Tuesday, February 5, 2019, at 9:00 a.m., in Council Chambers

### **4. ADJOURNMENT**

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

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

#### **PLEDGE OF CIVILITY**

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

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

1. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or the Applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
2. The Applicant, staff, and all Participants requesting to speak or present evidence or both the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
3. Staff will testify regarding proper notice of the Hearing in accordance with City requirements.
4. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the Applicant, a Public Hearing shall be held for all decisions requiring an ordinance or resolution.
5. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner, determines to proceed in a different order, taking proper consideration of fairness and due process:
  - The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
  - Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner with the agenda materials, as staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
  - Participants in opposition to or support of the application shall make their presentation in any order as determined by the Hearing Examiner. Each Participant shall present their argument in 5 minutes.
  - The Applicant may cross-examine any witness and respond to any testimony presented.
  - Staff may cross-examine any witness and respond to any testimony presented.
  - The Hearing Examiner may choose to allow Participants to respond to any testimony if the Hearing Examiner deems the response to be necessary to ensure fairness and due process.
  - The Hearing Examiner, may ask questions of the staff, Applicant, and Participants.
  - Final argument may be made by the Applicant, related solely to the evidence in the record.
  - Final argument may be made by the staff, related solely to the evidence in the record.
  - For good cause shown, the Hearing Examiner may grant additional time to any of the hereinabove time limitations.
  - The Hearing Examiner's, decisions must be based upon Competent Substantial Evidence in the record.

**Item Number:** 2.A.  
**Meeting Date:** 1/22/2019  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case #VP18-0006\*; Address: 1823 Old Burnt Store Road North; Applicant: John Dewey Polt and Doris Jean Polt

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

The applicants, John Dewey Polt and Doris Jean Polt, seek a vacation of plat for a canal right-of-way and underlying easements being a part of the Gator Slough Canal, adjacent to Lot 46, Block 4317, Cape Coral Subdivision, Unit 61; the release of right-of-way and utility easements that were previously reserved by the City and more particularly described by Ordinance 38-91; and the vacation of easements occupying a portion of Lot 46, Block 4317, Unit 61; property located at 1823 Old Burnt Store Road North.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

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

**ATTACHMENTS:**

Description	Type
▢ Backup Materials	Backup Material
▢ Affidavit for Advertising	Backup Material





DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP 18-0006

REQUEST TO PLANNING & ZONING COMMISSION 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

John Dewey & Doris Jean Polt

Address: 2606 SW 1st Terr.  
City: Cape Coral State: FL Zip 33991  
Phone: 908-268-8747

APPLICANT

djat979@comcast.net  
EMAIL

Address: Same As Above  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_  
Phone: \_\_\_\_\_

AUTHORIZED REPRESENTATIVE

Edward A. Ramos  
EMAIL ed@capecoralbuilder.com

Address: 1223 SE 47th Terr. #3  
City: Cape Coral State: FL Zip 33904  
Phone: 239-540-3566

Unit 61 Block 4317 Lot(s) 45-46 Subdivision \_\_\_\_\_  
Address of Property 1823 Old Burnt Store Rd. N. Cape Coral, FL 33993  
Current Zoning R-1B Plat Book 21, Page 4 to 20  
Strap Number 31-43-23-C4-04317.0450



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

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.

JOHN D. POLT (SIGNATURE MUST BE NOTARIZED) John Dewey Polt Doris Jean Polt  
Doris J. Polt Doris Jean Polt  
APPLICANT NAME (PLEASE TYPE OR PRINT) APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 29th day of June, 2018, by  
John Dewey & Doris Jean Polt who is personally known or produced Known  
as identification.

Exp. Date: 2/3/19 Commission Number: FF180166

Signature of Notary Public:

Printed name of Notary Public:



JEAN M. WASH  
MY COMMISSION # FF 180166  
EXPIRES: February 3, 2019  
Bonded Thru Budget Notary Services

Jean M. Wash  
Jean M. Wash



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

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.

CORPORATION/COMPANY NAME

JOHN D. POLT JOHN DEWEY POLT  
Doris Jean Polt

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 20th day of June, 2018, by

John Dewey & Doris Jean Polt who is personally known or produced  
as identification.

Known



JEAN M. WASH  
MY COMMISSION # FF 180166  
EXPIRES: February 3, 2019  
Bonded Thru Budget Notary Services

Exp. Date: 2/3/19

Commission Number:

FF 180166

Signature of Notary Public:

Printed name of Notary Public:

(SIGNATURE MUST BE NOTARIZED)

Jean M. Wash  
Jean M. Wash



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Edward A. Barnes  
(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

UNIT 61 BLOCK 4317 LOT(S) 45-46 SUBDIVISION

OR LEGAL DESCRIPTION

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

John Dewey Polt  
PROPERTY OWNER (Please Print)

Doris Jean Polt  
PROPERTY OWNER (Please Print)

[Signature] OWNER  
PROPERTY OWNER (Signature & Title)

Doris Jean Polt owner  
PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 29th day of June, 2018 by John Dewey & Doris Jean Polt who is personally known or produced as identification known

Exp. Date: 2/3/19 Commission Number: FF180166



JEAN M. WASH  
MY COMMISSION # FF 180166  
EXPIRES: February 3, 2019  
Bonded Thru Budget Notary Services

Signature of Notary Public:

Printed name of Notary Public:

[Signature]  
Jean M. Wash

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

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

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

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

JOHN DEWEY POIT

Doris Jean Poit

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

*John Dewey Poit*  
*Doris Jean Poit*

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me on this 29th day of June, 2018 by John Dewey Poit, who is personally known or who has produced known as identification. Doris Jean Poit

Exp. Date 2/3/19  
Commission # FF1801166

*Jean M. Wash*  
Signature of Notary Public

Jean M. Wash  
Print Name of Notary Public



**JEAN M. WASH**  
MY COMMISSION # FF 180166  
EXPIRES: February 3, 2019  
Bonded Thru Budget Notary Services



RE: John Dewey & Doris Jean Polt  
2606 SW 1<sup>st</sup> Terrace  
Cape Coral, FL 33991  
Property Address:  
1823 Old Burnt Store Road North  
Block 4317, Lots 45-46, Unit 61  
Strap # 31-43-23-C4-04317.0450  
Vacation Of Easement On North Side Of Lot 46 & Parcel A

To Whom It May Concern,

My customers, Dr. John Dewey & Doris Jean Polt, own the site known as Lots 45-46, Parcel A, OR 2219/2248, Block 4317, Unit 61. Lots 45-46 contain a triangular piece of property known as Parcel A by quit claim deed from the City of Cape Coral. Collectively these contiguous properties are known as 1823 Old Burnt Store Road North.

It is my customers intent to request a Quit Claim Deed from the City of Cape Coral in order to vacate the plat and City's interest in the 6' P.U.E. on the north side of Lot 46 and the easement area of Parcel A, for the purpose of constructing a single family residence within the boundary of the combined property.

Attached is a survey describing the land in question along with a legal description of said property. At this time, we ask that you schedule a Public Hearing regarding this request.

Please forward Notice of Public Hearing to Mr. & Mrs. Polt at the address above and to myself at the address below at your earliest convenience. Should you have any questions please do not hesitate to contact me.

Sincerely,

Edward A. Ramos  
Vice President

EAR/jmw

# INTELLIGENT SOLUTIONS LAW FIRM, PLLC



1222 SE 47th Street  
Suite C1  
Cape Coral, FL 33904  
DIRECT DIAL: 239.244.2346  
shertz@is4law.com  
[www.is4law.com](http://www.is4law.com)

September 7, 2018

Mike Struve  
City of Cape Coral  
Planning Division  
1015 Cultural Park Boulevard  
Cape Coral, FL 33990  
Via Email: [msturve@capecoral.net](mailto:msturve@capecoral.net)

Re: VP-18-0006 Vacation of Easement application for 1823 Old  
Burnt Store Road North, Cape Coral, FL 33904 by John  
Dewey Polt and Doris Jean Polt

Dear Mr. Struve:

This letter is to inform you that I represent John Dewey Polt and Doris Jean Polt for the above referenced request to vacate an easement located on their property. I look forward to working with you and the other City personnel to come to a resolution to the questions that have arisen relating to the Quit-Claim Deed the City for the triangular parcel of land that is appurtenant to the land located at Block 4217 Lots 45-46 in Unit 61, which is their homesite.

Please direct all communications regarding this matter to my attention and we look forward to working with the City to accomplish this vacation of the easement.

Very truly yours,

INTELLIGENT SOLUTIONS LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'Scott J. Hertz'.

Scott J. Hertz, Esq.

SJH/me

CC: Brian Bartos – [bbartos@capecoral.net](mailto:bbartos@capecoral.net)  
Clients



**Attention:**

Jeanie Wash  
jeanie@capecoralbuilder.com  
1223 SE 47<sup>th</sup> Ter, suite #3  
Cape Coral, Fl 33904  
Phone: (239) 540-3566

**Subject:** - Vacation of Easement on North Side Of Lot 46 & Parcel A

**Site Address:** 1823 Old Burnt Store Rd Cape Coral, Fl 33993  
Strap# 31-43-23-C4-04317.0450

To whom it my concern

Regarding the referenced property above CenturyLink has **No Objection** to vacate the easement on the north side of lot 46 and parcel A described by Jeanie Wash with Ramos Builders.

Sincerely

*Justin Lane*

Local Engineer  
3301 Del Prado Blvd S  
Office: (239)-984-7009  
justin.lane@centurylink.com





**12600 Westlinks Drive Suite 4  
Fort Myers, Fl. 34135  
Phone: 239-432-1805**

June 8, 2018  
Ramos Builders  
C/O Jeanie Wash  
1223 S.E. 47<sup>th</sup> Terrace  
Cape Coral, Florida 33904

Re; 1823 Old Burnt Store Road N. (Block 4317, Unit 61, Lots 45 & 46 or 2219/2248  
Seawall Ext. Strap# 31-43-23-C4-04317.0450 Vacation of Easement on North Side of lot  
46 & Parcel A)

Dear Jeanie Wash,

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](http://www.lcec.net)

June 27, 2018

Ms. Jeanie Wash  
Ramos Builders  
1223 SE 47th Terrace  
Suite 3  
Cape Coral, FL 33904

Re: Letter of No Objection to Vacation of Utility Easement for 1823 Old Burnt Sore Road, Cape Coral, Florida 33993; Owner: Dr. & Mrs. John Dewey Polt; Strap#: 31-43-23-C4-04317.0450.

Dear Ms. Wash:

You have opened up negotiations on behalf of your client, the Polts, concerning the vacation of certain utility easements that exist between Tract A and Lot 46, Block 4317, Unit 61, Cape Coral Subdivision, as recorded amongst the Public records of Lee County, Florida, at Plat Book 21, at Page 4-20, inclusive.

We have reviewed the Plat, the request submitted, and our internal records. LCEC has **no objection** to the vacation as submitted and reflected in the request. However, we require a six-foot perimeter easement around the subject property in order to service the parcel in the after situation.

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](mailto:russel.goodman@lcec.net).

Very truly yours,

Russ Goodman, Digitally signed by  
Russ Goodman, SR/WA  
SR/WA Date: 2018.06.27  
13:06:48 -04'00'

Russel Goodman, SR/WA  
Senior Right of Way Agent

Prepared by: Record and Return To  
Marci A. Smith  
CAPE CORAL TITLE INSURANCE AGENCY, INC.  
1307 Cape Coral Parkway East  
Cape Coral, Florida 33904  
File Number: 65862

### General Warranty Deed

Made this 8th day of April, 2018, A.D. By HUYET HO and LUAN HO, Husband and Wife, whose address is: 15281 BAHIA CT, Fort Myers, Florida 33908, hereinafter called the grantor, to JOHN DEWEY POLT and DORIS JEAN POLT, Husband and Wife, whose address is: 2606 SW 1ST TER, Cape Coral, Florida 33991, hereinafter called the grantee.

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, viz:

Lots 45 & 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, according to the plat thereof, as recorded in Plat Book 21, Page(s) 4 to 20, inclusive, in the Public Records of Lee County, Florida.

Together with Parcel A as more fully described as follows:

Beginning at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, thence with the North line of said Lot 46, North 89°, 57 minutes, 50 seconds East, 119.94 feet to a point of curve to the right having a radius of 25 feet; thence along said curve to the right an arc distance of 14.49 feet; thence North 56°, 49 minutes, 28 seconds West, 123.02 feet to the East end of a concrete headwall; thence along the Northerly side of said headwall, North 61°, 13 minutes, 27 seconds West, 35.05 feet to the East Right of Way line of Old Burnt Store Road, a 100 foot Right of Way; thence along said East Right of Way line South 00°, 2 minutes, 10 seconds East, 80.19 feet to the Northwest corner of Lot 46 and the point of beginning.

Subject TO covenants, restrictions, and easements of record, if any.

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon. Said property is vacant land.

Parcel ID Number: 31-43-23-C4-04317.0450,

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining

To Have and to Hold, the same in fee simple forever

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes for the calendar year 2018.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

TWO Separate Witnesses Required

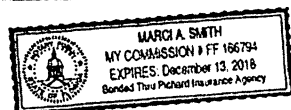
Witness  
Lera Baika  
Printed Name: Lera Baika  
Witness  
Marci A. Smith  
Printed Name: Marci A. Smith

MA HO  
HUYET HO (I.S.)

LUAN HO  
LUAN HO (L.S.)

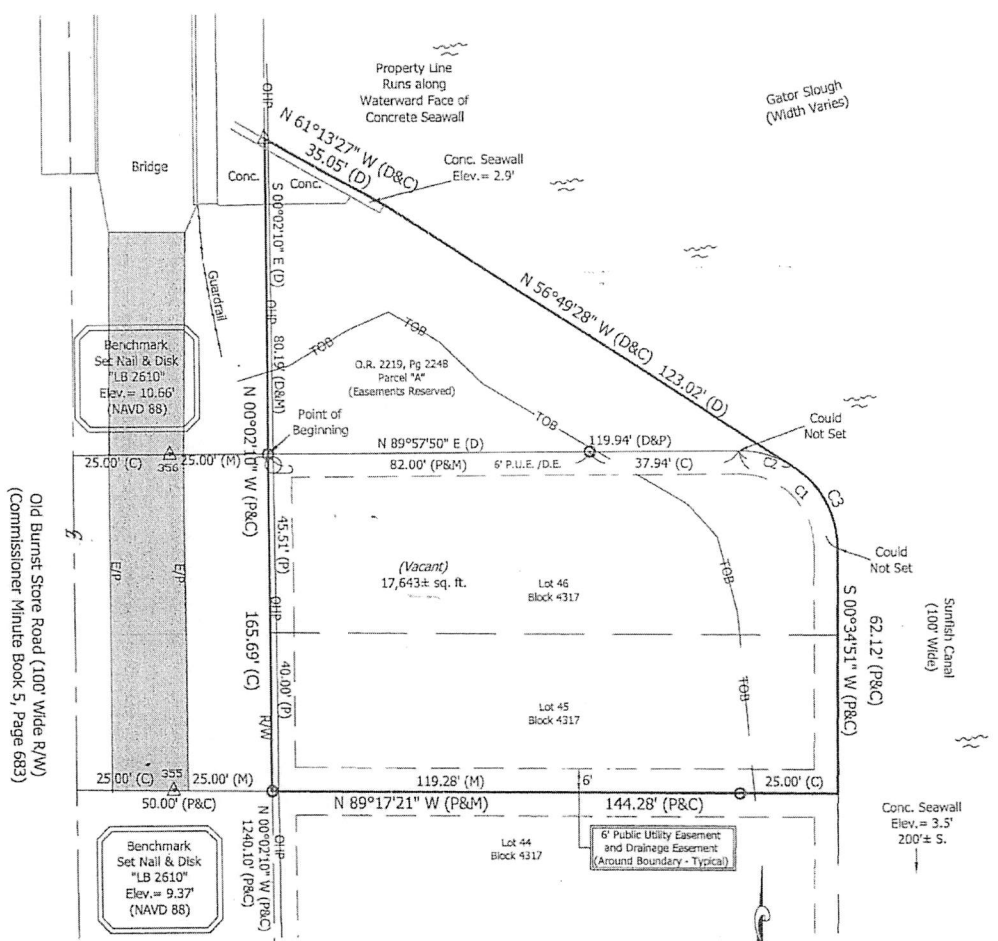
State of Florida  
County of Lee

The foregoing instrument was acknowledged before me this 8th day of may, 2018, by HUYET HO and LUAN HO, Husband and Wife, who is/are personally known to me or who has produced Florida Licenses as identification



(Affix Stamp/Seal)

Marci A. Smith  
Notary Public Signature  
Notary  
Printed Name: Marci A. Smith  
My Commission Expires: 12-13-2018



DATE	REVISION
06-26-18	Revised Note 17 (No Field Work)

- SURVEY NOTES:**
1. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
  2. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
  3. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED, UNLESS OTHERWISE SHOWN.
  4. NOT VALID WITHOUT SIGNATURE AND RAISED SEAL OF FLORIDA LICENSED SURVEYOR AND MAPPER (P.S.M.).
  5. ELEVATIONS SHOWN HEREON ARE IN REFERENCE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D. 88) AND BASED ON CITY OF CAPE CORAL BENCHMARK (UNNUMBERED), BRASS DISC \*GAC PROPERTIES ON TOP OF CONCRETE WALL BY N.W. SIDE OF BRIDGE ON OLD BURNST STORE ROAD 150 FEET SOUTH OF N.W. 19th STREET.
  6. THE NATIONAL FLOOD INSURANCE INFORMATION: COMMUNITY NUMBER: 12595; PANEL NUMBER: 12071 C 0235 & 0245; SUFFD: F; EFFECTIVE DATE: 08/28/2008; FIRM ZONE: A2; BASE FLOOD ELEVATION: 7' (FIRM PANEL LISTED ABOVE SHOULD BE CONSULTED FOR VERIFICATION OF ALL FLOOD RELATED INFORMATION).
  7. BEARINGS ARE BASED ON THE EASTERLY RIGHT OF WAY LINE OF OLD BURNST STORE ROAD, BEING N00°02'10\"/>

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	39.54'	35.55'	N 44°43'39" W	90°37'01"
C2	25.00'	14.49'	14.30'	S 73°25'02" E	33°14'16"
C3	25.00'	25.04'	24.00'	N 28°06'32" W	57°22'45"

**PARCEL DESCRIPTION:** (Official Records Book 03693 Page 2010)  
 Lots 45 and 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 21 at Pages 4 thru 26, inclusive, of the Public Records of Lee County, Florida.

