



## **AGENDA FOR THE HEARING EXAMINER**

Tuesday, February 19, 2019

9:00 AM

Council Chambers

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

### **2. HEARINGS**

- A. Case # VA18-0022\*; Address: 1732 NW 44th Ave; Applicant: Stephen Mazzola
- B. Case # SE18-0016\*; Address: 1216 Lafayette Street; Applicant: Steven B. Petro Revocable Trust
- C. Case # ZA18-0012\*; Address: 805 SE 10th Street, Cape Coral, FL 33990; Applicant: HBLB Properties II, LLC
- D. Case # SE19-0001\*; Address: 2307 Bolado Parkway; Applicant: Rodgers Real Estate, Inc.

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

- A. Tuesday, March 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:** 2/19/2019  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # VA18-0022\*; Address: 1732 NW 44th Ave; Applicant: Stephen Mazzola

**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:**

1. A 301 square foot variance to the 10,000 sq. ft. minimum area requirement in the Land Use and Development Regulations (LUDR), Section 2.7.1,
2. A 15.78 foot variance to the 80 feet required for the minimum lot width at the building line requirement in LUDR, Section 2.7.1.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

Justin Heller, Senior Planner, 239-574-0587, [jheller@capecoral.net](mailto:jheller@capecoral.net)

**ATTACHMENTS:**

Description	Type
Backup Materials	Backup Material





DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # VA18-0022

REQUEST TO HEARING EXAMINER FOR A VARIANCE

FEE: SINGLE-FAMILY RESIDENTIAL USE \$150.00 (\$150.00 PER EACH ADDITIONAL REQUEST) ALL OTHER USES \$673.00. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

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

OWNER OF PROPERTY

Stephen Mazzola

Address: 4678 Pine Island Rd NW

City: Matlacha State: FL Zip 33993

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

APPLICANT

Stephen Mazzola

Address: same

EMAIL

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

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

AUTHORIZED REPRESENTATIVE

Scott J. Hertz, Esq.

Address: 1222 SE 47th Street, Ste. C1

EMAIL

City: Cape Coral State: FL Zip 33904

Phone: 239-340-5554

Unit 82 Block 5266 Lot(s) Tract A Subdivision Cape Coral

Address of Property 1732 NW 44th Ave, Cape Coral, FL 33993

Current Zoning R1-B Plat Book 32 , Page 68

Strap Number 36-43-22-C3-05266.A000

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

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

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



DEPARTMENT OF COMMUNITY DEVELOPMENT  
APPLICATION FOR VARIANCE  
Questions: 239-574-0776

CASE # YA18-0022

Stephen Mazzola  
APPLICANT NAME (PLEASE TYPE OR PRINT)

*Stephen Mazzola*  
APPLICANT'S SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 18th day of October, 20 18 by  
Stephen Mazzola who is personally known or produced FL Drivers License  
as identification.



Scott J. Hertz  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG136888  
Expires 8/21/2021

Exp. Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

Signature of Notary Public: *Scott J. Hertz*  
Printed name of Notary Public: Scott J. Hertz



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # VA18-0022

**ADDRESS THE FOLLOWING POINTS IN YOUR REQUEST:**

**Section 8.10**

Before any variance may be granted, the Hearing Examiner must find that all five of the standards identified below have been met. Such findings shall be recorded, along with any imposed conditions or restrictions, in the Hearing Examiner's minutes and the records and issued in written form to the applicant to constitute proof of the variance:

**a. Special Conditions**

The special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district; that the special conditions and circumstances do not result from the actions of the applicant.

**b. No Special Privilege**

The granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings or structures in the same zoning district.

**c. Hardship**

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardships on the applicant.

**d. Minimum Variance**

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

**e. Purpose and Intent; Public Interest**

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

**\*\*\*\*\* THESE FIVE STANDARDS MUST BE ADDRESSED IN LETTER OF INTENT \*\*\*\*\***





DEPARTMENT OF COMMUNITY DEVELOPMENT

CASE # VA18-0022

APPLICATION FOR VARIANCE

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, 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.

(SIGNATURE MUST BE NOTARIZED)

CORPORATION/COMPANY NAME

Stephen Mazzola

PROPERTY OWNER (PLEASE TYPE OR PRINT)

Stephen Mazzola  
PROPERTY OWNER'S SIGNATURE

STATE OF FL, COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 18th day of October, 2018, by

Stephen Mazzola who is personally known or produced FL Drivers License  
as identification.

Exp. Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

Signature of Notary Public: Scott J. Hertz

Printed name of Notary Public: Scott J. Hertz



Scott J. Hertz  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG136888  
Expires 8/21/2021

Variance application 11/10/16



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # VA18-0022

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Scott J. Hertz

(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE HEARING EXAMINER, OR CITY COUNCIL FOR

Variance to the lot size requirement

(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT

BLOCK

LOT(S)

SUBDIVISION

OR LEGAL DESCRIPTION

CAPE CORAL UNIT 82 BLK 5266 PB 32 PG 68 TRACT A

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

Stephen Mazzola

PROPERTY OWNER (Please Print)

Stephen Mazzola  
PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF Lee

Subscribed and sworn to (or affirmed) before me this 18th day of October, 2018 by  
who is personally known or produced FL Drivers License  
as identification.

Exp. Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_



Scott J. Hertz

NOTARY PUBLIC

STATE OF FLORIDA

Comm# GG136888

Expires 8/21/2021

Signature of Notary Public:

Printed name of Notary Public:

Scott J. Hertz

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

APPLICATION FOR VARIANCE

Questions: 239-574-0776

CASE # VA18-0022

**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.

Stephen Mazzola  
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

*Stephen Mazzola*  
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me on this 18th day of October,  
2018 by Stephen Mazzola, who is personally known or who has produced FL Drivers License as  
Identification.

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

*Scott J. Hertz*  
Signature of Notary Public

Scott J. Hertz  
Print Name of Notary Public



Scott J. Hertz  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG136888  
Expires 8/21/2021



# 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

January 8, 2018

City of Cape Coral  
Planning Division  
1015 Cultural Park Boulevard  
Cape Coral, FL 33990

Re: Lot Size and Width Variance application for 1732 NW 44<sup>th</sup>  
Ave, Cape Coral, FL 33993 under Cape Coral LDUR  
8.10.6.b

To whom it may concern:

My client is applying for a lot size variance for an undeveloped lawfully platted lot within the City of Cape Coral with an area of 9,700 square feet to build a residential home pursuant to the land's R1-B zoning. Additionally, although the lot in question meets the minimum street frontage set forth in LUDR 2.7.1 Table R-1(a) of 50 feet with 50.01 feet, there is an issue with the required minimum lot width at the building line of 80 feet, as the lot's maximum width is 64.88 feet. Therefore, a variance is required for the minimum lot width at the building line as well. Given that the other two sides of the lot at 125' and 185' long respectively, there is sufficient land to meet the other requirements set forth in LUDR 2.7.1 Table R-1. Further, the City has formalized its desire to allow this level of variance on the lot size by removing the need to have a public hearing for lot size variances in the City's new Land Use Codes for lots 7,500 square feet or greater. We acknowledge the new Land Use codes have not yet been adopted, but the City has a history of looking prospectively at upcoming changes to its Land Use Code to see if a requested variance or deviation meets the planning and development goals of the City. The requested variances will allow the owner to build on land that will otherwise remain undeveloped. The property owner, Stephen Mazzola, does not own any adjacent lots to the subject property.

As the lot size deficiency exceeds 200 square feet and there is also the need for a variance from the minimum lot width, we are requesting a hearing before the Hearing Examiner as set forth Cape Coral LDUR 8.10.6.b to allow the owner to make reasonable use of the property, in lieu of the general conditions found in Section 8.10.3a-e. Additionally, the property is further burdened by the intrusion of the right-of-way into the property, giving it an odd shape. However, if the requested lot size variance is approved, it will be possible to build a residential home on that property that otherwise complies with the rules and regulations of the City. Due to the uncertainty involved in this process, Mr. Mazzola has not yet had a home designed on the property, and when this variance is approved may also apply to the City for a cul-



de-sac variance to allow the front set back to be reduced to eighteen feet, based on the City's guidelines for an administrative cul-de-sac variance.

At no time did Mr. Mazzola own any of the adjacent land, and he did not create this hardship. As the property lies on the corner of intersecting canals, once improved the property will serve to increase the tax rolls of the City and provide a nice homesite. Without the variance, and due to the zoning and future land use of the property, there is no reasonable use for the property and it will lie vacant and unimproved for all time.

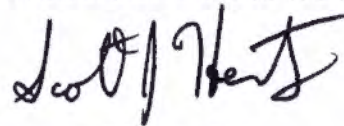
Although the conditions set forth in Cape Coral LDUR 8.10.3.a-e do not apply to this request, the owner is addressing to facilitate the process. The smaller lot size and intrusion of the right of way into the parcel results in a condition that is not generally applicable to other lands, structures or buildings in the same zoning district. Nor do these special conditions and circumstances result from the actions of the applicant, but from the pre-platted street design. Further, it is the type of variance that is commonly given to other properties which are similarly situated and thus will not grant my client any special privileges. The current interpretation of the required minimum lot size imposes an unnecessary and undue hardship upon my client, as it renders it impossible to make any reasonable use of the land. These are the minimum variances that could be granted to allow a reasonable use of the property. Lastly, the grant of the variances to build a residential home on this property will be in harmony with the general intent and purpose of this ordinance, and such variances will not be injurious to the area involved or otherwise detrimental to the public welfare.

We have enclosed a certified survey which contains the square footage of the property and otherwise sets forth the characteristics of the parcel in question.

Thank you for your assistance.

Very truly yours,

INTELLIGENT SOLUTIONS LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read "Scott J. Hertz". The signature is fluid and cursive, with the first name "Scott" being more prominent.

Scott J. Hertz, Esq.












SJH/me



LEGEND:

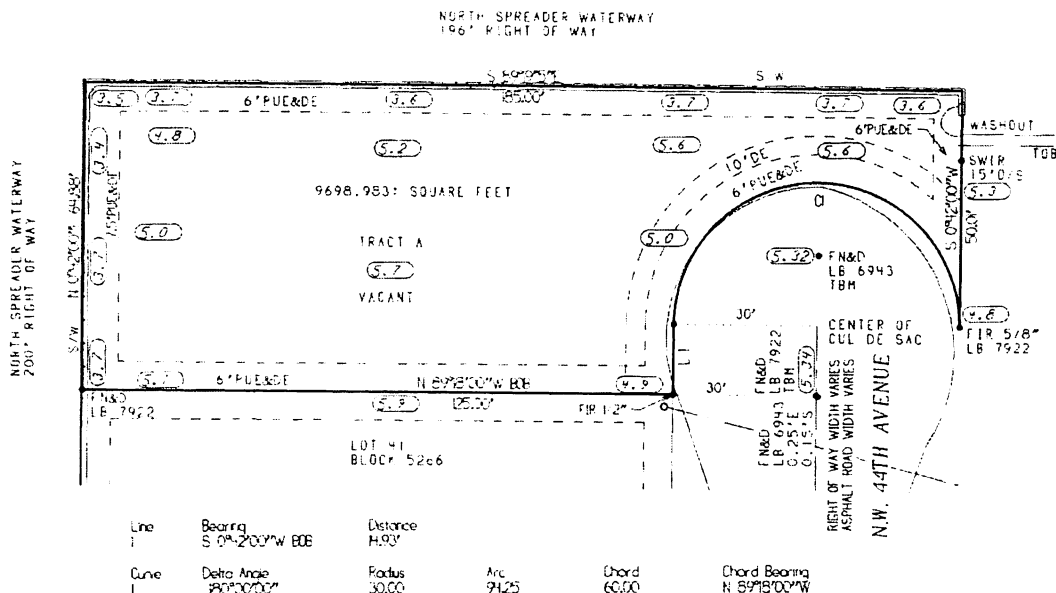
- BOB = BASIS OF BEARING
- CSP = CONCRETE SPREADER WORK
- PD = PER DEED
- DL = DRAINAGE EASEMENT
- CDL = CULVERT DRAIN FILL
- LOC = LOCATION
- FCM = FOUND CONCRETE MONUMENT
- FCN = FOUND CURB
- FL = FINISH FLOOR ELEVATION
- FIP = FOUND IRON PIPE
- FIR = FOUND IRON ROD
- FMD = FOUND MAIL & DIS
- FN = FOUND NAIL
- FMT = FOUND MAIL & TIE
- GC = GRADE FLOOR ELEVATION
- IC = ICE DIRT PROFILES
- ICV = INTERGRAPHIC CONTROL VALVE
- LA = LAKE MAINTENANCE EASEMENT
- ME = MEASURED
- O/S = OFFSET
- PI = PER PLAT
- PC = PERCENT OF CURVE
- PUE = PUBLIC UTILITY EASEMENT
- SEP = SEPARATE LOCATION OF
- SET = SET
- SIR = SET 1/2" IRON ROD & CAP
- STAMPED = LB 7373
- ENAD = NAIL & DIRT
- STAMPED = LB 7373
- SWIR = SET 1" IRON ROD & CAP
- STAMPED = "WILCOX & CAP
- LB 7373
- S/W = SET
- TBM = TEMPORARY BENCH MARK
- TDB = APPROXIMATE TOP BANK
- UG = UNDERGROUND UTILITY EASEMENT
- VE = UTILITY EASEMENT
- VG = VALLEY CUTTER
- W = WIDE PRIORITY

- 1) Parcel was surveyed from information supplied by the client or the client's agent.
- 2) Easements as shown hereon are from the recorded plat. Any other easement (s) pertaining to the hereon described parcel must be furnished to the surveyor by the client or the client's agent per Florida Administrative code 50-13.022(2)(d).
- 3) This certification is only for the parcel described. It is not a certification of title, zoning, easement, freedom of encumbrance, ownership, or rights-of-way.
- 4) Parcel subject to easements, restrictions, reservations, and rights-of-way of record.
- 5) Easement not needed.
- 6) Additions or deletions to survey maps or reports by other than the signing party or agent is prohibited without the written consent of the signing party or parties.
- 7) The survey depicted hereon is not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper.
- 8) Well location, when shown, are approximate and based on field observed surface evidence, unless otherwise noted.
- 9) Septic and/or drain field locations, when shown, are approximate and based on surface evidence, subsurface probes, or a combination thereof.
- 10) Underground utilities, structures and/or improvements other than those shown, if any, were not located.
- 11) The survey depicted hereon may not be communicated or relied on by any party to which it has not been certified without the prior written consent of the signing party.

-  = WATER METER
-  = STORM DRAIN
-  = UTILITY BOX/RISER
-  = LIGHT POLE
-  = POWER POLE
-  = FIRE HYDRANT
-  = WATER VALVE
-  = FENCE LINE
-  = CONCRETE
-  = OVERHEAD LINE
-  = ELEVATION

Boundary Survey  
W.O.# 18-0094  
Date: 17 JAN 2018  
DRAWN BY: DMD

Elevation Information:  
The Elevations as shown here are based on the NAVD 82 Datum.



©Copyright by Reliable Land Surveying, Inc. and Keith D. Clay, Fort Myers, Florida, 2016. Unauthorized use, publication, or reproduction of this survey map and/or data thereon is subject to criminal and civil prosecution.

## Planning Division Case Report

### VA18-0022

**Review Date:** January 30, 2019

**Applicant:** Stephen Mazzola

**Representative:** Scott J. Hertz, Esquire

**Request:** 1. A 301 square foot variance to the 10,000 sq. ft. minimum area requirement in the Land Use and Development Regulations (LUDR), Section 2.7.1,  
2. A 15.78 foot variance to the 80 feet required for the minimum lot width at the building line requirement in LUDR, Section 2.7.1.

**Location:** 1732 NW 44<sup>th</sup> Ave  
Strap# 36-43-22-C3-0526.6A000

**Prepared By:** Justin Heller, Senior Planner

**Reviewed By:** Mike Struve, AICP, Planning Team Coordinator

**Approved By:** Robert H. Pederson, AICP, Planning Division Manager

**Recommendation:** **Approval**

#### I. Background:

This 9,699 square foot waterfront property is in NW Cape Coral at the end of NW 44<sup>th</sup> Avenue on a cul-de-sac. The site and all surrounding properties have Single Family (SF) Future Land Use Classification and Single Family Residential (R-1B) Zoning. The R-1B District requires a minimum area of 10,000 sq. ft. and 80 ft. width at the building line to construct a single-family home. These variances are necessary to allow the owner to construct a single-family home on this site.

#### II. Analysis:

A variance is defined as a modification of the requirements of the City ordinance when such modification will not be contrary to the public interest where, because of conditions peculiar to the property involved and not the result of the actions of the applicant which occurred after the effective date of the ordinance, a literal interpretation of the ordinance would result in unnecessary and undue hardship.

1. Variances for undeveloped lawfully platted and recorded lots are reviewed under LUDR, Section 8.10.6, as follows:

- a. *If the deficiency in lot area is 200 square feet or less, the City Manager or City Manager's designee may grant a variance to allow the owner reasonable use of his or her premises, in lieu of the general conditions found in Section 8.10.3a-e.*

- b. *If the deficiency in lot area is more than 200 square feet, the Hearing Examiner may grant a variance to allow the owner reasonable use of his or her premises, in lieu of the general conditions found in Section 8.10.3a-e.*
- c. *In both cases, review of such variances in this subsection shall find that the undeveloped lawfully platted and recorded lot existed prior to January 1, 1992, and that said undeveloped lot is not adjacent to another lot owned by the same property owner. If either of these findings is not met, then the variance shall not be granted.*

The site was platted in July 1969, prior to the January 1, 1992, the date specified in the LUDRs. Since the property was platted in a manner that resulted in an area less than that required for a single-family dwelling, a circumstance exists that is not the result of the property owner. The property owner does not own the adjacent lot, nor can they assemble additional land to meet the area requirement. Based on the restricted number of uses in the R-1B District and the area of the site, there will be no reasonable use of the land unless the variance is approved.

2. A variance to the minimum lot width at the building line requirement is reviewed based on the five standards outlined within LUDR, Section 8.10.3a-e.

- 1) *Special Conditions: The special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structure or buildings in the same zoning district; that the special conditions and circumstances do not result from the actions of the applicant.*

**Staff determination and analysis: Standard met by the applicant.**

The property has a maximum width of about 64.88 feet. Because the lot was originally platted this way, special conditions are present in this case which are not a result of the applicant.

- 2) *No Special Privilege: The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.*

**Staff determination and analysis: Standard met by the applicant.**

The granting of this variance will not confer special privilege on the applicant. The variance will simply allow the property owner to develop the platted lot with a single-family home, like similarly zoned, platted sites in this area.

- 3) *Hardship: That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance and would work unnecessary and undue hardships on the applicant.*

**Staff determination and analysis: Standard met by the applicant.**

The site survey shows a lot width of 64.88 feet; thus, the applicant cannot achieve compliance with the 80-foot minimum lot width at the building line requirement. The property owner does not own the adjacent lot, nor can they assemble additional land to meet the requirement. A literal enforcement of the ordinance would deprive the applicant from developing their property with a single family dwelling similar to other property owners in this zoning district. A denial of the variance would result in an unnecessary hardship on the applicant as there will be no reasonable use of the land.

- 4) *Minimum Variance: That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.*

**Staff determination and analysis: Standard met by the applicant.**

The variance is the minimum needed to allow a single-family home to be constructed on the site.