**PARCEL A:**  
 Beginning at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, thence with the North line of said Lot 46, North 89 Degrees, 57 Minutes, 50 Seconds East, 119.94 Feet to a point of curve to the right having a radius of 25 Feet; Thence along said curve to the right an arc distance of 14.49 feet; Thence North 56 Degrees, 49 Minutes, 28 Seconds, West 123.02, feet to the East end of a concrete headwall; Thence along the Northernly side of said headwall, North 61 Degrees, 13 Minutes, 27 Seconds West, 35.05 Feet to the East Right-of-Way line of Old Burnst Store Road, a 100 Foot Right-of-Way; thence along said East Right-of-Way line South 00 Degrees, 02 Minutes, 10 Seconds East, 80.19 Feet to the Northwest corner of Lot 46 and the Point of Beginning.

**Boundary and Topographic Survey of  
 1823 Old Burnst Store Road North,  
 Lots 45-46, Block 4317, Unit 61, Cape Coral Subdivision,  
 According to Plat Book 21, Page 4 Through 20 of the Public  
 Records of Lee County, Florida.**

**STOUTENCRAMER**  
 A KING ENGINEERING COMPANY  
**King**  
 ENGINEERING ASSOCIATES, INC.  
 CERTIFICATE OF AUTHORIZATION: L56210  
 314 Nicholas Parkway West, Suite A, Cape Coral, FL 33991  
 Phone: (239) 673-8941 Fax: (239) 424-8181  
 www.kingengineering.com

**CERTIFIED TO:**  
 John Polt

JOB # 18-1944 PREPARED FOR: John Polt  
 SECTION 31, TOWNSHIP 43S, RANGE 23E

Previous Job No.: 142.41;

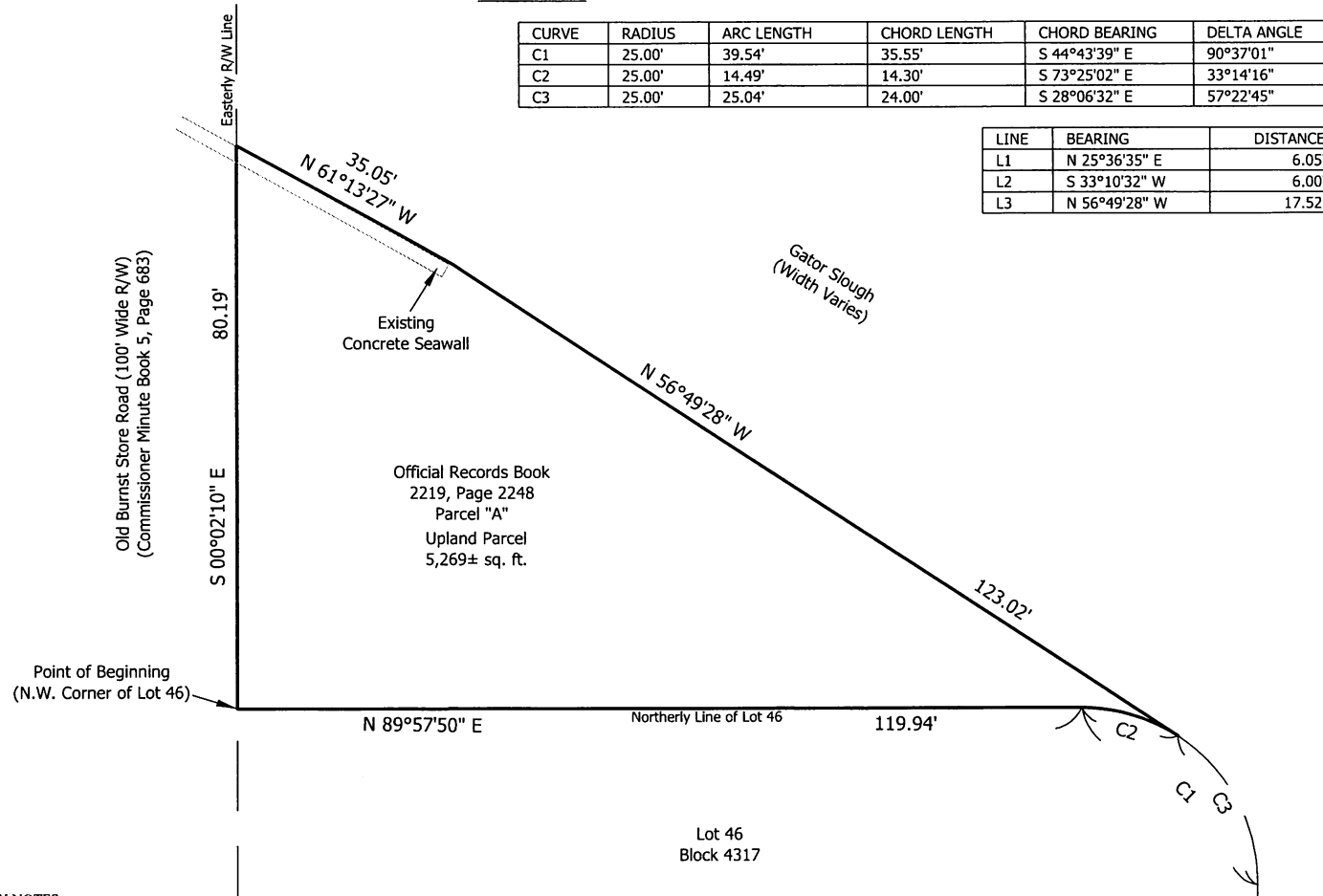
**LEGEND**

FOUND NAIL AND TAB	SQ. FT. SQUARE FEET
SET NAIL AND TAB "LB 2510"	CONC. CONCRETE
FOUND STEEL PIN	MON. MONUMENT
SET 5/8" IRON ROD & CAP "LB2510"	R/W RIGHT OF WAY
WATER METER	E/P EDGE OF PAVEMENT
WATER VALVE	D.E. DRAINAGE EASEMENT
WOOD POWER POLE	P.U.E. PUBLIC UTILITY EASEMENT
GLY WIRE ANCHOR	(P) PLAT MEASUREMENT
CATCH BASIN	(M) FIELD MEASUREMENT
UTILITY RISER	(C) CALCULATED MEASUREMENT
SANITARY MANHOLE	(D) DEED MEASUREMENT
CLEAN OUT	O.R. OFFICIAL RECORDS BOOK
IRRIGATION METER	PG. PAGE
CENTER LINE	ELEV. ELEVATION
OVERHEAD POWER	

I hereby certify that to the best of my knowledge and belief, the survey represented hereon, made under my direction on June 1st, 2018 is in accordance with the Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mapmakers in Chapter 55-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

**DAVID KEITH CRAMER (FOR THIS FIRM)**  
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6615  
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

## Sketch



### SURVEY NOTES:

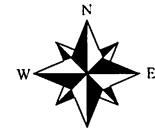
1. BEARINGS ARE BASED ON THE EASTERLY RIGHT OF WAY LINE OF OLD BURNST STORE ROAD, BEING N00°02'10\"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC.. ALL RIGHTS RESERVED.*
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Sheet 2 of 2

Sketch to Accompany Description

### Upland Parcel

A Parcel of land lying in Unit 61, Cape Coral Subdivision According to Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida



SCALE  
1" = 20'

**THIS IS NOT A SURVEY**

**STOUTENCRAMER**  
A KING ENGINEERING COMPANY

**King**  
ENGINEERING ASSOCIATES, INC.

CERTIFICATE OF AUTHORIZATION: LB2610  
324 Nicholas Parkway West, Suite A, Cape Coral, FL 33991  
Phone: (239) 673-9541 Fax: (239) 424-8181  
www.kingengineering.com

JOB # 18-1944 PREPARED FOR: John Polt

SECTION 31, TOWNSHIP 43S, RANGE 23E

DATE REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on May 22nd, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 53-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER (FOR THE FIRM)  
FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6655  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

**Subject Parcel Description (Upland Parcel):**

A Parcel of land lying in Unit 61, CAPE CORAL SUBDIVISION, lying in Section 31, Township 43 South, Range 23 East, as Recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida, being more particularly described as follows in Official Records Book 2219, Page 2248:

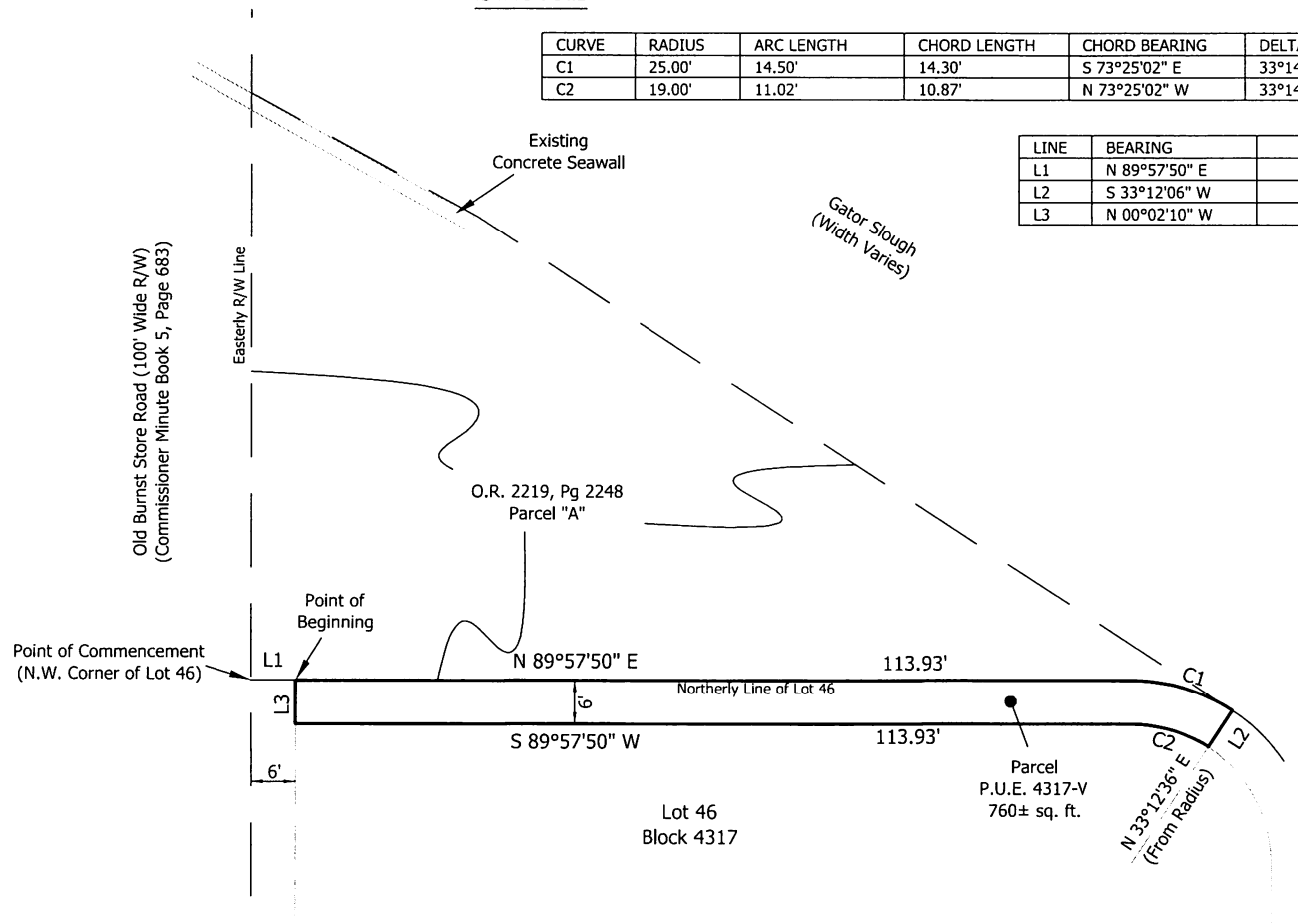
Beginning at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL, Thence with the North line of said Lot 46, N89°57'50"E, 119.94 Feet to a point of curve to the right having a radius of 25 Feet; Thence along said curve to the right an arc distance of 14.49 Feet; Thence N56°49'28"W, 123.02 Feet to the East end of a concrete headwall; Thence along the Northerly side of said headwall, N61°13'27"W, 35.05 Feet to the East Right-Of-Way line of Old Burnt Store Road, a 100 Foot Right-Of-Way; Thence along said East Right-Of-Way line S 00°02'10" E, 80.19 Feet to the Northwest corner of Lot 46 and the Point of Beginning.

Said Parcel Contains 5,269 Sq. Ft. (more or less)

## Sketch

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	14.50'	14.30'	S 73°25'02" E	33°14'16"
C2	19.00'	11.02'	10.87'	N 73°25'02" W	33°14'16"

LINE	BEARING	DISTANCE
L1	N 89°57'50" E	6.00'
L2	S 33°12'06" W	6.00'
L3	N 00°02'10" W	6.00'



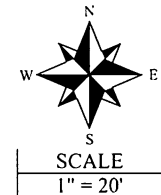
### SURVEY NOTES:

1. BEARINGS ARE BASED ON THE EASTERLY RIGHT OF WAY LINE OF OLD BURNST STORE ROAD, BEING N00°02'10" W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC., ALL RIGHTS RESERVED.*
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Sheet 2 of 2

### Sketch to Accompany Description

**Parcel - P.U.E. 4317-V**  
*A Portion of Public Utility and Drainage Easement to be Vacated lying in Lot 46, Block 4317, Unit 61, Cape Coral Subdivision According to Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida*



**THIS IS NOT A SURVEY**

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 ENGINEERING ASSOCIATES, INC.

CERTIFICATE OF AUTHORIZATION: LB2610  
 124 Nicholas Parkway West, Suite A, Cape Coral, FL 33991  
 Phone: (239) 673-9541 Fax: (239) 424-8181  
 www.kingengineering.com

JOB # 18-1944 PREPARED FOR: John Polt

SECTION 31, TOWNSHIP 43S, RANGE 23E

DATE REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 12th, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 53-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

**DAVID KEITH CRAMER (FOR THE FIRM)**  
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6655  
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL  
 OF A FLORIDA LICENSED SURVEYOR AND MAPPER

**Subject Parcel Description (P.U.E. 4317-V):**

A Parcel of land lying in Lot 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, lying in Section 31, Township 43 South, Range 23 East, as Recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida, being more particularly described as follows:

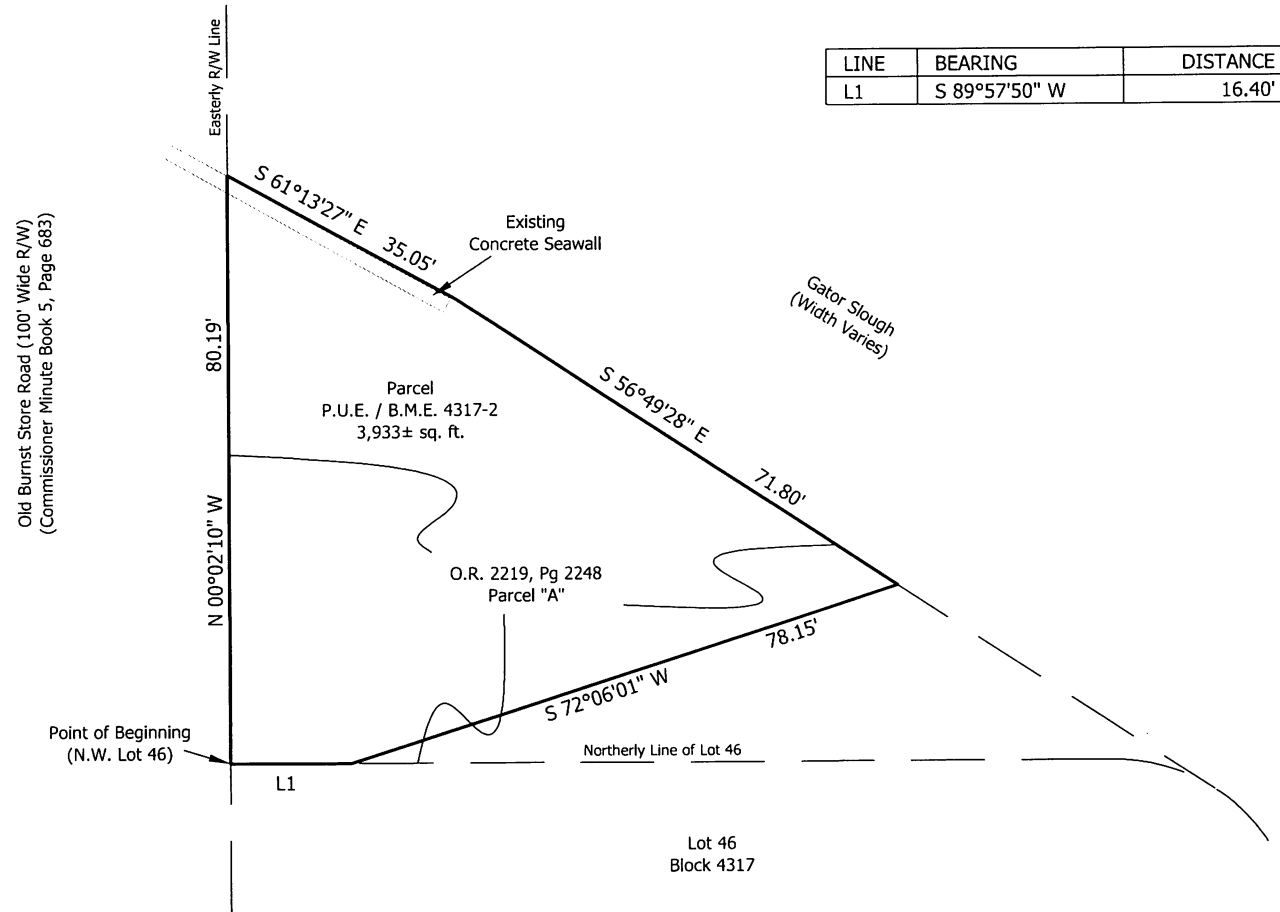
Commencing at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, as Recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida run N89°57'50"E along the Northerly line of said Lot 46 for a distance of 6.00 feet to an intersection with a line that is parallel with and 6.00 feet Easterly of the Easterly right-of-way line of Old Burnt Store Road, also being the Point of Beginning. From said Point of Beginning continue running N89°57'50"E along said Northerly line for a distance of 113.93 feet to the Point of Curvature of a 25.00 foot radius curve to the right, concave to the Southwest, having a chord bearing and distance of S73°25'02"E and 14.30 feet, and a central angle of 33°14'16"; Thence run along the arc of said for a distance of 14.50 feet; Thence run S33°12'06"W for a distance of 6.00 feet to an intersection with a concentric curve 6.00 feet Southwesterly of said Northerly line, also being a non-tangent Point of Curvature of a 19.00 foot radius curve to the left, concave to the Southwest, to which a radial line bears N33°12'36"E, having a chord bearing and distance of N73°25'02"W and 10.87 feet, and a central angle of 33°14'46"; Thence run along the arc of said concentric curve for a distance of 11.02 feet; Thence run S89°57'50"W along a line parallel with and 6.00 feet Southerly of said Northerly line for a distance of 113.93 feet to an intersection with said line parallel with and 6.00 feet Easterly of the Easterly right-of-way line of Old Burnt Store Road; Thence leaving said parallel line run N00°02'10"W along said line parallel with said Easterly right-of-way line for a distance of 6.00 feet to the Point of Beginning.

Said Parcel Contains 760 sq. ft. (more or less)

Bearings are based on Easterly right-of-way line of Old Burnt Store Road, being N00°02'10"W.



## Sketch

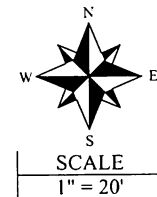


### SURVEY NOTES:

1. BEARINGS ARE BASED ON THE EASTERLY RIGHT OF WAY LINE OF OLD BURNST STORE ROAD, BEING N00°02'10"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC.. ALL RIGHTS RESERVED.*
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Sketch to Accompany Description

**Parcel - P.U.E. / B.M.E. 4317-2**  
A Parcel of land lying in Unit 61, Cape Coral Subdivision According to Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida



**THIS IS NOT A SURVEY**

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CERTIFICATE OF AUTHORIZATION: LH2610  
324 Nicholas Parkway West, Suite A, Cape Coral, FL 33991  
Phone: (239) 673-9541 Fax: (239) 424-8181  
www.kingengineering.com

JOB # 18-1944 PREPARED FOR: John Palt

SECTION 31, TOWNSHIP 43S, RANGE 23E

DATE REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 14th, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter SJ-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

**DAVID KEITH CRAMER (FOR THE FIRM)**  
FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6655  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Sheet 2 of 2

**Subject Parcel Description (P.U.E. / B.M.E. 4317-2):**

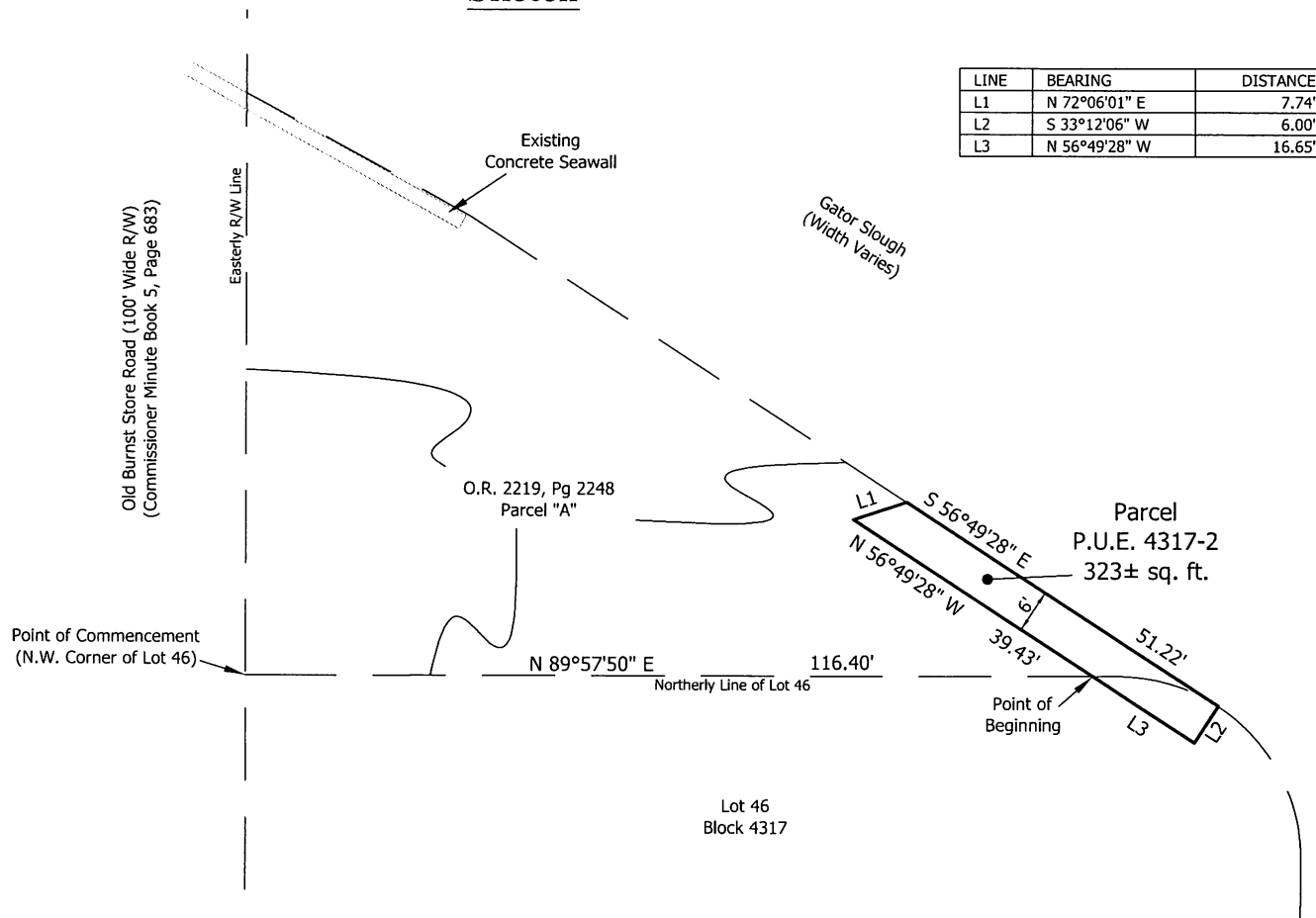
A Parcel of land lying in Unit 61, CAPE CORAL SUBDIVISION, lying in Section 31, Township 43 South, Range 23 East, as Recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida, being more particularly described as follows:

Beginning at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, as Recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida run N00°02'10"W along the Easterly right-of-way line of Old Burnt Store Road for a distance of 80.19 feet to the waterward face of a concrete headwall; Thence leaving said Easterly right-of-way line run S61°13'27"E along said waterward face for a distance of 35.05 feet; Thence run S56°49'28"E for a distance of 71.80; Thence run S72°06'01"W for a distance of 78.15 feet to the Northerly line of said Lot 46; Thence run S89°57'50"W along said Northerly line for a distance of 16.40 feet to the Point of Beginning.

Said Parcel Contains 3,933 sq. ft. (more or less)

Bearings are based on Easterly right-of-way line of Old Burnt Store Road, being N00°02'10"W.

## Sketch



LINE	BEARING	DISTANCE
L1	N 72°06'01" E	7.74'
L2	S 33°12'06" W	6.00'
L3	N 56°49'28" W	16.65'



**THIS IS NOT A SURVEY**

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 324 Nicholas Parkway West, Suite A, Cape Coral, FL 33991  
 Phone: (239) 673-9541 Fax: (239) 424-8181  
 www.kingengineering.com

JOB # 18-1944 PREPARED FOR: John Polt

SECTION 31, TOWNSHIP 43S, RANGE 23E

DATE REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on **December 14th, 2018** is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 53-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

**DAVID KEITH CRAMER (FOR THE FIRM)**  
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6655  
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL  
 OF A FLORIDA LICENSED SURVEYOR AND MAPPER

### SURVEY NOTES:

1. BEARINGS ARE BASED ON THE EASTERLY RIGHT OF WAY LINE OF OLD BURNT STORE ROAD, BEING N00°02'10"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC.. ALL RIGHTS RESERVED.*
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Sheet 2 of 2

**Subject Parcel Description (P.U.E. 4317-2):**

Parcel of land lying in Unit 61, CAPE CORAL SUBDIVISION, lying in Section 31, Township 43 South, Range 23 East, as Recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, as recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida run N89°57'50"E along the Northerly line of said Lot 46 for a distance of 116.40 feet to the Point of Beginning. From said Point of Beginning run N56°49'28"W for a distance of 39.43 feet; Thence run N72°06'01"E for a distance of 7.74 feet; Thence run S56°49'28"E for a distance of 51.22 feet; Thence run S33°12'06"E for a distance of 6.00 feet; Thence run N56°49'28"W for a distance of 16.65 feet to the Point of Beginning.

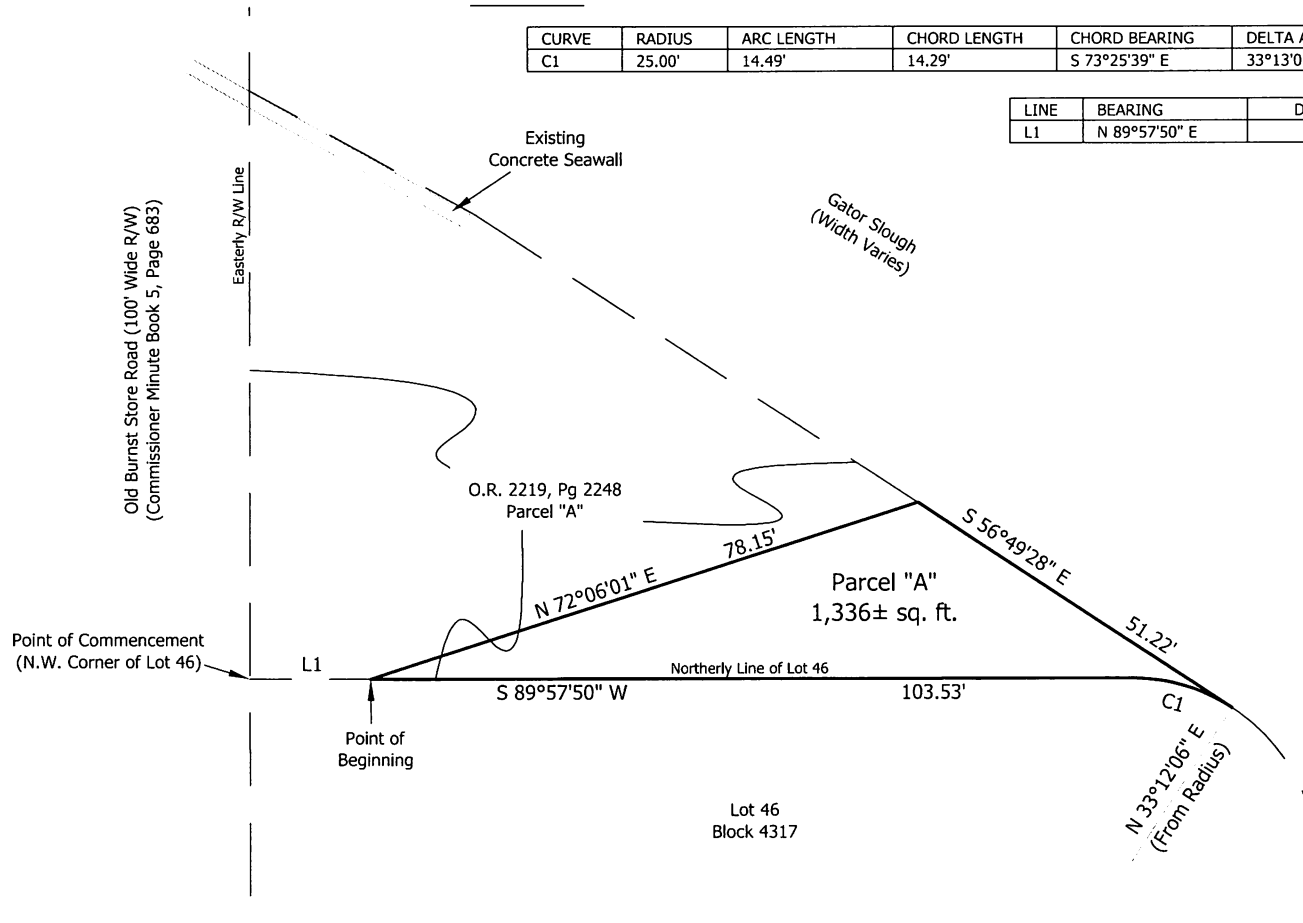
Said Parcel Contains 323 sq. ft. (more or less)

Bearings are based on Easterly right-of-way line of Old Burnt Store Road, being N00°02'10"W.