- 5) *Purpose and Intent; Public Interest: That the granting of the variance will be in harmony with the general intent and purpose of this ordinance, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

**Staff determination and analysis: Standard met by the applicant.**

Except for the two variances sought, future development on the site will be required to comply with all applicable regulations for the R-1B District. The granting of the variance will allow the owner to develop the lot with a single-family dwelling. The variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

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

This request is consistent with Policy 1.15.a and 1.18 of the Future Land Use Element.

#### **Policy 1.15.a**

The R-1B Zoning of the site is consistent with the Single Family Future Land Use Classification.

#### **Policy 1.18:**

Vested Rights. In circumstances in which constitutionally protected property rights or valid development expectations conflict with the City of Cape Coral Comprehensive Plan and judicially defined principles of equitable estoppel may override otherwise valid limitations imposed by the Plan, such property rights or expectations may be recognized by the Cape Coral City Council, acting by resolution after review and recommendation by the Cape Coral Planning & Zoning Commission/Local Planning Agency, on a case-by-case basis.

### **III. Recommendation:**

Staff recommends **approval** of both variances.



## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** VA18-0022

**REQUEST:** 1. A 301 square foot variance to the 10,000 sq. ft. minimum area requirement in the Land Use and Development Regulations (LUDR), Section 2.7.1,  
2. A 15.78 foot variance to the 80 feet required for the minimum lot width at the building line requirement in LUDR, Section 2.7.1.

**LOCATION:** 1732 NW 44<sup>th</sup> Ave

**CAPE CORAL STAFF CONTACT:** Justin Heller, Senior Planner, 239-574-0587

**PROPERTY OWNER(S):** Stephen Mazzola

**AUTHORIZED REPRESENTATIVE:** Scott J. Hertz, Esquire

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00am on February 19, 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.

**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:** \$354.24

**Run Times:** 1

**No. of Affidavits:**

**Run Dates:** 02/09/19

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** VA18-0022

**REQUEST:** 1. A 301 square foot variance to the 10,000 sq. ft. minimum area requirement in the Land Use and Development Regulations (LUDR), Section 2.7.1,  
2. A 15.78 foot variance to the 80 feet required for the minimum lot width at the building line requirement in LUDR, Section 2.7.1.

**LOCATION:** 1732 NW 44th Ave  
CAPE CORAL STAFF CONTACT: Justin Heller, Senior Planner, 239-574-0587, jheller@capecoral.net

**PROPERTY OWNER(S):**  
Stephen Mazzola

**AUTHORIZED REPRESENTATIVE:**  
Scott J. Hertz, Esquire

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

**DETAILED INFORMATION:** The case report and colored maps for this application are available at the City of Cape Coral website, [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

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February by order of  
Kimberly Bruns, CMC  
Interim City Clerk  
REF # VA18-0022  
AD# 3380096 Feb. 9, 2019

Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Stephen Mazzola

APPLICATION NO: VA18-0022

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 11<sup>th</sup> day of February, 2019.

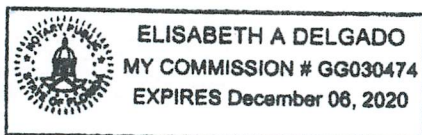


Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of February, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/2/20 Commission # 66030474



Elisabeth A. Delgado  
Signature of Notary Public

Elisabeth A. Delgado  
Print Name of Notary Public





SUBJECT PARCEL

NW 44TH AVE

BOWIE CANAL

NORTH SPREADER WATERWAY

CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division  
Case No. VA18-0022

Subject Parcel



DECEMBER 6TH, 2018

0 110 220  
Feet

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







CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500' Proximity Boundary

Case No. VA18-0022

LEGEND

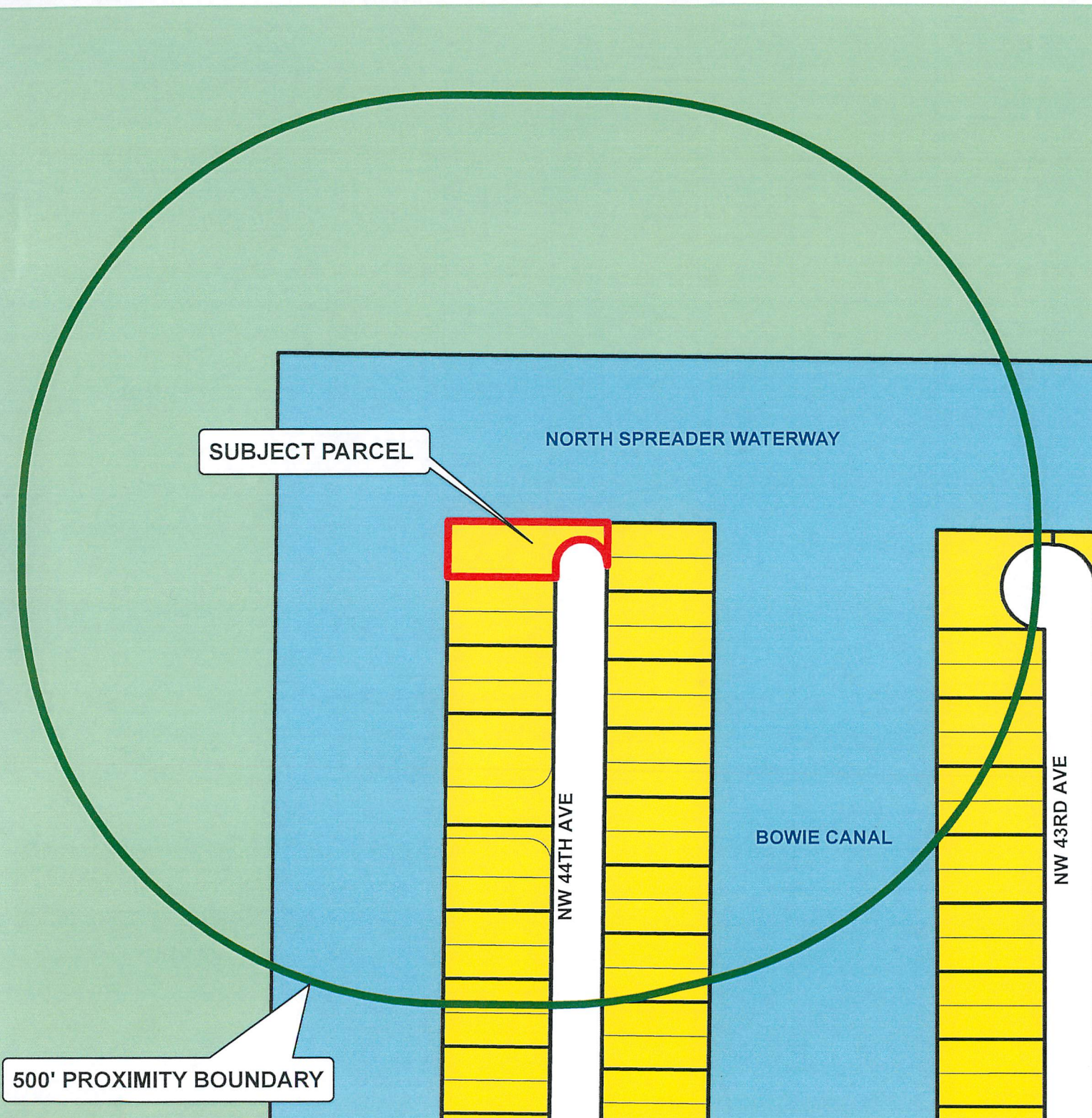
-  500' Proximity Boundary
-  Subject Parcel
- Zoning**
  -  PRES-Regulated by FLU
  -  R-1B



DECEMBER 6TH, 2018



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



**Item Number:** 2.B.  
**Meeting Date:** 2/19/2019  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # SE18-0016\*; Address: 1216 Lafayette Street; Applicant: Steven B. Petro Revocable Trust

**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:**

A special exception to allow a Business Office, Group III use on a site along a Tertiary Street in the South Cape (SC) Downtown Zoning District.

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Backup Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

Justin Heller, Senior Planner, 239-574-0587, [jheller@capecoral.net](mailto:jheller@capecoral.net)

**ATTACHMENTS:**

Description	Type
□ Backup Materials	Backup Material





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE18-0016

REQUEST FOR A SPECIAL EXCEPTION USE

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

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

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

OWNER OF PROPERTY

Steven B. Petro Revocable Trust

Email: sbpetro55@gmail.com

Address: 1730 SE 39th Street

City: Cape Coral State FL Zip 33904

Phone: 574-527-0160

APPLICANT (if different from Owner)

Same as owner

Email: \_\_\_\_\_

Address: \_\_\_\_\_

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

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

AUTHORIZED REPRESENTATIVE

Veronica Martin, TDM Consulting, Inc.

Email: vmartin@tdmconsulting.com

Address: 43 Barkley Circle, Suite 200

City: Fort Myers State FL Zip 33907

Phone: 239-433-4231

Unit 6 Pt. 3 Block 68 Lot(s) 98+99 Subdivision \_\_\_\_\_

Address of Property 1216 Lafayette Street, Cape Coral, FL 33904

Plat Book 11 Page 78

Current Zoning SC Strap Number 18-45-24-C2-00068.0980

**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.

Steven B. Petro, Trustee

NAME (PLEASE TYPE OR PRINT)

Steven B. Petro Revocable Trust

CORPORATION/COMPANY NAME

APPLICANT'S SIGNATURE



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

Case # SE18-0016

(SIGNATURE MUST BE NOTARIZED)

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

STATE OF IN, COUNTY OF Kosc

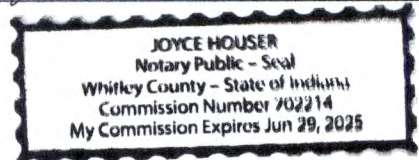
Sworn to (or affirmed) and subscribed before me this 17 day of Sept, 2018, by  
Steven B Petro who is personally known or produced personally known  
as identification.

Exp. Date: 6-29-25 Commission Number: 702214

Signature of Notary Public:

Printed name of Notary Public:

Joyce Houser







DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE18-0016

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

17

day of

Sept

, 20

18

Steven B. Petro, Trustee

PRINT APPLICANT'S NAME

APPLICANT'S SIGNATURE

STATE OF

IN

COUNTY OF

Kosc

Subscribed and sworn to (or affirmed) before me this

17

day of

Sept

, 2018, by

Steven B Petro

who is personally known or produced

personally known

as identification.

Exp. Date: 6-29-25 Commission Number:

702214

Signature of Notary Public:

Printed name of Notary Public:

JOYCE HOUSER  
Notary Public - Seal  
Whitley County - State of Indiana  
Commission Number 702214  
My Commission Expires Jun 29, 2025



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

Case # SE18-0016

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Veronica Martin, TDM Consulting, Inc.  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE HEARING EXAMINER, OR CITY COUNCIL FOR  
Special Exception

(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT 6 Pt. 3      BLOCK 68      LOT(S) 98+99      SUBDIVISION

OR LEGAL DESCRIPTION

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

Steven B. Petro, Trustee

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Please Print)

PROPERTY OWNER (Signature & Title)

STATE OF

IN, COUNTY OF Kosc

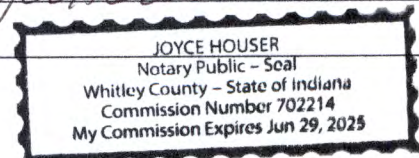
Subscribed and sworn to (or affirmed) before me this 17 day of Sept, 2018 by  
Steven B PETRO who is personally known or produced personally known  
as identification.

Exp. Date: 6-29-25 Commission Number:

702214

Signature of Notary Public:

Printed name of Notary Public:



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





DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE18-0016

**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.

Steven B. Petro, Trustee

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF IN COUNTY OF Kosc

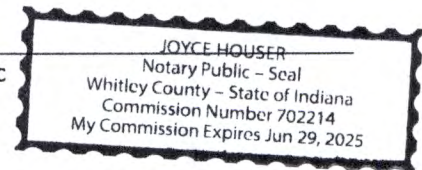
Sworn to (or affirmed) and subscribed before me on this 17 day of Sept  
20 18 by Steven B Petro, who is personally known or who has produced personally known  
as identification.

Exp. Date 6-29-2025

Commission # 702214

Signature of Notary Public

Print Name of Notary Public







**43 Barkley Circle, Suite 200  
Fort Myers, FL 33907  
Phone 239-433-4231 Fax 239-433-9632  
www.tdmcivilengineering.com  
Certificate of Authorization # 29086**

January 10, 2019

Development Services Group  
**Department of Community Development**  
City of Cape Coral  
1015 Cultural Park Boulevard  
Cape Coral, FL 33990

Project Name: 1216 Lafayette Street  
Unit 6 Pt. 3, Block 68, Lots 98+99  
STRAP #18-45-24-C2-00068.0980

**SUBJECT: Letter of Intent – Special Exception Application**

Dear Development Services Manager,

It is the intent of the applicant, Mr. Steven B. Petro, Trustee, to request a Special Exception to permit Business Offices, Group III in the South Cape (SC) zoning district. The 0.14-acre site is located at 1216 Lafayette Street, which, according to LUDR §2.7.15.B, is a tertiary street. LUDR §2.7.15.B.2.d defines the Tertiary street designation as follows: *“Tertiary streets are intended for streets supporting local vehicular movement and non-through-traffic circulation. Abutting lots may support a wide range of non-residential and compound use buildings.”* Per LUDR §2.7.15.C, Table SC-1, Business Office, Group III may be permitted on a tertiary street by Special Exception approval.

Per LUDR §2.5.5 Land Use Classifications, Business Offices, Group III is defined as: “business services which, due to equipment and vehicle storage, or to processes used, usually require facilities in addition to standard office space. Included in this group are services similar to: armored car service, automobile repossessing service, messenger services, parcel and express services, pest control, swimming pool cleaning and maintenance service, and water softening services. The applicant is proposing a business office that requires room to store equipment, files, and vehicles in addition to basic office space. Please note that outdoor storage is not required or requested. Space has been allocated inside the building for the facilities necessary to support to Business Office use.

As proposed, the Special Exception meets the five (5) standards set forth in LUDR §8.8 Special Exceptions.

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

The proposed development complies with the regulations set forth for new development in the South Cape Downtown District (LUDR §2.7.15.D), with the exception of parking and dumpster requirements. Deviations have been requested from the dumpster requirement (DE18-0029) and the minimum parking requirement (DE18-0028). Cape Coral staff is supporting both deviations based on the burden they impose. The proposed development complies with the maximum floor area ratio for the South Cape District set forth in LUDR §2.7.15.D, Table SC-2. The maximum floor area ratio for lots with a frontage less than or equal to 75 feet is 0.75. The proposed development has a floor area ratio of 0.59. Please see the attached Site Dimension Plan for setbacks, building height, etc.

2. *Compatibility. The tract of land must be suitable for the type of special exception use proposed by virtue of its location, shape, topography and the nature of surrounding development.*

The tract of land has frontage on Lafayette Street and access via an alley to the rear. The adjacent uses include Lafayette Street to the north, an existing commercial use to the east, an alley to the rear, and the proposed redevelopment of the lot to the west into a two-store office building. Other uses on Lafayette between Vincennes Street and Cape Coral Street include commercial offices, retail stores, and parking lots. In addition, the alley that accesses the rear of the site is fully constructed and operational. The property is suitable for the proposed use (Business Office, Group III) and compatible with the surrounding and adjacent uses.

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

The lot is 50 feet wide. Per the Site Dimension Plan, ADA compliant ramps are located along Lafayette Street to access the front of the building and also at the rear of building to permit access from the parking area. Most lots in the South Cape district have parking in the rear.

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

Building setbacks in the South Cape district are set forth in Tale SC-7. Developments with lot frontages equal to or less than 75 feet wide on tertiary streets are not required to provide building setbacks. Please see the Site Dimension Plan.

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

Due to the zoning of the proposed development, South Cape district, very little landscaping is required or proposed. The downtown is meant to be an urban area – without large buffer yards separating the uses. The attached Landscape Plan complies with the LUDR. The applicant doesn't believe the proposed use warrants additional screening or buffering.

The applicant believes that he has met the criteria set forth for a Special Exception to permit Business Office, Group III in the South Cape (SC) zoning district and that the proposed use is compatible with the surrounding uses.

Please feel free to contact this office if you have any questions.

Sincerely,

**TDM CONSULTING, INC.**



Veronica Martin  
Senior Planner



Prepared by and return to:

**Trina A. Shandrowski**

**Integrity Title & Document Services, LLC**

**1215 Miramar Street**

**Cape Coral, FL 33904**

**File Number: 18-10004-C**

**Will Call No.: \$50,000.00**

[Space Above This Line For Recording Data]

## **Warranty Deed**

**This Warranty Deed made this 24th day of January, 2018 between Richard J. Welter whose post office address is 1220 Lafayette Street, Cape Coral, FL 33904, grantor, and Steven B. Petro, as Trustee of the Steven B. Petro Revocable Trust dated July 18, 2003 whose post office address is 1730 SE 39th Street, Cape Coral, FL 33904, grantee:**

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

**Witnesseth**, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida** to-wit:

**Lots 98 and 99, Block 68, Unit 6, Part 3, Cape Coral, according to the plat thereof as recorded in Plat Book 11, Page 70 through 79, inclusive, Public Records of Lee County, Florida**

**Parcel Identification Number: 18-45-24-C2-00068.0980**

**Subject to ordinances, easements, restrictions, and reservations of record and taxes for the year 2018 and thereafter.**

**This property is not now, nor has it even been during the period of ownership, the homestead property of the grantor, nor is it contiguous to any homestead property of the grantor. This property is unimproved land.**

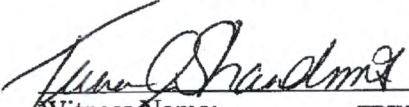
**Together** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

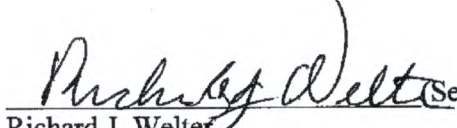
**To Have and to Hold**, the same in fee simple forever.

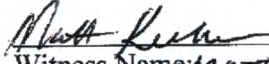
And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2017**.

**In Witness Whereof**, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

  
Witness Name: TRINA A. SHANDROWSKI

 (Seal)  
Richard J. Welter

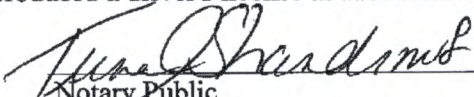
  
Witness Name: MATTHEW KULTROWSKI

State of Florida  
County of Lee

The foregoing instrument was acknowledged before me this 24th day of January, 2018 by Richard J. Welter, who ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]



  
Notary Public

TRINA A. SHANDROWSKI

Printed Name: \_\_\_\_\_

My Commission  
Expires: \_\_\_\_\_







**Sanitary (Lid) SS-1**  
 Rim Elev. = 5.22'  
 N. Invert Elev. = 1.22'  
 E. Invert Elev. = 1.95'  
 W. Invert Elev. = 2.01'  
 Top of Separator = 4.10'  
 Bottom Elev. = (-)0.46'

**Sanitary (Lid) SS-2**  
 Rim Elev. = 5.77'  
 N. Invert Elev. = 1.54'  
 E. Invert Elev. = 1.93'  
 W. Invert Elev. = 2.06'  
 Top of Separator = 4.46'  
 Bottom Elev. = (-)0.26'

**Sanitary (Lid) SS-3**  
 Rim Elev. = 5.55'  
 N. Invert Elev. = (-)4.44'  
 E. Invert Elev. = (-)1.51'  
 S. Invert Elev. = (-)4.47'  
 Bottom Elev. = (-)4.43'

**Sanitary (Lid) SS-4**  
 Rim Elev. = 6.13'  
 N. Invert Elev. = 1.12'  
 E. Invert Elev. = (-)1.39'  
 W. Invert Elev. = (-)1.33'  
 Bottom Elev. = (-)1.29'



SCALE  
 1" = 20'

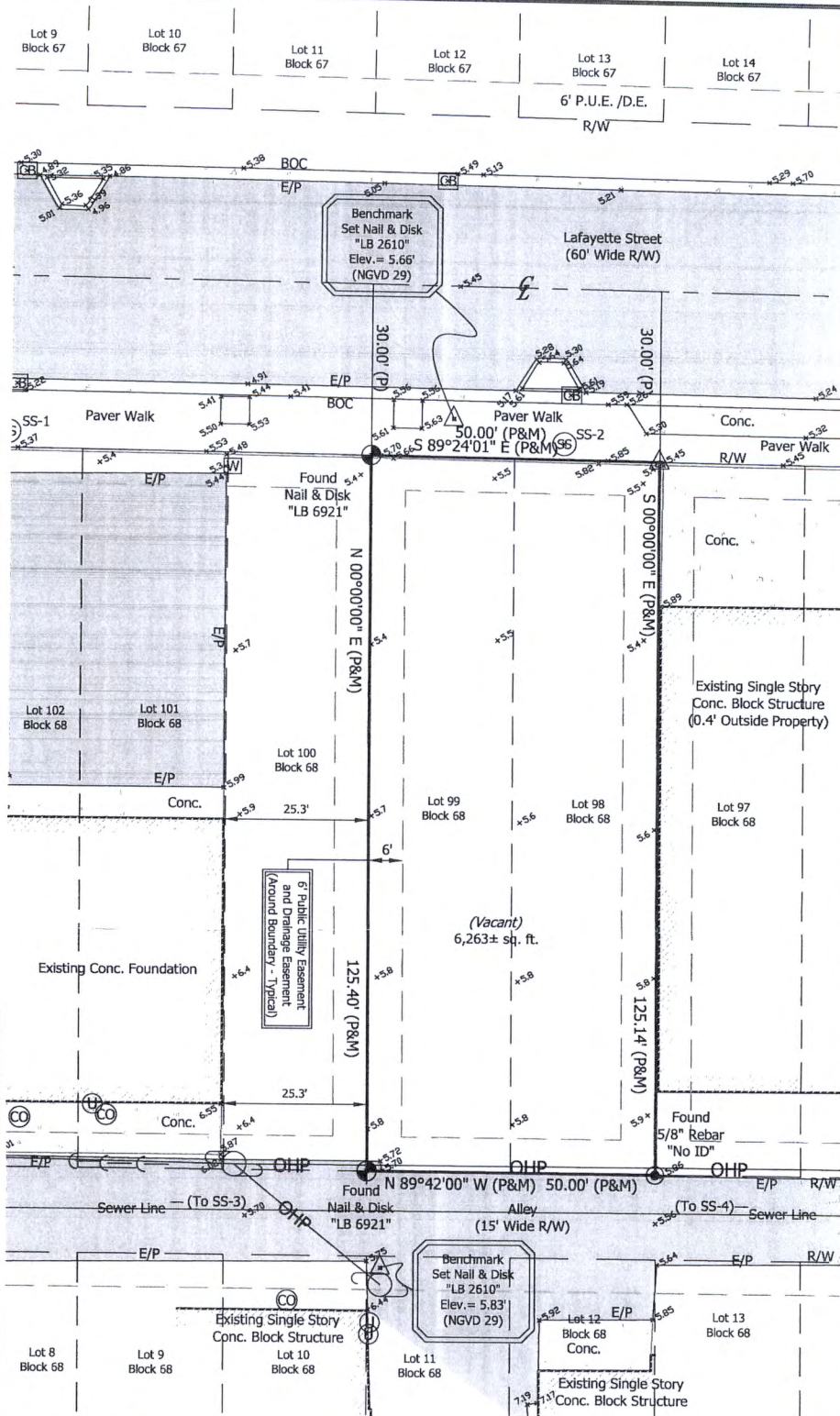
DATE	REVISION

#### SURVEY NOTES:

1. MEASUREMENTS SHOWN ARE IN FEET AND DECIMALS THEREOF. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
2. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED, UNLESS OTHERWISE SHOWN.
3. NOT VALID WITHOUT SIGNATURE AND RAISED SEAL OF FLORIDA LICENSED SURVEYOR AND MAPPER (P.S.M.).
4. ELEVATIONS SHOWN HEREON ARE IN REFERENCE TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D. 29) AND BASED ON CITY OF CAPE CORAL BENCHMARK (323-75-01).
5. THE NATIONAL FLOOD INSURANCE INFORMATION: COMMUNITY NUMBER: 125095  
 PANEL NUMBER: 12071 C 0415  
 SUFFIX: F  
 EFFECTIVE DATE: 08/28/2008  
 FIRM ZONE: AE  
 BASE FLOOD ELEVATION: 7'  
 (FIRM PANEL LISTED ABOVE SHOULD BE CONSULTED FOR VERIFICATION OF ALL FLOOD RELATED INFORMATION)
6. BEARINGS ARE BASED ON THE SOUTHERLY RIGHT OF WAY LINE OF LAFAYETTE STREET, BEING S89°24'01"E.
7. DATE OF LAST FIELD WORK: APRIL 19th, 2018.
8. RECORDING INSTRUMENTS LISTED HEREON SHOULD BE CONSULTED AND REVIEWED FOR ADDITIONAL INFORMATION.
9. THIS SURVEY WAS COMPLETED WITHOUT BENEFIT OF AN UP TO DATE TITLE COMMITMENT.
10. ADDITIONS TO OR DELETIONS FROM SURVEY OR REPORTS BY 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. DO NOT COPY WITHOUT THE WRITTEN CONSENT OF KING ENGINEERING, INC.
11. THIS SURVEY WAS PREPARED ONLY FOR THE CLIENTS AS NAMED HEREON AND NO THIRD OR OTHER PARTY CERTIFICATION IS EXPRESSED OR IMPLIED.
12. ADJACENT FINISHED FLOOR ELEVATIONS SHOWN HEREON ARE APPROXIMATES AND SHOULD BE FIELD VERIFIED.
13. OVERHEAD POWER LINES SHOWN HEREON ARE APPROXIMATE BASED ON CENTERLINE OF UTILITY POLES AND ARE NOT REPRESENTATIVE OF THE NUMBER OF LINES.

**CERTIFIED TO:**  
 Steve Petro

JOB # 18-1873 PREPARED FOR: Steve Petro  
 SECTION 18, TOWNSHIP 45S, RANGE 24E



Previous Job No.:  
 143.28;

**PARCEL DESCRIPTION:** (Instrument No. 2018000024240)  
 Lots 98 and 99, Block 68, Unit 6, Part 3, Cape Coral, according to the plat thereof as recorded in Plat Book 11, Page 70 through 79, inclusive, Public Records of Lee County, Florida.

**Boundary and Topographic Survey of**  
**1216 Lafayette Street,**  
 Lots 98-99, Block 68, Unit 6, Part 3, Cape Coral Subdivision,  
 According to Plat Book 11, Page 70 Through 79 of the Public  
 Records of Lee County, Florida.

**STOUTENCRAMER**  
 A KING ENGINEERING COMPANY

**King**  
 ENGINEERING ASSOCIATES, INC.

CERTIFICATE OF AUTHORIZATION: LR2610  
 324 Nicholas Parkway West, Suite A, Cape Coral, FL 33991  
 Phone: (239) 673-9541 Fax: (239) 424-8181  
 www.kingengineering.com

#### LEGEND

⊕	FOUND NAIL AND TAB	SQ. FT.	SQUARE FEET
⊕	SET NAIL AND TAB "LB 2610"	CONC.	CONCRETE
⊕	FOUND STEEL PIN	MON.	MONUMENT
⊕	SET 5/8" IRON ROD & CAP "LB 2610"	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
⊕	GUY WIRE ANCHOR	(P)	PLAT MEASUREMENT
⊕	CATCH BASIN	(M)	FIELD MEASUREMENT
⊕	UTILITY RISER	(C)	CALCULATED MEASUREMENT
⊕	SANITARY MANHOLE	-OHP-	OVERHEAD POWER LINES
⊕	CL/SAN OUT	BOC	BACK OF CURB
⊕	CENTERLINE	ELEV.	ELEVATION

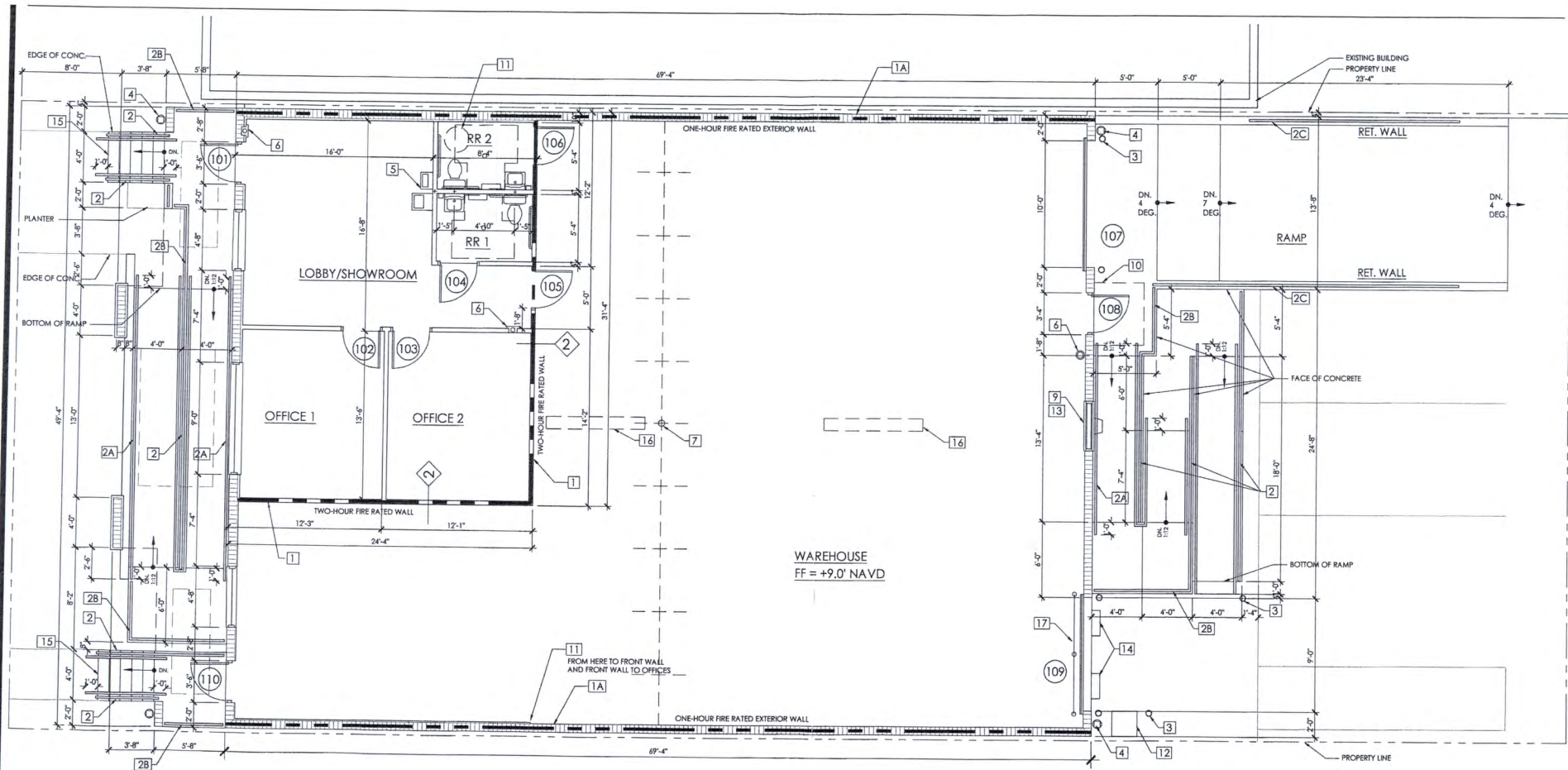
I hereby certify that, to the best of my knowledge and belief, the survey represented hereon, made under my direction on April 19th, 2018 is in accordance with Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mapping in Chapter 55-17, Florida Administrative Code, pursuant to Section 572.02, Florida Statutes.

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









#### FLOOR PLAN GENERAL NOTES:

- UNLESS NOTED OTHERWISE, DIMENSIONS SHOWN ON PLAN ARE FROM FACE OF CMU, FACE OF STUD OR CENTERLINE OF STEEL COLUMNS.
- INTERIOR STUD PARTITIONS ARE TO HAVE R-11 SOUND BATS.
- INTERIOR WALLS ARE TO BE TYPE 1 WALLS UNLESS NOTED OTHERWISE. SEE SHEET A-1.4 FOR WALL TYPE DETAILS.
- WINDOW AND DOOR OPENING DIMENSIONS IN CMU WALLS ARE MASONRY OPENING SIZES.
- PENETRATIONS THROUGH FIRE-RATED WALLS ARE TO BE PROTECTED WITH U.L. FIRE-RATED ASSEMBLIES. SEE MECHANICAL, ELECTRICAL, AND PLUMBING DRAWINGS FOR LISTED ASSEMBLIES AND DETAILS.

#### FLOOR PLAN KEYNOTES:

THESE NOTES ARE APPLICABLE TO SHEET A-1.1

- TWO-HOUR FIRE RATED WALL, UL DESIGN NO. U411
- ONE-HOUR FIRE RATED EXTERIOR WALL - CMU WALL PER FRC, TABLE 721.3.2, (EAST AND WEST WALL OF BUILDING - NO OPENINGS PERMITTED)
- 42" HIGH GUARD W/ PICKETS TO REJECT 4" DIA. SPHERE, WITH 36" HIGH HANDRAIL, WHITE ANOD. ALUM.
- 36" HIGH WALL MTD. HANDRAIL, WHITE ANOD. ALUM.
- 42" HIGH GUARD, W/HORIZ. AND VERTICAL MEMBERS TO REJECT 21" DIA. SPHERE
- 6" DIA. x 36" H. STEEL BOLLARD, FILLED W/ CONC., PTD. SURFACE BOLTED, TYP.
- 6" x 6" WHITE ANODIZED ALUM. DOWNSPOUT
- H-Low ELECTRIC WATER COOLER, ADA COMPLIANT
- 2A-10 BC FIRE EXTINGUISHER, WALL MOUNTED
- STEEL COLUMN
- 47" x 23" RUSKIN STORM RATED LOUVER W/ SCREEN (M.O. SLL @ 16'-4" AFF, HEAD @ 18'-4" AFF)
- 47" x 47" RUSKIN STORM RATED LOUVER W/ SCREEN (M.O. SLL @ 12'-8" AFF, HEAD @ 16'-8" AFF)
- PRE-MANUFACTURED ALUMINUM CANOPY, SEPARATE PERMIT REQUIRED
- 5/8" TEXTURED CEMENT PLASTER COVER CMU FROM FLOOR TO 11'-4" AFF W/ EDGE BEAD
- 4" DIA STEEL BOLLARDS AND CHAIN - 42" HIGH

- ELECTRIC WATER HEATER ABOVE
- AIR CONDITIONING UNIT (SPLIT SYSTEM FOR OFFICE AREA)
- EXHAUST FAN
- DOCK BUMPER
- CONC. STAIRS - 11" TRADS, 7" RISERS (MAX)
- LIGHT FIXTURE
- 4" DIA STEEL BOLLARDS AND CHAIN - 42" HIGH

OFFICE AREA	711 SF
WAREHOUSE AREA	2709 SF
TOTAL BUILDING AREA	3420 SF

FLOOR PLAN   
SCALE: 1/4"=1'-0"

CONCEPT PLAN  
NOT FOR CONSTRUCTION

RONALD J. MELVIN ARCHITECT, LLC AR 12591  
1442 REYNARD DRIVE, FORT LAUDERDALE, FL 33319  
(202) 464-5495  
RJMELVINARCHITECT@GMAIL.COM

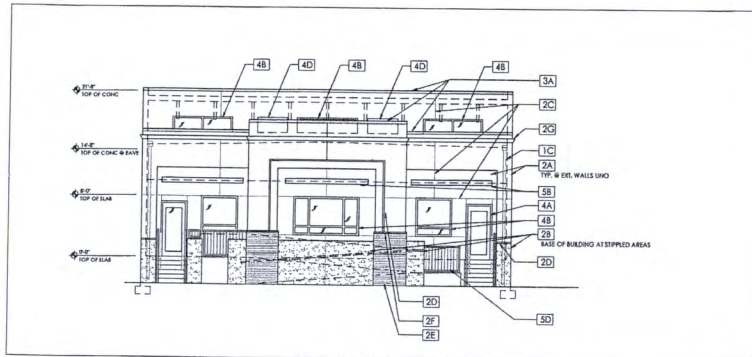


PROJ. NO.: 18-113  
DATE: 8-28-18

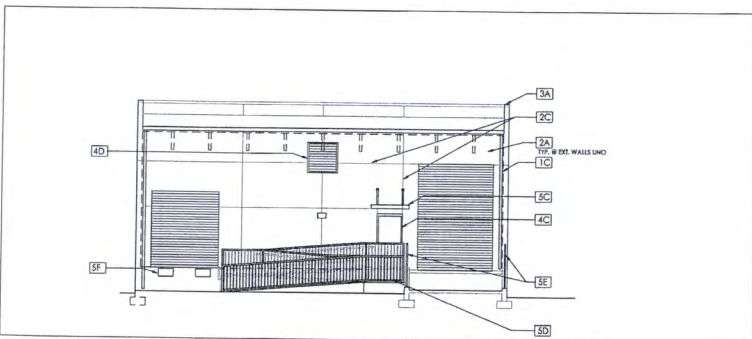
CIC: MR. STEVE PERD  
1714 LAKA STREET  
CAPE CORAL, FL 33904  
(239) 527-0163

PROJECT: OFFICE/WAREHOUSE BUILDING

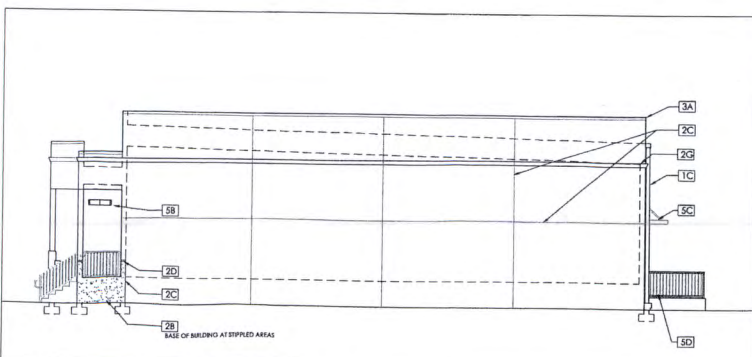
SHEET  
A-11



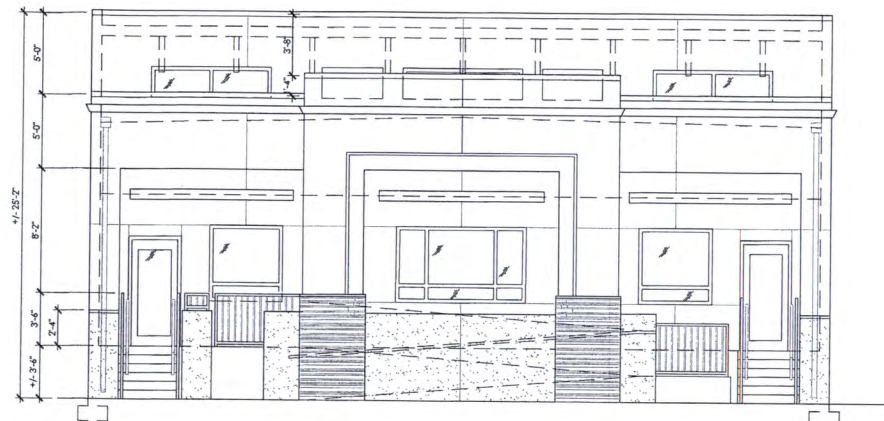
NORTH (FRONT) ELEVATION- LAFAYETTE ST.