## Sketch

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	25.00'	14.49'	14.29'	S 73°25'39" E	33°13'02"

LINE	BEARING	DISTANCE
L1	N 89°57'50" E	16.40'



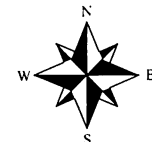
### SURVEY NOTES:

1. BEARINGS ARE BASED ON THE EASTERLY RIGHT OF WAY LINE OF OLD BURNT STORE ROAD, BEING N00°02'10"W.
2. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. **THIS IS NOT A SURVEY**
4. ADDITIONS TO OR DELETIONS OTHER THAN THE SIGNING SURVEYOR AND MAPPER ARE PROHIBITED BY LAW WITHOUT THE EXPRESS WRITTEN CONSENT OF THE SIGNING SURVEYOR AND MAPPER. *COPYRIGHT 2018, KING ENGINEERING, INC.. ALL RIGHTS RESERVED.*
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6. NOT VALID WITHOUT SHEET 1 OF 2.

Sketch to Accompany Description

### Parcel - A

A Parcel of land lying in Unit 61, Cape Coral Subdivision According to Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida



SCALE  
1" = 20'

**THIS IS NOT A SURVEY**

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A KING ENGINEERING COMPANY

**King**  
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CERTIFICATE OF AUTHORIZATION: 182610  
324 Nicholas Parkway, West, Suite A, Cape Coral, FL 33991  
Phone: (239) 673-9541 Fax: (239) 424-8181  
www.kingengineering.com

JOB # 18-1944 PREPARED FOR: John Poli

SECTION 31, TOWNSHIP 43S, RANGE 23E

DATE REVISION

I hereby certify that, to the best of my knowledge and belief, the sketch and description represented hereon, made under my direction on December 14th, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida Statutes.

See Sheet 1 of 2 for Signature and Seal

DAVID KEITH CRAMER (FOR THE FIRM)  
FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6655  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL  
OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Sheet 2 of 2

**Subject Parcel Description (Parcel A):**

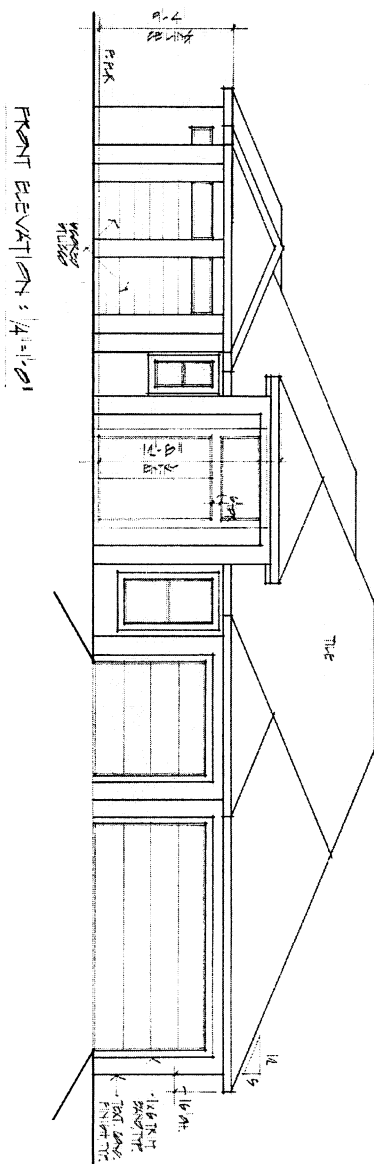
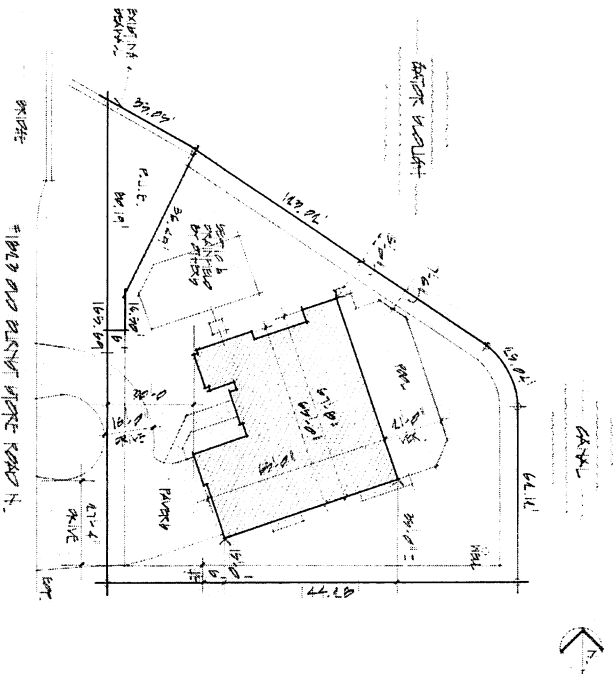
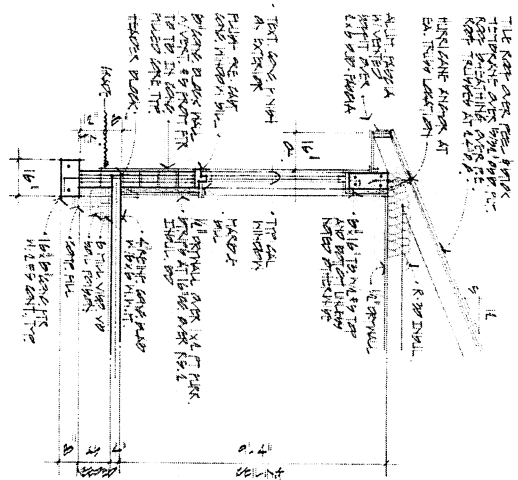
Parcel of land lying in Unit 61, CAPE CORAL SUBDIVISION, lying in Section 31, Township 43 South, Range 23 East, as Recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL SUBDIVISION, as recorded in Plat Book 21, Pages 4 through 20, of the Public Records of Lee County, Florida run N89°57'50"E along the Northerly line of said Lot 46 for a distance of 16.40 feet to the Point of Beginning. From said Point of Beginning, leaving said Northerly line run N72°06'01"E for a distance of 78.15 feet; Thence run S56°49'28"E for a distance of 51.22 feet to the Point of Cusp of a curve to the left, concave to the Southwest, to which a radial line bear S33°12'06"W, having a chord bearing and distance of S73°25'39"E and 14.29 feet, and a central angle of 33°13'02"; Thence run along the arc of said curve for a distance of 14.49 feet to an intersection with said Northerly line; Thence run S89°57'50"W for a distance of 103.53 feet to the Point of Beginning.

Said Parcel Contains 1,336 sq. ft. (more or less)

Bearings are based on Easterly right-of-way line of Old Burnt Store Road, being N00°02'10"W.

✓ PDL NL REC  $\sigma = \mu = 0$



1823 Old Burnst Store Road North Cape Coral, Florida

SKYDESIGN@RAJAEI.COM

**Ramos Builders, Inc.**



## Planning Division Case Report

VP 18-0006

**Review Date:** January 7, 2019

**Applicant/  
Property Owners:** John Dewey and Doris Jean Polt

**Owner Address:** 2606 SW 1<sup>st</sup> Terrace  
Cape Coral, FL 33991

**Authorized Rep.** Edward A. Ramos

**Requests:** The applicant requests the following:

- 1) Vacate 5,269 sq. ft. of canal right-of-way (ROW) and all underlying easements.
- 2) Vacate 760 sq. ft. of platted easements in Lot 46, Block 4317.
- 3) A release of 5,269 sq. ft. of ROW, public utility, drainage, and canal and bridge maintenance, construction, and renovation easements previously reserved by Ordinance 38-91.

**Property Location:** 1823 Old Burnt Store Road North  
Cape Coral, FL 33993  
Cape Coral Subdivision, Unit 61, Block 4317, Lots 45-46

**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** Reserve

### Property Description:

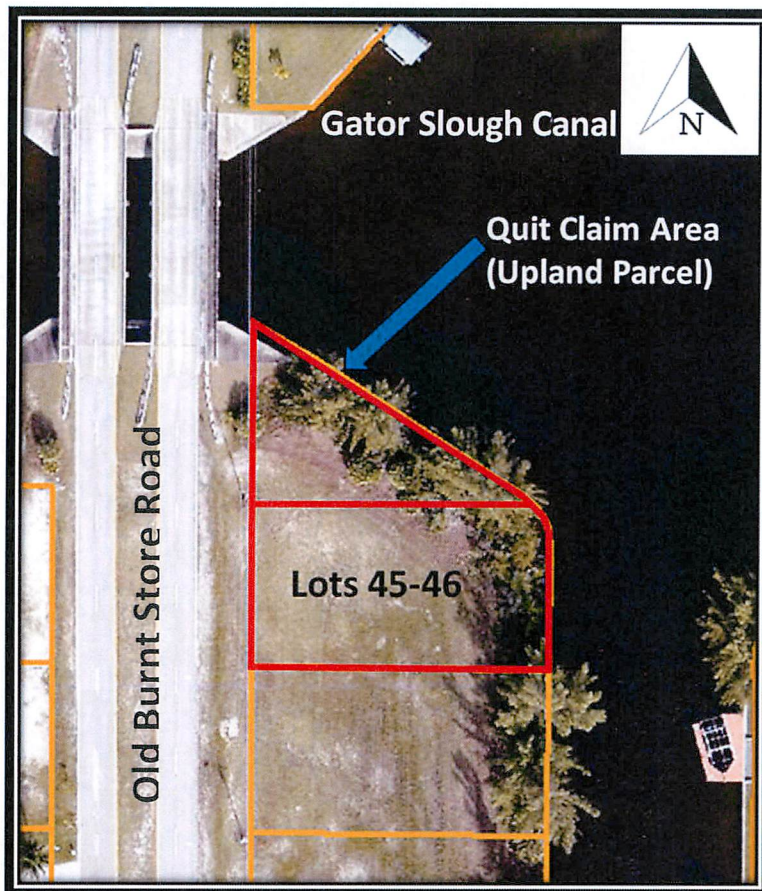
The applicant owns a waterfront site, about 0.33 miles north of the intersection of Old Burnt Store Road North and Gulfstream Parkway. The site is undeveloped and abuts the Gator Slough and Sunfish Canals to the north and east, respectively. The site has a Single Family/Multi Family by PDP Future Land Use Classification and Single Family Residential (R-1B) Zoning. All properties on the east side of Old Burnt Store Road within 0.5 miles of the site share the same future land use and zoning classifications. On the west side of Old Burnt Store Road, two large properties owned by the state of Florida have either a Parks and Recreation Facilities or Preserve Future Land Use Classification. Both sites have Preservation Zoning.

The plat for Unit 61 shows this site has water frontage along the Gator Slough Canal to the north. However, land with a bridge abutment to the north of the site occupies platted canal ROW that extends along the north property line of Lot 46. A survey of the site shows a concrete headwall extending about 35 linear feet eastward beginning near the bridge.



In 1991 the City adopted Ordinance 38-91 that declared a triangular-shaped parcel being part of the Gator Slough Canal as surplus property. Following adoption of the ordinance, the City provided the owners (David O. and Janet Conger) of Lots 45 and 46 a quit-claim deed for 5,269 sq. ft. of land abutting their property to the north. The current owners, John Dewey and Doris Jean Polt, request to vacate 5,269 sq. ft. of the quit-claim area and underlying and adjacent easements for constructing a single-family residence on the site (see Figure 1). This vacation will allow the current owners to demonstrate legal ownership of this triangular piece of land abutting their site consistent with Chapter 177 of the Florida Statutes.

**Figure 1. Aerial photograph of the site including the quit-claim area associated with Ordinance 38-91.**



#### **Zoning History of Block 4317**

City records show the site has always had a Single Family/Multi Family by PDP Future Land Use Classification and R-1B Zoning.

#### **Analysis:**

Staff analyzed this request with the Land Use and Development Regulations (LUDR), Section 8.11, "Vacation of plats, rights-of-way and other property." The City Comprehensive Plan was also reviewed for policies on vacations.

#### **Request No. 1: Vacate 5,269 sq. ft. of ROW Adjacent to the Gator Slough Canal**

This vacation involves canal ROW directly to the north of Lot 46. Ordinance 38-91 identified 5,269 sq. ft.

of ROW as surplus property and authorized and directed the Mayor and City Clerk to effectuate a deed granting the surplus property to the owners of Lots 45 and 46.

Public Works would generally prefer to retain all ROW along bridge sites, as future street and bridge maintenance obligations are difficult to predict. Retaining all 5,269 sq. ft. of ROW would provide the City with the greatest amount of flexibility should maintenance or major changes to the street or canal network be required. However, considering previous City Council action that relinquished claims of City ownership to this area in the early 1990s, staff does not object to this ROW vacation. Easements will be deeded by the owner to the City in the quit-claim area for drainage, utility, and canal and bridge maintenance.

Approval of this vacation will: 1) demonstrate private ownership of the quit-claim area to lenders, title companies, and insurers; 2) prohibit public access to this ROW; and 3) convey land to the owners consistent with prior City Council action in adopting Ordinance 38-91.

Request No. 2: Vacate 5,269 sq. ft. of Easements Underlying the Subject ROW

The applicant seeks to vacate 5,269 sq. ft. of easements underlying the ROW described under Request No. 1. The City lacks facilities within these easements. Century Link and Comcast also lack utilities in these easements. LCEC has overhead power lines that penetrate these easements. To protect these facilities and to provide easements for canal and bridge construction, the owners will provide new easements for 3,933 sq. ft. of land along the western side of the quit-claim area.

Request No. 3: Vacate 760 sq. ft. of Easements along the North Property Line of Lot 46

The applicant seeks to vacate 760 sq. ft. of platted easements along the north property line of Lot 46. The utility providers lack facilities in these easements and all three providers have no objection to this request. The City also lacks facilities within this easement. This platted easement will no longer be necessary as the owners will provide the City with six-foot wide replacement easement around the perimeter of the expanded site.

Request No. 4: Release of 5,269 sq. ft. Easements Underlying the Subject ROW

The applicant seeks a release of 5,269 sq. ft. of ROW, public utility, drainage, and canal and bridge maintenance easements. These easements were reserved by the City for the quit-claim area in 1991 by Ordinance 38-91. Since these easements are not platted, but were reserved by the City, these easements cannot be vacated but must be released by the City Council.

Staff does not object to this request provided new easements for part of the quit-claim area are deeded by the owners to the City for utility, drainage, and canal and bridge maintenance. These easements in conjunction with conditions recommended by staff will protect City interests and provide the owners with flexibility in making improvements to the vacated area. Staff recommends the owners provide the City with easements sufficient for maintaining a six-foot wide public utility and drainage easement around the site.

**Consistency with the Comprehensive Plan**

The City lacks specific policies in the Comprehensive Plan for vacations involving residential-zoned lands. This request is consistent with Policy 1.15 of the Future Land Use Element.

**Policy 1.15:** *Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.*

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

Staff comment: This request is consistent with Policy 1.15.a as the site is an estimated 17,621 sq. ft. following the ROW vacation and the property will have a maximum of one single-family home. This equates to a density of 2.47 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within this future land use classification. This request complies with this policy.

**Recommendation:**

Staff recommends **approval** of all vacation requests as well as the request to release easements associated with the quit-claim area that was deeded by the City in 1991 with the following conditions.