SOUTH ELEVATION



WEST ELEVATION



FRONT ELEVATION- LAFAYETTE ST.

CITY OF CAPE CORAL NON-RESIDENTIAL DESIGN STANDARDS  
AND SOUTH CAPE DOWNTOWN DISTRICT (SC) REQUIREMENTS  
SOUTH CAPE DOWNTOWN DISTRICT:  
MAIN PUBLIC ENTRANCE FACES THE STREET

LUDR, SECTION 2.7.1.5D.8a(2)(b):  
GLAZING CALCULATION: 461 SF x 25% = 115.3 SF REQUIRED, 181.0 SF PROVIDED.

LUDR, SECTION 2.7.1.5D.b(3)(a) and (b):  
COLUMNNADE DIMENSIONS: MINIMUM CLEAR DEPTH IS 5'-0" AND CLEAR HEIGHT IS 11'-8" MIN.

NON-RESIDENTIAL DESIGN STANDARDS:  
5.6.5 C: GLAZING CALCULATION 461 SF x 25% = 115.3 SF GLAZING REQUIRED, 181.0 SF GLAZING PROVIDED.

5.6.5 D 1: BUILDING SIDES (EAST, WEST AND SOUTH SIDES)  
BUILDING ABUTS PROPERTY LINES AT EAST AND WEST SIDES - EXEMPT FROM STANDARDS  
ALLEY IS LOCATED AT SOUTH SIDE OF BUILDING - EXEMPT FROM STANDARDS

5.6.5 D 2: DESIGN ELEMENTS (3 REQUIRED, 3420 SF)  
NORTH WALL:  
2C, PORTICO

2J. HORIZONTAL BANDING (CROWN MOLDING)  
2O. VERTICAL ARTICULATION OF WALLS - REVEAL MOLDING AT (2) CENTER COLUMNS  
2K. STACK STONE AT BASE OF COLUMNS, SUSPENDED LIGHT FIXTURE FRAME BETWEEN COLUMNS AT ENTRY PORTICO

5.6.5.6: WALL HEIGHT TRANSITION - NOT APPLICABLE

5.6.5.7: BUILDING MATERIALS  
A. CONCRETE BLOCK AND STUCCO  
B. GLASS

5.6.5.8: ROOF VARIATION  
A. VARIED ROOF HEIGHT AT FRONT PORTICO, GREATER THAN 2' VERTICAL VARIATION  
B. RAISED CORNICE BAND (CROWN MOLDING)

5.6.5.9: MECHANICAL EQUIPMENT  
A. AIR CONDITIONING UNIT TO BE LOCATED AT THE (SOUTH SIDE) ALLEY SIDE OF BUILDING

#### EXTERIOR COLORS LEGEND:

- ① COLOR #1: EXTERIOR COLOR:  
WHITE  
ROOFING, ALUM. CANOPY @ REAR  
REVEAL TRIM AND C.F.S. CAP FLASHING,  
GUTTERS AND DOWNSPOUTS, OH DOORS  
EXTERIOR RAILINGS AND GUARDS, BOLLARDS
- ② COLOR #2: EXTERIOR WALL COLOR:  
LIGHT ACCENT. (TO BE SELECTED), CROWN MOLDING  
SUSPENDED ALUM. FRAMES AT  
ENTRY
- ③ COLOR #3: EXTERIOR WALL COLOR:  
MEDIUM HUE. (TO BE SELECTED)  
CEMENT PLASTER WALLS,  
HM DOORS AND FRAMES
- ④ COLOR #4: DARK BRONZE ANODIZED ALUMINUM  
STOREFRONT AND WINDOW FRAMES, LOUVERS  
EXTERIOR LIGHT FIXTURE HOUSING
- ⑤ COLOR #5: VARIED COLOR - (TO BE SELECTED)  
STACK STONE (PRE-CAST SIMULATED STONE)

#### EXTERIOR ELEVATION KEYNOTE LEGEND:

- 1. ROOFING AND ACCESSORIES:  
1A) TPO SINGLE PLY ROOFING W/ BRIGHT WHITE SURFACE  
1B) METAL GUTTER: 8" W. x 8" DP, WHITE, ALUM.  
PROVIDE PRE-FIN. METAL SUPPORT STRAPS 1/4" OC MAX.  
1C) METAL DOWNSPOUT: 6" x 6" WHITE, ALUM.  
PROVIDE PRE-FIN. METAL SUPPORT STRAPS AS REQ'D. 4" OC MAX.
- 2. EXTERIOR FINISHES:  
2A) SMOOTH (SAND FLOAT FINISH) CEMENT PLASTER, PAINTED  
2B) TEXTURED (MEDIUM TEXTURE) CEMENT PLASTER, PAINTED  
2C) CONTROL JOINT, PVC, WHITE  
2D) 2" PVC REVEAL JOINT, FRY-REGLET OR EQUAL WHITE  
2E) STACKED STONE - PRE-FINISHED CONCRETE TO BE SELECTED  
2F) 7" PRE-CAST CONCRETE CAP W/ SLOPED TOP AT STACKED STONE  
2G) 4" CROWN MOLDING - URETHANE W/ PROTECTIVE COATING, PTE
- 3. FLASHING:  
3A) PRE-FIN. ALUM. CAP FLASHING TYP. @ TOP OF CMU WALLS  
3B) PRE-FIN. ALUM. EAVE FLASHING, WHITE
- 4. EXTERIOR OPENINGS:  
4A) ANODIZED ALUM. STOREFRONT DOOR AND FRAME  
4B) ANODIZED ALUM. FIXED STOREFRONT WINDOW  
4C) HOLLOW METAL DOOR AND FRAME, PAINTED  
4D) ALUM. LOUVER ASSEMBLY
- 5. MISCELLANEOUS ACCESSORIES AND EQUIPMENT:  
5A) PVC SQUARE/ROUND TRANSITION AT BASE OF EA. DOWNSPOUT  
TOP OF PVC FLANGE 2" MAX. ABOVE GRADE.  
5B) EXTERIOR LIGHT FIXTURES RECESSED IN SUSPENDED ALUM. STRUCT  
5C) EXTERIOR ALUMINUM CANOPY  
5D) EXTERIOR ALUMINUM RAILINGS AND GUARDS, PRE-FIN. WHITE  
5E) EXTERIOR ALUMINUM RAILING, PRE-FIN. WHITE  
5F) RUBBER DOCK BUMPER

#### EXTERIOR ELEVATIONS

SCALE: 1/8"=1'-0"

CONCEPT PLAN  
NOT FOR CONSTRUCTION

RONALD J. MELVIN ARCHITECT, LLC-AR 12591  
1462 REYNARD DRIVE, FORT MYERS, FL 33919  
(239) 844-5498  
rjmelvinarch@gmail.com



PROJ. NO.: 18-113  
DATE: 8-28-18

C/D: MR. STEVE PERRO  
steve.perro@gmail.com  
(239) 527-9160

PROJECT: CONCRETE STORAGE BUILDING  
1214 LAFAYETTE ST.  
CAPE CORAL, FL 33904

SHEET  
A-15



## Planning Division Case Report

SE18-0016

<b>Review Date:</b>	January 30, 2019
<b>Owner/Applicant:</b>	Steven B. Petro Revocable Trust
<b>Representative:</b>	Veronica Martin, TDM Consulting, Inc.
<b>Request:</b>	A special exception to allow a Business Office, Group III use on a site along a Tertiary Street in the South Cape (SC) Downtown Zoning District.
<b>Location:</b>	1216 Lafayette Street Unit 6 Pt. 3, Block 68, Lots 98-99
<b>Prepared By:</b>	Justin Heller, Senior Planner
<b>Reviewed By:</b>	Mike Struve, AICP, Planning Team Coordinator
<b>Approved By:</b>	Robert Pederson, AICP, Planning Manager
<b>Recommendation:</b>	<b>Approval</b>

### Property Description and Background:

The 6,262 sq. ft. unimproved site has frontage on Lafayette Street that has a Tertiary Street designation. The site also has access from an alley to the rear. The property has South Cape (SC) Downtown Zoning and a Downtown Mixed (DM) Future Land Use (FLU) Classification. All surrounding properties share the same zoning and future land use classification. Other uses in the area include business offices, retail, and restaurants. The nearest residential use is about 200 feet to the south. The applicant is proposing a Business Office, Group III use that allows indoor storage. This area will be used for storing equipment, files, and vehicles.

### Analysis:

The Planning Division reviewed this application based on the Land Use and Development Regulations (LUDR), Section 2.7.15.D.15, and the five standards under LUDR, Section 8.8.5a-e for special exceptions and offers the following analysis for consideration:

- 1) *Generally - The proposal shall comply with all requirements of the zoning districts in which the property is located, this ordinance, and all other applicable law.*

The site has SC Zoning which is consistent with the DM FLU classification. Business Office, Group III Uses are allowed as a special exception in the SC District on sites along Secondary and Tertiary Streets. The site has frontage along Lafayette that is classified as a Tertiary Street. The proposed development will have a FAR of 0.59 which complies with the maximum floor area ratio of 0.75 for the site.

Based on a site plan (SP18-0073) being reviewed by the City, the proposed development complies with the regulations in the SC District, with the exception of parking and dumpster requirements. Deviations have been requested from both provisions, each of which can be approved by the DCD Director.

- 2) *Compatibility: The tract of land must be suitable for the type of special exception use proposed by virtue of its location, shape, topography and the nature of surrounding development.*

The site is in an established commercial area of the South Cape. Surrounding uses include offices, retail stores, and parking lots. The property is suitable for the proposed use. As all storage will be indoors, special screening or buffering around the site will not be necessary. The building should be indistinguishable from many of the commercial buildings in this area. The use will be compatible with the surrounding development.

- 3) *Minimum Lot Frontage; Access: Minimum lot frontage on a street shall be sufficient to permit properly spaced and located access points designed to serve the type of special exception use proposed. Wider spacing between access points and intersecting street right-of-way lines should be required when the lot has more than the minimum required frontage on a street.*

The site has about 50 feet of frontage along Lafayette Street, a Tertiary Street. There is no minimum frontage requirement for the SC District. The parking area will be accessible from the alley to the rear of the building.

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

The building complies with the setbacks established for the SC District.

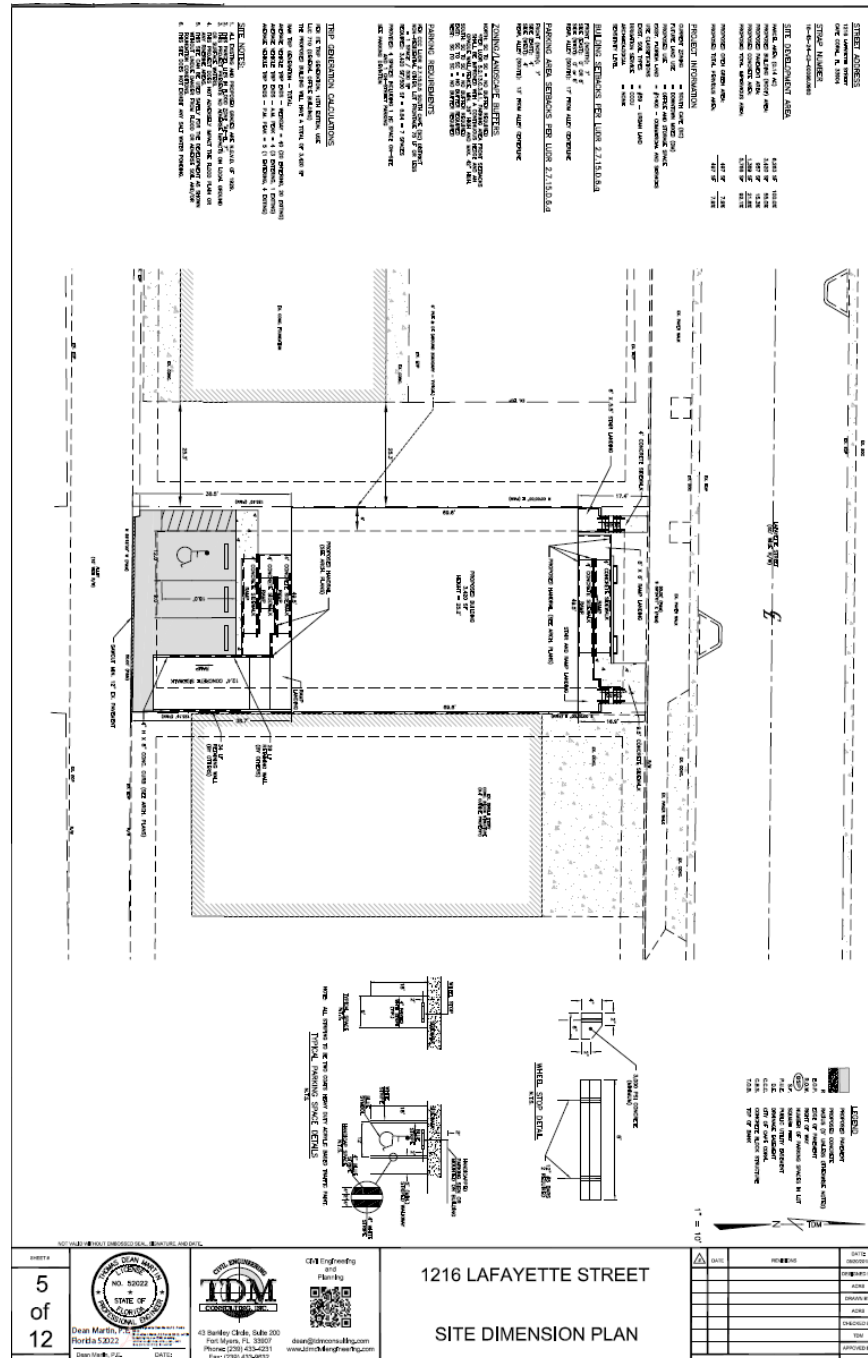
- 5) *Screening and Buffering: A continuous strip of properly maintained landscaped area should be provided along all property lines and along all streets serving the premises. Such continuous strip of properly maintained landscaped area may, however, be allowed to contain walkway(s) and driveway entrances.*

Landscaping is proposed along the North side of the building. Due to the small area of the site, there is little room for additional landscaping or buffering. The landscaping will comply with the minimum requirements for the SC District that will be adequate for this use.

## **Comprehensive Plan**

The project is consistent with the following policies of the Future Land Use Element of the Comprehensive Plan.

*1.15(l): Intensities of use in the Downtown Mixed land use classification shall not exceed a floor to lot area ratio (FAR) of 4.0.* The SC Zoning of the site is consistent with the Downtown Mixed Future Land Use Classification. The site has a FAR ratio of 0.59.





## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** SE18-0016

**REQUEST:** A special exception to allow a Business Office, Group III use on a site along a Tertiary Street in the South Cape (SC) Downtown Zoning District.

**LOCATION:** 1216 Lafayette Street

**CAPE CORAL STAFF CONTACT:** Justin Heller, Senior Planner, 239-574-0587, [jheller@capecoral.net](mailto:jheller@capecoral.net)

**PROPERTY OWNER(S):** Steven B. Petro Revocable Trust

**AUTHORIZED REPRESENTATIVE:** Veronica Martin, TDM Consulting, Inc.

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00am on February 19, 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.

**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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**Local #**  
239-335-0258

**Email**  
FNPLegals@gannett.com

**Customer:** CITY OF CAPE CORAL\_DEPT OF COM

**Ad No.:** 0003380129

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

**Net Amt:** \$

**Run Times:** 1

**No. of Affidavits:**

**Run Dates:** 02/09/19

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** SE18-0016

**REQUEST:** A special exception to allow a Business Office, Group III use on a site along a Tertiary Street in the South Cape (SC) Downtown Zoning District.

**LOCATION:** 1216 Lafayette Street

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

**PROPERTY OWNER(S):**  
Steven B. Petro Revocable Trust

**AUTHORIZED REPRESENTATIVE:**  
Veronica Martin, TDM Consulting, Inc.

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by order of  
Kimberly Bruns, CMC  
Interim City Clerk  
REF # SE18-0016  
AD# 3380129 Feb. 9, 2019



Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Steven Petro

APPLICATION NO: SE18-0016

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 11<sup>th</sup> day of February, 2019.



Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of February, 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

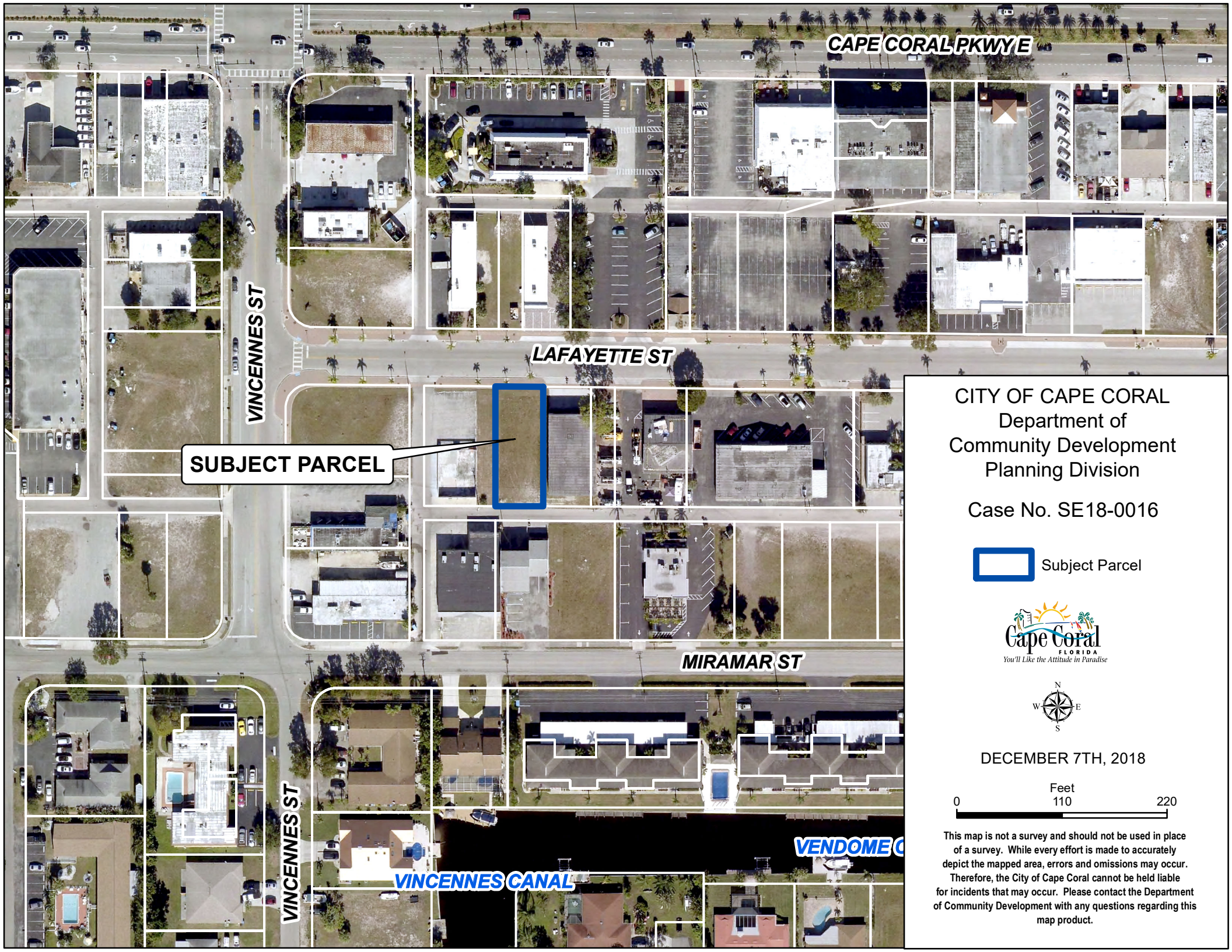


Signature of Notary Public

Elisabeth A. Delgado

Print Name of Notary Public





CAPE CORAL PKWYE

VINCENNES ST

LAFAYETTE ST

SUBJECT PARCEL

MIRAMAR ST


VINCENNES ST

VINCENNES CANAL

VENDOME C

CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. SE18-0016

 Subject Parcel



DECEMBER 7TH, 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.





CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500' Proximity Boundary

Case No. SE18-0016

**LEGEND**

 500' Proximity Boundary

 Subject Parcel

**Zoning**

 R-1B

 R-3

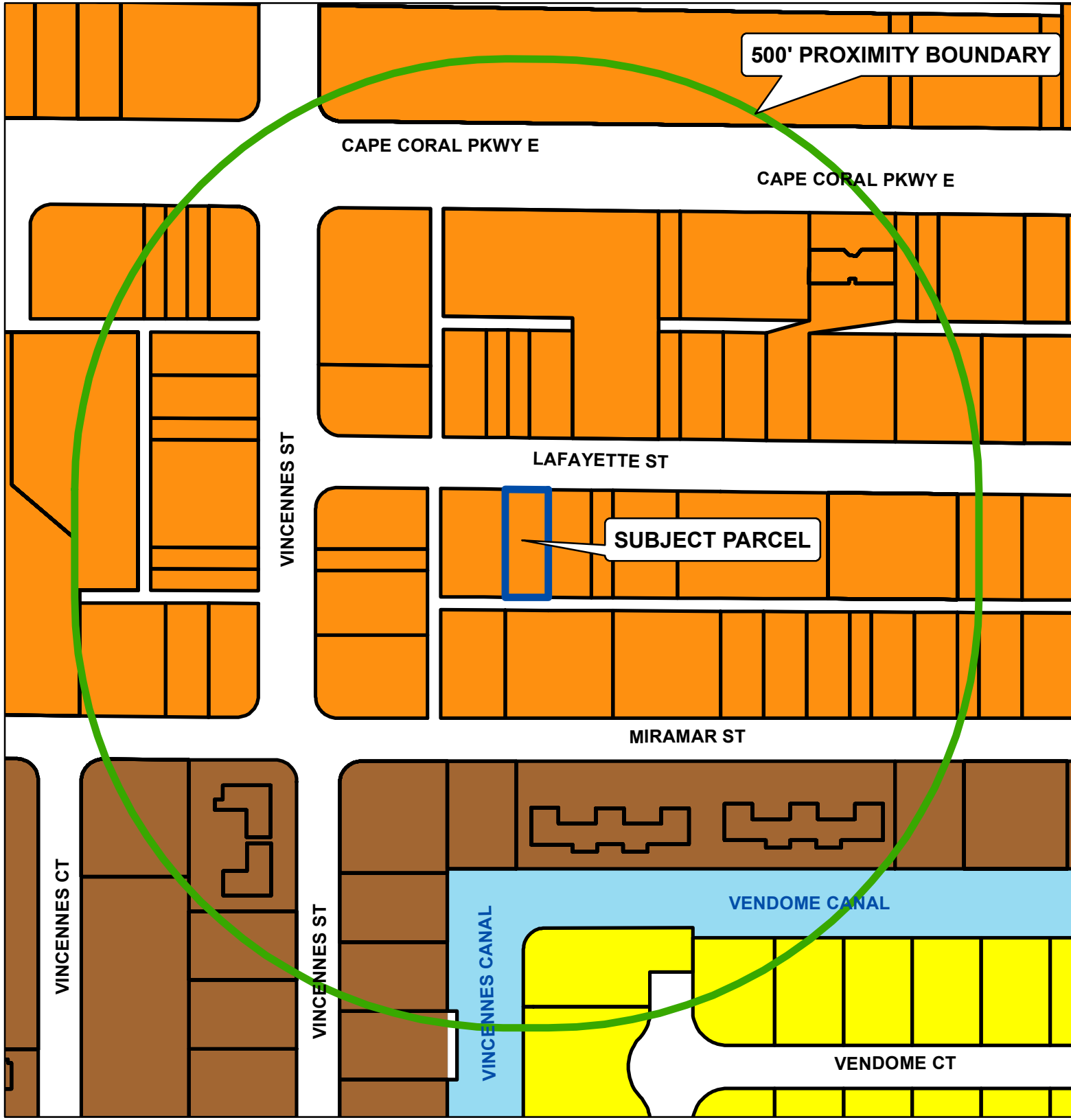
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DECEMBER 7TH, 2018



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



**Item Number:** 2.C.  
**Meeting Date:** 2/19/2019  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # ZA18-0012\*; Address: 805 SE 10th Street, Cape Coral, FL 33990; Applicant: HBLB Properties II, 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:**

Privately-initiated rezone for one 0.23-acre property from Multi-Family Residential District (R-3) to the Professional Office District (P-1).

**LEGAL REVIEW:**

**EXHIBITS:**

See attached "Back up Materials"

**PREPARED BY:**

Kristin  
Kantarze                      Division- Planning                      Department- Community Development

**SOURCE OF ADDITIONAL INFORMATION:**

Wyatt Daltry, AICP, Planning Team Coordinator (239) 573-3160, wdaltry@capecoral.net

**ATTACHMENTS:**

Description	Type
□ Backup Materials	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION

Questions: 239-574-0776

Case # ZA18-0012

2018-11-21 10:12:55

REQUEST FOR A REZONING

FEE \$2,050.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

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

OWNER OF PROPERTY

HBLB Properties II, LLC

Email: bbfinances@aol.com

Address: 375 South End Ave, Apt. 34G

City New York State: NY Zip 10280

Phone: 954-328-6959

AUTHORIZED REPRESENTATIVE

Veronica Martin, TDM Consulting, Inc.

Email: vmartin@tdmconsulting.com

Address: 43 Barkley Circle, Suite 200

City Fort Myers State: FL Zip 33907

Phone: 239-433-4231

Unit 24 Block 774 Lot(s) 29-30 Subdivision \_\_\_\_\_

Address of Property 805 SE 10th Street, Cape Coral, FL 33990

Current Zoning R-3 Plat Book 14, Page 63-77

Proposed Zoning P-1 Strap Number 24-44-23-C2-00774.0290

**THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS**

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

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





DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION  
Questions: 239-574-0776

Case # ZA18-0012

(SIGNATURE MUST BE NOTARIZED)

Ben Berman

NAME (PLEASE TYPE OR PRINT)

[Signature]

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF LEE

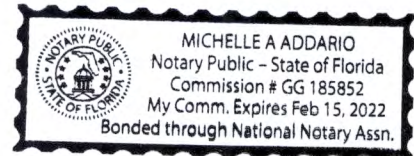
Sworn to (or affirmed) and subscribed before me this 11 day of September, 2018, by Ben Berman who is personally known or produced Fl. Drivers license as identification.

Exp. Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

Signature of Notary Public: [Signature]

Printed name of Notary Public: \_\_\_\_\_

(SIGNATURE MUST BE NOTARIZED)





DEPARTMENT OF COMMUNITY DEVELOPMENT  
REQUEST FOR REZONING APPLICATION  
Questions: 239-574-0776

Case # ZA18-0012

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT

Veronica Martin, TDM Consulting, Inc.  
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE HEARING EXAMINER, OR CITY COUNCIL FOR

Zoning Amendment  
(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT 24 BLOCK 774 LOT(S) 29-30 SUBDIVISION

OR LEGAL DESCRIPTION

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

Ben Berman  
PROPERTY OWNER (Please Print)

Ben Berman  
PROPERTY OWNER (Please Print)

[Signature]  
PROPERTY OWNER (Signature & Title)

[Signature]  
PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF LEE

Subscribed and sworn to (or affirmed) before me this 11 day of September, 2018, by

Ben Berman who is personally known or produced  
as identification.

FL Drivers License

Exp. Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

Signature of Notary Public:

[Signature]

Printed name of Notary Public:



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





DEPARTMENT OF COMMUNITY DEVELOPMENT

REQUEST FOR REZONING APPLICATION

Questions: 239-574-0776

Case # ZA18-0012

ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

I hereby acknowledge that I have read and understood the above affidavit on the 11 day of September, 20 18

Ben Berman

[Signature]

NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF FL COUNTY OF

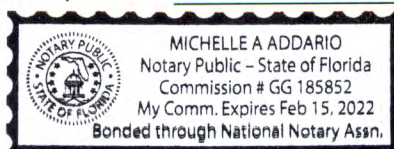
LEE

Subscribed and sworn to (or affirmed) before me this 11 day September, 20 18, by Ben Berman who is personally known or FL Drivers License as identification.

Exp. Date: \_\_\_\_\_ Commission Number: \_\_\_\_\_

Signature of Notary Public: [Signature]

Printed name of Notary Public: \_\_\_\_\_







**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.

Ben Berman

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

[Signature]

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF LEE

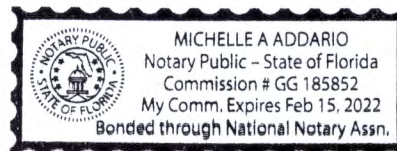
Sworn to (or affirmed) and subscribed before me on this 11 day of September, 2018  
by Ben Berman, who is personally known or who has produced FL Drivers License as identification.

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

[Signature]

Signature of Notary Public

Print Name of Notary Public





**43 Barkley Circle, Suite 200  
Fort Myers, FL 33907  
Phone 239-433-4231 Fax 239-433-9632  
www.tdmcivilengineering.com  
Certificate of Authorization # 29086**

October 17, 2018

Development Services Manager  
Development Services Group  
City of Cape Coral  
1015 Cultural Park Boulevard  
Cape Coral, FL 33990

Project Name: 805 SE 10<sup>th</sup> Street Rezoning

STRAP #: 24-44-23-C2-00774.0290

**SUBJECT: Letter of Intent for a Zoning Amendment**

Dear Development Services Manager,

The applicant, Mr. Ben Berman, Managing Member of HBLB Properties II, LLC, owns four contiguous properties on SE 10<sup>th</sup> Street (805, 809, 813, and 817 SE 10<sup>th</sup> Street). Three of those properties are zoned Professional Office District (P-1) and one is zoned Multi-Family (R-3). The applicant is requesting to rezone the R-3 property to P-1 in order to develop all four properties for commercial use as permitted in the P-1 zoning district.

The property is located on the north side of SE 10<sup>th</sup> Street, east of Cultural Park Boulevard and west of Country Club Boulevard. Cape Coral City Hall and the Post Office are located south of the property with a duplex to the west, vacant P-1 zoned lots to the east, and the Montevideo Canal and Viscaya Industrial Park to the north. The properties to the south are zoned Professional Office District (P-1) and Pedestrian Commercial (C-1), the properties to the west and northwest are zoned Multi-Family (R-3), the properties to the east are zoned Professional Office (P-1), and the properties to the northeast across the canal are zoned Light Industrial (I-1).

The Future Land Use classification of the subject property is Mixed-Use (MX). The properties to the east have a Future Land Use classification of Commercial/Professional (CP), the properties to the south have a Future Land Use classification of Public Facilities (PF), the properties to the west have a Future Land use classification of Mixed-Use (MX), and the properties to the north have a Future Land Use classification of Industrial (I). Please see the attached exhibits, including an Area Location Map, Zoning Map, and Future Land Use Map.

Land Use and Development Regulations

Per LUDR §2.1.3 and §2.7.9.A, the Professional Office District (P-1) is *“designed to encourage the compatible development of major professional and related office complexes in areas which*



*are suitable for such activities*". The permitted uses include Business Offices, Contractors and Builders, Government Uses, Health Care Facilities, Medical Office, Multi-Family Dwellings, Place of Worship, and Social Services, among other uses. A total of 21 uses are permitted by right with another 18 permitted by Special Exception.

Permitting the property owner to rezone the single lot at 805 SE 10<sup>th</sup> Street to P-1, the same as his other three properties, will create a block of land suitable for professional office development. SE 10<sup>th</sup> Street is a local street that connects two arterial streets, Cultural Park Boulevard and Country Club Boulevard. Professional Office development is compatible with the surrounding uses, including City Hall, the Post Office, Public Works and the Viscaya Industrial Park and will not have any adverse impacts to the multi-family development to the west.

### Comprehensive Plan

The Future Land Use classification of the property is Mixed-Use (MX). **Policy 1.15(f)** states that *"the Mixed-Use designation is intended to encourage the development of planned projects that include more than one type of use"*. For properties less than one (1) acre in size, like the subject property, *"the designation of smaller properties as Mixed Use is desired to encourage the accumulation of land into large properties. However, in some cases assemblage is difficult due to existing development. In these situations, a property with a Mixed Use future land use classification may be developed with one use, which is also consistent with its underlying zoning district"*.

The property is located at 805 SE 10<sup>th</sup> Street, a local street that connects two arterial streets, Cultural Park Boulevard and Country Club Boulevard. It has a Future Land Use classification of Mixed-Use (MX) and is surrounded by a mix of uses, including City Hall, the Post Office, Public Works, the Viscaya Industrial Park, multi-family use. This area of Cape Coral is a "commercial node" as outlined in **Policy 1.13**.

As previously indicated, the applicant owns the three (3) adjacent parcels to the east. They have a zoning designation of Professional Office (P-1) and a Future Land Use classification of Commercial/Professional (CP). If the zoning amendment is approved for 805 SE 10<sup>th</sup> Street, the property owner intends to develop all four lots for professional office use. Combined, the four lots total 0.98 acres. This is consistent with **Policy 1.14**, the City of Cape Coral's commercial siting guidelines.

The zoning amendment complies with the ten (10) general standards set forth in LUDR Section 8.7.3.B.

1. *The extent to which the value of the property is diminished by the proposed land use restriction or zoning of the property.*

Rezoning the property from R-3 to P-1 in order to create a larger parcel for commercial development will increase the value of the property. The property, as zoned, is a little over a quarter acre in size (12,750 square feet), which is not large enough to create a viable multi-family development. The uses permitted in the P-1 zoning district allows a wider range of development options for the applicant.

2. *The extent to which the removal of a proposed land use restriction or change in zoning depreciates the value of other property in the area.*



Rezoning the property from R-3 to P-1 will not diminish the value of the surrounding properties. The surrounding properties have a zoning designation of Professional Office (P-1), Multi-Family (R-3), and Industrial (I-1) and a Future Land Use classification of Commercial/Professional (CP), Public Facilities (PF), Mixed-Use (MX), and Industrial (I). The multi-family properties to the west should not be adversely affected because they are already in close proximity to similar zoning designations and professional office uses.

3. *The suitability of the property for the zoning purpose or land use restriction imposed on the property as zoned.*

The P-1 zoning district is consistent with the Mixed Use (MX) Future Land Use classification. The site is adjacent to other properties with P-1 zoning designations. The single parcel is relatively small, but combined with the three (3) adjacent properties to the east (all under single ownership) that are already zoned P-1, a larger parcel can be created that's suitable for commercial development.

4. *The character of the neighborhood, existing uses zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning.*

The neighborhood has a mix of uses, including professional office, multi-family residential, commercial, and industrial. Nearby properties include City Hall, the Cape Coral Post Office, Cape Coral Public Works, and the Viscaya Industrial Park. There is a single non-conforming single-family property to the east along SE 10<sup>th</sup> Place. Properties to the west and northwest are zoned R-3 (multi-family), properties to the northeast are zoned I-1 (industrial), properties to the east and southwest are zoned P-1 (professional office), and properties to the southeast are zoned C-1 (pedestrian commercial).

Architectural standards and landscape buffers for the P-1 zoned property will help with compatibility with the existing community.

5. *The relative gain to the community as compared to the hardship, if any imposed, by the land use restrictions or from rezoning said property.*

The rezoning will not impose any hardship on the community. When joined with the three (3) adjacent parcels under common ownership, a larger commercial office development is possible, which creates jobs and increases the tax base.

6. *The community need for the use proposed by the zoning or land use restriction.*

The Future Land Use element of the Comprehensive Plan has identified a need for increasing commercial land within Cape Coral. The location, between 2 arterial streets and near the Cape Coral Post Office and City Hall is an ideal location for additional professional office/commercial development.

7. *Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land use Plan for the development of the proposed property and surrounding property.*

The property was rezoned to R-3 via Ordinance 61-03. Per the aerial photographs on the Lee County Property Appraiser's website, the property has been vacant since 1998.

8. *The extent to which the proposed land use restriction or zoning promotes the health, safety, morals, or general welfare of this community.*

The proposed rezoning will not negatively affect the health, safety, or welfare of the community because other properties with P-1 zoning, and more intensive zoning including C-1 and I-1 are located in close proximity to the site.

9. *The extent to which the proposed land use, land use restriction, or zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan.*

The level of service standards for utilities, roads, and public services are anticipated to be unaffected by the rezoning. Potable water, sanitary sewer and irrigation services are currently available to serve the site.

10. *Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.*

The proposed zoning amendment is consistent with the following Comprehensive Plan policy:

Policy 1.15(f) of the Future Land Use Element. The proposed P-1 zoning is consistent with the Mixed-Use (MX) Future Land Use classification.

Policy 1.13 of the Future Land Use Element. The P-1 zoning is consistent with the City's commercial site guidelines and commercial nodes.

Policy 1.14 of the Future Land Use Element. The proposed P-1 zoning is consistent with the City's commercial siting guidelines regarding compactness, integration, and assembly.

The Applicant believes he is entitled to approval of the zoning amendment request; that rezoning the R-3 property to P-1 is appropriate at the location, the P-1 zoning district is compatible with existing and future uses, and will not be injurious to the adjacent property owners or general public.

Sincerely,

**TDM CONSULTING, INC.**



Veronica Martin  
Senior Planner



**Electronic Articles of Organization  
For  
Florida Limited Liability Company**

L05000092535  
FILED 8:00 AM  
September 20, 2005  
Sec. Of State  
alunt

**Article I**

The name of the Limited Liability Company is:

HBLB PROPERTIES II, LLC

**Article II**

The street address of the principal office of the Limited Liability Company is:

6800 MALONEY AVENUE  
SUITE 55  
KEY WEST, FL. 33040

The mailing address of the Limited Liability Company is:

P.O BOX 100790  
CAPE CORAL, FL. 33910

**Article III**

The purpose for which this Limited Liability Company is organized is:

ANY AND ALL LAWFUL BUSINESS.