**Conditions of Approval**

1. The vacation of the 5,269 sq. ft. of ROW and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Upland Parcel", dated May 22, 2018.
2. The vacation of the 760 sq. ft. of easements lying in Lot 46, Block 4317 shall be consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Parcel – P.U.E. 4317-V", dated December 12, 2018.
3. All ROW, public utility, drainage, and canal and bridge maintenance easements shall be released by the City for the quit claim area described in Ordinance 38-91 and shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Upland Parcel", dated May 22, 2018.
4. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for public utility, drainage, and bridge and canal maintenance purposes consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Parcel – P.U.E. / B.M.E. 4317-2", dated December 14, 2018. This deed shall be approved by the City Property Broker prior to execution.
5. The area shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Parcel – P.U.E. / B.M.E. 4317-2", dated December 14, 2018, may be used by the owners for a septic drain field, fence, walkway, or similar improvements. No portion of this area shall be occupied by a building or any structure with a foundation. In the event the City or a utility provider require the use of this area as stated in Condition #4 above, the owners shall hold the City or utility provider harmless for work performed in this area. Removed or damaged improvements may be replaced or repaired at the sole expense of the owners.
6. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for public utility and drainage purposes consistent with that shown in the sketch and accompanying legal description prepared by Stouten Cramer entitled "Parcel – P.U.E. 4317-

2", dated December 14, 2018. This deed shall be approved by the City Property Broker prior to execution.

7. This ordinance shall be recorded with the Office of the Lee County Clerk of Court by the City of Cape Coral. This ordinance shall not be effectuated until the applicant provides the City with easement deeds as described in Conditions #4 and #6 above, and, reimburses the Department of Community Development for all recording fees associated with this ordinance.

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**Staff Contact Information**

Mike Struve, AICP, LEED Green Associate, Development Management Team Coordinator

PH: 239-242-3255

Email: [mstruve@capecoral.net](mailto:mstruve@capecoral.net)

03/14/91

## ORDINANCE 38 - 91

AN ORDINANCE DECLARING A TRIANGULAR SHAPED PARCEL OF PROPERTY BEING A PART OF GATOR SLOUGH CANAL AS SHOWN ON THE PLAT OF LOTS 45 AND 46, BLOCK 4317, UNIT 61, CAPE CORAL SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGE 8, OF THE PUBLIC RECORDS IN AND FOR LEE COUNTY, FLORIDA, LOCATED AT 1823 OLD BURNT STORE ROAD, AS UNUSABLE MUNICIPAL SURPLUS REAL PROPERTY NO LONGER NEEDED BY THE CITY, THE LEGAL DESCRIPTION OF THE PROPERTY AS CONTAINED HEREIN; AUTHORIZING AND DIRECTING THE MAYOR AND CLERK TO EFFECTUATE A DEED THEREBY GRANTING THE AFOREMENTIONED SURPLUS PROPERTY TO DAVID O. AND JANET CONGER, AFTER THE GRANTEEES HEREIN HAVE CONSTRUCTED A SEAWALL UPON THE SAID PROPERTY, A COPY OF THE DEED IS ATTACHED HERETO AS EXHIBIT "A;" RESERVING RIGHT-OF-WAY AND UTILITY EASEMENTS FOR THE CITY OF CAPE CORAL; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral Engineering Department and the office of the City Manager has recommended that a parcel of land being a part of Gator Slough Canal as shown on the plat of Unit 61, Block 4317, Cape Coral Subdivision, is of no value and use to the City of Cape Coral, and would be of greater value to the City of Cape Coral if deeded to the property owner because of increased tax revenues; and

WHEREAS, after examination of the canal and after considering the recommendations of the Engineering Department and City Staff, it is evident that it would be in the best interest of the City to deed said parcel subject to right-of-way and utility easements for City of Cape Coral and Lee County in the future; and

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO CHAPTER 70-623, LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, AS FOLLOWS:

Section 1. That the parcel of land being a part of Gator Slough Canal as shown on the plat of Lots 45-46, Block 4317, Unit 61, Cape Coral Subdivision, known as 1823 Old Burnt Store Road, Cape Coral, Florida, more particularly described as follows:

Beginning at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL, Thence with the North line of said Lot 46, N 89°57'50" E, 119.94 Feet to a point of curve to the right having a radius of 25 Feet; Thence along said curve to the right an arc distance of 14.49 Feet; Thence N 56°49'28" W, 123.02 Feet to the East end of a concrete headwall; Thence along the Northerly side of said headwall, N 61°13'27" W, 35.05 Feet to the East Right-Of-Way line of Old Burnt Store Road, a 100 Foot Right-Of-Way; Thence along said East Right-Of-Way line S 00°02'10" E, 80.19 Feet to the Northwest corner of Lot 46 and the Point of Beginning, containing 5,269 Square Feet more or less

is hereby declared to be of no use to the City of Cape Coral because of its odd shape and location and as surplus property is no longer needed for municipal use or purposes that require retaining municipal ownership.

Section 2. That upon the recommendations of the City Staff, it is in the best interest of the City of Cape Coral to deed the above-described property to the owner of Lots 45 and 46, Block 4317, Unit 61, Cape Coral Subdivision, according to the plat thereof, as recorded in Plat Book 21, Page 8, subject to any easements, restrictions and reservations of record because the City will receive additional tax revenues by this grant. Accordingly, the Mayor and the Clerk of the City of Cape Coral are hereby authorized to effectuate a quit claim deed granting

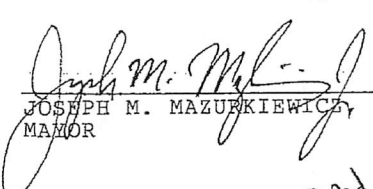


the property described herein to David O. and Janet Conger, the owner of property located at 1823 Old Burnt Store Road. Said grant shall be subject to the City retaining a right-of-way easement across the property granted for the purpose of entering upon said property for the expansion of the canal system, including a right-of-way across said parcel for the maintenance, construction, and renovation of the canal or bridge system, and reserving a right-of-way across said parcel for any utility lines including water, sewer, electrical and a drainage easement to enlarge the existing channel in the future, a copy of the Quitclaim Deed is attached hereto as Exhibit "A."


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 become effective immediately upon its adoption.

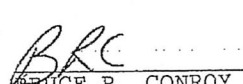
ADOPTED AT A REGULAR COUNCIL MEETING THIS 29th DAY OF April, 1991.

  
JOSEPH M. MAZURKIEWICZ, JR.,  
MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 3rd DAY OF May, 1991.

  
EULA R. JORGENSEN, CITY CLERK

LEGAL REVIEW:

  
BRUCE R. CONROY  
CITY ATTORNEY  
2439E/53

10.50  
55

**This Quit-Claim Deed**, Executed this 3rd day of May, A.D. 1991, by  
City of Cape Coral, a municipal corporation

first party, to David O. and Janet Conger

3018849

whose postoffice address is 4800 Lema Court  
North Fort Myers, Florida 33903

second party:

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

**Witnesseth**, That the said first party, for and in consideration of the sum of \$ 10.00 in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Lee State of Florida, to-wit:

Beginning at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL, Thence with the North line of said Lot 46, N 89°57'50" E, 119.94 Feet to a point of curve to the right having a radius of 25 Feet; Thence along said curve to the right an arc distance of 14.49 Feet; Thence N 56°49'28" W, 123.02 Feet to the East end of a concrete headwall; Thence along the Northerly side of said headwall, N 61°13'27" W, 35.05 Feet to the East Right-Of-Way line of Old Burnt Store Road, a 100 Foot Right-Of-Way; Thence along said East Right-Of-Way line S 00°02'10" E, 80.19 Feet to the Northwest corner of Lot 46 and the Point of Beginning, containing 5,269 Square Feet more or less.

Documentary Tax Pd. \$ .55  
\$            Intangible Tax Pd.  
By CHARLIE GREEN, CLERK, LEE COUNTY  
S. Thompson Deputy Clerk

**To Have and to Hold** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

**In Witness Whereof**, The said first party has signed and sealed these presents the day and year first above written.  
Signed, sealed and delivered in presence of:

Eileen Cesa  
Joseph H. Gravalle Jr.  
STATE OF FLORIDA,  
COUNTY OF LEE

CITY OF CAPE CORAL  
By: Joseph M. Mazurkiewicz, Jr. L.S.  
Mayor  
Eula R. Jorgensen L.S.  
City Clerk

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Joseph M. Mazurkiewicz, Jr., Mayor and Eula R. Jorgensen, City Clerk to me known to be the person described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this May day of May, A.D. 1991.

Phillip J. Olson  
Notary Public

My Commission Expires: NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP AUG 13, 1992  
BONDED THRU GENERAL INS LTD

This instrument prepared by: Bruce R. Conroy, City Attorney  
Address P.O. Box 150027  
Cape Coral, Florida 33915-0027

RECORD VERIFIED - CHARLIE GREEN, CLERK  
BY: SUSAN THOMPSON

OR2219 PG2248

OLD BURNT STORE ROAD 100' R/W

1673.24'

1673.24'

GULFSTREAM PARKWAY  
100' R/W

LEGAL DESCRIPTION OF PARCEL A1  
Beginning at the Northwest corner of Lot 46, Block 4317, Unit 61, CAPE CORAL, then with the North line of said Lot 46, N 89° 57' 50" E, 119.24 Feet to a point of curve to the right having a radius of 25 Feet; then along said curve to the right an arc distance of 14.49 Feet; then N 56° 49' 28" W, 123.02 Feet to the East end of a concrete headwall; then, along the Northerly side of said headwall, N 61° 13' 27" W, 35.05 Feet to the East Right-Of-Way line of Old Burnt Store Road, a 100 Foot Right-Of-Way; then along said East Right-Of-Way line S 00° 02' 10" E, 80.19 Feet to the Northwest corner of Lot 46 and the Point of Beginning, containing 5,269 Square Feet more or less.

CERTIFY TO: DAVID CONGER

CERTIFICATION:  
I HEREBY CERTIFY THAT THIS SKETCH OF SURVEY OF THE HEREON DESCRIBED PROPERTY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY MADE UNDER MY DIRECTION AND THAT SAID SURVEY IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS. I FURTHER CERTIFY THAT THE SURVEY REPRESENTED HEREON MEETS THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA, ESTABLISHED PURSUANT TO CHAPTER 21, III-6, FLORIDA ADMINISTRATIVE CODE.

Revised: 2/28/91

DATE: Jan 24, 1991  
SCALE: 1"=40'  
JOB # 9174

BY: *[Signature]*  
R.L. SCHUMANN, RLS  
FLORIDA REG. NO. 2239  
S & H LAND SURVEY COMPANY  
13611 McGREGOR BLVD., SUITE 2  
FORT MYERS, FLORIDA 33919

- LEGEND
- O - 1/2" Iron cap set
  - - 1/2" Iron rod found
  - A - PK Nail set
  - Δ - PK Nail found
  - - Concrete Monument Found
  - P.U.E. - Public Utility Easement
  - D.E. - Drainage Easement
  - P.C. - Point of Curve
  - P.T. - Point of Tangent
  - (M) - MEASURED
  - (P) - PLAN
- NOTES:
1. Description as furnished by client. No search of the Public Records was conducted by this firm.
  2. Elevations as shown are based on N.G.V.D. 1929 datum unless otherwise stated.
  3. Bearings are based on plat or deed.
  4. Encroachments are based on plat.
  5. There may be other easements not shown hereon recorded in the Public Records of governing county.
  6. No determination of Hazardous Waste Materials has been made by this firm.

Boundary Survey of Lots 45 & 46, Block 4317, Unit 61, CAPE CORAL, according to the Plat thereof as recorded in Plat Book 21, PAGE 8, Public Records of Lee County, Florida.

Subject property located in FEMA Flood Zone A-9 (8.0')  
Dated: 09/18/85 N.G.V.D.  
Pinel #125095-0020-C

4317



OR2219 Pg2249

CHARLIE GREEN LEE CITY FL  
91 MAY -7 AM 9:06





## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** VP18-0006

**REQUEST:** The applicants, John Dewey Polt and Doris Jean Polt, seek a vacation of plat for a canal right-of-way and underlying easements being a part of the Gator Slough Canal, adjacent to Lot 46, Block 4317, Cape Coral Subdivision, Unit 61; the release of right-of-way and utility easements that were previously reserved by the City and more particularly described by Ordinance 38-91; and the vacation of easements occupying a portion of Lot 46, Block 4317, Unit 61; property located at 1823 Old Burnt Store Road North.

**LOCATION:** 1823 Old Burnt Store Road North

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

**PROPERTY OWNER(S):** John Dewey Polt and Doris Jean Polt

**AUTHORIZED REPRESENTATIVE:** Edward A. Ramos

**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, January 22<sup>nd</sup>, 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 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](http://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.

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**Address:** 1015 CULTURAL PARK BLVD  
CAPE CORAL FL 33990  
USA

**Net Amt:** \$

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 01/12/19

**Text of Ad:**

NOTICE OF PUBLIC HEARING

CASE NUMBER: VP18-0006

**REQUEST:** The applicants, John Dewey Polt and Doris Jean Polt, seek a vacation of plat for a canal right-of-way and underlying easements being a part of the Gator Slough Canal, adjacent to Lot 46, Block 4317, Cape Coral Subdivision, Unit 61; the release of right-of-way and utility easements that were previously reserved by the City and more particularly described by Ordinance 38-91; and the vacation of easements occupying a portion of Lot 46, Block 4317, Unit 61; property located at 1823 Old Burnt Store Road North.

**LOCATION:** 1823 Old Burnt Store Road North

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

**PROPERTY OWNER(S):** John Dewey Polt and Doris Jean Polt

**AUTHORIZED REPRESENTATIVE:** Edward A. Ramos

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by order of  
Kimberly Bruns, CMC  
Interim City Clerk  
REF # VP18-0006  
AD# 3330653 Jan. 12, 2019



CITY OF CAPE CORAL  
 Department of  
 Community Development  
 Planning Division

CURRENT ZONING MAP  
 500' Proximity Boundary

Case No. VP18-0006

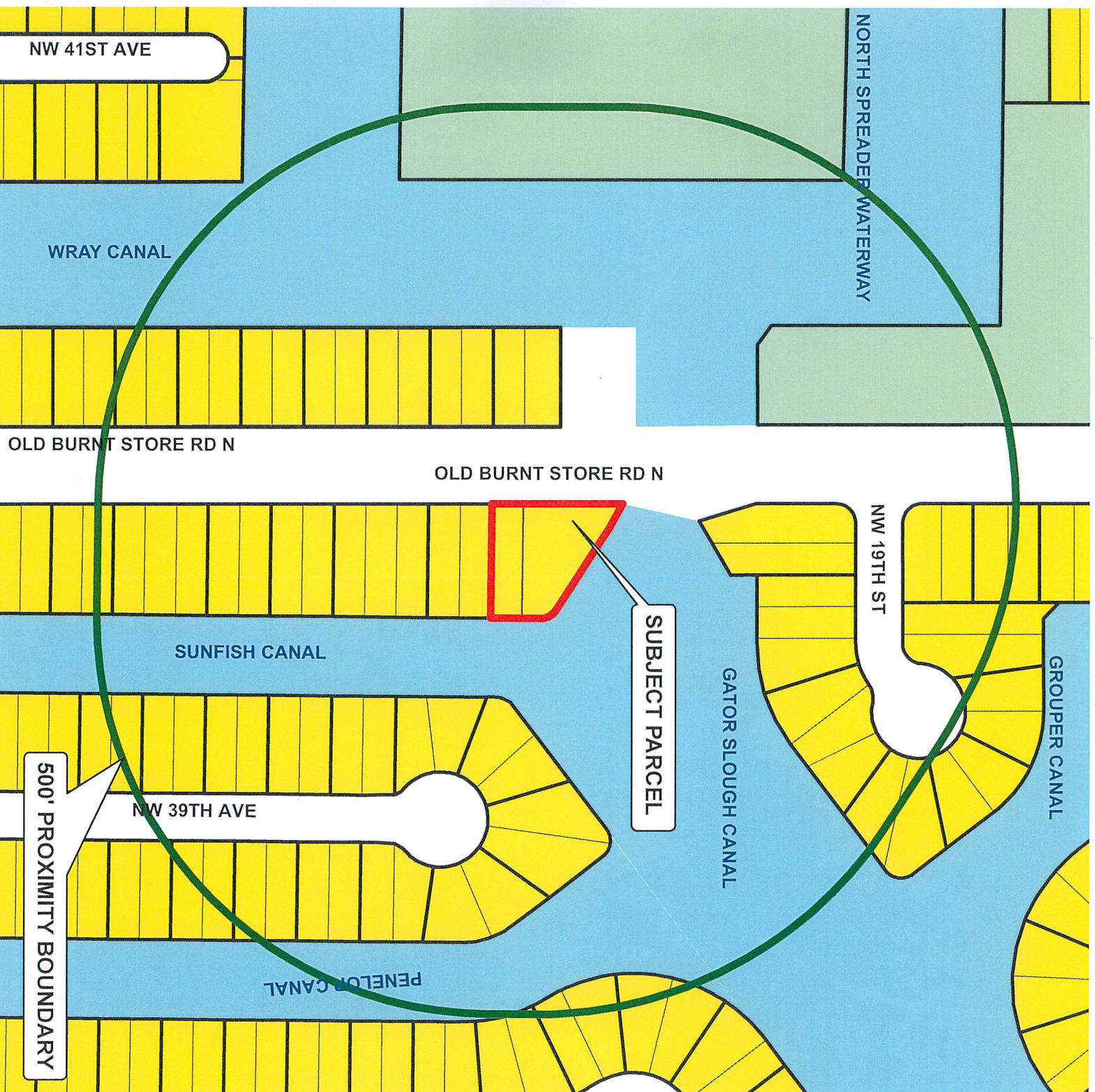
- LEGEND**
-  500' Proximity Boundary
  -  Subject Parcel
  - Zoning**
  -  PRES-Regulated by FLU
  -  R-1B