**Article IV**

The name and Florida street address of the registered agent is:

BEN BERMAN  
6800 MALONEY AVENUE  
SUITE 55  
KEY WEST, FL. 33040

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: BEN BERMAN



### **Article V**

The name and address of managing members/managers are:

Title: MGRM  
BEN BERMAN  
6800 MALONEY AVENUE, UNIT 55  
KEY WEST, FL. 33040

L05000092535  
FILED 8:00 AM  
September 20, 2005  
Sec. Of State  
alunt

### **Article VI**

The effective date for this Limited Liability Company shall be:

09/20/2005

Signature of member or an authorized representative of a member

Signature: BEN BERMAN

Prepared by and return to:  
David M. Brown, an employee of  
Warranty Title Solutions, LLC,  
as a necessary incident to the fulfillment of conditions  
contained in a title insurance commitment issued by it,  
with an office address of:  
7290 College Parkway, Suite 425  
Fort Myers, Florida 33907  
239-936-0359 - Phone  
239-936-0379 - Fax

### QUITCLAIM DEED

This Quitclaim Deed made this 21<sup>st</sup> day of September, 2005, by and between **Ben Berman, an unmarried man**, hereinafter called the Grantor; and **HBLB Properties II, LLC, a Florida limited liability company**, hereinafter called the Grantee, whose mailing address is P.O. Box 100790, Cape Coral, FL 33910.

WITNESSETH, that the Grantor, for and in consideration of the sum of \$10.00 and other valuable consideration, the receipt whereof is hereby acknowledged, hereby releases, remises, and quitclaims unto the Grantee, and Grantee's successors, heirs, and assigns forever, all the right, title, and interest of the Grantor in and to that certain parcel of land in the County of Lee, State of Florida, to wit:

Lots 29 and 30, Block 774, Unit 24, CAPE CORAL, according to the plat thereof as recorded in Plat Book 14, Pages 63 - 77, Public Records of Lee County, Florida.

PARCEL I.D.: 24-44-23-C2-00774.0290

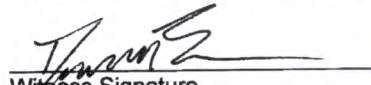
PROPERTY ADDRESS: 805 SE 10 STREET

TOGETHER with all of the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

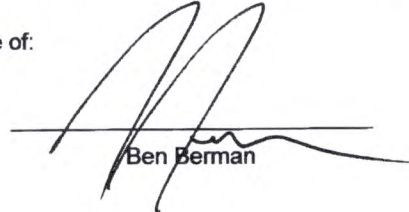
IN WITNESS WHEREOF, the Grantor has signed and sealed these presents the day and year first above written.

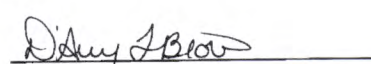
Signed, sealed and delivered in the presence of:

  
Witness Signature

**David M. Brown**

Printed Name

  
Ben Berman

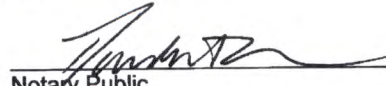
  
Witness Signature

Printed Name **D'Arcy L. Brown**

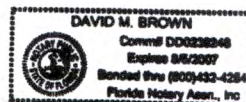
STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of September, 2005 by Ben Berman, who is personally known to me or who has produced \_\_\_ Drivers License as identification.

  
Notary Public

Printed Name



## Detail by Entity Name

Florida Limited Liability Company  
HBLB PROPERTIES II, LLC

### Filing Information

**Document Number** L05000092535  
**FEI/EIN Number** 20-3506670  
**Date Filed** 09/20/2005  
**Effective Date** 09/20/2005  
**State** FL  
**Status** ACTIVE

### Principal Address

6800 MALONEY AVENUE  
SUITE 55  
KEY WEST, FL 33040

### Mailing Address

375 SOUTH END AVE.  
34-G  
NEW YORK, NY 10280

Changed: 01/16/2011

### Registered Agent Name & Address

BERMAN, BEN  
6800 MALONEY AVENUE  
SUITE 55  
KEY WEST, FL 33040

### Authorized Person(s) Detail

#### **Name & Address**

Title MGRM

BERMAN, BEN  
6800 MALONEY AVENUE, UNIT 55  
KEY WEST, FL 33040

### Annual Reports

Report Year	Filed Date
2016	02/21/2016
2017	01/15/2017
2018	01/21/2018

### Document Images

<a href="#">01/21/2018 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/15/2017 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/21/2016 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/22/2015 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/08/2014 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">01/13/2013 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>



805 SE 10<sup>th</sup> Street Rezoning  
Area Location Map





# 805 SE 10<sup>th</sup> Street Rezoning Zoning Map





# 805 SE 10<sup>th</sup> Street Rezoning Future Land Use Map





---

**STAFF REPORT**

ZA18-0012

HBLB Properties II, LLC

DOCKET/CASE/APPLICATION NUMBER

APPLICANT/PROPERTY OWNER

Wyatt Daltry, AICP, Planning Team

Coordinator (239) 573-3160,

wdaltry@capecoral.net

805 SE 10<sup>th</sup> Street

Cape Coral, FL 33990

STAFF PLANNER

PROPERTY ADDRESS/LOCATION

---

**SUMMARY OF REQUEST**

Privately-initiated rezone for one 0.23-acre property from Multi-Family Residential District (R-3) to the Professional Office District (P-1).



---

**STAFF RECOMMENDATION:****APPROVAL**

<b>Positive Aspects of Application:</b>	<ul style="list-style-type: none"><li>• Request conforms with Commercial/Professional Future Land Use</li><li>• Offices are likely better use across the canal from industrial-zoned properties than multi-family residential</li></ul>
<b>Negative Aspects of Application:</b>	<ul style="list-style-type: none"><li>• None.</li></ul>
<b>Mitigating Factors:</b>	<ul style="list-style-type: none"><li>• Property to be used as office</li></ul>

Additional Applicant Information

**Applicant's Representative:** Veronica Martin, Senior Planner  
TDM Consulting, Inc.  
43 Barkley Circle, Suite 200  
Fort Myers, FL 33907  
239-433-4231

Additional Site Information

**Urban Service Area:** Infill

**City Water and Sewer:** The area is serviced by City water and sewer.

**Street Access:** The site is accessible from SE 10th Street, a local street.

**STRAP Number:** 24-44-23-C2-00774.0290

**Block/Lot(s):** Block 774, Lots 29 and 30

**Subdivision:** Cape Coral Subdivision, Unit 24

Zoning and Land Use Information:

<b>Subject Property:</b>	<b>Future Land Use</b>	<b>Zoning</b>
<i>Current:</i>	Mixed Use (MX)	Multi-Family Residential (R-3)
<i>Proposed:</i>	N/A	Professional Office (P-1)

<b>Surrounding Areas</b>	<b>Future Land Use</b>	<b>Zoning</b>
<i>North:</i>	Industrial (I) and MX	Light Industrial (I-1) and R-3
<i>South:</i>	Public Facilities (PF)	Pedestrian Commercial (C-1) and P-1
<i>East:</i>	Commercial/Professional (CP)	P-1
<i>West:</i>	MX	R-3

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## Background

The area surrounding the site consists of a mixture of industrial, public institutional uses, and multi-family developments. The industrial area to the north began developing in the early 1980's, the public institutional uses in the 1990's (culminating in the construction of City Hall in 2001), while the multi-family uses to the west were constructed in 1985 and 2003.

The property owner owns 3 additional properties to the east, which have a Commercial/Professional future land use and Professional Office zoning district. The subject site, conversely, has a Mixed-Use future land use and a Multi-Family Residential zoning designation. A rezone to Professional Office will be necessary to develop the entire 4-parcel site for provisional office uses.

## Comprehensive Plan Analysis

Staff analyzed the Comprehensive Plan to determine what policies apply to the proposed rezone.

P-1 zoning is consistent with the MX future land use map classification. The rezone is consistent with Objective 2 and Policy 3.4 of the Future Land Use Element.

**OBJECTIVE 2:** Location of New Commercial Development: New commercial development shall be so located to provide minimal vehicle trip lengths, at or near transportation nodes, and compatible with neighboring residential uses.

*If developed, this site would be in close proximity to an established professional employment center which is anchored by government uses, while providing a relatively low-energy professional use adjacent to existing multi-family development. The restricted hours and low traffic generation associated with professional uses make office uses compatible with residential uses, and as such, this proposed rezone is consistent with this Objective of the Comprehensive Plan.*

...

**Policy 3.4:** The City shall initiate and/or **consider** (emphasis added) privately initiated future land use map amendments necessary to provide an adequate supply of lands designated for retail, office, and services uses in quantities and locations appropriate for such uses, generally consistent with the findings of the Commercial Corridor Study (City of Cape Coral, 2003), or other subsequent analysis.

*The City is considering this privately-initiated future land use map amendment and agree with the applicant that this will support the City's efforts to provide an adequate supply of land designated retail, office, and service uses. This proposed rezone is consistent with this policy of the Comprehensive Plan.*

Overall, the rezone is consistent with the policies of the Comprehensive Plan.

## Land Use and Development Regulations -- Section 8.7 Amendments:

Staff reviewed this request in accordance with Section 8.7 Amendments, .3 Consistency with Comprehensive Plan and General Standards, B. 1.-10. of the Land Use and Development Regulations and provides the following analysis. This

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section is used for future land use map amendments, comprehensive plan amendments, and for rezone requests.

1. The extent to which the value of the property is diminished by the proposed land use restriction or zoning of the property.

A rezone from R-3 to P-1 **would not** diminish the land value because this property is currently vacant, has incompatible land use and zoning, and is used unlawfully by vehicles utilizing the alley to the east. The P-1 zoning district permits the development of the site, which would increase its value, in combination with other adjacent properties owned by the applicant.

2. The extent to which the removal of a proposed land use restriction or change depreciates the value of other properties in the area.

The proposal is **not anticipated** to depreciate the value of other properties in the area. Nearby commercial uses have been in operation for decades, and the proposed usage of the site is that of an office.

3. The suitability of the property for the zoning purpose or land use restriction imposed on the property as zoned.

The proposed zoning district will be consistent with the land use classification of the Mixed-use Future Land Use Map Classification. The site is small, at 0.23 acres, but is adjacent to existing professionally-zoned properties, which are owned by the applicant. Therefore, the request is **suitable**.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed land use restriction or zoning.

The surrounding area has a commercial character to the east. Public institutional uses, such as City Hall and the main post office in Cape Coral, are to the south. Industrial uses are located to the north, across a canal. Multi-Family residential uses are present to the west. The proposed rezone is **compatible** with some of the surrounding area.

5. The relative gain to the community as compared to the hardship, if any imposed, by the proposed land use restrictions or from rezoning said property.

The effect of this rezoning is to slightly increase the City's office stock in an area consisting mostly of non-residential uses. As a result, this proposed rezone is **likely positive** to the community.

6. The community need for the use proposed by the zoning or land use restriction.

Continuing to provide consistency between the future land use and the zoning is valuable to the community. The rezone has value in that professional uses on SE 10<sup>th</sup> Street provide needed office uses while buffering properties to the south from the industrial uses located north of the canal. Furthermore, this represents a small assemblage of land for professional office uses. The proposed rezone has a **positive** effect on the needs of the community.

7. Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property.
-

The property is undeveloped.

8. The extent to which the proposed land use restriction or zoning promotes the health, safety, morals, or general welfare of this community.

Approval of this rezone should have a **negligible effect** upon the health, general welfare, safety, or morals of the community due to the lack of effect upon the primary use on-site. Providing a zoning designation that is consistent with the future land use map classification should have a **positive effect** on the general welfare for the community.

9. The extent to which the proposed land use, land use restriction, or zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan.

Impacts on infrastructure for development on this site will be **negligible** as facility capacity exists for the transportation and utility infrastructure network.

10. Whether the proposed land use restriction, removal of a restriction, or zoning is consistent with the City of Cape Coral Comprehensive Land Use Plan.

The proposed P-1 zoning designation is **consistent** with the MX future land use classification.

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## Public Notification

This case will be publicly noticed as required by LUDR, Section 8.3.2.A as further described below.

Publication: A legal ad will be prepared and sent to the *News-Press* announcing the intent of the petitioners to rezone the property described within this report. The ad will appear in the *News-Press* a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner. Following the public hearing before the Hearing Examiner, the ad announcing the final public hearing before the City Council will appear once in the *News-Press*. The ad will appear in the newspaper not less than 10 days prior to the date of the final public hearing before the City Council.

Written notice: Property owners located within 500 feet from the property line of the land which the petitioners request to rezone will receive written notification of the scheduled public hearings. These letters will be mailed to the aforementioned parties a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner.

Posting of a Sign: A large sign identifying the case and providing salient information will be posted on the property, as another means of providing notice of the rezoning request.

## Recommendation:

Planning staff has reviewed this request in accordance with Section 8.7 Amendments, .3 Consistency with the Comprehensive Plan and General Standards A., B. 1.-10 of the Land Use and Development Regulations and the City's Comprehensive Plan. Planning Division recommends **approval** of the rezone request.

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**Staff Contact Information:**

Wyatt Daltry, AICP  
Planning Team Coordinator  
Department of Community Development  
Planning Division  
(239) 573-3160  
email: [wdaltry@capecoral.net](mailto:wdaltry@capecoral.net)

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## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** ZA18-0012

**REQUEST:** Privately-initiated rezone for one 0.23-acre property from Multi-Family Residential District (R-3) to the Professional Office District (P-1).

**LOCATION:** 805 SE 10<sup>th</sup> Street, Cape Coral, FL 33990

**CAPE CORAL STAFF CONTACT:** Wyatt Daltrey, AICP, Planning Team Coordinator (239) 573-3160, [wdaltrey@capecoral.net](mailto:wdaltrey@capecoral.net)

**PROPERTY OWNER(S):** HBLB Properties II, LLC

**AUTHORIZED REPRESENTATIVE:** Veronica Martin, TDM Consulting Inc.

**UPCOMING PUBLIC HEARING:** Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 A.M. on Tuesday, February 19, 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.



# The News-Press media group

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**Local #**  
239-335-0258

**Email**  
FNPLegals@gannett.com

**Customer:** CITY OF CAPE CORAL\_DEPT OF COM

**Ad No.:** 0003380113

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

**Net Amt:** \$

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 02/09/19

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** ZA18-0012

**REQUEST:** Privately-initiated rezone for one 0.23-acre property from Multi-Family Residential District (R-3) to the Professional Office District (P-1).

**LOCATION:** 805 SE 10th Street, Cape Coral, FL 33990

**CAPE CORAL STAFF CONTACT:** Wyatt Daltry, AICP, Planning Team Coordinator (239) 573-3160, wdaltry@capecoral.net

**PROPERTY OWNER(S):**  
HBLB Properties II, LLC

**AUTHORIZED REPRESENTATIVE:**  
Veronica Martin, TDM Consulting Inc.

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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.

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by order of  
Kimberly Bruns, CMC  
Interim City Clerk  
REF # ZA18-0012  
AD# 3380113 Feb. 9, 2019

Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: HBLB Properties

APPLICATION NO: ZA18-0012

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 11<sup>th</sup> day of February, 2019.



Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

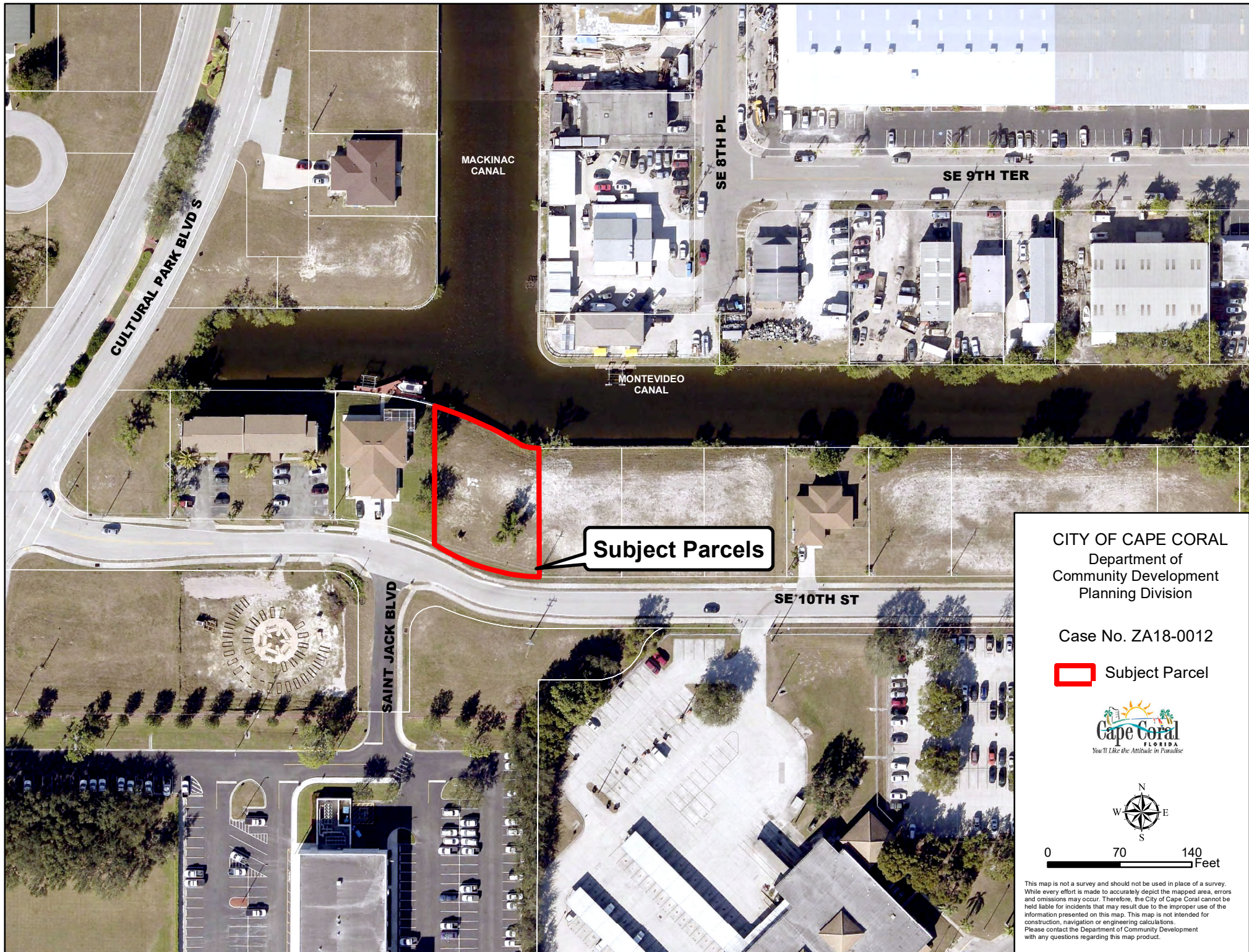
The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of February, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474

  
Signature of Notary Public


Elisabeth A. Delgado  
Print Name of Notary Public





CITY OF CAPE CORAL  
Department of  
Community Development  
Planning Division

Case No. ZA18-0012

 Subject Parcel



0 70 140  
Feet

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 result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.









# CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500 Proximity Boundary

Case No. ZA18-0012

## LEGEND

-  Subject Parcel
-  Boundary
-  C-1
-  I-1
-  P-1
-  R-3



JANUARY 28, 2019

0 70 140 210 280 Feet

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 result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA

SE 9TH ST

SE 8TH PL

SE 9TH TER

MACKINAC  
CANAL

MONTEVIDEO  
CANAL

SE 10TH ST

SE 9TH AVE

SE 9TH  
TER

CULTURAL PARK BLVD S

SUBJECT PARCELS






# CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

## PROPOSED ZONING MAP 500 Proximity Boundary

Case No. ZA18-0012

### LEGEND

-  Subject Parcel
-  C-1
-  I-1
-  P-1
-  R-3



JANUARY 29, 2019

0 20 40 60 80 Feet

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 result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA

MACKINAC  
CANAL

MONTEVIDEO  
CANAL

SUBJECT PARCELS

SE 10TH ST

SAINT JACK BLVD

**Item Number:** 2.D.  
**Meeting Date:** 2/19/2019  
**Item Type:** HEARINGS

**AGENDA REQUEST FORM**  
CITY OF CAPE CORAL



**TITLE:**

Case # SE19-0001\*; Address: 2307 Bolado Parkway; Applicant: Rodgers Real Estate, Inc.