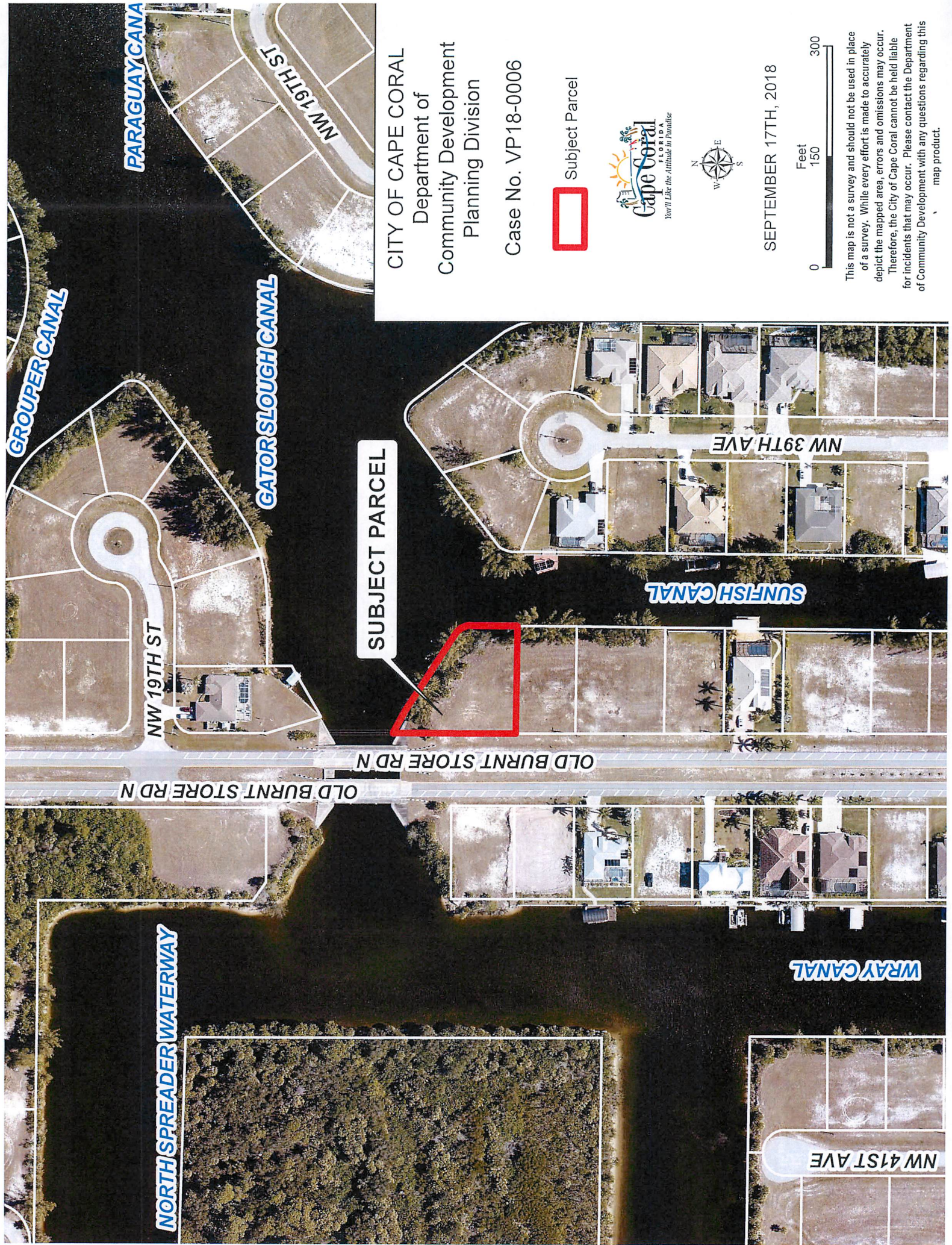
SEPTEMBER 17TH, 2018



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







PARAGUAY CANAL

GROUPE CANAL

GATOR SLOUGH CANAL

NW 19TH ST

OLD BURNT STORE RD N

SUBJECT PARCEL

SUNFISH CANAL

NW 39TH AVE

WRAY CANAL

NORTH SPREADER WATERWAY

NW 41ST AVE

CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division  
Case No. VP18-0006



Subject Parcel



SEPTEMBER 17TH, 2018



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Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: John Dewey Polt & Doris Jean Polt

APPLICATION NO: VP18-0006

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 15<sup>th</sup> day of January, 2018.

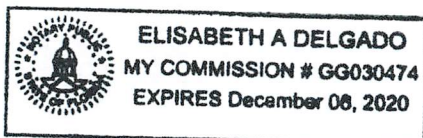
Vincent A. Cautero

Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of January, 2018, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/1/20 Commission # 66030474



Elisabeth A. Delgado  
Signature of Notary Public

Elisabeth A. Delgado  
Print Name of Notary Public

**Item Number:** 2.B.  
**Meeting Date:** 1/22/2019  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case #VP18-0012\*; Address: 218 Bayshore Drive; Applicant: OBIR Rental, LLC

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

The applicant, OBIR Rental, LLC, requests a vacation of plat for a canal right-of-way being a part of the Bimini Canal, adjacent to Lot 1 and part of Lot 2, Block 154, Unit 4, Part 2, Cape Coral Subdivision, and a vacation of easements occupying a portion of Lots 1 and 2, Block 154, Unit 4, Part 2, Cape Coral Subdivision, property located at 218 Bayshore Drive.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

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

**ATTACHMENTS:**

Description	Type
▢ Backup Materials	Backup Material
▢ Affidavit for Advertising	Backup Material







DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # VP18-0012

REQUEST TO PLANNING & ZONING COMMISSION 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

Obic Rental LLC

Address: Oberlinweg 10

City: Muriensdorf State: Switzerland Zip: 8309

Phone: Switzerland

Monica Ozinger

APPLICANT

Olzinger immo @bluewin.ch

EMAIL

Address: SOCI

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

AUTHORIZED REPRESENTATIVE

GARY W. WOLCOTT

Address: P.O. 150194

EMAIL GW.WOLCOTT@CAPESIGNATURE  
HOMES.COM

City: CAPE CORAL State: FL Zip: 33915

Phone: 239-770-7924

Unit 4PT 2 Block 154PB12 Lot(s) 1+PT LT 2 Subdivision \_\_\_\_\_

Address of Property 218 BAYSHORE DR CAPE CORAL FL 33904

Current Zoning RESIDENTIAL / 01 Plat Book 1868, Page 1528

Strap Number 23-45-23-C2-00154.0010

Folio # 10111794



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

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)

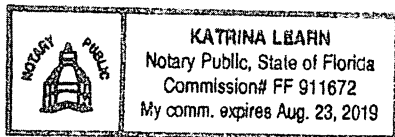
Monika Olzinger  
APPLICANT NAME (PLEASE TYPE OR PRINT)

[Signature]  
APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 3rd day of August, 2018, by Monika Olzinger who is personally known or produced SWISS passport as identification.

Exp. Date: 8/23/2019 Commission Number: FF911672



Signature of Notary Public: [Signature]

Printed name of Notary Public: Katrina Learn



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

GARY W. WOLCOTT  
(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

UNIT 4 PT 2 BLOCK 154 P 812 LOT(S) 1 + PT LT 2 SUBDIVISION

OR LEGAL DESCRIPTION

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

Obir Rental LLC  
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Please Print)

MCNASH owner  
PROPERTY OWNER (Signature & Title)

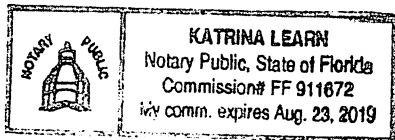
PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF

Lee

Subscribed and sworn to (or affirmed) before me this 3rd day of Aug., 2018 by Monika Olzinger who is personally known or produced as identification.

SWISS PASSPORT



Exp. Date:

8/23/19

Commission Number

FF 911672

Signature of Notary Public:

[Signature]

Printed name of Notary Public:

Katrina Learn

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

Case # \_\_\_\_\_

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

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

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

Monika Olzinger  
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

[Signature]  
OWNER/APPLICANT SIGNATURE

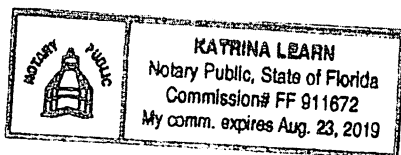
(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 3rd day of Aug.  
2018 by Monika Olzinger who is personally known or who has produced Swiss Passport  
as identification.

Exp. Date \_\_\_\_\_  
Commission # \_\_\_\_\_

[Signature]  
Signature of Notary Public  
Katrina Learn  
Print Name of Notary Public





DEPARTMENT OF COMMUNITY DEVELOPMENT

Case # \_\_\_\_\_

VACATION OF PLAT APPLICATION

Questions: 239-574-0776

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.

Obir Rental LLC

CORPORATION/COMPANY NAME

Monika Olzinger

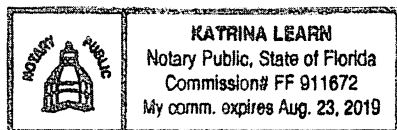
PROPERTY OWNER (PLEASE TYPE OR PRINT)

[Signature]

PROPERTY OWNER'S SIGNATURE

STATE OF FL, COUNTY OF

Sworn to (or affirmed) and subscribed before me this 3rd day of Aug 2018, by Monika Olzinger who is personally known or produced Swiss Passport as identification.



Exp. Date: \_\_\_\_\_

Commission Number: \_\_\_\_\_

Signature of Notary Public: [Signature]

Printed name of Notary Public: Katrina Learn

(SIGNATURE MUST BE NOTARIZED)



POB 150194, Cape Coral, FL 33915  
gwwolcott@caesignaturehomes.com  
239-770-7924 Cell  
CGC 1504879

September 18, 2018

Vincent Cautero  
Director of Community Development  
City of Cape Coral  
1015 Cultural Park Blvd  
Cape Coral, FL 33990

RE: VACATE PROPERTY AT 218 BAYSHORE BLVD, CAPE CORAL, FL 33904

Dear Mr. Cautero:

We are asking to be put on the docket for the City of Cape Coral to vacate the rear parcel of land that the city owns pertaining to the property known as 218 Bayshore Drive, Cape Coral, FL.

Upon doing so it is the intent of the property owner to apply for an attachment of said parcel of land to rear of property to the existing seawall at canal.

All surveys, plats, elevations and legal descriptions have been completed by Davis Survey Co and are attached.

Thank you for your consideration in this matter.

Sincerely,

Gary W. Wolcott  
President

GWW:a

att



**Attention:**

Gary W. Wolcott  
President, Cape Signature Homes Inc  
gwwolcott@capesignaturehomes.com  
POB 150194  
Cape Coral, FL 33915  
CGC1504879  
CELL: 239.770.7924

**Subject:** - Vacation of Property.

**Site Address:** 218 Bayshore Dr, Cape Coral FL 33904  
Strap# 23-45-23-C2-00154.0010

To whom it may concern

Regarding the referenced property above CenturyLink has **No Objection** to vacate the land to the rear of 218 Bayshore Dr while still maintaining a 6' PUE along property.

Sincerely

*Justin Lane*

Local Engineer  
Office: (239)-984-7009  
justin.lane@centurylink.com





**12600 Westlinks Drive Suite 4  
Fort Myers, FL 33913  
Phone: 239-432-1805**

October 3, 2018

Re: 218 Bayshore Dr, Cape Coral, Fl. 33904

Dear Gary Wolcott,

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,

A handwritten signature in black ink, appearing to read 'Mark Cook', written over a horizontal line.

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](http://www.lcec.net)

October 5, 2018

Mr. Gary W Wolcott  
Cape Coral Signature Homes  
P.O. Box 150194  
Cape Coral, FL 33915

Re: Letter of No Objection to Vacation of Utility Easement 218 Bayshore Dr., Cape Coral, FL33904;  
Owners: OBIR Rental, LLC; Strap: 234523C200154.0010.

Dear Mr. Wolcott:

You have opened up negotiations, on behalf of your client, OBIR Rental, LLC.

We have reviewed the sketch, the request submitted, and our internal records. LCEC has **no objection** to the request. However, LCEC requires a continuous perimeter easement surrounding your property in order to serve you. Therefore, in the after situation to the vacation, the petitioner will have provided to the appropriate local jurisdiction, an imposed six-foot wide easements along the seawall and the side easements so that there is a continuous perimeter easement located upon the parcel.

Should no definitive jurisdictional action, or no approval by local jurisdiction be received by the petitioner, this letter will terminate upon six months from the date listed above.

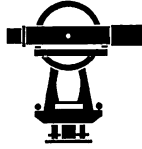
Should there be any questions please call me at 239-656-2112, or, if you prefer, I can be reached by email at [russel.goodman@lcec.net](mailto:russel.goodman@lcec.net).

Very truly yours,

**Russ Goodman,** Digitally signed by Russ  
Goodman, SR/WA  
**SR/WA** Date: 2018.10.05 15:52:23  
-04'00'

Russel Goodman, SR/WA  
Design & Engineering Coordinator – Land Rights





# Davis Surveying, Inc.

4536 SE 16<sup>th</sup> Place  
Cape Coral, Florida  
33904

January 15, 2019

## Quit Claim Area

A Parcel of land being part of the Bimini Canal Right of Way adjoining Lot 1 and a portion of Lot 2 (described in O.R. Book 1868, Pg. 1528) all in Block 154, Unit 4, Part 2, Cape Coral Subdivision, as recorded in Plat Book 12, Pages 13 through 22, inclusive, of the Public Records of Lee County, Florida; being more particularly bounded and described as follows:

Beginning at the Northwest corner of Lot 1, Block 154; being the point of curvature of a curve to the left having for it's elements, a Radius of 221.49', a Central Angle of 36°40'01", and Chord Bearing and distance of S 32°21'22" E, 139.34'; thence run along said curve along the westerly platted lot lines of said Lot 1 and portion of Lot 2 for a distance of 141.74' to the Southeast corner of the portion of lot 2 as described in O.R. Book 1868, Page 1528; thence run S 36°34'21"W for a distance of 17.07' to an intersection with the water-ward face of the existing concrete seawall adjacent to the Bimini Canal; thence run N 49°56'21"W along said water-ward face of the seawall to the point of curvature of a curve to the right having for it's elements a Radius of 62.00', a Central angle of 46°00'11", and a Chord Bearing and distance of N 26°56'15"W, 48.45'; thence run along said curve and along said water-ward face of the seawall for a distance of 49.78' to the point of tangency of the seawall; thence run N 03°56'10"W continuing along said water-ward face of the seawall for a distance of 50.76' to the point of intersection with the westerly prolongation of the North line of said Lot 1; thence run N 76°13'49"E along said westerly extension for a distance of 4.56' to the Northwest corner of Lot 1 and the Point Of Beginning.

Parcel contains 2598.9 sq.ft. +/-





Basis for bearings is the South line of Lot 1 being N 54°25'34"E according to the record plat.

SHEET 1 OF 2

Prepared by Eric C. Davis  
FL PSM 5544

CE. DAVIS, CERTIFICATE NO. 4839  
-OR- ERIC C. DAVIS, PSM # 5544  
LB # 7075

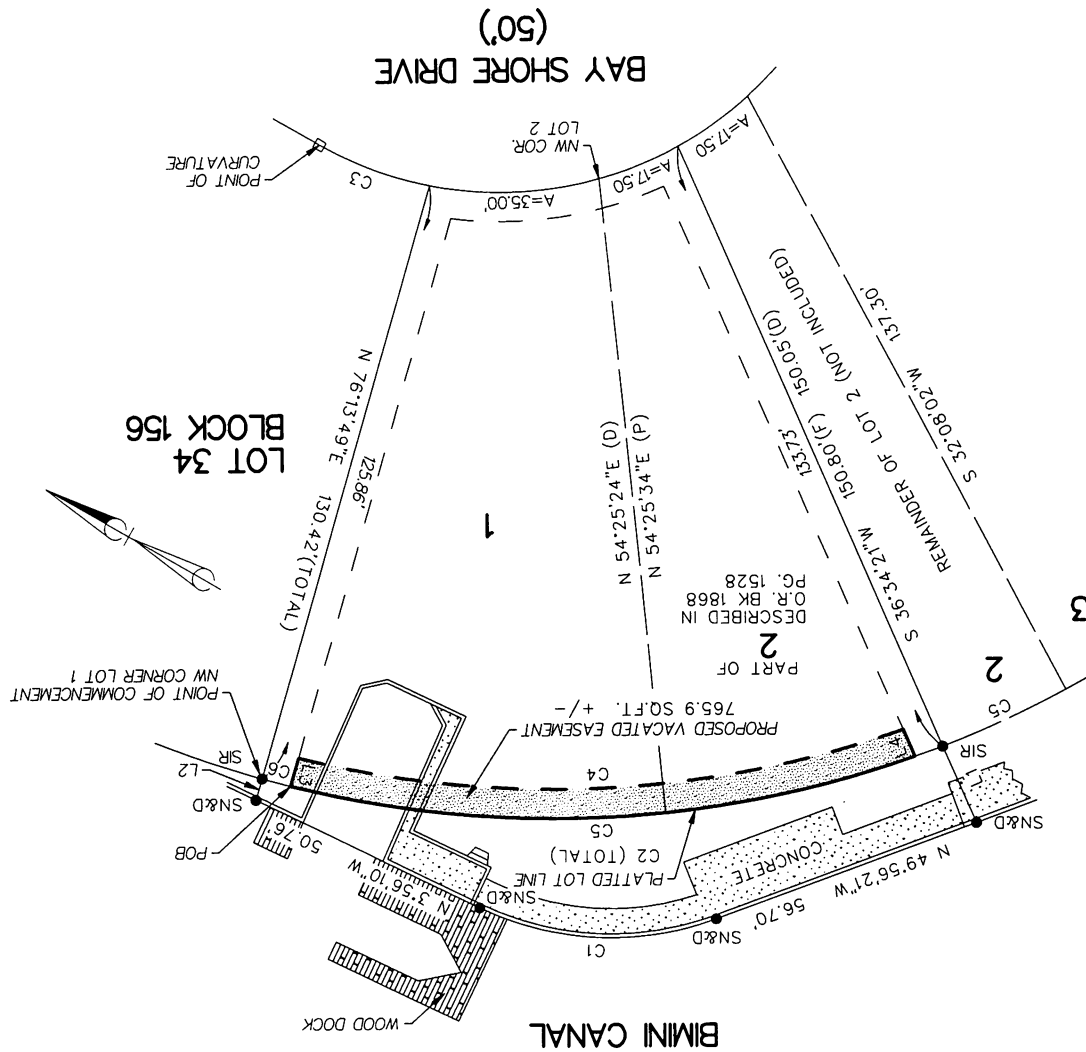
SEE SHEET 1 OF 2 FOR DESCRIPTION

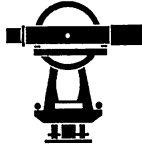
+0.0' = EXISTING ELEVATION  
 = UTILITY RISER  
 = UTILITY POLE  
 = FIRE HYDRANT  
 = CATCH BASIN  
 (p) = PLAT  
 (f) = FIELD  
 (d) = DEED  
 (c) = COMPUTED  
 —X— = WIRE FENCE  
 —/— = WOOD FENCE  
 NAVD = NORTH AMERICAN VERTICAL DATUM OF 1988

LEGEND

FIR = FOUND RISK POLE  
FPI = FOUND RISK PIPE  
FCM = FOUND CONCRETE MOUNTMENT  
PIS = SET IRON ROD 1/2" LB.#7075  
PGR = PUBLIC UTILITY CABLE  
DRAVAGE EASIMENT  
SHAWO = PUBLIC UTILITY DISK LB #7075  
SHAWO = PERMANENT REFERENCE MONUMENT  
POB=POINT OF BEGINNING  
FE COR=EENCE CORNER  
CONC=CONCRETE  
\* =NOT FIELD MEASURED  
LINE=LAKE MAINTENANCE EASEMENT  
DE=DRAINAGE EASEMENT

SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY

[illegible]



# Davis Surveying, Inc.

4536 SE 16<sup>th</sup> Place  
Cape Coral, Florida  
33904

January 15, 2019

## VACATED 6' PUBLIC UTILITY AND DRAINAGE EASEMENT

Description of the proposed vacated portion of the 6' Public Utility and Drainage Easement along the Southwesterly line of Lot 1 and a portion of Lot 2 (described in O.R. Book 1868, Pg. 1528) all in Block 154, Unit 4, Part 2, Cape Coral Subdivision, as recorded in Plat Book 12, Pages 13 through 22, inclusive, of the Public Records of Lee County, Florida; being more particularly bounded and described as follows:

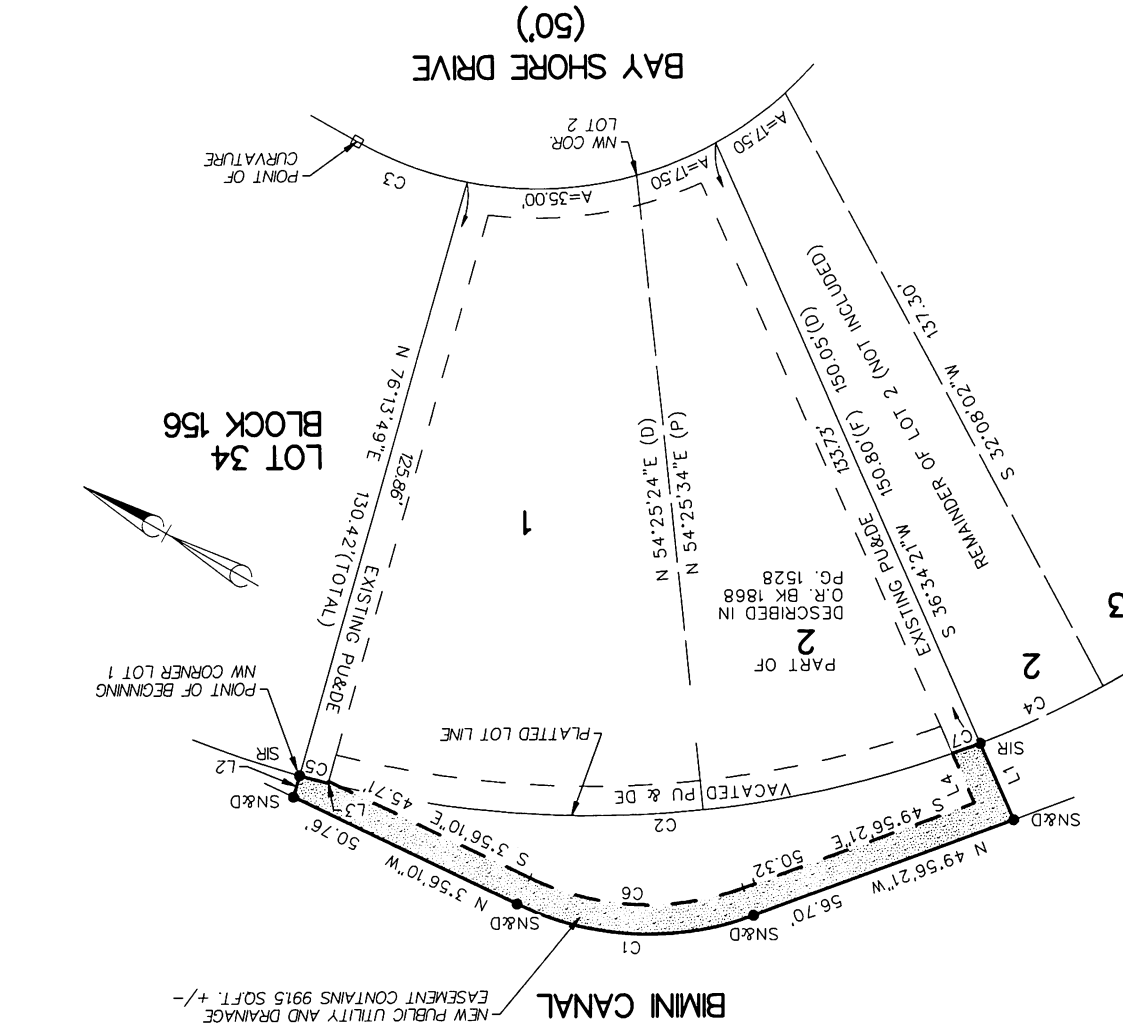
Commencing from the Northwest corner of Lot 1, Block 154; being the point of curvature of a curve to the left having for its elements, a Radius of 221.49', a Central Angle of 1°33'09", and Chord Bearing and distance of S 14°47'55" E, 6.0 feet; thence run along said curve along the Southwesterly platted lot line of said Lot 1 for a distance of 6.00 feet to the Point of Beginning. Thence continue along said curve having for its elements a Radius of 221.49', a Central Angle of 33°33'34", and Chord Bearing and distance of S 32°21'17" E, 127.89 feet, for a distance of 129.73 feet; thence run N 36°34'21"E a distance of 6.02 feet to the beginning of a curve to the right, having for its elements a Radius of 215.49', a Central Angle of 33°23'22", and a Chord Bearing and distance of N 32°19'12"W, 123.81 feet; thence run along said curve to the right for a distance of 125.58 feet; thence run S 76°13'49"W for a distance of 6.00' to the Point Of Beginning. Parcel contains 765.9 SQ.FT. +/-

Basis for bearings is the South line of Lot 1 being N 54°25'34"E according to the record plat.

SHEET 1 OF 2

Prepared by Eric C. Davis  
FL PSM 5544

SKETCH TO ACCOMPANY LEGAL DESCRIPTION - NOT A SURVEY



Curve	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	49.78'	46.00"11"	48.45'	N 26°56'15"W	62.00'	26.32'
C2	141.74'	36.40"01"	139.34'	N 32°21'22"W	221.49'	73.39'
C3	24.12'	18°25'46"	24.02'	S 9°12'53"E	75.00'	12.17'
C4	27.74'	7°10'38"	27.72'	N 54°16'40"W	221.47'	13.89'
C5	6.00'	1°33'09"	6.00'	S 14°47'55"E	221.49'	3.00'
C6	44.96'	46.00"11"	43.76'	S 26°56'15"E	56.00'	23.77'
C7	6.01'	1°33'18"	6.01'	S 49°54'43"E	221.49'	3.01'

Line	Bearing	Distance
L1	S 36°34'21"W	17.07'
L2	N 76°13'49"E	4.56'
L3	N 76°13'49"E	0.38'
L4	N 36°34'21"E	11.06'

**DAVIS SURVEYING INC.**  
WWW.DAVISLANDSURVEYS.COM  
4536 SE 16th PLACE SUITE 3  
CAPE CORAL, FLORIDA 33904  
TEL(239)549-6454 FAX(239)549-2548  
CONTACT@DAVISLANDSURVEYS.COM

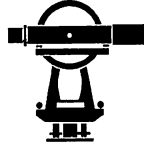
**LEGEND**

+0.0 = EXISTING ELEVATION  
= UTILITY RISER  
= UTILITY POLE  
= FIRE HYDRANT  
= CATCH BASIN  
(P)=PLAT  
(F)=FIELD  
(D)=DEED  
(C)=COMPUTED  
X= WIRE FENCE  
= WOOD FENCE  
NAVD= NORTH AMERICAN VERTICAL  
DATE OF 1988

**DESCRIPTION**

SEE SHEET 1 OF 2 FOR  
PORTION OF LOT 2.  
ADJACENT TO SAID LOT 1 AND  
OF THE BIMINI CANAL R.O.W.  
AND ALONG THE VACATED PORTION  
BOOK 12 PAGES 13 THRU 22.  
LEE COUNTY, FLORIDA, PLAT  
PART 2 CAPE CORAL SUBDIVISION  
PAGE 1528 IN BLOCK 154, UNIT 4,  
LOT 2 DESCRIBED IN O.R. BOOK 1868,  
ALONG THE SOUTH LINE OF PART OF  
OF THE NORTH LINE OF LOT 1, AND  
A 6' PU & DE ALONG A PORTION

**CE. DAVIS, CERTIFICATE NO. 4839**  
-OR- ERIC C. DAVIS, PSM # 5544  
LB # 7075  
JOB NUMBER:  
18-1596DE  
SHEET 2 OF 2



# Davis Surveying, Inc.

4536 SE 16<sup>th</sup> Place  
Cape Coral, Florida  
33904

January 15, 2019

## NEW PERIMETER EASEMENT

A Public Utility and Drainage Easement along the westerly extensions of the North line of Lot 1, the South line of a portion of Lot 2 (described in O.R. Book 1868, Pg. 1528) all in Block 154, Unit 4, Part 2, Cape Coral Subdivision, as recorded in Plat Book 12, Pages 13 through 22, inclusive, of the Public Records of Lee County, Florida, and along the west line of the vacated portion of the Bimini Canal Right-of-way adjacent to said Lot 1 and part of Lot 2; being more particularly bounded and described as follows:

Beginning at the Northwest corner of Lot 1, Block 154; being the point of curvature of a curve to the left having for its elements, a Radius of 221.49', a Central Angle of 1°33'09", and Chord Bearing and distance of S 14°47'55" E, 6.00'; thence run along said curve along the westerly platted lot line of said Lot 1 for a distance of 6.00' to the South line of the existing perimeter easement along the North line of said Lot 1; thence run N 76°13'49"E for a distance of 0.38 feet; thence run S 3°56'10" distance of 45.71 feet to the point of curvature to the left, having for its elements a Radius of 56.00 feet, a Central Angle of 46°00'11", and a Chord Bearing and distance of S 26°56'15"E, 43.76'; thence run along said curve a distance of 44.96' to a point of tangency; thence run S 49°56'21"E for a distance of 50.32 feet to a point on the Southwesterly extension of the north side of the existing perimeter easement along said South line of the said portion of Lot 2; thence run N 36°34'21"E along said extension for a distance of 11.06 feet to a point on the west line of said portion of Lot 2, being the point of curvature of a curve to the left having for its elements a Radius of 221.49 feet, a Central Angle of 1°33'18" and a Chord Bearing and Distance of S 49°54'43"E, 6.01 feet; thence run along said curve a distance of 6.01 feet to the Southwest corner of said portion of Lot 2; thence run S 36°34'21"W for a distance of 17.07' to an intersection with the water-ward face of the existing concrete seawall adjacent to the Bimini Canal; thence run N 49°56'21"W along said water-ward face of the seawall for a distance of 56.70 feet to the point of curvature of a curve to the right having for its elements a Radius of 62.00', a Central angle of 46°00'11", and a Chord Bearing and distance of N 26°56'15"W, 48.45'; thence run along said curve and along said water-ward face of the seawall for a distance of 49.78' to the point of tangency of the seawall; thence run N 03°56'10"W continuing along said water-ward face of the seawall for a distance of 50.76' to the point of intersection with the westerly prolongation of the North line of said Lot 1; thence run N 76°13'49"E along said westerly extension for a distance of 4.56' to the Northwest corner of Lot 1 and the Point Of Beginning.