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

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

**Planning & Zoning Recommendations:**

**SUMMARY EXPLANATION AND BACKGROUND:**

Open Path Retreat Center, Inc. requests a special exception for a Religious Facility Use in the Multi-Family Residential (R-3) District at 2307 Bolado Parkway.

**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
☐ Case # SE19-0001	Backup Material





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

Case # SE19-0001

REQUEST FOR A SPECIAL EXCEPTION USE

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

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

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

OWNER OF PROPERTY  
Rodgers Real Estate, Inc

Email: crodders@capecoralfamilylaw.com

Address: 2307 Bolado Parkway  
City: Cape Coral State FL Zip 33990  
Phone: \_\_\_\_\_

APPLICANT (if different from Owner)  
Open Path Retreat Center

Email: revgauvreau@protonmail.com

Address: 8359 Beacon Blvd  
City: Ft Myers State FL Zip 33907  
Phone: \_\_\_\_\_

AUTHORIZED REPRESENTATIVE  
Reverend Emile Gauvreau

Email: revgauvreau@protonmail.com

Address: 750 N. Tamiami Tr #1611  
City: Sarasota State FL Zip 34236  
Phone: \_\_\_\_\_

Unit 18 Block 1365 Lot(s) \_\_\_\_\_ Subdivision \_\_\_\_\_  
Address of Property 2307 Bolado Parkway Cape Coral, FL 33990  
Plat Book 13 Page 96-120  
Current Zoning R3 Strap Number 17-44-24-C3-01365.0030

**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.

Emile Gauvreau  
NAME (PLEASE TYPE OR PRINT)

Open Path Retreat Center  
CORPORATION/COMPANY NAME  
[Signature]  
APPLICANT'S SIGNATURE



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

Case # SE19-0001

(SIGNATURE MUST BE NOTARIZED)

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

STATE OF FL, COUNTY OF Sarasota

Sworn to (or affirmed) and subscribed before me this 7 day of Jan, 2019, by  
Reverend Emile Gaurreau who is personally known or produced  
as identification.

Exp. Date: 2/25/22 Commission Number: GG181752



COURTNEY SILVERSTINE  
Commission # GG 181752  
Expires February 25, 2022  
Bonded Third Budget Notary Services

Signature of Notary Public:  
Printed name of Notary Public:

Cistine  
Courtney Silverstine





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

Case # SE19-0001

#### ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

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

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

7 day of

JANUARY, 20 19

Emile Gauvreau

PRINT APPLICANT'S NAME

APPLICANT'S SIGNATURE

STATE OF FL, COUNTY OF

Sarasota

Subscribed and sworn to (or affirmed) before me this 7<sup>th</sup> day of Jan, 2019 by Emile Gauvreau who is personally known or produced as identification.



COURTNEY SILVERSTINE  
Commission # GG 181752  
Expires February 25, 2022  
Bonded Title Budget Notary Services

Exp. Date: 2/25/22 Commission Number: GG 181752

Signature of Notary Public:

C. Silverstine

Printed name of Notary Public:

Courtney Silverstine





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

Case # SE19-0001

AUTHORIZATION TO REPRESENT PROPERTY OWNER(S)

PLEASE BE ADVISED THAT

Emile Gauvreau

For Applicant

(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE REQUEST TO THE HEARING EXAMINER, OR CITY COUNCIL FOR  
Special Exception

(Type of Public Hearing – i.e., PDP, Zoning, Special Exception, Variance, etc.)

UNIT

BLOCK

LOT(S)

SUBDIVISION

OR LEGAL DESCRIPTION

The West 315.0 feet of the South 276.77 feet (measured perpendicularly to property lines).  
Block 1365, Cape Coral Unit 18, in Section 17, Township 44 South, Range 24 East, as  
recorded in Plat Book 13, Pages 96-120, of the Public Records of Lee County, Florida

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

Open Path Retreat Center

Emile Gauvreau

PROPERTY OWNER (Please Print) APPLICANT

PROPERTY OWNER (Please Print) APPLICANT

PROPERTY OWNER (Signature & Title)

PROPERTY OWNER (Signature & Title)

STATE OF FL, COUNTY OF

Sarasota

Subscribed and sworn to (or affirmed) before me this 7th day of Jan., 2019 by  
Emile Gauvreau who is personally known or produced  
as identification.

Exp. Date: 2/25/22 Commission Number: GG181752

Signature of Notary Public:

Printed name of Notary Public:

Courtney Silverstine

Courtney Silverstine



COURTNEY SILVERSTINE  
Commission # GG 181752  
Expires February 25, 2022  
Bonded Three Percent Notary Seal

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



DEPARTMENT OF COMMUNITY DEVELOPMENT

SPECIAL EXCEPTION APPLICATION

Questions: 239-574-0776

Case # SE19-0001

**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.

Open Path Retreat Center Emile Gauvreau

OWNER/APPLICANT (PLEASE TYPE OR PRINT)

OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL COUNTY OF Sarasota

Sworn to (or affirmed) and subscribed before me on this 7 day of Jan.  
20 19 by Emile Gauvreau, who is personally known or who has produced \_\_\_\_\_  
as identification.

Exp. Date 2/25/22  
Commission # GG181752

Signature of Notary Public

Courtney Silverstine  
Print Name of Notary Public



COURTNEY SILVERSTINE  
Commission # GG 181752  
Expires February 25, 2022  
Bonded Through Budget Notary Services



OPEN PATH RETREAT CENTER  
SPECIAL EXCEPTION ZONING  
NARRATIVE

Proposed address: 2307 Bolado Parkway Cape Coral, Florida 33990

Proposed use: Religious facility/retreat center

Current use: Medical office

Building size: 5,326 square feet

Lot size: 2 +/- acres

### **History**

Open Path Retreat Center ("Open Path") first opened the doors of its first home 35 years ago on McGregor Ave in Fort Myers as the Mother of God House of Prayer ("MOGHOP"). The business of MOGHOP was conducted under the auspices of the Catholic Archdiocese in Venice, Florida under the name House of Prayer Retreat Center ("HOP"). Eight years ago the Board of Directors of HOP recognized the need for all people of faith to have a place to study and reflect individually and in small groups and made the decision to make its facilities and programs open to people of all faiths. The recent change of name to Open Path Retreat Center is reflective of the Board's intention to serve individuals and groups from all religious/spiritual paths.

The first home of Open Path was a single family home on McGregor which became a popular destination for individuals to spend a day or several days in quiet reflection. It became clear that larger facilities were required and thus, the relocation to Alva where there were several structures and 11 acres of land. This new home served many individuals and small groups for over 30 years. Again, individuals and small groups took advantage of the facilities for the purposes of days of spiritual reflection as well as for organizational strategy sessions for small churches and other organizations.

In 2017 the Board of Directors of Open Path determined that a site located closer to the population centers of Lee County would allow them to serve more spiritually minded individuals and groups. Thus, the property in Alva was sold and the search began for a new home for Open Path.

### **The Proposed New Home**

In November 2018 the property at 2307 Bolado Parkway in Cape Coral was identified as an ideal possibility to the new home of Open Path Retreat Center.



The structure itself is currently being used as a medical office with a large reception area, two large offices, 12 examination rooms, a center core space that currently houses restrooms and the central file and nursing areas as well as 57 paved parking spaces. If the Special Exception application is approved Open Path would remodel the interior core of the structure to create additional restrooms as well as shower facilities and one or two sitting areas. The examination rooms would be converted into small bedrooms for use by individuals and groups on an overnight basis. There would be no changes made to the exterior of the structure.

### **The Proposed Uses of the Property**

As mentioned above the use of the property would be changed from the current medical office building to a day and overnight retreat center. The intention of our Board of Directors is that Open Path would offer a regular schedule of one-time and weekly classes at the facility. These classes could include topics designed to provide a deeper understanding of various spiritual topics, the study of scriptures from a variety of faith traditions, as well as meditation and other contemplative modalities. These are just a few examples of the kind of programs that will be made available. Historically Open Path's facilities have also served as space for the leadership of smaller organizations to gather for 1-3+ days to reflect together on the future plans for their faith based organizations.

One of the attractions of the Bolado site is that it is surrounded by religious facilities that are by their nature quiet and all of this is located in a quiet neighborhood setting. We, as Open Path, would be working to maintain and perhaps even enhance the quiet nature of the neighborhood through the reflective nature of the activities that we would offer. It also gives us the ability to maintain our prior capacity for day and overnight use with a smaller more easily maintained facility and grounds. We would estimate that there would be fewer than 10 peak hour traffic trips daily.

### **Summary**

Open Path Retreat Center is seeking a Special Exception to change the use of the property at 2307 Bolado Parkway from medical office use to religious facility use with an overnight retreat component. The overnight retreat component would be developed in compliance with all applicable City and Fire code requirements with the intention of serving up to 15 individuals on an overnight basis. This use is consistent with the operations of Open Path over its 35 year history and we believe will have a positive benefit to the immediate neighborhood as well as the great Cape Coral area.



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

## Detail by Entity Name

Florida Not For Profit Corporation  
OPEN PATH RETREAT CENTER, INC.

### Filing Information

<b>Document Number</b>	765505
<b>FEI/EIN Number</b>	59-2226813
<b>Date Filed</b>	10/21/1982
<b>State</b>	FL
<b>Status</b>	ACTIVE
<b>Last Event</b>	AMENDMENT AND NAME CHANGE
<b>Event Date Filed</b>	10/04/2018
<b>Event Effective Date</b>	NONE

### Principal Address

8359 Beacon Boulevard  
Suite 604  
Ft. Myers, FL 33907

Changed: 01/24/2018

### Mailing Address

8359 Beacon Boulevard  
Suite 604  
Ft. Myers, FL 33907

Changed: 01/24/2018

### Registered Agent Name & Address

Gauvreau, Emile  
8359 Beacon Blvd  
Suite 604  
Ft. Myers, FL 33907

Name Changed: 01/24/2018

Address Changed: 01/24/2018

### Officer/Director Detail

#### **Name & Address**

Title President



Gauvreau, Emile  
8359 Beacon Blvd  
Ft. Myers, FL 33907

Title Treasurer

King, Craig D  
8359 Beacon Boulevard  
Suite 604  
Ft. Myers, FL 33907

Title S

WITHROW, ANNA  
8359 BEACON BLVD  
FT MYERS, FL 33907

#### Annual Reports

Report Year	Filed Date
2016	03/16/2016
2017	04/05/2017
2018	01/24/2018

#### Document Images

<a href="#">10/04/2018 -- Amendment and Name Change</a>	<a href="#">View image in PDF format</a>
<a href="#">01/24/2018 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/05/2017 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
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<a href="#">03/01/1996 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>

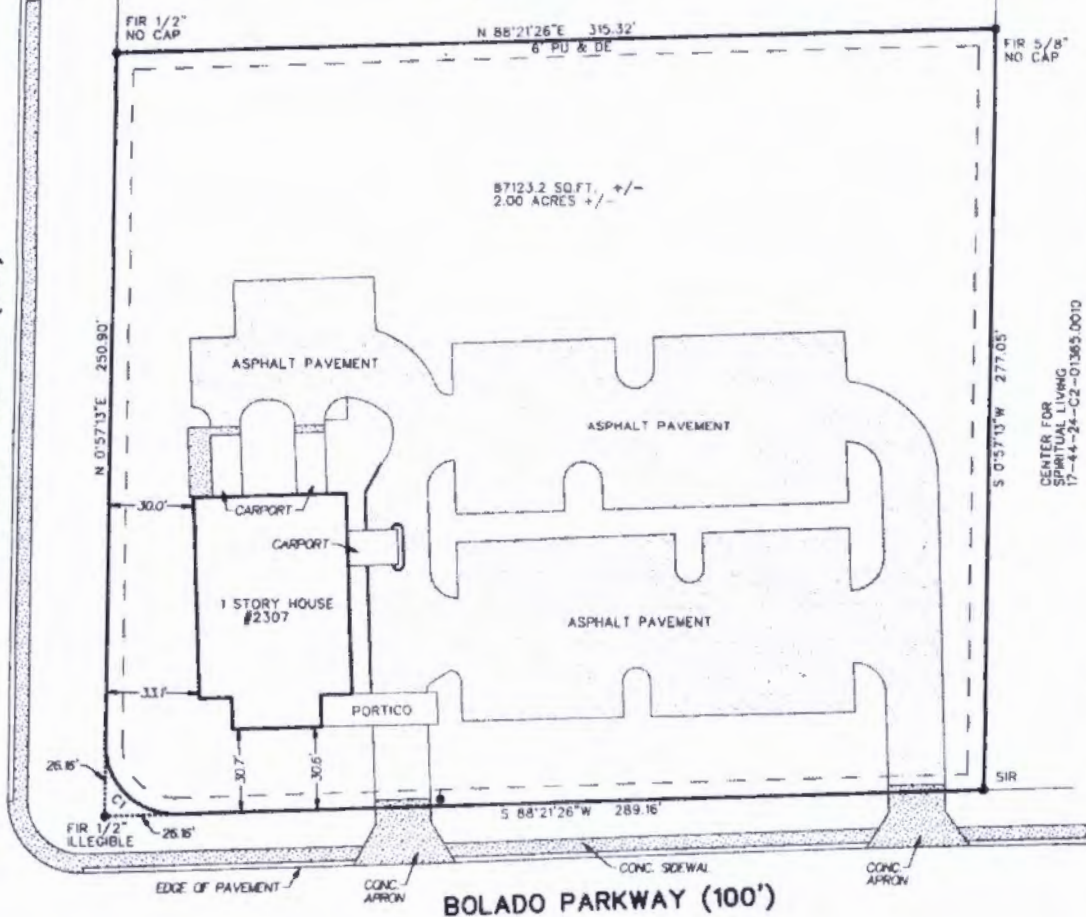


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CURVE	Arc	Delta Angle	Chord	Ch Bearing	Radius	Tangent
C1	40.40'	92°35'47"	36.15'	N 45°20'41"W	25.00'	25.16'

CAPE GARDEN, LLC  
NST. #2018000008345

SE 23rd AVENUE (70')



BOLADO PARKWAY (100')

CERTIFIED TO THE FOLLOWING ONLY:  
OPEN PATH RETREAT CENTER, INC.  
BOLANOS TRUXTON, P.A.  
CHICAGO TITLE INSURANCE COMPANY

## BOUNDARY SURVEY

THE WEST 315.0 FEET OF THE SOUTH 276.77 FEET (MEASURED PERPENDICULAR TO PROPERTY LINES),  
BLOCK 1365, CAPE CORAL UNIT 18, IN SECTION 17, TOWNSHIP 44 SOUTH, RANGE 24 EAST, AS  
RECORDED IN PLAT BOOK 13, PAGES 96-120, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

BASIS FOR BEARINGS: BOLADO PARKWAY - PLAT BEARING		SCALE: 0 40	SURVEY DATE: 12/13/18
COMMITTEE NUMBER: 125095	MAP & PANEL NUMBER: 12071C0270	DATE OF FIELD WORK: 8/28/08	ZONE: X
<p>LEGEND</p> <p>+0.0 = EXISTING ELEVATION</p> <p>● = UTILITY POLE</p> <p>○ = UTILITY POLE</p> <p>● = FIRE HYDRANT</p> <p>■ = CATCH BASIN</p> <p>(P)=PLAT</p> <p>(F)=FIELD</p> <p>(D)=DEED</p> <p>(C)=COMPUTED</p> <p>— = WIRE FENCE</p> <p>— = WOOD FENCE</p> <p>NAD=1983 NORTH AMERICAN VERTICAL DATUM OF 1983</p>		<p>THIS SURVEY IS HEREBY CERTIFIED CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY IS NOT A CERTIFICATION OF TITLE. ZONING OR FREEDOM FROM ENCUMBRANCES, NO UNDERGROUND STRUCTURES HAVE BEEN LOCATED BY THIS SURVEY. ANY REFERENCE TO UNDERGROUND STRUCTURES IF ANY IS APPROXIMATE. UNLESS OTHERWISE SHOWN ALL FIELD MEASURED DIRECTIONS AND DISTANCES ARE IN SUBSTANTIAL AGREEMENT WITH THE DIRECTIONS AND DISTANCES OF RECORD FOR THE PARCELS SURVEYED. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SIGNED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. NO ABSTRACT OF TITLE WAS PROVIDED. EASEMENTS SHOWN ARE FROM THE RECORD PLAT ON DEED ONLY. CONTRACTOR MUST VERIFY WITH CITY OR COUNTY THERE ARE NO OTHER EASEMENTS OR BUILDING SETBACK REQUIREMENTS AFFECTING THE PROPERTY PRIOR TO PERMITTING AND CONSTRUCTION.</p> <p>12/16/18</p> <p>CE DAVIS, CERTIFICATE NO. 4659</p> <p>—CE— DAVIS, PSM # 5544</p> <p>LI #7075</p>	
<p>FOUR = FOUND IRON ROD</p> <p>FIP = FOUND IRON PIPE</p> <p>FOR = FOUND ORILL HOLE</p> <p>FCM = FOUND CONCRETE MONUMENT</p> <p>OR = SET IRON ROD 1/2" LBN7075</p> <p>PUE = PUBLIC UTILITY EASEMENT</p> <p>PU &amp; DE = PUBLIC UTILITY &amp; DRAINAGE EASEMENT</p> <p>ORNO = SET NAIL &amp; DECK LBN #7075</p> <p>PRM = PERMANENT REFERENCE MONUMENT</p> <p>PRMO = FOUND NAIL &amp; DECK</p> <p>POB=POINT OF BEGINNING</p> <p>PT. COR.=FENCE CORNER</p> <p>CONC.=CONCRETE</p> <p>F=NOT FIELD MEASURED</p> <p>LINE=LINE MAINTENANCE EASEMENT</p> <p>DE=DRAINAGE EASEMENT</p>		<p>DAVIS SURVEYING INC.</p> <p>WWW.DAVISLANDSURVEYS.COM</p> <p>4536 SE 16th PLACE SUITE 3</p> <p>CAPE CORAL, FLORIDA 33904</p> <p>TEL(239)549-6454</p> <p>FAX(239)549-2548</p> <p>CONTACT@DAVISLANDSURVEYS.COM</p> <p>JOB NUMBER</p> <p>18-2286</p>	

## Planning Division Case Report

SE19-0001

**Review Date:** January 29, 2019

**Property Owner:** Rodgers Real Estate, Inc.

**Owner Address:** 4206 Del Prado Boulevard South  
Cape Coral, FL 33904

**Applicant:** Open Path Retreat Center, Inc.

**Authorized Rep:** Emile Gauvreau, Registered Agent

**Request:** The applicant requests a special exception for a Religious Facility Use in the Multi-Family Residential (R-3) District at 2307 Bolado Parkway.

**Location:** 2307 Bolado Parkway  
Block 1365, Unit 18, Cape Coral Subdivision (See attached survey for legal description of the site.)  
Strap Number 17-44-24-C3-01365.0030

**Prepared by:** Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

**Reviewed by:** Robert H. Pederson, AICP, Planning Manager

**Recommendation:** **Approval with conditions**

**Urban Service Area:** Infill

**Right-of Way-Access:** The site has frontage on Bolado Parkway, a collector street; and SE 23<sup>rd</sup> Avenue, a local street.

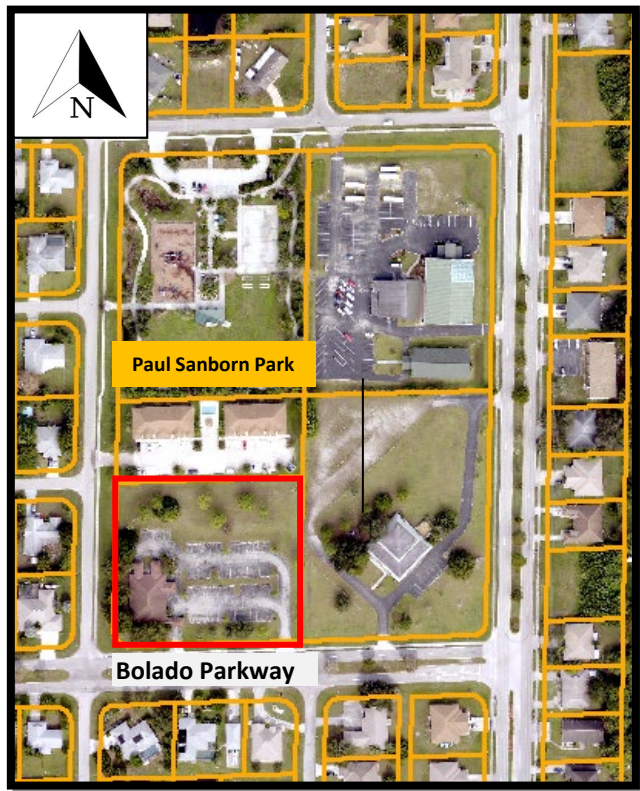
### Property Description:

The two-acre site is square-shaped and is at the northeast corner of SE 23<sup>rd</sup> Avenue and Bolado Parkway (Figure 1). The site has a 5,326 sq. ft. commercial building that was constructed in 1982. Other improvements to the site include landscaping and a parking lot. Two driveways are along Bolado Parkway. The building is currently used for a medical office. The site has a Multi Family Future Land Use (FLU) Classification and Multi-Family Residential (R-3) Zoning.

### Proposed Use:

The applicant requests a Religious Facility Use for the site. This use is allowed by special exception in the R-3 District with a minimum land area of one acre. Religious facilities are defined in Article XI of the Land Use and Development Regulations (LUDRs) as follows: *“Religious-related facilities and activities which may include, but are not limited to: place of worship, bus storage facilities or areas, convents, monasteries, retreats, and church/synagogue ministries involving classes for children and adults.”*

Figure 1. Subject site outlined in red and surrounding area.



### Zoning History of the Site

When the City adopted a Future Land Use Map in 1989, the site received a Multi Family FLU Classification that remains unchanged to this day.

The site was rezoned from R-3 to Professional Office (P-1) in 1981, and later was rezoned back to R-3 by Ordinance 61-90.

### Analysis:

This application was reviewed based on LUDR, Section 2.7.2, the R-3 District, and the five standards in Section 8.8.5a-e for special exceptions.

#### 1. Generally

The R-3 Zoning is consistent with the Multi Family Future Land Use Classification. Religious facilities are allowed in the R-3 District as special exception provided the site has a minimum of one acre. The subject site has  $\pm 2.00$  acres and thus complies with the land area criterion. The City does not have special regulations governing this use.

The letter of intent states the use of the property would be changed from a medical office to an overnight retreat center. Classes would be offered on topics *“designed to provide a deeper understanding of various spiritual topics, the study of scriptures from a variety of faith traditions, as well as meditation and other contemplative modalities.”* In addition, the site would be used to allow the leadership of smaller organizations to meet *“to reflect on the future plans for their faith-based organizations.”* This description of how the site will be used is consistent with the definition of a religious facility found in Article XI of the LUDRs.

The building has over 5,000 sq. ft. and includes a porte cochere. The site has 57 parking spaces that does not include three attached carports on the north and east sides of the building. Two driveways connect to Bolado Parkway.



No improvements to the site are proposed. Since the previous use of the building was a medical office, the new use will likely trigger a change of occupancy. In general, this means that floor plans will be required by the Building Department for verifying compliance with the Florida Building Code for this occupancy type. Based on this review, building renovations may be required to comply with current building code standards. Additionally, renovations like installing sprinklers in the building may also be required to comply with National Fire Protection Association standards.

## 2. Compatibility

The site is in a residential area in eastern Cape Coral, less than 600 feet east of North Fort Myers in unincorporated Lee County. Zoning, future land use classifications, and existing uses of the site and adjacent properties are provided in Table 1.

**Table 1. Zoning, Future Land Use, and Existing Uses of the Site and Adjacent Parcels.**

Subject Parcel	Zoning	Future Land Use (FLU)	Existing Use
<b>Current:</b>	Multi-Family Residential (R-3)	Multi Family	Medical Office Building
	<b>Surrounding Zoning</b>	<b>Surrounding FLU</b>	<b>Surrounding Existing Uses</b>
<b>North:</b>	Multi-Family Residential (R-3)	Multi Family	Multi-Family Building
<b>South:</b>	Bolado Parkway ROW/ Single-Family Residential (R-1B)	Bolado Parkway ROW/Single Family	Single Family Residences
<b>East:</b>	Worship	Public Facilities	Place of Worship
<b>West:</b>	SE 23 <sup>rd</sup> Avenue ROW/ Single-Family Residential (R-1B)	SE 23 <sup>rd</sup> Avenue ROW/ Single Family	Single-Family Residences

The site is at the southwest corner of Block 1365. Other established uses on this block include two places of worship, a park (Paul Sanborn Park), and a multi-family dwelling. Sites with single-family residences are adjacent to the site across Bolado Parkway to the west and SE 23<sup>rd</sup> Avenue to the west.

Based on the letter of intent, classes and workshops on faith-based topics will be offered at the facility. Some workshops will likely involve overnight stays of participants at the facility. Twelve existing examination rooms will be converted to bedrooms to accommodate overnight guests. The applicant estimates that the facility will accommodate sleeping quarters for up to 15 individuals.

The applicant estimates the facility would will generate around 10 peak hour trips daily. This number of trips is considerably lower than that generated by a medical office use in a comparable-sized building.<sup>1</sup>

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<sup>1</sup> The number of P.M. peak hour trips for a medical office use was estimated to be 19 based on the Institute of Transportation Engineers Trip Generation Manual, 9<sup>th</sup> Edition.

While the number of attendees is expected to be small, the religious facility in some respects will function like a church in that this use will be activity oriented. Most trips to the facility will likely be episodic and related to periods coinciding with workshops, educational classes, and similar events.

Based on the analysis provided with this section, staff finds the religious facility use will be compatible with the surrounding area. A similar use, places of worship, occupies two separate sites on the east half of Block 1365. The proposed use will generate a low number of trips. Workshops and classes are expected to occur indoors and therefore will not be a distraction to residents. The site is separated from single-family residences by street rights-of-way.

**3. *Minimum Lot Frontage; Access***

The site has about 310 feet of frontage on Bolado Parkway and 275 feet of frontage on SE 23<sup>rd</sup> Avenue. The site has two driveways on Bolado Parkway and no new driveways are proposed. Sidewalks exist in the right-of-way along both streets adjacent to the site.

The site has 57 parking spaces. The parking standard for religious facilities is one parking space for every four seats. The number of parking spaces at the site could theoretically accommodate 228 people. Available parking is more than adequate based on the relatively small number of individuals expected to attend workshops and events at this facility.

**4. *Building Location; Setbacks***

The building is compliant with the R-3 setback requirements as shown in the Table 1. No new buildings are proposed for this use.

**Table 2. Required and provided building setbacks for the building at 2307 Bolado Parkway.**

	<b>Required Setbacks (ft.)</b>	<b>Provided Setbacks (ft.)</b>
Front (south)	25	30.6 (survey)
Side (east)	7.5	194 (estimated)
Side (west)	10	30.0 (survey)
Rear (north)	20	135 (estimated)

**5. *Screening and Buffering***

Landscaping exists around the north, south, and west sides of the site. Since no improvements to the site are proposed, additional landscaping is not required nor recommended.

## **Consistency with the Comprehensive Plan**

The project will be consistent with the following two policies.

### Future Land Use Element

#### **Policy 1.15.b**

*Multi-Family Residential: Not more than 16 units per acre. (Exception: The City may permit as many as 20 units per acre as an incentive for the assembly of large parcels.) The development of multi-family projects in the Urban Services Reserve Area is also subject to the terms of Policies 7.7 and 7.8 below.*

**Staff comments: The R-3 Zoning of the site is consistent with the Multi-Family Residential Future Land Use Classification. While the site has not been developed with a residential use, the proposed religious facility use is allowed by special exception in the R-3 District.**

#### **Policy 8.1**

*"The City will prohibit the expansion or replacement of land uses which are inconsistent with the Future Land Use Element."* **Staff comments: The medical office use currently occupying the building on the site is a nonconforming use. The new use will eliminate this nonconformity.**

#### **Recommendation:**

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

1. The maximum number of individuals that may stay overnight at the facility on any given day shall be limited to 20. Only individuals participating in workshops or training events and held at the facility may stay overnight. Participants may only stay overnight at the facility during the duration of the workshop or training event.
2. All outdoor activities shall be limited to the hours between 8:00 a.m. and 7:00 p.m.

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#### **Staff Contact Information**

Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator  
Planning Division  
PH: 239-242-3255/Email: [mstruve@capecoral.net](mailto:mstruve@capecoral.net)





## NOTICE TO SURROUNDING PROPERTY OWNERS

**CASE NUMBER:** SE19-0001

**REQUEST:** Open Path Retreat Center, Inc. requests a special exception for a Religious Facility Use in the Multi-Family Residential (R-3) District at 2307 Bolado Parkway.

**LOCATION:** 2307 Bolado Parkway

**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:** Rodgers Real Estate, Inc.

**AUTHORIZED REPRESENTATIVE:** Emile Gauvreau, Registered Agent

**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 February 19, 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 five days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

**DETAILED INFORMATION:** The case report and colored maps for this application are available at the City of Cape Coral website, [www.capecoral.net/publichearing](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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**No. of Affidavits:** 1

**Run Dates:** 02/09/19

**Text of Ad:**

**NOTICE OF PUBLIC HEARING**

**CASE NUMBER:** SE19-0001

**REQUEST:** Open Path Retreat Center, Inc. requests a special exception for a Religious Facility Use in the Multi-Family Residential (R-3) District at 2307 Bolado Parkway.

**LOCATION:** 2307 Bolado Parkway

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

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

by order of  
Kimberly Bruns, CMC  
Interim City Clerk  
REF # SE19-0001  
AD# 3380139 Feb. 9, 2019



Department of Community Development  
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Open Path Retreat Center

APPLICATION NO: SE19-0001

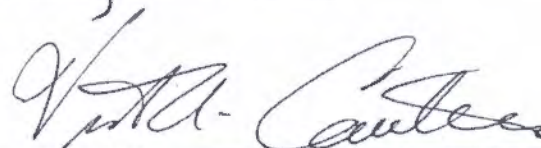
STATE OF FLORIDA     )  
                                      ) §  
COUNTY OF LEE        )

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 11<sup>th</sup> day of February, 2019.



Vincent A. Cautero, AICP

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of February, 2019, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 2/6/20 Commission # 66030474

  
Signature of Notary Public

Elisabeth A. Delgado  
Print Name of Notary Public





# CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

AERIAL MAP

Case No. SE19-0001

## LEGEND

-  Subject\_parcel
-  Canals/Lakes

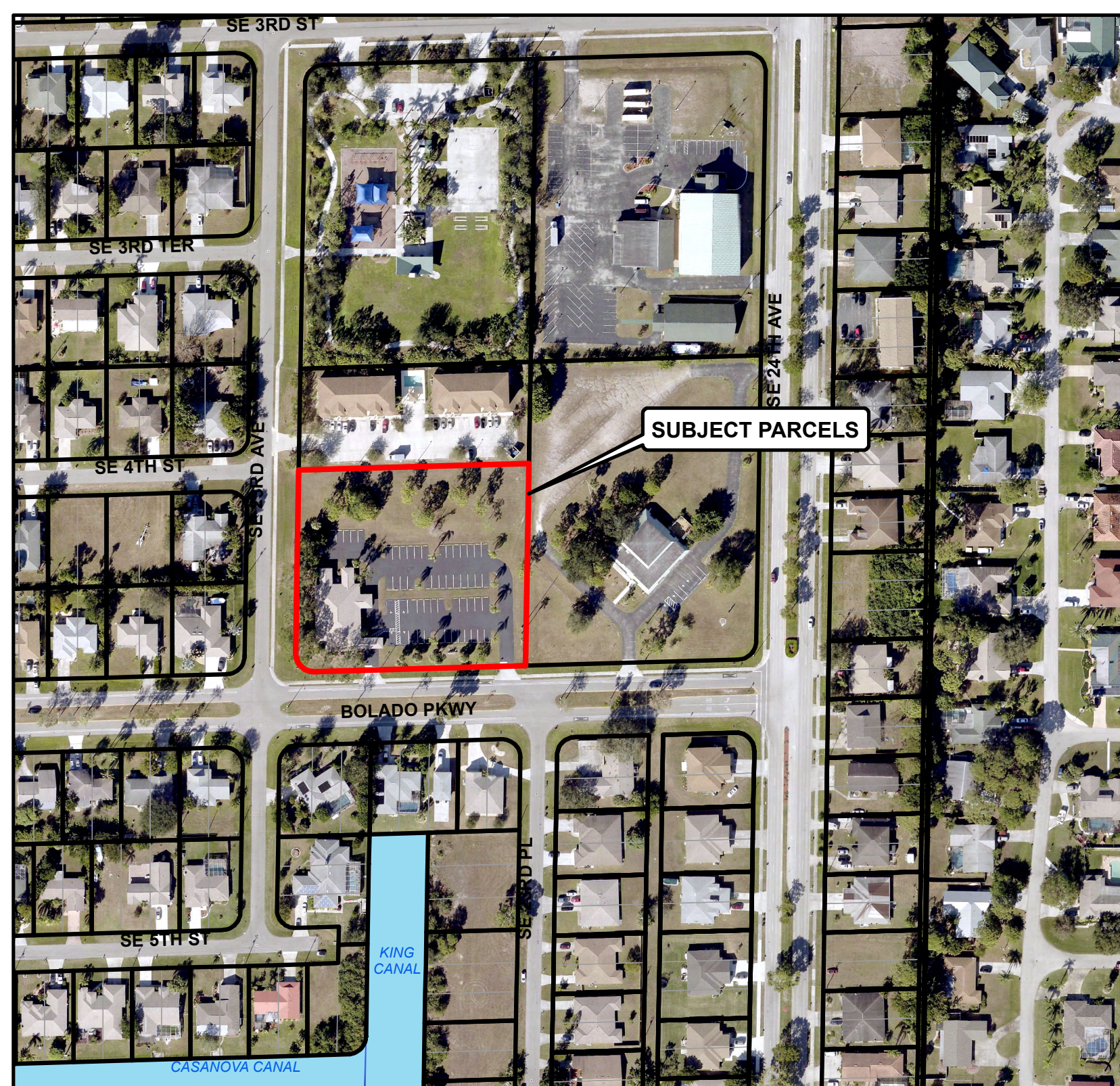


JANUARY 29, 2019

0 70 140 210 280 Feet

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 result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA










# CITY OF CAPE CORAL

Department of  
Community Development  
Planning Division

CURRENT ZONING MAP  
500 Proximity Boundary

Case No. SE19-0001

## LEGEND

-  Subject Parcel
-  Boundary
-  R-1B
-  R-3
-  W

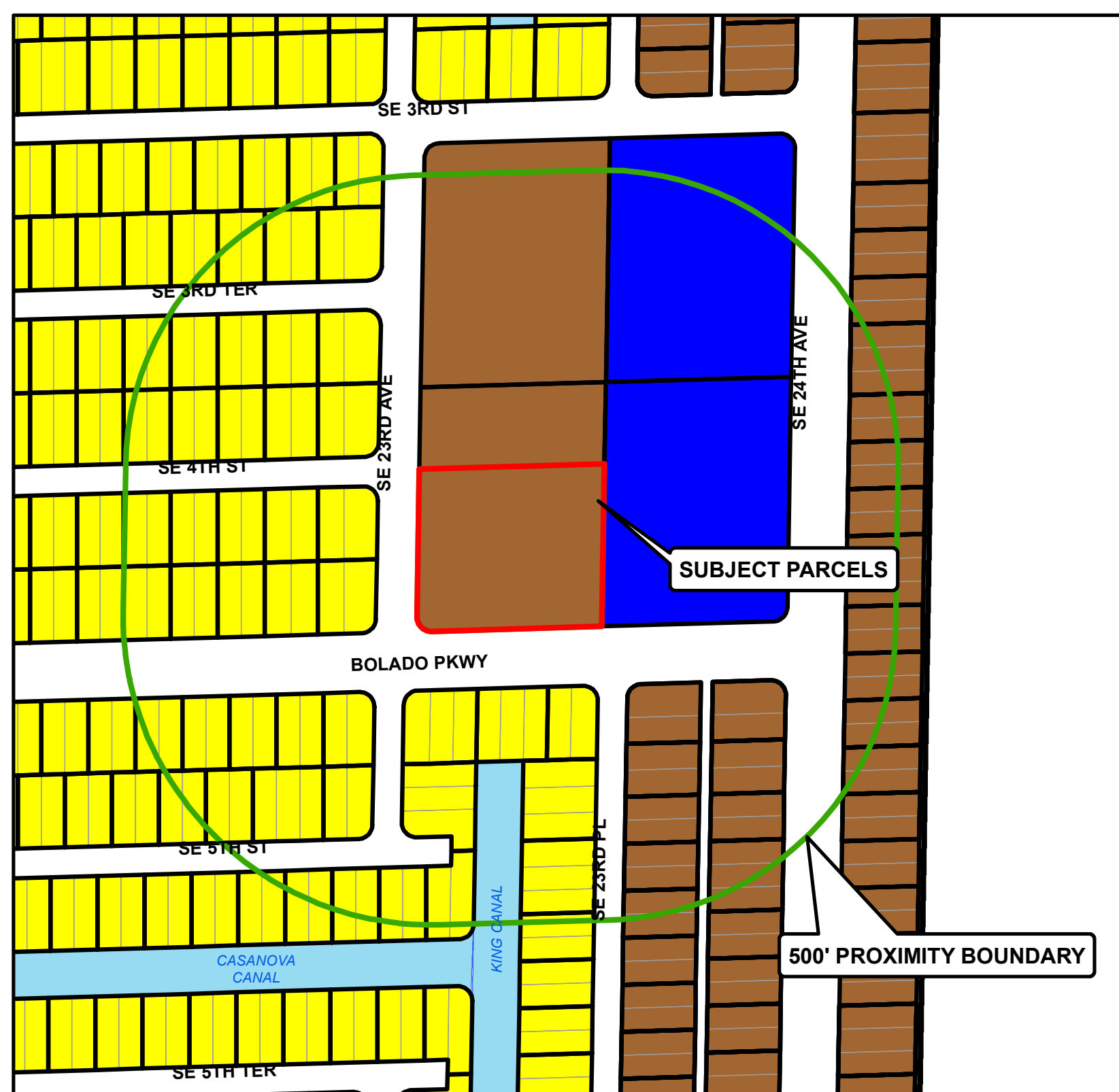


JANUARY 29, 2019

0 90 180 270 360 Feet

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KRKA





Item Number:	3.A.
Meeting Date:	2/19/2019
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Tuesday, March 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:**