SHEET 1 OF 2

Prepared by Eric C. Davis  
FL PSM 5544



## Planning Division Case Report

VP 18-0012

**Review Date:** December 31, 2018

**Applicant/  
Property Owner:** Obir Rental, LLC

**Owner Address:** Oberligweg 10  
Nuerensdorf, Switzerland 8309

**Request:** The applicant requests to vacate:  
1.  $\pm 2,598.9$  sq. ft. of canal right-of-way (ROW) and all underlying easements.  
2.  $\pm 765.9$  sq. ft. of platted easements along the west property line of Lot 1 and part of Lot 2, Block 154.

**Property Location:** 218 Bayshore Drive  
Lots 1 and part of Lot 2, Block 154, Unit 4, Part 2, Cape Coral Subdivision  
Strap number: 23-45-23-C2-00154.0010

**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** Infill

### Property Description:

The applicant owns an  $\pm 11,471$  sq. ft. site in southern Cape Coral. The rear or western side of the site is on the Bimini Canal near the confluence of this Canal with the Caloosahatchee River. The Bimini Canal is a saltwater canal with a platted width of 200 feet at the applicant's site. The site has a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning, and all properties within 1,000 feet share the same future land use and zoning designations.

The site has a single-family residence with a pool that was constructed in 1975. According to City records, the house has a total living area of 1,983 sq. ft. A dock and two boat lifts exist to the rear of the site.

### Requests

A sketch of the site shows a strip of canal ROW between the western property line and the outer edge of the seawall. This ROW includes a wood dock, two boat lifts, two walkways, and landscaping. For most platted water-front sites in the City, the rear property line extends to the edge of the canal. The applicant seeks to vacate 2,598.9 sq. ft. of ROW and all underlying easements to extend the site to the edge of the seawall. The applicant also requests to vacate 765.9 sq. ft. of platted easements along the west property line of Lot 1 and part of Lot 2.

## **Zoning History of Block 1904**

The site has always had a Single Family Future Land Use Classification and R-1B Zoning.

### **Analysis:**

Staff analyzed this request with the Land Use and Development Regulations (LUDR), Section 8.11, "*Vacation of plats, rights-of-way and other property.*" The City Comprehensive Plan was also reviewed for policies on vacations.

#### Request No. 1: Vacate ±2,598.9 sq. ft. of ROW Adjacent to the Bimini Canal

The applicant requests to vacate 2,598.9 sq. ft. of canal ROW between the west property line of the site and the edge of the seawall. The applicant owns the site that abuts this ROW and is therefore eligible to request this vacation. The width of the ROW is not uniform and appears to range from eight to 27 feet. Several improvements have been made to the ROW and the owner appears to be maintaining this area. The ROW is isolated and is too narrow to provide a benefit to the public. As a result, there is no apparent reason for the City to maintain this strip of land as ROW. This vacation will enlarge the site by nearly 2,600 sq. ft. and will provide uninterpreted ownership of land between the front property line and the edge of the seawall as was intended based on the subdivision plat for Unit 4.

#### Request No. 2: Vacate ±2,598.9 sq. ft. of Easements Underlying the Subject ROW

The applicant seeks to vacate 2,598.9 sq. ft. of easements underlying the ROW described above in Request No. 1. All three utility providers lack facilities in these easements. None of these providers object to this request. The City also lacks facilities within this easement. Staff recommends that an easement be deeded to the City from the owner for a six-foot wide perimeter easement around the expanded site.

#### Request No. 3: Vacate 765.9 sq. ft. of Easements in Lot 1 and part of 2, Block 154

The applicant seeks to vacate 765.9 sq. ft. of platted easements along the west property line of Lot 1 and a portion of the northwest portion of Lot 2. All three utility providers lack facilities in these easements and do not object to this request. The City lacks facilities within this easement. This easement will no longer be necessary as the owner will be providing the City with a six-foot wide replacement easement around the expanded site.

### **Consistency with the Comprehensive Plan**

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

This request is consistent with Policy 1.15 of the Future Land Use Element.

**Policy 1.15:** *Land development regulations adopted to implement this comprehensive plan will be based on, and will be consistent with, the standards for uses and densities/intensities as described in the following future land use classifications. In no case shall maximum densities allowable by the following classifications conflict with Policy 4.3.3 of the Conservation and Coastal Management Element regulating density of development within the Coastal High Hazard Area.*

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

**Staff comment:** This request is consistent with Policy 1.15.a as the site will be ±14,070 sq. ft. following the ROW vacation and the property has one single-family home. This equates to a density of 3.1 dwelling units per acre. This density is less than the maximum 4.4 dwelling units per acre allowed within this future land use classification.

**Recommendation:**

Based on the above analysis, staff recommends **approval** of the requested vacations with the following conditions.

**Conditions of Approval**

1. The vacation of the 2,598.9 sq. ft. of ROW and underlying easements shall be consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc. entitled "*Quit Claim Area.*"
2. The vacation of the 765.9 sq. ft. of easements in Lot 1 and part of Lot 2, Block 154 shall be consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc. entitled "*Vacated 6' Public Utility and Drainage Easement.*"
3. Within 60 days from the date of adoption of this vacation, the owner shall provide to the City an easement deed for a six-foot wide easement consistent with that shown in the sketch and accompanying legal description prepared by Davis Surveying, Inc. entitled "*New Perimeter Easement.*" This deed shall be approved by the City Property Broker prior to execution.
4. This resolution shall be recorded with 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 an easement deed as described in Condition #3 above and reimburses the Department of Community Development for all recording fees associated with this resolution and the easement deed.

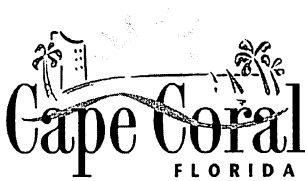
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**Staff Contact Information**

Mike Struve, AICP, LEED Green Associate, Development Management Team Coordinator

PH: 239-242-3255

Email: [mstruve@capecoral.net](mailto:mstruve@capecoral.net)



## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** VP18-0012

**REQUEST:** The applicant, OBIR Rental, LLC, requests a vacation of plat for a canal right-of-way being a part of the Bimini Canal, adjacent to Lot 1 and part of Lot 2, Block 154, Unit 4, Part 2, Cape Coral Subdivision, and a vacation of easements occupying a portion of Lots 1 and 2, Block 154, Unit 4, Part 2, Cape Coral Subdivision, property located at 218 Bayshore Drive.

**LOCATION:** 218 Bayshore Drive

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

**PROPERTY OWNER(S):** OBIR Rental, LLC

**AUTHORIZED REPRESENTATIVE:** Gary W. Wolcott

**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, January 22<sup>nd</sup>, 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 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](http://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.

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**Net Amt:** \$

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 01/12/19

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

CASE NUMBER: VP18-0012

REQUEST: The applicant, OBIR Rental, LLC, requests a vacation of plat for a canal right-of-way being a part of the Bimini Canal, adjacent to Lot 1 and part of Lot 2, Block 154, Unit 4, Part 2, Cape Coral Subdivision, and a vacation of easements occupying a portion of Lots 1 and 2, Block 154, Unit 4, Part 2, Cape Coral Subdivision, property located at 218 Bayshore Drive.

LOCATION: 218 Bayshore Drive

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AUTHORIZED REPRESENTATIVE:  
Gary W. Wolcott

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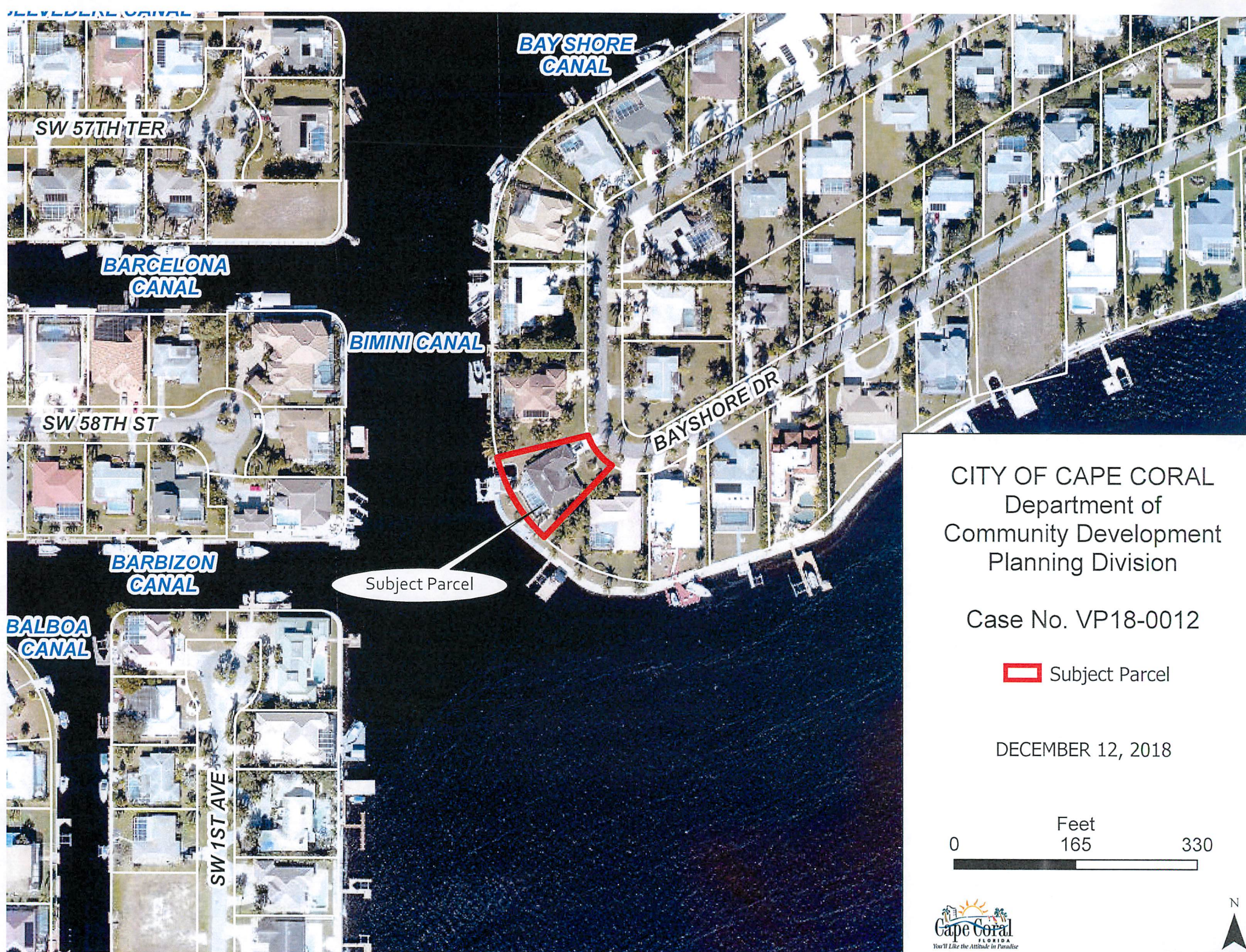
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by order of  
Kimberly Bruns, CMC  
Interim City Clerk  
REF # VP18-0012  
AD# 3330663 Jan. 12, 2019





CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

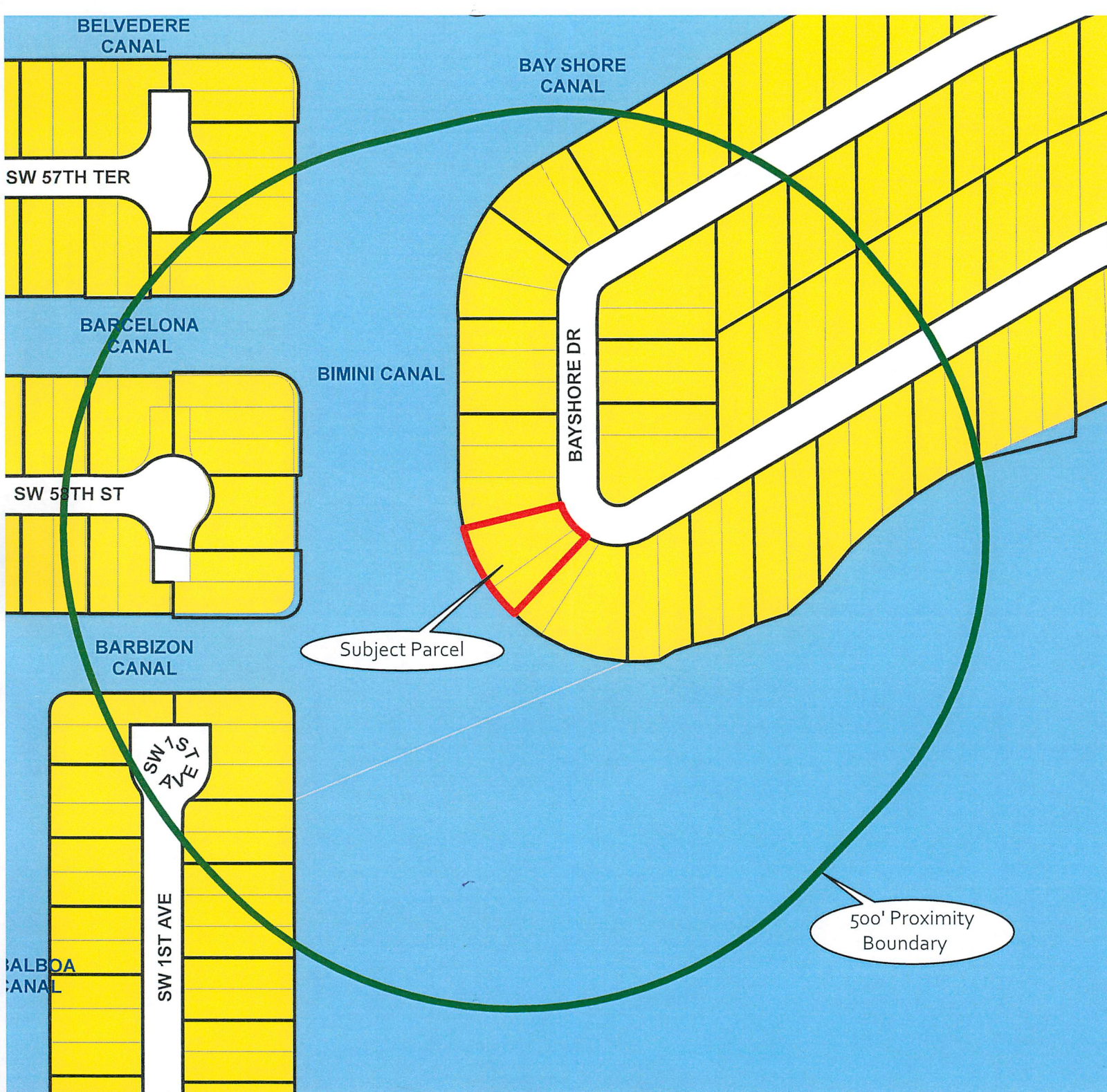
Case No. VP18-0012

 Subject Parcel

DECEMBER 12, 2018







CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500' Proximity Boundary

Case No. VP18-0012

Legend

- Subject Parcel
- 500' Proximity Boundary
- Zoning**
  - R-1B

December 12, 2018





Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Obir Rental LLC

APPLICATION NO: VP18-0012

STATE OF FLORIDA       )  
                                      ) §  
COUNTY OF LEE        )

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

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

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

DATED this 15<sup>th</sup> day of January, 2019.

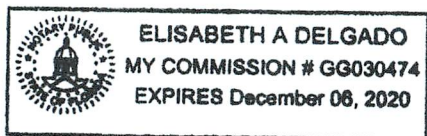


Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of January, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474



  
Signature of Notary Public

Elisabeth A. Delgado  
Print Name of Notary Public

Item Number:	3.A.
Meeting Date:	1/22/2019
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Tuesday, February 5, 2019, at 9:00 a.m., in Council Chambers

**REQUESTED ACTION:**

**STRATEGIC PLAN INFO:**

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

If Yes, Priority Goals Supported are listed below.

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

WHAT THE ORDINANCE ACCOMPLISHES:

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**